



RESOLUTION No. 20-027

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

RESOLUTION APPROVING THE PERSONAL SERVICES CONTRACT BETWEEN THE COUNTY OF NEVADA AND NATIONWIDE RETIREMENT SOLUTIONS, INC., PERTAINING TO THIRD-PARTY RECORDKEEPING, ADMINISTRATION, EDUCATION AND INVESTMENT SERVICES FOR THE NEVADA COUNTY 457(B) DEFERRED COMPENSATION PLAN AND NEVADA COUNTY 401(A) PLAN, FOR THE PERIOD JANUARY 28, 2020 THROUGH DECEMBER 31, 2025, APPROVING AND ADOPTING THE COUNTY'S 457(B) AND 401(A) PLANS, AND AUTHORIZING THE CHAIR OF THE BOARD OF SUPERVISORS TO EXECUTE THE CONTRACT

WHEREAS, on January 25, 1975, per Resolution 75-14, the Nevada County Board of Supervisors approved the establishment of a Deferred Compensation Plan for employees and elected officials of Nevada County; and

WHEREAS, on March 23, 1981, per Resolution 81-70, the Nevada County Board of Supervisors first adopted the National Association of Counties Deferred Compensation Plan; and

WHEREAS, on March 23, 2010, per Resolution 10-104, the Nevada County Board of Supervisors amended the Deferred Compensation Plan documents to make loans available to participants; and

WHEREAS, Nationwide Retirement Solutions Inc. has competed in a competitive RFP process and has been selected as the sole Deferred Compensation Plan provider for Nevada County; and

WHEREAS, the County of Nevada hereby wishes to enter into a Personal Services Contract with Nationwide Retirement Solutions for the provision of third-party record keeping, administration, education and investment services for the Nevada County 457(b) Deferred Compensation Plan and Nevada County 401(a) Plan, and approve and adopt the plan documents and trust agreements; and

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Board of Supervisors, of the County of Nevada, State of California, that the Personal Services Contract between the County of Nevada and Nationwide Retirement Solutions Inc. pertaining to third-party recordkeeping, administration, education and investment services for the Nevada County 457(b) and 401(a) plans, for the contract term of January 28, 2020 through December 31, 2025, be and hereby is approved, and that the Chair of the Board of Supervisors be and is hereby authorized to execute the Contract on behalf of the County of Nevada.

BE IT FURTHER RESOLVED that attached hereto are true copies of the Nevada County 457(b) Deferred Compensation Plan, as amended and restated, and the Summary of 457 Provisions and Nevada County 401(a) Plan Provisions, and true copies of the Nevada County 401(a) Plan, and the Summary of Plan Provisions, which are approved and adopted.

BE IT FURTHER RESOLVED that Director of Human Resources, or his designee, is authorized and directed to execute and deliver to the Administrator of the Plans one or more counterparts of the Nevada County 457(b) Deferred Compensation Plan and Nevada County 401(a) Plan.

PASSED AND ADOPTED by the Board of Supervisors of the County of Nevada at a regular meeting of said Board, held on the 28th day of January, 2020, by the following vote of said Board:

Ayes: Supervisors Heidi Hall, Edward Scofield, Dan Miller, Susan K. Hoek and Richard Anderson.

Noes: None.

Absent: None.

Abstain: None.

ATTEST:

JULIE PATTERSON HUNTER
Clerk of the Board of Supervisors

By: 


Heidi Hall, Chair

1/28/2020 cc: HR*
AC* (Hold)

2/12/2020 cc: HR*
NRS, Inc.
AC* (release)

PERSONAL SERVICES CONTRACT

County of Nevada, California

This Personal Services Contract is made between the COUNTY OF NEVADA (herein "County"), and

Nationwide Retirement Solutions, Inc.

(herein "Contractor"), wherein County desires to retain a person or entity to provide the following services, materials and products generally described as follows:

- (§1) **Third-party recordkeeping, administration, education and investment services for the Nevada County 457(b) Deferred Compensation Plan and Nevada County 401(a) Plan.**

SUMMARY OF MATERIAL TERMS

- (§2) **Maximum Contract Price:** See Exhibit B
- (§3) **Contract Beginning Date:** 1/28/2020 **Contract Termination Date:** 12/31/2025 *not*
- (§4) **Liquidated Damages:** See Exhibit C, Paragraph 4

INSURANCE POLICIES

Designate all required policies:

		Req'd	Not Req'd
(§6)	Commercial General Liability (\$2,000,000)	<u>X</u>	<u> </u>
(§7)	Automobile Liability (\$ 300,000) Personal Auto	<u> </u>	<u>X</u>
	(\$1,000,000) Business Rated	<u>X</u>	<u> </u>
	(\$1,000,000) Commercial Policy	<u> </u>	<u>X</u>
(§8)	Worker's Compensation	<u>X</u>	<u> </u>
(§9)	Errors and Omissions (\$1,000,000)	<u>X</u>	<u> </u>

LICENSES AND PREVAILING WAGES

(§14) Designate all required licenses:

NOTICE & IDENTIFICATION

- (§33) **Contractor:** Nationwide Retirement Solutions, Inc.
Contact Person: Jacob Sours
(619) 708-1320
e-mail: soursj1@nationwide.com
- County of Nevada:**
County of Nevada
Contact Person: Steven Rose
(530) 265-7046
e-mail: steven.rose@co.nevada.ca.us

Contractor is a: (check all that apply)

Corporation:	<u> </u> Calif.,	<u>X</u> Other,	<u> </u> LLC,	<u> </u> Non-profit
Partnership:	<u> </u> Calif.,	<u> </u> Other,	<u> </u> LLP,	<u> </u> Limited
Person:	<u> </u> Indiv.,	<u> </u> DbA,	<u> </u> Ass'n	<u> </u> Other

EDD: Independent Contractor Worksheet Required: Yes No

HIPAA: Schedule of Required Provisions (Exhibit D): Yes No

ATTACHMENTS

Designate all required attachments:

	Req'd	Not Req'd
Exhibit A: Schedule of Services (Provided by Contractor)	<u>X</u>	<u> </u>
Exhibit B: Schedule of Charges and Payments (Paid by County)	<u>X</u>	<u> </u>
Exhibit C: Schedule of Changes (Additions, Deletions & Amendments)	<u>X</u>	<u> </u>
Exhibit D: Schedule of HIPAA Provisions (Protected Health Information)	<u> </u>	<u>X</u>

Terms

Each term of this Contract below specifically incorporates the information set forth in the Summary at page one (1) above as to each respective section (§) therein, as the case may be.

Services

1. **Scope of Services:**

Contractor shall provide all of the services, materials and products (herein "Services") generally described in **Exhibit "A"**, according to a performance schedule, if applicable, as set forth in said exhibit (herein "Performance Schedule"). If requested, Contractor agrees to serve as an expert witness for County in any third-party action or proceeding arising out of this Contract.

Payment

2. **Charges and Payments:**

The charges (herein "Charges") for furnishing the aforesaid Services under this Contract are set forth in **Exhibit "B"**, including, if applicable, hourly rates, unit pricing, and expense, mileage and cost limits. Said Charges shall be presented monthly by invoice and shall be due within thirty (30) days of receipt unless payment is otherwise set forth in said **Exhibit "B"**, and shall remain in effect for the entire term of this Contract, and any extension hereof. In no event will the cost to County for Services to be provided under this Contract, including direct non-salary expenses, exceed the **Maximum Contract Price** set forth at §2, page one (1), above.

Time for Performance

3. **Contract Term:**

This Contract shall commence on the **Contract Beginning Date** set forth at §3, page one (1), above. All Services required to be provided by this Contract shall be completed and ready for acceptance no later than the **Contract Termination Date** set forth at §Error! Reference source not found., page one (1), above.

4. **Liquidated Damages:**

County and Contractor agree that damages to County due to delays in timely providing Services in accordance with the aforesaid Performance Schedule and Contract Termination Date are impractical and difficult to ascertain. Therefore, if §4 at page one (1) hereof shall indicate a daily amount as **Liquidated Damages**, County shall have the right to assess said daily sum, not as a penalty, but as and for damages to County due to delays in providing Services not in accordance with the said Performance Schedule, or later than the Contract Termination Date (herein "Delay"). Liquidated Damages shall be offset against amounts owing to Contractor, including retention sums.

To the extent that any Delay is a result of matters or circumstances wholly beyond the control of Contractor, County may excuse said Liquidated Damages; provided however, that County may condition such excuse upon Contractor having given prompt notice to County of such delay immediately by telephone and thereafter by written explanation within a reasonable time. The time for Contractor's performance shall be extended by the period of delay, or such other period as County may elect.

5. **Time of the Essence:**

Time is of the essence with respect to Contractor's performance under this Contract. Delay in meeting the time commitments contemplated herein will result in the assessment of liquidated damages, if indicated at §4 at page one (1), hereof. If Liquidated Damages are not so indicated, damages shall be as otherwise provided by law.

Insurance

6. **Commercial General Liability Insurance:** (County Resolution No. 90674)

If §6 at page one (1) hereof shall indicate a **Commercial General Liability** insurance policy is required, Contractor shall promptly provide proof of such insurance evidenced by a certificate of insurance with properly executed endorsements attached, which insurance shall include the following:

- (i) Broad form coverage for liability for death or bodily injury to a person or persons, and for property damage, combined single limit coverage, in the minimum amount indicated at said §6;
- (ii) An endorsement naming County as an additional insured under said policy, with respect to claims or suits arising from the Services provided or the relationships created under this Contract;
- (iii) A provision that said insurance shall be primary and other insurance maintained by the County of Nevada shall be excess only and not contributing with Contractor's insurance;
- (iv) A provision that said insurance shall provide for thirty (30) days written notice to County of any termination or change in coverage protection, or reduction in coverage limits (except ten (10) day notice for non-payment of premium).

7. Automobile Liability Insurance: (County Resolution No. 90676)

If §7 at page one (1) hereof shall require either a Business Rated or a Commercial Automobile Liability insurance policy, for each vehicle used including non-owned and hired automobiles, Contractor shall promptly provide proof of such insurance evidenced by a certificate of insurance with properly executed endorsements attached, which insurance shall include the following provisions:

- (i) Liability protection for death or bodily injury to a person or persons, property damage, and uninsured and underinsured coverage, combined single limit coverage, in the minimum amount indicated at said §7;
- (ii) An endorsement naming County as an additional insured under said policy, with respect to claims or suits arising from the Services provided or the relationships created under this Contract;
- (iii) A provision that said insurance shall be primary and other insurance maintained by the County of Nevada shall be excess only and not contributing with Contractor's insurance;
- (iv) A provision that said insurance shall provide for thirty (30) days written notice to County of any termination or change in coverage protection, or reduction in coverage limits (except ten (10) day notice for non-payment of premium).

If §7 at page one (1) hereof shall require a Personal Auto policy, for each vehicle used including non-owned and hired automobiles, Contractor shall promptly provide proof of such insurance for a minimum of three hundred thousand dollars, (\$300,000), in combined single limits, and naming the County as additionally insured.

8. Worker's Compensation: (County Resolution No. 90674)

If §8 at page one (1) hereof shall indicate a **Worker's Compensation** insurance policy is required, Contractor shall maintain said policy as required by law, and shall promptly provide proof of such insurance evidenced by a certificate of insurance, or other documentation acceptable to County.

Before commencing to utilize employees in providing Services under this Contract, Contractor warrants that it will comply with the provisions of the California Labor Code, requiring Contractor to be insured for worker's compensation liability or to undertake a program of self-insurance therefor.

9. Errors and Omissions:

If §9 at page one (1) hereof shall indicate **Errors and Omissions** insurance is required, Contractor shall maintain Technology Professional Liability Errors and Omissions Insurance in the minimum amount indicated, and shall promptly provide proof of such insurance evidenced by a certificate of insurance, or other documentation acceptable to County. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by the Contractor in this agreement and shall include, but not be limited to, claims involving infringement of intellectual property, copyright, trademark, invasion of privacy violations, information theft, release of private information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations.

- (i) The Policy shall include, or be endorsed to include, **property damage liability coverage** for damage to, alteration of, loss of, or destruction of electronic data and/or information "property" of the County in the care, custody, or control of the Contractor. If not covered under the Contractor's liability policy, such "property"

coverage of the County may be endorsed onto the Contractor's Cyber Liability Policy as covered property as follows:

- (ii) **Cyber Liability coverage** in an amount sufficient to cover the full replacement value of damage to, alteration of, loss of, or destruction of electronic data and/or information "property" of the County that will be in the care, custody, or control of Contractor.
- (iii) The Insurance obligations under this agreement shall be the greater of 1—all the Insurance coverage and limits carried by or available to the Contractor; or 2—the minimum Insurance requirements shown in this agreement. Any insurance proceeds in excess of the specified limits and coverage required, which are applicable to a given loss, shall be available to County. No representation is made that the minimum Insurance requirements of this agreement are sufficient to cover the indemnity or other obligations of the Contractor under this agreement.

10. Miscellaneous Insurance Provisions: (County Resolution No. 90675)

All policies of insurance required by this Contract shall remain in full force and effect throughout the life of this Contract and shall be payable on a "per occurrence" basis unless County specifically consents to "claims made" coverage. If the County does consent to "claims made" coverage and if Contractor changes insurance carriers during the term of this Contract or any extensions hereof, then Contractor shall carry prior acts coverage.

Insurance afforded by the additional insured endorsement shall apply as primary insurance, and other insurance maintained by County, its officers, agents and/or employees, shall be excess only and not contributing with insurance required or provided under this agreement.

At all times, Contractor shall keep and maintain in full force and effect throughout the duration of this Contract, policies of insurance required by this Contract which policies shall be issued by companies with a Best's Rating of B+ or higher (B+, B++, A-, A, A+ or A++), or a Best's Financial Performance Rating (FPR) of 6 or higher (6, 7, 8 or 9) according to the current Best's Key Rating Guide, or shall be issued by companies approved by the County Risk Manager. In the event the Best's Rating or Best's FPR shall fall below the rating required by this paragraph, Contractor shall be required to forthwith secure alternate policies which comply with the rating required by this paragraph or be in material breach of this Contract.

Failure to provide and maintain the insurance policies (including Best's ratings), endorsements, or certificates of insurance required by this Contract shall constitute a material breach of this agreement (herein "Material Breach"); and, in addition to any other remedy available at law or otherwise, shall serve as a basis upon which County may elect to suspend payments hereunder, or terminate this Contract, or both. (See §13, ¶2, below, as these provisions additionally apply to subcontractors.)

11. Indemnity:

Nothing herein shall be construed as a limitation of Contractor's liability, and Contractor shall indemnify, defend and hold harmless the County and its officers, officials, employees, agents and volunteers from any and all liabilities, claims, demands, damages, losses and expenses (including, without limitation, defense costs and attorney fees of litigation) which result from the negligent act, willful misconduct, or error or omission of Contractor, except such loss or damage which was caused by the sole negligence or willful misconduct of County or its officers, officials, employees, agents and volunteers.

Personal Services

12. Contractor as Independent:

In providing services herein, Contractor, and the agents and employees thereof, shall act in an independent capacity and as an independent contractor and not as agents or employees of County.

13. Assignment and Subcontracting:

Except as specifically provided herein, the rights, responsibilities, duties and Services to be performed under this Contract are personal to the Contractor and may not be transferred, subcontracted, or assigned without the prior written consent of County. Contractor shall not substitute nor replace any personnel for those specifically named herein or in its proposal without the prior written consent of County.

Contractor shall cause and require each transferee, subcontractor and assignee to comply with the insurance provisions set forth herein at §§6, 7, 8, 9 and 10, to the extent such insurance provisions are required of Contractor under this Contract. Failure of Contractor to so cause and require such compliance by each transferee, subcontractor and assignee shall constitute a Material Breach of this agreement, and,

in addition to any other remedy available at law or otherwise, shall serve as a basis upon which County may elect to suspend payments hereunder, or terminate this Contract, or both.

14. Licensing and Permits:

Contractor warrants (i) Contractor is qualified and competent to provide all Services under this contract; (ii) Contractor and all employees of Contractor hold all necessary and appropriate licenses therefor, including those licenses set forth at §14, page one (1) hereof; and, (iii) Contractor shall obtain, and remain in compliance with, all permits necessary and appropriate to provide said Services. Contractor shall cause said licenses and permits to be maintained throughout the life of this Contract. Failure to do so shall constitute a Material Breach of this agreement, and, in addition to any other remedy available at law or otherwise, shall serve as a basis upon which County may elect to suspend payments hereunder, or terminate this Contract, or both.

Public Contracts

15. Prevailing Wage and Apprentices:

To the extent made applicable by law, performance of this Contract shall be in conformity with the provisions of California Labor Code, Division 2, Part 7, Chapter 1, commencing with Section 1720 relating to prevailing wages which must be paid to workers employed on a public work as defined in Labor Code §§1720, et seq.; and shall be in conformity with Title 8 of the California Code of Regulations §§200 et seq., relating to apprenticeship. Where applicable:

(i) Contractor shall comply with the provisions thereof at the commencement of Services to be provided herein, and thereafter during the term of this Contract. A breach of the requirements of this section shall be deemed a material breach of this contract. Applicable prevailing wage determinations are available on the California Department of Industrial Relations website at <http://www.dir.ca.gov/OPRL/PWD>.

(ii) Contractor and all subcontractors must comply with the requirements of Labor Code Section 1771.1(a) pertaining to registration of contractors pursuant to Section 1725.5. Registration and all related requirements of those Sections must be maintained throughout the performance of the Contract.

(iii) Contracts to which these prevailing wage requirements apply are subject to compliance monitoring and enforcement by the Department of Industrial Relations. Each contractor and subcontractor must furnish certified payroll records to the Labor Commissioner at least monthly.

(iv) The County is required to provide notice to the Department of Industrial Relations of any public work contract subject to prevailing wages within five (5) days of award.

16. Accessibility (County Resolution No. 00190):

It is the policy of the County of Nevada that all County services, programs, meetings, activities and facilities shall be accessible to all persons, and shall be in compliance with the provisions of the Americans With Disabilities Act and Title 24, California Code of Regulations. To the extent this Contract shall call for Contractor to provide County contracted services directly to the public, Contractor shall certify that said direct Services are and shall be accessible to all persons.

17. Nondiscriminatory Employment:

In providing Services hereunder, Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, national origin, political affiliation, ancestry, marital status or disability. This policy does not require the employment of unqualified persons.

18. Prior Nevada County Employment (County Resolution No. 03-353):

Effective July 22, 2003, it is the policy of the County of Nevada that former members of the Board of Supervisors, a former CEO, or a former Purchasing Agent, for a period of twelve (12) months following the last day of employment, shall not enter into any relationship wherein that former employee or former Board member receives direct remuneration from a legal entity that, during the last twelve (12) months of said employment or Board member's service, entered into a contract with, or received a grant from the County of Nevada. Provided however, that this prohibition shall not apply to any employee that did not personally approve a contract with or grant to said legal entity during the last twelve (12) months of said employment, and shall not apply when the Board of Supervisors did not approve a contract with or grant to said legal entity during the last twelve (12) months of said Board member's service.

A violation of this policy shall subject Contractor to all of the remedies enumerated in said resolution and as otherwise provided in law, which remedies shall include but not be limited to injunctive relief, cancellation and voiding of this contract by County, a return of grant money, a cause of action for breach of contract, and entitlement to costs and reasonable attorney fees in any action based upon a breach of contract under this provision.

19. Cost Disclosure:

In accordance with Government Code Section 7550, should a written report be prepared under or required by the provisions of this Contract, Contractor agrees to state in a separate section of said report the numbers and dollar amounts of all contracts and subcontracts relating to the preparation of said report

Default and Termination

20. Termination:

A Material Breach of this Contract pursuant to the terms hereof or otherwise, in addition to any other remedy available at law or otherwise, shall serve as a basis upon which County may elect to immediately suspend payments hereunder, or terminate this contract, or both, **without notice**.

If Contractor fails to timely provide in any manner the services materials and products required under this Contract, or otherwise fails to promptly comply with the terms of this Contract, or violates any ordinance, regulation or other law which applies to its performance herein, County may terminate this Contract by giving **five (5) days written notice** to Contractor.

Either party may terminate this Contract for any reason, or without cause, by giving **thirty (30) calendar days written notice** to the other, which notice shall be sent by registered mail in conformity with the notice provisions, below. In the event of termination not the fault of the Contractor, the Contractor shall be paid for services performed to the date of termination in accordance with the terms of this Contract. Contractor shall be excused for failure to perform services herein if such performance is prevented by acts of God, strikes, labor disputes or other forces over which the Contractor has no control.

County, upon giving **sixty (60) calendar days written notice** to Contractor, shall have the right to terminate its obligations under this Contract at the end of any fiscal year if the County or the State of California, as the case may be, does not appropriate funds sufficient to discharge County's obligations coming due under this contract.

Miscellaneous

21. Books of Record and Audit Provision:

Contractor shall maintain complete records relating to this Contract for a period of five (5) years from the completion of Services hereunder. Said records shall include but not be limited to bids and all supporting documents, original entry books, canceled checks, receipts, invoices, payroll records including subsistence, travel and field expenses, together with a general ledger itemizing all debits and credits

Contractor shall permit County to audit said records as well as such related records of any business entity controlled by Contractor. Said audit may be conducted on Contractor's premises or at a location designated by County, upon fifteen (15) day notice. Contractor shall promptly refund any moneys erroneously charged and shall be liable for the costs of audit if the audit establishes an over-charged of five percent (5%) or more of the Maximum Contract Price.

22. Intellectual Property:

All original photographs, diagrams, plans, documents, information, reports, computer code and all recordable media together with all copyright interests thereto (herein "Intellectual Property"), which concern or relate to this Contract and which have been prepared by, for or submitted to Contractor, shall be the property of County, and upon fifteen (15) days demand therefor, shall be promptly delivered to County without exception. Provided however, for personal purposes only and not for commercial, economic or any other purpose, Contractor may retain a copy of Contractor's work product hereunder.

23. Entire Agreement:

This Contract represents the entire agreement of the parties, and no representations have been made or relied upon except as set forth herein. This Contract may be amended or modified only by written, fully executed agreement of the parties.

24. Jurisdiction and Venue:

This Contract shall be construed in accordance with the laws of the State of California and the parties hereto agree that venue shall be in Nevada County, California.

25. Compliance with Applicable Laws:

The Contractor shall comply with any and all federal, state and local laws, codes, ordinances, rules and regulations which relate to, concern or affect the Services to be provided by this Contract.

26. Notices:

This Contract shall be managed and administered on County's behalf by the department and the person set forth at §26, page one (1) of this Contract, and all invoices shall be submitted to and approved by this Department. In addition to personal service, all notices may be given to County and to Contractor by first class mail addressed as set forth at said §26. Said notices shall be deemed received the fifth (5th) day following the date of mailing or the earlier date of personal service, as the case may be.

27. Authority:

All individuals executing this Contract on behalf of Contractor represent and warrant that they are authorized to execute and deliver this Contract on behalf of Contractor.

IN WITNESS WHEREOF, the parties have executed this Contract effective on the Beginning Date, above.

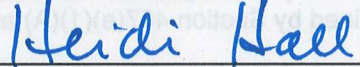
CONTRACTOR:



Keith Wild
VP & CFO, Retirement Plans

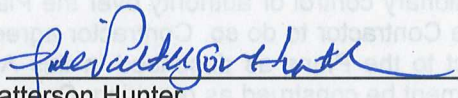
Dated: 2/4/2020

COUNTY OF NEVADA:



Honorable Heidi Hall
Chair, Board of Supervisors

Dated: 2/11/2020

Attest: 

Julie Patterson Hunter
Clerk of the Board

EXHIBIT "A"

SCHEDULE OF SERVICES

(Provided By Contractor)

1. Designation:

County designates Contractor as County's non-discretionary provider of recordkeeping and administrative services for the Plans ("Administration Services") for the Nevada County 457(b) Deferred Compensation Plan and Nevada County 401(a) Plan ("Plan" or "Plans") and in accordance with the terms of this Contract.

2. Appointments and Responsibilities:

County: County is responsible for maintaining the Plans and for maintaining the tax-qualified status of the Plans. County represents and warrants that the Plans have been properly adopted and established in accordance with any applicable state or local laws or regulations governing the County's ability to sponsor the Plans. County warrants that the Plans were established, and will be maintained by County, in accordance with the provisions of Section 457(b) and 401(a) of the Internal Revenue Code of 1986 as amended (the "Code"). County further acknowledges and agrees the County is an eligible governmental employer as defined by Section 457(e)(1)(A) and 414(d) of the Code.

Any duties or services not specifically described herein as being provided by Contractor are the responsibility of the County, unless specifically delegated to Contractor in the Plan Document.

Contractor: Contractor will serve County, in a non-fiduciary capacity, as the provider of Administrative Services for the County with respect to the Plans. Contractor does not exercise any discretionary control or authority over the Plans or the assets of the Plans, and this Agreement does not require Contractor to do so. Contractor agrees to perform all Administrative Services for the County with respect to the Plans as described in this Agreement. This Agreement does not require, nor shall this Agreement be construed as requiring, Contractor to provide investment, legal, or tax advice to the County or to the participants of the Plans.

3. Investment Options:

Contractor agrees to accept contributions to the Plans for investment in the investment options selected for the Plans by the Contractor or other responsible plan fiduciary in its sole discretion and agreed to by Contractor.

County agrees to accept the terms and conditions of the annuity contracts, mutual funds, and any other investment products selected for the Plan after being provided with a copy of the same and given a reasonable opportunity to review and approve.

4. Administration Services:

A. Plan Documents:

1. Contractor will provide the County with Adoption Agreements and Plan Documents which has been designed to comply with the requirements of Section 457(b) and 401(a) of the Code. The Adoption Agreements and Plan Documents will be prepared by Contractor at the direction of the County and with the understanding that it will be reviewed by the County and the County's tax and legal advisors prior to execution. Contractor does not provide tax or legal advice. County agrees to provide Contractor with executed copies of the Adoption Agreements and any other related Plan documentation as requested by Contractor.

2. When directed by the County, or at such other times as it may determine, Contractor will prepare and provide draft Plan amendments for review and approval by the County. Such Plan amendments may include changes required to keep the Plan Document in compliance with the Code as the result of changes in federal law that affect the Plans. The County will remain responsible for the accuracy and timely adoption of any Plan amendments. The County is responsible for properly executing and retaining such documents and agrees to provide Contractor with executed copies of same.

3. Contractor will prepare the Adoption Agreements for review by the County utilizing information and representations provided by the County, which information and representations may include Plan provisions found in the prior Plan Documents not prepared by Contractor.

County acknowledges that:

- a. The accuracy and completeness of the information and representations provided by County in the Adoption Agreements prepared by Contractor, which determine the Plans' provisions used by Contractor to administer the Plans, are the sole responsibility of the County.
- b. Contractor does not review prior Plan Documents to ensure that all required amendments or restatements were properly and timely made, or that any of the prior Plan provisions are in compliance with applicable laws and regulations. The restatement of the County's Plans onto Contractor's specimen Plan Document does not retroactively correct any Plan documentary or operational errors that may have occurred prior to the date Administrative Services are provided by Contractor.

B. Participant Enrollment and Communication/Education Services:

Contractor agrees to establish an account for each Plan participant, beneficiary and alternate payee (for purposes of this Agreement only, hereinafter referred to as "Plan participants"). For each such account, Contractor will record and maintain the following information, provided Contractor is provided with the same:

1. name;
2. Social Security number;
3. mailing address;
4. date of birth;
5. current investment allocation direction;
6. contributions allocated and invested;
7. investment transfers;
8. benefit payments;
9. current account balance;
10. transaction history since funding under the Agreement;
11. contributions since funding under the Agreement;
12. email address;
13. beneficiary designation;
14. benefit tax withholding information; and
15. such other information as agreed upon by the County and Contractor.

Contractor will post and credit the amounts transmitted by the County to the accounts of Plan participants in accordance with the latest instructions from participants or the County (as applicable) on file with Contractor, which instructions can include direction via electronic sources such as the website or the interactive voice response system.

Contractor agrees to process the enrollment of employees eligible to participate in the Plans as determined by the County. Contractor also agrees to conduct enrollment meetings with County's employees in such number and manner as determined by the parties. The County, at its discretion, will allow and facilitate the periodic distribution of materials to Plan participants at the time and in the manner determined by the County; provided however, that all reasonable expenses associated with such distribution shall be paid by Contractor. The County further agrees to allow and facilitate the periodic distribution to its employees of materials prepared by Contractor regarding products and services offered by Contractor, or its affiliates, which Contractor reasonably believes would be beneficial to such Plan participants at the County's discretion.

C. Plan Contributions

The County agrees to send all Plan contributions to Contractor on a timely basis that is in compliance with all applicable legal requirements. Contractor agrees to post funds received as contributions to the Plans in accordance with the separate funding agreements between County and Contractor or any of its affiliates when received from the County in good order by Contractor. The term "in good order," as used in this Agreement, means the receipt of required information by Contractor, in a form deemed reasonably acceptable to Contractor, with respect to the processing of a request or the completion of a task by Contractor that reasonably requires information from a third-party. More specifically, Plan contributions and contribution allocation information must meet all of the following requirements in order to be deemed to be in good order:

- 1) All records must include the correct and complete participant name, Social Security number, and the amount to be credited to the participant's account(s);
- 2) The source of funds must be identified (e.g., 457(b) salary reduction, employer contribution);
- 3) The Plan name and Plan number must be clearly identified;
- 4) Both the participant allocation detail and the total contribution amount must be received, and these two totals must match each other; and
- 5) All participants making or receiving a contribution must have an active account in the Plan.

Funds may be sent by wire transfer, through an automated clearinghouse or by check in accordance with written instructions provided by Contractor. Failure to follow the written instructions provided by Contractor may result in delay of posting to participant accounts. All contribution allocation information with respect to participant accounts will be provided to Contractor in a mutually agreed upon format.

If Contractor makes a determination that the contribution or allocation detail is not in good order, Contractor shall notify the County of such determination upon discovery. After such notification, the parties will continue to try to resolve the not in good order status, but if resolution is not achieved, Contractor shall return the funds to the County within thirty (30) Business Days. Contractor will not be liable for any delay in posting if the County fails to send the funds representing contribution amounts or contribution allocation information in accordance with Contractor's instructions to the central processing site designated by Contractor, or for any delay in posting that results from the receipt of funds and/or contribution allocation that Contractor determines to be not in good order.

As used in this Agreement, the term "Business Day" means each Monday through Friday during the hours the New York Stock Exchange is open for business. No transactions can be completed on any Business Day after such time as the New York Stock Exchange closes. The County shall, upon request, timely provide all information required by Contractor to perform its services to the Plans as described in this Agreement. The County shall be responsible for ensuring that the provided information is accurate and complete. Contractor shall be entitled to rely exclusively on the information provided by the County or the County's advisors, whether oral or in writing, and will have no responsibility to independently verify the accuracy of that information. The County acknowledges that inaccurate and/or late information could result in tax penalties and/or participant/beneficiary legal claims. Contractor assumes no responsibility for, and shall not have any liability for, any consequences that result from Contractor's inability to complete its work in the ordinary course of its business due to the failure of the County to provide accurate and timely information to Contractor.

The County is responsible for providing updated information regarding Plan participants requested by Contractor that the County and Contractor mutually agree is necessary for Contractor to perform the Administrative Services to the County under this Agreement.

D. Services with Respect To Participant Plan Accounts

1. Contractor will provide a secure Internet site that complies with applicable data protection and privacy laws. Using this site, participants may: (i) obtain information regarding their accounts, and (ii) conduct certain routine transactions with respect to their accounts. The County authorizes Contractor to honor instructions regarding such transactions that may be submitted by a participant using the secure Internet site. Contractor shall implement reasonable physical and technical safeguards to protect personal information made available on its Internet site. Such safeguards shall be no less rigorous than generally accepted industry practices.

2. Participants will have the unlimited ability to increase in the 457(b) Plan (within the limitations of Section 457(b) of the Code) or decrease contributions to the 457(b) Plan. All requests to increase or decrease contribution amounts will be processed by Contractor within five (5) Business Days of receipt of the request, but cannot be effective until the later of (1) the first of the calendar month following the month in which the contribution change was requested, and (2) the date the contribution change can be processed by the County given County's payroll processing schedule.

3. Participants will have the ability to exchange existing account balances, in full or in part, and to redirect future contributions from one investment option offered by the Plans to another on any Business Day, subject to Contractor's policies and any applicable restrictions or penalties applied by the investment options.

4. Participants will receive consolidated quarterly statements detailing their account activity and account balances for the Plans. Participants shall be informed that they must notify Contractor of any errors within forty-five (45) days of receipt of their statements or confirmation of their investments. Contractor will not be liable for any errors not reported within this time frame. However, some situations permit an extended acceptance period.

5. Contractor agrees to deliver account statements (by U.S. mail or electronically) to participants within thirty (30) calendar days after the end of each calendar quarter. This timeframe is contingent upon Contractor receiving fund returns from the mutual fund providers within four (4) Business Days after the end of each quarter.

6. Contractor agrees to provide reports to the County within thirty (30) calendar days following the end of each calendar year quarterly reporting period (March 31, June 30, September 30, and December 31) summarizing the following:

- a. All participant activity that transpired during the reporting period;
- b. Total contributions allocated to each investment or insurance option under the Plans; and
- c. Total withdrawals by Plan participant. This report shall include the amount, type and date of withdrawal.

7. During the term of this Agreement, Contractor agrees to maintain, the records necessary to produce any required reports. County agrees that all related paper and electronic records shall remain the property of Contractor.

E. Distributions

1. Contractor shall make all distributions as directed by a Plan participant or the County, in accordance with the Plan Document. All distributions will be made pro-rata from each of the participant's investment options and money sources unless directed otherwise by the Plan participant. Plan participants are responsible for selecting a form of payment from those available under the terms of the Plans and making all other elections regarding available distribution options, such as rollover elections.

2. Contractor shall furnish each participant, who has received a benefit payment, tax reporting forms in the manner and time prescribed by federal and state law. County shall be responsible for all tax reporting requirements for periods prior to the effective date of this Agreement, or after the termination date of this Agreement, unless otherwise agreed to in writing by the parties to this Agreement.

3. To the extent required by federal and state law, Contractor will calculate and withhold from each benefit payment federal and state income taxes. Contractor will report such withholding to the federal and state governments as required by applicable law. County shall be responsible for all tax reporting requirements for periods prior to the effective date of this Agreement, or after the termination date of this Agreement, unless otherwise agreed to in writing by the parties to this Agreement.

4. Contractor will provide notice and a distribution form to each Plan participant attaining age 70½ or older in the current calendar year. The notice will inform the Plan participant that required minimum distributions must begin no later than the April 1 of the calendar year following the later of attainment of age 70½ or retirement. All required minimum distributions will be made in accordance with the Plan Document.

5. Contractor shall administer Plan participant and beneficiary unclaimed property funds, including but not limited to uncashed distribution checks and death claims, in accordance with Contractor's standard unclaimed property procedures.

F. Qualified Domestic Relations Orders (QDROs)

If the Plans accept Qualified Domestic Relations Orders ("QDROs"), the County directs Contractor to process QDROs in accordance with Contractor's standard QDRO procedures, and the County hereby approves the use of such standard QDRO procedures.

G. Unforeseeable Emergency Withdrawals

If the 457(b) Plan offers unforeseeable emergency withdrawals, the County instructs Contractor to process all unforeseeable emergency withdrawal requests received in good order, and in a manner satisfactory to Contractor. Withdrawals will only be permitted due to an unforeseeable emergency resulting in a severe financial hardship to the Plan participant or beneficiary that cannot be alleviated by any other means available to the Plan participant, in accordance with Contractor's standard unforeseeable emergency procedures. County hereby approves the use of such standard unforeseeable emergency procedures to make these determinations.

5. Plan Participant Services

A. Website

Contractor will create and maintain a website for and on behalf of the County for the use of its Plan participants. Plan participants may access the website via the internet at www.nrsforu.com to review and make changes to their accounts. The website is the exclusive property of Contractor. The website is available twenty-four (24) hours a day, except for routine maintenance of the system.

B. Interactive Voice Response System

Contractor will provide an interactive voice response (IVR) toll free telephone number, which shall be operative twenty-four (24) hours per day, seven (7) days per week, except for routine maintenance of the system. Plan participants shall be able to conduct routine plan transactions and obtain account balance information through the IVR. The County authorizes Contractor to honor Plan participant instructions, which may be submitted using the toll-free number, either through the IVR or a live representative.

C. Customer Service

Contractor's customer service representatives will be available toll-free to answer participant questions and process applicable transactions between the hours of 8:00 a.m. and 11:00 p.m. Eastern Time each Monday through Friday, and between the hours of 9:00 a.m. and

6:00 p.m. Eastern Time each Saturday, with the exception of certain holidays as dictated by the New York Stock Exchange holiday trading schedule.

SCHEDULE OF CHARGES AND PAYMENTS

Payment schedules shall set forth specific milestones which relate to the schedule of services to be provided, as set forth in Exhibit "A", above.

A. As compensation for the Administrative Services provided by Contractor pursuant to this Agreement, County and Contractor agree that Contractor shall be entitled to an annualized compensation requirement of 0.045% (4.5 basis points) of the Plan's account value held by Contractor ("Compensation Requirement") per year to be calculated and collected as an explicit asset fee according to Contractor's standard business practices. In calculating the 4.5 basis points, the total Plan assets will include Plan balances held in the Self-Directed Brokerage Account ("SDBA") and as outstanding participant loan balances. The explicit asset management charge of 4.5 basis points will be taken against participant loans by applying an additional finance charge to the loan interest rate.

B. The County acknowledges that Contractor and its affiliates receive payments in connection with the sale and servicing of investments allocated to Plan participant Contractor acknowledge and agree that Contractor may receive revenue associated with annuity contracts, revenue from mutual fund providers, as well as fees associated with specific services or products. The investment Option Payments include mutual fund service fee payments, which are described in detail at www.nistef.com, and other payments received from investment option providers. Contractor agrees to credit all investment Option Payments to Plan participant accounts on a quarterly basis. The investment Option Payments shall be credited to Plan participant accounts on a pro-rata basis based on each Plan participant's total assets held in all Plan investment options that generate the investment Option Payments.

C. Contractor will provide the County a quarterly report showing total participant account balances and the corresponding fee calculation within thirty (30) Business Days after the end of each quarter.

D. The County acknowledges that it has received all information about compensation paid to Contractor as the County has reasonably requested.

E. To the extent offered under the Plan, in addition to the above described fees, Contractor shall also receive fees with respect to a Plan participant's use of participant loan administration, the SDBA, and Contractor's managed account service ("PrioAccount") as follows:

a. Loans - If requested by the County and permitted under the terms of the Plan, Contractor will assist the County in processing Plan participant loan requests pursuant to Plan participant loan administrative procedures approved by the County and Contractor. All Plan participant loan fees are governed by Contractor's Plan Loan Procedures document, a copy of which has been provided to the County.

b. Self-Directed Brokerage Account - The Plan offers an SDBA investment option for qualifying participants in both the 401(a) Plan and the 457(b) Plan. Initial and annual administrative fees may be charged as outlined in the separate fee agreement for the SDBA that will be provided to each participant by Contractor. At the time of the County's Request for Proposal, those fees were as follows:

Service	Fee
Annual Administrative	\$50
Withdrawal	\$50

Fees are in addition to charges assessed by Charles Schwab.

EXHIBIT "B"

SCHEDULE OF CHARGES AND PAYMENTS

Payment schedules shall set forth specific milestones which relate to the schedule of services to be provided, as set forth in **Exhibit "A"**, above.

- A. As compensation for the Administrative Services provided by Contractor pursuant to this Agreement, County and Contractor agree that Contractor shall be entitled to an annualized compensation requirement of 0.045% (4.5 basis points) of the Plans' account value held by Contractor ("Compensation Requirement") per year to be calculated and collected as an explicit asset fee according to Contractor's standard business practices. In calculating the 4.5 basis points, the total Plan assets will include Plan balances held in the Self-Directed Brokerage Account ("SDBA") and as outstanding participant loan balances. The explicit asset management charge of 4.5 basis points will be taken against participant loans by applying an additional finance charge to the loan interest rate.
- B. The County acknowledges that Contractor and its affiliates receive payments in connection with the sale and servicing of investments allocated to Plan participant Contractor acknowledge and agree that Contractor may receive revenue associated with annuity contracts, revenue from mutual fund providers, as well as fees associated with specific services or products. The Investment Option Payments include mutual fund service fee payments, which are described in detail at www.nrsforu.com, and other payments received from investment option providers. Contractor agrees to credit all Investment Option Payments to Plan participant accounts on a quarterly basis. The Investment Option Payments shall be credited to Plan participant accounts on a pro-rata basis based on each Plan participant's total assets held in all Plan investment options that generate the Investment Option Payments.
- C. Contractor will provide the County a quarterly report showing total participant account balances and the corresponding fee calculation within thirty (30) Business Days after the end of each quarter.
- D. The County acknowledges that it has received all information about compensation paid to Contractor as the County has reasonably requested.
- E. To the extent offered under the Plans, in addition to the above described fees, Contractor shall also receive fees with respect to a Plan participant's use of participant loan administration, the SDBA, and Contractor's managed account service ("ProAccount") as follows:
 - a. Loans – If requested by the County and permitted under the terms of the Plans, Contractor will assist the County in processing Plan participant loan requests pursuant to Plan participant loan administrative procedures approved by the County and Contractor. All Plan participant loan fees are governed by Contractor's Plan Loan Procedures document, a copy of which has been provided to the County.
 - b. Self-Directed Brokerage Account – The Plan offers an SDBA investment option for qualifying participants in both the 401(a) Plan and the 457(b) Plan. Initial and annual administrative fees may be charged as outlined in the separate fee agreement for the SDBA that will be provided to each participant by Contractor. At the time of the County's Request for Proposal, those fees were as follows:

Fee	Amount
Initiation:	\$50
Annual Administrative:	\$50

Fees are in addition to charges assessed by Charles Schwab.

- pursuant to the terms and conditions of such agreement.

Compensation Requirement for Administrative Services as provided in this Agreement:

EXHIBIT "C"**SCHEDULE OF CHANGES**

(Amendments and Additions to Contract)

Page 2, Paragraph 4 ("Liquidated Damages") is hereby amended and replaced in its entirety as follows:

4. Liquidated Damages:

County and Contractor agree that damages to County due to delays in timely providing Services in accordance with the aforesaid Performance Schedule and Contract Termination Date are impractical and difficult to ascertain. Therefore, County shall have the right to assess the sums set forth in the table below, not as a penalty, but as and for damages to County due to delays in providing Services not in accordance with the said Performance Schedule, or later than the Contract Termination Date (herein "Delay"). Liquidated Damages shall be offset against amounts owing to Contractor, including retention sums.

	Benchmark	Amount at Risk
Phone		
Plan sponsor services response time:	one Business Day	\$125 quarterly
Participant services response time:	80% within 20 seconds	\$125 quarterly
Return all calls to plan sponsor within:	one Business Day	\$125 quarterly
Return all calls to participants within:	one Business Day	\$125 quarterly
Statements		
Participant statement mail time:	Within 15 Business Days of the end of the period	\$125 quarterly
Sponsor plan statement mail time:	Within 30 Business Days of the end of the reporting period	\$125 quarterly
Participant online statement posting:	Within 15 Business Days of the end of the reporting period	\$125 quarterly
Sponsor online statement posting:	Within 30 Calendar days of the end of the reporting period	\$125 quarterly
Participant Services		
Number of on-site individual meetings:	150 annually	\$125 quarterly
Number of on-site group meetings:	12 annually	\$125 quarterly
Financial planning services:	Quarterly targeted email communications	\$0
Plan participation rate increases:	Nationwide will discuss expectations with the Plan	\$0
Deferral rate increases:	Nationwide will discuss expectations with the Plan	\$0
Transition	Nationwide will ensure a smooth consolidation with a \$10,000 performance guarantee. We will work with the Plan during the discovery phase to finalize mutually agreed upon targets according to your personalized needs.	
Timeline:	16 weeks	\$5,000

	Benchmark	Amount at Risk
Deliverables:	<ul style="list-style-type: none"> - One-day blackout period - Funds applied correctly - Employees educated on enhancements and consolidation 	\$5,000
On-site meetings:	4 days	\$5,000
Administration		
Contribution posting:	Same business day if received in good order by 1 p.m. PT	\$0
Withdrawals processed:	Within 3 Business Days	\$0
Emergency withdrawals processed:	Within 3 Business Days	\$0
Rollovers/transfers out:	Within 3 Business Days of receipt in good order	\$0
Loan processing (if applicable):	Within 3 Business Days of receipt in good order	\$0
County Services		
Report delivery:	Within 30 Calendar days of the end of the reporting period	\$0
Training:	We would like to discuss requirements and expectations with the Plans	\$0
Overall Satisfaction		
Draft and distribute survey:	Our County survey is conducted periodically.	\$0
Satisfaction survey score:	Survey results are compiled and reported back to the Plans on a mutually agreeable frequency.	\$0

Page 4, paragraph 11 ("Indemnity") is hereby amended and replaced in its entirety as follows:

11. Indemnity:

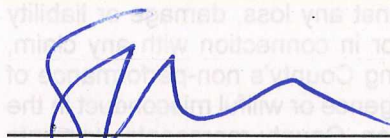
Nationwide agrees to indemnify, defend and hold harmless County, its officers, directors, agents, and employees from and against any loss, damage or liability assessed against County or incurred by County arising out of or in connection with any claim, action, or suit brought or asserted against County alleging or involving Nationwide's non-performance of the provisions of the Agreement under Nationwide's exclusive control, or negligence or willful misconduct in the performance of its services, duties and obligations under the Agreement. In addition, Nationwide represents, warrants and covenants that the indemnification in this paragraph is enforceable under applicable law and that Nationwide will not assert a position contrary to such representation in any judicial or administrative proceeding.

To the extent not prohibited by state law, County agrees to indemnify, defend and hold harmless Nationwide, its officers, directors, agents, and employees from and against any loss, damage or liability assessed against Nationwide or incurred by Nationwide arising out of or in connection with any claim, action, or suit brought or asserted against Nationwide alleging or involving County's non-performance of the provisions of the Agreement under County's exclusive control, or negligence or willful misconduct in the performance of its duties and obligations under this Agreement. In addition, County represents, warrants and covenants that the indemnification in this paragraph is enforceable under applicable law and that County will not assert a position contrary to such representation in any judicial or administrative proceeding.

Page 6, Paragraph 20 ("Termination") is hereby amended and replaced in its entirety as follows:

20. Termination:

- a. Either the County or Nationwide may terminate the Agreement for any reason upon providing 150 calendar days written notice to the other party.
- b. In the event either party is deemed to be in material breach of this Agreement, the non-breaching party shall give the breaching party written notice, specifying the particulars of the breach. If such breach is not cured within thirty (30) calendar days from the date in which notice of breach is given, the non-breaching party may terminate the Agreement upon 120 days written notice to the breaching party, as well as seek any and all available legal remedies.
- c. Provision of such written notice of termination by County to Nationwide does not relieve the County of any termination requirements that may be associated with specific investment options.
- d. County further acknowledges and agrees that the Plan is responsible for any investment product liquidation fees, if applicable, and that neither Nationwide nor any of its affiliates assumes liability for any such fees.
- e. Upon the effective date of termination of this Agreement the following shall occur:
 - i. Nationwide will no longer accept contributions to the Plan except by agreement of the parties.
 - ii. Nationwide will:
 1. Provide County, or such other entity as the County may designate in writing, with a copy of all participant records in a commercially-recognized electronic format and within a time frame as mutually agreed upon between Nationwide and County, but not later than 30 calendar days after termination of the Agreement.
 2. Transfer any periodic distribution amounts and schedules, continuing loan repayments, or other ongoing participant transactional activity to the County, or such other entity as the County may designate in writing, in a commercially-recognized electronic format in accordance with the time frame agreed to by the parties for the delivery of participant records, but not later than 30 calendar days after termination of the Agreement.
 3. Transfer all Plan assets under its control to the County or to such other entity as the County may designate in writing in accordance with the funding arrangement terms. Nationwide agrees to provide a final accounting of all Plan assets for which Nationwide provides recordkeeping.
- f. If the Plan is not funded within 180 calendar days of the date this Agreement is signed by the parties or the Effective Date of the Agreement, if later, Nationwide reserves the right to terminate the Agreement by providing written notice of the termination to County.


Approved by County Counsel

ADOPTION AGREEMENT FOR ELIGIBLE GOVERNMENTAL 457 PLAN

The undersigned Employer, by executing this Adoption Agreement, establishes an Eligible 457 Plan ("Plan"). The Employer, subject to the Employer's Adoption Agreement elections, adopts fully the Plan provisions. This Adoption Agreement, the basic plan document and any attached Appendices, amendments, or agreements permitted or referenced therein, constitute the Employer's entire plan document. *All "Election" references within this Adoption Agreement or the basic plan document are Adoption Agreement Elections. All "Article" or "Section" references are basic plan document references. Numbers in parentheses which follow election numbers are basic plan document references.* Where an Adoption Agreement election calls for the Employer to supply text, the Employer may lengthen any space or line, or create additional tiers. When Employer-supplied text uses terms substantially similar to existing printed options, all clarifications and caveats applicable to the printed options apply to the Employer-supplied text unless the context requires otherwise. The Employer makes the following elections granted under the corresponding provisions of the basic plan document.

1. EMPLOYER (1.11).

Name: Nevada County, CA
 Address: 950 Maidu Avenue Street
Nevada City City California State 95959-8600 Zip
 Telephone: (530) 265-7248
 Taxpayer Identification Number (TIN): _____

2. PLAN NAME.

Name: Nevada County 457(b) Deferred Compensation Plan

3. PLAN YEAR (1.25). Plan Year means the 12 consecutive month period (except for a short Plan Year) ending every (Choose one of a. or b. and choose c. if applicable): [Note: Complete any applicable blanks under Election c. with a specific date, e.g., "June 30" OR "the last day of February" OR "the first Tuesday in January." In the case of a Short Plan Year or a Short Limitation Year, include the year, e.g., "May 1, 2013."]]

- a. ☒ **December 31.**
 b. ☐ **Plan Year:** ending: _____
 c. ☐ **Short Plan Year:** commencing: _____ and ending: _____

4. EFFECTIVE DATE (1.08). The Employer's adoption of the Plan is a (Choose one of a. or b. Complete c. if new plan OR complete c. and d. if an amendment and restatement. Choose e. if applicable):

- a. ☐ **New Plan.**
 b. ☒ **Restated Plan.** The Plan is a substitution and amendment of an existing 457 plan.

Initial Effective Date of Plan

c. ☒ March 23, 1981 (enter month day, year; hereinafter called the "Effective Date" unless 4d is entered below)

Restatement Effective Date (If this is an amendment and restatement, enter effective date of the restatement.)

d. ☐ _____ (enter month day, year)

Special Effective Dates: (optional)

e. ☐ **Describe:** _____

5. CONTRIBUTION TYPES. (If this is a frozen Plan (i.e., all contributions have ceased), choose a. only):

Frozen Plan

- a. ☐ **Contributions cease.** All Contributions have ceased or will cease (Plan is frozen).
 1. **Effective date of freeze:** _____ [Note: Effective date is optional unless this is the amendment or restatement to freeze the Plan.]

Contributions. The Employer and/or Participants, in accordance with the Plan terms, make the following Contribution Types to the Plan (Choose one or more of b. through d. if applicable):

- b. ☒ **Pre-Tax Elective Deferrals.** The dollar or percentage amount by which each Participant has elected to reduce his/her Compensation, as provided in the Participant's Salary Reduction Agreement (Choose one or more as applicable.):

And will Matching Contributions be made with respect to Elective Deferrals?

1. ☐ Yes. See Question 16.
2. ☒ No.

And will **Roth Elective Deferrals** be made?

3. ☐ Yes. [Note: The Employer may not limit Deferrals to Roth Deferrals only.]
4. ☒ No.

- c. ☐ **Nonelective Contributions.** See Question 17.

- d. ☒ **Rollover Contributions.** See Question 30.

6. **EXCLUDED EMPLOYEES (1.10).** The following Employees are Excluded Employees and are not eligible to participate in the Plan (Choose one of a. or b.):

- a. ☒ **No exclusions.** All Employees are eligible to participate.
b. ☐ **Exclusions.** The following Employees are Excluded Employees (Choose one or more of 1. through 4.):
1. ☐ **Part-time Employees.** The Plan defines part-time Employees as Employees who normally work less than _____ hours per week.
2. ☐ **Hourly-paid Employees.**
3. ☐ **Leased Employees.** The Plan excludes Leased Employees.
4. ☐ **Specify:** _____

7. **INDEPENDENT CONTRACTOR (1.16).** The Plan (Choose one of a., b. or c.):

- a. ☒ **Participate.** Permits Independent Contractors to participate in the Plan.
b. ☐ **Not Participate.** Does not permit Independent Contractors to participate in the Plan.
c. ☐ **Specified Independent Contractors.** Permits the following specified Independent Contractors to participate: _____

[Note: If the Employer elects to permit any or all Independent Contractors to participate in the Plan, the term Employee as used in the Plan includes such participating Independent Contractors.]

8. **COMPENSATION (1.05).** Subject to the following elections, Compensation for purposes of allocation of Deferral Contributions means:

Base Definition (Choose one of a., b. or c.):

- a. ☒ Wages, tips and other compensation on Form W-2.
b. ☐ Code §3401(a) wages (wages for withholding purposes).
c. ☐ 415 safe harbor compensation.

[Note: The Plan provides that the base definition of Compensation includes amounts that are not included in income due to Code §§401(k), 125, 132(f)(4), 403(b), SEP, 414(h)(2), & 457. Compensation for an Independent Contractor means the amounts the Employer pays to the Independent Contractor for services, except as the Employer otherwise specifies below.]

Modifications to Compensation definition. The Employer elects to modify the Compensation definition as follows (Choose one of d. or e.):

- d. ☒ **No modifications.** The Plan makes no modifications to the definition.
e. ☐ **Modifications** (Choose one or more of 1. through 5.):
1. ☐ **Fringe benefits.** The Plan excludes all reimbursements or other expense allowances, fringe benefits (cash and noncash), moving expenses, deferred compensation and welfare benefits.
2. ☐ **Elective Contributions.** [1.05(E)] The Plan excludes a Participant's Elective Contributions.
3. ☐ **Bonuses.** The Plan excludes bonuses.

4. ☐ **Overtime.** The Plan excludes overtime.

5. ☐ **Specify:** _____

Compensation taken into account. For the Plan Year in which an Employee first becomes a Participant, the Plan Administrator will determine the allocation of matching and nonelective contributions by taking into account *(Choose one of f. or g.):*

f. ☒ **Plan Year.** The Employee's Compensation for the entire Plan Year.

g. ☐ **Compensation while a Participant.** The Employee's Compensation only for the portion of the Plan Year in which the Employee actually is a Participant.

9. **POST-SEVERANCE COMPENSATION (1.05(F)).** Compensation includes the following types of Post-Severance Compensation paid within any applicable time period as may be required *(Choose one of a. or b.):*

a. ☐ **None.** The Plan does not take into account Post-Severance Compensation as to any Contribution Type except as required under the basic plan document.

b. ☒ **Adjustments.** The following Compensation adjustments apply *(Choose one or more):*

1. ☒ **Regular Pay.** Post-Severance Compensation will include Regular Pay and it will apply to all Contribution Types.

2. ☒ **Leave-Cashouts.** Post-Severance Compensation will include Leave Cashouts and it will apply to all Contribution Types.

3. ☒ **Nonqualified Deferred Compensation.** Post-Severance Compensation will include Deferred Compensation and it will apply to all Contribution Types.

4. ☐ **Salary Continuation for Disabled Participants.** Post-Severance Compensation will include Salary Continuation for Disabled Participants and it will apply to all Contribution Types.

5. ☐ **Differential Wage Payments.** Post-Severance Compensation will include Differential Wage Payments (military continuation payments) and it will apply to all Contribution Types.

6. ☐ **Describe alternative Post-Severance Compensation definition, limit by Contribution Type, or limit by Participant group:** _____

10. **NORMAL RETIREMENT AGE (1.20).** A Participant attains Normal Retirement Age under the Plan *(Choose one of a. or b.):*

a. ☐ **Plan designation.** [Plan Section 3.05(B)] When the Participant attains age _____. *[Note: The age may not exceed age 70 1/2. The age may not be less than age 65, or, if earlier, the age at which a Participant may retire and receive benefits under the Employer's pension plan, if any.]*

b. ☒ **Participant designation.** [Plan Section 3.05(B) and (B)(1)] When the Participant attains the age the Participant designates, which may not be earlier than age 65 and may not be later than age 70 1/2. *[Note: The age may not exceed age 70 1/2.]*

Special Provisions for Police or Fire Department Employees *(Choose c. and/or d. as applicable):*

c. ☒ **Police department employees.** [Plan Section 3.05(B)(3)] *(Choose 1. or 2.):*

1. ☐ **Plan designation.** [Plan Section 3.05(B)] When the Participant attains age _____. *[Note: The age may not exceed age 70 1/2 and may not be less than age 40.]*

2. ☒ **Participant designation.** [Plan Section 3.05(B) and (B)(1)] When the Participant attains the age the Participant designates, which may not be earlier than age 40 (no earlier than age 40) and may not be later than age 70 1/2. *[Note: The age may not exceed age 70 1/2.]*

d. ☒ **Fire department employees.** [Plan Section 3.05(B)(3)] *(Choose 1. or 2.):*

1. ☐ **Plan designation.** [Plan Section 3.05(B)] When the Participant attains age _____. *[Note: The age may not exceed age 70 1/2 and may not be less than age 40.]*

2. ☒ **Participant designation.** [Plan Section 3.05(B) and (B)(1)] When the Participant attains the age the Participant designates, which may not be earlier than age 40 (no earlier than age 40) and may not be later than age 70 1/2. *[Note: The age may not exceed age 70 1/2.]*

11. **ELIGIBILITY CONDITIONS (2.01).** *(Choose one of a. or b.):*

a. ☒ **No eligibility conditions.** The Employee is eligible to participate in the Plan as of his/her first day of employment with the employer.

b. ☐ **Eligibility conditions.** To become a Participant in the Plan, an Eligible Employee must satisfy the following eligibility conditions *(Choose one or more of 1., 2. or 3.):*

1. ☐ **Age.** Attainment of age _____.

2. ☐ **Service.** Service requirement (Choose one of a. or b.):
- a. ☐ **Year of Service.** One year of Continuous Service.
- b. ☐ **Months of Service.** _____ month(s) of Continuous Service.
3. ☐ **Specify:** _____
12. **PLAN ENTRY DATE (1.24).** "Plan Entry Date" means the Effective Date and (Choose one of a. through d.):
- a. ☐ **Monthly.** The first day of the month coinciding with or next following the Employee's satisfaction of the Plan's eligibility conditions.
- b. ☐ **Annual.** The first day of the Plan Year coinciding with or next following the Employee's satisfaction of the Plan's eligibility conditions.
- c. ☒ **Date of hire.** The Employee's employment commencement date with the Employer.
- d. ☐ **Specify:** _____
13. **SALARY REDUCTION CONTRIBUTIONS (1.30).** A Participant's Salary Reduction Contributions under Election 5b. are subject to the following limitation(s) in addition to those imposed by the Code (Choose one of a. or b.):
- a. ☒ **No limitations.**
- b. ☐ **Limitations.** (Choose one or more of 1., 2. or 3.):
1. ☐ **Maximum deferral amount.** A Participant's Salary Reductions may not exceed: _____ (specify dollar amount or percentage of Compensation).
2. ☐ **Minimum deferral amount.** A Participant's Salary Reductions may not be less than: _____ (specify dollar amount or percentage of Compensation).
3. ☐ **Specify:** _____
- [Note: Any limitation the Employer elects in b.1. through b.3. will apply on a payroll basis unless the Employer otherwise specifies in b.3.]
- Special NRA Catch-Up Contributions (3.05).** The Plan (Choose one of c. or d.):
- c. ☒ **Permits.** Participants may make NRA catch-up contributions.
- AND, Special NRA Catch-Up Contributions (Choose one of 1. or 2.):**
1. ☐ will be taken into account in applying any matching contribution under the Plan.
2. ☐ will not be taken into account in applying any matching contribution under the Plan.
- d. ☐ **Does not permit.** Participants may not make NRA catch-up contributions.
- Age 50 Catch-Up Contributions (3.06).** The Plan (Choose one of e. or f.):
- e. ☒ **Permits.** Participants may make age 50 catch-up contributions.
- f. ☐ **Does not permit.** Participants may not make age 50 catch-up contributions.
14. **SICK VACATION AND BACK PAY (3.02(A)).** The Plan (Choose one of a. or b.):
- a. ☒ **Permits.** Participants may make Salary Reduction Contributions from accumulated sick pay, from accumulated vacation pay or from back pay.
- b. ☐ **Does Not Permit.** Participants may not make Salary Reduction Contributions from accumulated sick pay, from accumulated vacation pay or from back pay.
15. **AUTOMATIC ENROLLMENT (3.02(B)).** Does the Plan provide for automatic enrollment (Choose one of the following) [Note: if Eligible Automatic Contribution Arrangement (EACA), select 15c and complete Questions 31 & 32]:
- a. ☒ **Does not apply.** Does not apply the Plan's automatic enrollment provisions.
- b. ☐ **Applies.** Applies the Plan's automatic enrollment provisions. The Employer as a Pre-Tax Elective Deferral will withhold _____% from each Participant's Compensation unless the Participant elects a different percentage (including zero) under his/her Salary Reduction Agreement. The automatic election will apply to (Choose one of 1. through 3.):
1. ☐ **All Participants.** All Participants who as of _____ are not making Pre-Tax Elective Deferrals at least equal to the automatic amount.
2. ☐ **New Participants.** Each Employee whose Plan Entry Date is on or following: _____
3. ☐ **Describe Application of Automatic Deferrals:** _____

- c. ☐ **EACA.** The Plan will provide an Eligible Automatic Contribution Arrangement (EACA). Complete Questions 31 & 32.

16. **MATCHING CONTRIBUTIONS (3.03).** The Employer Matching Contributions is (Choose one or more of a. through d.):

- a. ☐ **Fixed formula.** An amount equal to _____ of each Participant's Salary Reduction Contributions.
- b. ☐ **Discretionary formula.** An amount (or additional amount) equal to a matching percentage the Employer from time to time may deem advisable of each Participant's Salary Reduction Contributions.
- c. ☐ **Tiered formula.** The Employer will make matching contributions equal to a uniform percentage of each tier of each Participant's Salary Reduction Contributions, determined as follows:

NOTE: Fill in only percentages or dollar amounts, but not both. If percentages are used, each tier represents the amount of the Participant's applicable contributions that equals the specified percentage of the Participant's Compensation (add additional tiers if necessary):

Tiers of Contributions (indicate \$ or %)	Matching Percentage
First _____	_____ %
Next _____	_____ %
Next _____	_____ %
Next _____	_____ %

- d. ☐ **Specify:** _____

Time Period for Matching Contributions. The Employer will determine its Matching Contribution based on Salary Reduction Contributions made during each (Choose one of e. through h.):

- e. ☐ **Plan Year.**
- f. ☐ **Plan Year quarter.**
- g. ☐ **Payroll period.**
- h. ☐ **Specify:** _____

Salary Reduction Contributions Taken into Account. In determining a Participant's Salary Reduction Contributions taken into account for the above-specified time period under the Matching Contribution formula, the following limitations apply (Choose one of i. through l.):

- i. ☐ **All Salary Reduction Contributions.** The Plan Administrator will take into account all Salary Reduction Contributions.
- j. ☐ **Specific limitation.** The Plan Administrator will disregard Salary Reduction Contributions exceeding _____ % of the Participant's Compensation.
- k. ☐ **Discretionary.** The Plan Administrator will take into account the Salary Reduction Contributions as a percentage of the Participant's Compensation as the Employer determines.
- l. ☐ **Specify:** _____

Allocation Conditions. To receive an allocation of Matching Contributions, a Participant must satisfy the following allocation condition(s) (Choose one of m. or n.):

- m. ☐ **No allocation conditions.**
- n. ☐ **Conditions.** The following allocation conditions apply to Matching Contributions (Choose one or more of 1. through 4.):
1. ☐ **Service condition.** The Participant must complete the following number of months of Continuous Service during the Plan Year: _____.
 2. ☐ **Employment condition.** The Participant must be employed by the Employer on the last day of the Plan Year.
 3. ☐ **Limited Severance Exception.** Any condition specified in 1. or 2. does not apply if the Participant incurs a Severance from Employment during the Plan Year on account of death, disability or attainment of Normal Retirement Age in the current Plan Year or in a prior Plan Year.
 4. ☐ **Specify:** _____

17. **NONELECTIVE CONTRIBUTIONS (1.19).** The Nonelective Contributions under Election 5c. are made as follows: (Choose one):

- a. ☐ **Discretionary - Pro-Rata.** An amount the Employer in its sole discretion may determine.

- b. ☐ **Fixed - Pro Rata.** _____ % of Compensation.
- c. ☐ **Other.** A Nonelective Contribution may be made as follows:

Allocation Conditions. (3.08). To receive an allocation of Nonelective Contributions, a Participant must satisfy the following allocation condition(s) (Choose one of d. or e.):

- d. ☐ **No allocation conditions.**
- e. ☐ **Conditions.** The following allocation conditions apply to Nonelective Contributions (Choose one or more of 1. through 4.):
1. ☐ **Service condition.** The Participant must complete the following number of months of Continuous Service during the Plan Year: _____.
 2. ☐ **Employment condition.** The Participant must be employed by the Employer on the last day of the Plan Year.
 3. ☐ **Limited Severance Exception.** Any condition specified in 1. or 2. does not apply if the Participant incurs a Severance from Employment during the Plan Year on account of death, disability or attainment of Normal Retirement Age in the current Plan Year or in a prior Plan Year.
 4. ☐ **Specify:** _____.

18. TIME AND METHOD OF PAYMENT OF ACCOUNT (4.02). The Plan will distribute to a Participant who incurs a Severance from Employment his/her Vested Account as follows:

Timing. The Plan, in the absence of a permissible Participant election to commence payment later, will pay the Participant's Account (Choose one of a. through e.):

- a. ☐ **Specified Date.** _____ days after the Participant's Severance from Employment.
- b. ☒ **Immediate.** As soon as administratively practicable following the Participant's Severance from Employment.
- c. ☐ **Designated Plan Year.** As soon as administratively practicable in the _____ Plan Year beginning after the Participant's Severance from Employment.
- d. ☐ **Normal Retirement Age.** As soon as administratively practicable after the close of the Plan Year in which the Participant attains Normal Retirement Age.
- e. ☐ **Specify:** _____.

Method. The Plan, in the absence of a permissible Participant election, will distribute the Participant's Account under one of the following method(s) of distribution (Choose one or more of f. through j. as applicable):

- f. ☒ **Lump sum.** A single payment.
- g. ☒ **Installments.** Multiple payments made as follows: as elected by the Participant.
- h. ☐ **Installments for required minimum distributions only.** Annual payments, as necessary under Plan Section 4.03.
- i. ☐ **Annuity distribution option(s):** _____.
- j. ☒ **Specify:** Partial Lump Sum as elected by the Participant.

Participant Election. [Plan Sections 4.02(A) and (B)] The Plan (Choose one of k., l. or m.):

- k. ☒ **Permits.** Permits a Participant, with Plan Administrator approval of the election, to elect to postpone distribution beyond the time the Employer has elected in a. through e. and also to elect the method of distribution (including a method not described in f. through j. above).
- l. ☐ **Does not permit.** Does not permit a Participant to elect the timing and method of Account distribution.
- m. ☐ **Specify:** _____.

Mandatory Distributions. Notwithstanding any other distribution election, following Severance from Employment (Choose n. or o.):

- n. ☐ **No Mandatory Distributions.** The Plan will not make a Mandatory Distribution.
- o. ☒ **Mandatory Distribution.** If the Participant's Vested Account is not in excess of \$5,000 (unless a different amount selected below) as of the date of distribution, the Plan will make a Mandatory Distribution following Severance from Employment.
1. ☒ **Mandatory Distribution.** If the Participant's Vested Account is not in excess of \$ 1,000 as of the date of distribution, the Plan will make a Mandatory Distribution following Severance from Employment.

Exclusion of rollovers in determination of \$5,000 threshold. In determining the \$5,000 threshold (or other dollar threshold above), rollover contributions will be:

- p. ☒ **included.**
 q. ☐ **excluded.**

19. **BENEFICIARY DISTRIBUTION ELECTIONS.** Distributions following a Participant's death will be made as follows (*Choose one of a. through d.*):

- a. ☐ **Immediate.** As soon as practical following the Participant's death.
 b. ☐ **Next Calendar Year.** At such time as the Beneficiary may elect, but in any event on or before the last day of the calendar year which next follows the calendar year of the Participant's death.
 c. ☒ **As Beneficiary elects.** At such time as the Beneficiary may elect, consistent with Section 4.03.
 d. ☐ **Describe:** _____

[*Note: The Employer under Election 19d. may describe an alternative distribution timing or afford the Beneficiary an election which is narrower than that permitted under Election 19c., or include special provisions related to certain beneficiaries, (e.g., a surviving spouse). However, any election under Election 19d. must require distribution to commence no later than the Section 4.03 required date.*]

20. **DISTRIBUTIONS PRIOR TO SEVERANCE FROM EMPLOYMENT (4.05).** A Participant prior to Severance from Employment may elect to receive a distribution of his/her Vested Account under the following distribution options (*Choose one of a. or b.*):

- a. ☐ **None.** A Participant may not receive a distribution prior to Severance from Employment.
 b. ☒ **Distributions.** Prior to Severance from Employment are permitted as follows (*Choose one or more of 1. through 4.*):
 1. ☒ **Unforeseeable emergency.** A Participant may elect a distribution from his/her Account in accordance with Plan Section 4.05(A) (for the Participant, spouse, dependents or beneficiaries)
 2. ☒ **De minimis exception.** [Plan Section 4.05(B)] If the Participant: (i) has an Account that does not exceed \$5,000; (ii) has not made or received an allocation of any Deferral Contributions under the Plan during the two-year period ending on the date of distribution; and (iii) has not received a prior Plan distribution under this de minimis exception, then (*Choose one of a., b. or c.*):
 a. ☒ **Participant election.** The Participant may elect to receive all or any portion of his/her Account.
 b. ☐ **Mandatory distribution.** The Plan Administrator will distribute the Participant's entire Account.
 c. ☐ **Hybrid.** The Plan Administrator will distribute a Participant's Account that does not exceed \$_____ and the Participant may elect to receive all or any portion of his/her Account that exceeds \$_____ but that does not exceed \$5,000.
 3. ☒ **Age 70 1/2.** A Participant who attains age 70 1/2 prior to Severance from Employment may elect distribution of any or all of his/her Account.
 4. ☐ **Specify:** _____

[*Note: An Employer need not permit any in-service distributions. Any election must comply with the distribution restrictions of Code Section 457(d).*]

21. **QDRO (4.06).** The QDRO provisions (*Choose one of a., b. or c.*):

- a. ☒ **Apply.**
 b. ☐ **Do not apply.**
 c. ☐ **Specify:** _____

22. **ALLOCATION OF EARNINGS (5.07(B)).** The Plan allocates Earnings using the following method (*Choose one or more of a. through f.*):

- a. ☒ **Daily.** See Section 5.07(B)(4)(a).
 b. ☐ **Balance forward.** See Section 5.07(B)(4)(b).
 c. ☐ **Balance forward with adjustment.** See Section 5.07(B)(4)(c). Allocate pursuant to the balance forward method, except treat as part of the relevant Account at the beginning of the Valuation Period _____% of the contributions made during the following Valuation Period: _____
 d. ☐ **Weighted average.** See Section 5.07(B)(4)(d). If not a monthly weighting period, the weighting period is _____
 e. ☐ **Directed Account method.** See Section 5.07(B)(4)(e).

f. ☐ **Describe Earnings allocation method:** _____

[Note: The Employer under Election 22f. may describe Earnings allocation methods from the elections available under Election 22 and/or a combination thereof as to any: (i) Participant group (e.g., Daily applies to Division A Employees OR to Employees hired after "x" date. Balance forward applies to Division B Employees OR to Employees hired on/before "x" date.); (ii) Contribution Type (e.g., Daily applies as to Discretionary Nonelective Contribution Accounts. Participant-Directed Account applies to Fixed Nonelective Contribution Accounts); (iii) investment type, investment vendor or Account type (e.g., Balance forward applies to investments placed with vendor A and Participant-Directed Account applies to investments placed with vendor B OR Daily applies to Participant-Directed Accounts and balance forward applies to pooled Accounts).]

23. **HEART ACT PROVISIONS (1.31(C)(3)/3.13).** The Employer elects to (Choose one of a. or b. and c. or d.):

Continued Benefit Accruals.

- a. ☐ **Not apply the benefit accrual provisions of Section 3.13.**
 b. ☒ **Apply the benefit accrual provisions of Section 3.13.**

Distributions for deemed severance of employment (1.31(C)(3))

- c. ☒ **The Plan does NOT permit distributions for deemed severance of employment.**
 d. ☐ **The Plan permits distributions for deemed severance of employment.**

24. **VESTING/SUBSTANTIAL RISK OF FORFEITURE (5.11).** A Participant's Deferral Contributions are [Note: If a Participant incurs a Severance from Employment before the specified events or conditions, the Plan will forfeit the Participant's non-vested Account. Caution: if a Deferral is subject to vesting schedule or other substantial risk of forfeiture, it does not count as a deferral for purposes of the annual deferral limit until the year it is fully vested.] (Choose all that apply of a. through d.):

- a. ☒ **100% Vested/No Risk of Forfeiture.** Immediately Vested without regard to additional Service and no Substantial Risk of Forfeiture. The following contributions are 100% Vested:
 1. ☒ **All Contributions.** (skip to 25.)
 2. ☐ **Only the following contributions.** (select all that apply):
 a. ☐ **Salary Reduction Contributions.**
 b. ☐ **Nonelective Contributions.**
 c. ☐ **Matching Contributions.**
 b. ☐ **Forfeiture under Vesting Schedule.** Vested according to the following:

Contributions affected. The following contributions are subject to the vesting schedule (Choose one or more of 1., 2. or 3.):

1. ☐ **Salary Reduction Contributions.**
 2. ☐ **Nonelective Contributions.**
 3. ☐ **Matching Contributions.**
 4. ☐ **Vesting Schedule.**

Years of Service

Vested Percentage

_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %

For vesting purposes, a "Year of Service" means:

5. _____

[Note: It is extremely rare to apply a vesting schedule to Salary Reduction Contributions.]

- c. ☐ **Substantial Risk of Forfeiture.** Vested only when no longer subject to the following Substantial Risk of Forfeiture as follows:

Contributions affected. The following contributions are subject to the substantial risk of forfeiture under c. (Choose one or more of 1., 2. or 3.):

1. ☐ **Salary Reduction Contributions.**
 2. ☐ **Nonelective Contributions.**

3. ☐ **Matching Contributions.**

Risk Provisions: Vested only when no longer subject to the following Substantial Risk of Forfeiture as follows (*Choose one of 4. or 5.*):

4. ☒ The Participant must remain employed by the Employer until _____, unless earlier Severance from Employment occurs on account of death or disability, as the Plan Administrator shall establish.

5. ☒ **Specify:** _____

Additional Provisions (*Choose d. if applicable*)

- d. ☐ **Specify:** _____

FORFEITURE ALLOCATION. [Plan Sections 5.11(A) and 5.14] The Plan Administrator will allocate any Plan forfeitures as selected below. The Employer has the option to use forfeitures to pay plan expenses first and then allocate the remaining forfeitures in accordance with the selections below: (*Choose one of the following*):

- e. ☐ **Additional Contributions.** As the following contribution type (*Choose one of 1. or 2.*):

1. ☐ **Nonelective.** As an additional Nonelective Contribution.

2. ☐ **Matching.** As an additional Matching Contribution.

- f. ☐ **Reduce Fixed Contributions.** To reduce the following fixed contribution (*Choose one of 1. or 2.*):

1. ☐ **Nonelective.** To reduce the Employer's fixed Nonelective Contribution.

2. ☐ **Matching.** To reduce the Employer's fixed Matching Contribution.

- g. ☐ **Specify:** _____

25. **TRUST PROVISIONS.** The following provisions apply to Article VIII of the Plan (*Choose as applicable; leave blank if not applicable*):

- a. ☐ **Modifications.** The Employer modifies the Article VIII Trust provisions as follows: _____. The remaining Article VIII provisions apply.

- b. ☐ **Substitution.** The Employer replaces the Trust with the Trust Agreement attached to the Plan.

26. **CUSTODIAL ACCOUNT/ANNUITY CONTRACT (8.16).** The Employer will hold all or part of the Deferred Compensation in one or more custodial accounts or annuity contracts which satisfy the requirements of Code §457(g) (*Choose a. or b., c. if applicable*):

- a. ☒ **Custodial account(s).**

- b. ☒ **Annuity contract(s).**

- c. ☐ **Specify:** _____

[*Note: The Employer under c. may wish to identify the custodial accounts or annuity contracts or to designate a portion of the Deferred Compensation to be held in such vehicles versus held in the Trust.*]

27. **VALUATION.** In addition to the last day of the Plan Year, the Trustee (or Plan Administrator as applicable) must value the Trust Fund (or Accounts) on the following Valuation Date(s) (*Choose one of a. or b.*):

- a. ☐ **No additional Valuation Dates.**

- b. ☒ **Additional Valuation Dates.** (*Choose one or more of 1., 2. or 3.*):

1. ☒ **Daily Valuation Dates.** Each business day of the Plan Year on which Plan assets for which there is an established market are valued and the Trustee or Employer is conducting business.

2. ☐ **Last day of a specified period.** The last day of each _____ of the Plan Year.

3. ☐ **Specified Valuation Dates:** _____

[*Note: The Employer under Election 26b.3. may describe Valuation Dates from the elections available under Election 26b. and/or a combination thereof as to any: (i) Participant group (e.g., No additional Valuation Dates apply to Division A Employees OR to Employees hired after "x" date. Daily Valuation Dates apply to Division B Employees OR to Employees hired on/before "x" date.); (ii) Contribution Type (e.g., No additional Valuation Dates apply as to Discretionary Nonelective Contribution Accounts. The last day of each Plan Year quarter applies to Fixed Nonelective Contribution Accounts); (iii) investment type, investment vendor or Account type (e.g., No additional Valuation Dates apply to investments placed with vendor A and Daily Valuation Dates apply to investments placed with vendor B OR Daily Valuation Dates apply to Participant-Directed Accounts and no additional Valuation Dates apply to pooled Accounts).]*

28. **TRUSTEE** (Select all that apply; leave blank if not applicable.):

- a. ☐ Individual Trustee(s) who serve as Trustee(s) over assets not subject to control by a corporate Trustee. (Add additional Trustees as necessary.)

Name(s)

Title(s)

_____	_____
_____	_____
_____	_____
_____	_____

Address and Telephone number (Choose one of 1. or 2.):

1. ☐ Use Employer address and telephone number.
 2. ☐ Use address and telephone number below:

Address: _____

Street

City

State

Zip

Telephone: _____

- b. ☐ Corporate Trustee

Name: _____

Address: _____

Street

City

State

Zip

Telephone: _____

AND, the Corporate Trustee shall serve as:

- c. ☐ a Directed (nondiscretionary) Trustee over all Plan assets except for the following:

- d. ☐ a Discretionary Trustee over all Plan assets except for the following:

29. **PLAN LOANS** (5.02(A)). The Plan permits or does not permit Participant Loans (Choose one of a. or b.):

- a. ☐ Does not permit.
 b. ☒ Permitted pursuant to the Loan Policy.

30. **ROLLOVER CONTRIBUTIONS** (3.09). The Plan permits Rollover Contributions subject to approval by the Plan Administrator and as further described below:**Who may roll over** (Choose one of a. or b.):

- a. ☐ Participants only.
 b. ☒ Eligible Employees or Participants.

Sources/Types. The Plan will accept a Rollover Contribution (Choose one of c. or d.):

- c. ☐ All. From any Eligible Retirement Plan and as to all Contribution Types eligible to be rolled into this Plan.
 d. ☒ Limited. Only from the following types of Eligible Retirement Plans and/or as to the following Contribution Types:

From any Eligible Retirement Plan eligible to be rolled into this Plan _____

Distribution of Rollover Contributions (Choose one of e., f. or g.):

- e. ☒ **Distribution without restrictions.** May elect distribution of his/her Rollover Contributions Account in accordance with Plan Section 4.05(C) at any time.
- f. ☐ **No distribution.** May not elect to receive distribution of his/her Rollover Contributions Account until the Plan has a distributable event under Plan Section 4.01.
- g. ☐ **Specify:** _____

31. EACA Automatic Deferral Provisions (3.14).

Participants subject to the Automatic Deferral Provisions. The Automatic Deferral Provisions apply to Employees who become Participants after the Effective Date of the EACA (except as provided in d. below). Employees who became Participants prior to such Effective Date are subject to the following (a. – d. are optional):

- a. ☐ **All Participants.** All Participants, regardless of any prior Salary Reduction Agreement, unless and until a Participant makes an Affirmative Election after the Effective Date of the EACA.
- b. ☐ **Election of at least Automatic Deferral amount.** All Participants, except those who, on the Effective Date of the EACA, are deferring an amount which is at least equal to the Automatic Deferral Percentage.
- c. ☐ **No existing Salary Reduction Agreement.** All Participants, except those who have in effect a Salary Reduction Agreement on the effective date of the EACA regardless of the Salary Reduction Contribution amount under the Agreement.
- d. ☐ **Describe:** _____

Automatic Deferral Percentage. Unless a Participant makes an Affirmative Election, the Employer will withhold the following Automatic Deferral Percentage (select e. or f.):

- e. ☐ **Constant.** The Employer will withhold _____ % of Compensation each payroll period.

Escalation of deferral percentage (select one or leave blank if not applicable)

1. ☐ **Scheduled increases.** This initial percentage will increase by _____ % of Compensation per year up to a maximum of _____ of Compensation.
2. ☐ **Other** (described Automatic Deferral Percentage): _____

Automatic Deferral Optional Elections

- f. ☐ **Optional elections** (select all that apply or leave blank if not applicable)

Suspended Salary Reduction Contributions. If a Participant's Salary Reduction Contributions are suspended pursuant to a provision of the Plan (e.g., distribution due to military leave covered by the HEART Act), then a Participant's Affirmative Election will expire on the date the period of suspension begins unless otherwise elected below.

1. ☐ A Participant's Affirmative Election will resume after the suspension period.

Special Effective Date. Provisions will be effective as of the earlier of the Effective Date of the EACA provisions unless otherwise specified below.

2. ☐ Special Effective Date: _____

32. In-Plan Roth Rollover Contributions.

- a. ☐ **Yes, allowed.**

33. In-Plan Roth Rollover Transfers.

- a. ☐ **Yes, allowed.**

Eligible 457 Plan

This Plan is executed on the date(s) specified below:

Use of Adoption Agreement. Failure to complete properly the elections in this Adoption Agreement may result in disqualification of the Employer's Plan. The Employer only may use this Adoption Agreement only in conjunction with the corresponding basic plan document.

EMPLOYER: Nevada County, CA

By: _____



DATE SIGNED



APPLICATION FOR
GROUP FLEXIBLE PURCHASE PAYMENT DEFERRED FIXED ANNUITY CONTRACT

underwritten by
Nationwide Life Insurance Company
One Nationwide Plaza
Columbus, Ohio 43215
1-877-677-3678

APPLICANT

(the "Applicant"), applies to be the Contract Owner of a Group Flexible Purchase Payment Deferred Fixed Annuity Contract (the "Contract") underwritten by Nationwide Life Insurance Company ("Nationwide").

The Group Flexible Purchase Payment Deferred Fixed Annuity Contract applied for will become effective on the "Effective Date of Contract" if the initial Purchase Payment and this application are accepted by Nationwide. In the event the initial Purchase Payment or this application are not accepted, Nationwide's liability will be limited to a return of the initial Purchase Payment, and any subsequent Purchase Payments remitted.

PURCHASE PAYMENT

Applicant agrees to permit Participants in its Plan to allocate Purchase Payments to the Contract as of the "Effective Date of Contract".

TRANSFER AND EXCHANGE LIMITATION ELECTION

Elect One:

- ☐ **Contract Level Aggregate Exchange Limitation** (the limitation on *Outgoing* Exchanges from the Fixed Account is determined based on total assets held in the Contract's Fixed Account's value under the Contract as of the last Business Day preceding the current calendar year).
- ☐ **Participant Level Exchange Limitation** (the limitation on *Outgoing* Exchanges from the Contract is applied to each Participant Account under the Contract. The Contract Owner, or its designated Record Keeper is responsible for applying this limitation).

STATE INSURANCE FRAUD WARNINGS

FOR DC RESIDENTS ONLY: WARNING: it is a crime to provide false or misleading information to an insurer for the purpose of defrauding the insurer or any other person. Penalties include imprisonment and/or fines. In addition, an insurer may deny insurance benefits if false information materially related to a claim was provided by the applicant.

NOTICE TO FL, MN, ND, SC, SD, TX AND VT RESIDENTS ONLY: Annuity payments, death benefits, surrender values, and other Contract Values are subject to a market value adjustment, and are not guaranteed as to fixed dollar amount, unless otherwise specified.

NOTICE TO OK AND PA RESIDENTS ONLY: Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties.

FOR WA RESIDENTS ONLY: Any person who knowingly presents a false or fraudulent claim for payment of a loss or knowingly makes a false statement in an application for insurance may be guilty of a criminal offense under state law.

NOTICE TO AR, CO, KY, LA, ME, NM, OH, AND TN RESIDENTS ONLY: Any person who, knowingly and with intent to injure, defraud or deceive any insurance company or other person, files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which may be a crime and may subject such person to criminal and civil penalties, fines, imprisonment, or a denial of insurance benefits.

FOR NJ RESIDENTS ONLY: Any person who includes any false or misleading information on an application for an insurance policy is subject to criminal and civil penalties.

ADDITIONAL STATE NOTICES

FOR FL RESIDENTS ONLY: Any person who knowingly and with intent to injure, defraud, or deceive any insurer files a statement of claim or an application containing any false, incomplete, or misleading information is guilty of a felony of the third degree.

SIGNATURES

Signed on behalf of _____, this ____ day of _____

- ☐ Yes ☐ No Do you have existing life insurance or annuity contracts?
- ☐ Yes ☐ No Will the applied for Contract replace any existing life insurance or annuity contracts?

(Authorized Signature of Applicant)

Date

(Title)

- ☐ Yes ☐ No Do you have any reason to believe the Contract applied for is to replace existing annuities or insurance?

(Authorized Nationwide Agent/Representative Signature)

Date

(Title)

Florida License Identification #: (Florida Agents only)

**Nationwide Trust Company, FSB
457 Trust Agreement
(The "Agreement")**

This Agreement including the Schedule of Investments attached is made and entered into by and between Nevada County, California ("Sponsor") and Nationwide Trust Company, FSB as Trustee ("NTC") pursuant to the Nevada County 457(b) Deferred Compensation Plan ("Plan") to establish the Nevada County 457(b) Deferred Compensation Plan Trust ("Account").

By signing below, signatories on behalf of the Sponsor and the Plan acknowledge that they have received the Agreement, inclusive of all Schedules listed above, and agree to all terms. Further, they represent that they have the authority to enter into, on behalf of the Sponsor and the Plan, a contractual relationship with NTC with respect to these documents and will be subject to all rights and obligations contained therein.

By signing below, NTC has agreed to and accepted all rights and obligations contained herein.

Printed Sponsor Name

NTC

Sponsor Signature

Date

Acceptance Date

PLAN Administrator

Title

STEVEN ROSE

Printed Name

[Signature]

1/29/20

Signature

Date

Assistant CEO

Title

Mali Dyck

Printed Name

[Signature]

1/29/20

Signature

Date

Title

ARTICLE I — PURPOSE

The Sponsor adopts this Agreement on behalf of the Plan and represents and warrants that the Plan is intended to meet the requirements of an eligible deferred compensation plan under Section 457 of the Internal Revenue Code of 1986, as amended ("Code") and intends to keep such Plan in compliance with the then applicable requirements of the Code. Further, the Sponsor represents and warrants that the Employer of all individuals eligible to participate in the Plan is a state, political subdivision of a state, or an agency or instrumentality of either.

ARTICLE II — DEFINITIONS

Account — The trust account established herein by which NTC will hold the assets of the Plan or any portion thereof as agreed upon by Sponsor and NTC.

Effective Date — The date on which the Account is created by NTC's acceptance of cash or other assets on behalf of the Sponsor. Prior to the Effective Date, NTC shall have no responsibility hereunder.

Employer(s) — The employer(s) of the Participants in the Plan.

Funding Vehicle(s) — As permitted by applicable law, may include one or more (i) group annuity contracts, (ii) mutual funds, collective investment funds or other securities made available under the Agreement, (iii) securities held in self-directed brokerage accounts made available by NTC, or (iv) any other investment vehicle(s) mutually acceptable to NTC and Sponsor via an amendment to this Agreement or separate schedule.

Original Signature — An authentic, hardcopy, non-reproduced signature of the Sponsor or its designee.

Participant — A person for whom benefits are provided under this Agreement, in accordance with the Plan.

Plan — The Plan identified on the front page of this Agreement, including any written plan document and trust provisions.

Required Format — Acceptable format for submitting information to NTC as prescribed by NTC and on transaction forms prescribed by NTC.

Signature — Either the Original Signature or an Original Signature that has been replicated by photocopy, electronic means, or fax.

Successor — The trustee or custodian appointed by the Sponsor who succeeds NTC.

Written Instruction(s) — Any notices, instructions or other instruments required to be in writing (with Signature or Original Signature, where so indicated) from NTC, Sponsor, or its designee. Written Instructions may take the form of a letter, electronic communication through an on-line communication system mutually agreeable to the parties; or a facsimile transmission.

ARTICLE III — THE ACCOUNT

The Sponsor advises NTC that the Account shall be funded as described herein. The Sponsor hereby authorizes NTC to take any action required to establish and maintain any Funding Vehicle(s) designated by the Sponsor under this Agreement.

NTC has entered into arrangements with a number of providers to make available certain Funding Vehicles for possible inclusion in the Account. The assets of the Account shall consist of the Funding Vehicle(s) and any outstanding loans made under the terms of the Plan. The Account and any funds invested pursuant to this Agreement are not insured by the Federal Deposit Insurance Corporation ("FDIC"), are not deposits or other obligations of NTC and are not guaranteed by NTC. The value of the Account is subject to investment risks, including possible loss of principal. NTC agrees to hold and administer the Account in accordance with this Agreement. The Account shall not include any Plan Assets for which Sponsor has selected as the designated investment manager for Participant accounts an investment manager other than Nationwide Investment Advisors, LLC.

To the extent permitted by the Plan, NTC, at the direction of the Sponsor or its designee, shall accept an eligible rollover distribution and/or eligible direct rollover under the then applicable sections of the Code. NTC shall not be under any duty to require payment of any contributions to the Account, if any, or to see that any payment made to it is computed in accordance with the provisions of the Plan. NTC shall continue to administer the Account in accordance with this Agreement until its obligations are discharged and satisfied.

In the event that Sponsor and NTC mutually agree to include life insurance as a Funding Vehicle for inclusion in the Account, Sponsor agrees that NTC shall not be responsible in any manner to Sponsor, the Plan, a Participant or his or her beneficiary, or to any third-party, including any issuer of life insurance, for any determination as to prudence of inclusion of life insurance as a Funding Vehicle in the Account or as an investment option under the Plan; any determination on a Participant basis that the purchase of life insurance is incidental to the primary purpose of providing retirement benefits; the tax treatment of premium payments or disbursements of benefits; any and all administrative, marketing, and sales duties or responsibilities related in any manner to the initial purchase, or continuing maintenance, of any life insurance; and any other action or omission related to life insurance.

The Sponsor authorizes NTC to commingle Plan assets, as applicable, in a master custodial account for purposes of facilitating the omnibus trading of various plan assets.

ARTICLE IV — GENERAL ADMINISTRATIVE RESPONSIBILITIES OF NTC

NTC is authorized to take any action set forth below with respect to the Account:

Accept instructions in the Required Format from the Sponsor or its designee regarding the allocation, distribution or other disposition of the assets of the Account and all matters relating thereto;

Cause any portion or all of the Account to be issued, held, or registered in the individual name of NTC, in the name of its nominee, in an affiliated securities depository, or in such other form as may be required or permitted under applicable law (however, the records of NTC shall indicate the true ownership of such property);

Employ such agents and counsel, including legal counsel, as NTC determines to be reasonably necessary to manage and protect the assets held in the Account, to handle controversies that may arise under this Agreement, or to defend itself successfully against allegations of a fiduciary breach, and to pay such agents and counsel their compensation from the Account unless such compensation is otherwise paid by the Sponsor;

Commence, maintain, or defend any litigation necessary in connection with the administration of the Account,

Hold part or all of the Account uninvested as may be necessary or appropriate;

Withhold the appropriate taxes from any distribution, remit such taxes with the relevant government authorities, and report such payments on the informational returns prescribed by such authorities, identifying itself as the payor of such distributions;

Forward to the Sponsor, for exercise, all proxies solicited in regards to mutual funds and collective investment funds, if applicable; vote, on behalf of the Plan and in accordance with the instructions provided by the Sponsor, all proxies that are returned by the Sponsor; and abstain from voting proxies that are not returned by the Sponsor;

Take all other acts necessary for the proper administration of the Account.

ARTICLE V — INVESTMENT RESPONSIBILITY

NTC shall have no investment management responsibility with respect to the Account or any other assets held under the Plan. Plan contributions or other assets received by NTC shall be allocated in accordance with Written Instructions. NTC does not warrant or guarantee the performance of any Funding Vehicle(s) selected by the Sponsor or Participants.

The Sponsor, or other party designated under the Plan, shall have full responsibility for the selection of the Funding Vehicle(s) and the management, disposition, and investment of assets of the Account. NTC shall comply with Written Instructions concerning those assets, subject to restrictions, if any, imposed by the Funding Vehicle(s) and the operation of any securities markets. Except to the extent required by applicable law or otherwise provided in this Agreement, NTC shall have no duty to review, initiate action, or make recommendations regarding the Account or its investments.

NTC shall transmit to the Sponsor any and all prospectuses, specimen and final contracts, proposals and/or other materials which disclose information pertaining to applicable charges, interest rates, terms and conditions of any contract between the Plan or Account and any party, including contracts related to the Funding Vehicle(s). NTC shall have no duty to respond to communications related to securities or other property held in the Account (including, but not limited to, tender offers and class action communications).

NTC shall not be liable for any loss which results from the exercise of investment control by a Sponsor, Participant or beneficiary, or designated investment manager. If a Participant who has investment authority under the terms of the Plan fails to provide investment direction, the Sponsor shall direct the investment of the Participant's account.

No one providing investment advice to the Plan, Sponsor, Participant or other party is acting as an agent of NTC.

ARTICLE VI — LOANS

To the extent permitted under the Plan and applicable law, NTC will forward loan disbursements as directed by the Sponsor or its designee via Written Instructions. The Sponsor, or other fiduciary of the Plan or their designee, shall be responsible for the approval and administration of any such loans. The Sponsor acknowledges that all loan obligations should be made payable to the Plan and the Plan retains all lending responsibility. NTC will have no responsibility for executing and holding any notes or security agreements which are held as part of the Account, providing any disclosures required by any truth-in-lending laws, or enforcing any security interest in any asset other than the Participant's account under the Account.

ARTICLE VII — CONTRIBUTIONS NOT RECOVERABLE

Except as described in the Purpose section of this Agreement and to the extent permitted by the Plan and applicable law, under no circumstances shall any part of the Account be recoverable by the Sponsor or be used other than for the exclusive purposes of providing benefits to Participants and their beneficiaries and paying reasonable expenses of the Plan prior to the satisfaction of all liabilities to Participants and their beneficiaries; provided, however, a contribution by a Sponsor or a Participant made as a result of a mistake of fact as interpreted by the Internal Revenue Service that is discovered within one (1) year after the contribution is made shall be returned to the Sponsor or Participant as soon as administratively feasible, if the Sponsor so requests and the Funding Vehicle(s) permits.

ARTICLE VIII — ACCOUNT RECORDS AND REPORTS

NTC shall maintain accurate records and detailed accounts of all investments, receipts, disbursements, earnings, and other transactions related to the Account, and those records shall be available at all reasonable times to the Sponsor.

ARTICLE IX — FIDUCIARY RESPONSIBILITIES AND LIABILITIES

NTC may rely upon any information provided by the Sponsor or its designee. NTC, the Sponsor, and all other fiduciaries under the Plan and this Agreement intend that each party shall be solely responsible for those specific duties and powers assigned to it. Each party may rely upon any direction, information, or action of another party as being proper under the Plan and this Agreement. NTC shall not be required by the Sponsor or its designee to engage in any action or make any investment which constitutes a prohibited transaction or is otherwise contrary to the provisions of applicable law, the Code, or the terms of the Plan, if any, or this Agreement.

NTC shall be responsible only for those functions which have been assigned to it under this Agreement and shall have no responsibility to perform any duty of the Sponsor, or other fiduciary, required by the Plan or applicable law. NTC shall have no duty to determine the rights or benefits of any person having or claiming an interest under the Plan or this Agreement.

Except as otherwise provided in the Agreement, including any schedules thereto, any action to be taken by NTC under the Agreement shall be taken upon Written Instruction from the Sponsor or its designee. NTC shall comply with such instructions and shall incur no liability for any loss which may result from any action on its part due to its compliance with such Written Instructions.

ARTICLE X — LIMITATION OF LIABILITY

To the extent permitted by applicable law, NTC shall not be liable for any failure or delay in the performance of its obligations under this Agreement arising out of or caused, directly or indirectly, by circumstances beyond its reasonable control, including, without limitation, acts of God; earthquakes; fires; floods; wars; civil or military disturbances; sabotage; epidemics; riots; interruptions, loss or malfunction of utilities, computer (hardware or software) or communications services; accidents; labor disputes; acts of civil or military authority or government actions.

ARTICLE XI — RELIANCE ON COUNSEL AND INDEMNIFICATION

NTC agrees to indemnify, defend and hold harmless Sponsor, its officers, directors, agents, and employees from and against any loss, damage or liability assessed against Sponsor or incurred by Sponsor arising out of or in connection with any claim, action, or suit brought or asserted against Sponsor alleging or involving NTC's non-performance of the provisions of the Agreement under NTC's exclusive control, or negligence or willful misconduct in the performance of its services, duties and obligations under the Agreement. In addition, NTC represents, warrants and covenants that the indemnification in this paragraph is enforceable under applicable law and that NTC will not assert a position contrary to such representation in any judicial or administrative proceeding.

To the extent not prohibited by state law, Sponsor agrees to indemnify, defend and hold harmless NTC, its officers, directors, agents, and employees from and against any loss, damage or liability assessed against NTC or incurred by NTC arising out of or in connection with any claim, action, or suit brought or asserted against NTC alleging or involving Sponsor's non-performance of the provisions of the Agreement under Sponsor's exclusive control, or negligence or willful misconduct in the performance of its duties and obligations under this Agreement. In addition, Sponsor represents, warrants and covenants that the indemnification in this paragraph is enforceable under applicable law and that Sponsor will not assert a position contrary to such representation in any judicial or administrative proceeding.

In addition, the following specific acts/actions are covered under Sponsor's indemnification of NTC:

Acts or omissions to act with respect to the Plan or Account by persons unrelated to NTC;

Any violation by any unrelated person of the provisions of the Code or applicable laws, unless NTC commits a breach of its duties by reason of its gross negligence or willful misconduct;

Any decision by the Sponsor, any Participant or any other fiduciary to acquire, retain, or dispose of any security or other property of the Account;

Any violation or breach by a fiduciary or other person associated with the Plan which occurred prior to the Effective Date; or

NTC's acts, omissions and conduct, and those of its agents, in their official capacity, except to the extent that such documented loss or expense results from negligence directly and solely attributable to NTC or its agents, or from an intentional violation by them of any provision of this Agreement.

Such obligation to indemnify shall extend to any liability or expense that arises as a result of the inaccuracy of any representation made, any action taken or failure to act, or any violation of this Agreement, the terms of the Plan by the Sponsor, its designee, any fiduciary of the Plan, and their agents, employees and officers under this Agreement or otherwise related to the administration of the Account. NTC shall not be required to give any bond or other security for the faithful performance of its duties under this Agreement except to the extent required by applicable law.

ARTICLE XII — NTC'S USE OF AFFILIATED COMPANIES

NTC may enter into agreements and share information with its affiliates in performing responsibilities under this Agreement and any other applicable agreement. Investments made in accordance with the Agreement, may include mutual funds or other investments advised by affiliates of NTC. The investment advisers of such investments may be affiliates of NTC and may derive investment management and other fees for services provided.

ARTICLE XIII — NTC'S COMPENSATION AND EXPENSES

NTC will receive additional reasonable compensation for any extraordinary services or computations required as agreed upon by the Sponsor and NTC in advance.

Nationwide shall be entitled to receive, as compensation for services provided hereunder, any credit, interest or other earnings on aggregate cash balances held on deposit with respect to funds awaiting investment or reinvestment or with respect to funds pending distribution to offset expenses of associated activities. NTC may withdraw amounts from the Account for its compensation, and for any expenses as described herein from the Account for its compensation.

ARTICLE XIV — TAXES

Until advised to the contrary by the Sponsor, NTC shall assume that the Account is exempt from federal, state, local and foreign income taxes. NTC shall not be responsible for filing any federal, state, local or foreign tax and informational returns relating to the Plan or Account.

NTC shall notify the Sponsor of any taxes levied upon or assessed against the Account. If NTC does not receive Written Instructions within thirty (30) calendar days of such notification, NTC will pay the tax from the Account. If the Sponsor wishes to contest the tax assessment, it must give appropriate Written Instructions to NTC within thirty (30) calendar days of notification. NTC shall not be required to bring any legal actions or proceedings to contest the validity of any tax assessments unless NTC is to be indemnified to its satisfaction against loss or expense related to such actions or proceedings, including reasonable attorneys' fees.

ARTICLE XV — AMENDMENT

Notwithstanding any other provision of the Agreement, NTC may amend the Agreement at any time by providing written notice to the Sponsor not less than thirty (30) calendar days prior to the effective date of such change, or at any time in the event NTC determines that such amendment is necessary to comply with any applicable legal or regulatory requirements.

No person except for an authorized officer has the legal capacity to change this Agreement otherwise, or to bind NTC to other commitments not covered within this Agreement.

ARTICLE XVI — RESIGNATION, REMOVAL AND TERMINATION

NTC may resign at any time after providing at least thirty (30) days notice via Written Instructions to the Sponsor. The Sponsor may remove NTC by delivery of Written Instructions, to take effect at a date specified therein, which shall not be less than thirty (30) days after the delivery of such Written Instructions with Original Signature to NTC, unless Funding Vehicle provisions specify otherwise. Notwithstanding the foregoing, NTC may retain responsibilities per the terms of this Agreement over assets remaining at NTC beyond the sixty (60) day timeframe, concurrent with Funding Vehicle provisions.

The Agreement will be terminated at such time as the Account is terminated, the Funding Vehicle(s) are redeemed in full, upon the resignation or removal of NTC as trustee, as applicable, of the Account, or upon the termination by Sponsor of any separate agreement with NTC or Nationwide Retirement Solutions, Inc. that relates to the services provided by NTC under this Agreement. The discontinuance of contributions to the Account shall not, by itself, terminate the Account.

NTC is authorized to reserve such sum of money as it may deem advisable for payment of its fees and expenses in connection with the settlement of the Account, and any balance of such reserve remaining after the payment of such fees and expenses shall be paid to the Successor by NTC.

ARTICLE XVII — SUCCESSOR

Upon resignation or removal of NTC, the Sponsor shall appoint a Successor and the Sponsor shall notify NTC of such appointment by Written Instructions with Signature. NTC shall transfer the assets of the Account, subject to any applicable fees as described in the Agreement to such Successor.

If either party has given notice of termination and upon the expiration of the advance notice period no party has accepted an appointment as Successor, NTC will have the right to commence an action in the nature of an interpleader (or other appropriate action) and seek to deposit the assets of the Account in a court of competent jurisdiction in Franklin County, Ohio, for administration until a Successor may be appointed and accepts the transfer of the assets. The Sponsor will be responsible for any costs incurred as a result of such action and/or transfer, as well as any expenses of NTC which are incurred in carrying out its duties under this Agreement in such a situation.

ARTICLE XVIII — GOVERNING LAW

The Account will be administered in the State of Ohio, and its validity, construction, and all rights hereunder shall be governed by the Code, Home Owners' Loan Act of 1933 and, to the extent not pre-empted, by the laws of California. All contributions to the Account shall be deemed to occur in Ohio.

ARTICLE XIX — IDENTITY VERIFICATION NOTICE

To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies certain persons or entities that open an account. When an account is opened, NTC may ask for the name, address, and other information that will allow NTC to identify the entity or person that sponsors the Plan. NTC may also ask for a copy of identifying documents, such as a driver's license, government-issued business license, or other documents.

ARTICLE XX — RULES OF CONSTRUCTION

The Agreement, together with all attached schedules and any applicable investment contracts shall constitute the entire Agreement. The Plan and this Agreement shall be read and construed together. By signing this Agreement, the Sponsor represents to NTC that the Plan conforms to and is consistent with the provisions of this Agreement. Should the Plan need to be amended to conform to the provisions of this Agreement, the Sponsor is responsible for such amendments. The terms of this Agreement shall prevail over terms of the Plan in cases of conflict.

ARTICLE XXI — WAIVER

Failure of either party to insist upon strict compliance with any of the conditions of the Agreement shall not be construed as a waiver of any of such conditions, but the same shall remain in full force and effect. No waiver of any provision of the Agreement shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver.

ARTICLE XXII — REFERENCES

Unless the context clearly indicates to the contrary, a reference to a statute, regulation, document, or provision shall be construed as referring to any subsequently enacted, adopted, or re-designated statute or regulation or executed counterpart.

ARTICLE XXIII — SEVERABILITY

If any provision of the Agreement shall be held by a court of competent jurisdiction to be invalid, illegal, or unenforceable, the remaining provisions shall continue to be effective.

ARTICLE XXIV — MUTUAL FUND DISCLOSURE

The Sponsor acknowledges that Nationwide and its affiliates receive payments in connection with the sale and servicing of investments allocated to participant Plan accounts ("Investment Option Payments"). The Investment Option Payments include mutual fund service fee payments, which are described in detail at www.nrsforu.com, and other payments received from investment option providers.

**Schedule of Investments
("Investment Authorization")**

WHEREAS, NTC and the Sponsor have entered into an Agreement in which the assets of the Plan are to be held, invested and distributed; and

WHEREAS, the authority to select the Funding Vehicles under the Plan resides with the Sponsor; and

WHEREAS, NTC and Sponsor agree that NTC may act upon Written Instructions from the Sponsor;

NOW THEREFORE, the Sponsor authorizes NTC to establish an account for each Funding Vehicle set forth below

1. On the Effective Date, the Funding Vehicles in the Plan shall be:

Nationwide Fixed Account

Sterling Capital Total Return Bond R6

Fidelity US Bond Index

MFS Value

Fidelity S&P 500 Index

Vanguard US Growth

Wells Fargo Special Mid Value R6

Fidelity Mid Cap Index

MFS Mid Growth

Fidelity Small Cap Index

MFS International Value R6

Fidelity Total International Index

Vanguard International Growth Adm

Vanguard Target Retirement Income Inv

2020 Vanguard Target Retirement 2020 Inv

2025 Vanguard Target Retirement 2025 Inv

2030 Vanguard Target Retirement 2030 Inv

2035 Vanguard Target Retirement 2035 Inv

2040 Vanguard Target Retirement 2040 Inv

2045 Vanguard Target Retirement 2045 Inv

2050 Vanguard Target Retirement 2050 Inv

2055 Vanguard Target Retirement 2055 Inv

2060 Vanguard Target Retirement 2060 Inv

Nationwide Fixed Account

Sterling Capital Total Return Bond R6

Fidelity US Bond Index

MFS Value

Fidelity S&P 500 Index

Vanguard US Growth

This Investment Authorization may be amended to include mutually agreeable Funding Vehicle(s) at any time via written instructions from the Sponsor or its designee to NTC.

NEVADA COUNTY JUDICIAL DISTRICT COURT

NEVADA COUNTY 457(B) DEFERRED COMPENSATION PLAN

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ARTICLE I DEFINITIONS

1.01 "**Account**" means the separate Account(s) which the Plan Administrator or the Trustee maintains under the Plan for a Participant's Deferred Compensation. The Plan Administrator or Trustee may establish separate Accounts for multiple Beneficiaries of a Participant to facilitate required minimum distributions under Section 4.03 based on each Beneficiary's life expectancy.

1.02 "**Accounting Date**" means the last day of the Plan Year. The Plan Administrator will allocate Employer contributions and forfeitures for a particular Plan Year as of the Accounting Date of that Plan Year, and on such other dates, if any, as the Plan Administrator determines, consistent with the Plan's allocation conditions and other provisions.

1.03 "**Beneficiary**" means a person who the Plan or a Participant designates and who is or may become entitled to a Participant's Account upon the Participant's death. A Beneficiary who becomes entitled to a benefit under the Plan remains a Beneficiary under the Plan until the Plan Administrator or Trustee has fully distributed to the Beneficiary his or her Plan benefit. A Beneficiary's right to (and the Plan Administrator's or a Trustee's duty to provide to the Beneficiary) information or data concerning the Plan does not arise until the Beneficiary first becomes entitled to receive a benefit under the Plan.

1.04 "**Code**" means the Internal Revenue Code of 1986, as amended.

1.05 "Compensation"

(A) **Uses and Context.** Any reference in the Plan to Compensation is a reference to the definition in this Section 1.05, unless the Plan reference, or the Employer in the Adoption Agreement, modifies this definition. Except as the Plan otherwise specifically provides, the Plan Administrator will take into account only Compensation actually paid during (or as permitted under the Code, paid for) the relevant period. A Compensation payment includes Compensation paid by the Employer through another person under the common paymaster provisions in Code §§3121 and 3306. In the case of an Independent Contractor, Compensation means the amounts the Employer pays to the Independent Contractor for services, except as the Employer otherwise specifies in the Adoption Agreement. The Employer in the Adoption Agreement may elect to allocate contributions based on a Compensation within specified 12 month period which ends within a Plan Year.

(B) **Base Definitions and Modifications.** The Employer in the Adoption Agreement must elect one of the following base definitions of Compensation: W-2 Wages, Code §3401(a) Wages, or 415 Compensation. The Employer may elect a different base definition as to different Contribution Types. The Employer in the Adoption Agreement may specify any modifications thereto, for purposes of contribution allocations under Article III. If the Employer fails to elect one of the above-referenced definitions, the Employer is deemed to have elected the W-2 Wages definition.

(1) **W-2 Wages.** W-2 Wages means wages for federal income tax withholding purposes, as defined under Code §3401(a), plus all other payments to an Employee in the course of the Employer's trade or business, for which the Employer must furnish the Employee a written statement under Code §§6041, 6051, and 6052, but determined without regard to any

rules that limit the remuneration included in wages based on the nature or location of the employment or services performed (such as the exception for agricultural labor in Code §3401(a)(2)).

(2) **Code §3401(a) Wages (income tax wage withholding).** Code §3401(a) Wages means 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 the location of the employment or the services performed (such as the exception for agricultural labor in Code §3401(a)(2)).

(3) **Code §415 Compensation (current income definition/simplified compensation under Treas. Reg. §1.415(c)-2(d)(2)).** Code §415 Compensation means the Employee's wages, salaries, fees for professional service and other amounts received (without regard to whether or not an amount is paid in cash) for personal services actually rendered in the course of employment with the Employer maintaining the Plan to the extent that the amounts are includible in gross income (including, but not limited to, commissions paid salespersons, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips, bonuses, fringe benefits and reimbursements or other expense allowances under a nonaccountable plan as described in Treas. Reg. §1.62-2(c)).

Code §415 Compensation does not include:

(a) **Deferred compensation/SEP/SIMPLE.** Employer contributions (other than Elective Deferrals) to a plan of deferred compensation (including a simplified employee pension plan under Code §408(k) or to a simple retirement account under Code §408(p)) to the extent the contributions are not included in the gross income of the Employee for the Taxable Year in which contributed, and any distributions from a plan of deferred compensation (whether or not qualified), regardless of whether such amounts are includible in the gross income of the Employee when distributed.

(b) **Option exercise.** Amounts realized from the exercise of a non-qualified stock option (an option other than a statutory option under Treas. Reg. §1.421-1(b)), or when restricted stock or other property held by an Employee either becomes freely transferable or is no longer subject to a substantial risk of forfeiture under Code §83.

(c) **Sale of option stock.** Amounts realized from the sale, exchange or other disposition of stock acquired under a statutory stock option as defined under Treas. Reg. §1.421-1(b).

(d) **Other amounts that receive special tax benefits.** Other amounts that receive special tax benefits, such as premiums for group term life insurance (but only to the extent that the premiums are not includible in the gross income of the Employee and are not salary reduction amounts under Code §125).

(e) **Other similar items.** Other items of remuneration which are similar to any of the items in Sections 1.11(B)(3)(a) through (d).

(4) **Alternative (general) 415 Compensation.** Under this definition, Compensation means as defined in Section 1.05(B)(3) but with the addition of: (a) amounts described in Code §§104(a)(3), 105(a), or 105(h) but only to the extent that these amounts are includible in Employee's gross income; (b) amounts paid or reimbursed by the Employer for moving expenses incurred by the Employee, but only to the extent that at the time of payment it is reasonable to believe these amounts are not deductible by the Employee under Code §217; (c) the value of a nonstatutory option (an option other than a statutory option under Treas. Reg. §1.421-1(b)) granted by the Employer to the an Employee, but only to the extent that the value of the option is includible in the Employee's gross income for the Taxable Year of the grant; (d) the amount includible in the Employee's gross income upon the Employee's making of an election under Code §83(b); and (e) amounts that are includible in the Employee's gross income under Code §409A or Code §457(f)(1)(A) or because the amounts are constructively received by the Participant. [Note if the Plan's definition of Compensation is W-2 Wages or Code §3401(a) Wages, then Compensation already includes the amounts described in clause (e).]

(C) **Deemed 125 Compensation.** Deemed 125 Compensation means, in the case of any definition of Compensation which includes a reference to Code §125, amounts under a Code §125 plan of the Employer that are not available to a Participant in cash in lieu of group health coverage, because the Participant is unable to certify that he/she has other health coverage.

(D) **Modification to Compensation.** The Employer must specify in the Adoption Agreement the Compensation the Plan Administrator is to take into account in allocating Deferral Contributions to a Participant's Account. For all Plan Years other than the Plan Year in which the Employee first becomes a Participant, the Plan Administrator will take into account only the Compensation determined for the portion of the Plan Year in which the Employee actually is a Participant.

(E) **Elective Contributions.** Compensation under Section 1.05 includes Elective Contributions unless the Employer in the Adoption Agreement elects to exclude Elective Contributions. "Elective Contributions" are amounts excludible from the Employee's gross income under Code §§125, 132(f)(4), 402(e)(3), 402(h)(1)(B), 403(b), 408(p) or 457, and contributed by the Employer, at the Employee's election, to a cafeteria plan, a qualified transportation fringe benefit plan, a 401(k) arrangement, a SARSEP, a tax-sheltered annuity, a SIMPLE plan or a Code §457 plan.

(F) **Post-Severance Compensation.** Compensation includes Post-Severance Compensation to the extent the Employer elects in the Adoption Agreement or as the Plan otherwise provides. Post-Severance Compensation is Compensation paid after a Participant's Severance from Employment from the Employer, as further described in this Section 1.05(F). As the Employer elects, Post-Severance Compensation may include any or all of regular pay, leave cash-outs, or deferred compensation paid within the time period described in Section 1.05(F)(1), and may also include salary continuation for disabled Participants, all as defined below. Any other payment paid after Severance from Employment that is not described in this Section 1.05(F) is not Compensation even if payment is made within the time period described below. Post-Severance Compensation does not

include severance pay, parachute payments under Code §280G(b)(2) or payments under a nonqualified unfunded deferred compensation plan unless the payments would have been paid at that time without regard to Severance from Employment.

(1) **Timing.** Post-Severance Compensation includes regular pay, leave cashouts, or deferred compensation only to the extent the Employer pays such amounts by the later of 2 1/2 months after Severance from Employment or by the end of the Limitation Year that includes the date of such Severance from Employment.

(a) **Regular pay.** Regular pay means the payment of regular Compensation for services during the Participant's regular working hours, or Compensation for services outside the Participant's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments, but only if the payment would have been paid to the Participant prior to a Severance from Employment if the Participant had continued in employment with the Employer.

(b) **Leave cash-outs.** Leave cash-outs means payments 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 if Compensation would have included those amounts if they were paid prior to the Participant's Severance from Employment.

(c) **Deferred compensation.** As used in this Section 1.05(F), deferred compensation means the payment of deferred compensation pursuant to an unfunded deferred compensation plan, if Compensation would have included the Deferred Compensation if it had been paid prior to the Participant's Severance from Employment, but only if the payment would have been paid at the same time if the Participant had continued in employment with the Employer and only to the extent that the payment is includible in the Participant's gross income.

(2) **Salary continuation for disabled Participants.** Salary continuation for disabled Participants means Compensation paid to a Participant who is permanently and totally disabled (as defined in Code §22(e)(3)).

(G) **Differential Wage Payments.** An individual receiving a Differential Wage Payment, as defined by Code §3401(h)(2), shall be treated as an employee of the employer making the payment and the Differential Wage Payment shall be treated as compensation for purposes of Code §457(b) and any other Internal Revenue Code section that references the definition of compensation under Code §415, including the definition of Includible Compensation as provided in Section 1.15.

1.06 "Deferral Contributions" means as the Employer elects on the Adoption Agreement, Salary Reduction Contributions, Nonelective Contributions and Matching Contributions. The Plan Administrator in applying the Code §457(b) limit will take into account Deferral Contributions in the Taxable Year in which deferred, or if later, in the Taxable Year in which the Deferral Contributions are no longer subject to a Substantial Risk of Forfeiture. The Plan Administrator in determining the amount of a Participant's Deferral Contributions disregards the net income, gain and loss attributable to Deferral Contributions unless the Deferral Contributions are subject to a Substantial Risk of Forfeiture. If a Deferral Contribution is subject to a Substantial Risk of Forfeiture, the Plan Administrator takes into the Deferral Contribution as adjusted

for allocable net income, gain or loss in the Taxable Year in which the Substantial Risk of Forfeiture lapses.

1.07 **"Deferred Compensation"** means as to a Participant the amount of Deferral Contributions, Rollover Contributions and Transfers adjusted for allocable net income, gain or loss, in the Participant's Account.

1.08 **"Effective Date"** of this Plan is the date the Employer specifies in the Adoption Agreement. The Employer in the Adoption Agreement may elect special effective dates for Plan provisions the Employer specifies provided any such date(s) are permitted by the Code, by Treasury regulations, or by other applicable guidance.

1.09 **"Elective Deferrals"** means a contribution the Employer makes to the Plan pursuant to a Participant's Salary Reduction Agreement, as described in Section 3.02. The term "Elective Deferrals" includes Pre-Tax Elective Deferrals and Roth Elective Deferrals.

1.10 **"Employee"** means an individual who provides services for the Employer, as a common law employee of the Employer. The Employer in the Adoption Agreement must elect or specify any Employee, or class of Employees, not eligible to participate in the Plan (an "Excluded Employee"). See Section 1.16 regarding potential treatment of an Independent Contractor as an Employee.

1.11 **"Employer"** means the entity specified in the Adoption Agreement, any successor which shall maintain this Plan; and any predecessor which has maintained this Plan. In addition, where appropriate, the term Employer shall include any Participating Employer.

1.12 **"Employer Contribution"** means Nonelective Contributions or Matching Contributions.

1.13 **"ERISA"** means the Employee Retirement Income Security Act of 1974, as amended.

1.14 **"Excess Deferrals"** means Deferral Contributions to a Governmental Eligible 457 Plan or to a Tax-Exempt Organization Eligible 457 Plan for a Participant that exceed the Taxable Year maximum limitation of Code §§457(b) and (e)(18).

1.15 **"Includible Compensation"** means, for the Employee's Taxable Year, the Employee's total Compensation within the meaning of Code §415(c)(3) paid to an Employee for services rendered to the Employer. Includible Compensation includes Deferral Contributions under the Plan, compensation deferred under any other plan described in Code §457, and any amount excludible from the Employee's gross income under Code §§401(k), 403(b), 125 or 132(f)(4) or any other amount excludible from the Employee's gross income for Federal income tax purposes. The Employer will determine Includible Compensation without regard to community property laws.

1.16 **"Independent Contractor"** means any individual who performs service for the Employer and who the Employer does not treat as an Employee or a Leased Employee. The Employer in the Adoption Agreement may elect to permit Independent Contractors to participate in the Plan. To the extent that the Employer permits Independent Contractor participation, references to Employee in the Plan include Independent Contractors and Compensation means the amounts the Employer pays to the Independent Contractor for services, except as the Employer otherwise specifies in the Adoption Agreement.

1.17 **"Leased Employee"** means an Employee within the meaning of Code §414(n).

1.18 **"Matching Contribution"** means an Employer fixed or discretionary contribution made or forfeiture allocated on account of Salary Reduction Contributions.

1.19 **"Nonelective Contribution"** means an Employer fixed or discretionary contribution not made as a result of a Salary Reduction Agreement and which is not a Matching Contribution.

1.20 **"Normal Retirement Age"** means the age the Employer specifies in the Adoption Agreement consistent with Section 3.05(B).

1.21 **"Participant"** is an Employee other than an Excluded Employee who becomes a Participant in accordance with the provisions of Section 2.01.

1.22 **"Plan"** means the 457 plan established or continued by the Employer in the form of this basic Plan and (if applicable) Trust Agreement, including the Adoption Agreement. The Employer in the Adoption Agreement must designate the name of the Plan. All section references within the Plan are Plan section references unless the context clearly indicates otherwise.

1.23 **"Plan Administrator"** is the Employer unless the Employer designates another person to hold the position of Plan Administrator. The Plan Administrator may be a Participant.

1.24 **"Plan Entry Date"** means the dates the Employer elects in Adoption Agreement.

1.25 **"Plan Year"** means the consecutive 12-month period the Employer elects in the Adoption Agreement.

1.26 **"Pre-Tax Elective Deferrals"** means a Participant's Salary Reduction Contributions which are not includible in the Participant's gross income at the time deferred and have been irrevocably designated as Pre-Tax Elective Deferrals by the Participant in his or her Salary Reduction Agreement. A Participant's Pre-Tax Elective Deferrals will be separately accounted for, as will gains and losses attributable to those Pre-Tax Elective Deferrals.

1.27 **"Rollover Contribution"** means the amount of cash or property which an eligible retirement plan described in Code §402(c)(8)(B) distributes to an eligible Employee or to a Participant in an eligible rollover distribution under Code §402(c)(4) and which the eligible Employee or Participant transfers directly or indirectly to a Governmental Eligible 457 Plan. A Rollover Contribution includes net income, gain or loss attributable to the Rollover Contribution. A Rollover Contribution excludes after-tax Employee contributions, as adjusted for net income, gain or loss.

1.28 **"Roth Elective Deferrals"** means a Participant's Salary Reduction Contributions that are includible in the Participant's gross income at the time deferred and have been irrevocably designated as Roth Elective Deferrals by the Participant in his or her Salary Reduction Agreement. A Participant's Roth Elective Deferrals will be separately accounted for, as will gains and losses attributable to those Roth Elective Deferrals. However, forfeitures may not be allocated to such account. The Plan must also maintain a record of a Participant's investment in the contract (i.e., designated Roth contributions that have not been distributed) and the year in which the Participant first made a Roth Elective Deferral.

1.29 "Salary Reduction Agreement" means a written agreement between a Participant and the Employer, by which the Employer reduces the Participant's Compensation for Compensation not available as of the date of the election and contributes the amount as a Salary Reduction Contribution to the Participant's Account.

1.30 "Salary Reduction Contribution" means a contribution the Employer makes to the Plan pursuant to a Participant's Salary Reduction Agreement.

1.31 "Service" means any period of time the Employee is in the employ of the Employer. In the case of an Independent Contractor, Service means any period of time the Independent Contractor performs services for the Employer on an independent contractor basis. An Employee or Independent Contractor terminates Service upon incurring a Severance from Employment.

(A) Qualified Military Service. Service includes any qualified military service the Plan must credit for contributions and benefits in order to satisfy the crediting of Service requirements of Code §414(u). A Participant whose employment is interrupted by qualified military service under Code §414(u) or who is on a leave of absence for qualified military service under Code §414(u) may elect to make additional Salary Reduction Contributions upon resumption of employment with the Employer equal to the maximum Deferral Contributions that the Participant could have elected during that period if the Participant's employment with the Employer had continued (at the same level of Compensation) without the interruption of leave, reduced by the Deferral Contributions, if any, actually made for the Participant during the period of the interruption or leave. This right applies for five years following the resumption of employment (or, if sooner, for a period equal to three times the period of the interruption or leave). The Employer shall make appropriate make-up Nonelective Contributions and Matching Contributions for such a Participant as required under Code §414(u). The Plan shall apply limitations of Article III to all Deferral Contributions under this paragraph with respect to the year to which the Deferral Contribution relates.

(B) "Continuous Service" as the Adoption Agreement describes means Service with the Employer during which the Employee does not incur a Severance from Employment.

(C) "Severance from Employment."

(1) Employee. An Employee has a Severance from Employment when the Employee ceases to be an Employee of the Employer. A Participant does not incur a Severance from Employment if, in connection with a change in employment, the Participant's new employer continues or assumes sponsorship of the Plan or accepts a Transfer of Plan assets as to the Participant.

(2) Independent Contractor. An Independent Contractor has a Severance from Employment when the contract(s) under which the Independent Contractor performs services for the Employer expires (or otherwise terminates), unless the Employer anticipates a renewal of the contractual relationship or the Independent Contractor becoming an Employee. The Employer anticipates renewal if it intends to contract for the services provided under the expired contract and neither the Employer nor the Independent Contractor has eliminated the Independent Contractor as a potential provider of such services under the new contract. Further, the Employer intends to contract for services conditioned only upon the Employer's need for the services provided under the expired contract or the Employer's availability of funds. Notwithstanding the preceding provisions of this Section 1.31, the Plan Administrator will

consider an Independent Contractor to have incurred a Severance from Employment: (a) if the Plan Administrator or Trustee will not pay any Deferred Compensation to an Independent Contractor who is a Participant before a date which is at least twelve months after the expiration of the Independent Contractor's contract (or the last to expire of such contracts) to render Services to the Employer; and (b) if before the applicable twelve-month payment date, the Independent Contractor performs Service as an Independent Contractor or as an Employee, the Plan Administrator or Trustee will not pay to the Independent Contractor his or her Deferred Compensation on the applicable date.

(3) Deemed Severance. Notwithstanding Section 1.05(F), if the Employer elects in the Adoption Agreement, then if a Participant performs service in the uniformed services (as defined in Code §414(u)(12)(B)) on active duty for a period of more than 30 days, the Participant will be deemed to have a severance from employment solely for purposes of eligibility for distribution of amounts not subject to Code §412. However, the Plan will not distribute such a Participant's Account on account of this deemed severance unless the Participant specifically elects to receive a benefit distribution hereunder. If a Participant elects to receive a distribution on account of this deemed severance, then no Deferral Contributions may be made for the Participant during the 6-month period beginning on the date of the distribution. If a Participant would be entitled to a distribution on account of a deemed severance, and a distribution on account of another Plan provision, then the other Plan provision will control and the 6-month suspension will not apply.

1.32 "State" means (a) one of the 50 states of the United States or the District of Columbia, or (b) a political subdivision of a State, or any agency or instrumentality of a State or its political subdivision. A State does not include the federal government or any agency or instrumentality thereof.

1.33 "Substantial Risk of Forfeiture" exists if the Plan expressly conditions a Participant's right to Deferred Compensation upon the Participant's future performance of substantial Service for the Employer.

1.34 "Tax-Exempt Organization" means any tax-exempt organization other than a governmental unit or a church or qualified church-controlled organization within the meaning of Code §3121(w)(3).

1.35 "Taxable Year" means the calendar year or other taxable year of a Participant.

1.36 "Transfer" means a transfer of Eligible 457 Plan assets to another Eligible 457 Plan which is not a Rollover Contribution and which is made in accordance with Section 9.03.

1.37 "Trust" means the Trust created under the adopting Employer's Plan. A Trust required under a Governmental Eligible 457 Plan is subject to Article VIII. Any Trust under a Tax-Exempt Organization Eligible 457 Plan is subject to Section 5.09.

1.38 "Trustee" means the person or persons who as Trustee execute the Employer's Adoption Agreement, or any successor in office who in writing accepts the position of Trustee.

1.39 Type of 457 Plan. This Plan is an Eligible 457 Plan, which is a plan which satisfies the requirements of Code §457(b) and Treas. Reg. §§1.457-3 through -10. The Employer in the Adoption Agreement must specify whether the plan is either a

Eligible 457 Plan

Governmental Eligible 457 Plan or a Tax-Exempt Organization Eligible 457 Plan, as defined below:

(A) **"Governmental Eligible 457 Plan"** means an Eligible 457 Plan established by a State.

(B) **"Tax-Exempt Organization Eligible 457 Plan"** means an Eligible 457 Plan established by a Tax-Exempt Organization.

1.40 **"Vested"** means a Participant's Deferral Contributions that are not subject to a Substantial Risk of Forfeiture, including a vesting schedule,

ARTICLE II ELIGIBILITY AND PARTICIPATION

2.01 ELIGIBILITY. Each Employee who is not an Excluded Employee becomes a Participant in the Plan in accordance with the eligibility conditions and as of the Plan Entry Date the Employer elects in the Adoption Agreement. If this Plan is a restated Plan, each Employee who was a Participant in the Plan on the day before the Effective Date continues as a Participant in the Plan, irrespective of whether he/she satisfies the eligibility conditions in the restated Plan, unless the Employer indicates otherwise in the Adoption Agreement.

2.02 PARTICIPATION UPON RE-EMPLOYMENT. A Participant who incurs a Severance from Employment will re-enter the Plan as a Participant on the date of his or her re-employment. An Employee who satisfies the Plan's eligibility conditions but who incurs a Severance from Employment prior to becoming a Participant will become a Participant on the later of the Plan Entry Date on which he/she would have entered the Plan had he/she not incurred a Severance from Employment or the date of his or her re-employment. Any Employee who incurs a Severance from Employment prior to satisfying the Plan's eligibility conditions becomes a Participant in accordance with the Adoption Agreement.

2.03 CHANGE IN EMPLOYMENT STATUS. If a Participant has not incurred a Severance from Employment but ceases to be eligible to participate in the Plan, by reason of becoming an Excluded Employee, the Plan Administrator must treat the Participant as an Excluded Employee during the period such a Participant is subject to the Adoption Agreement exclusion. The Plan Administrator determines a Participant's sharing in the allocation of Employer Contributions by disregarding his or her Compensation paid by the Employer for services rendered in his or her capacity as an Excluded Employee. However, during such period of exclusion, the Participant, without regard to employment classification, continues to share fully in Plan income allocations under Section 5.07 and to accrue vesting service if applicable.

ARTICLE III DEFERRAL CONTRIBUTIONS/LIMITATIONS

3.01 AMOUNT.

(A) **Contribution Formula.** For each Plan Year, or other period the Employer specifies in the Adoption Agreement, the Employer will contribute to the Plan the type and amount of Deferral Contributions the Employer elects in the Adoption Agreement.

(B) **Return of Contributions.** The Employer contributes to this Plan on the condition its contribution is not due to a mistake of fact. If the Plan has a Trust, the Trustee, upon written request from the Employer, must return to the Employer the amount of the Employer's contribution (adjusted for net income, gain or loss) made by the Employer on account of a mistake of fact. The Trustee will not return any portion of the Employer's contribution under the provisions of this paragraph more than one year after the Employer made the contribution on account of a mistake of fact. In addition, if any Participant Salary Reduction Contribution is due to a mistake of fact, the Employer or the Trustee upon written request from the Employer shall return the Participant's contribution (adjusted for net income, gain or loss), within one year after payment of the contribution.

The Trustee will not increase the amount of the Employer contribution returnable under this Section 3.01 for any earnings attributable to the contribution, but the Trustee will decrease the Employer contribution returnable for any losses attributable to it. The Trustee may require the Employer to furnish it whatever evidence the Trustee deems necessary to enable the Trustee to confirm the amount the Employer has requested be returned is properly returnable.

(C) **Time of Payment of Contribution.** If the Plan has a Trust, the Employer may pay its contributions for each Plan Year to the Trust in one or more installments and at such time(s) as the Employer determines, without interest. A Governmental Employer shall deposit Salary Reduction Contributions to the Trust within a period that is not longer than is reasonable for the administration of Participant Accounts.

3.02 **SALARY REDUCTION CONTRIBUTIONS.** The Employer in the Adoption Agreement must elect whether the Plan permits Salary Reduction Contributions, and also the Plan limitations, if any, which apply to Salary Reduction Contributions. Unless the Employer elects otherwise in the Adoption Agreement, all such limitations apply on a payroll basis.

(A) **Deferral from Sick, Vacation and Back Pay.** The Employer in the Adoption Agreement must elect whether to permit Participants to make Salary Reduction Contributions from accumulated sick pay, from accumulated vacation pay or from back pay.

(B) **Automatic Enrollment.** The Employer in the Adoption Agreement may provide for automatic Salary Reduction Contributions of a specified amount, subject to giving notice to affected Participants of the automatic election and of their right to make a contrary election.

A Governmental Employer under an Eligible 457 Plan may elect to provide an Eligible Automatic Contribution Arrangement ("EACA"). If the Employer elects to provide an EACA, the Employer will amend the Plan to add necessary language.

(C) **Application to Leave of Absence and Disability.** Unless a Participant in his or her Salary Reduction Agreement elects otherwise, the Participant's Salary Reduction Agreement shall

continue to apply during the Participant's leave of absence or the Participant's disability (as the Plan Administrator shall establish), if the Participant has Compensation other than imputed compensation or disability benefits.

(D) **Post-severance deferrals limited to Post-Severance Compensation.** Deferrals are permitted from an amount received following Severance from Employment only if the amount is Post-Severance Compensation.

3.03 **MATCHING CONTRIBUTIONS.** The Employer in the Adoption Agreement must elect whether the Plan permits Matching Contributions and, if so, the type(s) of Matching Contributions, the time period applicable to any Matching Contribution formula, and as applicable, the amount of Matching Contributions and the Plan limitations, if any, which apply to Matching Contributions. Any Matching Contributions apply to age 50 catch-up contributions, if any, and to any Normal Retirement Age catch-up contributions unless the Employer elects otherwise in the Adoption Agreement.

3.04 **NORMAL LIMITATION.** Except as provided in Sections 3.05 and 3.06, a Participant's maximum Deferral Contributions (excluding Rollover Contributions and Transfers) under this Plan for a Taxable Year may not exceed the lesser of:

(a) The applicable dollar amount as specified under Code §457(e)(15) (or such larger amount as the Commissioner of the Internal Revenue may prescribe), or

(b) 100% of the Participant's Includible Compensation for the Taxable Year.

3.05 **NORMAL RETIREMENT AGE CATCH-UP CONTRIBUTION.** If selected in the Adoption Agreement, a Participant may elect to make this catch-up election. For one or more of the Participant's last three Taxable Years ending before the Taxable Year in which the Participant attains Normal Retirement Age, the Participant's maximum Deferral Contributions may not exceed the lesser of:

(a) Twice the dollar amount under Section 3.04(a) Normal Limitation, or (b) the underutilized limitation.

(A) **Underutilized Limitation.** A Participant's underutilized limitation is equal to the sum of: (i) the normal limitation for the Taxable Year, and (ii) the normal limitation for each of the prior Taxable Years of the Participant commencing after 1978 during which the Participant was eligible to participate in the Plan and the Participant's Deferral Contributions were subject to the Normal Limitation or any other Code §457(b) limit, less the amount of Deferral Contributions for each such prior Taxable Year, excluding age 50 catch-up contributions.

(B) **Normal Retirement Age.** Normal Retirement Age is the age the Employer specifies in the Adoption Agreement provided that the age may not be: (i) earlier than the earliest of age 65 or the age at which Participants have the right to retire and receive under the Employer's defined benefit plan (or money purchase plan if the Participant is not eligible to participate in a defined benefit plan) immediate retirement benefits without actuarial or other reduction because of retirement before a later specified age; or (ii) later than age 70 1/2.

(1) **Participant Designation.** The Employer in the Adoption Agreement may permit a Participant to designate his or her Normal Retirement Age as any age including or between the foregoing ages.

(2) **Multiple 457 Plans.** If the Employer maintains more than one Eligible 457 Plan, the Plans may not permit any Participant to have more than one Normal Retirement Age under the Plans.

(3) **Police and Firefighters.** In a Governmental Eligible 457 Plan with qualified police or firefighter Participants within the meaning of Code §415(b)(2)(H)(ii)(I), the Employer in the Adoption Agreement may elect (or permit the qualified Participants to elect) a Normal Retirement Age as early as age 40 and as late as age 70 1/2.

(C) **Pre-2002 Coordination.** In determining a Participant's underutilized limitation, the Plan Administrator, in accordance with Treas. Reg. §1.457-4(c)(3)(iv), must apply the coordination rule in effect under now repealed Code §457(c)(2). The Plan Administrator also must determine the Normal Limitation for pre-2002 Taxable Years in accordance with Code §457(b)(2) as then in effect.

3.06 AGE 50 CATCH-UP CONTRIBUTION. An Employer sponsoring a Governmental Eligible 457 Plan must specify in the Adoption Agreement whether the Participants are eligible to make age 50 catch-up contributions.

If an Employer elects to permit age 50 catch-up contributions, all Employees who are eligible to make Salary Reduction Contributions under this Plan and who have attained age 50 before the close of the Taxable Year are eligible to make age 50 catch-up contributions for that Taxable Year in accordance with, and subject to the limitations of, Code §414(v). Such catch-up contributions are not taken into account for purposes of the provisions of the Plan implementing the required limitations of Code §457. If, for a Taxable Year, an Employee makes a catch-up contribution under Section 3.05, the Employee is not eligible to make age 50 catch-up contributions under this Section 3.06. A catch-up eligible Participant in each Taxable Year is entitled to the greater of the amount determined under Section 3.05 or Section 3.06 Catch-Up Amount plus the Section 3.04 Normal Limitation.

3.07 CONTRIBUTION ALLOCATION. The Plan Administrator will allocate to each Participant's Account his or her Deferral Contributions. The Employer will allocate Employer Nonelective and Matching Contributions to the Account of each Participant who satisfies the allocation conditions in the Adoption Agreement in the following manner:

(a) **Fixed match.** To the extent the Employer makes Matching Contributions under a fixed Adoption Agreement formula, the Plan Administrator will allocate the Matching Contribution to the Account of the Participant on whose behalf the Employer makes that contribution. A fixed Matching Contribution formula is a formula under which the Employer contributes a specified percentage or dollar amount on behalf of a Participant based on that Participant's Salary Reduction Contributions.

(b) **Discretionary match.** To the extent the Employer makes Matching Contributions under a discretionary Adoption Agreement formula, the Plan Administrator will allocate the Matching Contributions to a Participant's Account in the same proportion that each Participant's Salary Reduction Contributions taken into account under the formula bear to the total Salary Reduction Contributions of all Participants.

(c) **Tiered match.** If the Matching Contribution formula is a tiered formula, the Plan Administrator will allocate separately the Matching Contributions with respect to each tier

of Salary Reduction Contributions, in accordance with the tiered formula.

(d) **Discretionary nonelective.** The Plan Administrator will allocate discretionary Nonelective Contributions for a Plan Year in the same ratio that each Participant's Compensation for the Plan Year bears to the total Compensation of all Participants for the Plan Year, unless the Employer elects otherwise in the Adoption Agreement.

(e) **Fixed nonelective.** The Plan Administrator will allocate fixed Nonelective Contributions for a Plan Year in the same ratio that each Participant's Compensation for the Plan Year bears to the total Compensation of all Participants for the Plan Year, unless the Employer elects otherwise in the Adoption Agreement.

(f) **Other nonelective.** The Plan Administrator will allocate Nonelective Contributions for a Plan Year as specified in the Adoption Agreement.

3.08 ALLOCATION CONDITIONS. The Plan Administrator will determine the allocation conditions applicable to Nonelective Contributions or to Matching Contributions (or to both) in accordance with the Employer's elections in the Adoption Agreement. The Plan Administrator will not allocate to a Participant any portion of an Employer Contribution (or forfeiture if applicable) for a Plan Year or applicable portion thereof in which the Participant does not satisfy the applicable allocation condition(s).

3.09 ROLLOVER CONTRIBUTIONS. If elected in the Adoption Agreement, an Employer sponsoring a Governmental Eligible 457 Plan may permit Rollover Contributions.

(A) **Operational Administration.** The Employer, operationally and on a nondiscriminatory basis, may elect to limit an eligible Employee's right or a Participant's right to make a Rollover Contribution. Any Participant (or as applicable, any eligible Employee), with the Employer's written consent and after filing with the Trustee the form prescribed by the Plan Administrator, may make a Rollover Contribution to the Trust. Before accepting a Rollover Contribution, the Trustee may require a Participant (or eligible Employee) to furnish satisfactory evidence the proposed transfer is in fact a "Rollover Contribution" which the Code permits an employee to make to an eligible retirement plan. The Trustee, in its sole discretion, may decline to accept a Rollover Contribution of property which could: (1) generate unrelated business taxable income; (2) create difficulty or undue expense in storage, safekeeping or valuation; or (3) create other practical problems for the Trust.

(B) **Pre-Participation Rollover.** If an eligible Employee makes a Rollover Contribution to the Trust prior to satisfying the Plan's eligibility conditions, the Plan Administrator and Trustee must treat the Employee as a limited Participant (as described in Rev. Rul. 96-48 or in any successor ruling). A limited Participant does not share in the Plan's allocation of any Employer Contributions and may not make Salary Reduction Contributions until he/she actually becomes a Participant in the Plan. If a limited Participant has a Severance from Employment prior to becoming a Participant in the Plan, the Trustee will distribute his or her Rollover Contributions Account to the limited Participant in accordance with Article IV.

(C) **Separate Accounting.** If an Employer permits Rollover Contributions, the Plan Administrator must account separately for: (1) amounts rolled into this Plan from an eligible retirement plan (other than from another Governmental Eligible 457 plan); and (2) amounts rolled into this Plan from another

Governmental Eligible 457 Plan The Plan Administrator for purposes of ordering any subsequent distribution from this Plan, may designate a distribution from a Participant's Rollover Contributions as coming first from either of (1) or (2) above if the Participant has both types of Rollover Contribution Accounts.

(D) May Include Roth Deferrals. If this Plan is an eligible governmental 457(b) plan which accepts Roth Elective Deferrals, then a Rollover Contribution may include Roth Deferrals made to another plan, as adjusted for Earnings. Such amounts must be directly rolled over into this Plan from another plan which is qualified under Code §401(a), from a 403(b) plan, or from an eligible governmental 457 plan. The Plan must account separately for the Rollover Contribution, including the Roth Deferrals and the Earnings thereon.

(E) In-Plan Roth Rollover Contributions. A Governmental Employer under an Eligible 457 Plan may elect to permit In-Plan Roth Rollover Contribution. If the Employer decides to permit In-Plan Roth Rollover Contributions, the Employer will amend the Plan to add necessary language.

3.10 DISTRIBUTION OF EXCESS DEFERRALS. In the event that a Participant has Excess Deferrals, the Plan will distribute to the Participant the Excess Deferrals and allocable net income, gain or loss, in accordance with this Section 3.10.

(A) Governmental Eligible 457 Plan. The Plan Administrator will distribute Excess Deferrals from a Governmental Eligible 457 Plan as soon as is reasonably practicable following the Plan Administrator's determination of the amount of the Excess Deferral.

(B) Tax-Exempt Organization Eligible 457 Plan. The Plan Administrator will distribute Excess Deferrals from a Tax-Exempt Organization Eligible 457 Plan no later than April 15 following the Taxable Year in which the Excess Deferral occurs.

(C) Plan Aggregation. If the Employer maintains more than one Eligible 457 Plan, the Employer must aggregate all such Plans in determining whether any Participant has Excess Deferrals.

(D) Individual Limitation. If a Participant participates in another Eligible 457 Plan maintained by a different employer, and the Participant has Excess Deferrals, the Plan Administrator may, but is not required, to correct the Excess Deferrals by making a corrective distribution from this Plan.

3.11 DEEMED IRA CONTRIBUTIONS. A Governmental Employer under an Eligible 457 Plan may elect to permit Participants to make IRA contributions to this Plan in accordance with the Code §408(g) deemed IRA rules. If the Employer elects to permit deemed IRA contributions to the Plan, the Employer will amend the Plan to add necessary IRA language and either the Rev. Proc. 2003-13 sample deemed IRA language or an appropriate substitute.

3.12 ROTH ELECTIVE DEFERRALS. The Employer may elect in the Adoption Agreement to permit Roth Elective Deferrals. Unless elected otherwise, Roth Elective Deferrals shall be treated in the same manner as Elective Deferrals. The Employer may, in operation, implement deferral election procedures provided such procedures are communicated to Participants and permit Participants to modify their elections at least once each Plan Year.

(A) Elective Deferrals. "Elective Deferral" means a contribution the Employer makes to the Plan pursuant to a Participant's Salary Reduction Agreement, as described in Section 3.02. The term "Elective Deferrals" includes Pre-tax Elective Deferrals and Roth Elective Deferrals.

(B) Pre-Tax Elective Deferrals. "Pre-Tax Elective Deferrals" means a Participant's Salary Reduction Contributions which are not includible in the Participant's gross income at the time deferred and have been irrevocably designated as Pre-Tax Elective Deferrals by the Participant in his or her Salary Reduction Agreement. A Participant's Pre-Tax Elective Deferrals will be separately accounted for, as will gains and losses attributable to those Pre-Tax Elective Deferrals.

(C) Roth Elective Deferrals. "Roth Elective Deferrals" means a Participant's Salary Reduction Contributions that are includible in the Participant's gross income at the time deferred and have been irrevocably designated as Roth Elective Deferrals by the Participant in his or her Salary Reduction Agreement. A Participant's Roth Elective Deferrals will be separately accounted for, as will gains and losses attributable to those Roth Elective Deferrals. However, forfeitures may not be allocated to such account. The Plan must also maintain a record of a Participant's investment in the contract (i.e., designated Roth contributions that have not been distributed) and the year in which the Participant first made a Roth Elective Deferral.

(D) Ordering Rules for Distributions. The Administrator operationally may implement an ordering rule procedure for withdrawals (including, but not limited to, withdrawals on account of an unforeseeable emergency) from a Participant's accounts attributable to Pre-Tax Elective Deferrals or Roth Elective Deferrals. Such ordering rules may specify whether the Pre-Tax Elective Deferrals or Roth Elective Deferrals are distributed first. Furthermore, such procedure may permit the Participant to elect which type of Elective Deferrals shall be distributed first.

(E) Corrective distributions attributable to Roth Elective Deferrals. For any Plan Year in which a Participant may make both Roth Elective Deferrals and Pre-Tax Elective Deferrals, the Administrator operationally may implement an ordering rule procedure for the distribution of Excess Deferrals (Treas. Reg. §1.457-4(e)). Such an ordering rule may specify whether the Pre-Tax Elective Deferrals or Roth Elective Deferrals are distributed first, to the extent such type of Elective Deferrals was made for the year. Furthermore, such procedure may permit the Participant to elect which type of Elective Deferrals shall be distributed first.

(F) Loans. If Participant loans are permitted under the Plan, then the Administrator may modify the loan policy or program to provide limitations on the ability to borrow from, or use as security, a Participant's Roth Elective Deferral account. Similarly, the loan policy or program may be modified to provide for an ordering rule with respect to the default of a loan that is made from the Participant's Roth Elective Deferral account and other accounts under the Plan.

(G) Rollovers. A direct rollover of a distribution from Roth Elective Deferrals shall only be made to a Plan which includes Roth Elective Deferrals as described in Code §402A(e)(1) or to a Roth IRA as described in Code §408A, and only to the extent the rollover is permitted under the rules of Code §402(c).

The Plan shall accept a rollover contribution of Roth Elective Deferrals only if it is a direct rollover from another Plan which permits Roth Elective Deferrals as described in Code §402A(e)(1) and only to the extent the rollover is permitted under the rules of Code §402(c). The Employer, operationally and on a uniform and nondiscriminatory basis, may decide whether to accept any such rollovers.

The Plan shall not provide for a direct rollover (including an automatic rollover) for distributions from a Participant's Roth Elective Deferral account if the amount of the distributions that are eligible rollover distributions are reasonably expected to total less than \$200 during a year. In addition, any distribution from a Participant's Roth Elective Deferrals are not taken into account in determining whether distributions from a Participant's other accounts are reasonably expected to total less than \$200 during a year. Furthermore, the Plan will treat a Participant's Roth Elective Deferral account and the Participant's other accounts as held under two separate plans for purposes of applying the automatic rollover rules. However, eligible rollover distributions of a Participant's Roth Elective Deferrals are taken into account in determining whether the total amount of the Participant's account balances under the Plan exceed the Plan's limits for purposes of mandatory distributions from the Plan.

The provisions of the Plan 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 a Participant's Roth Elective 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.

(H) Automatic Enrollment. If the Plan utilizes an automatic enrollment feature as described in Section 3.02(B), then any such automatic contribution shall be a Pre-Tax Elective Deferral.

(I) Operational Compliance. The Plan Administrator will administer Roth Elective Deferrals in accordance with applicable regulations or other binding authority.

3.13 BENEFIT ACCRUAL. If the Employer elects to apply this Section, then effective as of the date adopted, for benefit accrual purposes, the Plan treats an individual who dies or becomes disabled (as defined under the terms of the Plan) while performing qualified military service with respect to the Employer as if the individual had resumed employment in accordance with the individual's reemployment rights under USERRA, on the day preceding death or disability (as the case may be) and terminated employment on the actual date of death or disability.

(A) Determination of benefits. The amount of Matching Contributions to be made pursuant to this Section 3.13 shall be determined as though the amount of Salary Reduction Contributions of an individual treated as reemployed under this Section on the basis of the individual's average actual Salary Reduction Contributions for the lesser of: (i) the 12-month period of service with the Employer immediately prior to qualified military service; or (ii) the actual length of continuous service with the Employer.

3.14 ELIGIBLE AUTOMATIC CONTRIBUTION ARRANGEMENT (EACA). As elected in the Adoption Agreement, the Employer maintains a Plan with automatic enrollment provisions as an Eligible Automatic Contribution Arrangement ("EACA"). Accordingly, the Plan will satisfy the (1) uniformity requirements, and (2) notice requirements under this Section.

(A) Uniformity. The Automatic Deferral Percentage must be a uniform percentage of Compensation. All Participants in the EACA, are subject to Automatic Deferrals, except to the extent otherwise provided in this Plan. If a Participant's Affirmative Election expires or otherwise ceases to be in effect, the Participant will immediately thereafter be subject to Automatic Deferrals, except to the extent otherwise provided in this Plan. However, the Plan does not violate the uniform Automatic Deferral Percentage merely because the Plan applies any of the following provisions:

(a) Years of participation. The Automatic Deferral Percentage varies based on the number of plan years the Participant has participated in the Plan while the Plan has applied EACA provisions;

(b) No reduction from prior default percentage. The Plan does not reduce an Automatic Deferral Percentage that, immediately prior to the EACA's effective date was higher (for any Participant) than the Automatic Deferral Percentage;

(c) Applying statutory limits. The Plan limits the Automatic Deferral amount so as not to exceed the limits of Code Section 457(b)(2) (determined without regard to Age 50 Catch-Up Deferrals).

(B) EACA notice. The Plan Administrator annually will provide a notice to each Participant a reasonable period prior to each plan year the Employer maintains the Plan as an EACA ("EACA Plan Year").

(a) Deemed reasonable notice/new Participant. The Plan Administrator is deemed to provide timely notice if the Plan Administrator provides the EACA notice at least 30 days and not more than 90 days prior to the beginning of the EACA Plan Year.

(b) Mid-year notice/new Participant or Plan. If: (a) an Employee becomes eligible to make Salary Reduction Contributions in the Plan during an EACA Plan Year but after the Plan Administrator has provided the annual EACA notice for that plan year; or (b) the Employer adopts mid-year a new Plan as an EACA, the Plan Administrator must provide the EACA notice no later than the date the Employee becomes eligible to make Salary Reduction Contributions. However, if it is not practicable for the notice to be provided on or before the date an Employee becomes a Participant, then the notice will nonetheless be treated as provided timely if it is provided as soon as practicable after that date and the Employee is permitted to elect to defer from all types of Compensation that may be deferred under the Plan earned beginning on that date.

(c) Content. The EACA notice must provide comprehensive information regarding the Participants' rights and obligations under the Plan and must be written in a manner calculated to be understood by the average Participant in accordance with applicable guidance.

(C) EACA permissible withdrawal. If elected in in the Adoption Agreement, a Participant who has Automatic Deferrals under the EACA may elect to withdraw all the Automatic

Deferrals (and allocable earnings) under the provisions of this Section 3.14. Any distribution made pursuant to this Section will be processed in accordance with normal distribution provisions of the Plan.

(a) **Amount.** If a Participant elects a permissible withdrawal under this Section, then the Plan must make a distribution equal to the amount (and only the amount) of the Automatic Deferrals made under the EACA (adjusted for allocable gains and losses to the date of the distribution). The Plan may separately account for Automatic Deferrals, in which case the entire account will be distributed. If the Plan does not separately account for the Automatic Deferrals, then the Plan must determine earnings or losses in a manner similar to the rules of Treas. Reg. §1.401(k)-2(b)(2)(iv) for distributions of excess contributions.

(b) **Fees.** Notwithstanding the above, the Plan Administrator may reduce the permissible distribution amount by any generally applicable fees. However, the Plan may not charge a greater fee for distribution under this Section than applies to other distributions. The Plan Administrator may adopt a policy regarding charging such fees consistent with this paragraph.

(c) **Timing.** The Participant may make an election to withdraw the Automatic Deferrals under the EACA no later than 90 days, or such shorter period as specified in the Adoption Agreement, after the date of the first Automatic Deferral under the EACA. For this purpose, the date of the first Automatic Deferral is the date that the Compensation subject to the Automatic Deferral otherwise would have been includible in the Participant's gross income. Furthermore, a Participant's withdrawal right is not restricted due to the Participant making an Affirmative Election during the 90 day period (or shorter period as specified in Adoption Agreement.).

(d) **Rehired Employees.** For purposes of this Section, an Employee who for an entire Plan Year did not have contributions made pursuant to a default election under the EACA will be treated as having not had such contributions for any prior Plan Year as well.

(e) **Effective date of the actual withdrawal election:** The effective date of the permissible withdrawal will be as soon as practicable, but in no event later than the earlier of (1) the pay date of the second payroll period beginning after the election is made, or (2) the first pay date that occurs at least 30 days after the election is made. The election will also be deemed to be an Affirmative Election to have no Salary Reduction Contributions made to the Plan.

(f) **Related matching contributions.** The Plan Administrator will not take any deferrals withdrawn pursuant to this section into account in computing the contribution and allocation of matching contributions, if any. If the Employer has already allocated matching contributions to the Participant's account with respect to deferrals being withdrawn pursuant to this Section, then the matching contributions, as adjusted for gains and losses, must be forfeited. Except as otherwise provided, the Plan will use the forfeited contributions to reduce future contributions or to reduce plan expenses.

(D) **Compensation.** Compensation for purposes of determining the amount of Automatic Deferrals has the same meaning as Compensation with regard to Salary Reduction Contributions in general.

(E) Definitions.

(a) **Definition of Automatic Deferral.** An Automatic Deferral is a Salary Reduction Contribution that results from the operation of this Article III. Under the Automatic Deferral, the Employer automatically will reduce by the Automatic Deferral Percentage as elected the Compensation of each Participant subject to the EACA. The Plan Administrator will cease to apply the Automatic Deferral to a Participant who makes an Affirmative Election as defined in this Section.

(b) **Definition of Automatic Deferral Percentage/Increases.** The Automatic Deferral Percentage is the percentage of Automatic Deferral (including any scheduled increase to the Automatic Deferral Percentage the Employer may elect).

(c) **Effective date of EACA Automatic Deferral.** The effective date of an Employee's Automatic Deferral will be as soon as practicable after the Employee is subject to Automatic Deferrals under the EACA, consistent with (a) applicable law, and (b) the objective of affording the Employee a reasonable period of time after receipt of the notice to make an Affirmative Election (and, if applicable, an investment election).

(d) **Definition of Affirmative Election.** An Affirmative Election is a Participant's election made after the EACA's Effective Date not to defer any Compensation or to defer more or less than the Automatic Deferral Percentage.

(e) **Effective Date of Affirmative Election.** A Participant's Affirmative Election generally is effective as of the first payroll period which follows the payroll period in which the Participant made the Affirmative Election. However, a Participant may make an Affirmative Election which is effective: (a) for the first payroll period in which he or she becomes a Participant if the Participant makes an Affirmative Election within a reasonable period following the Participant's entry date and before the Compensation to which the Election applies becomes currently available; or (b) for the first payroll period following the EACA's effective date, if the Participant makes an Affirmative Election not later than the EACA's effective date.

3.15 IN-PLAN ROTH ROLLOVER CONTRIBUTION

(a) **Employer Election.** The Employer in its Adoption Agreement in which the Employer has elected to permit Roth Deferrals also will elect whether to permit an In-Plan Roth Rollover Contribution in accordance with this Section with regard to otherwise distributable amounts and/or otherwise nondistributable amounts. If the Employer elects to permit such contributions, the Employer in its Adoption Agreement will specify the Effective Date thereof which may not be earlier than distributions made after September 27, 2010, and may not be earlier than January 1, 2013 in the case of rollovers of otherwise nondistributable amounts. An In-Plan Roth Rollover Contribution means a Rollover Contribution to the Plan that consists of a distribution or transfer from a Participant's Plan Account, other than a Roth Deferral Account, that the Participant transfers to the Participant's In-Plan Roth Rollover Contribution Account in the Plan, in accordance with Code §402(c)(4). In-Plan Roth Rollover Contributions will be subject to the Plan rules related to Roth Deferral Accounts, subject to preservation of protected benefits.

(b) **Eligibility for Distribution and Rollover.** A Participant may not make an In-Plan Roth Rollover Contribution with regard to an otherwise distributable amount which is not an Eligible Rollover Distribution.

(1) **Parties eligible to elect.** For purposes of eligibility for an In-Plan Roth Rollover, the Plan will treat a Participant's surviving spouse Beneficiary or alternate payee spouse or alternate payee former spouse as a Participant. A non-spouse Beneficiary may not make an In-Plan Roth Rollover.

(2) **Distribution from partially Vested account.** In-Plan Roth Rollovers are permitted only from Vested amounts allocated to a qualifying source but may be made from partially Vested Accounts. If a distribution is made to a Participant who has not incurred a Severance from Employment and who is not fully Vested in the Participant's Account from which the In-Plan Roth Rollover Contribution is to be made, and the Participant may increase the Vested percentage in such Account.

(c) **Form and Source of Rollover.**

(1) **Direct Rollover.** An In-Plan Roth Rollover Contribution may be made only by a Direct Rollover.

(2) **Account source.** A Participant may make an In-Plan Roth Rollover from any account (other than a Roth account).

(3) **Cash or in-kind.** The Plan Administrator will effect an In-Plan Roth Rollover Contribution by rolling over the Participant's current investments to the In-Plan Roth Rollover Account. A Plan loan so rolled over without changing the repayment schedule is not treated as a new loan. However the

Employer may provide that loans cannot be rolled over in an In-Plan Roth Rollover.

(4) **No Rollover or Distribution Treatment.** Notwithstanding any other Plan provision, an In-Plan Roth Rollover Contribution is not a Rollover Contribution for purposes of the Plan. Accordingly: (a) if the Employer in its Adoption Agreement has elected \$5,000 as the Plan limit on Mandatory Distributions, the Plan Administrator will take into account amounts attributable to an In-Plan Roth Rollover Contribution, in determining if the \$5,000 limit is exceeded, regardless of the Employer's election as to whether to count Rollover Contributions for this purpose; (b) no spousal consent is required for a Participant to elect to make an In-Plan Roth Rollover Contribution; (c) protected benefits with respect to the amounts subject to the In-Plan Roth Rollover are preserved; and (d) mandatory 20% federal income tax withholding does not apply to the In-Plan Roth Rollover Contribution.

(5) **In-Plan Roth Rollover Contribution Account.** An In-Plan Roth Rollover Contribution Account is a sub-account the Plan Administrator may establish to account for a Participant's Rollover Contributions attributable to the Participant's In-Plan Roth Rollover Contributions. The Plan Administrator has authority to establish such a sub-account, and to the extent necessary, may establish sub-accounts based on the source of the In-Plan Roth Rollover Contribution. The Plan Administrator will administer an In-Plan Roth Rollover Contribution Account in accordance with Code and the Plan provisions.

ARTICLE IV TIME AND METHOD OF PAYMENT OF BENEFITS

4.01 DISTRIBUTION RESTRICTIONS. Except as the Plan provides otherwise, the Plan Administrator or Trustee may not distribute to a Participant the amounts in his or her Account prior to one of the following events:

- (a) The Participant's attaining age 70 1/2;
- (b) The Participant's Severance from Employment; or
- (c) The Participant's death.

4.02 TIME AND METHOD OF PAYMENT OF ACCOUNT. The Plan Administrator, or Trustee at the direction of the Plan Administrator, will distribute to a Participant who has incurred a Severance from Employment the Participant's Vested Account under one or any combination of payment methods and at the time(s) the Adoption Agreement specifies. If the Adoption Agreement permits more than one time or method, the Plan Administrator, in the absence of a Participant election described below, will determine the time and method applicable to a particular Participant. In no event will the Plan Administrator direct (or direct the Trustee to commence) distribution, nor will the Participant elect to have distribution commence, later than the Participant's required beginning date, or under a method that does not satisfy Section 4.03.

(A) **Participant Election of Time and Method.** The Employer in the Adoption Agreement must elect whether to permit Participants to elect the timing and method of distribution of their Account in accordance with this Section 4.02. The Plan Administrator must consent to the specific terms of any such Participant election and the Plan Administrator in its sole discretion may withhold consent. Subject to the foregoing conditions, a Participant: (1) may elect to postpone distribution of his or her Account beyond the time the Employer has elected in the Adoption Agreement, to any fixed or determinable date

including, but not beyond, the Participant's required beginning date; and (2) may elect the method of payment. A Participant in a Tax-Exempt Organization Eligible 457 Plan may elect the timing and method of payment of his or her Account no later than 30 days before the date the Plan Administrator or Trustee first would commence payment of the Participant's Account in accordance with the Adoption Agreement. The Plan Administrator must furnish to the Participant a form for the Participant to elect the time and a method of payment. A Participant in a Governmental Eligible 457 Plan is not subject to any such requirement in election the timing or method of payment.

(B) **Number of Initial Elections/Subsequent Elections.** A Participant in a Tax-Exempt Organization Eligible 457 Plan may make any number of elections or revoke any prior election under Section 4.02(A) within the election period. Once the initial election period expires, a Participant, before payment would commence under the Participant's initial election, may make one additional election to defer (but not to accelerate) the timing of payment of his or her Account and also as to the method of payment.

(C) **No Election/Default.** If the Participant does not make a timely election regarding the time and method of payment, the Plan Administrator will pay or direct the Trustee to pay the Participant's Account in accordance with the Adoption Agreement.

(D) **Mandatory Distribution.** The Employer in the Adoption Agreement will elect whether the Plan will make Mandatory Distributions. If the Employer elects Mandatory Distributions, the Employer may determine operationally whether to include Rollover Contributions in determining whether the Participant is subject to Mandatory Distributions.

4.03 REQUIRED MINIMUM DISTRIBUTIONS. The Plan Administrator may not distribute nor direct the Trustee to distribute the Participant's Account, nor may the Participant elect any distribution his or her Account, under a method of payment which, as of the required beginning date, does not satisfy the minimum distribution requirements of Code §401(a)(9) or which is not consistent with applicable Treasury regulations.

(A) General Rules.

(1) Precedence. The requirements of this Section 4.03 will take precedence over any inconsistent provisions of the Plan.

(2) Requirements of Treasury Regulations Incorporated. All distributions required under this Section 4.03 will be determined and made in accordance with the Treasury regulations under Code §401(a)(9).

(B) Time and Manner of Distribution.

(1) Required Beginning Date. The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's required beginning date.

(2) Death of Participant Before Distribution Begins. If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

(a) Spouse Designated Beneficiary. If the Participant's surviving spouse is the Participant's sole designated Beneficiary, then, except as the Employer may elect in the Adoption Agreement, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant dies, or by December 31 of the calendar year in which the Participant would have attained age 70 1/2, if later.

(b) Non-Spouse Designated Beneficiary. If the Participant's surviving spouse is not the Participant's sole designated Beneficiary, then, except as the Employer may elect in the Adoption Agreement, distributions to the designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.

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

(d) Death of 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 4.03(B)(2) other than Section 4.03(B)(2)(a), will apply as if the surviving spouse were the Participant.

For purposes of this Section 4.03(B) and Section 4.03(D), unless Section 4.03(B)(2)(d) applies, distributions are considered to begin on the Participant's required beginning date. If Section 4.03(B)(2)(d) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under Section 4.03(B)(2)(a). If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's required beginning date or to the Participant's surviving spouse

before the date distributions are required to begin to the surviving spouse under Section 4.03(B)(2)(a), the date distributions are considered to begin is the date distributions actually commence.

(3) Forms of Distribution. Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with Sections 4.03(C) and 4.03(D). 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 Treasury regulations.

(C) Required Minimum Distributions during Participant's Lifetime.

(1) 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:

(a) ULT. The quotient obtained by dividing the Participant's account balance by the number in the Uniform Life Table set forth in Treas. Reg. §1.401(a)(9)-9, using the Participant's attained age as of the Participant's birthday in the distribution calendar year; or

(b) Younger Spouse. 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, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the distribution calendar year.

(2) Lifetime Required Minimum Distributions Continue Through Year of Participant's Death. Required minimum distributions will be determined under this Section 4.03(C) beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the Participant's date of death.

(D) Required Minimum Distributions after Participant's Death.

(1) Death On or After Distributions Begin.

(a) Participant Survived by Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is a designated Beneficiary, the minimum amount that will be distributed for each 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) Participant's Life Expectancy. The Participant's remaining life expectancy is calculated using the attained age of the Participant as of the Participant's birthday in the calendar year of death, reduced by one for each subsequent calendar year.

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

years after the year of the surviving spouse's death, the remaining life expectancy of the surviving spouse is calculated using the attained 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) Non-Spouse's Life Expectancy. If the Participant's surviving spouse is not the Participant's sole designated Beneficiary, the designated Beneficiary's remaining life expectancy is calculated using the attained age of the Beneficiary as of the Beneficiary's birthday in the calendar year following the calendar year of the Participant's death, reduced by one for each subsequent calendar year.

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

(2) Death before Date Distributions Begin.

(a) Participant Survived by Designated Beneficiary. Except as the Employer may elect in the Adoption Agreement, if the Participant dies before the date distributions begin and there is a designated Beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the remaining life expectancy of the Participant's designated Beneficiary, determined as provided in Section 4.03(D)(1).

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

(c) 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 4.03(B)(2)(a), this Section 4.03(D)(2) will apply as if the surviving spouse were the Participant.

(d) 5-year or Life Expectancy rule; possible election. The Employer in its Adoption Agreement will elect whether distribution of the Participant's Account will be made in accordance with the life expectancy rule under Section 4.03(D)(2)(a) or the 5-year rule under Section 4.03(D)(2)(b). The Employer's election may permit a Designated Beneficiary to elect which of these rules will apply or may specify which rule applies. However, the life expectancy rule (whether subject to election or not) applies only in the case of a Designated Beneficiary. The 5-year rule applies as to any Beneficiary who is not a Designated Beneficiary. A permitted election under this Section 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 4.03(D)(2)(a), or by September 30 of the calendar year which contains the fifth anniversary of the Participant's (or, if applicable, surviving spouse's) death.

(E) Definitions.

(1) Designated Beneficiary. The individual who is designated as the Beneficiary under the Plan and is the designated beneficiary under Code §401(a)(9) and Treas. Reg. §1.401(a)(9)-1, Q&A-4.

(2) 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 which contains the Participant's required beginning date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which the distributions are required to begin under Section 4.03(B)(2). The required minimum distribution for the Participant's first distribution calendar year will be made on or before the Participant's required beginning date. The required minimum distribution for other distribution calendar years, including the required minimum distribution for the distribution calendar year in which the Participant's required beginning date occurs, will be made on or before December 31 of that distribution calendar year.

(3) Life expectancy. Life expectancy as computed by use of the Single Life Table in Treas. Reg. §1.401(a)(9)-9.

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

(5) Required beginning date. A Participant's required beginning date is the April 1 of the calendar year following the later of: (1) the calendar year in which the Participant attains age 70 1/2, or (2) the calendar year in which the Participant retires or such other date under Code §401(a)(9) by which required minimum distributions must commence.

4.04 DEATH BENEFITS. Upon the death of the Participant, the Plan Administrator must pay or direct the Trustee to pay the Participant's Account in accordance with Section 4.03. Subject to Section 4.03, a Beneficiary may elect the timing and method of payment in the same manner as a Participant may elect under Section 4.02, if such elections apply.

If a Participant 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 if the Participant had resumed and then terminated employment on account of death.

4.05 DISTRIBUTIONS PRIOR TO SEVERANCE FROM EMPLOYMENT. The Employer must elect in the Adoption Agreement whether to permit in-service distributions of a Participant's Vested Account under this Section 4.05, notwithstanding the Section 4.01 distribution restrictions.

(A) Unforeseeable Emergency. In the event of a Participant's or the Participant's spouse, dependents or beneficiaries' unforeseeable emergency, the Plan Administrator may make a

distribution to a Participant who has not incurred a Severance from Employment (or who has incurred a Severance but will not begin to receive payments until some future date). In the event of an unforeseeable emergency, the Plan Administrator also may accelerate payments to a Participant or to a Beneficiary. The Plan Administrator will establish a policy for determining whether an unforeseeable emergency exists. An unforeseeable emergency is a severe financial hardship of a Participant or Beneficiary resulting from: (1) illness or accident of the Participant, the Beneficiary, or the Participant's or Beneficiary's spouse or dependent (as defined in Code §152(a)); (2) loss of the Participant's or Beneficiary's property due to casualty; (3) the need to pay for the funeral expenses of the Participant's or Beneficiary's spouse or dependent (as defined in Code §152(a)); or (4) other similar extraordinary and unforeseeable circumstances arising from events beyond the Participant's or Beneficiary's control, or which applicable law may define as an unforeseeable emergency. The Plan Administrator will not pay the Participant or the Beneficiary more than the amount reasonably necessary to satisfy the emergency need, which may include amounts necessary to pay taxes or penalties on the distribution. The Plan Administrator will not make payment to the extent the Participant or Beneficiary may relieve the financial hardship by cessation of deferrals under the Plan, through insurance or other reimbursement, or by liquidation of the individual's assets to the extent such liquidation would not cause severe financial hardship.

The Participant's Beneficiary is a person who a Participant designates and who is or may become entitled to a Participant's Plan Account upon the Participant's death.

(B) De minimis distribution. In accordance with the Employer's Adoption Agreement elections, the Plan Administrator may allow a Participant to elect to receive a distribution or the Plan Administrator will distribute (without a Participant election) any amount of the Participant's Account where: (1) the Participant's Account (disregarding Rollover Contributions) does not exceed \$5,000 (or such other amount as does not exceed the Code §411(a)(11)(A) dollar amount); (2) the Participant has not made or received an allocation of any Deferral Contributions under the Plan during the two-year period ending on the date of distribution; and (3) the Participant has not received a prior distribution under this Section 4.05(B).

(C) Distribution of Rollover Contributions. The Employer in the Adoption Agreement may elect to permit a Participant to request and to receive distribution of the Participant's Account attributable to Rollover Contributions (but not to Transfers) before the Participant has a distributable event under Section 4.01.

4.06 DISTRIBUTIONS UNDER QUALIFIED DOMESTIC RELATIONS ORDERS (QDROs).

Notwithstanding any other provision of this Plan, the Employer in the Adoption Agreement may elect to apply the QDRO provisions of this Section 4.06. If Section 4.06 applies, the Plan Administrator (and any Trustee) must comply with the terms of a QDRO, as defined in Code §414(p), which is issued with respect to the Plan.

(A) Time and Method of Payment. This Plan specifically permits distribution to an alternate payee under a QDRO at any time, notwithstanding any contrary Plan provision and irrespective of whether the Participant has attained his or her earliest retirement age (as defined under Code §414(p)) under the Plan. A distribution to an alternate payee prior to the Participant's attainment of earliest retirement age is available only if the QDRO specifies distribution at that time or permits an agreement between the Plan and the alternate payee to authorize an earlier distribution. Nothing in this Section 4.06

gives a Participant a right to receive distribution at a time the Plan otherwise does not permit nor authorizes the alternate payee to receive a form of payment the Plan does not permit.

(B) QDRO Procedures. The Plan Administrator must establish reasonable procedures to determine the qualified status of a domestic relations order. Upon receiving a domestic relations order, the Plan Administrator promptly will notify the Participant and any alternate payee named in the order, in writing, of the receipt of the order and the Plan's procedures for determining the qualified status of the order. Within a reasonable period of time after receiving the domestic relations order, the Plan Administrator must determine the qualified status of the order and must notify the Participant and each alternate payee, in writing, of the Plan Administrator's determination. The Plan Administrator must provide notice under this paragraph by mailing to the individual's address specified in the domestic relations order.

(C) Accounting. If any portion of the Participant's Account Balance is payable under the domestic relations order during the period the Plan Administrator is making its determination of the qualified status of the domestic relations order, the Plan Administrator must maintain a separate accounting of the amounts payable. If the Plan Administrator determines the order is a QDRO within 18 months of the date amounts first are payable following receipt of the domestic relations order, the Plan Administrator will distribute or will direct the Trustee to distribute the payable amounts in accordance with the QDRO. If the Plan Administrator does not make its determination of the qualified status of the order within the 18-month determination period, the Plan Administrator will distribute or will direct the Trustee to distribute the payable amounts in the manner the Plan would distribute if the order did not exist and will apply the order prospectively if the Plan Administrator later determines the order is a QDRO.

To the extent it is not inconsistent with the provisions of the QDRO, the Plan Administrator may segregate or may direct the Trustee to segregate the QDRO amount in a segregated investment account. The Plan Administrator or Trustee will make any payments or distributions required under this Section 4.06 by separate benefit checks or other separate distribution to the alternate payee(s).

(D) Permissible QDROs. A domestic relations order that otherwise satisfies the requirements for a qualified domestic relations order ("QDRO") will not fail to be a QDRO: (i) solely because the order is issued after, or revises, another domestic relations order or QDRO; or (ii) solely because of the time at which the order is issued, including issuance after the annuity starting date or after the Participant's death.

4.07 DIRECT ROLLOVER OF ELIGIBLE ROLLOVER DISTRIBUTIONS – GOVERNMENTAL PLAN.

(A) Participant Election. A Participant (including for this purpose, a former Employee) in a Governmental Eligible 457 Plan may elect, at the time and in the manner the Plan Administrator prescribes, to have any portion of his or her eligible rollover distribution from the Plan paid directly to an eligible retirement plan specified by the Participant in a direct rollover election. For purposes of this election, a "Participant" includes as to their respective interests, a Participant's surviving spouse and the Participant's spouse or former spouse who is an alternate payee under a QDRO.

(B) Rollover and Withholding Notice. At least 30 days and not more than 180 days prior to the Trustee's distribution of an

eligible rollover distribution, the Plan Administrator must provide a written notice (including a summary notice as permitted under applicable Treasury regulations) explaining to the distributee the rollover option, the applicability of mandatory 20% federal withholding to any amount not directly rolled over, and the recipient's right to roll over within 60 days after the date of receipt of the distribution ("rollover notice").

(C) Default distribution or rollover. Except as provided in Paragraph (D), in the case of a Participant who does not elect timely to roll over or to receive distribution of his or her Account, the Plan Administrator or the Trustee, at the Plan Administrator's direction, may distribute to the Participant or may directly roll over the Participant's Account in accordance with the Plan's rollover notice.

(D) Mandatory default rollover. If (1) the Plan is a Governmental Eligible 457 Plan, (2) the Plan makes a mandatory distribution after the Code §401(a)(31)(B) Effective Date, greater than \$1,000, and (3) the Participant does not elect to have such distribution paid directly to an eligible retirement plan specified by the Participant in a direct rollover or to receive the distribution directly, then the Plan Administrator will pay the distribution in a direct rollover to an individual retirement plan designated by the Plan Administrator.

(E) Non-spouse beneficiary rollover right. A non-spouse beneficiary who is a "designated beneficiary" under Section 4.03(E)(1), by a direct trustee-to-trustee transfer ("direct rollover"), may roll over all or any portion of his or her distribution to an individual retirement account the beneficiary establishes for purposes of receiving the distribution. In order to be able to roll over the distribution, the distribution otherwise must satisfy the definition of an eligible rollover distribution.

(1) Certain requirements not applicable. Although a non-spouse beneficiary may roll over directly a distribution as provided in Section 4.07(E), the distribution is not subject to the direct rollover requirements of Code §401(a)(31) (including the automatic rollover provisions of Code §401(a)(31)(B)), the notice requirements of Code §402(f) or the mandatory withholding requirements of Code §3405(c). If a non-spouse beneficiary receives a distribution from the Plan, the distribution is not eligible for a "60-day" rollover.

(2) Trust beneficiary. If the Participant's named beneficiary is a trust, the Plan may make a direct rollover to an individual retirement account on behalf of the trust, provided the trust satisfies the requirements to be a designated beneficiary within the meaning of Code §401(a)(9)(E).

(3) Required minimum distributions not eligible for rollover. A non-spouse beneficiary may not roll over an amount which is a required minimum distribution, as determined under applicable Treasury regulations and other Revenue Service guidance. If the Participant dies before his or her required beginning date and the non-spouse beneficiary rolls over to an IRA the maximum amount eligible for rollover, the beneficiary may elect to use either the 5-year rule or the life expectancy rule, pursuant to Treas. Reg. §1.401(a)(9)-3, A-4(c), in determining the required minimum distributions from the IRA that receives the non-spouse beneficiary's distribution.

(F) Definitions. The following definitions apply to this Section:

(1) Eligible rollover distribution. An eligible rollover distribution is any distribution of all or any portion of a Participant's Account, except an eligible rollover distribution does not include: (a) any distribution which 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 designated Beneficiary, or for a specified period of ten years or more; (b) any Code §401(a)(9) required minimum distribution; (c) any unforeseeable emergency distribution; and (d) any distribution which otherwise would be an eligible rollover distribution, but where the total distributions to the Participant during that calendar year are reasonably expected to be less than \$200.

(2) Eligible retirement plan. An eligible retirement plan is an individual retirement account described in Code §408(a), an individual retirement annuity described in Code §408(b), an annuity plan described in Code §403(a), a qualified plan described in Code §401(a), an annuity contract (or custodial agreement) described in Code §403(b), or an eligible deferred compensation plan described in Code §457(b) and maintained by an Employer described in Code §457(e)(1)(A), which accepts the Participant's, the Participant's spouse or alternate payee's eligible rollover distribution.

A Participant or beneficiary may elect to roll over directly an eligible rollover distribution to a Roth IRA described in Code §408A(b). For this purpose, the term "eligible rollover distribution" includes a rollover distribution described in this Section.

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

(4) Mandatory distribution. A mandatory distribution is an eligible rollover distribution without the Participant's consent before the Participant attains the later of age 62 or Normal Retirement Age (see paragraph 3.05 (B)). A distribution to a beneficiary is not a mandatory distribution.

(5) 401(a)(31)(B) Effective Date. The 401(a)(31)(B) Effective Date is the date of the close of the first regular legislative session of the legislative body with the authority to amend the Plan that begins on or after January 1, 2006.

4.08 ELECTION TO DEDUCT FROM DISTRIBUTION. An Eligible Retired Public Safety Officer may elect annually for that taxable year to have the Plan deduct an amount from a distribution which the Eligible Retired Public Safety Officer otherwise would receive and include in income. The Plan will pay such deducted amounts directly to pay qualified health insurance premiums.

(A) Direct payment. The Plan will pay directly to the provider of the accident or health insurance plan or qualified long-term care insurance contract the amounts the Eligible Retired Public Safety Officer has elected to have deducted from the distribution. Such amounts may not exceed the lesser of \$3,000 or the amount the Participant paid for such taxable year for qualified health insurance premiums, and which otherwise complies with Code §402(l).

(B) Definitions.

(1) Eligible retired public safety officer. An "Eligible Retired Public Safety Officer" is an individual who, by reason of disability or attainment of Normal Retirement Age, is separated from service as a Public Safety Officer with the Employer.

(2) Public safety officer. A "Public Safety Officer" has the same meaning as in Section 1204(9)(A) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b(9)(A)).

(3) **Qualified health insurance premiums.** The term "qualified health insurance premiums" means premiums for coverage for the Eligible Retired Public Safety Officer, his or

her spouse, and dependents, by an accident or health insurance plan or qualified long-term care insurance contract (as defined in Code §7702B(b)).

ARTICLE V PLAN ADMINISTRATOR - DUTIES WITH RESPECT TO PARTICIPANTS' ACCOUNTS

5.01 TERM/VACANCY. The Plan Administrator will serve until his or her successor is appointed. In case of a vacancy in the position of the Plan Administrator, the Employer will exercise any and all of the powers, authority, duties and discretion conferred upon the Plan Administrator pending the filling of the vacancy.

5.02 POWERS AND DUTIES. The Plan Administrator will have the following powers and duties:

- (a) To select a committee to assist the Plan Administrator;
- (b) To select a secretary for the committee, who need not be a member of the committee;
- (c) To determine the rights of eligibility of an Employee to participate in the Plan and the value of a Participant's Account;
- (d) To adopt rules and procedures and to create administrative forms necessary for the proper and efficient administration of the Plan provided the rules, procedures and forms are not inconsistent with the terms of the Plan;
- (e) To construe and enforce the terms of the Plan and the rules and regulations the Plan Administrator adopts, including interpretation of the Plan documents and documents related to the Plan's operation;
- (f) To direct the distribution of a Participant's Account;
- (g) To review and render decisions respecting a claim for (or denial of a claim for) a benefit under the Plan;
- (h) To furnish the Employer with information which the Employer may require for tax or other purposes;
- (i) To establish a policy in making distributions for unforeseeable emergencies;
- (j) To establish under a Governmental Eligible 457 Plan, policies regarding the receipt of Rollover Contributions and default rollover distributions;
- (k) To establish a policy regarding the making and the receipt of Transfers;
- (l) To establish a policy regarding Participant or Beneficiary direction of investment;
- (m) To engage the services of any person to invest any Account under this Plan and to direct such person to make payment to a Participant of his or her Vested Account;
- (n) To establish under a Governmental Eligible 457 Plan, a policy (see Section 5.02(A)) which the Trustee must observe in making loans, if any, to Participants and Beneficiaries;
- (o) To undertake correction of any Plan failures as necessary to preserve eligible Plan status; and
- (p) To undertake any other action the Plan Administrator deems reasonable or necessary to administer the Plan.

The Plan Administrator shall have total and complete discretion to interpret and construe the Plan and to determine all questions arising in the administration, interpretation and

application of the Plan. Any determination the Plan Administrator makes under the Plan is final and binding upon any affected person.

(A) Loan Policy. In a Governmental Eligible 457 Plan, the Plan Administrator, in its sole discretion, may establish, amend or terminate from time to time, a nondiscriminatory policy which the Trustee must observe in making Plan loans, if any, to Participants and to Beneficiaries. If the Plan Administrator adopts a loan policy, the loan policy must be a written document and must include: (1) the identity of the person or positions authorized to administer the participant loan program; (2) the procedure for applying for a loan; (3) the criteria for approving or denying a loan; (4) the limitations, if any, on the types and amounts of loans available; (5) the procedure for determining a reasonable rate of interest; (6) the types of collateral which may secure the loan; and (7) the events constituting default and the steps the Plan will take to preserve Plan assets in the event of default. A loan policy the Plan Administrator adopts under this Section 5.02(A) is part of the Plan, except that the Plan Administrator may amend or terminate the policy without regard to Section 9.01.

(B) QDRO Policy. If the QDRO provisions of Section 4.06 apply, the Plan Administrator will establish QDRO procedures.

5.03 COMPENSATION. The Plan Administrator and the members of the Committee will serve without compensation for services, but the Employer will pay all expenses of the Plan Administrator and Committee.

5.04 AUTHORIZED REPRESENTATIVE. The Plan Administrator may authorize any one of the members of the Committee, if any, or the Committee's Secretary, to sign on the Plan Administrator's behalf any Plan notices, directions, applications, certificates, consents, approvals, waivers, letters or other documents.

5.05 INDIVIDUAL ACCOUNTS/RECORDS. The Plan Administrator will maintain a separate Account in the name of each Participant to reflect the value of the Participant's Deferred Compensation under the Plan. The Plan Administrator will maintain records of its activities.

5.06 VALUE OF PARTICIPANT'S ACCOUNT. The value of each Participant's Account consists of his or her accumulated Deferred Compensation, as of the most recent Accounting Date or any later date as the Plan Administrator may determine.

5.07 ACCOUNT ADMINISTRATION, VALUATION AND EXPENSES.

(A) Individual Accounts. The Plan Administrator, as necessary for the proper administration of the Plan, will maintain, or direct the Trustee to maintain, a separate Account, or multiple Accounts, in the name of each Participant to reflect the Participant's Account Balance under the Plan. The Plan Administrator will make its allocations of Employer Contributions and of Earnings, or will request the Trustee to make such allocations, to the Accounts of the Participants as necessary to maintain proper Plan records and in accordance with the applicable: (i) Contribution Types; (ii) allocation conditions; (iii) investment account types; and (iv) Earnings allocation methods. The Plan Administrator may also maintain, or direct the Trustee to maintain, a separate temporary Account for Participant forfeitures which occur during a Plan Year,

pending their accrual and allocation in accordance with the Plan terms, or for other special items as the Plan Administrator determines is necessary and appropriate for proper plan administration.

(1) **By Contribution Type.** The Plan Administrator, will establish Plan Accounts for each Participant as necessary to reflect his or her Accounts attributable to the following Contribution Types and the Earnings attributable thereto: Pre-Tax Deferrals, Roth Deferrals, Matching Contributions, Nonelective Contributions, Rollover Contributions (including Roth versus pre-tax amounts), and Transfers.

(2) **By investment account type.** The Plan Administrator will establish separate Accounts for each Participant as necessary to reflect his or her investment account types as described below:

(a) **Pooled Accounts.** A Pooled Account is an Account which for investment purposes is not a Segregated Account or a Participant-Directed Account. If any or all Plan investment Accounts are Pooled Accounts, each Participant's Account has an undivided interest in the assets comprising the Pooled Account. In a Pooled Account, the value of each Participant's Account Balance consists of that proportion of the net worth (at fair market value) of the Trust Fund which the net credit balance in his or her Account (exclusive of the cash value of incidental benefit insurance contracts) bears to the total net credit balance in the Accounts of all Participants plus the cash surrender value of any insurance contracts held by the Trustee on the Participant's life. As of each Valuation Date, the Plan Administrator must reduce a Participant-Directed Account for any forfeiture arising from Section 5.07 after the Plan Administrator has made all other allocations, changes or adjustments to the Account (excluding Earnings) for the valuation period.

(b) **Participant-Directed Accounts.** A Participant-Directed Account is an Account that the Plan Administrator establishes and maintains or directs the Trustee to establish and maintain for a Participant to invest in one or more assets that are not pooled assets held by the Trust, such as assets in a brokerage account or other property in which other Participants do not have any interest. As the Plan Administrator determines, a Participant-Directed Account may provide for a limited number and type of investment options or funds, or may be open-ended and subject only to any limitations imposed by applicable law. A Participant may have one or more Participant-Directed Accounts in addition to Pooled or Segregated Accounts. A Participant-Directed Account is credited and charged with the Earnings. As of each Valuation Date, the Plan Administrator must reduce a Participant-Directed Account for any forfeiture arising from Section 5.07 after the Plan Administrator has made all other allocations, changes or adjustments to the Account (excluding Earnings) for the valuation period.

(c) **Segregated Accounts.** A Segregated Account is an Account the Plan Administrator establishes and maintains or directs the Trustee to establish and maintain for a Participant: (i) to facilitate installment payments; (ii) to hold a QDRO amount; (iii) to prevent a distortion of Plan Earnings allocations; or (iv) for such other purposes as the Plan Administrator may direct. A Segregated Account receives all income it earns and bears all expense or loss it incurs. The Trustee will invest the assets of a Segregated Account consistent with the purpose for which the Plan Administrator or Trustee established the Account. As of

each Valuation Date, the Plan Administrator must reduce a Segregated Account for any forfeiture arising after the Plan Administrator has made all other allocations, changes or adjustments to the Account (excluding Earnings) for the Valuation Period. Notwithstanding anything in this Section to the contrary, transferred amounts are not required to be separately accounted for and may be combined with the corresponding Account maintained in this Plan provided all rights, benefits and features and other attributes are identical with respect to each account, or are identical after the combination and such combination does not result in the impermissible elimination of any Code §411(d)(6) protected benefits.

(3) **Amount of Account/distributions.** The amount of a Participant's Account, as determined by the Plan Administrator, is equal to the sum of all contributions, Earnings and other additions credited to the Account, less all distributions (including distributions to Beneficiaries and to alternate payees and also including disbursement of Plan loan proceeds), expenses and other charges against the Account as of a Valuation Date or other relevant date. For purposes of a distribution under the Plan, the amount of a Participant's Account Balance is determined based upon its value on the Valuation Date immediately preceding or coinciding with the date of the distribution. If any or all Plan investment Accounts are Participant-Directed Accounts, the directing Participant's Account Balance consists of the assets held within the Participant-Directed Account and the value of the Account is determined based upon the fair market value of such assets.

(4) **Account statements.** As soon as practicable after the Accounting Date of each Plan Year, the Plan Administrator will deliver to each Participant (and to each Beneficiary) a statement reflecting the amount of his or her Account Balance in the Trust as of the statement date or most recent Valuation Date. No Participant, except the Plan Administrator/Participant or Trustee/Participant, has the right to inspect the records reflecting the Account of any other Participant.

(B) **Allocation of Earnings.** This Section 5.07(B) applies solely to the allocation of Earnings of the Trust Fund. The Plan Administrator will allocate Employer Contributions and Participant forfeitures, if any, in accordance with Article III. Earnings means the net income, gain or loss earned by a particular Account, by the Trust, or with respect to a contribution or to a distribution, as the context requires.

(1) **Allocate as of Valuation Date.** As of each Valuation Date, the Plan Administrator must adjust Accounts to reflect Earnings for the Valuation Period since the last Valuation Date.

(2) **Definition of Valuation Date.** A Valuation Date under this Plan is each: (a) Accounting Date; (b) Valuation Date the Employer elects in the Adoption Agreement; or (c) Valuation Date the Plan Administrator establishes. The Employer in the Adoption Agreement or the Plan Administrator may elect alternative Valuation Dates for the different Contribution Types which the Plan Administrator maintains under the Plan.

(3) **Definition of Valuation Period.** The Valuation Period is the period beginning on the day after the last Valuation Date and ending on the current Valuation Date.

(4) **Allocation methods.** The Plan Administrator will allocate Earnings to the Participant Accounts in accordance with the daily valuation method, balance forward method, balance forward with adjustment method, weighted average method, Participant-Directed Account method, or other method the Employer elects under the Adoption Agreement. The Employer in the Adoption Agreement may elect alternative methods under which the Plan Administrator will allocate the Earnings to the Accounts reflecting different Contribution Types or investment Account types which the Plan Administrator maintains under the Plan. The Plan Administrator first will adjust the Participant Accounts, as those Accounts stood at the beginning of the current Valuation Period, by reducing the Accounts for any forfeitures, distributions, and loan disbursement payments arising under the Plan, for expenses charged during the Valuation Period to the Accounts (expenses directly related to a Participant's Account). The Plan Administrator then, subject to the restoration allocation requirements of the Plan, will allocate Earnings under the applicable valuation method.

(a) **Daily valuation method.** If the Employer in the Adoption Agreement elects to apply the daily valuation method, the Plan Administrator will allocate Earnings on each day of the Plan Year for which Plan assets are valued on an established market and the Trustee is conducting business. Under the daily valuation method, all assets subject to such method are subject to daily valuation. The assets may be held in Participant-Directed Accounts or in Accounts which are subject to Trustee or other fiduciary investment direction.

(b) **Balance forward method.** If the Employer in the Adoption Agreement elects to apply the balance forward method, the Plan Administrator will allocate Earnings pro rata to the adjusted Participant Accounts, since the last Valuation Date.

(c) **Balance forward with adjustment method.** If the Employer in the Adoption Agreement elects to apply the balance forward with adjustment method, the Plan Administrator will allocate pursuant to the balance forward method, except it will treat as part of the relevant Account at the beginning of the Valuation Period the percentage of the contributions made as the Employer elects in the Adoption Agreement, during the Valuation Period the Employer elects in the Adoption Agreement.

(d) **Weighted average method.** If the Employer in the Adoption Agreement elects to apply a weighted average allocation method, the Plan Administrator will allocate pursuant to the balance forward method, except it will treat a weighted portion of the applicable contributions as if includible in the Participant's Account as of the beginning of the Valuation Period. The weighted portion is a fraction, the numerator of which is the number of months in the Valuation Period, excluding each month in the Valuation Period which begins prior to the contribution date of the applicable contributions, and the denominator of which is the number of months in the Valuation Period. The Employer in the Adoption Agreement may elect to substitute a weighting period other than months for purposes of this weighted average allocation.

(e) **Participant-Directed Account method.** The Employer in the Adoption Agreement must elect to apply the Participant-Directed Account method to any Participant-Directed Account under the Plan. Under the Participant-Directed Account method: (i) each Participant-Directed Account is credited and charged with the Earnings such Account generates;

(ii) the Employer's election, if any, in the Adoption Agreement of another method for the allocation of Earnings will not apply to any Participant-Directed Account; and (iii) the Participant-Directed Account may be valued as often as daily, but will be valued at least annually, and all assets in the Account are not necessarily valued on the same frequency. An Account which is subject to the Participant-Directed Account method includes an individual brokerage account or similar account in title to the Trustee for the benefit of the Participant.

(C) **Allocation of Net Income, Gain or Loss (No Trust).** In a Tax-Exempt Eligible 457 Plan that does not maintain a trust the Plan Administrator will allocate net income, gain or loss in accordance with this provision. As of each Accounting Date (and each other valuation date determined under the Adoption Agreement), the Plan Administrator will adjust Accounts to reflect net income, gain or loss, if any, since the last Accounting Date or Account valuation. The Employer in the Adoption Agreement will elect the method for allocating net income gain or loss. The Plan Administrator will continue to allocate net income, gain and loss to a Participant's Account subject to an installment distribution, until the Account is fully distributed.

5.08 **ACCOUNT CHARGED.** The Plan Administrator will charge all distributions made to a Participant or to his or her Beneficiary, or transferred under Section 9.03 from his or her Account, against the Account of the Participant when made.

5.09 **OWNERSHIP OF FUND/TAX-EXEMPT ORGANIZATION.** If the Employer is a Tax-Exempt Organization, the Plan is an unfunded plan and all Deferred Compensation, property and rights to property purchased by Deferred Compensation and all income attributable thereto remain, until paid or made available under the Plan, the sole property and rights of the Employer, subject only to the claims of the Employer's general creditors. No Participant or Beneficiary will have any vested interest or secured or preferred position with respect to an Account or have any claim against the Employer except as a general creditor. No Participant or Beneficiary shall have any right to sell, assign, transfer or otherwise convey his or her Account or any interest in his or her Deferred Compensation. The Employer or the Plan Administrator, acting as the Employer's agent, may enter into a trust agreement solely for the purpose of investing all or part of the Accounts, which will be subject to the claims of the Employer's general creditors, and in which the Participants or Beneficiaries will not have a vested interest nor a secured or preferred position or have any claim except as the Employer's general creditor. The Employer may not purchase life insurance contracts under this Plan unless the Employer retains all incidents of ownership in such contracts, the Employer is the sole beneficiary of such contracts and the Employer is not under any obligation to transfer the contracts or pass through the proceeds to any Participant or to his or her Beneficiary. The Employer may adopt and attach to the Plan as "Appendix A," the Internal Revenue Service Model Rabbi Trust under Rev. Proc. 92-64 (as amended) to hold the assets of a Tax-Exempt Organization Eligible 457 Plan. If the Employer adopts the Model Rabbi Trust, the Plan incorporates by reference the provisions of the Model Rabbi Trust as if fully set forth herein.

5.10 **PARTICIPANT DIRECTION OF INVESTMENT.** Subject to the terms of the Plan Administrator's adopted policy, if any, and also to written consent of the Trustee, if the Plan has a Trust, a Participant will have the right to direct the investment or re-investment of the assets comprising the Participant's Account. The Plan Administrator will account separately for the Participant-Directed Accounts. The Participant's right to direct investment does not give the Participant any vested interest or secured or preferred position with respect to assets over which he/she has investment responsibility.

5.11 VESTING/SUBSTANTIAL RISK OF FORFEITURE. The Employer in the Adoption Agreement may elect to apply a vesting schedule or to specify any other Substantial Risk of Forfeiture applicable to any or all Deferral Contributions.

(A) Forfeiture Allocation. The Employer in the Adoption Agreement must elect the method the Plan Administrator will use to allocate any Participant forfeitures, including those related to lost Participants under Section 5.14. The Plan Administrator will allocate a forfeiture in the Plan Year in which the forfeiture occurs or in the next following Plan Year.

5.12 PRESERVATION OF ELIGIBLE PLAN STATUS. The Plan Administrator may elect to sever from this Plan and to treat as a separate 457 plan, the Accounts of any Participants who have Excess Deferrals that the Plan Administrator has not corrected in accordance with Section 3.10 or in the case of any other Code §457(b) failure that the Employer may not otherwise correct, and which failure would result in the Plan ceasing to be an Eligible 457 Plan. In such event, the Plan Administrator will take any necessary or appropriate action consistent with the Employer's maintenance of separate 457 plans and with preservation of Eligible 457 Plan status of this Plan.

5.13 LIMITED LIABILITY. The Employer will not be liable to pay plan benefits to a Participant in excess of the value of the Participant's Account as the Plan Administrator determines in accordance with the Plan terms. Neither the Employer nor the Plan Administrator will be liable for losses arising from depreciation or shrinkage in the value of any investments acquired under this Plan.

5.14 LOST PARTICIPANTS. If the Plan Administrator is unable to locate any Participant or Beneficiary whose Account becomes distributable (a "lost Participant"), the Plan Administrator will apply the provisions of this Section 5.14.

(A) Attempt to Locate. The Plan Administrator will attempt to locate a lost Participant and may use one or more of the following methods: (1) provide a distribution notice to the lost Participant at his or her last known address by certified or registered mail; (2) use a commercial locator service, the internet or other general search method; (3) use the Social Security Administration or PBGC search program; or (4) use such other methods as the Plan Administrator believes prudent.

(B) Failure to Locate. If a lost Participant remains unlocated for 6 months following the date the Plan Administrator first attempts to locate the lost Participant using one or more of the methods described in Section 5.14(A), the Plan Administrator may forfeit the lost Participant's Account. If the Plan Administrator forfeits the lost Participant's Account, the forfeiture occurs at the end of the above-described 6-month period and the Plan Administrator will allocate the forfeiture in accordance with Section 5.11. The Plan Administrator under this Section 5.14(B) will forfeit the entire Account of the lost Participant, including Salary Reduction Contributions.

If a lost Participant whose Account was forfeited thereafter at any time but before the Plan has been terminated makes a claim for his or her forfeited Account, the Plan Administrator will restore the forfeited Account to the same dollar amount as the amount forfeited, unadjusted for net income, gains or losses occurring subsequent to the forfeiture. The Plan Administrator will make the restoration in the Plan Year in which the lost Participant makes the claim, first from the amount, if any, of Participant forfeitures the Plan Administrator otherwise would allocate for the Plan Year, then from the amount, if any, of Trust net income or gain for the Plan Year and last from the amount or

additional amount the Employer contributes to the Plan for the Plan Year. The Plan Administrator will distribute the restored Account to the lost Participant not later than 60 days after the close of the Plan Year in which the Plan Administrator restores the forfeited Account.

(C) Nonexclusivity and Uniformity. The provisions of this Section 5.14 are intended to provide permissible but not exclusive means for the Plan Administrator to administer the Accounts of lost Participants. The Plan Administrator may utilize any other reasonable method to locate lost Participants and to administer the Accounts of lost Participants, including the default rollover under Section 4.07(C) and such other methods as the Revenue Service or the U.S. Department of Labor ("DOL") may in the future specify. The Plan Administrator will apply Section 5.14 in a reasonable manner, but may in determining a specific course of action as to a particular Account, reasonably take into account differing circumstances such as the amount of a lost Participant's Account, the expense in attempting to locate a lost Participant, the Plan Administrator's ability to establish and the expense of establishing a rollover IRA, and other factors. The Plan Administrator may charge to the Account of a lost Participant the reasonable expenses incurred under this Section 5.14 and which are associated with the lost Participant's Account.

5.15 PLAN CORRECTION. The Plan Administrator, in conjunction with the Employer and Trustee as appropriate, may undertake such correction of Plan errors as the Plan Administrator deems necessary, including but not limited to correction to maintain the Plan's status as an Eligible 457 Plan. The Plan Administrator under this Section 5.15 also may undertake Plan correction in accordance with any correction program that the Internal Revenue Service makes applicable to 457 plans.

ARTICLE VI PARTICIPANT ADMINISTRATIVE PROVISIONS

6.01 BENEFICIARY DESIGNATION. A Participant from time to time may designate, in writing, any person(s) (including a trust or other entity), contingently or successively, to whom the Plan Administrator or Trustee will pay the Participant's Account (including any life insurance proceeds payable to the Participant's Account) in the event of death. A Participant also may designate the method of payment of his or her Account. The Plan Administrator will prescribe the form for the Participant's written designation of Beneficiary and, upon the Participant's filing the form with the Plan Administrator, the form revokes all designations filed prior to that date by the same Participant. A divorce decree, or a decree of legal separation, revokes the Participant's designation, if any, of his or her spouse as his or her Beneficiary under the Plan unless the decree or a QDRO provides otherwise. The foregoing revocation provision (if applicable) applies only with respect to a Participant whose divorce or legal separation becomes effective on or following the date the Employer executes the Adoption Agreement, unless the Employer in the Adoption Agreement specifies a different effective date.

6.02 NO BENEFICIARY DESIGNATION. If a Participant fails to name a Beneficiary in accordance with Section 6.01, or if the Beneficiary named by a Participant predeceases the Participant, then the Plan Administrator will pay the Participant's remaining Account in accordance with Article IV in the following order of priority, to:

- (a) The Participant's surviving spouse; or
- (b) The Participant's children (including adopted children), in equal shares by right of representation (one share for each surviving child and one share for each child who predeceases the Participant with living descendants); and if none to
- (c) The Participant's estate.

If the Beneficiary survives the Participant, but dies prior to distribution of the Participant's entire Account, the Trustee will pay the remaining Account to the Beneficiary's estate unless: (1) the Participant's Beneficiary designation provides otherwise; or (2) the Beneficiary has properly designated a beneficiary. A Beneficiary only may designate a beneficiary for the Participant's Account Balance remaining at the Beneficiary's death, if the Participant has not previously designated a successive contingent beneficiary and the Beneficiary's designation otherwise complies with the Plan terms. The Plan Administrator will direct a Trustee if applicable as to the method and to whom the Trustee will make payment under this Section 6.02.

6.03 SALARY REDUCTION AGREEMENT.

(A) General. A Participant must elect to make Salary Reduction Contributions on a Salary Reduction Agreement form the Plan Administrator provides for this purpose. The Salary Reduction Agreement must be consistent with the Employer's Adoption Agreement elections and the Plan Administrator in a Salary Reduction Agreement may impose such other terms and limitations as the Plan Administrator may determine.

(B) Election Timing. A Participant's Salary Reduction Agreement may not take effect earlier than the first day of the calendar month following the date the Participant executes the Salary Reduction Agreement and as to Compensation paid or made available in such calendar month. However, if an

Employee is eligible to become a Participant during the Employee's calendar month of hire, the Employee may execute a Salary Reduction Agreement on or before the date he/she becomes an Employee, effective for the month in which he/she becomes an Employee.

(C) Sick, Vacation and Back Pay. If the Employer in the Adoption Agreement permits Participants to make Salary Reduction Contributions from accumulated sick pay, from accumulated vacation pay or from back pay, a Participant who will incur a Severance from Employment may execute a Salary Reduction Agreement before such amounts are paid or made available provided: (i) such amounts are paid or made available before the Participant incurs the Severance; and (ii) the Participant is an Employee in that month.

(D) Modification of Salary Reduction Agreement. A Participant's Salary Reduction Agreement remains in effect until a Participant modifies it or ceases to be eligible to participate in the Plan. A Participant may modify his or her Salary Reduction Agreement by executing a new Salary Reduction Agreement. Any modification will become effective no earlier than the beginning of the calendar month commencing after the date the Participant executes the new Salary Reduction Agreement. Filing a new Salary Reduction Agreement will revoke all Salary Reduction Agreements filed prior to that date. The Employer or Plan Administrator may restrict the Participant's right to modify his or her Salary Reduction Agreement in any Taxable Year.

6.04 PERSONAL DATA TO PLAN ADMINISTRATOR.

Each Participant and each Beneficiary of a deceased Participant must furnish to the Plan Administrator such evidence, data or information as the Plan Administrator considers necessary or desirable for the purpose of administering the Plan. The provisions of this Plan are effective for the benefit of each Participant upon the condition precedent that each Participant will furnish promptly full, true and complete evidence, data and information when requested by the Plan Administrator, provided the Plan Administrator advises each Participant of the effect of his or her failure to comply with its request.

6.05 ADDRESS FOR NOTIFICATION. Each Participant and each Beneficiary of a deceased Participant must file with the Plan Administrator from time to time, in writing, his or her address and any change of address. Any communication, statement or notice addressed to a Participant, or Beneficiary, at his or her last address filed with the Plan Administrator, or as shown on the records of the Employer, binds the Participant, or Beneficiary, for all purposes of this Plan.

6.06 PARTICIPANT OR BENEFICIARY INCAPACITATED. If, in the opinion of the Plan Administrator or of the Trustee, a Participant or Beneficiary entitled to a Plan distribution is not able to care for his or her affairs because of a mental condition, a physical condition, or by reason of age, the Plan Administrator or at the direction of the Plan Administrator, the Trustee, may make the distribution to the Participant's or Beneficiary's guardian, conservator, trustee, custodian (including under a Uniform Transfers or Gifts to Minors Act) or to his or her attorney-in-fact or to other legal representative upon furnishing evidence of such status satisfactory to the Plan Administrator and to the Trustee. The Plan Administrator and the Trustee do not have any liability with respect to payments so made and neither the Plan Administrator nor the Trustee has any duty to make inquiry as to the competence of any person entitled to receive payments under the Plan.

ARTICLE VII MISCELLANEOUS

7.01 NO ASSIGNMENT OR ALIENATION. A Participant or Beneficiary does not have the right to commute, sell, assign, pledge, transfer or otherwise convey or encumber the right to receive any payments under the Plan or Trust and the Plan Administrator and the Trustee will not recognize any such anticipation, assignment, or alienation. The payments and the rights under this Plan are nonassignable and nontransferable. Furthermore, a Participant's or Beneficiary's interest in the Trust is not subject to attachment, garnishment, levy, execution or other legal or equitable process.

7.02 EFFECT ON OTHER PLANS. This Plan does not affect benefits under any other retirement, pension, or benefit plan or system established for the benefit of the Employer's Employees, and participation under this Plan does not affect benefits receivable under any such plan or system, except to the extent provided in such plan or system.

7.03 WORD USAGE. Words used in the masculine will apply to the feminine where applicable, and wherever the context of the Plan dictates, the plural will be read as the singular and the singular as the plural.

7.04 STATE LAW. The laws of the state of the Employer's principal place of business will determine all questions arising with respect to the provisions of this Plan, except to the extent Federal law supersedes State law.

7.05 EMPLOYMENT NOT GUARANTEED. Nothing contained in this Plan, or any modification or amendment to the Plan, or in the creation of any Account, or the payment of any benefit, gives any Employee, Participant or Beneficiary any right to continue employment, any legal or equitable right against the Employer, the Plan Administrator, the Trustee, any other Employee of the Employer, or any agents thereof except as expressly provided by the Plan.

7.06 NOTICE, DESIGNATION, ELECTION, CONSENT AND WAIVER. All notices under the Plan and all Participant or Beneficiary designations, elections, consents or waivers must be in writing and made in a form the Plan Administrator specifies or otherwise approves. To the extent permitted by Treasury regulations or other applicable guidance, any Plan notice, election, consent or waiver may be transmitted electronically. Any person entitled to notice under the Plan may waive the notice or shorten the notice period except as otherwise required by the Code.

ARTICLE VIII TRUST PROVISIONS—GOVERNMENTAL ELIGIBLE 457 PLAN

8.01 GOVERNMENTAL ELIGIBLE 457 PLAN. The provisions of this Article VIII apply to a Governmental Eligible 457 Plan and do not apply to a Tax-Exempt Organization Eligible 457 Plan. The Employer in the Adoption Agreement may elect to substitute another trust (attached to this Plan as "Appendix A") or to modify any provision of Article VIII, consistent with Code §457(g) and applicable Treasury regulations.

8.02 ACCEPTANCE/HOLDING. The Trustee accepts the Trust created under the Plan and agrees to perform the duties and obligations imposed. The Trustee must hold in trust under this Article VIII, all Deferred Compensation until paid in accordance with the Plan terms.

8.03 RECEIPT OF CONTRIBUTIONS. The Trustee is accountable to the Employer for the funds contributed to it by the Employer or the Plan Administrator, but the Trustee does not have any duty to see that the contributions received comply with the provisions of the Plan.

8.04 FULL INVESTMENT POWERS. The Trustee has full discretion and authority with regard to the investment of the Trust, except with respect to a Trust asset under Participant direction of investment, in accordance with Section 8.12. The Trustee is authorized and empowered, but not by way of limitation, to exercise and perform the following powers, rights and duties:

(a) To invest any part or all of the Trust in any common or preferred stocks, open-end or closed-end mutual funds, put and call options traded on a national exchange, United States retirement plan bonds, corporate bonds, debentures, convertible debentures, commercial paper, U. S. Treasury bills, U. S. Treasury notes and other direct or indirect obligations of the United States Government or its agencies, improved or unimproved real estate situated in the United States, limited partnerships, insurance contracts of any type, mortgages, notes or other property of any kind, real or personal, and to buy or sell options on common stock on a nationally recognized options exchange with or without holding the underlying common stock, as a prudent person would do under like circumstances. Any investment made or retained by the Trustee in good faith will be proper but must be of a kind constituting a diversification considered by law suitable for trust investments;

(b) To retain in cash so much of the Trust as it may deem advisable to satisfy liquidity needs of the Plan and to deposit any cash held in the Trust in a bank account at reasonable interest;

(c) To invest, if the Trustee is a bank or similar financial institution supervised by the United States or by a State, in any type of deposit of the Trustee (or a bank related to the Trustee within the meaning of Code §414(b)) at a reasonable rate of interest or in a common trust fund as described in Code §584, or in a collective investment fund, the provisions of which the Trust incorporates by this reference; which the Trustee (or its affiliate, as defined in Code §1504) maintains exclusively for the collective investment of money contributed by the bank (or its affiliate) in its capacity as Trustee and which conforms to the rules of the Comptroller of the Currency;

(d) To manage, sell, contract to sell, grant options to purchase, convey, exchange, transfer, abandon, improve, repair, insure, lease for any term even though commencing in the future or extending beyond the term of the Trust, and otherwise deal with all property, real or personal, in such manner, for such

considerations and on such terms and conditions as the Trustee decides;

(e) To credit and distribute the Trust as directed by the Plan Administrator of the Plan. The Trustee will not be obliged to inquire as to whether any payee or distributee is entitled to any payment or whether the distribution is proper or within the terms of the Plan, or as to the manner of making any payment or distribution. The Trustee will be accountable only to the Plan Administrator for any payment or distribution made by it in good faith on the order or direction of the Plan Administrator;

(f) To borrow money, to assume indebtedness, extend mortgages and encumber by mortgage or pledge;

(g) To compromise, contest, arbitrate or abandon claims and demands, in the Trustee's discretion;

(h) To have with respect to the Trust all of the rights of an individual owner, including the power to exercise any and all voting rights associated with Trust assets, to give proxies, to participate in any voting trusts, mergers, consolidations or liquidations, to tender shares and to exercise or sell stock subscriptions or conversion rights;

(i) To lease for oil, gas and other mineral purposes and to create mineral severances by grant or reservation; to pool or unitize interest in oil, gas and other minerals; and to enter into operating agreements and to execute division and transfer orders;

(j) To hold any securities or other property in the name of the Trustee or its nominee, with depositories or agent depositories or in another form as it may deem best, with or without disclosing the trust relationship;

(k) To perform any and all other acts in its judgment necessary or appropriate for the proper and advantageous management, investment and distribution of the Trust;

(l) To retain any funds or property subject to any dispute without liability for the payment of interest, and to decline to make payment or delivery of the funds or property until a court of competent jurisdiction makes a final adjudication;

(m) To file all tax returns required of the Trustee;

(n) To furnish to the Employer and the Plan Administrator an annual statement of account showing the condition of the Trust and all investments, receipts, disbursements and other transactions effected by the Trustee during the Plan Year covered by the statement and also stating the assets of the Trust held at the end of the Plan Year, which accounts will be conclusive on all persons, including the Employer and the Plan Administrator, except as to any act or transaction concerning which the Employer or the Plan Administrator files with the Trustee written exceptions or objections within 90 days after the receipt of the accounts; and

(o) To begin, maintain or defend any litigation necessary in connection with the administration of the Trust, except that the Trustee will not be obliged or required to do so unless indemnified to its satisfaction.

(A) Nondiscretionary Trustee. The Employer in the Adoption Agreement may elect to appoint a Nondiscretionary Trustee, subject to this Section 8.04(A). The Nondiscretionary Trustee does not have any discretion or authority with regard to the

investment of the Trust, but must act solely as a directed Trustee hereunder. The Nondiscretionary Trustee is authorized and empowered to exercise and perform the above Section 8.04 powers, rights and duties provided that the Trustee shall act solely as a directed Trustee and only in accordance with the written direction of the Employer, the Plan Administrator or of a Participant as applicable. The Nondiscretionary Trustee is not liable for making, retaining or disposing of any investment or for taking or failing to take any other action, in accordance with proper Employer, Plan Administrator or Participant direction.

8.05 RECORDS AND STATEMENTS. The records of the Trustee pertaining to the Trust will be open to the inspection of the Plan Administrator and the Employer at all reasonable times and may be audited from time to time by any person or persons as the Employer or Plan Administrator may specify in writing. The Trustee will furnish the Plan Administrator whatever information relating to the Trust the Plan Administrator considers necessary.

8.06 FEES AND EXPENSES FROM FUND. The Trustee will receive reasonable annual compensation in accordance with its fee schedule as published from time to time. The Trustee will pay from the Trust all fees and expenses the Trustee reasonably incurs in its administration of the Trust, unless the Employer pays the fees and expenses.

8.07 PROFESSIONAL AGENTS. The Trustee may employ and pay from the Trust reasonable compensation to agents, attorneys, accountants and other persons to advise the Trustee as in its opinion may be necessary. The Trustee may delegate to any agent, attorney, accountant or other person selected by it any non-Trustee power or duty vested in it by the Trust, and the Trustee may act or refrain from acting on the advice or opinion of any agent, attorney, accountant or other person so selected.

8.08 DISTRIBUTION OF CASH OR PROPERTY. The Trustee may make distribution under the Plan in cash or property, or partly in each, at its fair market value as determined by the Trustee.

8.09 RESIGNATION AND REMOVAL. The Trustee or the Custodian may resign its position by giving written notice to the Employer and to the Plan Administrator. The Trustee's notice must specify the effective date of the Trustee's resignation, which date must be at least 30 days following the date of the Trustee's notice, unless the Employer consents in writing to shorter notice.

The Employer may remove a Trustee or a Custodian by giving written notice to the affected party. The Employer's notice must specify the effective date of removal which date must be at least 30 days following the date of the Employer's notice, except where the Employer reasonably determines a shorter notice period or immediate removal is necessary to protect Plan assets.

8.10 SUCCESSOR TRUSTEE

(A) **Appointment.** In the event of the resignation or the removal of a Trustee, where no other Trustee continues to service, the Employer must appoint a successor Trustee if it intends to continue the Plan. If two or more persons hold the position of Trustee, in the event of the removal of one such person, during any period the selection of a replacement is pending, or during any period such person is unable to serve for any reason, the remaining person or persons will act as the Trustee. If the Employer fails to appoint a successor Trustee as of the effective date of the Trustee resignation or removal and no other Trustee remains, the Trustee will treat the Employer as

having appointed itself as Trustee and as having filed the Employer's acceptance of appointment as successor Trustee with the former Trustee.

(B) **Automatic Successor.** Any corporation which succeeds to the trust business of the Trustee, or results from any merger or consolidation to which the Trustee is a party, or is the transferee of substantially all the Trustee's assets, will be the successor to the Trustee under this Trust. The successor Trustee will possess all rights, duties and powers under this Trust as if the successor Trustee were the original Trustee. Neither the Trustee nor the successor Trustee need provide notice to any interested person of any transaction resulting in a successor Trustee. The successor Trustee need not file or execute any additional instrument or perform any additional act to become successor Trustee.

8.11 VALUATION OF TRUST. The Trustee will value the Trust as of each Accounting Date to determine the fair market value of the Trust assets. The Trustee will value the Trust on such other date(s) the Plan Administrator may direct.

8.12 PARTICIPANT DIRECTION OF INVESTMENT. Consistent with the Plan Administrator's policy adopted under Section 5.02(l), the Trustee may consent in writing to permit Participants in the Plan to direct the investment to the Trust assets. The Plan Administrator will advise the Trustee of the portion of the Trust credited to each Participant's Account under the Plan, and subject to such Participant direction. As a condition of Participant direction, the Trustee may impose such conditions, limitations and other provisions as the Trustee may deem appropriate and as are consistent with the Plan Administrator's policy. The Trustee will report to the Plan Administrator the net income, gain or losses incurred by each Participant-Directed Account separately from the net income, gain or losses incurred by the general Trust during the Trust Year.

8.13 THIRD PARTY RELIANCE. No person dealing with the Trustee will be obliged to see to the proper application of any money paid or property delivered to the Trustee, or to inquire whether the Trustee has acted pursuant to any of the terms of the Trust. Each person dealing with the Trustee may act upon any notice, request or representation in writing by the Trustee, or by the Trustee's duly authorized agent, and will not be liable to any person whomsoever in so doing. The certificate of the Trustee that it is acting in accordance with the Trust will be conclusive in favor of any person relying on the certificate.

8.14 INVALIDITY OF ANY TRUST PROVISION. If any clause or provision of this Article VIII proves to be or is adjudged to be invalid or void for any reason, such void or invalid clause or provision will not affect any of the other provisions of this Article VIII and the balance of the Trust provisions will remain operative.

8.15 EXCLUSIVE BENEFIT. The Trustee will hold all the assets of the Trust for the exclusive benefit of the Participants and their Beneficiaries and neither the Employer nor the Trustee will use or divert any part of the corpus or income of the Trust for purposes other than the exclusive benefit of the Participants and Beneficiaries of the Plan. The Employer will not have any right to the assets held by the Trustee and the Trust assets will not be subject to the claims of the Employer's creditors or, except as provided in Section 4.06, of the creditors of any Participant or Beneficiary. No Participant or Beneficiary shall have any right to sell, assign, transfer or otherwise convey his or her Account or any interest in his or her Deferred Compensation. Notwithstanding the foregoing, the Plan Administrator may pay from a Participant's or Beneficiary's Account the amount the Plan Administrator finds is lawfully

demand under a levy issued by the Internal Revenue Service with respect to that Participant or Beneficiary or is sought to be collected by the United States Government under a judgment resulting from an unpaid tax assessment against the Participant or Beneficiary. The Trust created under the Employer's Plan is irrevocable and its assets will not inure to the benefit of the Employer.

8.16 SUBSTITUTION OF CUSTODIAL ACCOUNT OR ANNUITY CONTRACT. The Employer in the Adoption Agreement may elect to use one or more custodial accounts or annuity contracts in lieu of or in addition to the Trust established in this Article VIII. Any such custodial account or annuity contract must satisfy the requirements of Code §457(g)(3) and applicable Treasury regulations.

8.17 GROUP TRUST AUTHORITY. Notwithstanding any contrary provision in this Plan, the Trustee may, unless restricted in writing by the Plan Administrator, transfer assets of the Plan to a group trust that is operated or maintained exclusively for the commingling and collective investment of monies provided that the funds in the group trust consist exclusively of trust assets held under plans qualified under Code §401(a), individual retirement accounts that are exempt under Code §408(e), and eligible governmental plans that meets the requirements of Code §457(b). For this purpose, a trust includes a custodial account that is treated as a trust under Code §401(f) or under Code §457(g)(3). For purposes of valuation, the value of the interest maintained by the Plan in such group trust shall be the fair market value of the portion of the group trust held for Plan, determined in accordance with generally recognized valuation procedures.

ARTICLE IX AMENDMENT, TERMINATION, TRANSFERS

9.01 AMENDMENT BY EMPLOYER/SPONSOR. The Employer has the right at any time and from time to time:

- (a) To amend this Plan and Trust Agreement and the Adoption Agreement in any manner it deems necessary or advisable in order to continue the status of this Plan as an Eligible 457 Plan; and
- (b) To amend this Plan and Trust Agreement and the Adoption Agreement in any other manner, including deletion, substitution or modification of any Plan, Trust or Adoption Agreement provision.

The Employer must make all amendments in writing. The Employer may amend the Plan by an Adoption Agreement election, by addenda, by separate amendment, or by restatement of the Adoption Agreement or Plan. Each amendment must state the date to which it is either retroactively or prospectively effective. The Employer also may not make any amendment that affects the rights, duties or responsibilities of the Trustee or the Plan Administrator without the written consent of the affected Trustee or the Plan Administrator.

9.02 TERMINATION/FREEZING OF PLAN. The Employer has the right, at any time, to terminate this Plan or to cease (freeze) further Deferral Contributions to the Plan. Upon termination or freezing of the Plan, the provisions of the Plan (other than provisions permitting continued Deferral Contributions) remain operative until distribution of all Accounts. Upon Plan termination, the Plan Administrator or Trustee shall distribute to Participants and Beneficiaries all Deferred Compensation as soon as is reasonably practicable following termination.

9.03 TRANSFERS. The Employer may enter into a Transfer agreement with another employer under which this Plan: (a) may accept a Transfer of a Participant's Account in the other employer's Eligible 457 Plan; or (b) may Transfer a Participant's (or Beneficiary's) Account in this Plan to the other employer's Eligible 457 Plan. The plan sponsors of the plans involved in the Transfer both must be States or both must be Tax-Exempt Organizations and the plans must provide for Transfers. The Participant or Beneficiary, after the Transfer will have Deferred Compensation in the recipient plan at least equal to his or her Deferred Compensation in the transferring plan immediately before the Transfer. Any Transfer also must comply with applicable Treasury regulations, and in particular Treas. Reg. §1.457-10(b)(2) as to post-severance transfers between Governmental Eligible 457 Plans; 1.457-10(b)(3) as to transfers of all assets between Governmental Eligible 457 Plans; 1.457-10(b)(4) as to transfers between Governmental Eligible 457 Plans of the same Employer; and 1.457-10(b)(5) as to post-severance transfers between Tax-Exempt Organization Eligible 457 Plans. The Plan Administrator will credit any Transfer accepted under this Section 9.03 to the Participant's Account and will treat the transferred amount as a Deferral Contribution for all purposes of this Plan except the Plan Administrator, will not treat such Transfer as a Deferral Contribution subject to the limitations of Article III. In addition, in the case of a Transfer between Tax-Exempt Organization Eligible Plans, the recipient plans shall apply a Participant's distribution elections made under the transferor plan in accordance with Treas. Reg. §1.457-10(b)(6)(ii). The Plan's Transfer of any Participant's or Beneficiary's Account under this Section 9.03 completely discharges the Employer, the Plan Administrator, the Trustee and the Plan from any liability to the Participant or Beneficiary for any Plan benefits.

9.04 PURCHASE OF PERMISSIVE SERVICE CREDIT

A Participant in a Governmental Eligible 457 Plan, prior to otherwise incurring a distributable event under Article IV, may direct the Trustee to transfer all or a portion of his or her Account to a governmental defined benefit plan (under Code §414(d)) for: (a) the purchase of permissive service credit (under Code §415(n)(3)(A)) under such plan, or (b) the repayment of contributions and earnings previously refunded with respect to a forfeiture of service credited under the plan (or under another governmental plan within the same State) to which Code §415 does not apply by reason of Code §415(k)(3).



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Plan Name: **NEVADA COUNTY 457(B) DEFERRED COMPENSATION PLAN**

Nationwide Retirement Solutions, Inc. ("NRS") agrees as the Administrative Service Provider to administer loans in accordance with the terms of these Plan Loan Procedures and the attached **"Plan Election Worksheet"** (see Addendum A) as approved by the Plan Sponsor of the Plan. The Plan Sponsor directs the Plan Administrator of the Plan to administer loans in accordance with this document. The Plan Sponsor or the Plan Administrator may amend these Plan Loan Procedures within any constraints placed by NRS. Any such amendments shall bind the Plan Sponsor and the Plan Administrator. The Plan Sponsor is encouraged to consult with legal advisors in determining whether the procedures identified herein are appropriate for the Plan.

The Plan Sponsor and Plan Administrator (collectively the "Client") acknowledge that NRS may need to make changes from time-to-time to the administrative procedures set forth herein and may request amendments to the Plan documents to maintain the Plan's Loan Program. In such a case, NRS will provide the Client with timely notice of such changes as they become necessary.

The following Plan Loan Procedures shall govern Participant loans offered in the Plan Sponsor's 457(b) Plan ("Plan"):

1. **Loan Administration** - Client delegates to NRS certain administrative duties regarding the administration of loans from the Plan, which are set forth herein and which may be modified by NRS upon timely notice to and acceptance by the Plan Sponsor.
2. **Loan Eligibility** - Any Plan Participant, who falls into one of the employee statuses that the Client has elected, is eligible for a loan from the Plan. Each Participant is entitled to one outstanding loan from the Plan at any time. In addition, a Participant who has defaulted on a previous loan shall not be eligible for another loan from the Plan until all defaulted loans are repaid in full, including accrued interest.
3. **Loan Initiation and Loan Application** - In order to receive a loan from the Plan, an eligible Participant must complete all required documents provided in the Loan Application and return them to NRS. Before a loan is issued, the Participant must enter into a legally enforceable Loan Agreement as provided by NRS in the Loan Application, on behalf of the Plan. A loan initiation fee will be deducted from the Participant's account(s) after the loan has been funded by the Participant's account(s).
4. **Loan Security** - By accepting a loan, the Participant is giving the Plan a security interest in his or her vested Plan balance equal to the total loan amount, but not to exceed 50% of the Participant's vested Plan balance.
5. **Loan Money Source** - A loan shall be modeled taking into account the Participant's entire Plan account balance. Loans shall be funded only from a Participant's available Plan account pre-tax money sources. To the extent that a Participant has a self-directed brokerage account, no funding from such self-directed brokerage account shall be permitted.
6. **Minimum and Maximum Loan Term** - The minimum and maximum loan term over which a loan may be repaid is the term elected by the Client. Except as otherwise provided herein, the maximum loan term shall not exceed 5 years.
7. **Minimum/Maximum Loan Amount** - The minimum loan amount permitted shall be the amount elected by the Client. The maximum amount of any loan permitted under the Plan shall comply with Section 72(p) of the Internal Revenue Code and (when added to the outstanding balance of all other loans from all plans sponsored by the same employer) is the lesser of (i) \$50,000, reduced by the excess (if any) of (A) the highest outstanding balance of loans from all plans sponsored by the same employer, during the one-year period ending on the day before the date on which the loan was made over (B) the outstanding balance of loans from all plans sponsored by the same employer, on the date on which the loan is made, or (ii) one half of the present value of the Participant's vested account balance.

Nationwide Retirement Solutions

Governmental 457(b) Plan Loan Procedures

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Plan Name: **NEVADA COUNTY 457(B) DEFERRED COMPENSATION PLAN**

8. Loan Amortization - Each loan shall be amortized with interest accruing immediately, with repayments beginning approximately 30 days from the date the loan is processed, in substantially equal repayments consisting of principal and interest during the term of the loan. Repayments of principal and interest shall be made in a manner and pursuant to the terms set forth in the Loan Agreement. The amount of the final payment may be higher or lower depending upon the Participant's repayment history.

9. Loan Repayment - Repayment of any loan made to a Participant shall be made in a manner and pursuant to the terms set forth in the Loan Agreement. Loans must be repaid according to the repayment method elected by the Client. The Participant receiving a loan shall be required to furnish the information and authorization necessary to effectuate the foregoing repayments prior to the commencement of a loan. In the event that a Participant elects to receive a distribution from the Plan that is less than 100% of his outstanding account balance at a time when such person has a loan outstanding, the Participant shall continue to make repayments on the loan.

10. Loan Prepayment - The entire amount of a loan, including outstanding principal and any accrued interest, may be paid without penalty prior to the end of the term of the loan in the manner prescribed by NRS.

11. Loan Overpayment - In the event that NRS receives a loan overpayment, any amount over the repayment amount due will be applied or refunded according to the administrative policies of NRS.

12. Cure Period - If a Participant fails to make a loan repayment when due, the missed repayment must be made within the cure period elected by the Client.

13. Default - If any repayment is not received by NRS by the end of the cure period, the entire amount of the loan will be defaulted and treated as a deemed distribution, effective as of the end of the cure period elected by the Client. A deemed distribution is treated as a distribution from the Plan for federal (and possibly state or local) income tax purposes; therefore amounts treated as a deemed distribution will be subject to federal, state and/or local income taxes, and certain excise taxes and penalties may apply. NRS will issue a Form 1099-R to the Participant reflecting the deemed distribution. Any payment made on a defaulted loan will be applied to the outstanding balance of the loan including accrued interest. Such repayment(s), following the date of default, will be treated as after tax amounts and the Participant will receive tax basis in his or her Plan account for such amounts.

The entire loan, including any accrued interest, will also be due and payable immediately in the event of the death of the Participant. The outstanding balance of the loan will be treated as a deemed distribution following the date of notification of such death provided such notification is in good order as determined by NRS.

14. Loans Offered from Other Administrative Service Providers - In the event the employer offers the Plan through multiple service providers, the Client and/or Participant and not NRS shall at all times remain responsible for ensuring that any loan received under the Plan is in accordance with the limits in Section 7. NRS shall apply the maximum loan amount limit and any other limits imposed under the Internal Revenue Code without regard to any other loans received by the Participant from any other administrative service provider(s) under this Plan or any other plan maintained by the Plan Sponsor.

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Governmental 457(b) Plan Loan Procedures

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Plan Name: **NEVADA COUNTY 457(B) DEFERRED COMPENSATION PLAN**

15. Suspension of Loan Repayments.

a. **Military Leave of Absence** - A Participant's obligation to repay any loan under the Plan may be suspended as may be required by law, during the period in which the Participant is performing service in the United States military. The Participant must resume repayment of the loan upon his or her completion of military service and the outstanding loan balance, including any accrued interest and fees, must be repaid and may be re-amortized over a period that does not exceed the latest permissible term for a loan under the regulations plus the period of the military service. While the Participant is on active duty in the United States military, the interest rate on the loan shall not exceed 6%, compounded annually unless the Participant elects in writing during or after his or her military leave of absence to have the loan's higher existing interest rate, if applicable, apply to the loan. The Plan Sponsor assumes responsibility to notify NRS when a Participant begins and returns from a military leave of absence.

b. **Non-Military Leave of Absence** - In addition, a Participant's obligation to repay any loan under the Plan may be suspended during the period (not to exceed one year) while the Participant is on an approved non-military leave of absence and the Participant provides requested documentation regarding the non-military leave of absence from his or her employer. The Participant must resume repayment of the loan upon the earlier of his or her return from non-military leave of absence, or one year of suspension. At such point the outstanding loan balance, including any accrued interest and fees, must be repaid or may be re-amortized over a period that does not exceed the latest permissible term for a loan under the regulations. The Plan Sponsor assumes responsibility to notify NRS when a Participant begins and returns from a non military leave of absence.

16. **Loan Interest Rate** - The interest rates for a loan shall be commensurate with interest rates being charged by entities in the business of lending money under similar circumstances. The loan interest rate will be the Prime Rate plus an additional amount expressed as a percentage elected by the Client, plus any other administrative and/or asset fees, as applicable. The Prime Rate shall be the prime rate published by the Wall Street Journal two weeks prior to the end of the most current calendar-year quarter and the new rate will be effective on the first day of the new calendar quarter. The loan interest rate may be adjusted for Participants performing service in the United States military as may be required by law (See Provision 15a.)

17. **Fees** - Fees described in these loan procedures will appear as administrative charges on Participant statements. These fees are subject to change by NRS upon reasonable notice to the Plan Sponsor.

a. **Loan Initiation Fee** - A loan initiation fee of \$50 will be deducted from the Participant's account at the time the loan is funded.

b. **Annual Loan Maintenance Fee** - An annual loan maintenance fee of \$50 will be deducted from the Participant's account on the anniversary date of the original loan initiation, until the loan is repaid in full or the loan has defaulted. In the event that the loan defaults, the annual loan maintenance fee will no longer be assessed and the annual loan default fee described below (See Provision 17f) will be applied.

c. **Asset Fees** - The amount of the outstanding loan balance will be subject to the maximum asset fee, administrative charge or such other fees NRS is entitled to receive under its separate agreement with the Plan Sponsor.

d. **Insufficient Funds Fee** - If NRS is unable to process an ACH debit repayment or personal check on the date due, through no fault of NRS, a fee of \$25 will be deducted from the Participant's account.

e. **Loan Default Fee** - At the time a loan is treated as a deemed distribution, a \$50 fee will be deducted from the Participant's account.

f. **Annual Loan Default Fee** - An annual loan default fee of \$50 will be deducted from the Participant's account on the anniversary date of the original loan default until the loan is repaid in full or offset.

Nationwide Retirement Solutions

Governmental 457(b) Plan Loan Procedures

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Plan Name: **NEVADA COUNTY 457(B) DEFERRED COMPENSATION PLAN**

18. Loans for the Purchase of a Principal Residence - All loans issued by the Plan will be general purpose loans to be repaid in no more than five years unless the Client elects to offer loans for the purchase of the Participant's principal residence. If the Client elects to allow loans for the purchase of a principal residence, all of the provisions of this document will apply unless otherwise specified.

19. Loan Correction - In the event a loan correction becomes necessary, at the Plan Sponsor's direction, NRS may undertake methods prescribed by the IRS or through any IRS correction program.

20. Adoption of Plan Loan Procedures - The undersigned Plan Sponsor or Plan Administrator, as applicable, hereby adopt these Plan Loan Procedures effective for loans issued on or after the Effective Date set forth below, and instructs NRS to administer loans made to Plan Participants in accordance with these terms and the Client elections made on the attached "Plan Election Worksheet" (See Addendum A). Prior to implementing a loan program, the Plan Sponsor acknowledges or acknowledged the following: (i) that the Plan Sponsor has decided to offer loans under the Plan and the Plan Administrator is instructing NRS to administer loans under the Plan; (ii) that the Plan Sponsor understands that, as a result of offering loans under the Plan, the Plan Participants could be subject to adverse tax consequences upon default of the loan; (iii) that the Plan Sponsor has independently weighed these risks, and despite the risks has determined that offering loans under the Plan is in the best interest of Plan Participants; (iv) that any previous loan procedures or loan reference documents other than the Plan Document itself, are hereby superseded by these Plan Loan Procedures; and (v) NRS shall not be liable for any adverse tax consequences described in (ii), except as specifically stated under paragraph 14 herein, resulting from the Plan Sponsor's decision to offer loans under the Plan.

Plan Sponsor Name ("Sponsor"):	NEVADA COUNTY, CALIFORNIA		
Street Address:	950 MAIDU AVENUE		
City, State, Zip Code:	NEVADA CITY	CA	95959
Signer's Email Address:	STEVEN.ROSE@CO.NEVADA.CA.US		
Plan Name ("Plan"):	NEVADA COUNTY 457(B) DEFERRED COMPENSATION PLAN		
Plan Number:			
Plan Sponsor or Plan Administrator Signature:			
Title:	DIRECTOR OF HUMAN RESOURCES		
Date of Adoption*:			
* Unless otherwise indicated below, the Date of Adoption shall be the Effective Date.			
Effective Date:			

An executed copy of these Procedures (including the attached Addendum A - Plan Election Worksheet) should be returned to Nationwide Retirement Solutions.



Nationwide®

Nationwide Retirement Solutions Governmental 457(b) Plan Loan Procedures

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Addendum A - Plan Election Worksheet

The following provisions identify Plan elections which are incorporated and made a part of the attached "Plan Loan Procedures." In the event that an election is not made within any section, Nationwide Retirement Solutions ("NRS") will administer the loan program according to current NRS policies as listed under each provision below. The current NRS policies may be changed by NRS at any time. Unless otherwise specified, only one election is allowed per provision.

The elections contained herein apply solely to the Plan. Any provisions, including limitations, do not extend to any other plans offered by the Sponsor.

1. Loan Eligibility:

Plan elects to allow the following Participants the ability to initiate a loan under the Plan.

The Plan Sponsor is solely responsible for informing NRS of any future changes in the Participant's employment status (check all that apply).

- ☒ Employed
- ☒ Approved Non-military Leave of Absence (only available for ACH)
- ☒ Military Leave of Absence (only available for ACH)
- ☐ Disabled (only available for ACH)
- ☐ Retired (only available for ACH)
- ☐ Terminated (only available for ACH)

Current NRS Policy: All listed Participant employment statuses are eligible to initiate a loan if ACH is the elected repayment method (See Provision 4). If the repayment method elected is Payroll Deduction (See Provision 4), the only eligible Participant employment status is Employed.

2. General Purpose Loan Terms:

2(a). Minimum Loan Term

Plan elects the following minimum loan term:

- ☐ One year
- ☒ Other - Specify minimum loan term: 6 (not to be less than six months)

Current NRS Policy: The minimum loan term is one year.

2(b). Maximum Loan Term

Plan elects the following maximum loan term:

- ☒ Five years
- ☐ Other - Specify maximum loan term: _____ (not to exceed a term of five years)

Current NRS Policy: The maximum loan term is five years.

3. Minimum Loan Amount:

Plan elects to have a minimum loan amount of:

- ☒ \$1,000
- ☐ Other - Specify minimum loan amount: \$_____ (not to be less than \$500)

Current NRS Policy: The minimum loan amount is \$1,000.

4. Repayment Method:

Plan elects to provide Participants with one of the following loan repayment methods:

- ☒ Monthly Automated Clearing House ("ACH")
- ☐ Payroll Deduction (Plan Sponsor will be required to provide a payroll calendar.
(This repayment method is limited to Employed status - see Provision 1)

Current NRS Policy: Monthly ACH is the repayment method.

Nationwide Retirement Solutions

Governmental 457(b) Plan Loan Procedures

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Addendum A - Plan Election Worksheet

5. Cure Period:

If a Participant misses a scheduled loan repayment, the missed repayment must be received by the end of the specified cure period. Plan elects to apply a cure period with the following length:

☒ 31 Days

☐ 60 Days

☐ 90 Days

☐ The quarter following the quarter in which the scheduled repayment was missed

Current NRS Policy: The cure period is 31 days when ACH is the elected repayment method

(See Provision 4). The cure period is 60 days when the repayment method elected is Payroll Deduction (See Provision 4).

6. Loan Interest Rate:

Plan elects the following interest rate for Participant loans:

☒ Prime Rate plus 1% plus applicable fees

☐ Prime Rate plus 2% plus applicable fees

☐ Prime Rate plus _____% (not to be lower than 0%) plus applicable fees

Current NRS Policy: Prime Rate plus 2% plus applicable fees.

7. Loans for the Purchase of a Principal Residence:

7(a). Plan elects to permit loans for the purchase of the Participant's principal residence:

☒ Yes

☐ No

In the event Plan elects to allow Principal Residence loans, only one Principal Residence loan outstanding at a time is permitted. The Principal Residence loan is included in the maximum number of outstanding loans (See Provision 2 of the Plan Loan Procedures). Additionally, the Participant will be required to sign a Principal Residence Certificate and provide NRS with sufficient additional documents to support the purchase of a principal residence. Internet initiation is not available for Principal Residence loans.

Current NRS Policy: Principal Residence loans are not allowed.

7(b). Minimum Loan Term: Plan elects to have a minimum loan term for Principal Residence loans of:

☐ Five years

☒ Other - Specify minimum loan term: 1 (not to be less than one year)

Current NRS Policy: Principal Residence loans have a minimum term of five years.

7(c). Maximum Loan Term: Plan elects to have a maximum loan term for Principal Residence loans of:

☒ 15 Years

☐ Other - Specify maximum loan term: _____ (not to exceed a term of 30 years)

Current NRS Policy: Principal Residence loans have a maximum term of 15 years.

8. Internet Utilization:

Plan elects to allow Participants to use the internet for:

☐ Only the modeling of loans

☒ Both modeling and initiation of loans

☐ Plan declines the use of the internet for either the modeling or initiation of loans

Current NRS Policy: Participants can use the internet for modeling and initiation of loans.

Loan initiation on the internet is limited to General Purpose loans. Principal Residence loans will not be initiated electronically. Additional limitations exist for particular repayment methods and employment statuses.



Schwab Personal Choice Retirement Account® (PCRA) Omnibus Implementation Sheet

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www.schwab.com | 1-800-231-2855

Plan Information (Please check one.)

☐ Trustee ☐ Custodian

Name: _____

Attach evidence of Trustee/Custodian agreement with the Plan.

Independent Recordkeeper (IR) and Plan Information

IR ID	Plan Name		
Plan Address	City	State	Zip Code
950 Maidu Avenue	Nevada City	CA	95959
Contact Name	Contact Phone		
Steve Rose	(530) 265-7046		
Plan Year-End	Plan Tax ID Number		
	94-6000526		
Date Plan Established (mm/dd/yyyy)			
Type of Plan			
<input type="checkbox"/> Profit Sharing <input type="checkbox"/> Money Purchase <input type="checkbox"/> 401(k) <input type="checkbox"/> 403(b)			
<input checked="" type="checkbox"/> 457b <input type="checkbox"/> 457f <input type="checkbox"/> Non-Qualified <input type="checkbox"/> Other (specify)			
Link to Existing Schwab Master Accounts (provide FA or SL number):			
FA Master (New)			
Upload Master			
Cash In/Cash Out			
EAO Login ID/Internal Contract Number		EAO Password	

Plan Features

Electronic Account Opening (EAO) (Please check one):

☒ Yes ☐ No

Your Consent to Enroll in Schwab's Cash Features Program

The Cash Features Program is a service that offers the Bank Sweep feature (named with respect to retirement plans the "Schwab Bank Sweep for Benefit Plans" feature) (a "Cash Feature") to permit uninvested cash (the "Free Credit Balance") in the Plan and/or Participant brokerage accounts under the Plan, as applicable, to earn income while you and/or your Participants, as applicable, decide how those funds should be invested longer term.

You understand that the terms and conditions of the Cash Features Program and of each Cash Feature are set forth in the Cash Features Disclosure Statement.

You instruct and direct Schwab to include the Free Credit Balance under the Plan in the Cash Features Program, as described in the Cash Features Disclosure Statement.

The Bank Sweep feature (including the Schwab Bank Sweep for Benefit Plans feature) is designated as the Cash Feature for brokerage accounts of account holders residing in the U.S. Through the Bank Sweep feature, Schwab automatically makes deposits to and withdrawals from deposit accounts at one or more Sweep Banks that are insured by the Federal Deposit Insurance Corporation (FDIC) up to certain prescribed FDIC limits.

You understand and agree that Schwab may (1) make changes to the terms and conditions of the Cash Features Program; (2) make changes to the terms and conditions of any Cash Feature; (3) change, add, or discontinue any Cash Feature; (4) change the Plan's and/or any Participant's investment from one Cash Feature to another if the Plan and/or any Participant, as applicable, becomes ineligible for the current Cash Feature or the current Cash Feature is discontinued; and (5) make any other changes to the Cash Features Program or Cash Feature as allowed by law. Schwab will notify you in writing of changes to the terms of the Cash Features, changes to the Cash Features we make available, or changes to the Cash Features Program prior to the effective date of the proposed change.

Please note: Participants in 403(b) retirement plans will be placed in the Schwab Government Money Fund™ (SWGXX). If this is a 403(b) plan, you instruct and direct Schwab to include this fund.



Allowance of Investment Advisor (IA) and Deduction of IA Fees

1. Do you wish to allow the delegation of trading authority to an Investment Advisor or a Third Party?

- ☐ Yes. By executing a Schwab PCRA Limited Power of Attorney (LPOA) for an Investment Advisor or for a Third Party, Participant may grant authority to an Investment Advisor who has a relationship with Schwab or to a Third Party to trade in the Participant's PCRA.
- ☒ No. Not permitted under this Plan.

2. Do you wish to allow the deduction of fees from the Participant's PCRA's for an Investment Advisor who has a relationship with Schwab?

- ☐ Yes.
- ☒ No. IA fees are not to be taken from Participant's PCRA's.

Trading Menu

Please complete the Schwab PCRA Plan Trading Menu Establishment form attached.

This Agreement, as it pertains to the Recordkeeper, may be delivered via facsimile or otherwise scanned and delivered to Schwab. By signing below, you acknowledge and agree that this Agreement and any such scanned signatures will be treated as, and are just as binding as, an original copy.

Signature and Acknowledgment**X**

IR Signature



Print Name

STEVEN ROSE

Date

1/29/20

Authorized party? ☐ Yes ☐ No**Fax to PCRA Operations: 1-877-535-3403.**

Schwab Personal Choice Retirement Account® (PCRA) Plan Trading Menu Establishment

Page 1 of 2

Complete each section below to indicate the securities¹ that PCRA Participants have the ability to trade. These selections create the PCRA Trading Menu and apply to any PCRA associated with the Plan.

The Trustee(s)/Custodian(s) and/or Plan Sponsor authorize Schwab to allow any Participant who completes a **Schwab PCRA Limited Power of Attorney (LPOA) for Participant** form to make trades in the Participant's PCRA. A Participant will never be restricted from selling a position unless Schwab is instructed to restrict the sale by the Trustee(s)/Custodian(s) and/or Plan Sponsor. The Trustee(s)/Custodian(s) and/or Plan Sponsor acknowledge that they are responsible for determining whether any of the investments selected below (including any employer securities) are permissible under the terms of the Plan, the Internal Revenue Code (the "Code"), or the Employee Retirement Income Security Act of 1974 ("ERISA") and that Schwab shall have no responsibility or liability with respect to such determination. Please note that, generally, 403(b) contributions can only be invested in SEC-registered fund shares.

Trading restrictions. PCRA may not include trading on collectibles, currencies, precious metals, real estate, futures, commodities, private placements, margin accounts, or short sales. If specifically allowed by a Participant's retirement plan, a Participant may be able to write covered calls and buy protective puts. A Participant should complete a **Schwab Personal Choice Retirement Account (PCRA) Options Application—Participant** form to be approved to trade options.

At the time of conversion to the Schwab platform, securities in Participant accounts will be reviewed solely for the purpose of confirming if such securities are able to be held and traded on the Schwab broker-dealer platform. In addition, once assets have transferred, Schwab shall also review all securities solely to confirm that such securities are consistent with the authorization and direction from the Plan Sponsor via the Plan Trading Menu.

Note: From time to time, securities may change characteristics, which could change the availability of the asset within your Plan. Schwab has no obligation to review or monitor securities' classification following the initial review at conversion.

A. Taxable Mutual Funds:

- ☒ All except those listed in Section I
☐ Schwab Mutual Fund OneSource®/Schwab Funds® only²
☐ None except those listed in Section I

B. Tax-Exempt Mutual Funds:

- ☒ All except those listed in Section I
☐ Schwab Mutual Fund OneSource/Schwab Funds only²
☐ None except those listed in Section I

C. Equities: (To include foreign securities that trade over-the-counter, you must select "All except those listed in Section I" below and under Section G.)

- ☒ All except those listed in Section I
☐ Listed only³
☐ Listed and NASDAQ market securities only⁴ (Selecting this will exclude all foreign securities on other exchanges, including over-the-counter securities.)
☐ Exchange-traded funds (ETFs) only⁵
☐ Schwab ETF OneSource™ funds only⁵
☐ Closed-end mutual funds only
☐ ETFs and closed-end mutual funds
☐ None except those listed in Section I

D. Publicly Traded Limited Partnerships:⁶ (Please read important footnote on the next page.)

- ☐ All except those listed in Section I
☒ None except those listed in Section I

E. Taxable Fixed Income:⁷

- ☒ All except those listed in Section I
☐ None except those listed in Section I
☐ Certificates of deposit (CDs) only

F. Tax-Exempt Fixed Income:

- ☒ All except those listed in Section I
☐ None except those listed in Section I
☐ Treasuries only

G. Foreign Securities:⁸

- ☐ All except those listed in Section I
☒ None except those listed in Section I

H. Options: (Options trading is limited to writing covered calls and buying protective puts.)

- ☐ Yes. Options trading is permitted on the Plan-level account by the Plan document and on all associated PCRA's. Note: All parties with trading authority must complete a separate Schwab options application.
☒ No. Options trading is not permitted.

I. Please list all exceptions below. If you have more than four exceptions, please attach an additional sheet.

Fund/Security Description

CUSIP Number

Symbol

Please check whichever applies.

Permitted

Not Permitted

			<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>



I certify under penalties of perjury that: (1) the Taxpayer Identification Number shown on this application is correct, (2) the Plan is not subject to backup withholding due to failure to report interest and dividend income, (3) the Plan is a U.S. person, and (4) the Plan is exempt from FATCA reporting. I understand that if I have been notified by the IRS that the Plan is subject to backup withholding as a result of dividend or interest underreporting and I have not received a notice from the IRS advising me that backup withholding is terminated, I must cross out item 2 above.

THE INTERNAL REVENUE SERVICE DOES NOT REQUIRE YOUR CONSENT TO ANY PROVISIONS OF THIS DOCUMENT OTHER THAN THE CERTIFICATIONS REQUIRED TO AVOID BACKUP WITHHOLDING.

Signature and Date Required

X

Plan Sponsor Signature



Date

1/29/20

Print Name

STEVEN ROSE

Title

PLAN

ADMINISTRATOR

Fax to PCRA Operations: 1-877-535-3403.

¹ If company is publicly traded, most companies will restrict the trading of employer stock inside a PCRA. Note: Schwab cannot monitor PCRA's for insider trading.

² Charles Schwab & Co., Inc. (Member SIPC) receives remuneration from fund companies for recordkeeping and shareholder services and other administrative services for shares purchased through Schwab's Mutual Fund OneSource® program. Schwab also may receive remuneration from transaction fee fund companies for certain administrative services.

Trades in no-load mutual funds available through OneSource (including Schwab Funds®), as well as certain other funds, are available without transaction fees when placed through Schwab.com or our automated phone channels. Schwab reserves the right to change the funds we make available without transaction fees and to reinstate fees on any funds. Funds are also subject to management fees and expenses.

Schwab's short-term redemption fee will be charged on redemption of funds (except certain Schwab Funds) bought through Schwab's Mutual Fund OneSource program (and certain other funds) with no transaction fee and held for 90 days or less. Schwab reserves the right to exempt certain funds from this fee, including Schwab Funds, which may charge a separate redemption fee, and funds that accommodate short-term trading.

³ Equity trading is limited to securities listed on the New York Stock Exchange (NYSE), NYSE Amex Equities, and other exchanges (excludes the NASDAQ Stock Market, Inc. [NASDAQ] and over-the-counter [OTC] securities).

⁴ Securities that are not available to trade include pink sheets, OTC securities, and Bulletin Board stocks.

⁵ Conditions apply: Trades in ETFs available through Schwab ETF OneSource™ (including Schwab ETFs™) are available without commissions when placed online through a Schwab account. Service charges apply for trade orders placed through a broker (\$25). An exchange-processing fee applies to sell transactions. Certain types of Schwab ETF OneSource transactions are not eligible for the commission waiver, such as short sells and buys to cover (not including Schwab ETFs). Schwab reserves the right to change the ETFs we make available without commissions. All ETFs are subject to management fees and expenses. Please see the *Charles Schwab Pricing Guide for Retirement Plan Accounts* (the "Pricing Guide") for additional information.

Investment returns will fluctuate and are subject to market volatility, so that an investor's shares, when redeemed or sold, may be worth more or less than their original cost. Shares are bought and sold at market price, which may be higher or lower than the net asset value (NAV).

Charles Schwab & Co., Inc. receives remuneration from third-party ETF companies participating in Schwab ETF OneSource for recordkeeping, shareholder services, and other administrative services, including program development and maintenance. Third parties are not affiliated with Schwab. Schwab makes no representation about the accuracy of the information provided by them or its appropriateness for any given situation.

Schwab ETFs are distributed by SEI Investments Distribution Co. (SIDCO). SIDCO is not affiliated with Charles Schwab & Co., Inc. Learn more at schwab.com/schwabETFs.

⁶ Restricting publicly traded limited partnerships will exclude the purchase of any publicly traded limited partnership and any security (which may include certain ETFs, royalty trusts, and other possible securities) that reports income via a Schedule K-1 Form and, as a result, could generate Unrelated Business Taxable Income (UBTI).

⁷ Excludes debt securities issued by Charles Schwab & Co., Inc. and its affiliates. These securities are not allowed to be purchased in a PCRA.

⁸ Restricting foreign securities does not include American Depositary Receipt (ADR) securities and foreign securities traded on a domestic equity market, but does restrict the purchase of non-ADR foreign securities available on the U.S. OTC market. Some foreign securities may be subject to additional foreign tax withholding requirements, including ADRs and foreign securities traded on a domestic market.





Cash Features Program General Terms and Conditions

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The automatic investment of your free credit balance, including the frequency and the amount of each sweep, is governed by the terms and conditions set forth in the Cash Features Disclosure Statement and in the Account Agreement applicable to your account. The material in this document is intended for informational purposes only. If there is any conflict between the descriptions in this document and the terms of your Account Agreement, your Account Agreement will control.

How the Cash Features Program Works	Schwab's Cash Features Program is the service (described in the Cash Features Disclosure Statement) that we provide to automatically invest, or "sweep," the Free Credit Balance in your account into a liquid investment to earn interest. The program permits you to earn income while you decide how those funds should be invested longer term.
Available Cash Feature	<p>The available cash features currently consist of:</p> <ul style="list-style-type: none">• Interest payments by Schwab on the Free Credit Balance in your eligible account (the "Schwab One® Interest feature");• Interest-bearing Deposit Accounts at our affiliated bank, Schwab Bank (the "Bank Sweep feature," which consists of the "Schwab Bank Sweep feature" and the "Schwab Bank Sweep for Benefit Plans feature"); and• For some accounts, one or more affiliated money market mutual funds (the "Money Fund Sweep feature").
Eligibility	Eligibility for each cash feature is based on the registered ownership and the type of account. Not all account registrations and account types will be eligible for all cash features. Some account registrations and account types will be eligible for only one cash feature. Please see your Account Application and the Cash Features Disclosure Statement for more complete eligibility details.
Duty to Monitor Eligibility for Cash Features	It is your responsibility to monitor your eligibility for the cash features and determine the best cash feature available to you. Schwab is not responsible for contacting you if you are, or later become, eligible for other higher-yielding cash features.
Interest Rates and Yields	<p>The interest rates and yields for the different cash features vary over time. Current interest rates and yields can be obtained by contacting your independent investment advisor or your Financial Consultant, or by calling us at 1-800-435-4000. If you already have an account, you can visit our website at www.schwab.com/cash. If your account is an Advisor Services account, please contact your advisor, visit www.schwab.com/SA_cash, or call Schwab Alliance at 1-800-515-2157.</p> <ul style="list-style-type: none">• The interest rate on the Schwab One Interest feature is set by Schwab. We may seek to pay as low a rate as possible consistent with our views of competitive necessities. With certain exceptions, the rate will be tiered based upon the overall Household Balance of your account(s).• The interest rate on the Schwab Bank Sweep feature is set by Schwab Bank, which may seek to pay as low a rate as possible consistent with its views of competitive necessities. With certain exceptions, the rate will be tiered based upon account type and the overall household value of your account(s) with Schwab and Schwab Bank.• The interest rate on the Schwab Bank Sweep for Benefit Plans feature is set by Schwab Bank, which intends to pay interest consistent with reasonable rate provisions of applicable legal and regulatory authority. Interest rates do not vary by tiers and do not vary based on householding of assets.

Brokerage Products: Not FDIC-Insured • No Bank Guarantee • May Lose Value

Interest Rates and Yields (Continued)	<ul style="list-style-type: none"> ▪ Money market mutual funds offered through the Money Fund Sweep feature seek to achieve the highest yield (less fees and expenses) consistent with prudence and their investment objectives. <p>Cash features are not intended to be long-term investments. If you desire to maintain cash balances for other than a short-term period and/or are seeking the highest yields currently available in the market, please contact your Schwab representative or visit www.schwab.com/cash for investment options that may be available outside of the Cash Features Program to help maximize your return potential consistent with your investment objectives and risk tolerance. If your account is an Advisor Services account, please contact your advisor, visit www.schwab.com/SA_cash, or call Schwab Alliance at 1-800-515-2157.</p>
Benefits to Schwab	<p>We may charge fees and receive certain benefits under the different cash features. A portion of these fees and benefits may be shared with your investment professional. Because of these fees and benefits, we have a financial incentive to select the particular cash features included in the Cash Features Program.</p>
Differing Risks and Account Protection	<p>The different cash features are subject to different risks and account protection:</p> <ul style="list-style-type: none"> ▪ The Schwab One® Interest feature is not subject to market risk and value loss but is subject to the risk of Schwab's failure. In the unlikely event that Schwab fails, cash is eligible for SIPC coverage up to a limit of \$250,000 (including principal and interest) per client in each insurable capacity (e.g., individual or joint). Free Credit Balances held at Schwab are not insured or guaranteed by the FDIC. ▪ The Bank Sweep feature, which includes the Schwab Bank Sweep feature and the Schwab Bank Sweep for Benefit Plans feature, is not subject to market risk and value loss but is subject to the risk of Schwab Bank's failure. In the unlikely event that Schwab Bank fails, deposits at Schwab Bank are eligible for FDIC insurance protection up to a limit of \$250,000 (including principal and interest) per depositor in each insurable capacity (e.g., individual, joint, and plan participant). This limit includes any other deposits you may have at Schwab Bank outside of the Bank Sweep feature. You are responsible for monitoring your bank balances in the Bank Sweep feature and the balances in any of your other bank accounts at Schwab Bank to determine if these, in total, exceed FDIC insurance limits. Monies held in the Bank Sweep feature are not covered by SIPC. ▪ Money market mutual funds in the Money Fund Sweep feature invest in high-quality, short-term securities and seek to maintain a stable value, but are subject to market risks and potential value loss. They are not bank accounts and are not subject to FDIC insurance protection. They are instead covered by SIPC, which protects against the custodial risk (and not a decline in market value) when a brokerage firm fails by replacing missing securities and cash up to a limit of \$500,000, of which \$250,000 may be cash. Shares held through the Money Fund Sweep feature are not considered cash, but are treated as securities for SIPC coverage.

Brokerage Products: Not FDIC-Insured • No Bank Guarantee • May Lose Value

**ADOPTION AGREEMENT FOR
NATIONWIDE FINANCIAL SERVICES, INC.
GOVERNMENTAL VOLUME SUBMITTER MONEY PURCHASE PLAN**

CAUTION: Failure to properly fill out this Adoption Agreement may result in disqualification of the Plan.

EMPLOYER INFORMATION

(An amendment to the Adoption Agreement is not needed solely to reflect a change in this Employer Information Section.)

1. EMPLOYER'S NAME, ADDRESS, TELEPHONE NUMBER, TIN AND FISCAL YEAR

Name: Nevada County, CA

Address: 950 Maidu Avenue

Street

Nevada City

City

California

State

95959-8600

Zip

Telephone: (530) 265-7248

Taxpayer Identification Number (TIN): 94-6000526

Employer's Fiscal Year ends: June 30

2. TYPE OF GOVERNMENTAL ENTITY. This Plan may only be adopted a state or local governmental entity, or agency thereof, including an Indian tribal government and may not be adopted by any other entity, including a federal government and any agency or instrumentality thereof.

- a. ☐ State government or state agency
- b. ☒ County or county agency
- c. ☐ Municipality or municipal agency
- d. ☐ Indian tribal government (see Note below)
- e. ☐ Other: _____

NOTE: An Indian tribal government may only adopt this Plan if such entity is defined under Code §7701(a)(40), is a subdivision of an Indian tribal government as determined in accordance with Code §7871(d), or is an agency or instrumentality of either, and all of the Participants under this Plan employed by such entity substantially perform services as an Employee in essential governmental functions and not in the performance of commercial activities (whether or not an essential government function).

3. PARTICIPATING EMPLOYERS (Plan Section 1.38). Will any other Employers adopt this Plan as Participating Employers?

- a. ☒ No
- b. ☐ Yes

PLAN INFORMATION

(An amendment to the Adoption Agreement is not needed solely to reflect a change in the information in Questions 9. through 10.)

4. PLAN NAME:

Nevada County 401(a) Plan

5. PLAN STATUS

- a. ☐ New Plan
- b. ☒ Amendment and restatement of existing Plan
PPA RESTATEMENT (leave blank if not applicable)
 - 1. ☐ This is an amendment and restatement to bring a plan into compliance with the Pension Protection Act of 2006 ("PPA") and other legislative and regulatory changes (i.e., the 6-year pre-approved plan restatement).

6. EFFECTIVE DATE (Plan Section 1.16) (complete a. if new plan; complete a. AND b. if an amendment and restatement)

Initial Effective Date of Plan

- a. January 1, 2009 (enter month day, year) (hereinafter called the "Effective Date" unless 6.b. is entered below)

Restatement Effective Date. If this is an amendment and restatement, the effective date of the restatement (hereinafter called the "Effective Date") is:

- b. _____ (enter month day, year; may enter a restatement date that is the first day of the current Plan Year. Plan contains appropriate retroactive effective dates with respect to provisions for appropriate laws.)

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7. PLAN YEAR (Plan Section 1.42) means, except as otherwise provided in d. below:
- ☒ the calendar year
 - ☐ the twelve-month period ending on _____ (e.g., June 30th)

SHORT PLAN YEAR (Plan Section 1.46). This is a Short Plan Year (if the effective date of participation is based on a Plan Year, then coordinate with Question 14):

- ☒ N/A
- ☐ beginning on _____ (enter month day, year; e.g., July 1, 2013) and ending on _____ (enter month day, year)

8. VALUATION DATE (Plan Section 1.52) means:

- ☒ every day that the Trustee (or Insurer), any transfer agent appointed by the Trustee (or Insurer) or the Employer, and any stock exchange used by such agent are open for business (daily valuation)
- ☐ the last day of each Plan Year
- ☐ the last day of each Plan Year quarter
- ☐ other (specify day or days): _____ (must be at least once each Plan Year)

NOTE: The Plan always permits interim valuations.

9. TRUSTEE(S) OR INSURER(S) (Plan Sections 1.25 and 1.50):

- ☒ **Insurer.** This Plan is funded exclusively with Contracts and the name of the Insurer(s) is:

(1) Nationwide Life Insurance Company (2) _____ (if more than 2, add names to signature page).

- ☐ **Individual Trustee(s).** Individual Trustee(s) who serve as Trustee(s) over assets not subject to control by a corporate Trustee. (add additional Trustees as necessary)

Name(s)

Title(s)

Address and telephone number

- ☒ Use Employer address and telephone number
- ☐ Use address and telephone number below:

Address:

Street

City

State

Zip

Telephone:

- ☐ **Corporate Trustee(s)** (add additional Trustees as necessary)

Name:

Address:

Street

City

State

Zip

Telephone:

Directed/Discretionary Trustee. Unless otherwise specified below, if there is a corporate Trustee, it will serve as a Directed (nondiscretionary) Trustee (Plan Section 1.21) and if there is an individual Trustee, he or she will serve as a Discretionary Trustee (Plan Section 1.22) over all Plan assets (select all that apply; leave blank if defaults apply)

- ☐ Directed Trustee exceptions (leave blank if no exceptions):

Directed Trustee over specified Plan assets (select all that apply; leave blank if none apply)

- ☐ The corporate Trustee will serve as Directed Trustee over the following assets: _____

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2. ☐ The individual Trustee(s) will serve as Directed Trustee over the following assets: _____
Individual Trustee will serve as Directed Trustee (may not be selected with d.1. or d.2.)
3. ☐ over all Plan assets
- e. ☐ Discretionary Trustee exceptions (leave blank if no exceptions):
Discretionary Trustee over specified Plan assets (select all that apply; leave blank if none apply)
1. ☐ The individual Trustee(s) will serve as Discretionary Trustee over the following assets: _____
2. ☐ The corporate Trustee will serve as Discretionary Trustee over the following assets: _____
- Corporate Trustee will serve as Discretionary Trustee (may not be selected with e.1. or e.2.)
3. ☐ over all Plan assets

Separate trust. Will a separate trust agreement that is approved by the IRS for use with this Plan be used?

- f. ☐ No
g. ☐ Yes

NOTE: If Yes is selected, an executed copy of the trust agreement between the Trustee and the Employer must be attached to this Plan. The Plan and trust agreement will be read and construed together. The responsibilities, rights and powers of the Trustee will be those specified in the trust agreement.

10. ADMINISTRATOR'S NAME, ADDRESS AND TELEPHONE NUMBER (If none is named, the Employer will be the Administrator (Plan Section 1.2).)

- a. ☒ Employer (use Employer address and telephone number)
b. ☐ Other:

Name: _____

Address: _____

Street

City

State

Zip

Telephone: _____

11. CONTRIBUTION TYPES

The selections made below must correspond with the selections made under the Contributions and Allocations Section of this Adoption Agreement.

FROZEN PLAN OR CONTRIBUTIONS HAVE BEEN SUSPENDED (Plan Section 4.1(c)) (optional)

- a. ☐ This is a frozen Plan (i.e., all contributions cease) (if this is a temporary suspension, select a.2):
1. ☐ All contributions ceased as of, or prior to, the effective date of this amendment and restatement and the prior Plan provisions are not reflected in this Adoption Agreement (may enter effective date at 3. below and/or select contributions at b. - f. (optional), skip questions 12-18 and 22-29)
2. ☐ All contributions ceased or were suspended and the prior Plan provisions are reflected in this Adoption Agreement (must enter effective date at 3. below and select contributions at b. - f.)

Effective date

3. ☐ as of _____ (effective date is optional unless a.2. has been selected above or this is the amendment or restatement to freeze the Plan).

CONTRIBUTIONS

The Plan permits the following contributions (select one or more):

- b. ☒ **Employer contributions other than matching** (Questions 24-25)
1. ☐ This Plan qualifies as a Social Security Replacement Plan (Question 24.c. must be selected)
- c. ☐ **Employer matching contributions** (Questions 26-28)
- d. ☐ **Mandatory Employee contributions** (Question 31)
- e. ☒ **After-tax voluntary Employee contributions** (Question 32)
- f. ☒ **Rollover contributions** (Question 39)

ELIGIBILITY REQUIREMENTS

12. ELIGIBLE EMPLOYEES (Plan Section 1.17) means all Employees (including Leased Employees) EXCEPT those Employees who are excluded below or elsewhere in the Plan:

- a. ☐ **No excluded Employees.** There are no additional excluded Employees under the Plan (skip to Question 13).
- b. ☒ **Exclusions.** The following Employees are not Eligible Employees for Plan purposes (select one or more):
1. ☐ Union Employees (as defined in Plan Section 1.17)
2. ☐ Nonresident aliens (as defined in Plan Section 1.17)
3. ☐ Leased Employees (Plan Section 1.28)

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4. ☐ Part-time/temporary/seasonal Employees. A part-time, temporary or seasonal Employee is an Employee whose regularly scheduled service is less than _____ Hours of Service in the relevant eligibility computation period (as defined in Plan Section 1.54). However, if any such excluded Employee actually completes a Year of Service, then such Employee will no longer be part of this excluded class.
5. ☒ Other: Any Employee not classified as a Board of Supervisor member or chairperson (must be definitely determinable under Regulations §1.401-1(b). Exclusions may be employment title specific but may not be by individual name nor result in only a finite group of individuals (e.g., excluding anyone hired after 12/31/12.)

13. CONDITIONS OF ELIGIBILITY (Plan Section 3.1)

- a. ☒ **No age or service required.** No age or service required for all Contribution Types (skip to Question 14).
- b. ☐ **Eligibility.** An Eligible Employee will be eligible to participate in the Plan upon satisfaction of the following (complete c. and d., select e. and f. if applicable):

Eligibility Requirements

c. ☐ **Age Requirement**

1. ☐ No age requirement
2. ☐ Age 20 1/2
3. ☐ Age 21
4. ☐ Age _____ (may not exceed 26)

d. ☐ **Service Requirement**

1. ☐ No service requirement
2. ☐ _____ (not to exceed 60) months of service (elapsed time)
3. ☐ 1 Year of Service
4. ☐ _____ (not to exceed 5) Years of Service
5. ☐ _____ consecutive month period from the Eligible Employee's employment commencement date and during which at least _____ Hours of Service are completed.
6. ☐ _____ consecutive months of employment from the Eligible Employee's employment commencement date.
7. ☐ Other: _____ (e.g., date on which 1,000 Hours of Service is completed within the computation period) (must satisfy the Notes below)

NOTE: If c.4. or d.7. is selected, the condition must be an age or service requirement that is definitely determinable and may not exceed age 26 and may not exceed 5 Years of Service.

NOTE: Year of Service means Period of Service if elapsed time method is chosen.

Waiver of conditions. The service and/or age requirements specified above will be waived in accordance with the following (leave blank if there are no waivers of conditions):

- e. ☐ If employed on _____ the following requirements, and the entry date requirement, will be waived. The waiver applies to any Eligible Employee unless 3. selected below. Such Employees will enter the Plan as of such date (select 1. and/or 2. AND 3. if applicable):
1. ☐ service requirement (may let part-time Eligible Employees into the Plan)
2. ☐ age requirement
3. ☐ waiver is for: _____

Amendment or restatement to change eligibility requirements

- f. ☐ This amendment or restatement (or a prior amendment and restatement) modified the eligibility requirements and the prior eligibility conditions continue to apply to the Eligible Employees specified below. If this option is NOT selected, then all Eligible Employees must satisfy the eligibility conditions set forth above.

1. ☐ The eligibility conditions above only apply to Eligible Employees who were not Participants as of the effective date of the modification.
2. ☐ The eligibility conditions above only apply to individuals who were hired on or after the effective date of the modification.

14. EFFECTIVE DATE OF PARTICIPATION (ENTRY DATE) (Plan Section 3.2)

An Eligible Employee who has satisfied the eligibility requirements will become a Participant in the Plan as of the:

- a. ☒ date such requirements are met
- b. ☐ first day of the month coinciding with or next following the date on which such requirements are met
- c. ☐ first day of the Plan Year quarter coinciding with or next following the date on which such requirements are met
- d. ☐ earlier of the first day of the Plan Year or the first day of the seventh month of the Plan Year coinciding with or next following the date on which such requirements are met
- e. ☐ first day of the Plan Year coinciding with or next following the date on which such requirements are met (Eligibility must be six months of service (or 1 1/2 Years (or Periods) of Service if 100% immediate vesting is selected) or less and age must be 20 1/2 or less.)
- f. ☐ first day of the Plan Year in which such requirements are met
- g. ☐ first day of the Plan Year in which such requirements are met, if such requirements are met in the first 6 months of the Plan Year, or as of the first day of the next succeeding Plan Year if such requirements are met in the last 6 months of the Plan Year.
- h. ☐ other: _____ (must be definitely determinable)

SERVICE

15. RECOGNITION OF SERVICE WITH OTHER EMPLOYERS (Plan Sections 1.39 and 1.54)

- a. ☒ No service with other employers is recognized except as otherwise required by law (e.g., the Plan already provides for the recognition of service with Employers who have adopted this Plan as well as service with Affiliated Employers and predecessor Employers who maintained this Plan; skip to Question 16).
- b. ☐ Prior service with the designated employers is recognized as follows (answer c. and select one or more of c.1. - 3.; select d. - f. as applicable) (if more than 3 employers, attach an addendum to the Adoption Agreement or complete option h. under Section B of Appendix A):

Other Employer	Eligibility	Vesting	Contribution Allocation
c. <input type="checkbox"/> Employer name: _____	1. <input type="checkbox"/>	2. <input type="checkbox"/>	3. <input type="checkbox"/>
d. <input type="checkbox"/> Employer name: _____	1. <input type="checkbox"/>	2. <input type="checkbox"/>	3. <input type="checkbox"/>
e. <input type="checkbox"/> Employer name: _____	1. <input type="checkbox"/>	2. <input type="checkbox"/>	3. <input type="checkbox"/>

Limitations

- f. ☐ The following provisions or limitations apply with respect to the recognition of prior service: _____
- (e.g., credit service with X only on/following 1/1/13)

NOTE: If the other Employer(s) maintained this qualified Plan, then Years (and/or Periods) of Service with such Employer(s) must be recognized pursuant to Plan Sections 1.39 and 1.54 regardless of any selections above.

16. SERVICE CREDITING METHOD (Plan Sections 1.39 and 1.54)

NOTE: If no selections are made in this Section, then the provisions set forth in the definition of Year of Service in Plan Section 1.54 will apply, including the following defaults:

1. A Year of Service means completion of at least 1,000 Hours of Service during the applicable computation period.
2. Hours of Service (Plan Section 1.24) will be based on actual Hours of Service.
3. For eligibility purposes, the computation period will be as defined in Plan Section 1.54 (i.e., shift to the Plan Year if the eligibility condition is one (1) Year of Service or less).
4. For vesting and allocation purposes, the computation period will be the Plan Year.

- a. ☒ **Elapsed time method.** (Period of Service applies instead of Year of Service) Instead of Hours of Service, elapsed time will be used for:

1. ☒ all purposes (skip to Question 17)
2. ☐ the following purposes (select one or more):
 - a. ☐ eligibility to participate
 - b. ☐ vesting
 - c. ☐ sharing in allocations or contributions

- b. ☐ **Alternative definitions for the Hours of Service method.** Instead of the defaults, the following alternatives will apply for the Hours of Service method (select one or more):

1. ☐ **Eligibility computation period.** Instead of shifting to the Plan Year, the eligibility computation period after the initial eligibility computation period will be based on each anniversary of the date the Employee first completes an Hour of Service
2. ☐ **Vesting computation period.** Instead of the Plan Year, the vesting computation period will be the date an Employee first performs an Hour of Service and each anniversary thereof.
3. ☐ **Equivalency method.** Instead of using actual Hours of Service, an equivalency method will be used to determine Hours of Service for:
 - a. ☐ all purposes
 - b. ☐ the following purposes (select one or more):
 1. ☐ eligibility to participate
 2. ☐ vesting
 3. ☐ sharing in allocations or contributions

Such method will apply to:

- c. ☐ all Employees
- d. ☐ Employees for whom records of actual Hours of Service are not maintained or available (e.g., salaried Employees)
- e. ☐ other: _____ (e.g., per-diem Employees only)

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Hours of Service will be determined on the basis of:

- f. ☐ days worked (10 hours per day)
- g. ☐ weeks worked (45 hours per week)
- h. ☐ semi-monthly payroll periods worked (95 hours per semi-monthly pay period)
- i. ☐ months worked (190 hours per month)
- j. ☐ bi-weekly payroll periods worked (90 hours per bi-weekly pay period)
- k. ☐ other: _____ (e.g., option f. is used for per-diem Employees and option g. is used for on-call Employees).

4. ☐ **Number of Hours of Service required.** Instead of 1,000 Hours of Service, Year of Service means the applicable computation period during which an Employee has completed at least _____ (not to exceed 1,000) Hours of Service for:
- a. ☐ all purposes
 - b. ☐ the following purposes (select one or more):
 - 1. ☐ eligibility to participate
 - 2. ☐ vesting
 - 3. ☐ sharing in allocations or contributions

VESTING

17. **VESTING OF PARTICIPANT'S INTEREST – EMPLOYER CONTRIBUTIONS (Plan Section 6.4(b))**
- a. ☐ N/A (no Employer contributions; skip to Question 19)
 - b. ☒ The vesting provisions selected below apply. Section B of Appendix A can be used to specify any exceptions to the provisions below.

NOTE: The Plan provides that contributions for converted sick leave and/or vacation leave are fully Vested.

Vesting for Employer contributions other than matching contributions

- c. ☐ N/A (no Employer contributions (other than matching contributions); skip to f.)
- d. ☒ 100% vesting. Participants are 100% Vested in Employer contributions (other than matching contributions) upon entering Plan.
- e. ☐ The following vesting schedule, based on a Participant's Years of Service (or Periods of Service if the elapsed time method is selected), applies to Employer contributions (other than matching contributions):
 - 1. ☐ 6 Year Graded: 0-1 year-0%; 2 years-20%; 3 years-40%; 4 years-60%; 5 years-80%; 6 years-100%
 - 2. ☐ 4 Year Graded: 1 year-25%; 2 years-50%; 3 years-75%; 4 years-100%
 - 3. ☐ 5 Year Graded: 1 year-20%; 2 years-40%; 3 years-60%; 4 years-80%; 5 years-100%
 - 4. ☐ Cliff: 100% vesting after _____ (not to exceed 15) years
 - 5. ☐ Other graded vesting schedule (must provide for full vesting no later than 15 years of service; add additional lines as necessary)

Years (or Periods) of Service	Percentage
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %

Vesting for Employer matching contributions

- f. ☒ N/A (no Employer matching contributions)
- g. ☐ The schedule above will also apply to Employer matching contributions.
- h. ☐ 100% vesting. Participants are 100% Vested in Employer matching contributions upon entering Plan.
- i. ☐ The following vesting schedule, based on a Participant's Years of Service (or Periods of Service if the elapsed time method is selected), applies to Employer matching contributions:
 - 1. ☐ 6 Year Graded: 0-1 year-0%; 2 years-20%; 3 years-40%; 4 years-60%; 5 years-80%; 6 years-100%
 - 2. ☐ 4 Year Graded: 1 year-25%; 2 years-50%; 3 years-75%; 4 years-100%
 - 3. ☐ 5 Year Graded: 1 year-20%; 2 years-40%; 3 years-60%; 4 years-80%; 5 years-100%
 - 4. ☐ Cliff: 100% vesting after _____ (not to exceed 15) years
 - 5. ☐ Other graded vesting schedule (must provide for full vesting no later than 15 years of service; add additional lines as necessary)

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Years (or Periods) of Service Percentage

_____	_____%
_____	_____%
_____	_____%
_____	_____%
_____	_____%
_____	_____%

18. VESTING OPTIONS

Excluded vesting service. The following Years of Service will be disregarded for vesting purposes (select all that apply; leave blank if none apply):

- a. ☐ Service prior to the initial Effective Date of the Plan or a predecessor plan (as defined in Regulations §1.411(a)-5(b)(3))
- b. ☐ Service prior to the computation period in which an Employee has attained age _____.
- c. ☐ Service during a period for which an Employee did not make mandatory Employee contributions.

Vesting for death, Total And Permanent Disability and Early Retirement Date. Regardless of the vesting schedule, a Participant will become fully Vested upon (select all that apply; leave blank if none apply):

- d. ☐ Death
- e. ☐ Total and Permanent Disability
- f. ☐ Early Retirement Date

RETIREMENT AGES

19. NORMAL RETIREMENT AGE ("NRA") (Plan Section 1.32) means:

- a. ☒ **Specific age.** The date a Participant attains age 50 (may not exceed 65)
- b. ☐ **Age/participation.** The later of the date a Participant attains age _____ (may not exceed 65) or the _____ (may not exceed 10th) anniversary of the first day of the Plan Year in which participation in the Plan commenced

NOTE: Effective for Plan Years beginning on or after the later of (1) January 1, 2015, or (2) the close of the first regular legislative session of the legislative body with the authority to amend the plan that begins on or after the date that is three months after the final regulations are published in the Federal Register, Normal Retirement Age of less than age 62 must meet Regulation §1.401(a)-1(b)(2).

Qualified police or firefighters. Normal Retirement Age for qualified public safety employees (as defined in Code §72(t)(1)) (leave blank if not applicable).

- c. ☐ Age _____ (may not be less than 50)

20. NORMAL RETIREMENT DATE (Plan Section 1.33) means, with respect to any Participant, the:

- a. ☒ date on which the Participant attains "NRA"
- b. ☐ first day of the month coinciding with or next following the Participant's "NRA"
- c. ☐ first day of the month nearest the Participant's "NRA"
- d. ☐ Anniversary Date coinciding with or next following the Participant's "NRA"
- e. ☐ Anniversary Date nearest the Participant's "NRA"
- f. ☐ Other: _____ (e.g., first day of the month following the Participant's "NRA").

21. EARLY RETIREMENT DATE (Plan Section 1.15)

- a. ☒ N/A (no early retirement provision provided)

- b. ☐ Early Retirement Date means the:

- 1. ☐ date on which a Participant satisfies the early retirement requirements
- 2. ☐ first day of the month coinciding with or next following the date on which a Participant satisfies the early retirement requirements
- 3. ☐ Anniversary Date coinciding with or next following the date on which a Participant satisfies the early retirement requirements

Early retirement requirements

- 4. ☐ Participant attains age _____
AND, completes.... (leave blank if not applicable)
 - a. ☐ at least _____ Years (or Periods) of Service for vesting purposes
 - b. ☐ at least _____ Years (or Periods) of Service for eligibility purposes

- c. ☐ Early Retirement Date means: _____ (must be definitely determinable)

COMPENSATION

22. COMPENSATION with respect to any Participant is defined as follows (Plan Sections 1.10 and 1.23).

Base definition

- a. ☒ Wages, tips and other compensation on Form W-2
- b. ☐ Code §3401(a) wages (wages for withholding purposes)
- c. ☐ 415 safe harbor compensation

NOTE: Plan Section 1.23(c) provides that the base definition of Compensation includes deferrals that are not included in income due to Code §§401(k), 125, 132(f)(4), 403(b), 402(h)(1)(B)(SEP), 414(h)(2), & 457(b).

Determination period. Compensation will be based on the following "determination period" (this will also be the Limitation Year unless otherwise elected at option f. under Section B of Appendix A):

- d. ☒ the Plan Year
- e. ☐ the Fiscal Year coinciding with or ending within the Plan Year
- f. ☐ the calendar year coinciding with or ending within the Plan Year

Adjustments to Compensation (for Plan Section 1.10). Compensation will be adjusted by:

- g. ☐ **No adjustments** (skip to i. below)
- h. ☒ **Adjustments.** Compensation will be adjusted by (select all that apply):
 - 1. ☐ excluding salary reductions (401(k), 125, 132(f)(4), 403(b), SEP, 414(h)(2) pickup, & 457(b))
 - 2. ☒ excluding reimbursements or other expense allowances, fringe benefits (cash or non-cash), moving expenses, deferred compensation (other than deferrals specified in 1. above) and welfare benefits.
 - 3. ☐ excluding Compensation paid during the "determination period" while not a Participant in the Plan.
 - 4. ☐ excluding Military Differential Pay
 - 5. ☒ excluding overtime
 - 6. ☒ excluding bonuses
 - 7. ☒ other: Employer Contributions to a plan of deferred compensation which are not includible in the Employee's gross income for the taxable year in which contributed, or Employer Contributions under a simplified employee pension plan to the extent such contributions are deductible by the Employee, or any distributions from a plan of deferred compensation; and other amounts which received special tax benefits, or contributions made by the Employer (whether or not under a salary reduction agreement) towards the purchase of an annuity contract described in section 403(b) of the Code (whether or not the amounts are actually excludable from the gross income of the Employee) (e.g., describe Compensation from the elections available above or a combination thereof as to a Participant group (e.g., no exclusions as to Division A Employees and exclude bonuses as to Division B Employees); and/or describe another exclusion (e.g., exclude shift differential pay)).

Military Differential Pay Special Effective Date (leave blank if not applicable)

- i. ☐ If this is a PPA restatement and the provisions above regarding Military Differential Pay (included unless h.4. is selected) have a later effective date than Plan Years beginning after December 31, 2008, then enter the date such provisions were first effective: _____ (may not be earlier than January 1, 2009; for Plan Years beginning prior to January 1, 2009, Military Differential Pay is treated in accordance with the post-severance Compensation provisions in the following Question).

23. POST-SEVERANCE COMPENSATION (415 REGULATIONS)

The following optional provision of the 415 Regulations will apply to Limitation Years beginning on or after July 1, 2007 unless otherwise elected below:

415 Compensation (post-severance compensation adjustments) (select all that apply at a.; leave blank if none apply)

NOTE: Unless otherwise elected under a. below, the following defaults apply: 415 Compensation will **include** (to the extent provided in Plan Section 1.23), post-severance regular pay, leave cash-outs and payments from nonqualified unfunded deferred compensation plans.

- a. ☐ The defaults listed above apply except for the following (select one or more):
 - 1. ☐ Leave cash-outs will be **excluded**
 - 2. ☐ Nonqualified unfunded deferred compensation will be **excluded**
 - 3. ☐ Military Differential Pay will be **included** (Plan automatically includes for Limitation Years beginning after December 31, 2008)
 - 4. ☐ Disability continuation payments will be **included**

Plan Compensation (post-severance compensation adjustments)

- b. ☒ **Defaults apply.** Compensation will **include** (to the extent provided in Plan Section 1.10 and to the extent such amounts would be included in Compensation if paid prior to severance of employment) post-severance regular pay, leave cash-outs, and payments from nonqualified unfunded deferred compensation plans.
- c. ☐ **Exclude all post-severance compensation.** Exclude all post-severance compensation for allocation purposes.

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d. ☐ **Post-severance adjustments.** The defaults listed at b. apply except for the following (select one or more):

1. ☐ Exclude all post-severance compensation
2. ☐ Regular pay will be **excluded**
3. ☐ Leave cash-outs will be **excluded**
4. ☐ Nonqualified unfunded deferred compensation will be **excluded**
5. ☐ Military Differential Pay will be **included**
6. ☐ Disability continuation payments will be **included**

NOTE: The above treatment of Military Differential Pay only applies to Plan Years beginning prior to January 1, 2009. For Plan Years beginning after such date, Military Differential Pay is not considered post-severance compensation and the provisions of Question 22 apply.

Post-severance compensation special effective date (leave blank if not applicable)

e. ☐ If this is a PPA restatement and the post-severance compensation adjustments above for 415 Compensation or Plan Compensation applied other than the first day of the Plan Year beginning on or after July 1, 2007, then enter the date such provisions were first effective: _____

CONTRIBUTIONS AND ALLOCATIONS

24. **EMPLOYER CONTRIBUTIONS (OTHER THAN MATCHING CONTRIBUTIONS)** (Plan Section 4.1(a)(2)) (skip to Question 26 if Employer contributions are NOT selected at Question 11.b.)

CONTRIBUTION FORMULA (select one or more of the following contribution formulas:)

a. ☒ **Fixed contribution** equal to (only select one):

1. ☒ 8 % of each Participant's Compensation for each:

- a. ☒ Plan Year
- b. ☐ calendar quarter
- c. ☐ month
- d. ☐ pay period
- e. ☐ week

2. ☐ \$_____ per Participant.

3. ☐ \$_____ per Hour of Service worked while an Eligible Employee

a. ☐ up to _____ hours (leave blank if no limit)

4. ☐ other: _____ (the formula described must satisfy the definitely determinable requirement under Regulations §1.401-1(b)).

b. ☐ **Sick leave/vacation leave conversion.** The Employer will contribute an amount equal to an Employee's current hourly rate of pay multiplied by the Participant's number of unused accumulated sick leave and/or vacation days (as selected below). Only unpaid sick and vacation leave for which the Employee has no right to receive in cash may be included. In no event will the Employer's contribution for the Plan Year exceed the maximum contribution permitted under Code §415(c).

The following may be converted under the Plan: (select one or both):

1. ☐ Sick leave
2. ☐ Vacation leave

Eligible Employees. Only the following Participants shall receive the Employer contribution for sick leave and/or vacation leave (select 3. and/or 4; leave blank if no limitations provided, however, that this Plan may not be used to only provide benefits for terminated Employees)

3. ☐ **Former Employees.** All Employees terminating service with the Employer during the Plan Year and who have satisfied the eligibility requirements based on the terms of the Employer's accumulated benefits plans checked below (select all that apply; leave blank if no exclusions):

- a. ☐ The Former Employee must be at least age _____ (e.g., 55)
- b. ☐ The value of the sick and/or vacation leave must be at least \$_____ (e.g., \$2,000)
- c. ☐ A contribution will only be made if the total hours is over _____ (e.g., 10) hours
- d. ☐ A contribution will not be made for hours in excess of _____ (e.g., 40) hours

4. ☐ **Active Employees.** Active Employees who have not terminated service during the Plan Year and who meet the following requirements (select all that apply; leave blank if no exclusions):

- a. ☐ The Employee must be at least age _____ (e.g., 55)
- b. ☐ The value of the sick and/or vacation leave must be at least \$_____ (e.g., \$2,000)
- c. ☐ A contribution will only be made if the total hours is over _____ (e.g., 10) hours
- d. ☐ A contribution will not be made for hours in excess of _____ (e.g., 40) hours

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- c. ☐ **Social Security Replacement Plan.** An amount equal to 7.5% of the Participant's Compensation for the entire Plan Year, reduced by Employee and Employer contributions to this Plan actually contributed to the Participant's Account during such Plan Year. (may only be selected if Question 11.b.1. has also been selected)

Include only part-time, seasonal and temporary Employees (leave blank if not applicable)

1. ☐ Regardless of any other provision in this to the contrary, the contribution above will only be made for part-time, seasonal, or temporary Employees who are not otherwise covered by another qualifying public retirement system as defined for purposes of Regulation §31.3121(b)(7)-2.

25. **ALLOCATION CONDITIONS** (Plan Section 4.3). If 24.a. is selected above, indicate requirements to share in allocations of Employer contributions (select a. OR b. and all that apply at c. - e.)

- a. ☒ **No conditions.** All Participants share in the allocations regardless of service completed during the Plan Year or employment status on the last day of the Plan Year (skip to Question 26).

- b. ☐ **Allocation conditions apply** (select one of 1. - 5. AND one of 6. - 9. below)

Conditions for Participants NOT employed on the last day of the Plan Year

1. ☐ A Participant must complete at least _____ (not to exceed 1,000) Hours of Service (or _____ (not to exceed 12) months of service if the elapsed time method is selected).
2. ☐ A Participant must complete a Year of Service (or Period of Service if the elapsed time method is selected),
3. ☐ Participants will NOT share in the allocations, regardless of service.
4. ☐ Participants will share in the allocations, regardless of service.
5. ☐ Other: _____ (must be definitely determinable, not subject to Employer discretion and may not require more than one Year of Service (or Period of Service if the elapsed time method is selected)).

Conditions for Participants employed on the last day of the Plan Year

6. ☐ No service requirement.
7. ☐ A Participant must complete a Year of Service (or Period of Service if the elapsed time method is selected).
8. ☐ A Participant must complete at least _____ (not to exceed 1,000) Hours of Service during the Plan Year.
9. ☐ Other: _____ (must be definitely determinable, not subject to Employer discretion and may not require more than one Year of Service (or Period of Service if the elapsed time method is selected)).

Waiver of conditions for Participants NOT employed on the last day of the Plan Year. If b.1., 2., 3., or 5. is selected, Participants who are not employed on the last day of the Plan Year in which one of the following events occur will be eligible to share in the allocations regardless of the above conditions (select all that apply; leave blank if none apply):

- c. ☐ Death
- d. ☐ Total and Permanent Disability
- e. ☐ Termination of employment on or after Normal Retirement Age
1. ☐ or Early Retirement Date

26. **EMPLOYER MATCHING CONTRIBUTIONS** (Plan Section 4.1(a)(3)). (skip to Question 29 if matching contributions are NOT selected at Question 11.c.) The Employer will make the following matching contributions:

- A. **Elective deferrals taken into account.** For purposes of applying the matching contribution provisions below, elective deferrals include elective deferral (pre-tax and Roth) contributions to the following Employer plan(s) (insert name of Plan(s) to which the elective deferral contributions being matched will be made):

a. ☐ **457 plan(s).** Enter Plan name: _____

b. ☐ **403(b) plan(s).** Enter Plan name: _____

NOTE: If selected at Question 32, after-tax voluntary Employee contributions are also considered elective deferrals for purposes of matching contributions.

- B. **Matching Formula.** (select one)

- c. ☐ **Fixed - uniform rate/amount.** The Employer will make matching contributions equal to _____ % (e.g., 50) of the Participant's elective deferrals

1. ☐ that do not exceed _____ % of a Participant's Compensation (leave blank if no limit)

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- d. ☐ **Fixed - tiered.** The Employer will make matching contributions equal to a uniform percentage of each tier of each Participant's elective deferrals, determined as follows:

NOTE: Fill in only percentages or dollar amounts, but not both. If percentages are used, each tier represents the amount of the Participant's applicable contributions that equals the specified percentage of the Participant's Compensation (add additional tiers if necessary):

Tiers of Contributions (indicate \$ or %)	Matching Percentage
First _____	_____ %
Next _____	_____ %
Next _____	_____ %
Next _____	_____ %

- e. ☐ **Fixed - Years of Service.** The Employer will make matching contributions equal to a uniform percentage of each Participant's elective deferrals based on the Participant's Years of Service (or Periods of Service if the elapsed time method is selected), determined as follows (add additional tiers if necessary):

Years (or Periods) of Service	Matching Percentage
_____	_____ %
_____	_____ %
_____	_____ %

For purposes of the above matching contribution formula, a Year (or Period) of Service means a Year (or Period) of Service for:

1. ☐ vesting purposes
 2. ☐ eligibility purposes
 f. ☐ Other: _____ (the formula described must satisfy the definitely determinable requirement under Regulations §1.401-1(b))

27. **MATCHING CONTRIBUTION PROVISIONS**

- A. **Maximum matching contribution.** The total matching contribution made on behalf of any Participant for any Plan Year will not exceed:

- a. ☐ N/A (no Plan specific limit on the amount of matching contribution)
 b. ☐ \$_____
 c. ☐ _____ % of Compensation.

- B. **Period of determination.** The matching contribution formula will be applied on the following basis (and elective deferrals and any Compensation or dollar limitation used in determining the matching contribution will be based on the applicable period):

- d. ☐ the Plan Year
 e. ☐ each payroll period
 f. ☐ each month
 g. ☐ each Plan Year quarter
 h. ☐ each payroll unit (e.g., hour)

28. **ALLOCATION CONDITIONS FOR MATCHING CONTRIBUTIONS (Plan Section 4.3).** Select a. OR b. and all that apply of c. - h.

- a. ☐ **No conditions.** All Participants share in the allocations regardless of service completed during the Plan Year or employment status on the last day of the Plan Year (skip to Question 29).

- b. ☐ **Allocation conditions apply** (select one of 1. -5. AND one of 6. - 9. below)

Conditions for Participants NOT employed on the last day of the Plan Year.

1. ☐ A Participant must complete at least _____ (not to exceed 1,000) Hours of Service (or _____ (not to exceed 12) months of service if the elapsed time method is selected).
 2. ☒ A Participant must complete a Year of Service (or Period of Service if the elapsed time method is selected).
 3. ☒ Participants will NOT share in the allocations, regardless of service.
 4. ☒ Participants will share in the allocations, regardless of service.
 5. ☒ Other: _____ (must be definitely determinable, not subject to Employer discretion and may not require more than one Year of Service (or Period of Service if the elapsed time method is selected)).

Conditions for Participants employed on the last day of the Plan Year

6. ☐ No service requirement.
 7. ☐ A Participant must complete a Year of Service (or Period of Service if the elapsed time method is selected).
 8. ☐ A Participant must complete at least _____ (not to exceed 1,000) Hours of Service during the Plan Year.
 9. ☐ Other: _____ (must be definitely determinable, not subject to Employer discretion and may not require more than one Year of Service (or Period of Service if the elapsed time method is selected)).

Waiver of conditions for Participants NOT employed on the last day of the Plan Year. If b.1., 2., 3., or 5. is selected, Participants who are not employed on the last day of the Plan Year in which one of the following events occur will be eligible to share in the allocations regardless of the above conditions (select all that apply; leave blank if none apply):

- c. ☐ Death
- d. ☐ Total and Permanent Disability
- c. ☐ Termination of employment on or after Normal Retirement Age
 - 1. ☐ or Early Retirement Date

Conditions based on period other than Plan Year. The allocation conditions above will be applied based on the Plan Year unless otherwise selected below. If selected, the above provisions will be applied by substituting the term Plan Year with the specified period (e.g., if Plan Year quarter is selected below and the allocation condition is 250 Hours of Service per quarter, enter 250 hours (not 1000) at b.8. above).

- f. ☐ The Plan Year quarter.
- g. ☐ Payroll period.
- h. ☐ Other: _____ (must be definitely determinable and not subject to Employer discretion and may not be longer than a twelve month period).

29. **FORFEITURES** (Plan Sections 1.21 and 4.3(e))

Forfeitures of Employer contributions other than matching contributions will be:

- a. ☐ added to the Employer contribution and allocated in the same manner
- b. ☒ used to reduce any Employer contribution
- c. ☐ allocated to all Participants eligible to share in the allocations of Employer contributions or Forfeitures in the same proportion that each Participant's Compensation for the Plan Year bears to the Compensation of all Participants for such year
- d. ☐ other: _____ (describe the treatment of Forfeitures in a manner that is definitely determinable and not subject to Employer discretion; e.g., Forfeitures attributable to transferred balances from Plan X are allocated as additional discretionary contributions only to former Plan X Participants)

Forfeitures of Employer matching contributions will be:

- e. ☒ N/A. Same as above or no Employer matching contributions.
- f. ☐ used to reduce the Employer matching contribution.
- g. ☐ used to reduce any Employer contribution.
- h. ☐ other: _____ (describe the treatment of Forfeitures in a manner that is definitely determinable and not subject to Employer discretion; e.g., Forfeitures attributable to transferred balances from Plan X are allocated as additional discretionary contributions only to former Plan X Participants)

30. **ALLOCATION OF EARNINGS** (Plan Section 4.3(c))

Allocation of earnings with respect to amounts which are not subject to Participant investment direction and which are contributed to the Plan after the previous Valuation Date will be determined:

- a. ☒ N/A. (all assets in the Plan are subject to Participant investment direction)
- b. ☐ by using a weighted average based on the amount of time that has passed between the date a contribution or distribution is made and the prior Valuation Date
- c. ☐ by treating one-half of all such contributions as being a part of the Participant's nonsegregated Account balance as of the previous Valuation Date
- d. ☐ by using the method specified in Plan Section 4.3(c) (balance forward method)
- e. ☐ other: _____ (must be a definite predetermined formula)

31. **MANDATORY EMPLOYEE CONTRIBUTIONS** (Plan Section 4.8) (skip if mandatory Employee contributions NOT selected at Question 11.d.)

- a. ☐ An Eligible Employee must contribute to the Plan _____% (not to exceed 25%) of Compensation.
- b. ☐ An Eligible Employee must, prior to his or her first Entry Date, make a one-time irrevocable election to contribute to the Plan from _____% (not less than 1%) to _____% (not to exceed 25%) of Compensation.
- c. ☐ Other: _____ (must be definitely determinable)

Employer pick-up contribution. The mandatory Employee contribution is "picked up" by the Employer under Code §414(h)(2) unless elected below.

- d. ☐ The mandatory Employee contribution is not "picked-up" by the Employer.

32. **AFTER-TAX VOLUNTARY EMPLOYEE CONTRIBUTIONS** (Plan Section 4.9) (skip if after-tax voluntary Employee contributions NOT selected at Question 11.e.)

Matching after-tax voluntary Employee contributions. There are no Employer matching contributions on after-tax voluntary Employee contributions unless elected below.

- a. ☐ After-tax voluntary Employee contributions are considered elective deferrals for purposes of applying any matching contributions under the Plan.

DISTRIBUTIONS

33. **FORM OF DISTRIBUTIONS** (Plan Sections 6.5 and 6.6)

Distributions under the Plan may be made in (select all that apply; must select at least one):

- a. ☒ lump-sums
- b. ☒ substantially equal installments
- c. ☐ partial withdrawals, provided the minimum withdrawal is \$_____ (leave blank if no minimum)
- d. ☐ partial withdrawals or installments are only permitted for Participants or Beneficiaries who must receive required minimum distributions under Code §401(a)(9) except for the following (e.g., partial is not permitted for death benefits; leave blank if no exceptions):
 - 1. ☐ _____
- e. ☐ annuity: _____ (describe the form of annuity or annuities)
- f. ☒ other: Any other sequence of payments requested by the Participant (must be definitely determinable and not subject to Employer discretion)

NOTE: Regardless of the above, a Participant is not required to request a withdrawal of his or her total Account for an in-service distribution, a hardship distribution, or a distribution from the Participant's Rollover Account.

Cash or property. Distributions may be made in:

- g. ☒ cash only, except for (select all that apply; leave blank if none apply):
 - 1. ☐ insurance Contracts
 - 2. ☐ annuity Contracts
 - 3. ☐ Participant loans
- h. ☐ cash or property, except that the following limitation(s) apply: (leave blank if there are no limitations on property distributions):
 - 1. ☐ _____ (must be definitely determinable and not subject to Employer discretion)

34. **CONDITIONS FOR DISTRIBUTIONS UPON SEVERANCE OF EMPLOYMENT.** Distributions upon severance of employment pursuant to Plan Section 6.4(a) will not be made unless the following conditions have been satisfied:

A. Accounts in excess of \$5,000

- a. ☒ Distributions may be made as soon as administratively feasible following severance of employment.
- b. ☐ Distributions may be made as soon as administratively feasible after the last day of the Plan Year coincident with or next following severance of employment.
- c. ☐ Distributions may be made as soon as administratively feasible after the last day of the Plan Year quarter coincident with or next following severance of employment.
- d. ☐ Distributions may be made as soon as administratively feasible after the Valuation Date coincident with or next following severance of employment.
- e. ☐ Distributions may be made as soon as administratively feasible after _____ months have elapsed following severance of employment.
- f. ☐ No distributions may be made until a Participant has reached Early or Normal Retirement Date.
- g. ☐ Other: _____ (must be objective conditions which are ascertainable and may not exceed the limits of Code §401(a)(14) as set forth in Plan Section 6.7)

B. Accounts of \$5,000 or less

- h. ☒ Same as above
- i. ☐ Distributions may be made as soon as administratively feasible following severance of employment.
- j. ☐ Distributions may be made as soon as administratively feasible after the last day of the Plan Year coincident with or next following severance of employment.
- k. ☐ Other: _____ (must be objective conditions which are ascertainable and may not exceed the limits of Code §401(a)(14) as set forth in Plan Section 6.7)

C. Timing after initial distributable event. If a distribution is not made in accordance with the above provisions upon the occurrence of the distributable event, then a Participant may elect a subsequent distribution at any time after the time the amount was first distributable (assuming the amount is still distributable), unless otherwise selected below (may not be selected with 34.f. and 34.h.):

- l. ☐ Other: _____ (e.g., a subsequent distribution request may only be made in accordance with l. above (i.e., the last day of another Plan Year); must be objective conditions which are ascertainable and may not exceed the limits of Code §401(a)(14) as set forth in Plan Section 6.7)

D. Participant consent (i.e., involuntary cash-outs). Should Vested Account balances less than a certain dollar threshold be automatically distributed without Participant consent (mandatory distributions)?

NOTE: The Plan provides that distributions of amounts of \$5,000 or less are only paid as lump-sums.

- m. ☐ No, Participant consent is required for all distributions.

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n. ☒ Yes, Participant consent is required only if the distribution is over:

1. ☐ \$5,000
2. ☒ \$1,000
3. ☐ \$_____ (less than \$1,000)

NOTE: If 2. or 3. is selected, rollovers will be included in determining the threshold for Participant consent.

Automatic IRA rollover. With respect to mandatory distributions of amounts that are \$1,000 or less, if a Participant makes no election, the amount will be distributed as a lump-sum unless selected below.

4. ☐ If a Participant makes no election, then the amount will be automatically rolled over to an IRA provided the amount is at least \$_____ (e.g., \$200).

E. **Rollovers in determination of \$5,000 threshold.** Unless otherwise elected below, amounts attributable to rollover contributions (if any) will be **included** in determining the \$5,000 threshold for timing of distributions, form of distributions, or consent rules.

- o. ☐ Exclude rollovers (rollover contributions will be **excluded** in determining the \$5,000 threshold)

NOTE: Regardless of the above election, if the Participant consent threshold is \$1,000 or less, then the Administrator must include amounts attributable to rollovers for such purpose. In such case, an election to exclude rollovers above will apply for purposes of the timing and form of distributions.

35. **DISTRIBUTIONS UPON DEATH** (Plan Section 6.8(b)(2))

Distributions upon the death of a Participant prior to the "required beginning date" will:

- a. ☒ be made pursuant to the election of the Participant or "designated Beneficiary"
- b. ☐ begin within 1 year of death for a "designated Beneficiary" and be payable over the life (or over a period not exceeding the "life expectancy") of such Beneficiary, except that if the "designated Beneficiary" is the Participant's Spouse, begin prior to December 31st of the year in which the Participant would have attained age 70 1/2
- c. ☐ be made within 5 (or if lesser _____) years of death for all Beneficiaries
- d. ☐ be made within 5 (or if lesser _____) years of death for all Beneficiaries, except that if the "designated Beneficiary" is the Participant's Spouse, begin prior to December 31st of the year in which the Participant would have attained age 70 1/2 and be payable over the life (or over a period not exceeding the "life expectancy") of such "surviving Spouse"

NOTE: The elections above must be coordinated with the Form of distributions (e.g., if the Plan only permits lump-sum distributions, then options a., b. and d. would not be applicable).

36. **OTHER PERMITTED DISTRIBUTIONS** (select all that apply; leave blank if none apply)

A. **IN-SERVICE DISTRIBUTIONS** (Plan Section 6.11)

In-service distributions will NOT be allowed (except as otherwise permitted under the Plan without regard to this provision) unless selected below (if applicable, answer a. - e.; leave blank if not applicable):

- a. ☒ In-service distributions may be made to a Participant who has not separated from service provided the following has been satisfied:

1. ☐ Age. The Participant has reached:
 - a. ☐ Normal Retirement Age
 - b. ☐ age 62
 - c. ☐ age _____ (may not be earlier than age 62)

Special effective date (may be left blank if same as Plan or Restatement Effective Date)

- d. ☐ _____ (if this is a PPA restatement and the provisions were effective prior to the Restatement Effective Date, then enter the date such provisions were first effective; may not be earlier than the first day of the Plan Year beginning in 2007)

Account restrictions. In-service distributions are permitted from the following Participant Accounts:

- b. ☐ all Accounts
- c. ☒ only from the following Accounts (select one or more):
 1. ☐ Account attributable to Employer matching contributions
 2. ☐ Account attributable to Employer contributions other than matching contributions
 3. ☐ Rollover Account
 4. ☐ Transfer Account
 5. ☒ Other: Employee Voluntary After-tax (specify Account(s) and conditions in a manner that satisfies the definitely determinable requirement under Regulations §1.401-1(b) and is not subject to Employer discretion)

Limitations. The following limitations apply to in-service distributions:

- d. ☒ N/A (no additional limitations)
- e. ☐ Additional limitations (select one or more):
 1. ☐ The minimum amount of a distribution is \$_____.
 2. ☐ No more than _____ distribution(s) may be made to a Participant during a Plan Year.

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3. ☐ Distributions may only be made from Accounts which are fully Vested.
4. ☐ In-service distributions may be made subject to the following provisions: _____ (must satisfy the definitely determinable requirement under Regulations §1.401-1(b) and not be subject to Employer discretion).

37. HEART ACT PROVISIONS (Plan Section 6.17)

Continued benefit accruals.

- a. ☐ Continued benefit accruals will NOT apply
b. ☒ Continued benefit accruals will apply

Special effective date. If this is a PPA restatement and the provision applied other than as of the first day of the 2007 Plan Year, then enter the date such provision was first effective: (leave blank if not applicable)

- c. ☐ _____ (may not be earlier than the first day of the 2007 Plan Year)

Distributions for deemed severance of employment

- d. ☐ The Plan does NOT permit distributions for deemed severance of employment
e. ☒ The Plan permits distributions for deemed severance of employment

Special effective date (may be left blank if same as Plan or Restatement Effective Date)

1. ☐ _____ (if this is a PPA restatement and the provisions were effective prior to the Restatement Effective Date, then enter the date such provisions were first effective; may not be earlier than January 1, 2007)

MISCELLANEOUS

38. LOANS TO PARTICIPANTS (Plan Section 7.6)

- a. ☒ New loans are NOT permitted.
b. ☐ New loans are permitted.

NOTE: Regardless of whether new loans are permitted, if the Plan permits rollovers, then the Administrator may, in a uniform manner, accept rollovers of loans into this Plan.

39. ROLLOVERS (Plan Section 4.6) (skip if rollover contributions are NOT selected at 11.f.)

Eligibility. Rollovers may be accepted from all Participants who are Employees as well as the following (select all that apply; leave blank if not applicable):

- a. ☒ Any Eligible Employee, even prior to meeting eligibility conditions to be a Participant
b. ☐ Participants who are Former Employees

Distributions. When may distributions be made from a Participant's Rollover Account?

- c. ☒ At any time
d. ☐ Only when the Participant is otherwise entitled to a distribution under the Plan

PPA TRANSITION RULES

The following questions only apply if this is a PPA restatement (i.e., Question 5.b.1. is selected). If this is not a PPA restatement, then this Plan will not be considered an individually designed plan merely because the following questions are deleted from the Adoption Agreement.

NOTE: The following provisions are designed to be left unanswered if the selections do not apply to the Plan.

40. WRERA - RMD WAIVERS FOR 2009 (Plan Section 6.8(f))

Suspension/continuation of RMDs. Unless otherwise elected below, required minimum distributions (RMDs) for 2009 were suspended unless a Participant or Beneficiary elected to receive such distributions:

- a. ☐ RMDs for 2009 were suspended for any Participant or Beneficiary who was scheduled to receive his/her first RMD for 2009 or who did not make a continuing election prior to 2009 to receive his/her RMD (unless the Participant or Beneficiary made an election to receive such distribution). RMDs for 2009 were continued for any Participant or Beneficiary who had made a continuing election to receive an RMD prior to 2009 (unless the Participant or Beneficiary made an election to suspend such distribution).
b. ☐ RMDs continued unless otherwise elected by a Participant or Beneficiary.
c. ☐ RMDs continued in accordance with the terms of the Plan (i.e., no election available to Participants or Beneficiaries).
d. ☐ Other: _____

Direct rollovers. The Plan also treated the following as "eligible rollover distributions" in 2009 (If no election is made, then a "direct rollover" was only offered for "2009 RMDs"):

- e. ☐ "2009 RMDs" and "Extended 2009 RMDs."
f. ☐ "2009 RMDs" but only if paid with an additional amount that is an "eligible rollover distribution" without regard to Code §401(a)(9)(H).

Governmental Money Purchase Plan

41. **NON-SPOUSAL ROLLOVERS (Plan Section 6.14(d)).** Non-spousal rollovers are permitted effective for distributions after December 31, 2006 unless an alternative effective date is selected at a. below:
- a. ☐ Non-spousal rollovers are allowed effective _____ (may not be earlier than January 1, 2007 and not later than January 1, 2010; the Plan already provides for non-spousal rollovers effective as of January 1, 2010)

Governmental Money Purchase Plan

The adopting Employer may rely on an advisory letter issued by the Internal Revenue Service as evidence that the Plan is qualified under Code §401 only to the extent provided in Rev. Proc. 2011-49 or subsequent guidance.

The Employer may not rely on the advisory letter in certain other circumstances or with respect to certain qualification requirements, which are specified in the advisory letter issued with respect to the Plan and in Rev. Proc. 2011-49 or subsequent guidance. In order to have reliance in such circumstances or with respect to such qualification requirements, application for a determination letter must be made to Employee Plans Determinations of the Internal Revenue Service.

This Adoption Agreement may be used only in conjunction with the Volume Submitter basic Plan document #09. This Adoption Agreement and the basic Plan document will together be known as Nationwide Financial Services, Inc. Governmental Volume Submitter Money Purchase Plan #09-002.

The adoption of this Plan, its qualification by the IRS, and the related tax consequences are the responsibility of the Employer and its independent tax and legal advisors.

Nationwide Financial Services, Inc. will notify the Employer of any amendments made to the Plan or of the discontinuance or abandonment of the Plan. Furthermore, in order to be eligible to receive such notification, the Employer agrees to notify Nationwide Financial Services, Inc. of any change in address. In addition, this Plan is provided to the Employer either in connection with investment in a product or pursuant to a contract or other arrangement for products and/or services. Upon cessation of such investment in a product or cessation of such contract or arrangement, as applicable, the Employer is no longer considered to be an adopter of this Plan and Nationwide Financial Services, Inc. no longer has any obligations to the Employer that relate to the adoption of this Plan.

With regard to any questions regarding the provisions of the Plan, adoption of the Plan, or the effect of an advisory letter from the IRS, call or write (this information must be completed by the sponsor of this Plan or its designated representative):

Name: Nationwide Retirement Solutions

Address: P.O. Box 182797

Columbus Ohio 43218

Telephone: (877) 496-1630

The Employer and Trustee (or Insurer) hereby cause this Plan to be executed on the date(s) specified below:

EMPLOYER: Nevada County, CA

By: 

1/29/2011
DATE SIGNED

TRUSTEE (OR INSURER):

☒ The signature of the Trustee or Insurer appears on a separate agreement or Contract,

OR (add additional Trustee signature lines as necessary)

TRUSTEE OR INSURER

DATE SIGNED

APPENDIX A
SPECIAL EFFECTIVE DATES AND OTHER PERMITTED ELECTIONS

A. Special effective dates (leave blank if not applicable):

- a. ☐ **Special effective date(s):** _____. For periods prior to the specified special effective date(s), the Plan terms in effect prior to its restatement under this Adoption Agreement will control for purposes of the designated provisions. A special effective date may not result in the delay of a Plan provision beyond the permissible effective date under any applicable law.

B. Other permitted elections (the following elections are optional):

- a. ☒ **No other permitted elections**

The following elections apply (select one or more):

- b. ☐ **Deemed 125 compensation** (Plan Section 1.23). Deemed 125 compensation will be included in Compensation and 415 Compensation.
- c. ☐ **Reemployed after five (5) 1-Year Breaks in Service ("rule of parity" provisions)** (Plan Section 3.5(d)). The "rule of parity" provisions in Plan Section 3.5(d) will apply for (select one or both):
 1. ☐ eligibility purposes
 2. ☐ vesting purposes
- d. ☐ **Beneficiary if no beneficiary elected by Participant** (Plan Section 6.2(e)). In the event no valid designation of Beneficiary exists, then in lieu of the order set forth in Plan Section 6.2(e), the following order of priority will be used: _____ (specify an order of beneficiaries; e.g., children per stirpes, parents, and then step-children).
- e. ☐ **Common, collective or pooled trust funds** (Plan Sections 7.2(c)(5) and/or 7.3(b)(6)). The name(s) of the common, collective or pooled trust funds available under the Plan is (are): _____.
- f. ☐ **Limitation Year** (Plan Section 1.29). The Limitation Year for Code §415 purposes will be _____ (must be a consecutive twelve month period) instead of the "determination period" for Compensation.
- g. ☐ **415 Limits when 2 defined contribution plans are maintained** (Plan Section 4.4). If any Participant is covered under another qualified defined contribution plan maintained by the Employer or an Affiliated Employer, or if the Employer or an Affiliated Employer maintains a welfare benefit fund, as defined in Code §419(e), or an individual medical account, as defined in Code §415(l)(2), under which amounts are treated as "annual additions" with respect to any Participant in this Plan, then the provisions of Plan Section 4.4(b) will apply unless otherwise specified below:
 1. ☐ Specify, in a manner that precludes Employer discretion, the method under which the plans will limit total "annual additions" to the "maximum permissible amount" and will properly reduce any "excess amounts": _____.
- h. ☐ **Recognition of Service with other employers** (Plan Sections 1.39 and 1.54). Service with the following employers (in addition to those specified at Question 15) will be recognized as follows (select one or more):

	Eligibility	Vesting	Contribution Allocation
1. <input type="checkbox"/> Employer name: _____	a. <input type="checkbox"/>	b. <input type="checkbox"/>	c. <input type="checkbox"/>
2. <input type="checkbox"/> Employer name: _____	a. <input type="checkbox"/>	b. <input type="checkbox"/>	c. <input type="checkbox"/>
3. <input type="checkbox"/> Employer name: _____	a. <input type="checkbox"/>	b. <input type="checkbox"/>	c. <input type="checkbox"/>
4. <input type="checkbox"/> Employer name: _____	a. <input type="checkbox"/>	b. <input type="checkbox"/>	c. <input type="checkbox"/>
5. <input type="checkbox"/> Employer name: _____	a. <input type="checkbox"/>	b. <input type="checkbox"/>	c. <input type="checkbox"/>
6. <input type="checkbox"/> Employer name: _____	a. <input type="checkbox"/>	b. <input type="checkbox"/>	c. <input type="checkbox"/>

Limitations

- | | | | |
|---|-----------------------------|-----------------------------|-----------------------------|
| 7. <input type="checkbox"/> The following provisions or limitations apply with respect to the recognition of prior service: _____
(e.g., credit service with X only on/following 1/1/13) | a. <input type="checkbox"/> | b. <input type="checkbox"/> | c. <input type="checkbox"/> |
|---|-----------------------------|-----------------------------|-----------------------------|

Governmental Money Purchase Plan

i. ☐ **Other vesting provisions.** The following vesting provisions apply to the Plan (select one or more):

1. ☐ **Special vesting provisions.** The following special provisions apply to the vesting provisions of the Plan:
_____ (must be definitely determinable and satisfy the parameters set forth at Question 17)
2. ☐ **Pre-amendment vesting schedule.** (Plan Section 6.4(b)). If the vesting schedule has been amended and a different vesting schedule other than the schedule at Question 17 applies to any Participants, then the following provisions apply (must select one of a. – d. AND complete e.):

Applicable Participants. The vesting schedules in Question 17 only apply to:

- a. ☐ Participants who are Employees as of _____ (enter date).
- b. ☐ Participants in the Plan who have an Hour of Service on or after _____ (enter date).
- c. ☐ Participants (even if not an Employee) in the Plan on or after _____ (enter date).
- d. ☐ Other: _____ (e.g., Participants in division A)

Vesting schedule

e. The schedule that applies to Participants not subject to the vesting schedule in Question 17 is:

Years (or Periods) of Service	Percentage
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %

j. ☐ **Minimum distribution transitional rules** (Plan Section 6.8(e)(5))

NOTE: This Section does not apply to (1) a new Plan, (2) an amendment or restatement of an existing Plan that never contained the provisions of Code §401(a)(9) as in effect prior to the amendments made by the Small Business Job Protection Act of 1996 (SBJPA), or (3) a Plan where the transition rules below do not affect any current Participants.

The "required beginning date" for a Participant is:

1. ☐ April 1st of the calendar year following the year in which the Participant attains age 70 1/2. (pre-SBJPA rules continue to apply)
2. ☐ April 1st of the calendar year following the later of the year in which the Participant attains age 70 1/2 or retires (the post-SBJPA rules), with the following exceptions (select one or both; leave blank if both applied effective as of January 1, 1996):
 - a. ☐ A Participant who was already receiving required minimum distributions under the pre-SBJPA rules as of _____ (may not be earlier than January 1, 1996) was allowed to stop receiving distributions and have them recommence in accordance with the post-SBJPA rules. Upon the recommencement of distributions, if the Plan permits annuities as a form of distribution then the following apply:
 1. ☐ N/A (annuity distributions are not permitted)
 2. ☐ Upon the recommencement of distributions, the original Annuity Starting Date will be retained.
 3. ☐ Upon the recommencement of distributions, a new Annuity Starting Date is created.
 - b. ☐ A Participant who had not begun receiving required minimum distributions as of _____ (may not be earlier than January 1, 1996) may elect to defer commencement of distributions until retirement. The option to defer the commencement of distributions (i.e., to elect to receive in-service distributions upon attainment of age 70 1/2) applies to all such Participants unless selected below:
 1. ☐ The in-service distribution option was eliminated with respect to Participants who attained age 70 1/2 in or after the calendar year that began after the later of (1) December 31, 1998, or (2) the adoption date of the restatement to bring the Plan into compliance with the SBJPA.

k. ☐ **Other spousal provisions** (select one or more)

1. ☐ **Definition of Spouse.** The term Spouse includes a spouse under federal law as well as the following:

2. ☐ **Automatic revocation of spousal designation** (Plan Section 6.2(f)). The automatic revocation of a spousal Beneficiary designation in the case of divorce does not apply.
3. ☐ **Timing of QDRO payment.** A distribution to an Alternate Payee shall not be permitted prior to the time a Participant would be entitled to a distribution.
- l. ☐ **Applicable law.** Instead of using the applicable laws set forth in Plan Section 9.4(a), the Plan will be governed by the laws of: _____
- m. ☐ **Total and Permanent Disability.** Instead of the definition at Plan Section 1.49, Total and Permanent Disability means: _____ (must be definitely determinable).

Governmental Money Purchase Plan

- n. ☐ **Permissible Trust (or Custodian) modifications.** The Employer makes the following modifications to the Trust (or Custodial) provisions as permitted under Rev. Proc. 2011-49 (or subsequent IRS guidance) (select one or more of 1. - 3. below):

NOTE: Any elections below must not: (i) conflict with any Plan provision unrelated to the Trust or Trustee; or (ii) cause the Plan to violate Code §401(a). In addition, this may not be used to substitute all of the Trust provisions in the Plan.

1. ☐ **Investments.** The Employer amends the Trust provisions relating to Trust investments as follows:

2. ☐ **Duties.** The Employer amends the Trust provisions relating to Trustee (or Custodian) duties as follows:

3. ☐ **Other administrative provisions.** The Employer amends the other administrative provisions of the Trust as follows:

ADMINISTRATIVE PROCEDURES

The following are optional administrative provisions. The Administrator may implement procedures that override any elections in this Section without a formal Plan amendment. In addition, modifications to these procedures will not affect an Employer's reliance on the Plan.

A. **Loan Limitations.** (complete only if loans to Participants are permitted; leave blank if none apply)a. ☐ Limitations (select one or more):

1. ☐ Loans will be treated as Participant directed investments.
2. ☐ Loans will only be made for hardship or financial necessity as specified below (select i. or ii.)
 - a. ☐ hardship reasons specified in Plan Section 6.12
 - b. ☐ financial necessity (as defined in the loan program).
3. ☐ The minimum loan will be \$_____.
4. ☐ A Participant may only have _____ (e.g., one (1)) loan(s) outstanding at any time.
5. ☐ All outstanding loan balances will become due and payable in their entirety upon the occurrence of a distributable event (other than satisfaction of the conditions for an in-service distribution (including a hardship distribution), if applicable).
6. ☐ **Account restrictions.** Loans will only be permitted from the following Participant Accounts (select all that apply or leave blank if no limitations apply):
 - a. ☐ Account(s) attributable to Employer matching contributions
 - b. ☐ Account attributable to Employer contributions other than matching contributions
 - c. ☐ Rollover Account
 - d. ☐ Transfer Account
 - e. ☐ Other: _____

AND, if loans are restricted to certain accounts, the limitations of Code §72(p) will be applied:

- f. ☐ by determining the limits by only considering the restricted accounts.
- g. ☐ by determining the limits taking into account a Participant's entire interest in the Plan.

Additional Loan Provisions (select all that apply; leave blank if none apply)

- b. ☐ **Loan payments.** Loans are repaid by (if left blank, then payroll deduction applies unless Participant is not subject to payroll (e.g., partner who only has a draw)):
 1. ☐ payroll deduction
 2. ☐ ACH (Automated Clearing House)
 3. ☐ check
 - a. ☐ Only for prepayment
- c. ☐ **Interest rate.** Loans will be granted at the following interest rate (if left blank, then 3. below applies):
 1. ☐ _____ percentage points over the prime interest rate
 2. ☐ _____%
 3. ☐ the Administrator establishes the rate at the time the loan is made
- d. ☐ **Refinancing.** Loan refinancing is allowed.

B. **Life Insurance.** (Plan Section 7.5)

- a. ☒ Life insurance may not be purchased.
- b. ☐ Life insurance may be purchased...
 1. ☐ at the option of the Administrator
 2. ☐ at the option of the Participant

Limitations

3. ☐ N/A (no limitations)
4. ☐ The purchase of initial or additional life insurance will be subject to the following limitations (select one or more):
 - a. ☐ Each initial Contract will have a minimum face amount of \$_____.
 - b. ☐ Each additional Contract will have a minimum face amount of \$_____.
 - c. ☐ The Participant has completed _____ Years (or Periods) of Service.
 - d. ☐ The Participant has completed _____ Years (or Periods) of Service while a Participant in the Plan.
 - e. ☐ The Participant is under age _____ on the Contract issue date.
 - f. ☐ The maximum amount of all Contracts on behalf of a Participant may not exceed \$_____.
 - g. ☐ The maximum face amount of any life insurance Contract will be \$_____.

C. **Plan Expenses.** Will the Plan assess against an individual Participant's Account certain Plan expenses that are incurred by, or are attributable to, a particular Participant based on use of a particular Plan service?

- a. ☐ No
- b. ☒ Yes

Governmental Money Purchase Plan

D. Directed investments

- a. ☐ Participant directed investments are NOT permitted.
- b. ☒ Participant directed investments are permitted from the following Participant Accounts:
 - 1. ☒ all Accounts
 - 2. ☐ only from the following Accounts (select one or more):
 - a. ☐ Account attributable to Employer contributions
 - b. ☐ Rollover Account
 - c. ☐ Transfer Account
 - d. ☐ Other: _____ (specify Account(s) and conditions in a manner that is definitely determinable and not subject to Employer discretion)

E. Rollover Limitations. Will the Plan accept rollover contributions and/or direct rollovers from the sources specified below?

- a. ☐ No, Administrator determines in operation which sources will be accepted.
- b. ☒ Yes

Rollover sources. Indicate the sources of rollovers that will be accepted (select one or more)

- 1. ☒ **Direct Rollovers.** The Plan will accept a direct rollover of an eligible rollover distribution from (select one or more):
 - a. ☒ a qualified plan described in Code §401(a) (including a 401(k) plan, profit sharing plan, defined benefit plan, stock bonus plan and money purchase plan), excluding after-tax employee contributions
 - b. ☐ a qualified plan described in Code §401(a) (including a 401(k) plan, profit sharing plan, defined benefit plan, stock bonus plan and money purchase plan), including after-tax employee contributions
 - c. ☒ a plan described in Code §403(a) (an annuity plan), excluding after-tax employee contributions
 - d. ☐ a plan described in Code §403(a) (an annuity plan), including after-tax employee contributions
 - e. ☒ a plan described in Code §403(b) (a tax-sheltered annuity), excluding after-tax employee contributions
 - f. ☐ a plan described in Code §403(b) (a tax-sheltered annuity), including after-tax employee contributions
 - g. ☒ a plan described in Code §457(b) (eligible deferred compensation plan)

Direct Rollovers of Participant Loan. The Plan will NOT accept a direct rollover of a Participant loan from another plan unless selected below (leave blank if default applies)

- h. ☐ The Plan will accept a direct rollover of a Participant loan
- i. ☐ The Plan will only accept a direct rollover of a Participant loan only in the following situation(s): _____ (e.g., only from Participants who were employees of an acquired organization).

- 2. ☒ **Participant Rollover Contributions from Other Plans (i.e., not via a direct plan-to-plan transfer).** The Plan will accept a contribution of an eligible rollover distribution (select one or more):

- a. ☒ a qualified plan described in Code §401(a) (including a 401(k) plan, profit sharing plan, defined benefit plan, stock bonus plan and money purchase plan)
- b. ☒ a plan described in Code §403(a) (an annuity plan)
- c. ☒ a plan described in Code §403(b) (a tax-sheltered annuity)
- d. ☒ a governmental plan described in Code §457(b) (eligible deferred compensation plan)

- 3. ☐ **Participant Rollover Contributions from IRAs:** The Plan will accept a rollover contribution of the portion of a distribution from a traditional IRA that is eligible to be rolled over and would otherwise be includible in gross income. Rollovers from Roth IRAs or a Coverdell Education Savings Account (formerly known as an Education IRA) are not permitted because they are not traditional IRAs. A rollover from a SIMPLE IRA is allowed if the amounts are rolled over after the individual has been in the SIMPLE IRA for at least two years.



APPLICATION FOR
GROUP FLEXIBLE PURCHASE PAYMENT DEFERRED FIXED ANNUITY CONTRACT

underwritten by
Nationwide Life Insurance Company
One Nationwide Plaza
Columbus, Ohio 43215
1-877-677-3678

APPLICANT

Nevada County

(the "Applicant"), applies to be the Contract Owner of a Group Flexible Purchase Payment Deferred Fixed Annuity Contract (the "Contract") underwritten by Nationwide Life Insurance Company ("Nationwide").

The Group Flexible Purchase Payment Deferred Fixed Annuity Contract applied for will become effective on the "Effective Date of Contract" if the initial Purchase Payment and this application are accepted by Nationwide. In the event the initial Purchase Payment or this application are not accepted, Nationwide's liability will be limited to a return of the initial Purchase Payment, and any subsequent Purchase Payments remitted.

PURCHASE PAYMENT

Applicant agrees to permit Participants in its Plan to allocate Purchase Payments to the Contract as of the "Effective Date of Contract".

TRANSFER AND EXCHANGE LIMITATION ELECTION

Elect One:

☐ **Contract Level Aggregate Exchange Limitation** (the limitation on *Outgoing* Exchanges from the Fixed Account is determined based on total assets held in the Contract's Fixed Account's value under the Contract as of the last Business Day preceding the current calendar year).

☐ **Participant Level Exchange Limitation** (the limitation on *Outgoing* Exchanges from the Contract is applied to each Participant Account under the Contract. The Contract Owner, or its designated Record Keeper is responsible for applying this limitation).

STATE INSURANCE FRAUD WARNINGS

FOR DC RESIDENTS ONLY: WARNING: it is a crime to provide false or misleading information to an insurer for the purpose of defrauding the insurer or any other person. Penalties include imprisonment and/or fines. In addition, an insurer may deny insurance benefits if false information materially related to a claim was provided by the applicant.

NOTICE TO FL, MN, ND, SC, SD, TX AND VT RESIDENTS ONLY: Annuity payments, death benefits, surrender values, and other Contract Values are subject to a market value adjustment, and are not guaranteed as to fixed dollar amount, unless otherwise specified.

NOTICE TO OK AND PA RESIDENTS ONLY: Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties.

FOR WA RESIDENTS ONLY: Any person who knowingly presents a false or fraudulent claim for payment of a loss or knowingly makes a false statement in an application for insurance may be guilty of a criminal offense under state law.

NOTICE TO AR, CO, KY, LA, ME, NM, OH, AND TN RESIDENTS ONLY: Any person who, knowingly and with intent to injure, defraud or deceive any insurance company or other person, files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which may be a crime and may subject such person to criminal and civil penalties, fines, imprisonment, or a denial of insurance benefits.

FOR NJ RESIDENTS ONLY: Any person who includes any false or misleading information on an application for an insurance policy is subject to criminal and civil penalties.

ADDITIONAL STATE NOTICES

FOR FL RESIDENTS ONLY: Any person who knowingly and with intent to injure, defraud, or deceive any insurer files a statement of claim or an application containing any false, incomplete, or misleading information is guilty of a felony of the third degree.

SIGNATURES

Signed on behalf of Nevada County this day of , 20 .

☒ Yes ☐ No Do you have existing life insurance or annuity contracts?

☒ Yes ☐ No Will the applied for Contract replace any existing life insurance or annuity contracts?

(Authorized Signature of Applicant)

(Title)

☐ Yes ☐ No Do you have any reason to believe the Contract applied for is to replace existing annuities or insurance?

(Authorized Nationwide Agent/Representative Signature)

Date

(Title)

Florida License Identification #: (Florida Agents only)

**Nationwide Trust Company, FSB
401(a) Trust Agreement
(The "Agreement")**

This Agreement including the Schedule of Investments attached is made and entered into by and between **Nevada County, CA** ("Sponsor") and Nationwide Trust Company, FSB as Trustee ("NTC") pursuant to the **Nevada County 401(a) Plan** ("Plan") to establish the **Nevada County 401(a) Plan Trust** ("Account").

By signing below, signatories on behalf of the Sponsor and the Plan acknowledge that they have received the Agreement, inclusive of all Schedules listed above, and agree to all terms. Further, they represent that they have the authority to enter into, on behalf of the Sponsor and the Plan, a contractual relationship with NTC with respect to these documents and will be subject to all rights and obligations contained therein.

By signing below, NTC has agreed to and accepted all rights and obligations contained herein.

Printed Sponsor Name

NTC

Sponsor Signature

Date

Acceptance Date

PLAN Administrator

Title

Steve ROSE

Printed Name

[Signature]

1/29/20

Signature

Date

Assistant CEO

Title

Mali Dyck

Printed Name

[Signature]

1/29/20

Signature

Date

Title

ARTICLE I — PURPOSE

The Sponsor adopts this Agreement on behalf of the Plan and represents and warrants that the Plan is intended to meet the requirements of an eligible deferred compensation plan under Section 401(a) of the Internal Revenue Code of 1986, as amended ("Code") and intends to keep such Plan in compliance with the then applicable requirements of the Code. Further, the Sponsor represents and warrants that the Employer of all individuals eligible to participate in the Plan is a state, political subdivision of a state, or an agency or instrumentality of either.

ARTICLE II — DEFINITIONS

Account — The trust account established herein by which NTC will hold the assets of the Plan or any portion thereof as agreed upon by Sponsor and NTC.

Effective Date — The date on which the Account is created by NTC's acceptance of cash or other assets on behalf of the Sponsor. Prior to the Effective Date, NTC shall have no responsibility hereunder.

Employer(s) — The employer(s) of the Participants in the Plan.

Funding Vehicle(s) — As permitted by applicable law, may include one or more (i) group annuity contracts, (ii) mutual funds, collective investment funds or other securities made available under the Agreement, (iii) securities held in self-directed brokerage accounts made available by NTC, or (iv) any other investment vehicle(s) mutually acceptable to NTC and Sponsor via an amendment to this Agreement or separate schedule.

Original Signature — An authentic, hardcopy, non-reproduced signature of the Sponsor or its designee.

Participant — A person for whom benefits are provided under this Agreement, in accordance with the Plan.

Plan — The Plan identified on the front page of this Agreement, including any written plan document and trust provisions.

Required Format — Acceptable format for submitting information to NTC as prescribed by NTC and on transaction forms prescribed by NTC.

Signature — Either the Original Signature or an Original Signature that has been replicated by photocopy, electronic means, or fax.

Successor — The trustee or custodian appointed by the Sponsor who succeeds NTC.

Written Instruction(s) — Any notices, instructions or other instruments required to be in writing (with Signature or Original Signature, where so indicated) from NTC, Sponsor, or its designee. Written Instructions may take the form of a letter, electronic communication through an on-line communication system mutually agreeable to the parties; or a facsimile transmission.

ARTICLE III — THE ACCOUNT

The Sponsor advises NTC that the Account shall be funded as described herein. The Sponsor hereby authorizes NTC to take any action required to establish and maintain any Funding Vehicle(s) designated by the Sponsor under this Agreement.

NTC has entered into arrangements with a number of providers to make available certain Funding Vehicles for possible inclusion in the Account. The assets of the Account shall consist of the Funding Vehicle(s) and any outstanding loans made under the terms of the Plan. The Account and any funds invested pursuant to this Agreement are not insured by the Federal Deposit Insurance Corporation ("FDIC"), are not deposits or other obligations of NTC and are not guaranteed by NTC. The value of the Account is subject to investment risks, including possible loss of principal. NTC agrees to hold and administer the Account in accordance with this Agreement. The Account shall not include any Plan Assets for which Sponsor has selected as the designated investment manager for Participant accounts an investment manager other than Nationwide Investment Advisors, LLC.

To the extent permitted by the Plan, NTC, at the direction of the Sponsor or its designee, shall accept an eligible rollover distribution and/or eligible direct rollover under the then applicable sections of the Code. NTC shall not be under any duty to require payment of any contributions to the Account, if any, or to see that any payment made to it is computed in accordance with the provisions of the Plan. NTC shall continue to administer the Account in accordance with this Agreement until its obligations are discharged and satisfied.

In the event that Sponsor and NTC mutually agree to include life insurance as a Funding Vehicle for inclusion in the Account, Sponsor agrees that NTC shall not be responsible in any manner to Sponsor, the Plan, a Participant or his or her beneficiary, or to any third-party, including any issuer of life insurance, for any determination as to prudence of inclusion of life insurance as a Funding Vehicle in the Account or as an investment option under the Plan; any determination on a Participant basis that the purchase of life insurance is incidental to the primary purpose of providing retirement benefits; the tax treatment of premium payments or disbursements of benefits; any and all administrative, marketing, and sales duties or responsibilities related in any manner to the initial purchase, or continuing maintenance, of any life insurance; and any other action or omission related to life insurance.

The Sponsor authorizes NTC to commingle Plan assets, as applicable, in a master custodial account for purposes of facilitating the omnibus trading of various plan assets.

ARTICLE IV — GENERAL ADMINISTRATIVE RESPONSIBILITIES OF NTC

NTC is authorized to take any action set forth below with respect to the Account:

Accept instructions in the Required Format from the Sponsor or its designee regarding the allocation, distribution or other disposition of the assets of the Account and all matters relating thereto;

Cause any portion or all of the Account to be issued, held, or registered in the individual name of NTC, in the name of its nominee, in an affiliated securities depository, or in such other form as may be required or permitted under applicable law (however, the records of NTC shall indicate the true ownership of such property);

Employ such agents and counsel, including legal counsel, as NTC determines to be reasonably necessary to manage and protect the assets held in the Account, to handle controversies that may arise under this Agreement, or to defend itself successfully against allegations of a fiduciary breach, and to pay such agents and counsel their compensation from the Account unless such compensation is otherwise paid by the Sponsor;

Commence, maintain, or defend any litigation necessary in connection with the administration of the Account,

Hold part or all of the Account uninvested as may be necessary or appropriate;

Withhold the appropriate taxes from any distribution, remit such taxes with the relevant government authorities, and report such payments on the informational returns prescribed by such authorities, identifying itself as the payor of such distributions;

Forward to the Sponsor, for exercise, all proxies solicited in regards to mutual funds and collective investment funds, if applicable; vote, on behalf of the Plan and in accordance with the instructions provided by the Sponsor, all proxies that are returned by the Sponsor; and abstain from voting proxies that are not returned by the Sponsor;

Take all other acts necessary for the proper administration of the Account.

ARTICLE V — INVESTMENT RESPONSIBILITY

NTC shall have no investment management responsibility with respect to the Account or any other assets held under the Plan. Plan contributions or other assets received by NTC shall be allocated in accordance with Written Instructions. NTC does not warrant or guarantee the performance of any Funding Vehicle(s) selected by the Sponsor or Participants.

The Sponsor, or other party designated under the Plan, shall have full responsibility for the selection of the Funding Vehicle(s) and the management, disposition, and investment of assets of the Account. NTC shall comply with Written Instructions concerning those assets, subject to restrictions, if any, imposed by the Funding Vehicle(s) and the operation of any securities markets. Except to the extent required by applicable law or otherwise provided in this Agreement, NTC shall have no duty to review, initiate action, or make recommendations regarding the Account or its investments.

NTC shall transmit to the Sponsor any and all prospectuses, specimen and final contracts, proposals and/or other materials which disclose information pertaining to applicable charges, interest rates, terms and conditions of any contract between the Plan or Account and any party, including contracts related to the Funding Vehicle(s). NTC shall have no duty to respond to communications related to securities or other property held in the Account (including, but not limited to, tender offers and class action communications).

NTC shall not be liable for any loss which results from the exercise of investment control by a Sponsor, Participant or beneficiary, or designated investment manager. If a Participant who has investment authority under the terms of the Plan fails to provide investment direction, the Sponsor shall direct the investment of the Participant's account.

No one providing investment advice to the Plan, Sponsor, Participant or other party is acting as an agent of NTC.

ARTICLE VI — LOANS

To the extent permitted under the Plan and applicable law, NTC will forward loan disbursements as directed by the Sponsor or its designee via Written Instructions. The Sponsor, or other fiduciary of the Plan or their designee, shall be responsible for the approval and administration of any such loans. The Sponsor acknowledges that all loan obligations should be made payable to the Plan and the Plan retains all lending responsibility. NTC will have no responsibility for executing and holding any notes or security agreements which are held as part of the Account, providing any disclosures required by any truth-in-lending laws, or enforcing any security interest in any asset other than the Participant's account under the Account.

ARTICLE VII — CONTRIBUTIONS NOT RECOVERABLE

Except as described in the Purpose section of this Agreement and to the extent permitted by the Plan and applicable law, under no circumstances shall any part of the Account be recoverable by the Sponsor or be used other than for the exclusive purposes of providing benefits to Participants and their beneficiaries and paying reasonable expenses of the Plan prior to the satisfaction of all liabilities to Participants and their beneficiaries; provided, however, a contribution by a Sponsor or a Participant made as a result of a mistake of fact as interpreted by the Internal Revenue Service that is discovered within one (1) year after the contribution is made shall be returned to the Sponsor or Participant as soon as administratively feasible, if the Sponsor so requests and the Funding Vehicle(s) permits.

ARTICLE VIII — ACCOUNT RECORDS AND REPORTS

NTC shall maintain accurate records and detailed accounts of all investments, receipts, disbursements, earnings, and other transactions related to the Account, and those records shall be available at all reasonable times to the Sponsor.

ARTICLE IX — FIDUCIARY RESPONSIBILITIES AND LIABILITIES

NTC may rely upon any information provided by the Sponsor or its designee. NTC, the Sponsor, and all other fiduciaries under the Plan and this Agreement intend that each party shall be solely responsible for those specific duties and powers assigned to it. Each party may rely upon any direction, information, or action of another party as being proper under the Plan and this Agreement. NTC shall not be required by the Sponsor or its designee to engage in any action or make any investment which constitutes a prohibited transaction or is otherwise contrary to the provisions of applicable law, the Code, or the terms of the Plan, if any, or this Agreement.

NTC shall be responsible only for those functions which have been assigned to it under this Agreement and shall have no responsibility to perform any duty of the Sponsor, or other fiduciary, required by the Plan or applicable law. NTC shall have no duty to determine the rights or benefits of any person having or claiming an interest under the Plan or this Agreement.

Except as otherwise provided in the Agreement, including any schedules thereto, any action to be taken by NTC under the Agreement shall be taken upon Written Instruction from the Sponsor or its designee. NTC shall comply with such instructions and shall incur no liability for any loss which may result from any action on its part due to its compliance with such Written Instructions.

ARTICLE X — LIMITATION OF LIABILITY

To the extent permitted by applicable law, NTC shall not be liable for any failure or delay in the performance of its obligations under this Agreement arising out of or caused, directly or indirectly, by circumstances beyond its reasonable control, including, without limitation, acts of God; earthquakes; fires; floods; wars; civil or military disturbances; sabotage; epidemics; riots; interruptions, loss or malfunction of utilities, computer (hardware or software) or communications services; accidents; labor disputes; acts of civil or military authority or government actions.

ARTICLE XI — RELIANCE ON COUNSEL AND INDEMNIFICATION

NTC agrees to indemnify, defend and hold harmless Sponsor, its officers, directors, agents, and employees from and against any loss, damage or liability assessed against Sponsor or incurred by Sponsor arising out of or in connection with any claim, action, or suit brought or asserted against Sponsor alleging or involving NTC's non-performance of the provisions of the Agreement under NTC's exclusive control, or negligence or willful misconduct in the performance of its services, duties and obligations under the Agreement. In addition, NTC represents, warrants and covenants that the indemnification in this paragraph is enforceable under applicable law and that NTC will not assert a position contrary to such representation in any judicial or administrative proceeding.

To the extent not prohibited by state law, Sponsor agrees to indemnify, defend and hold harmless NTC, its officers, directors, agents, and employees from and against any loss, damage or liability assessed against NTC or incurred by NTC arising out of or in connection with any claim, action, or suit brought or asserted against NTC alleging or involving Sponsor's non-performance of the provisions of the Agreement under Sponsor's exclusive control, or negligence or willful misconduct in the performance of its duties and obligations under this Agreement. In addition, Sponsor represents, warrants and covenants that the indemnification in this paragraph is enforceable under applicable law and that Sponsor will not assert a position contrary to such representation in any judicial or administrative proceeding.

In addition, the following specific acts/actions are covered under Sponsor's indemnification of NTC:

Acts or omissions to act with respect to the Plan or Account by persons unrelated to NTC;

Any violation by any unrelated person of the provisions of the Code or applicable laws, unless NTC commits a breach of its duties by reason of its gross negligence or willful misconduct;

Any decision by the Sponsor, any Participant or any other fiduciary to acquire, retain, or dispose of any security or other property of the Account;

Any violation or breach by a fiduciary or other person associated with the Plan which occurred prior to the Effective Date; or

NTC's acts, omissions and conduct, and those of its agents, in their official capacity, except to the extent that such documented loss or expense results from negligence directly and solely attributable to NTC or its agents, or from an intentional violation by them of any provision of this Agreement.

Such obligation to indemnify shall extend to any liability or expense that arises as a result of the inaccuracy of any representation made, any action taken or failure to act, or any violation of this Agreement, the terms of the Plan by the Sponsor, its designee, any fiduciary of the Plan, and their agents, employees and officers under this Agreement or otherwise related to the administration of the Account. NTC shall not be required to give any bond or other security for the faithful performance of its duties under this Agreement except to the extent required by applicable law.

ARTICLE XII — NTC'S USE OF AFFILIATED COMPANIES

NTC may enter into agreements and share information with its affiliates in performing responsibilities under this Agreement and any other applicable agreement. Investments made in accordance with the Agreement, may include mutual funds or other investments advised by affiliates of NTC. The investment advisers of such investments may be affiliates of NTC and may derive investment management and other fees for services provided.

ARTICLE XIII — NTC'S COMPENSATION AND EXPENSES

NTC will receive additional reasonable compensation for any extraordinary services or computations required as agreed upon by the Sponsor and NTC in advance.

Nationwide shall be entitled to receive, as compensation for services provided hereunder, any credit, interest or other earnings on aggregate cash balances held on deposit with respect to funds awaiting investment or reinvestment or with respect to funds pending distribution to offset expenses of associated activities. NTC may withdraw amounts from the Account for its compensation, and for any expenses as described herein from the Account for its compensation.

ARTICLE XIV — TAXES

Until advised to the contrary by the Sponsor, NTC shall assume that the Account is exempt from federal, state, local and foreign income taxes. NTC shall not be responsible for filing any federal, state, local or foreign tax and informational returns relating to the Plan or Account.

NTC shall notify the Sponsor of any taxes levied upon or assessed against the Account. If NTC does not receive Written Instructions within thirty (30) calendar days of such notification, NTC will pay the tax from the Account. If the Sponsor wishes to contest the tax assessment, it must give appropriate Written Instructions to NTC within thirty (30) calendar days of notification. NTC shall not be required to bring any legal actions or proceedings to contest the validity of any tax assessments unless NTC is to be indemnified to its satisfaction against loss or expense related to such actions or proceedings, including reasonable attorneys' fees.

ARTICLE XV — AMENDMENT

Notwithstanding any other provision of the Agreement, NTC may amend the Agreement at any time by providing written notice to the Sponsor not less than thirty (30) calendar days prior to the effective date of such change, or at any time in the event NTC determines that such amendment is necessary to comply with any applicable legal or regulatory requirements.

No person except for an authorized officer has the legal capacity to change this Agreement otherwise, or to bind NTC to other commitments not covered within this Agreement.

ARTICLE XVI — RESIGNATION, REMOVAL AND TERMINATION

NTC may resign at any time after providing at least thirty (30) days notice via Written Instructions to the Sponsor. The Sponsor may remove NTC by delivery of Written Instructions, to take effect at a date specified therein, which shall not be less than thirty (30) days after the delivery of such Written Instructions with Original Signature to NTC, unless Funding Vehicle provisions specify otherwise. Notwithstanding the foregoing, NTC may retain responsibilities per the terms of this Agreement over assets remaining at NTC beyond the sixty (60) day timeframe, concurrent with Funding Vehicle provisions.

The Agreement will be terminated at such time as the Account is terminated, the Funding Vehicle(s) are redeemed in full, upon the resignation or removal of NTC as trustee, as applicable, of the Account, or upon the termination by Sponsor of any separate agreement with NTC or Nationwide Retirement Solutions, Inc. that relates to the services provided by NTC under this Agreement. The discontinuance of contributions to the Account shall not, by itself, terminate the Account.

NTC is authorized to reserve such sum of money as it may deem advisable for payment of its fees and expenses in connection with the settlement of the Account, and any balance of such reserve remaining after the payment of such fees and expenses shall be paid to the Successor by NTC.

ARTICLE XVII — SUCCESSOR

Upon resignation or removal of NTC, the Sponsor shall appoint a Successor and the Sponsor shall notify NTC of such appointment by Written Instructions with Signature. NTC shall transfer the assets of the Account, subject to any applicable fees as described in the Agreement to such Successor.

If either party has given notice of termination and upon the expiration of the advance notice period no party has accepted an appointment as Successor, NTC will have the right to commence an action in the nature of an interpleader (or other appropriate action) and seek to deposit the assets of the Account in a court of competent jurisdiction in Franklin County, Ohio, for administration until a Successor may be appointed and accepts the transfer of the assets. The Sponsor will be responsible for any costs incurred as a result of such action and/or transfer, as well as any expenses of NTC which are incurred in carrying out its duties under this Agreement in such a situation.

ARTICLE XVIII — GOVERNING LAW

The Account will be administered in the State of Ohio, and its validity, construction, and all rights hereunder shall be governed by the Code, Home Owners' Loan Act of 1933 and, to the extent not pre-empted, by the laws of California. All contributions to the Account shall be deemed to occur in Ohio.

ARTICLE XIX — IDENTITY VERIFICATION NOTICE

To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies certain persons or entities that open an account. When an account is opened, NTC may ask for the name, address, and other information that will allow NTC to identify the entity or person that sponsors the Plan. NTC may also ask for a copy of identifying documents, such as a driver's license, government-issued business license, or other documents.

ARTICLE XX — RULES OF CONSTRUCTION

The Agreement, together with all attached schedules and any applicable investment contracts shall constitute the entire Agreement. The Plan and this Agreement shall be read and construed together. By signing this Agreement, the Sponsor represents to NTC that the Plan conforms to and is consistent with the provisions of this Agreement. Should the Plan need to be amended to conform to the provisions of this Agreement, the Sponsor is responsible for such amendments. The terms of this Agreement shall prevail over terms of the Plan in cases of conflict.

ARTICLE XXI — WAIVER

Failure of either party to insist upon strict compliance with any of the conditions of the Agreement shall not be construed as a waiver of any of such conditions, but the same shall remain in full force and effect. No waiver of any provision of the Agreement shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver.

ARTICLE XXII — REFERENCES

Unless the context clearly indicates to the contrary, a reference to a statute, regulation, document, or provision shall be construed as referring to any subsequently enacted, adopted, or re-designated statute or regulation or executed counterpart.

ARTICLE XXIII — SEVERABILITY

If any provision of the Agreement shall be held by a court of competent jurisdiction to be invalid, illegal, or unenforceable, the remaining provisions shall continue to be effective.

ARTICLE XXIV — MUTUAL FUND DISCLOSURE

The Sponsor acknowledges that Nationwide and its affiliates receive payments in connection with the sale and servicing of investments allocated to participant Plan accounts ("Investment Option Payments"). The Investment Option Payments include mutual fund service fee payments, which are described in detail at www.nrsforu.com, and other payments received from investment option providers.

**Schedule of Investments
("Investment Authorization")**

WHEREAS, NTC and the Sponsor have entered into an Agreement in which the assets of the Plan are to be held, invested and distributed; and

WHEREAS, the authority to select the Funding Vehicles under the Plan resides with the Sponsor; and

WHEREAS, NTC and Sponsor agree that NTC may act upon Written Instructions from the Sponsor;

NOW THEREFORE, the Sponsor authorizes NTC to establish an account for each Funding Vehicle set forth below

1. On the Effective Date, the Funding Vehicles in the Plan shall be:

Nationwide Fixed Account
Sterling Capital Total Return Bond R6
Fidelity US Bond Index
MFS Value
Fidelity S&P 500 Index
Vanguard US Growth
Wells Fargo Special Mid Value R6
Fidelity Mid Cap Index
MFS Mid Growth
Fidelity Small Cap Index
MFS International Value R6
Fidelity Total International Index
Vanguard International Growth Adm
Vanguard Target Retirement Income Inv
2020 Vanguard Target Retirement 2020 Inv
2025 Vanguard Target Retirement 2025 Inv
2030 Vanguard Target Retirement 2030 Inv
2035 Vanguard Target Retirement 2035 Inv
2040 Vanguard Target Retirement 2040 Inv
2045 Vanguard Target Retirement 2045 Inv
2050 Vanguard Target Retirement 2050 Inv
2055 Vanguard Target Retirement 2055 Inv
2060 Vanguard Target Retirement 2060 Inv
Nationwide Fixed Account
Sterling Capital Total Return Bond R6
Fidelity US Bond Index
MFS Value
Fidelity S&P 500 Index
Vanguard US Growth

This Investment Authorization may be amended to include mutually agreeable Funding Vehicle(s) at any time via written instructions from the Sponsor or its designee to NTC.

Governmental Budget Contribution Volume Reduction Plan
Nelsonville Financial Services, Inc.

Nationwide Financial Services, Inc.
Governmental Defined Contribution Volume Submitter Plan

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ARTICLE I
DEFINITIONS

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

1.1 "Account" means any separate notational account established and maintained by the Administrator for each Participant under the Plan. To the extent applicable, a Participant may have any (or all) of the following notational Accounts:

(a) "Combined Account" means the account representing the Participant's total interest under the Plan resulting from Employer contributions. In addition, Forfeitures are part of the Combined Account to the extent they are reallocated.

(b) "Mandatory Contribution Account" means the account established hereunder to which mandatory Employee contributions made pursuant to Section 4.8 are allocated, to the extent such contributions are not picked-up by the Employer pursuant to Code §414(h). A Participant's Mandatory Contribution Account shall be fully Vested at all times.

(c) "Rollover Account" means the account established hereunder to which amounts transferred from a qualified plan or individual retirement account in accordance with Section 4.6 are allocated.

(d) "Transfer Account" means the account established hereunder to which amounts transferred to this Plan from a direct plan-to-plan transfer in accordance with Section 4.7 are allocated.

(e) "Voluntary Contribution Account" means the account established hereunder to which after-tax voluntary Employee contributions made pursuant to Section 4.9 are allocated.

1.2 "Administrator" means the Employer unless another person or entity has been designated by the Employer pursuant to Section 2.2 to administer the Plan on behalf of the Employer.

1.3 "Adoption Agreement" means the separate agreement which is executed by the Employer and sets forth the elective provisions of this Plan and Trust as specified by the Employer.

1.4 "Affiliated Employer" means any entity required to be aggregated with the Employer pursuant to Code §414.

1.5 "Alternate Payee" means an alternate payee pursuant to a qualified domestic relations order that meets the requirements of Code §414(p).

1.6 "Anniversary Date" means the last day of the Plan Year.

1.7 "Annuity Starting Date" means, with respect to any Participant, the first day of the first period for which an amount is paid as an annuity, or, in the case of a benefit not payable in the form of an annuity, the first day on which all events have occurred which entitles the Participant to such benefit.

1.8 "Beneficiary" means the person (or entity) to whom all or a portion of a deceased Participant's interest in the Plan is payable, subject to the restrictions of Sections 6.2 and 6.6.

1.9 "Code" means the Internal Revenue Code of 1986, as it may be amended from time to time.

1.10 "Compensation" means, with respect to any Participant, the amount determined in accordance with the following provisions, except as otherwise provided in the Adoption Agreement.

(a) **Base definition.** One of the following, as elected in the Adoption Agreement:

(1) Information required to be reported under Code §§6041, 6051 and 6052 (Wages, tips and other compensation as reported on Form W-2). Compensation means 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. Compensation must be 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 (such as the exception for agricultural labor in Code §3401(a)(2)).

(2) Code §3401(a) Wages. Compensation means an Employee's 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 (such as the exception for agricultural labor in Code §3401(a)(2)).

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(3) 415 safe harbor compensation. Compensation means wages, salaries, for Plan Years beginning after December 31, 2008, Military Differential Pay, and fees for professional services and other amounts received (without regard to whether or not an amount is paid in cash) for personal services actually rendered in the course of employment with the Employer maintaining the Plan to the extent that the amounts are includible in gross income (including, but not limited to, commissions paid salespersons, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips, bonuses, fringe benefits, and reimbursements, or other expense allowances under a nonaccountable plan (as described in Regulation §1.62-2(c))), and excluding the following:

- (i) Employer contributions to a plan of deferred compensation which are not includible in the Employee's gross income for the taxable year in which contributed, or Employer contributions under a simplified employee pension plan to the extent such contributions are excludable from the Employee's gross income, or any distributions from a plan of deferred compensation;
- (ii) Amounts realized from the exercise of a nonqualified stock option, or when restricted stock (or property) held by the Employee either becomes freely transferable or is no longer subject to a substantial risk of forfeiture;
- (iii) Amounts realized from the sale, exchange or other disposition of stock acquired under a qualified stock option; and
- (iv) Other amounts which receive special tax benefits, or contributions made by the Employer (whether or not under a salary deferral agreement) 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) **Paid during "determination period."** Compensation shall include only that Compensation which is actually paid to the Participant during the "determination period". Except as otherwise provided in this Plan, the "determination period" is the period elected by the Employer in the Adoption Agreement. If the Employer makes no election, the "determination period" shall be the Plan Year.

(c) **Inclusion of deferrals.** Notwithstanding the above, unless otherwise elected in the Adoption Agreement, Compensation shall include all of the following types of elective contributions and all of the following types of deferred compensation:

(1) Elective contributions that are made by the Employer on behalf of a Participant that are not includible in gross income under Code §§125, 132(f)(4), 402(e)(3), 402(h)(1)(B), 402(k) and 403(b). If specified in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections), amounts under Code §125 shall be deemed to include any amounts not available to a Participant in cash in lieu of group health coverage because the Participant is unable to certify that he or she has other health coverage. An amount will be treated as an amount under Code §125 pursuant to the preceding sentence 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.

(2) Compensation deferred under an eligible deferred compensation plan within the meaning of Code §457(b).

(3) Employee contributions described in Code §414(h)(2) that are picked-up by the employing unit and thus are treated as Employer contributions.

(d) **Post-severance compensation – Code §415 Regulations.** The Administrator shall adjust Compensation, for Plan Years beginning on or after July 1, 2007 (or such other date as the Employer specifies in the Compensation Section of the Adoption Agreement), for amounts that would otherwise be included in the definition of Compensation but are paid by the later of 2 1/2 months after a Participant's severance from employment with the Employer or the end of the Plan Year that includes the date of the Participant's severance from employment with the Employer, in accordance with the following, as elected in the Compensation Section of the Adoption Agreement. The preceding time period, however, does not apply with respect to payments described in Subsections (4) and (5) below. Any other payment of compensation paid after severance of employment that is not described in the following types of compensation is not considered Compensation, even if payment is made within the time period specified above.

(1) **Regular pay.** Compensation shall include regular pay after severance of employment (to the extent otherwise included in the definition of Compensation) if:

- (i) The payment is regular compensation for services during the Participant's regular working hours, or compensation for services outside the Participant's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments; and
- (ii) The payment would have been paid to the Participant prior to a severance from employment if the Participant had continued in employment with the Employer.

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(2) **Leave cash-outs.** Compensation shall include leave cash-outs if those amounts would have been included in the definition of Compensation if they were paid prior to the Participant's severance from employment with the Employer, and the amounts are for unused accrued bona fide sick, vacation, or other leave, but only if the Participant would have been able to use the leave if employment had continued.

(3) **Deferred compensation.** Compensation shall include deferred compensation if those amounts would have been included in the definition of Compensation if they were paid prior to the Participant's severance from employment with the Employer, and the amounts are received pursuant to a nonqualified unfunded deferred compensation plan, but only if the payment would have been paid if the Participant had continued in employment with the Employer and only to the extent the payment is includible in the Participant's gross income.

(4) **Military Differential Pay.** Compensation shall include payments to an individual who does not currently perform services for the Employer by reason of qualified military service (as that term is used in Code §414(u)(1)) to the extent those payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the Employer rather than entering qualified military service.

(5) **Disability pay.** Compensation shall include compensation paid to a Participant who is permanently and totally disabled, as defined in Code §22(e)(3), provided, as elected by the Employer in the Compensation Section of the Adoption Agreement, salary continuation applies to all Participants who are permanently and totally disabled.

(e) **Dollar limitation.** Compensation in excess of \$200,000 shall be disregarded for all. Such amount shall be adjusted by the Commissioner for increases in the cost-of-living in accordance with Code §401(a)(17)(B). The cost-of-living adjustment in effect for a calendar year applies to any "determination period" beginning with or within such calendar year. If a "determination period" consists of fewer than twelve (12) months, the \$200,000 annual Compensation limit will be multiplied by a fraction, the numerator of which is the number of months in the "determination period," and the denominator of which is twelve (12). In applying any Plan limitation on the amount of matching contributions, where such limits are expressed as a percentage of Compensation, the Administrator may apply the Compensation limit under this Section annually, even if the matching contribution formula is applied on any time interval which is less than the full Plan Year or the Administrator may pro rate the Compensation limit.

In the case of an "eligible Participant," the dollar limitation under Code §401(a)(17) shall not apply to the extent the amount under the Plan would be reduced below the amount which was allowed to be taken into account under the Plan as in effect on July 1, 1993. For purposes of this provision, an "eligible Participant" is an individual who first became a Participant before the first Plan Year beginning after the earlier of (i) the Plan Year in which the Plan was amended to reflect Code §401(a)(17), or (ii) December 31, 1995.

(f) **Non-eligible Employee.** If, in the Adoption Agreement, the Employer elects to exclude a class of Employees from the Plan, then Compensation for any Employee who becomes eligible or ceases to be eligible to participate during a "determination period" shall only include Compensation while the Employee is an Eligible Employee.

(g) **Amendment.** If, in connection with the adoption of any amendment, the definition of Compensation has been modified, then, except as otherwise provided herein, for Plan Years prior to the Plan Year which includes the adoption date of such amendment, Compensation means compensation determined pursuant to the terms of the Plan then in effect.

1.11 **"Contract" or "Policy"** means any life insurance policy, retirement income policy, or annuity contract (group or individual) issued by the Insurer. In the event of any conflict between the terms of this Plan and the terms of any contract purchased hereunder, the Plan provisions shall control.

1.12 **"Custodian"** means a person or entity that has custody of all or any portion of the Plan assets.

1.13 **"Directed Trustee"** means a Trustee who, with respect to the investment of Plan assets, is subject to the direction of the Administrator, the Employer, a properly appointed Investment Manager, or Plan Participant. To the extent the Trustee is a Directed Trustee, the Trustee does not have any discretionary authority with respect to the investment of Plan assets. In addition, the Trustee is not responsible for the propriety of any directed investment made pursuant to this Section and shall not be required to consult or advise the Employer regarding the investment quality of any directed investment held under the Plan.

1.14 **"Discretionary Trustee"** means a Trustee who has the authority and discretion to invest, manage or control any portion of the Plan assets.

1.15 **"Early Retirement Date"** means the date specified in the Adoption Agreement on which a Participant has satisfied the requirements specified in the Adoption Agreement (Early Retirement Age). If elected in the Adoption Agreement, a Participant shall become fully Vested upon satisfying such requirements if the Participant is still employed at the Early Retirement Age.

A Participant who severs from employment after satisfying any service requirement but before satisfying the age requirement for Early Retirement Age and who thereafter reaches the age requirement contained herein shall be entitled to receive benefits under this Plan

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(other than any accelerated vesting and allocations of Employer contributions) as though the requirements for Early Retirement Age had been satisfied.

1.16 "Effective Date" means the date this Plan, including any restatement or amendment of this Plan, is effective. Where the Plan is restated or amended, a reference to Effective Date is the effective date of the restatement or amendment, except where the context indicates a reference to an earlier Effective Date. If any provision of this Plan is retroactively effective, the provisions of this Plan generally control. However, if the provision of this Plan is different from the provision of the Employer's prior plan document and, after the retroactive Effective Date of this Plan, the Employer operated in compliance with the provisions of the prior plan, then the provision of such prior plan is 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.

The Employer may designate special effective dates for individual provisions under the Plan where provided in the Adoption Agreement or under Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections). 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).

1.17 "Eligible Employee" means any Eligible Employee as elected in the Adoption Agreement and as provided herein. An individual shall not be an Eligible Employee if such individual is not reported on the payroll records of the Employer as a common law employee. In particular, it is expressly intended that individuals not treated as common law employees by the Employer on its payroll records and out-sourced workers, are not Eligible Employees and are excluded from Plan participation even if a court or administrative agency determines that such individuals are common law employees and not independent contractors. Furthermore, Employees of an Affiliated Employer will not be treated as Eligible Employees prior to the date the Affiliated Employer adopts the Plan as a Participating Employer.

If, in the Adoption Agreement, the Employer elects to exclude union employees, then Employees whose employment is governed by a collective bargaining agreement between the Employer and "employee representatives" under which retirement benefits were the subject of good faith bargaining, shall not be eligible to participate in this Plan to the extent of employment covered by such agreement, unless the agreement provides for coverage in the Plan (see Section 4.1(d)). For this purpose, the term "employee representatives" does not include any organization more than half of whose members are employees who are owners, officers, or executives of the Employer. If a Participant performs services both as a collectively bargained Employee and as a non-collectively bargained Employee, then the Participant's Hours of Service in each respective category are treated separately.

If, in the Adoption Agreement, the Employer elects to exclude nonresident aliens, then Employees who are nonresident aliens (within the meaning of Code §7701(b)(1)(B)) who received no earned income (within the meaning of Code §911(d)(2)) from the Employer which constitutes income from sources within the United States (within the meaning of Code §861(a)(3)) shall not be eligible to participate in this Plan. In addition, this paragraph shall also apply to exclude from participation in the Plan an Employee who is a nonresident alien (within the meaning of Code §7701(b)(1)(B)) but who receives earned income (within the meaning of Code §911(d)(2)) from the Employer that constitutes income from sources within the United States (within the meaning of Code §861(a)(3)), if all of the Employee's earned income from the Employer from sources within the United States is exempt from United States income tax under an applicable income tax convention. The preceding sentence will apply only if all Employees described in the preceding sentence are excluded from the Plan.

If, in the Adoption Agreement, the Employer elects to exclude Part-Time/Temporary/Seasonal Employees, then notwithstanding any such exclusion, if any such excluded Employee actually completes or completed a Year of Service, then such Employee will cease to be within this particular excluded class.

1.18 "Employee" means any person who is employed by the Employer. The term "Employee" shall also include any person who is an employee of an Affiliated Employer and any Leased Employee deemed to be an Employee as provided in Code §414(n) or (o).

1.19 "Employer" means the governmental entity specified in the Adoption Agreement, any successor which shall maintain this Plan and any predecessor which has maintained this Plan. In addition, unless the context means otherwise, the term "Employer" shall include any Participating Employer which shall adopt this Plan. This plan may only be adopted by a state or local governmental entity, or agency thereof, including an Indian tribal government, and may not be adopted by any other entity, including a federal government and any agency or instrumentality thereof.

1.20 "Fiscal Year" means the Employer's accounting year.

1.21 "Forfeiture" means that portion of a Participant's Account that is not Vested and is disposed of in accordance with the provisions of the Plan.

A Forfeiture will occur on the earlier of:

- (a) The last day of the Plan Year in which a Participant incurs five (5) consecutive 1-Year Breaks in Service, or
- (b) The distribution of the entire Vested portion of the Participant's Account of a Participant who has severed employment with the Employer. For purposes of this provision, if the Participant has a Vested benefit of zero, then such Participant shall be deemed to

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have received a distribution of such Vested benefit as of the year in which the severance of employment occurs. For this purpose, a Participant's Vested benefit shall not include: (i) qualified voluntary employee contributions within the meaning of Code §72(o)(5)(B), and (ii) the Participant's Rollover Account.

Regardless of the preceding, if a Participant is eligible to share in the allocation of Forfeitures in the year in which the Forfeiture would otherwise occur, then the Forfeiture will not occur until the end of the first Plan Year for which the Participant is not eligible to share in the allocation of Forfeitures. Furthermore, the term "Forfeiture" shall also include amounts deemed to be Forfeitures pursuant to any other provision of this Plan.

1.22 "Former Employee" means an individual who has severed employment with the Employer or an Affiliated Employer.

1.23 "415 Compensation" means, with respect to any Participant, such Participant's (a) Wages, tips and other compensation on Form W-2, (b) Code §3401(a) wages or (c) 415 safe harbor compensation as elected in the Adoption Agreement for purposes of Compensation (and as defined in Subsections 1.18(a)(1)-3 respectively). 415 Compensation shall be based on the full Limitation Year regardless of when participation in the Plan commences. Furthermore, regardless of any election made in the Adoption Agreement, 415 Compensation shall include any elective deferral (as defined in Code §§402(e)(3), 402(k) and 402(h)(1)(B)) and any amount which is contributed or deferred by the Employer at the election of the Participant and which is not includible in the gross income of the Participant by reason of Code §§125, 457, and 132(f)(4). In addition, for years beginning after December 31, 2008 Military Differential Pay is treated as 415 Compensation.

(a) **Deemed 125 compensation.** If elected in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections), amounts under Code §125 shall be deemed to include any amounts not available to a Participant in cash in lieu of group health coverage because the Participant is unable to certify that he or she has other health coverage. An amount will be treated as an amount under Code §125 pursuant to the preceding sentence 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.

(b) **Post-severance compensation.** The Administrator shall adjust 415 Compensation, for Limitation Years beginning on or after July 1, 2007, or such earlier date as the Employer specifies in the Compensation Section of the Adoption Agreement, for amounts that would otherwise be included in the definition of 415 Compensation but are paid by the later of 2 1/2 months after a Participant's severance from employment with the Employer or the end of the Limitation Year that includes the date of the Participant's severance from employment with the Employer, in accordance with the following, as elected in the Compensation Section of the Adoption Agreement. The preceding time period, however, does not apply with respect to payments described in Subsections (4) and (5) below. Any other payment of compensation paid after severance of employment that is not described in the following types of compensation is not considered 415 Compensation, even if payment is made within the time period specified above.

(1) **Regular pay.** 415 Compensation shall include regular pay after severance of employment (to the extent otherwise included in the definition of 415 Compensation) if:

(i) The payment is regular compensation for services during the Participant's regular working hours, or compensation for services outside the Participant's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments; and

(ii) The payment would have been paid to the Participant prior to a severance from employment if the Participant had continued in employment with the Employer.

(2) **Leave cash-outs.** 415 Compensation shall include leave cash-outs if those amounts would have been included in the definition of 415 Compensation if they were paid prior to the Participant's severance from employment with the Employer, and the amounts are for unused accrued bona fide sick, vacation, or other leave, but only if the Participant would have been able to use the leave if employment had continued.

(3) **Deferred compensation.** 415 Compensation shall include deferred compensation if those amounts would have been included in the definition of 415 Compensation if they were paid prior to the Participant's severance from employment with the Employer, and the amounts are received pursuant to a nonqualified unfunded deferred compensation plan, but only if the payment would have been paid if the Participant had continued in employment with the Employer and only to the extent the payment is includible in the Participant's gross income.

(4) **Military Differential Pay.** 415 Compensation shall include payments to an individual who does not currently perform services for the Employer by reason of qualified military service (as that term is used in Code §414(u)(1)) to the extent those payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the Employer rather than entering qualified military service.

(5) **Disability pay.** 415 Compensation shall include compensation paid to a Participant who is permanently and totally disabled, as defined in Code §22(e)(3), provided, as elected by the Employer in the Compensation Section of the Adoption Agreement, salary continuation applies to all Participants who are permanently and totally disabled for a fixed or determinable

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period, or the Participant was not a highly compensated employee (within the meaning of Code §414(q)) immediately before becoming disabled.

(c) **Inclusion of certain nonqualified deferred compensation amounts.** If this is a PPA restatement and prior to the restatement Compensation included all items includible in compensation under Regulation §1.415(c)-2(b) (Regulation §1.415-2(d)(2) under the Regulations in effect for Limitation Years beginning prior to July 1, 2007) then 415 Compensation for Limitation Years prior to the adoption of this restatement shall include amounts that are includible in the gross income of a Participant under the rules of Code §409A or Code §457(f)(1)(A) or because the amounts are constructively received by the Participant. For Plan Years beginning on and after the Plan Year in which this restatement is adopted, the Plan does not provide for a definition of 415 Compensation including all items in Regulation §1.415(c)-2(b).

(d) **Back pay.** Back pay, within the meaning of Regulations §1.415(c)-2(g)(8), shall be treated as Compensation for the Limitation Year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.

(e) **Dollar limitation.** 415 Compensation will be limited to the same dollar limitations set forth in Section 1.10(e) adjusted in such manner as permitted under Code §415(d).

(f) **Amendment.** Except as otherwise provided herein, if, in connection with the adoption of any amendment, the definition of 415 Compensation has been modified, then for Plan Years prior to the Plan Year which includes the adoption date of such amendment, 415 Compensation means compensation determined pursuant to the terms of the Plan then in effect.

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

Notwithstanding (b) above, (1) no more than 501 Hours of Service will be credited to an Employee on account of any single continuous period during which the Employee performs no duties (whether or not such period occurs in a single computation period); (2) an hour for which an Employee is directly or indirectly paid, or entitled to payment, on account of a period during which no duties are performed is not required to be credited to the Employee if such payment is made or due under a plan maintained solely for the purpose of complying with applicable workers' compensation, or unemployment compensation or disability insurance laws; and (3) Hours of Service are not required to be credited for a payment which solely reimburses an Employee for medical or medically related expenses incurred by the Employee. Furthermore, for purposes of (b) above, a payment shall be deemed to be made by or due from the Employer regardless of whether such payment is made by or due from the Employer directly, or indirectly through, among others, a trust fund, or insurer, to which the Employer contributes or pays premiums and regardless of whether contributions made or due to the trust fund, insurer, or other entity are for the benefit of particular Employees or are on behalf of a group of Employees in the aggregate.

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

Hours of Service will be determined using the actual hours method unless one of the methods below is elected in the Adoption Agreement. If the **actual hours** method is used to determine Hours of Service, an Employee is credited with the actual Hours of Service the Employee completes with the Employer or the number of Hours of Service for which the Employee is paid (or entitled to payment).

If the **days worked** method is elected, an Employee will be credited with ten (10) Hours of Service if under the Plan such Employee would be credited with at least one (1) Hour of Service during the day.

If the **weeks worked** method is elected, an Employee will be credited with forty-five (45) Hours of Service if under the Plan such Employee would be credited with at least one (1) Hour of Service during the week.

If the **semi-monthly payroll periods worked** method is elected, an Employee will be credited with ninety-five (95) Hours of Service if under the Plan such Employee would be credited with at least one (1) Hour of Service during the semi-monthly payroll period.

If the **months worked** method is elected, an Employee will be credited with one hundred ninety (190) Hours of Service if under the Plan such Employee would be credited with at least one (1) Hour of Service during the month.

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If the bi-weekly payroll periods worked method is elected, an Employee will be credited with ninety (90) Hours of Service if under the Plan such Employee would be credited with at least one (1) Hour of Service during the bi-weekly payroll period.

1.25 "Insurer" means any legal reserve insurance company which has issued or shall issue one or more Contracts or Policies under the Plan.

1.26 "Investment Manager" means a person or entity which renders investment advice for a fee or other compensation, direct or indirect, with respect to any monies or property of the Plan and which is appointed in accordance with Section 2.1(b).

1.27 "Late Retirement Date" means the date of, or the first day of the month or the Anniversary Date coinciding with or next following, whichever corresponds to the election in the Adoption Agreement for the Normal Retirement Date, a Participant's actual retirement after having reached the Normal Retirement Date.

1.28 "Leased Employee" means any person (other than an Employee of the recipient Employer) who, pursuant to an agreement between the recipient Employer and any other person or entity ("leasing organization"), has performed services for the recipient (or for the recipient and related persons determined in accordance with Code §414(n)(6)) on a substantially full time basis for a period of at least one year, and such services are performed under primary direction or control by the recipient Employer. Contributions or benefits provided a Leased Employee by the leasing organization which are attributable to services performed for the recipient Employer shall be treated as provided by the recipient Employer. Furthermore, Compensation for a Leased Employee shall only include compensation from the leasing organization that is attributable to services performed for the recipient Employer.

A Leased Employee shall not be considered an employee of the recipient Employer if: (a) such employee is covered by a money purchase pension plan providing: (1) a non-integrated employer contribution rate of at least ten percent (10%) of compensation, as defined in Code §415(c)(3), (2) immediate participation, and (3) full and immediate vesting; and (b) leased employees do not constitute more than twenty percent (20%) of the recipient Employer's nonhighly compensated workforce.

1.29 "Limitation Year" means the "determination period" used to determine Compensation. However, the Employer may elect a different Limitation Year in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections). All qualified plans maintained by the Employer must use the same Limitation Year. Furthermore, unless there is a change to a new Limitation Year, the Limitation Year will be a twelve (12) consecutive month period. In the case of an initial Limitation Year, the Limitation Year will be the twelve (12) consecutive month period ending on the last day of the period specified in the Adoption Agreement. If the Limitation Year is amended to a different twelve (12) consecutive month period, the new "Limitation Year" must begin on a date within the "Limitation Year" in which the amendment is made. For Limitation Years beginning on and after July 1, 2007, the Limitation Year may only be changed by a Plan amendment. Furthermore, if the Plan is terminated effective as of a date other than the last day of the Plan's Limitation Year, then the Plan is treated as if the Plan had been amended to change its Limitation Year.

1.30 "Military Differential Pay" means, for any Plan or Limitation Year beginning after June 30, 2007, any differential wage payments made to an individual that represents an amount which, when added to the individual's military pay, approximates the amount of Compensation that was paid to the individual while working for the Employer. Notwithstanding the preceding sentence, for Compensation "determination periods" beginning after December 31, 2008, an individual receiving a differential wage payment, as defined by Code §3401(h)(2), is treated as an Employee of the Employer making the payment.

1.31 "Nonelective Contribution" means the Employer's contributions to the Plan.

1.32 "Normal Retirement Age" means the age elected in the Adoption Agreement at which time a Participant's Account shall be nonforfeitable (if the Participant is employed by the Employer on or after that date). For money purchase pension plans, if the employer enforces a mandatory retirement age, then the Normal Retirement Age is the lesser of that mandatory age or the age specified in the Adoption Agreement.

1.33 "Normal Retirement Date" means the date elected in the Adoption Agreement.

1.34 "1-Year Break in Service" means, if the Hour of Service method is used, the applicable computation period that is used to determine a Year of Service during which an Employee or Former Employee has not completed more than 500 Hours of Service. However, if the Employer selected, in the Service Crediting Method Section of the Adoption Agreement, to define a Year of Service as less than 1,000 Hours of Service, then the 500 Hours of Service in this definition of 1-Year Break in Service shall be proportionately reduced. Further, solely for the purpose of determining whether an Employee has incurred a 1-Year Break in Service, Hours of Service shall be recognized for "authorized leaves of absence" and "maternity and paternity leaves of absence." For this purpose, Hours of Service shall be credited for the computation period in which the absence from work begins, only if credit therefore is necessary to prevent the Employee from incurring a 1-Year Break in Service, or, in any other case, in the immediately following computation period. The Hours of Service credited for a "maternity or paternity leave of absence" shall be those which would normally have been credited but for such absence, or, in any case in which the Administrator is unable to determine such hours normally credited, eight (8) Hours of Service per day. The total Hours of Service required to be credited for a "maternity or paternity leave of absence" shall not exceed the number of Hours of Service needed to prevent the Employee from incurring a 1-Year Break in Service.

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

A "maternity or paternity leave of absence" means an absence from work for any period by reason of the Employee's pregnancy, birth of the Employee's child, placement of a child with the Employee in connection with the adoption of such child, or any absence for the purpose of caring for such child for a period immediately following such birth or placement.

If the elapsed time method is elected in the Service Crediting Method Section of the Adoption Agreement, then a "1-Year Break in Service" means a twelve (12) consecutive month period beginning on the severance from service date or any anniversary thereof and ending on the next succeeding anniversary of such date; provided, however, that the Employee or Former Employee does not perform an Hour of Service for the Employer during such twelve (12) consecutive month period.

1.35 "Participant" means any Employee or Former Employee who has satisfied the requirements of Sections 3.1 and 3.2 and entered the Plan and is eligible to accrue benefits under the Plan. In addition, the term "Participant" also includes any individual who was a Participant (as defined in the preceding sentence) and who must continue to be taken into account under a particular provision of the Plan (e.g., because the individual has an Account balance in the Plan).

1.36 "Participant Directed Account" means that portion of a Participant's interest in the Plan with respect to which the Participant has directed the investment in accordance with the Participant Direction Procedures.

1.37 "Participant Direction Procedures" means such instructions, guidelines or policies, the terms of which are incorporated herein, as shall be established pursuant to Section 4.10 and observed by the Administrator and applied and provided to Participants who have Participant Directed Accounts.

1.38 "Participating Employer" means an Employer which, with the consent of the "lead Employer" adopts the Plan pursuant to Section 10.1 or Article XI. In addition, unless the context means otherwise, the term "Employer" shall include any Participating Employer which shall adopt this Plan.

1.39 "Period of Service" means the aggregate of all periods of service commencing with an Employee's first day of employment or reemployment with the Employer or an Affiliated Employer and ending on the first day of a Period of Severance, or for benefit accrual purposes, ending on the severance from service date. The first day of employment or reemployment is the first day the Employee performs an Hour of Service. An Employee who incurs a Period of Severance of twelve (12) months or less will also receive service-spanning credit by treating any such period as a Period of Service for purposes of eligibility and vesting (but not benefit accrual). For purposes of benefit accrual, a Participant's whole year Periods of Service is equal to the sum of all full and partial periods of service, whether or not such service is continuous or contiguous, expressed in the number of whole years represented by such sum. For this purpose, fractional periods of a year will be expressed in terms of days.

Periods of Service with any Affiliated Employer shall be recognized. Furthermore, Periods of Service with any predecessor employer that maintained this Plan shall be recognized. Periods of Service with any other predecessor employer shall be recognized as elected in the Adoption Agreement.

In determining Periods of Service for purposes of vesting under the Plan, Periods of Service will be excluded as elected in the Adoption Agreement and as specified in Section 3.5.

In the event the method of crediting service is amended from the Hour of Service method to the elapsed time method, an Employee will receive credit for a Period of Service consisting of:

- (a) A number of years equal to the number of Years of Service credited to the Employee before the computation period during which the amendment occurs; and
- (b) The greater of (1) the Periods of Service that would be credited to the Employee under the elapsed time method for service during the entire computation period in which the transfer occurs or (2) the service taken into account under the Hour of Service method as of the date of the amendment.

In addition, the Employee will receive credit for service subsequent to the amendment commencing on the day after the last day of the computation period in which the transfer occurs.

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

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

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adoption of such child by such individual, or (d) for purposes of caring for such child for a period beginning immediately following such birth or placement.

1.41 **"Plan"** means this instrument (hereinafter referred to as Nationwide Financial Services, Inc. Governmental Defined Contribution Plan Basic Plan Document #09) and the Adoption Agreement as adopted by the Employer, including all amendments thereto and any appendix which is specifically permitted pursuant to the terms of the Plan.

1.42 **"Plan Year"** means the Plan's accounting year as specified in the Adoption Agreement. Unless there is a Short Plan Year, the Plan Year will be a twelve-consecutive month period.

1.43 **"Qualified Convertible Hours"** means the amount of sick and vacation pay plan hours eligible to be converted into Employer contributions.

1.44 **"Regulation"** means the Income Tax Regulations as promulgated by the Secretary of the Treasury or a delegate of the Secretary of the Treasury, and as amended from time to time.

1.45 **"Retirement Date"** means the date as of which a Participant retires for reasons other than Total and Permanent Disability, regardless of whether such retirement occurs on a Participant's Normal Retirement Date, Early Retirement Date or Late Retirement Date (see Section 6.1).

1.46 **"Short Plan Year"** means, if specified in the Adoption Agreement or as the result of an amendment, a Plan Year of less than a twelve (12) month period. If there is a Short Plan Year, the following rules shall apply in the administration of this Plan. In determining whether an Employee has completed a Year of Service (or Period of Service if the elapsed time method is used) for benefit accrual purposes in the Short Plan Year, the number of the Hours of Service (or months of service if the elapsed time method is used) required shall be proportionately reduced based on the number of days (or months) in the Short Plan Year.

1.47 **"Spouse"** means, a spouse as determined under federal tax law. In addition, with respect to benefits or rights not mandated by law, Spouse also includes a spouse as elected in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections).

1.48 **"Terminated Participant"** means a person who has been a Participant, but whose employment has been terminated with the Employer (including an Affiliated Employer) or applicable Participating Employer, other than by death, Total and Permanent Disability or retirement.

1.49 **"Total and Permanent Disability"** means, unless otherwise specified in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections), the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve (12) months. The disability of a Participant shall be determined by a licensed physician. However, if the condition constitutes total disability under the federal Social Security Acts, the Administrator may rely upon such determination that the Participant is Totally and Permanently Disabled for the purposes of this Plan. The determination shall be applied uniformly to all Participants.

1.50 **"Trustee"** means any person or entity that is named in the Adoption Agreement or has otherwise agreed to serve as Trustee, or any successors thereto. In addition, unless the context means, or the Plan provides, otherwise, the term "Trustee" shall mean the Insurer if the Plan is fully insured.

1.51 **"Trust Fund"** means, if the Plan is funded with a trust, the assets of the Plan and Trust as the same shall exist from time to time.

1.52 **"Valuation Date"** means the date or dates specified in the Adoption Agreement. Regardless of any election to the contrary, for purposes of the determination and allocation of earnings and losses, the Valuation Date shall include the Anniversary Date and may include any other date or dates deemed necessary or appropriate by the Administrator for the valuation of Participants' Accounts during the Plan Year, which may include any day that the Trustee (or Insurer), any transfer agent appointed by the Trustee (or Insurer) or the Employer, or any stock exchange used by such agent, are open for business.

1.53 **"Vested"** means the nonforfeitable portion of any Account maintained on behalf of a Participant.

1.54 **"Year of Service"** means the computation period of twelve (12) consecutive months, herein set forth, and during which an Employee has completed at least 1,000 Hours of Service (unless a different number of Hours of Service is specified in the Adoption Agreement).

For purposes of eligibility for participation, the initial computation period shall begin with the date on which the Employee first performs an Hour of Service (employment commencement date). Unless otherwise elected in the Service Crediting Method Section of the Adoption Agreement, the succeeding computation periods shall begin on the anniversary of the Employee's employment commencement date. However, unless otherwise elected in the Adoption Agreement, if one (1) Year of Service or less is required as a condition of eligibility, then the computation period after the initial computation period shall shift to the current Plan Year which includes the

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anniversary of the date on which the Employee first performed an Hour of Service, and subsequent computation periods shall be the Plan Year. If there is a shift to the Plan Year, an Employee who is credited with the number of Hours of Service to be credited with a Year of Service in both the initial eligibility computation period and the first Plan Year which commences prior to the first anniversary of the Employee's initial eligibility computation period will be credited with two (2) Years of Service for purposes of eligibility to participate.

If two (2) (or more) Years of Service are required as a condition of eligibility, a Participant will only have completed two (2) (or more) Years of Service for eligibility purposes upon completing two (2) or more consecutive Years of Service without an intervening 1-Year Break in Service.

For vesting purposes, and all other purposes not specifically addressed in this Section, the computation period shall be the period elected in the Service Crediting Method Section of the Adoption Agreement. If no election is made in the Service Crediting Method Section of the Adoption Agreement, then the computation period shall be the Plan Year.

In determining Years of Service for purposes of vesting under the Plan, Years of Service will be excluded as elected in the Adoption Agreement and as specified in Section 3.5.

Years of Service and 1-Year Breaks in Service for eligibility purposes will be measured on the same eligibility computation period. Years of Service and 1-Year Breaks in Service for vesting purposes will be measured on the same vesting computation period.

Years of Service with any Affiliated Employer shall be recognized. Furthermore, Years of Service with any predecessor employer that maintained this Plan shall be recognized. Years of Service with any other employer shall be recognized as elected in the Adoption Agreement.

In the event the method of crediting service is amended from the elapsed time method to the Hour of Service method, an Employee will receive credit for Years of Service equal to:

- (a) The number of Years of Service equal to the number of 1-year Periods of Service credited to the Employee as of the date of the amendment; and
- (b) In the computation period which includes the date of the amendment, a number of Hours of Service (using the Hours of Service equivalency method, if any, elected in the Adoption Agreement) to any fractional part of a year credited to the Employee under this Section as of the date of the amendment.

ARTICLE II ADMINISTRATION

2.1 POWERS AND RESPONSIBILITIES OF THE EMPLOYER

(a) **Appointment of Trustee (or Insurer) and Administrator.** In addition to the general powers and responsibilities otherwise provided for in this Plan, the Employer shall be empowered to appoint and remove one or more Trustees (or Insurers) and Administrators from time to time as it deems necessary for the proper administration of the Plan to ensure that the Plan is being operated for the exclusive benefit of the Participants and their Beneficiaries in accordance with the terms of the Plan and the Code. The Employer may appoint counsel, specialists, advisers, agents (including any nonfiduciary agent) and other persons as the Employer deems necessary or desirable in connection with the exercise of its fiduciary duties under this Plan. The Employer may compensate such agents or advisers from the assets of the Plan as fiduciary expenses (but not including any business (settlor) expenses of the Employer), to the extent not paid by the Employer.

(b) **Appointment of Investment Manager.** The Employer may appoint, at its option, one or more Investment Managers, investment advisers, or other agents to provide investment direction to the Trustee (or Insurer) with respect to any or all of the Plan assets. Such appointment shall be given by the Employer in writing in a form acceptable to the Trustee (or Insurer) and shall specifically identify the Plan assets with respect to which the Investment Manager or other agent shall have the authority to direct the investment.

2.2 DESIGNATION OF ADMINISTRATIVE AUTHORITY

The Employer may appoint one or more Administrators. If the Employer does not appoint an Administrator, the Employer will be the Administrator. Any person, including, but not limited to, the Employees of the Employer, shall be eligible to serve as an Administrator. Any person so appointed shall signify acceptance by filing written acceptance with the Employer. An Administrator may resign by delivering a written resignation to the Employer or be removed by the Employer by delivery of written notice of removal, to take effect at a date specified therein, or upon delivery to the Administrator if no date is specified. Upon the resignation or removal of an Administrator, the Employer may designate in writing a successor to this position.

2.3 ALLOCATION AND DELEGATION OF RESPONSIBILITIES

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

2.4 POWERS AND DUTIES OF THE ADMINISTRATOR

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

The Administrator shall be charged with the duties of the general administration of the Plan and the powers necessary to carry out such duties as set forth under the terms of the Plan, including, but not limited to, the following:

- (a) the discretion to determine all questions relating to the eligibility of an Employee to participate or remain a Participant hereunder and to receive benefits under the Plan;
- (b) the authority to review and settle all claims against the Plan, including claims where the settlement amount cannot be calculated or is not calculated in accordance with the Plan's benefit formula. This authority specifically permits the Administrator to settle disputed claims for benefits and any other disputed claims made against the Plan;
- (c) to compute, certify, and direct agents of the Plan respect to the amount and the kind of benefits to which any Participant shall be entitled hereunder;
- (d) to authorize and direct the Trustee (or Insurer) with respect to all discretionary or otherwise directed disbursements from the Trust Fund;
- (e) to maintain all necessary records for the administration of the Plan;
- (f) to interpret the provisions of the Plan and to make and publish such rules for regulation of the Plan that are consistent with the terms hereof;
- (g) to determine the size and type of any Contract to be purchased from any Insurer, and to designate the Insurer from which such Contract shall be purchased;
- (h) to compute and certify to the Employer and to the Trustee (or Insurer) from time to time the sums of money necessary or desirable to be contributed to the Plan;
- (i) to consult with the Employer and agents of the Plan regarding the short and long-term liquidity needs of the Plan;
- (j) to assist Participants regarding their rights, benefits, or elections available under the Plan; and
- (k) to determine the validity of, and take appropriate action with respect to, any "qualified domestic relations order" received by it.

2.5 RECORDS AND REPORTS

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

2.6 APPOINTMENT OF ADVISERS

The Administrator may appoint counsel, specialists, advisers, agents (including nonfiduciary agents such as third party administrative services providers and recordkeepers) and other persons as the Administrator deems necessary or desirable in connection

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with the administration of this Plan, including but not limited to agents and advisers to assist with the administration and management of the Plan, and thereby to provide, among such other duties as the Administrator may appoint, assistance with maintaining Plan records and the providing of investment information to the Plan's investment fiduciaries and, if applicable, to Plan Participants.

2.7 INFORMATION FROM EMPLOYER

The Employer shall supply full and timely information to the Administrator on all pertinent facts as the Administrator may require in order to perform its functions hereunder and the Administrator shall advise appropriate agents of the Plan of such of the foregoing facts as may be pertinent to the agent's duties to the Plan. The Administrator may rely upon such information as is supplied by the Employer and shall have no duty or responsibility to verify such information.

2.8 PAYMENT OF EXPENSES

All reasonable expenses of administration may be paid out of the Plan assets unless paid by the Employer. Such expenses shall include any expenses incident to the functioning of the Administrator, or any person or persons retained or appointed by any named fiduciary incident to the exercise of their duties under the Plan, including, but not limited to, fees of accountants, counsel, Investment Managers, agents (including nonfiduciary agents such as third party administrative services providers and recordkeepers) appointed for the purpose of assisting the Administrator or Trustee (or Insurer) in carrying out the instructions of Participants as to the directed investment of their Accounts (if permitted) and other specialists and their agents and other costs of administering the Plan. In addition, unless specifically prohibited under statute, regulation or other guidance of general applicability, the Administrator may charge to the Account of an individual Participant a reasonable charge to offset the cost of making a distribution to the Participant, Beneficiary, or Alternate Payee. If liquid assets of the Plan are insufficient to cover the fees of the Trustee (or Insurer) or the Administrator, then Plan assets shall be liquidated to the extent necessary for such fees. In the event any part of the Plan assets becomes subject to tax, all taxes incurred will be paid from the Plan assets. Until paid, the expenses shall constitute a liability of the Trust Fund.

2.9 MAJORITY ACTIONS

Except where there has been an allocation and delegation of administrative authority pursuant to Section 2.3, if there is more than one Administrator, then they shall act by a majority of their number, but may authorize one or more of them to sign all papers on their behalf.

2.10 CLAIMS PROCEDURES

Any person who believes that he or she is entitled to a benefit under the Plan shall file with the Administrator a written notice of claim for such benefit within 45 days of such right accruing or shall forever waive entitlement to such benefit. Within 120 days after its receipt of such written notice of claim, the Administrator shall either grant or deny such claim provided, however, any delay on the part of the Administrator is arriving at a decision shall not adversely affect benefits payable under a granted claim. The Administrator may, however, implement alternative claims procedures in lieu of those provided in this Plan. The implementation of such procedures shall not be considered a Plan amendment that affects an Employer's reliance on this volume submitter plan.

The Administrator and all persons determining or reviewing claims have full discretion to determine benefit claims under the Plan. Any interpretation, determination or other action of such persons shall be subject to review only if it is arbitrary or capricious or otherwise an abuse of discretion. Any review of a final decision or action of the persons reviewing a claim shall be based only on such evidence presented to or considered by such persons at the time they made the decision that is the subject of review.

ARTICLE III ELIGIBILITY

3.1 CONDITIONS OF ELIGIBILITY

An Eligible Employee shall be eligible to participate hereunder on the date such Employee has satisfied the conditions of eligibility, if any, elected in the Adoption Agreement.

3.2 EFFECTIVE DATE OF PARTICIPATION

(a) **General rule.** An Eligible Employee who has satisfied the conditions of eligibility pursuant to Section 3.1 shall become a Participant effective as of the date elected in the Adoption Agreement. Regardless of any election in the Adoption Agreement to the contrary, an Eligible Employee who has satisfied the maximum age (26) and service requirements (one (1) Year (or Period) of Service (or more than one (1) year if full and immediate vesting)) and who is otherwise entitled to participate, will become a Participant no later than the earlier of (1) six (6) months after such requirements are satisfied, or (2) the first day of the first Plan Year after such requirements are satisfied, unless the Employee separates from service before such participation date.

(b) **Rehired Employee.** If an Eligible Employee is not employed on the date determined pursuant to (a) above, but is reemployed before a 1-Year Break in Service has occurred, then such Eligible Employee shall become a Participant on the date of reemployment or, if later, the date that the Employee would have otherwise entered the Plan had the Employee not terminated

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employment. If such Employee incurs a 1-Year Break in Service, then eligibility will be determined under the 1-Year Break in Service rules set forth in Section 3.5.

(c) **Recognition of predecessor service.** Unless specifically provided otherwise in the Adoption Agreement, an Eligible Employee who satisfies the Plan's eligibility requirement conditions by reason of recognition of service with a predecessor employer will become a Participant as of the day the Plan credits service with a predecessor employer or, if later, the date the Employee would have otherwise entered the Plan had the service with the predecessor employer been service with the Employer.

(d) **Noneligible to eligible class.** If an Employee, who has satisfied the Plan's eligibility requirements and would otherwise have become a Participant, shall go from a classification of a noneligible Employee to an Eligible Employee, such Employee shall become a Participant on the date such Employee becomes an Eligible Employee or, if later, the date that the Employee would have otherwise entered the Plan had the Employee always been an Eligible Employee.

(e) **Eligible to noneligible class.** If an Employee, who has satisfied the Plan's eligibility requirements and would otherwise become a Participant, shall go from a classification of an Eligible Employee to a noneligible class of Employees, such Employee shall become a Participant in the Plan on the date such Employee again becomes an Eligible Employee, or, if later, the date that the Employee would have otherwise entered the Plan had the Employee always been an Eligible Employee. However, if such Employee incurs a 1-Year Break in Service, eligibility will be determined under the 1-Year Break in Service rules set forth in Section 3.5.

3.3 DETERMINATION OF ELIGIBILITY

The Administrator shall determine the eligibility of each Employee for participation in the Plan based upon information furnished by the Employer. Such determination shall be conclusive and binding upon all persons, as long as the same is made pursuant to the Plan.

3.4 TERMINATION OF ELIGIBILITY

In the event a Participant shall go from a classification of an Eligible Employee to an ineligible Employee, such Participant shall continue to vest in the Plan for each Year of Service (or Period of Service, if the elapsed time method is used) completed while an ineligible Employee, until such time as the Participant's Account is forfeited or distributed pursuant to the terms of the Plan. Additionally, the Participant's interest in the Plan shall continue to share in the earnings of the Trust Fund in the same manner as Participants.

3.5 REHIRED EMPLOYEES AND 1-YEAR BREAKS IN SERVICE

(a) **Rehired Participant/immediate re-entry.** If any Former Employee who had been a Participant is reemployed by the Employer, then the Employee shall become a Participant as of the reemployment date, unless the Employee is not an Eligible Employee, the Employee does not satisfy the eligibility conditions taking into account prior service to the extent such prior service is not disregarded pursuant to Section 3.5(d) below. If such prior service is disregarded, then the rehired Eligible Employee shall be treated as a new hire.

(b) **Rehired Eligible Employee who satisfied eligibility.** If any Eligible Employee had satisfied the Plan's eligibility requirements but, due to a severance of employment, did not become a Participant, then such Eligible Employee shall become a Participant as of the later of (1) the entry date on which he or she would have entered the Plan had there been no severance of employment, or (2) the date of his or her re-employment. Notwithstanding the preceding, if the rehired Eligible Employee's prior service is disregarded pursuant to Section 3.5(d) below, then the rehired Eligible Employee shall be treated as a new hire.

(c) **Rehired Eligible Employee who had not satisfied eligibility.** If any Eligible Employee who had not satisfied the Plan's eligibility requirements is rehired after severance from employment, then such Eligible Employee shall become a Participant in the Plan in accordance with the eligibility requirements set forth in the Adoption Agreement and the Plan. However, in applying any shift in an eligibility computation period, the Eligible Employee is not treated as a new hire unless prior service is disregarded in accordance with Section 3.5(d) below.

(d) **Reemployed after five (5) 1-Year Breaks in Service ("rule of parity" provisions).** If the Employer elects in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections) to apply the "rule of parity" provisions, then if any Employee is reemployed after five (5) 1-Year Breaks in Service has occurred, Years of Service (or Periods of Service if the elapsed time method is being used) shall include Years of Service (or Periods of Service if the elapsed time method is being used) prior to the 5-Year Break in Service subject to the rules set forth below. The Employer may elect in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections) to make the provisions of this paragraph applicable for purposes of eligibility and/or vesting.

(1) In the case of a Former Employee who under the Plan does not have a nonforfeitable right to any interest in the Plan resulting from Employer contributions, Years of Service (or Periods of Service) before a period of 1-Year Breaks in Service will not be taken into account if the number of consecutive 1-Year Breaks in Service equals or exceeds the greater of (i) five (5) or (ii) the aggregate number of pre-break Years of Service (or Periods of Service). Such aggregate number of Years of Service (or Periods of Service) will not include any Years of Service (or Periods of Service) disregarded under the preceding sentence by reason of prior 1-Year Breaks in Service;

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(2) A Former Employee who has not had Years of Service (or Periods of Service) before a 1-Year Break in Service disregarded pursuant to (1) above, shall participate in the Plan as of the date of reemployment, or if later, as of the date the Former Employee would otherwise enter the Plan pursuant to Sections 3.1 and 3.2 taking into account all service not disregarded.

(e) **Vesting after five (5) 1-Year Breaks in Service.** If a Participant incurs five (5) consecutive 1-Year Breaks in Service, the Vested portion of such Participant's Account attributable to pre-break service shall not be increased as a result of post-break service. In such case, separate accounts will be maintained as follows:

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

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

(f) **Waiver of allocation or contribution conditions.** If the Employer elects in the Adoption Agreement to waive allocations or contributions due to retirement (early or normal retirement), then a Participant shall only be entitled to one such waiver. Accordingly, if a Participant retires and allocation or contribution conditions are waived, then the Plan will not waive the allocation or contribution conditions if the Participant is rehired and then retires again.

3.6 OMISSION OF ELIGIBLE EMPLOYEE; INCLUSION OF INELIGIBLE EMPLOYEE

If, in any Plan Year, any Employee who should be included as a Participant in the Plan is erroneously omitted and discovery of such omission is not made until after a contribution by the Employer for the year has been made and allocated, or any person who should not have been included as a Participant in the Plan is erroneously included, then the Employer may take corrective actions consistent with the IRS Employee Plans Compliance Resolution System (i.e., Rev. Proc. 2013-12 or any subsequent guidance).

ARTICLE IV CONTRIBUTION AND ALLOCATION

4.1 FORMULA FOR DETERMINING EMPLOYER'S CONTRIBUTION

(a) **For a Money Purchase Plan.** All contributions made by the Employer will be made in cash. For each Plan Year, the Employer will contribute to the Plan the following:

(1) The amount of any mandatory Employee contributions and after-tax voluntary Employee contributions made by Participants; plus

(2) On behalf of each Participant eligible to share in allocations, for each year of such Participant's participation in this Plan, the Employer will contribute the amount specified in the Adoption Agreement; plus

(3) If elected in the Adoption Agreement, a matching contribution equal to the amount specified in the Adoption Agreement of each Participant eligible to share in the allocations of the matching contribution, which amount shall be deemed an Employer matching contribution.

(b) **For a 401(a) Plan.** For each Plan Year, the Employer will (or may with respect to any discretionary contributions) contribute to the Plan:

(1) The amount of any mandatory Employee contributions and after-tax voluntary Employee contributions; plus

(2) If elected in the Adoption Agreement, a matching contribution equal to the amount specified in the Adoption Agreement of each Participant eligible to share in the allocations of the matching contribution, which amount shall be deemed an Employer matching contribution; plus

(3) If elected in the Adoption Agreement, an Employer contribution equal to a specified contribution or a discretionary amount determined each year by the Employer.

(c) **Frozen Plans.** The Employer may designate that the Plan is a frozen Plan at the Contribution Types Section of the Adoption Agreement. As a frozen Plan, the Employer will not make any Employer contributions with respect to Compensation earned after the date the Plan is frozen. In addition, once a Plan is frozen, no additional Employees shall become Participants.

(d) **Union Employees.** Regardless of any provision in this Plan to the contrary, Employees whose employment is governed by a collective bargaining agreement between the Employer and "employee representatives" under which retirement benefits were the subject of good faith bargaining shall be eligible to participate in this Plan to the extent of employment covered by such agreement provided the agreement provides for coverage in the Plan. The benefits, including but not limited to, contributions, allocations and

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vesting, under this Plan shall be those set forth in the collective bargaining agreement, which is hereby incorporated by reference and attached as an addendum to the Adoption Agreement. For this purpose, the term "employee representatives" does not include any organization more than half of whose members are employees who are owners, officers, or executives of the Employer. If a Participant performs services both as a collectively bargained Employee and as a non-collectively bargained Employee, then the Participant's Hours of Service and Compensation in each respective category are treated separately for purposes of the Plan.

(d) **Social Security Replacement Plan.** The Employer may elect under the Adoption Agreement to indicate its intention to qualify this Plan as a Social Security Replacement Plan under Code §3121(b)(7)(F). If the Employer makes the election to qualify the Plan as a Social Security Replacement Plan, the Plan will allocate a minimum contribution amount (Employer and Employee Contributions) of seven and one-half percent (7.5%) of Compensation. The Plan will consider each Participant a member of a retirement system that provides benefits comparable to the benefits he or she would have received under Social Security. In the case of part-time, seasonal and temporary Employees, the benefit will be nonforfeitable.

4.2 TIME OF PAYMENT OF EMPLOYER'S CONTRIBUTION

Unless otherwise provided by contract or law, the Employer may make its contribution to the Plan for a particular Plan Year at such time as the Employer, in its sole discretion, determines. If the Employer makes a contribution for a particular Plan Year after the close of that Plan Year, the Employer will designate to the Administrator the Plan Year for which the Employer is making its contribution.

4.3 ALLOCATION OF CONTRIBUTION, FORFEITURES AND EARNINGS

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

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

(1) Money Purchase Pension Plan. For a Money Purchase Plan:

(i) The Employer's contribution shall be allocated to each Participant's Account in the manner set forth in Section 4.1 herein and as specified in the Adoption Agreement.

(ii) Notwithstanding the preceding provisions, a Participant shall only be eligible to share in the allocations of the Employer's contribution for the year if the Participant is an Eligible Employee at any time during the year and the conditions set forth in the Adoption Agreement are satisfied.

(2) 401(a) Plan. For a 401(a) Plan (which is a profit sharing plan within the meaning of Code §401(a)):

(i) The Employer's contribution shall be allocated to each Participant's Account in accordance with the allocation method below that corresponds to the elections in the Adoption Agreement. The Employer shall provide the Administrator with all information required by the Administrator to make a proper allocation of the Employer's contribution for each Plan Year. Within a reasonable period of time after the date of receipt by the Administrator of such information, the allocation shall be made in accordance with the provisions below.

(ii) Notwithstanding the preceding provision, a Participant shall only be eligible to share in the allocations of the Employer's contribution for the year if the Participant is an Eligible Employee at any time during the year and the conditions set forth in the Adoption Agreement are satisfied.

(c) **Gains or losses.** Except as otherwise elected in the Adoption Agreement or as provided in Section 4.10 with respect to Participant Directed Accounts, as of each Valuation Date, before allocation of any Employer contributions and Forfeitures, any earnings or losses (net appreciation or net depreciation) of the Trust Fund (exclusive of assets segregated for distribution) shall be allocated in the same proportion that each Participant's nonsegregated accounts bear to the total of all Participants' nonsegregated accounts as of such date. Unless otherwise specified in the Adoption Agreement, the nonsegregated account will be reduced by any distributions made prior to the Valuation Date.

(d) **Contracts.** Participants' Accounts shall be debited for any insurance or annuity premiums paid, if any, and credited with any dividends or interest received on Contracts.

(e) **Forfeitures.** Forfeitures must be disposed of no later than the last day of the Plan Year following the Plan Year in which the Forfeiture occurs. The Employer must direct the Administrator to use Forfeitures to satisfy any contribution that may be required pursuant to Section 6.10 or to pay any Plan expenses. With respect to a Money Purchase Plan, any remaining Forfeitures will be disposed of in accordance with the elections in the Adoption Agreement. With respect to all other plans, the Employer must direct

the Administrator to use any remaining Forfeitures in accordance with any combination of the following methods, including a different method based on the source of such Forfeitures. Forfeitures may be:

- (1) Added to any Employer discretionary contribution and allocated in the same manner
- (2) Used to reduce any Employer contribution
- (3) Added to any Employer matching contribution and allocated as an additional matching contribution
- (4) Allocated to all Participants in the same proportion that each Participant's Compensation for the Plan Year bears to the Compensation of all Participants for such year

If Forfeitures are allocated to Participants (rather than used to reduce Employer contributions) then the Employer must also direct the Administrator as to which Participants are eligible to share in such allocation. The maximum allocation conditions the Employer may require are that Participants complete one (1) Year of Service (or Period of Service) and be employed on the last day of the Plan Year in order to share in the allocation of Forfeitures for such Plan Year.

(f) **Delay in processing transactions.** Notwithstanding anything in this Section to the contrary, all information necessary to properly reflect a given transaction may not be available until after the date specified herein for processing such transaction, in which case the transaction will be reflected when such information is received and processed. Subject to express limits that may be imposed under the Code, the processing of any contribution, distribution or other transaction may be delayed for any legitimate business reason (including, but not limited to, failure of systems or computer programs, failure of the means of the transmission of data, force majeure, the failure of a service provider to timely receive values or prices, and correction for errors or omissions or the errors or omissions of any service provider). The processing date of a transaction will be binding for all purposes of the Plan.

4.4 MAXIMUM ANNUAL ADDITIONS

(a) Calculation of "annual additions."

(1) If a Participant does not participate in, and has never participated in another qualified plan maintained by the "employer," or a welfare benefit fund (as defined in Code §419(e)) maintained by the "employer," or an individual medical benefit account (as defined in Code §415(1)(2)) maintained by the "employer," or a simplified employee pension (as defined in Code §408(k)) maintained by the "employer" which provides "annual additions," the amount of "annual additions" which may be credited to the Participant's Accounts for any Limitation Year shall not exceed the lesser of the "maximum permissible amount" or any other limitation contained in this Plan. If the "employer" contribution that would otherwise be contributed or allocated to the Participant's Accounts would cause the "annual additions" for the Limitation Year to exceed the "maximum permissible amount," the amount contributed or allocated will be reduced so that the "annual additions" for the Limitation Year will equal the "maximum permissible amount," and any amount in excess of the "maximum permissible amount" which would have been allocated to such Participant may be allocated to other Participants.

(2) Prior to determining the Participant's actual 415 Compensation for the Limitation Year, the "employer" may determine the "maximum permissible amount" for a Participant on the basis of a reasonable estimation of the Participant's 415 Compensation for the Limitation Year, uniformly determined for all Participants similarly situated.

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

(b) "Annual additions" if a Participant is in more than one plan.

(1) Except as provided in Subsection (c) below, this Subsection applies if, in addition to this Plan, a Participant is covered under another "employer" maintained qualified defined contribution plan, welfare benefit fund (as defined in Code §419(e)), individual medical benefit account (as defined in Code §415(1)(2)), or simplified employee pension (as defined in Code §408(k)), which provides "annual additions," during any Limitation Year. The "annual additions" which may be credited to a Participant's Accounts under this Plan for any such Limitation Year shall not exceed the "maximum permissible amount" reduced by the "annual additions" credited to a Participant's Accounts under the other plans and welfare benefit funds, individual medical benefit accounts, and simplified employee pensions for the same Limitation Year. If the "annual additions" with respect to the Participant under other defined contribution plans and welfare benefit funds maintained by the "employer" are less than the "maximum permissible amount" and the "employer" contribution that would otherwise be contributed or allocated to the Participant's Accounts under this Plan would cause the "annual additions" for the Limitation Year to exceed this limitation, the amount contributed or allocated will be reduced so that the "annual additions" under all such plans and welfare benefit funds for the Limitation Year will equal the "maximum permissible amount," and any amount in excess of the "maximum permissible amount" which would have been allocated to such Participant may be allocated to other Participants. If the "annual additions" with respect to the Participant under such other defined contribution plans, welfare benefit funds, individual medical benefit accounts and simplified employee pensions in the aggregate are equal to or greater than the

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"maximum permissible amount," no amount will be contributed or allocated to the Participant's Account under this Plan for the Limitation Year.

(2) Prior to determining the Participant's actual 415 Compensation for the Limitation Year, the "employer" may determine the "maximum permissible amount" for a Participant on the basis of a reasonable estimation of the Participant's 415 Compensation for the Limitation Year, uniformly determined for all Participants similarly situated.

(3) As soon as is administratively feasible after the end of the Limitation Year, the "maximum permissible amount" for the Limitation Year will be determined on the basis of the Participant's actual 415 Compensation for the Limitation Year.

(4) If, pursuant to Section 4.4(b)(2), a Participant's "annual additions" under this Plan and such other plans would result in an "excess amount" for a Limitation Year, the "excess amount" will be deemed to consist of the "annual additions" last allocated, except that "annual additions" attributable to a simplified employee pension will be deemed to have been allocated first, followed by "annual additions" to a welfare benefit fund or individual medical benefit account, and then by "annual additions" to a plan subject to Code §412, regardless of the actual allocation date.

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

(i) the total "excess amount" allocated as of such date, times

(ii) the ratio of (A) the "annual additions" allocated to the Participant for the Limitation Year as of such date under this Plan to (B) the total "annual additions" allocated to the Participant for the Limitation Year as of such date under this and all the other qualified defined contribution plans.

(c) **Coverage under another plan.** If the Participant is covered under another qualified defined contribution plan maintained by the "employer," "annual additions" which may be credited to the Participant's Accounts under this Plan for any Limitation Year will be limited in accordance with Section 4.4(b), unless the "employer" provides other limitations in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections).

(d) **Time when "annual additions" credited.** An "annual addition" is credited to the Account of a Participant for a particular Limitation Year if it is allocated to the Participant's Account under the Plan as of any date within that Limitation Year. However, an amount is not deemed allocated as of any date within a Limitation Year if such allocation is dependent upon participation in the Plan as of any date subsequent to such date.

For purposes of this subparagraph, "employer" contributions are treated as credited to a Participant's Account for a particular Limitation Year only if the contributions are actually made 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.

(e) **Definitions.** For purposes of this Section, the following terms shall be defined as follows:

(1) **"Annual additions"** means the sum credited to a Participant's Accounts for any Limitation Year of (a) "employer" contributions, (b) Employee contributions (except as provided below), (c) Forfeitures, (d) amounts allocated to an individual medical benefit account, as defined in Code §415(l)(2), which is part of a pension or annuity plan maintained by the "employer," (e) 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 (f) allocations under a simplified employee pension. Except, however, the Compensation percentage limitation referred to in paragraph (e)(5)(ii) below shall not apply to: (1) any contribution for medical benefits (within the meaning of Code §419A(f)(2)) after separation from service which is otherwise treated as an "annual addition," or (2) any amount otherwise treated as an "annual addition" under Code §415(l)(1).

(i) **Restorative payments.** "Annual additions" for purposes of Code §415 and this Section shall not include restorative payments. A restorative payment is a payment made to restore losses to a Plan resulting from actions by a fiduciary for which there is reasonable risk of liability for breach of a fiduciary duty under applicable federal or state law, where Participants who are similarly situated are treated similarly with respect to the payments. Generally, payments are restorative payments only if the payments are made in order to restore some or all of the Plan's losses due to an action (or a failure to act) that creates a reasonable risk of liability for such a breach of fiduciary duty (other than a breach of fiduciary duty arising from failure to remit contributions to the Plan). Payments made to the Plan to make up for losses due merely to market fluctuations and other payments that are not made on account of a reasonable risk of liability for breach of a fiduciary duty are not restorative payments and generally constitute contributions that are considered "annual additions."

(ii) **Other amounts.** "Annual additions" for purposes of Code §415 and this Section shall not include: (A) The direct transfer of a benefit or employee contributions from a qualified plan to this Plan; (B) Rollover contributions (as described

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in Code §§401(a)(31), 402(c)(1), 403(a)(4), 403(b)(8), 408(d)(3), and 457(e)(16)); (C) Repayments of loans made to a Participant from the Plan; and (D) Repayments of amounts described in Code §411(a)(7)(B) (in accordance with Code §411(a)(7)(C)) and Code §411(a)(3)(D) or repayment of contributions to a governmental plan (as defined in Code §414(d)) as described in Code §415(k)(3), as well as Employer restorations of benefits that are required pursuant to such repayments.

- (2) **"Defined contribution dollar limitation"** means \$40,000 as adjusted under Code §415(d).
- (3) **"Employer"** means, for purposes of this Section, the Employer that adopts this Plan and all Affiliated Employers.
- (4) **"Excess amount"** means the excess of the Participant's "annual additions" for the Limitation Year over the "maximum permissible amount."
- (5) **"Maximum permissible amount"** means, except to the extent permitted under this Plan and Code §414(v), the maximum "annual addition" that may be contributed or allocated to a Participant's Accounts under the Plan for any Limitation Year, which shall not exceed the lesser of:
 - (i) the "defined contribution dollar limitation," or
 - (ii) one hundred percent (100%) of the Participant's 415 Compensation for the Limitation Year.

The 415 Compensation Limitation referred to in (ii) shall not apply to any contribution for medical benefits after separation from service (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 twelve (12) consecutive month period, the "maximum permissible amount" will not exceed the "defined contribution dollar limitation" multiplied by a fraction, the numerator of which is the number of months in the short Limitation Year and the denominator of which is twelve (12).

(f) Special rules.

(1) **Aggregation of plans.** For purposes of applying the limitations of Code §415, all defined contribution plans (without regard to whether a plan has been terminated) ever maintained by the "employer" (or a "predecessor employer") under which the Participant receives "annual additions" are treated as one defined contribution plan. For purposes of this Section:

- (i) A former "employer" is a "predecessor employer" with respect to a participant in a plan maintained by an "employer" if the "employer" maintains a plan under which the participant had accrued a benefit while performing services for the former "employer", but only if that benefit is provided under the plan maintained by the "employer". For this purpose, the "formerly affiliated plan" rules in Regulation §1.415(f)-1(b)(2) apply as if the "employer" and "predecessor employer" constituted a single employer under the rules described in Regulation §1.415(a)-1(f)(1) and (2) immediately prior to the "cessation of affiliation" (and as if they constituted two, unrelated employers under the rules described in Regulation §1.415(a)-1(f)(1) and (2) immediately after the "cessation of affiliation") and "cessation of affiliation" was the event that gives rise to the "predecessor employer" relationship, such as a transfer of benefits or plan sponsorship.
- (ii) With respect to an "employer" of a Participant, a former entity that antedates the "employer" is a "predecessor employer" with respect to the Participant if, under the facts and circumstances, the "employer" constitutes a continuation of all or a portion of the trade or business of the former entity.

(2) **Break-up of an affiliated employer or an affiliated service group.** For purposes of aggregating plans for Code §415, a "formerly affiliated plan" of an "employer" is taken into account for purposes of applying the Code §415 limitations to the "employer," but the "formerly affiliated plan" is treated as if it had terminated immediately prior to the "cessation of affiliation." For purposes of this paragraph, a "formerly affiliated plan" of an "employer" is a plan that, immediately prior to the "cessation of affiliation," was actually maintained by one or more of the entities that constitute the "employer" (as determined under the employer affiliation rules described in Regulation §1.415(a)-1(f)(1) and (2)), and immediately after the "cessation of affiliation," is not actually maintained by any of the entities that constitute the "employer" (as determined under the employer affiliation rules described in Regulation §1.415(a)-1(f)(1) and (2)). For purposes of this paragraph, a "cessation of affiliation" means the event that causes an entity to no longer be aggregated with one or more other entities as a single "employer" under the employer affiliation rules described in Regulation §1.415(a)-1(f)(1) and (2) (such as the sale of a subsidiary outside a controlled group), or that causes a plan to not actually be maintained by any of the entities that constitute the "employer" under the employer affiliation rules of Regulation §1.415(a)-1(f)(1) and (2) (such as a transfer of plan sponsorship outside of a controlled group).

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(3) **Mid-year aggregation.** Two or more defined contribution plans that are not required to be aggregated pursuant to Code §415(f) and the Regulations thereunder as of the first day of a Limitation Year do not fail to satisfy the requirements of Code §415 with respect to a Participant for the Limitation Year merely because they are aggregated later in that Limitation Year, provided that no "annual additions" are credited to the Participant's Account after the date on which the plans are required to be aggregated.

4.5 ADJUSTMENT FOR EXCESS ANNUAL ADDITIONS

Notwithstanding any provision of the Plan to the contrary, if the "annual additions" (as defined in Section 4.4) are exceeded for any Participant, then the Plan may only correct such excess in accordance with the Employee Plans Compliance Resolution System (EPCRS) as set forth in Revenue Procedure 2013-12 or any superseding guidance.

4.6 ROLLOVERS

(a) **Acceptance of "rollovers" into the Plan.** If elected in the Adoption Agreement and with the consent of the Administrator, the Plan may accept a "rollover," provided the "rollover" will not jeopardize the tax-exempt status of the Plan or create adverse tax consequences for the Employer. The amounts rolled over shall be separately accounted for in a "Participant's Rollover Account." A Participant's Rollover Account shall be fully Vested at all times and shall not be subject to Forfeiture for any reason. For purposes of this Section, the term Participant shall include any Eligible Employee who is not yet a Participant, if, pursuant to the Adoption Agreement, "rollovers" are permitted to be accepted from Eligible Employees. In addition, for purposes of this Section the term Participant shall also include Former Employees if the Employer and Administrator consent to accept "rollovers" of distributions made to Former Employees from any plan of the Employer.

(b) **Treatment of "rollovers" under the Plan.** Amounts in a Participant's Rollover Account shall be held by the Trustee (or Insurer) pursuant to the provisions of this Plan and may not be withdrawn by, or distributed to the Participant, in whole or in part, except as elected in the Adoption Agreement and Subsection (c) below. The Trustee (or Insurer) shall have no duty or responsibility to inquire as to the propriety of the amount, value or type of assets transferred, nor to conduct any due diligence with respect to such assets; provided, however, that such assets are otherwise eligible to be held by the Trustee (or Insurer) under the terms of this Plan.

(c) **Distribution of "rollovers."** At such time as the conditions set forth in the Adoption Agreement have been satisfied, the Administrator, at the election of the Participant, shall direct the distribution of up to the entire amount credited to the Rollover Account maintained on behalf of such Participant. Any distribution of amounts held in a Participant's Rollover Account shall be made in a manner which is consistent with and satisfies the provisions of Sections 6.5 and 6.6. Furthermore, unless otherwise elected in the Adoption Agreement, such amounts shall be considered to be part of a Participant's benefit in determining whether an involuntary cash-out of benefits may be made without Participant consent.

(d) **"Rollovers" maintained in a separate account.** The Administrator may direct that "rollovers" made after a Valuation Date be segregated into a separate account for each Participant until such time as the allocations pursuant to this Plan have been made, at which time they may remain segregated, invested as part of the general Trust Fund or, if elected in the Adoption Agreement, directed by the Participant.

(e) **Limits on accepting "rollovers."** Prior to accepting any "rollovers" to which this Section applies, the Administrator may require the Employee to establish (by providing opinion of counsel or otherwise) that the amounts to be rolled over to this Plan meet the requirements of this Section. The Employer may instruct the Administrator, operationally, to limit the source of "rollover" contributions that may be accepted by the Plan.

(f) **Definitions.** For purposes of this Section, the following definitions shall apply:

(1) A "rollover" means: (i) amounts transferred to this Plan directly from another "eligible retirement plan;" (ii) distributions received by an Employee from other "eligible retirement plans" which are eligible for tax-free rollover to an "eligible retirement plan" and which are transferred by the Employee to this Plan within sixty (60) days following receipt thereof; and (iii) any other amounts which are eligible to be rolled over to this Plan pursuant to the Code or any other federally enacted legislation.

(2) An "eligible retirement plan" means an individual retirement account described in Code §408(a), an individual retirement annuity described in Code §408(b) (other than an endowment contract), a qualified trust (an employees' trust described in Code §401(a) which is exempt from tax under Code §501(a)), an annuity plan described in Code §403(a), an eligible deferred compensation plan described in Code §457(b) which is maintained by an eligible employer described in Code §457(e)(1)(A), and an annuity contract described in Code §403(b).

4.7 PLAN-TO-PLAN TRANSFERS FROM QUALIFIED PLANS

(a) **Transfers into this Plan.** With the consent of the Administrator, amounts may be transferred (within the meaning of Code §414(l)) to this Plan from other tax-qualified plans under Code §401(a), provided the plan from which such funds are transferred permits the transfer to be made and the transfer will not jeopardize the tax-exempt status of the Plan or Trust or create

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adverse tax consequences for the Employer. Prior to accepting any transfers to which this Section applies, the Administrator may require an opinion of counsel that the amounts to be transferred meet the requirements of this Section. The amounts transferred shall be set up in a separate account herein referred to as a "Participant's Transfer Account." Furthermore, for vesting purposes, the Participant's Transfer Account shall be treated as a separate "Participant's Account."

(b) **Accounting of transfers.** Amounts in a Participant's Transfer Account shall be held by the Trustee (or Insurer) pursuant to the provisions of this Plan and may not be withdrawn by, or distributed to the Participant, in whole or in part, except as elected in the Adoption Agreement and Subsection (d) below, provided the restrictions of Subsection (c) below and Section 6.16 are satisfied. The Trustee (or Insurer) shall have no duty or responsibility to inquire as to the propriety of the amount, value or type of assets transferred, nor to conduct any due diligence with respect to such assets; provided, however, that such assets are otherwise eligible to be held by the Trustee (or Insurer) under the terms of this Plan. Notwithstanding anything in this Section to the contrary, transferred amounts are not required to be separately accounted for and may be combined with the corresponding Account maintained in this Plan provided all rights, benefits and features and other attributes are identical with respect to each account, or are identical after the combination.

(c) **Distribution of plan-to-plan transfer amounts.** At Normal Retirement Date, or such other date when the Participant or the Participant's Beneficiary shall be entitled to receive benefits, the Participant's Transfer Account shall be used to provide additional benefits to the Participant or the Participant's Beneficiary. Any distribution of amounts held in a Participant's Transfer Account shall be made in a manner which is consistent with and satisfies the provisions of Sections 6.5 and 6.6. Furthermore, such amounts shall be considered to be part of a Participant's benefit in determining whether an involuntary cash-out of benefits may be made without Participant consent.

(d) **Segregation.** The Administrator may direct that Employee transfers made after a Valuation Date be segregated into a separate account for each Participant until such time as the allocations pursuant to this Plan have been made, at which time they may remain segregated, invested as part of the general Trust Fund or, if elected in the Adoption Agreement, directed by the Participant.

4.8 MANDATORY EMPLOYEE CONTRIBUTIONS

(a) **Mandatory Employee contributions.** An Employer may elect in the Adoption Agreement to provide for mandatory Employee contribution. If the Employer elects to provide for such contributions, each Participant, as a condition of employment, will make a mandatory Employee contribution in the amount elected in the Adoption Agreement. Alternatively, the Employer may elect to provide a range of mandatory Employee contribution percentages from which the Participant may choose to contribute. Under this option, the Employee, as a condition of employment, must make an irrevocable election to contribute a percentage of his or her Compensation no later than his or her effective date of participation. During the period of the Participant's participation in the Plan, the Participant may not revoke the election and receive cash in lieu of the contribution, nor may the Participant change the amount of the mandatory Employee contribution. Amounts attributable to mandatory Employee contributions shall be fully Vested.

(b) **Employer pick-up contribution.** If elected in the Adoption Agreement, the Employer will "pick-up" the mandatory Employee contribution and will pay the mandatory Employee contribution to the Plan as an Employer contribution. This provision is effective only after the Employer provides for the treatment of the Employee contributions as described in this paragraph, through a person authorized to take such action, and evidenced in writing by minutes of a meeting, resolution, ordinance, or other formal action by the Employer, which will effectuate the "pick-up" provision. Furthermore, as of the date of the "pick-up," Participants are not permitted to opt-out of the "pick-up" or to receive the mandatory Employee contributions directly instead of having them paid to the Plan. Mandatory Employee contributions that are "picked-up" by the Employer are excludible from the Employee's gross income.

4.9 AFTER-TAX VOLUNTARY EMPLOYEE CONTRIBUTIONS

(a) **After-tax voluntary Employee contributions.** If elected in the Adoption Agreement, each Participant may, in accordance with procedures established by the Administrator, elect to make after-tax voluntary Employee contributions to this Plan. Such contributions must generally be paid to the Trustee (or Insurer) within a reasonable period of time after being received by the Employer. An after-tax voluntary Employee contribution is any contribution made to the Plan by or on behalf of a Participant that is included in the Participant's gross income in the year in which made and that is separately accounted for under the Plan.

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

(c) **Distribution at any time.** A Participant may elect at any time to withdraw after-tax voluntary Employee contributions from such Participant's Voluntary Contribution Account and the actual earnings thereon in a manner which is consistent with and satisfies the provisions of Section 6.5. If the Administrator maintains sub-accounts with respect to after-tax voluntary Employee contributions (and earnings thereon) which were made on or before a specified date, a Participant shall be permitted to designate which sub-account shall be the source for the withdrawal. Forfeitures of Employer contributions shall not occur solely as a result of an Employee's withdrawal of after-tax voluntary Employee contributions.

In the event a Participant has received a hardship distribution under the safe harbor hardship provisions of the Code §401(k) Regulations from any plan maintained by the Employer, then the Participant shall be barred from making any after-tax voluntary

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Employee contributions for a period of six (6) months after receipt of the hardship distribution. Any prior elections to make after-tax voluntary Employee contributions will become void upon the receipt of the hardship distribution that triggers the suspension period of this paragraph.

(d) **Used to provide benefits.** At Normal Retirement Date, or such other date when the Participant or the Participant's Beneficiary is entitled to receive benefits, the Participant's Voluntary Contribution Account shall be used to provide additional benefits to the Participant or the Participant's Beneficiary.

4.10 PARTICIPANT DIRECTED INVESTMENTS

(a) **Directed investment options allowed.** If permitted under Participant Direction Procedures, all Participants may direct the Trustee (or Insurer) as to the investment of all or a portion of their individual Account balances as set forth in such procedures. Participants may direct the Trustee (or Insurer), in writing (or in such other form which is acceptable to the Trustee (or Insurer)), to invest their accounts in specific assets, specific funds or other investments permitted under the Plan and the Participant Direction Procedures. That portion of the Account of any Participant that is subject to investment direction of such Participant will be considered a Participant Directed Account.

(b) **Establishment of Participant Direction Procedures.** The Administrator will establish Participant Direction Procedures, to be applied in a uniform manner, setting forth the permissible investment options under this Section, how often changes between investments may be made, and any other limitations and provisions that the Administrator may impose on a Participant's right to direct investments.

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

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

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

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

(e) **Plan will follow investment directions.** Investment directions will be processed as soon as administratively practicable after proper investment directions are received from the Participant. No guarantee is made by the Plan, Employer, Administrator or Trustee (or Insurer) that investment directions will be processed on a daily basis, and no guarantee is made in any respect regarding the processing time of an investment direction. Notwithstanding any other provision of the Plan, the Employer, Administrator or Discretionary Trustee (or Insurer) reserves the right to not value an investment option on any given Valuation Date for any reason deemed appropriate by the Employer, Administrator or Discretionary Trustee (or Insurer). Furthermore, the processing of any investment transaction may be delayed for any legitimate business reason (including, but not limited to, failure of systems or computer programs, failure of the means of the transmission of data, the failure of a service provider to timely receive values or prices, and correction for errors or omissions or the errors or omissions of any service provider) or force majeure. The processing date of a transaction will be binding for all purposes of the Plan and considered the applicable Valuation Date for an investment transaction.

(f) **Other documents required by directed investments.** Any information regarding investments available under the Plan, to the extent not required to be described in the Participant Direction Procedures, may be provided to Participants in one or more documents (or in any other form, including, but not limited to, electronic media) which are separate from the Participant Direction Procedures and are not thereby incorporated by reference into this Plan.

4.11 QUALIFIED MILITARY SERVICE

(a) **USERRA.** Notwithstanding any provisions of this Plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Code §414(u). Furthermore, loan repayments may be suspended under this Plan as permitted under Code §414(u)(4).

(b) **Benefit accrual.** If the Employer elects in the Adoption Agreement to apply this Subsection, then effective as of the date specified in the Adoption Agreement but no earlier than the first day of the 2007 Plan Year, for benefit accrual purposes, the Plan treats an individual who becomes Totally and Permanently disabled while performing "qualified military service" (as defined in Code §414(u)) with respect to the Employer as if the individual had resumed employment in accordance with the individual's reemployment rights under Uniformed Services Employment and Reemployment Rights Act of 1994, as amended (USERRA), on

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the day preceding Total and Permanent Disability and terminated employment on the actual date of death or Total and Permanent Disability.

The Plan will determine the amount of after-tax voluntary Employee contributions of an individual treated as reemployed under this Section for purposes of applying paragraph Code §414(u)(8)(C) on the basis of the individual's average actual after-tax voluntary Employee contributions for the lesser of: (1) the 12-month period of service with the Employer immediately prior to "qualified military service" (as defined in Code §414(u)); or (2) the actual length of continuous service with the Employer.

(c) **Death benefits.** In the case of a death occurring on or after January 1, 2007, if a Participant dies while performing "qualified military service" (as defined in Code §414(u)), the Participant's Beneficiary is entitled to any additional benefits (other than benefit accruals relating to the period of "qualified military service" but including vesting credit for such period and any other ancillary life insurance or other survivor benefits) provided under the Plan as if the Participant had resumed employment and then terminated employment on account of death. Moreover, the Plan will credit the Participant's "qualified military service" as service for vesting purposes, as though the Participant had resumed employment under Uniformed Services Employment and Reemployment Rights Act of 1994, as amended (USERRA) immediately prior to the Participant's death.

ARTICLE V VALUATIONS

5.1 VALUATION OF THE TRUST FUND

The Administrator shall direct the Trustee (or Insurer), as of each Valuation Date, to determine the net worth of the assets comprising the Trust Fund as it exists on the Valuation Date. In determining such net worth, the Trustee (or Insurer) shall value the assets comprising the Trust Fund at their fair market value as of the Valuation Date and may deduct all expenses for which the Trustee (or Insurer) has not yet been paid by the Employer or the Trust Fund. The Trustee (or Insurer), when determining the net worth of the assets, may update the value of any shares held in a Participant Directed Account by reference to the number of shares held on behalf of the Participant, priced at the market value as of the Valuation Date.

5.2 METHOD OF VALUATION

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

ARTICLE VI DETERMINATION AND DISTRIBUTION OF BENEFITS

6.1 DETERMINATION OF BENEFITS UPON RETIREMENT

Every Participant may terminate employment with the Employer and retire for purposes hereof on the Participant's Normal Retirement Date or Early Retirement Date. However, a Participant may postpone the severance of employment with the Employer to a later date, in which event the participation of such Participant in the Plan, including the right to receive allocations pursuant to Section 4.3, shall continue until such Participant's Retirement Date. Upon a Participant's Retirement Date, or if elected in the Adoption Agreement, the attainment of Normal Retirement Date without severance of employment with the Employer (subject to Section 6.11), or as soon thereafter as is practicable, the Administrator shall direct the distribution, at the election of the Participant, of the Participant's entire Vested interest in the Plan in accordance with Section 6.5.

6.2 DETERMINATION OF BENEFITS UPON DEATH

(a) **100% vesting on death.** Upon the death of a Participant before the Participant's Retirement Date or other severance of employment, all amounts credited to such Participant's Combined Account shall, if elected in the Adoption Agreement, become fully Vested. The Administrator shall direct, in accordance with the provisions of Sections 6.6 and 6.7, the distribution of the deceased Participant's Vested accounts to the Participant's Beneficiary.

(b) **Distribution upon death.** Upon the death of a Participant, the Administrator shall direct, in accordance with the provisions of Sections 6.6 and 6.7, the distribution of any remaining Vested amounts credited to the accounts of such deceased Participant to such Participant's Beneficiary.

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

(d) **Beneficiary designation.** Each Participant must designate a Beneficiary on a form and in such manner as provided by the Administrator.

(e) **Beneficiary if no Beneficiary elected by Participant.** In the event no valid designation of Beneficiary exists, or if the Beneficiary with respect to a portion of a Participant's death benefit is not alive at the time of the Participant's death and no contingent Beneficiary has been designated, then such portion of the death benefit will be paid in the following order of priority, unless the Employer specifies a different order of priority in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections), to:

- (1) The Participant's surviving Spouse;
- (2) The Participant's issue, per stirpes;
- (3) The Participant's surviving parents, in equal shares; or
- (4) The Participant's estate.

If the Beneficiary does not predecease the Participant, but dies prior to distribution of the death benefit, the death benefit will be paid to the Beneficiary's "designated Beneficiary" (or if there is no "designated Beneficiary," to the Beneficiary's estate). For purposes of these provisions, and with respect to any Beneficiary designations, adopted children shall be treated as children.

(f) **Divorce revokes spousal Beneficiary designation.** Notwithstanding anything in this Section to the contrary, unless otherwise elected in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections), if a Participant has designated the Spouse as a Beneficiary, then a divorce decree that relates to such Spouse shall revoke the Participant's designation of the Spouse as a Beneficiary unless the decree or a "qualified domestic relations order" (within the meaning of Code §414(p)) provides otherwise or a subsequent Beneficiary designation is made.

(g) **Simultaneous death of Participant and Beneficiary.** If a Participant and his or her Beneficiary should die simultaneously, or under circumstances that render it difficult or impossible to determine who predeceased the other, then unless the Participant's Beneficiary designation otherwise specifies, the Administrator will presume conclusively that the Beneficiary predeceased the Participant.

(h) **Slayer statute.** The Administrator may apply slayer statutes, or similar rules which prohibit inheritance by a person who murders someone from whom he or she stands to inherit, under applicable state laws.

(i) **Insured death benefit.** If the Plan provides an insured death benefit and a Participant dies before any insurance coverage to which the Participant is entitled under the Plan is effected, the death benefit from such insurance coverage shall be limited to the premium which was or otherwise would have been used for such purpose.

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

6.3 DETERMINATION OF BENEFITS IN EVENT OF DISABILITY

In the event of a Participant's Total and Permanent Disability prior to the Participant's Retirement Date or other severance of employment, all amounts credited to such Participant's Combined Account shall, if elected in the Adoption Agreement, become fully Vested. In the event of a Participant's Total and Permanent Disability, the Participant's entire Vested interest in the Plan will be distributable and may be distributed in accordance with the provisions of Sections 6.5 and 6.7.

6.4 DETERMINATION OF BENEFITS UPON TERMINATION

(a) **Payment on severance of employment.** If a Participant's employment with the Employer and any Affiliated Employer is severed for any reason other than death, Total and Permanent Disability, or attainment of the Participant's Retirement Date, then such Participant shall be entitled to such benefits as are provided herein.

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

conditions, if any, set forth in the Adoption Agreement have been satisfied. Any distribution under this paragraph shall be made in a manner which is consistent with and satisfies the provisions of Section 6.5.

Regardless of whether distributions in kind are permitted, in the event the amount of the Vested portion of the Terminated Participant's Combined Account equals or exceeds the fair market value of any insurance Contracts, the Trustee (or Insurer), when so directed by the Administrator and agreed to by the Terminated Participant, shall assign, transfer, and set over to such Terminated Participant all Contracts on such Terminated Participant's life in such form or with such endorsements, so that the settlement options and forms of payment are consistent with the provisions of Section 6.5. In the event that the Terminated Participant's Vested portion does not at least equal the fair market value of the Contracts, if any, the Terminated Participant may pay over to the Trustee (or Insurer) the sum needed to make the distribution equal to the value of the Contracts being assigned or transferred, or the Trustee (or Insurer), pursuant to the Participant's election, may borrow the cash value of the Contracts from the Insurer so that the value of the Contracts is equal to the Vested portion of the Terminated Participant's Combined Account and then assign the Contracts to the Terminated Participant.

Notwithstanding the above, unless otherwise elected in the Adoption Agreement, if the value of a Terminated Participant's Vested benefit derived from Employer and Employee contributions does not exceed \$5,000 (or such lower amount as elected in the Adoption Agreement), the Administrator shall direct that the entire Vested benefit be paid to such Participant in a single lump-sum as soon as practical without regard to the consent of the Participant, provided the conditions, if any, set forth in the Adoption Agreement have been satisfied. A Participant's Vested benefit shall not include (1) qualified voluntary employee contributions within the meaning of Code §72(o)(5)(B) and (2) if selected in the Conditions for Distributions Upon Severance of Employment Section of the Adoption Agreement, the Participant's Rollover Account. If a mandatory distribution is made pursuant to this paragraph and such distribution is greater than \$1,000 and the Participant does not elect to have such distribution paid directly to an "eligible retirement plan" specified by the Participant in a "direct rollover" in accordance with Section 6.14 or to receive the distribution directly, then the Administrator shall transfer such amount to an individual retirement account described in Code §408(a) or an individual retirement annuity described in Code §408(b) designated by the Administrator. However, if the Participant elects to receive or make a "direct rollover" of such amount, then the Administrator shall direct the Trustee (or Insurer) to cause the entire Vested benefit to be paid to such Participant in a single lump sum, or make a "direct rollover" pursuant to Section 6.14, provided the conditions, if any, set forth in the Adoption Agreement have been satisfied. The Administrator may establish a procedure as to whether a Participant who fails to make an affirmative election with respect to a mandatory distribution of \$1,000 or less is treated as having made or not made a "direct rollover" election. For purposes of determining whether the \$1,000 threshold set forth in this paragraph is met, the mandatory distribution includes amounts in a Participant's Rollover Account. For purposes of determining whether the \$5,000 threshold in this paragraph is met, a Participant's Rollover Account is taken into account unless otherwise elected in the Adoption Agreement.

(b) **Vesting schedule.** The Vested portion of any Participant's Account shall be a percentage of such Participant's Account determined on the basis of the Participant's number of Years of Service (or Periods of Service if the elapsed time method is elected) according to the vesting schedule specified in the Adoption Agreement. However, a Participant's entire interest in the Plan shall be non-forfeitable upon the Participant's Normal Retirement Age (if the Participant is employed by the Employer on or after such date). In addition, Employee contributions (voluntary and mandatory) and contributions for sick leave/vacation leave conversions shall be fully Vested.

6.5 DISTRIBUTION OF BENEFITS

(a) **Forms of distributions.** The Administrator, pursuant to the election of the Participant, shall direct the distribution to a Participant or Beneficiary any amount to which the Participant or Beneficiary is entitled under the Plan in one or more of the following methods which are permitted pursuant to the Adoption Agreement.

(1) One lump-sum payment in cash or in property, provided that if a distribution of property is permitted, it shall be limited to property that is specifically allocated and identifiable with respect to such Participant.

(2) Partial withdrawals.

(3) Payments over a period certain in monthly, quarterly, semi-annual, or annual cash installments. The period over which such payment is to be made shall not extend beyond the earlier of the Participant's life expectancy (or the joint life expectancy of the Participant and the Participant's designated Beneficiary). Once payments have begun, a Participant may elect to accelerate the payments (reduce the term and increase payments).

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

(b) **Consent to distributions.** Benefits may not be paid without a Participant's consent if the value of the Participant's Accounts exceed the dollar threshold specified in the Adoption Agreement. If the value of the Participant's Accounts does not exceed such threshold, then the Administrator will distribute such benefit in a lump-sum. For purposes of this Subsection, the Participant's

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Accounts shall not include, if selected in the Conditions for Distributions Upon Severance of Employment Section of the Adoption Agreement, the Participant's Rollover Account.

(c) **Required minimum distributions (Code §401(a)(9)).** Notwithstanding any provision in the Plan to the contrary, the distribution of a Participant's benefits, whether under the Plan or through the purchase of an annuity Contract, shall be made in accordance with the requirements of Section 6.8.

(d) **Annuity Contracts.** All annuity Contracts under this Plan shall be non-transferable when distributed. Furthermore, the terms of any annuity Contract purchased and distributed to a Participant or Spouse shall comply with all of the requirements of this Plan.

(e) **TEFRA 242(b)(2) election.** The provisions of this Section shall not apply to distributions made in accordance with Plan Section 6.8(a)(4).

6.6 DISTRIBUTION OF BENEFITS UPON DEATH

(a) **Consent.** If the value of the death benefit derived from Employer and Employee contributions does not exceed \$5,000, the Administrator shall direct the distribution of such amount to the Participant's Beneficiary in a single lump-sum as soon as practicable. If the value exceeds \$5,000, an immediate distribution of the entire amount may be made to the Beneficiary, provided such Beneficiary consents to the distribution.

(b) **Forms of distribution.** Death benefits may be paid to a Participant's Beneficiary in one of the following optional forms of benefits subject to the rules specified in Section 6.8 and the elections made in the Adoption Agreement. Such optional forms of distributions may be elected by the Participant. However, if no optional form of distribution was elected by the Participant prior to death, then the Participant's Beneficiary may elect the form of distribution.

(1) One lump-sum payment in cash or in property that is allocated to the Accounts of the Participant at the time of the distribution.

(2) Partial withdrawals.

(3) Payment in monthly, quarterly, semi-annual, or annual cash installments over a period to be determined by the Participant or the Participant's Beneficiary. In order to provide such installment payments, the Administrator may (A) segregate the aggregate amount thereof in a separate, federally insured savings account, certificate of deposit in a bank or savings and loan association, money market certificate or other liquid short-term security or (B) purchase a nontransferable annuity Contract for a term certain (with no life contingencies) providing for such payment. After periodic installments commence, the Beneficiary shall have the right to reduce the period over which such periodic installments shall be made, and the cash amount of such periodic installments shall be adjusted accordingly.

(4) In the form of an annuity over the life expectancy of the Beneficiary.

(c) **Required minimum distributions (Code §401(a)(9)).** Notwithstanding any provision in the Plan to the contrary, distributions upon the death of a Participant shall comply with the requirements of Section 6.8.

(d) **Payment to a child.** For purposes of this Section, any amount paid to a child of the Participant will be treated as if it had been paid to the surviving Spouse if the amount becomes payable to the surviving Spouse when the child reaches the age of majority.

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

(f) **TEFRA 242(b)(2) election.** The provisions of this Section shall not apply to distributions made in accordance with Section 6.8(a)(4).

6.7 TIME OF DISTRIBUTION

Except as limited by Section 6.8, whenever a distribution is to be made, or a series of payments are to commence, the distribution or series of payments may be made or begun as soon as practicable. Notwithstanding anything in the Plan to the contrary, unless a Participant otherwise elects, payments of benefits under the Plan will be begun not later than the later of the sixtieth (60th) day after the close of the Plan Year in which the latest of the following events occurs: (a) the date on which the Participant attains the earlier of age 65 or the Normal Retirement Age specified herein; (b) the tenth (10th) anniversary of the year in which the Participant commenced participation in the Plan; or (c) the date the Participant terminates service with the Employer. The failure of a Participant to request a distribution shall be deemed to be an election to defer the commencement of payment of any benefit until the time otherwise permitted under the Plan.

6.8 REQUIRED MINIMUM DISTRIBUTIONS

(a) General rules

(1) **Effective Date.** Subject to the good faith interpretation standard, the requirements of this Section shall apply to any distribution of a Participant's interest in the Plan and will take precedence over any inconsistent provisions of this Plan.

(2) **Requirements of Treasury Regulations incorporated.** All distributions required under this Section 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).

(3) **Limits on distribution periods.** As of the first "distribution calendar year," distributions to a Participant may only be made in accordance with the selections made in the Form of Distributions Section of the Adoption Agreement. If such distributions are not made in a single-sum, then they may only be made over one of the following periods: (i) the life of the Participant, (ii) the joint lives of the Participant and a "designated Beneficiary," (iii) a period certain not extending beyond the "life expectancy" of the Participant, or (iv) a period certain not extending beyond the joint life and last survivor expectancy of the Participant and a "designated Beneficiary."

(4) TEFRA Section 242(b)(2) elections.

(i) Notwithstanding the other provisions of this Section, other than the Spouse's right of consent afforded under the Plan, distributions may be made on behalf of any Participant, including a five percent (5%) owner, who has made a designation in accordance with Section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and in accordance with all of the following requirements (regardless of when such distribution commences):

(A) The distribution by the Plan is one which would not have disqualified such 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.

(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.

(ii) A distribution upon death will not be covered by the transitional rule of this Subsection 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.

(iii) 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 (i)(A) and (i)(E) of this Subsection.

(iv) If a designation is revoked, any subsequent distribution must satisfy the requirements of Code §401(a)(9) and the 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 Regulations thereunder, but for the Section 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).

(v) In the case in which an amount is transferred or rolled over from one plan to another plan, the rules in Regulation §1.401(a)(9)-8, Q&A-14 and Q&A-15, shall apply.

(5) **Good faith interpretation standard.** In applying any provision of this section, the Plan will apply a reasonable good faith interpretation of Code §401(a)(9).

(b) Time and manner of distribution

(1) **Required beginning date.** The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's "required beginning date."

(2) **Death of Participant before distributions begin.** If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows as elected in the Distributions Upon Death Section of the Adoption Agreement (or if no election is made, then the Beneficiary may elect either the lifetime method or the five-year method):

(i) **Lifetime method (Spouse).** If the Participant's surviving Spouse is the Participant's sole "designated Beneficiary," then, except as otherwise provided herein, 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.

(ii) **Lifetime method (non-Spouse).** If the Participant's surviving Spouse is not the Participant's sole "designated Beneficiary," then, except as provided in Section 6.8(b)(3) below, distributions to the "designated Beneficiary" will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.

(iii) **Five-year method.** If there is no "designated Beneficiary" as of September 30 of the year following the year of the Participant's death or if otherwise elected pursuant to the Adoption Agreement with respect to a "designated Beneficiary," the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(iv) **Death of 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 6.8(b)(2), other than Section 6.8(b)(2)(i), will apply as if the surviving Spouse were the Participant.

For purposes of this Section 6.8(b)(2) and Section 6.8(b)(3), unless Section 6.8(b)(2)(iv) applies, distributions are considered to begin on the Participant's "required beginning date." If Section 6.8(b)(2)(iv) applies, distributions are considered to begin on the date distributions are required to begin to the surviving Spouse under Section 6.8(b)(2)(i). 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 Section 6.8(b)(2)(i)), the date distributions are considered to begin is the date distributions actually commence.

(3) **Forms of distribution.** Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the "required beginning date," as of the first "distribution calendar year" distributions will be made in accordance with Sections 6.8(c) and 6.8(d) and only in a form of distribution provided in Section 6.5 or 6.6, as applicable. 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 thereunder.

(c) Required minimum distributions during Participant's lifetime

(1) **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 the following, as elected in the Form of Distributions Section of the Adoption Agreement:

(i) the quotient obtained by dividing the "Participant's account balance" by the distribution period in the Uniform Lifetime Table set forth in Regulation §1.401(a)(9)-9, using the Participant's age as of the Participant's birthday in the "distribution calendar year"; or

(ii) 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 Regulation §1.401(a)(9)-9, using the Participant's and Spouse's attained ages as of the Participant's and Spouse's birthdays in the "distribution calendar year."

(2) **Lifetime required minimum distributions continue through year of Participant's death.** Required minimum distributions will be determined under this Section 6.8(c) beginning with the first "distribution calendar year" and up to and including the "distribution calendar year" that includes the Participant's date of death.

(d) **Required minimum distributions after Participant's death**

(1) **Death on or after date distributions begin.**

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

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

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

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

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

(2) **Death before date distributions begin.**

(i) **Participant survived by "designated Beneficiary."** Except as provided in Section 6.8(b)(3), if the Participant dies before the date distributions begin and there is a "designated Beneficiary," the minimum amount that will be distributed for each "distribution calendar year" after the year of the Participant's death is the quotient obtained by dividing the "Participant's account balance" by the remaining "life expectancy" of the Participant's "designated Beneficiary," determined as provided in Section 6.8(d)(1).

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

(iii) **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 6.8(b)(2)(i), this Section 6.8(d)(2) will apply as if the surviving Spouse were the Participant.

(e) **Definitions.** For purposes of this Section, the following definitions apply:

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

(2) "Distribution calendar year" means a calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first "distribution calendar year" is the calendar year immediately preceding the calendar year which contains the Participant's "required beginning date." For distributions beginning after the Participant's death, the first "distribution calendar year" is the calendar year in which distributions are required to begin under Section 6.8(b). The required minimum distribution for the Participant's first "distribution calendar year" will be made on or before the Participant's "required beginning date." The required minimum distribution for other "distribution calendar years," including the required minimum distribution for the "distribution calendar year" in which the Participant's "required beginning date" occurs, will be made on or before December 31 of that "distribution calendar year."

(3) "Life expectancy" means the life expectancy as computed by use of the Single Life Table in Regulation §1.401(a)(9)-9.

(4) "Participant's account balance" means the Participant's account balance as of the last Valuation Date in the calendar year immediately preceding the "distribution calendar year" (valuation calendar year) increased by the amount of any contributions made and allocated or Forfeitures allocated to the account balance as of the dates in the valuation calendar year after the Valuation Date and decreased by distributions made in the valuation calendar year after the Valuation Date. For this purpose, the Administrator may exclude contributions that are allocated to the account balance as of dates in the valuation calendar year after the Valuation Date, but that are not actually made during the valuation calendar year. The account balance for the valuation calendar year includes any amounts rolled over or transferred to the Plan either in the valuation calendar year or in the "distribution calendar year" if distributed or transferred in the valuation calendar year.

(5) "Required beginning date" means, except as otherwise elected in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections), with respect to any Participant, April 1 of the calendar year following the later of the calendar year in which the Participant attains age 70 1/2 or the calendar year in which the Participant retires.

(f) **Waiver of 2009 required distributions**

(1) **Suspension of RMDs unless otherwise elected by Participant.** This paragraph does not apply if the Employer elected options a., b., or c. at the WRERA – RMD Waivers for 2009 Section of the Adoption Agreement. Notwithstanding the provisions of the Plan relating to required minimum distributions under Code §401(a)(9), a Participant or Beneficiary who would have been required to receive required minimum distributions for 2009 but for the enactment of Code §401(a)(9)(H) ("2009 RMDs"), and who would have satisfied that requirement by receiving distributions that are (i) equal to the "2009 RMDs" or (ii) one or more payments in a series of substantially equal distributions (that include the "2009 RMDs") made at least annually and expected to last for the life (or "life expectancy") of the Participant, the joint lives (or joint "life expectancy") of the Participant and the Participant's "designated Beneficiary," or for a period of at least 10 years ("Extended 2009 RMDs"), did not receive those distributions for 2009 unless the Participant or Beneficiary chooses to receive such distributions. Participants and Beneficiaries described in the preceding sentence were given the opportunity to elect to receive the distributions described in the preceding sentence.

(2) **Continuation of RMDs unless otherwise elected by Participant.** This paragraph applies if the Employer elected option b. at the WRERA – RMD Waivers for 2009 Section of the Adoption Agreement. Notwithstanding the provisions of the Plan relating to required minimum distributions under Code §401(a)(9), a Participant or Beneficiary who would have been required to receive required minimum distributions for 2009 but for the enactment of Code §401(a)(9)(H) ("2009 RMDs"), and who would have satisfied that requirement by receiving distributions that are (i) equal to the "2009 RMDs" or (ii) one or more payments in a series of substantially equal distributions (that include the "2009 RMDs") made at least annually and expected to last for the life (or "life expectancy") of the Participant, the joint lives (or joint "life expectancy") of the Participant and the Participant's "designated Beneficiary," or for a period of at least 10 years ("Extended 2009 RMDs"), did not receive those distributions for 2009 unless the Participant or Beneficiary choose not to receive such distributions. Participants and Beneficiaries described in the preceding sentence were given the opportunity to elect to stop receiving the distributions described in the preceding sentence.

(3) **Direct rollovers.** Notwithstanding the provisions of the Plan relating to required minimum distributions under Code §401(a)(9), and solely for purposes of applying the direct rollover provisions of the Plan, certain additional distributions in 2009, as elected by the Employer in the WRERA – RMD Waivers for 2009 Section of the Adoption Agreement, were treated as eligible rollover distributions. If no election was made by the Employer in the Adoption Agreement, then a direct rollover was offered only for distributions that would have been eligible rollover distributions without regard to Code §401(a)(9)(H).

6.9 DISTRIBUTION FOR MINOR OR INCOMPETENT INDIVIDUAL

If, in the opinion of the Administrator, a Participant or Beneficiary entitled to a distribution is not able to care for his or her affairs because of a mental condition, a physical condition, or by reason of age, Administrator shall direct the distribution to the Participant's or Beneficiary's guardian, conservator, trustee, custodian (including under a Uniform Transfers or Gifts to Minors Act) or to his or her attorney-in-fact or to other legal representative, upon furnishing evidence of such status satisfactory to the Administrator. The Administrator and the Trustee (or Insurer) do not have any liability with respect to payments so made and neither the Administrator nor the Trustee (or Insurer) has any duty to make inquiry as to the competence of any person entitled to receive payments under the Plan.

6.10 LOCATION OF PARTICIPANT OR BENEFICIARY UNKNOWN

In the event that all, or any portion, of the distribution payable to a Participant or Beneficiary hereunder shall, at the later of the Participant's attainment of age 62 or Normal Retirement Age, remain unpaid solely by reason of the inability of the Administrator to ascertain the whereabouts of such Participant or Beneficiary, the amount so distributable may, in the sole discretion of the Administrator, either be treated as a Forfeiture or be paid directly to an individual retirement account described in Code §408(a) or an individual retirement annuity described in Code §408(b). In addition, if the Plan provides for mandatory distributions and the amount to be distributed to a Participant or Beneficiary does not exceed \$1,000, then the amount distributable may, in the sole discretion of the Administrator, either be treated as a Forfeiture, or be paid directly to an individual retirement account described in Code §408(a) or an individual retirement annuity described in Code §408(b) at the time it is determined that the whereabouts of the Participant or the Participant's Beneficiary cannot be ascertained. In the event a Participant or Beneficiary is located subsequent to the Forfeiture, such benefit shall be restored, first

from Forfeitures, if any, and then from an additional Employer contribution if necessary. Upon Plan termination, the portion of the distributable amount that is an "eligible rollover distribution" as defined in Section 6.14(b)(1) may be paid directly to an individual retirement account described in Code §408(a) or an individual retirement annuity described in Code §408(b). However, regardless of the preceding, a benefit that is lost by reason of escheat under applicable state law is not treated as a Forfeiture for purposes of this Section nor as an impermissible forfeiture under the Code.

6.11 IN-SERVICE DISTRIBUTION

If elected in the Adoption Agreement, at such time as the conditions set forth in the Adoption Agreement have been satisfied, then the Administrator, at the election of a Participant who has not severed employment with the Employer, shall direct the distribution of up to the entire Vested amount then credited to the Accounts as elected in the Adoption Agreement maintained on behalf of such Participant. For purposes of this Section, a Participant shall include an Employee who has an Account balance in the Plan. In the event that the Administrator makes such a distribution, the Participant shall continue to be eligible to participate in the Plan on the same basis as any other Employee. Any distribution made pursuant to this Section shall be made in a manner consistent with Section 6.5. Furthermore, if an in-service distribution is permitted from more than one account type, the Administrator may determine any ordering of a Participant's in-service distribution from such accounts.

6.12 ADVANCE DISTRIBUTION FOR HARDSHIP

(a) **Hardship events.** For 401(a) Plans, if elected in the Adoption Agreement, the Administrator, at the election of the Participant, shall direct the distribution to any Participant in any one Plan Year up to the lesser of 100% of the Vested interest of the Accounts selected in the Adoption Agreement, valued as of the last Valuation Date or the amount necessary to satisfy the immediate and heavy financial need of the Participant. For purposes of this Section, a Participant shall include an Employee who has an Account balance in the Plan. Any distribution made pursuant to this Section shall be deemed to be made as of the first day of the Plan Year or, if later, the Valuation Date immediately preceding the date of distribution, and the Account from which the distribution is made shall be reduced accordingly. Withdrawal under this Section shall be authorized only if the distribution is for an immediate and heavy financial need. The Administrator will determine whether there is an immediate and heavy financial need based on the facts and circumstances. An immediate and heavy financial need includes, but is not limited to, a distribution for one of the following:

- (1) Expenses for (or necessary to obtain) medical care (as defined in Code §213(d));
- (2) Costs directly related to the purchase (excluding mortgage payments) of a principal residence for the Participant;
- (3) Payments for burial or funeral expenses for the Participant's deceased parent, Spouse, children or dependents (as defined in Code §152, and without regard to Code §152(d)(1)(B));
- (4) Payment of tuition, related educational fees, and room and board expenses, for up to the next twelve (12) months of post-secondary education for the Participant, the Participant's Spouse, children, or dependents (as defined in Code §152, and without regard to Code §§152(b)(1), (b)(2), and (d)(1)(B));
- (5) Payments necessary to prevent the eviction of the Participant from the Participant's principal residence or foreclosure on the mortgage on that residence; or
- (6) 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 whether the loss exceeds 10% of adjusted gross income).

(b) **Beneficiary-based distribution.** If elected in the Adoption Agreement, then effective as of the date specified in the Adoption Agreement, but no earlier than August 17, 2006, a Participant's hardship event includes an immediate and heavy financial need of the Participant's "primary Beneficiary under the Plan," that would constitute a hardship event if it occurred with respect to the Participant's Spouse or dependent as defined under Code §152 (such hardship events being limited to educational expenses, funeral expenses and certain medical expenses). For purposes of this Section, a Participant's "primary Beneficiary under the Plan" is an individual who is named as a Beneficiary under the Plan (by the Participant or pursuant to Section 6.2(d)) and has an unconditional right to all or a portion of the Participant's Account balance under the Plan upon the Participant's death.

(c) **Other limits and conditions.** If elected in the Adoption Agreement, no distribution shall be made pursuant to this Section from the Participant's Account until such Account has become fully Vested. Furthermore, if a hardship distribution is permitted from more than one Account, the Administrator may determine any ordering of a Participant's hardship distribution from such Accounts.

(d) **Distribution rules apply.** Any distribution made pursuant to this Section shall be made in a manner which is consistent with and satisfies the provisions of Section 6.5.

6.13 QUALIFIED DOMESTIC RELATIONS ORDER DISTRIBUTION

All benefits provided to a Participant in this Plan shall be subject to the rights afforded to any Alternate Payee under a "qualified domestic relations order." Furthermore, unless otherwise elected in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections) a distribution to an Alternate Payee shall be permitted if such distribution is authorized by a "qualified domestic relations order," even if the affected Participant has not reached the "earliest retirement age." For the purposes of this Section, "qualified domestic relations order" and "earliest retirement age" shall have the meanings set forth under Code §414(p). For purposes of this Section, however, a distribution that is made pursuant to a domestic relations order which meets the requirements of Code §414(p)(1)(A)(i) will be treated as being made pursuant to a "qualified domestic relations order."

Effective as of April 6, 2007, a domestic relations order that otherwise satisfies the requirements for a "qualified domestic relations order" will not fail to be a "qualified domestic relations order": (i) solely because the order is issued after, or revises, another domestic relations order or "qualified domestic relations order"; or (ii) solely because of the time at which the order is issued, including issuance after the Annuity Starting Date or after the Participant's death.

6.14 DIRECT ROLLOVERS

(a) **Right to direct rollover.** Notwithstanding any provision of the Plan to the contrary that would otherwise limit a "distributee's" election under this Section, a "distributee" may elect, at the time and in the manner prescribed by the Administrator, to have an "eligible rollover distribution" paid directly to an "eligible retirement plan" specified by the "distributee" in a "direct rollover." However, if less than the entire amount of the "eligible rollover distribution" is being paid directly to an "eligible retirement plan," then the Administrator may require that the amount paid directly to such plan be at least \$500.

(b) **Definitions.** For purposes of this Section, the following definitions shall apply:

(1) **Eligible rollover distribution.** An "eligible rollover distribution" means any distribution described in Code §402(c)(4) and generally includes any distribution of all or any portion of the balance to the credit of the "distributee," except that an "eligible rollover distribution" does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the "distributee" or the joint lives (or joint life expectancies) of the "distributee" and the "distributee's" "designated Beneficiary," or for a specified period of ten (10) years or more; any distribution to the extent such distribution is required under Code §401(a)(9); any hardship distribution; the portion of any other distribution(s) that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities); and any other distribution reasonably expected to total less than \$200 during a year. For purposes of the \$200 rule, a distribution from a designated Roth account and a distribution from other accounts under the Plan may be treated as made under separate plans. In addition, Section 6.8(f)(2) applies with respect to distributions made in 2009.

Notwithstanding the above, a portion of a distribution shall not fail to be an "eligible rollover distribution" merely because the portion consists of after-tax voluntary Employee contributions which are not includible in gross income. However, such portion may be transferred only to:

- (i) a traditional individual retirement account or annuity described in Code §408(a) or (b) (a "traditional IRA")
- (ii) for taxable years beginning after December 31, 2006, a Roth individual account or annuity described in Code §408A (a "Roth IRA"), or
- (iii) a qualified defined contribution plan or an annuity contract described in Code §401(a) or Code §403(b), respectively, that agrees to separately account for amounts so transferred (and earnings thereon), including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

(2) **Eligible retirement plan.** An "eligible retirement plan" is a "traditional IRA," for distributions made after December 31, 2007, a "Roth IRA," a qualified trust (an employees' trust) described in Code §401(a) which is exempt from tax under Code §501(a), an annuity plan described in Code §403(a), 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 and which agrees to separately account for amounts transferred into such plan from this Plan, and an annuity contract described in Code §403(b), that accepts the "distributee's" "eligible rollover distribution." The definition of "eligible retirement plan" shall also apply in the case of a distribution to a surviving Spouse, or to a Spouse or former Spouse who is an Alternate Payee. If any portion of an "eligible rollover distribution" is attributable to payments or distributions from a designated Roth account, an "eligible retirement plan" with respect to such portion shall include only another designated Roth account of the individual from whose account the payments or distributions were made, or a Roth IRA of such individual. In the case of a "distributee" who is a non-Spouse designated Beneficiary, (i) the "direct rollover" may be made only to a traditional or Roth individual retirement account or an annuity described in Code §408(b) ("IRA") that is established on behalf of the designated non-Spouse Beneficiary and that will be treated as an inherited IRA pursuant to the provisions of Code §402(c)(11), and (ii) the

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determination of any required minimum distribution required under Code §401(a)(9) that is ineligible for rollover shall be made in accordance with IRS Notice 2007-7, Q&A 17 and 18.

(3) **Distributee.** A "distributee" includes an Employee or Former Employee. In addition, the Employee's or Former Employee's surviving Spouse and the Employee's or Former Employee's Spouse or former Spouse who is the Alternate Payee, are "distributees" with regard to the interest of the Spouse or former Spouse.

(4) **Direct rollover.** A "direct rollover" is a payment by the Plan to the "eligible retirement plan" specified by the "distributee."

(c) **Participant notice.** A Participant entitled to an "eligible rollover distribution" must receive a written explanation of the 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 no less than thirty (30) days and no more than one-hundred eighty (180) (ninety (90) for Plan Years beginning before January 1, 2007) days before the Annuity Starting Date. 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.

(d) **Non-Spouse Beneficiary rollover right.** For distributions after December 31, 2009, and unless otherwise elected in the Adoption Agreement, for distributions after December 31, 2006, a non-Spouse Beneficiary who is a "designated Beneficiary" under Code §401(a)(9)(E) and the Regulations thereunder, by a direct trustee-to-trustee transfer ("direct rollover"), may roll over all or any portion an "eligible rollover distribution" to an IRA the Beneficiary establishes for purposes of receiving the distribution.

(1) **Certain requirements not applicable.** Any distribution made prior to January 1, 2010 is not subject to the "direct rollover" requirements of Code §401(a)(31) (including Code §401(a)(31)(B)), the notice requirements of Code §402(f) or the mandatory withholding requirements of Code §3405(c).

(2) **Trust Beneficiary.** If the Participant's named Beneficiary is a trust, the Plan may make a direct rollover to an IRA on behalf of the trust, provided the trust satisfies the requirements to be a "designated Beneficiary."

6.15 RESTRICTIONS ON DISTRIBUTION OF ASSETS TRANSFERRED FROM A MONEY PURCHASE PLAN

Notwithstanding any provision of this Plan to the contrary, to the extent that any optional form of benefit under this Plan permits a distribution prior to the Employee's retirement, death, Total and Permanent Disability, or severance from employment, and prior to Plan termination, the optional form of benefit is not available with respect to benefits attributable to assets (including the post-transfer earnings thereon) and liabilities that are transferred, within the meaning of Code §414(l), to this Plan from a money purchase pension plan qualified under Code §401(a) (other than any portion of those assets and liabilities attributable to after-tax voluntary Employee contributions or to a direct or indirect rollover contribution). Notwithstanding anything in the Plan to the contrary, effective with respect to Plan Years beginning after June 30, 2008, a Participant may not obtain an in-service distribution with respect to such transferred amounts prior to the earlier of the Participant's Normal Retirement Age or attainment of age 62.

6.16 CORRECTIVE DISTRIBUTIONS

Nothing in this Article shall preclude the Administrator from making a distribution to a Participant, to the extent such distribution is made to correct a qualification defect in accordance with the corrective procedures under the IRS' Employee Plans Compliance Resolution System or any other voluntary compliance programs established by the IRS.

6.17 HEART ACT

(a) **Death benefits.** In the case of a death occurring on or after January 1, 2007, if a Participant dies while performing qualified military service (as defined in Code §414(u)), the Participant's Beneficiary is entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the Plan as if the Participant had resumed employment and then terminated employment on account of death. Moreover, the Plan will credit the Participant's qualified military service as service for vesting purposes, as though the Participant had resumed employment under Uniformed Services Employment and Reemployment Rights Act of 1994, as amended (USERRA) immediately prior to the Participant's death.

(b) **Military Differential Pay.** For years beginning after December 31, 2008: (1) an individual receiving Military Differential Pay is treated as an Employee of the Employer making the payment; (2) the Military Differential Pay is treated as 415 Compensation (and Compensation unless otherwise elected in the Adoption Agreement); and (3) the Plan is not treated as failing to meet the requirements of any provision described in Code §414(u)(1)(C) (or corresponding Plan provisions) by reason of any contribution or benefit which is based on the Military Differential Pay. The Administrator operationally may determine, for purposes of the provisions described in Code §414(u)(1)(C), whether to take into account any matching contributions, attributable to Military Differential Pay.

(c) **Deemed Severance.** Notwithstanding Subsection (b)(1) above, if elected in the Adoption Agreement, a Participant performs service in the uniformed services (as defined in Code §414(u)(12)(B)) on active duty for a period of more than 30 days, the

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Participant will be deemed to have a severance from employment solely for purposes of eligibility for distribution of amounts not attributable to Employer contributions to a money purchase pension plan. However, the Plan will not distribute such a Participant's Account on account of this deemed severance unless the Participant specifically elects to receive a benefit distribution hereunder.

6.18 SERVICE CREDIT

The Administrator, upon Participant request, may direct the transfer of all or a portion of the Participant's Account to a governmental defined benefit plan (as defined in Code §414(d)) in which he or she participates for the purchase of permissive service credit (as defined in Code §415(n)(3)(A)).

ARTICLE VII TRUSTEE AND CUSTODIAN

7.1 BASIC RESPONSIBILITIES OF THE TRUSTEE

(a) **Application of Article.** The provisions of this Article, other than Section 7.6, shall not apply to this Plan if a separate trust agreement is being used. Furthermore, the provisions of this Article, other than Sections 7.5 and 7.6, shall not apply if the Plan is fully insured. If the Employer has appointed two or more Trustees to hold Plan assets, then each Trustee shall be the Trustee only with respect to those Plan assets specifically deposited by the Employer in the Trust Fund for which such Trustee is the trustee. References in the Plan to the responsibilities, power or duties of the Trustee and any other provisions in the Plan relating to the Trustee shall be interpreted as applying to each Trustee only with respect to the assets of the Trust Fund for which such Trustee is the Trustee. Each Trustee shall have no responsibility for, or liability with respect to, any of the Plan assets other than the assets for which it serves as Trustee.

(b) **No Duty to collect contributions.** The Trustee is accountable to the Employer for the funds contributed to the Plan by the Employer, but the Trustee does not have any duty to see that the contributions received comply or are deposited in accordance with the provisions of the Plan.

(c) **Reliance on Administrator's directions.** The Trustee will credit and distribute the Trust Fund as directed by the Administrator. The Trustee is not obligated to inquire as to whether any payee or distributee is entitled to any payment or whether the distribution is proper or within the terms of the Plan, or whether the manner of making any payment or distribution is proper. The Trustee is accountable only to the Administrator for any payment or distribution made by it in good faith on the order or direction of the Administrator.

(d) **Directions by others.** In the event that the Trustee shall be directed by a Participant (pursuant to the Participant Direction Procedures if the Plan permits Participant directed investments), the Employer, or an Investment Manager or other agent appointed by the Employer with respect to the investment of any or all Plan assets, the Trustee shall have no liability with respect to the investment of such assets, but shall be responsible only to execute such investment instructions as so directed.

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

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

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

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

(5) Notwithstanding anything herein above to the contrary, the Trustee shall not invest any portion of a Participant's Directed Account in "collectibles" within the meaning of Code §408(m).

(e) **Records.** The Trustee will maintain records of receipts and disbursements and furnish to the Employer and/or Administrator for each Plan Year a written annual report pursuant to Section 7.9.

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

(g) **Payment of expenses.** The Trustee may employ and pay from the Trust Fund reasonable compensation to agents, attorneys, accountants and other persons to advise the Trustee as in its opinion may be necessary. The Trustee may delegate to any agent, attorney, accountant or other person selected by it any non-Trustee power or duty vested in it by the Plan, and the Trustee may act or refrain from acting on the advice or opinion of any such person.

7.2 INVESTMENT POWERS AND DUTIES OF DISCRETIONARY TRUSTEE

(a) **Discretionary authority.** This Section applies if the Employer, in the Adoption Agreement or as otherwise agreed upon by the Employer and the Trustee, designates the Trustee to administer all or a portion of the trust as a Discretionary Trustee. If so designated, then the Trustee has the discretion and authority to invest, manage, and control those Plan assets except, however, with respect to those assets which are subject to the investment direction of a Participant (if Participant directed investments are permitted), or an Investment Manager, the Administrator, or other agent appointed by the Employer. The exercise of any investment discretion hereunder shall be consistent with the "funding policy and method" determined by the Employer.

(b) **Duties.** The Trustee shall, except as otherwise provided in this Plan, invest and reinvest the Trust Fund to keep the Trust Fund invested without distinction between principal and income and in such securities or property, real or personal, wherever situated, as the Trustee shall deem advisable, including, but not limited to, common or preferred stocks, open-end or closed-end mutual funds, bonds and other evidences of indebtedness or ownership, and real estate or any interest therein. The Trustee shall at all times in making investments of the Trust Fund consider, among other factors, the short and long-term financial needs of the Plan on the basis of information furnished by the Employer. In making such investments, the Trustee shall not be restricted to securities or other property of the character expressly authorized by the applicable law for trust investments; however, the Trustee shall give due regard to any limitations imposed by the Code so that at all times this Plan may qualify as a qualified Plan and Trust. The Trustee shall discharge its duties with respect to the Plan solely in the interest of the Participants and Beneficiaries and with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

(c) **Powers.** The Trustee, in addition to all powers and authorities under common law, statutory authority and other provisions of this Plan, shall have the following powers and authorities to be exercised in the Trustee's sole discretion:

- (1) To purchase, or subscribe for, any securities or other property and to retain the same. In conjunction with the purchase of securities, margin accounts may be opened and maintained;
- (2) To sell, exchange, convey, transfer, grant options to purchase, or otherwise dispose of any securities or other property held by the Trustee, by private contract or at public auction. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity, expediency, or propriety of any such sale or other disposition, with or without advertisement;
- (3) To vote upon any stocks, bonds, or other securities; to give general or special proxies or powers of attorney with or without power of substitution; to exercise any conversion privileges, subscription rights or other options, and to make any payments incidental thereto; to oppose, or to consent to, or otherwise participate in, corporate reorganizations or other changes affecting corporate securities, and to delegate discretionary powers, and to pay any assessments or charges in connection therewith; and generally to exercise any of the powers of an owner with respect to stocks, bonds, securities, or other property;
- (4) To cause any securities or other property to be registered in the Trustee's own name, or in the name of a nominee or in a street name provided such securities or other property are held on behalf of the Plan by (i) a bank or trust company, (ii) a broker or dealer registered under the Securities Exchange Act of 1934, or a nominee of such broker or dealer, or (iii) a clearing agency as defined in Section 3(a)(23) of the Securities Exchange Act of 1934;
- (5) To invest in a common, collective, or pooled trust fund (the provisions of which are incorporated herein by reference) maintained by any Trustee (or any affiliate of such Trustee) hereunder pursuant to Revenue Ruling 81-100 (as modified by Rev. Rul. 2011-1 or any subsequent guidance), all or such part of the Trust Fund as the Trustee may deem advisable, and the part of the Trust Fund so transferred shall be subject to all the terms and provisions of the common, collective, or pooled trust fund which contemplate the commingling for investment purposes of such trust assets with trust assets of other trusts. The name of the trust fund may be specified in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections). The Trustee may withdraw from such common, collective, or pooled trust fund all or such part of the Trust Fund as the Trustee may deem advisable;
- (6) To borrow or raise money for the purposes of the Plan in such amount, and upon such terms and conditions, as the Trustee shall deem advisable; and for any sum so borrowed, to issue a promissory note as Trustee, and to secure the repayment thereof by pledging all, or any part, of the Trust Fund; and no person lending money to the Trustee shall be bound to see to the application of the money lent or to inquire into the validity, expediency, or propriety of any borrowing;
- (7) To accept and retain for such time as it may deem advisable any securities or other property received or acquired by it as Trustee hereunder, whether or not such securities or other property would normally be purchased as investments hereunder;

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(8) To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

(9) To settle, compromise, or submit to arbitration (provided such arbitration does not apply to qualification issues nor to Participants or Beneficiaries) any claims, debts, or damages due or owing to or from the Plan, to commence or defend suits or legal or administrative proceedings, and to represent the Plan in all suits and legal and administrative proceedings;

(10) To employ suitable agents and counsel and to pay their reasonable expenses and compensation, and such agents or counsel may or may not be an agent or counsel for the Employer;

(11) To apply for and procure from the Insurer as an investment of the Trust Fund any annuity or other Contracts (on the life of any Participant, or in the case of a 401(a) Plan, on the life of any person in whom a Participant has an insurable interest, or on the joint lives of a Participant and any person in whom the Participant has an insurable interest) as the Administrator shall deem proper; to exercise, at any time or from time to time, whatever rights and privileges may be granted under such annuity, or other Contracts; to collect, receive, and settle for the proceeds of all such annuity, or other Contracts as and when entitled to do so under the provisions thereof;

(12) To invest funds of the Trust in time deposits or savings accounts bearing a reasonable rate of interest or in cash or cash balances without liability for interest thereon, including the specific authority to invest in any type of deposit of the Trustee (or of a financial institution related to the Trustee);

(13) To invest in Treasury Bills and other forms of United States government obligations;

(14) To sell, purchase and acquire put or call options if the options are traded on and purchased through a national securities exchange registered under the Securities Exchange Act of 1934, as amended, or, if the options are not traded on a national securities exchange, are guaranteed by a member firm of the New York Stock Exchange regardless of whether such options are covered;

(15) To deposit monies in federally insured savings accounts or certificates of deposit in banks or savings and loan associations including the specific authority to make deposit into any savings accounts or certificates of deposit of the Trustee (or a financial institution related to the Trustee);

(16) To pool all or any of the Trust Fund, from time to time, with assets belonging to any other qualified employee pension benefit trust created by the Employer or any Affiliated Employer, and to commingle such assets and make joint or common investments and carry joint accounts on behalf of this Plan and Trust and such other trust or trusts, allocating undivided shares or interests in such investments or accounts or any pooled assets of the two or more trusts in accordance with their respective interests; and

(17) To do all such acts and exercise all such rights and privileges, although not specifically mentioned herein, as the Trustee may deem necessary to carry out the purposes of the Plan.

(d) **Appointment of Investment Manager or others.** The Trustee may appoint, at its option, an Investment Manager, investment adviser, or other agent to provide direction to the Trustee with respect to the investment of any or all of the Plan assets. Such appointment shall be in writing and shall specifically identify the Plan assets with respect to which the Investment Manager or other agent shall have the authority to direct the investment.

7.3 INVESTMENT POWERS AND DUTIES OF NONDISCRETIONARY TRUSTEE

(a) **No discretionary powers.** This Section applies if the Employer, in the Adoption Agreement or as otherwise agreed upon by the Employer and the Trustee, designates the Trustee to administer all or a portion of the trust as a nondiscretionary Trustee. If so designated, then the Trustee shall have no discretionary authority to invest, manage, or control those Plan assets, but must act solely as a Directed Trustee of those Plan assets. A nondiscretionary Trustee, as Directed Trustee of the Plan funds it holds, is authorized and empowered, by way of limitation, with the powers, rights and duties set forth herein, each of which the nondiscretionary Trustee exercises solely as Directed Trustee in accordance with the direction of the party which has the authority to manage and control the investment of the Plan assets. If no directions are provided to the Trustee, the Employer will provide necessary direction. Furthermore, the Employer and the nondiscretionary Trustee may, in writing, limit the powers of the nondiscretionary Trustee to any combination of powers listed within this Section. The party which has the authority to manage and control the investment of the Plan assets shall discharge its duties with respect to the Plan solely in the interest of the Participants and Beneficiaries and with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

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(b) **Powers.** The Trustee, in addition to all powers and authorities under common law, statutory authority and other provisions of this Plan, shall have the following powers and authorities:

- (1) To invest the assets, without distinction between principal and income, in securities or property, real or personal, wherever situated, including, but not limited to, common or preferred stocks, open-end or closed-end mutual funds, bonds and other evidences of indebtedness or ownership, and real estate or any interest therein. In making such investments, the Trustee shall not be restricted to securities or other property of the character expressly authorized by the applicable law for trust investments; however, the Trustee shall give due regard to any limitations imposed by the Code so that at all times this Plan may qualify as a qualified Plan and Trust;
- (2) To purchase, or subscribe for, any securities or other property and to retain the same. In conjunction with the purchase of securities, margin accounts may be opened and maintained;
- (3) To sell, exchange, convey, transfer, grant options to purchase, or otherwise dispose of any securities or other property held by the Trustee, by private contract or at public auction. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity, expediency, or propriety of any such sale or other disposition, with or without advertisement;
- (4) At the direction of the party which has the authority or discretion, to vote upon any stocks, bonds, or other securities; to give general or special proxies or powers of attorney with or without power of substitution; to exercise any conversion privileges, subscription rights or other options, and to make any payments incidental thereto; to oppose, or to consent to, or otherwise participate in, corporate reorganizations or other changes affecting corporate securities, and to delegate powers, and pay any assessments or charges in connection therewith; and generally to exercise any of the powers of an owner with respect to stocks, bonds, securities, or other property;
- (5) To cause any securities or other property to be registered in the Trustee's own name, or in the name of a nominee or in a street name provided such securities or other property are held on behalf of the Plan by (i) a bank or trust company, (ii) a broker or dealer registered under the Securities Exchange Act of 1934, or a nominee of such broker or dealer, or (iii) a clearing agent as defined in Section 3(a)(23) of the Securities Exchange Act of 1934;
- (6) To invest in a common, collective, or pooled trust fund (the provisions of which are incorporated herein by reference) maintained by any Trustee (or any affiliate of such Trustee) hereunder pursuant to Revenue Ruling 81-100 (as modified by Rev. Rul. 2011-1 or any subsequent guidance), all or such part of the Trust Fund as the party which has the authority to manage and control the investment of the assets shall deem advisable, and the part of the Trust Fund so transferred shall be subject to all the terms and provisions of the common, collective, or pooled trust fund which contemplate the commingling for investment purposes of such trust assets with trust assets of other trusts. The name of the trust fund may be specified in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections);
- (7) To borrow or raise money for the purposes of the Plan in such amount, and upon such terms and conditions, as the Trustee shall deem advisable; and for any sum so borrowed, to issue a promissory note as Trustee, and to secure the repayment thereof by pledging all, or any part, of the Trust Fund; and no person lending money to the Trustee shall be bound to see to the application of the money lent or to inquire into the validity, expediency, or propriety of any borrowing;
- (8) To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;
- (9) To settle, compromise, or submit to arbitration (provided such arbitration does not apply to qualification issues nor to Participants or Beneficiaries) any claims, debts, or damages due or owing to or from the Plan, to commence or defend suits or legal or administrative proceedings, and to represent the Plan in all suits and legal and administrative proceedings;
- (10) To employ suitable agents and counsel and to pay their reasonable expenses and compensation, and such agent or counsel may or may not be an agent or counsel for the Employer;
- (11) To apply for and procure from the Insurer as an investment of the Trust Fund any annuity or other Contracts (on the life of any Participant, or in the case of a 401(a) Plan, on the life of any person in whom a Participant has an insurable interest, or on the joint lives of a Participant and any person in whom the Participant has an insurable interest) as the Administrator shall deem proper; to exercise, at the direction of the person with the authority to do so, whatever rights and privileges may be granted under such annuity or other Contracts; to collect, receive, and settle for the proceeds of all such annuity or other Contracts as and when entitled to do so under the provisions thereof;
- (12) To invest funds of the Trust in time deposits or savings accounts bearing a reasonable rate of interest or in cash or cash balances without liability for interest thereon, including the specific authority to invest in any type of deposit of the Trustee (or of a financial institution related to the Trustee);
- (13) To invest in Treasury Bills and other forms of United States government obligations;

(14) To sell, purchase and acquire put or call options if the options are traded on and purchased through a national securities exchange registered under the Securities Exchange Act of 1934, as amended, or, if the options are not traded on a national securities exchange, are guaranteed by a member firm of the New York Stock Exchange regardless of whether such options are covered;

(15) To deposit monies in federally insured savings accounts or certificates of deposit in banks or savings and loan associations including the specific authority to make deposit into any savings accounts or certificates of deposit of the Trustee (or a financial institution related to the Trustee); and

(16) To pool all or any of the Trust Fund, from time to time, with assets belonging to any other qualified employee pension benefit trust created by the Employer or any Affiliated Employer, and to commingle such assets and make joint or common investments and carry joint accounts on behalf of this Plan and such other trust or trusts, allocating undivided shares or interests in such investments or accounts or any pooled assets of the two or more trusts in accordance with their respective interests.

(c) The Trustee shall have no responsibility to enforce the collection from the Employer of any contribution to the Plan or determine the correctness of the amount or timing any contribution. The Employer is responsible for transmitting contributions to the Trustee at such times and in such manner as is mutually agreed upon by the Employer and the Trustee and as required by the Plan and applicable law.

7.4 POWERS AND DUTIES OF CUSTODIAN

The Employer may appoint a Custodian of the Plan assets. A Custodian has the same powers, rights and duties as a nondiscretionary Trustee. Any reference in the Plan to a Trustee also is a reference to a Custodian unless the context of the Plan indicates otherwise. A limitation of the Trustee's liability by Plan provision also acts as a limitation of the Custodian's liability. The Custodian will be protected from any liability with respect to actions taken pursuant to the direction of the Trustee, Administrator, the Employer, an Investment Manager, a fiduciary or other third party with authority to provide direction to the Custodian. The resignation or removal of the Custodian shall be made in accordance with Section 7.11 as though the Custodian were a Trustee.

7.5 LIFE INSURANCE

(a) **Permitted insurance.** The Trustee (or Insurer), in accordance with operational procedures of the Administrator, shall ratably apply for, own, and pay all premiums on Contracts on the lives of the Participants or, in the case of a 401(a) Plan, on the life of a member of the Participant's family or on the joint lives of a Participant and a member of the Participant's family. Furthermore, if a Contract is purchased on the joint lives of the Participant and another person and such other person predeceases the Participant, then the Contract may not be maintained under this Plan. Any initial or additional Contract purchased on behalf of a Participant shall have a face amount of not less than \$1,000, an amount set forth in the Administrator's procedures, or the limitation of the Insurer, whichever is greater. If a life insurance Contract is to be purchased for a Participant, then the aggregate premium for ordinary life insurance for each Participant must be less than 50% of the aggregate contributions and Forfeitures allocated to the Participant's Combined Account. For purposes of this limitation, ordinary life insurance Contracts are Contracts with both non-decreasing death benefits and non-increasing premiums. If term insurance or universal life insurance is purchased, then the aggregate premium must be 25% or less of the aggregate contributions and Forfeitures allocated to the Participant's Combined Account. If both term insurance and ordinary life insurance are purchased, then the premium for term insurance plus one-half of the premium for ordinary life insurance may not in the aggregate exceed 25% of the aggregate Employer contributions and Forfeitures allocated to the Participant's Combined Account. Notwithstanding the preceding, the limitations imposed herein with respect to the purchase of life insurance shall not apply, in the case of a 401(a) Plan, to the portion of the Participant's Account that has accumulated for at least two (2) Plan Years or to the entire Participant's Account if the Participant has been a Participant in the Plan for at least five (5) years. In addition, amounts transferred to this Plan in accordance with Section 4.6(f)(1)(ii) or (iii) and a Participant's Voluntary Contribution Account may be used to purchase Contracts without limitation. Thus, amounts that are not subject to the limitations contained herein may be used to purchase life insurance on any person in whom a Participant has an insurable interest or on the joint lives of a Participant and any person in whom the Participant has an insurable interest, and without regard to the amount of premiums paid to purchase any life insurance hereunder.

(b) **Contract conversion at retirement.** The Trustee (or Insurer) must distribute any Contracts to the Participant or convert the entire value of the Contracts at or before retirement into cash or provide for a periodic income so that no portion of such value may be used to continue life insurance protection beyond the date on which benefits commence.

(c) **Limitations on purchase.** No life insurance Contracts shall be required to be obtained on an individual's life if, for any reason (other than the nonpayment of premiums) the Insurer will not issue a Contract on such individual's life.

(d) **Proceeds payable to plan.** The Trustee (or Insurer) will be the owner of any life insurance Contract purchased under the terms of this Plan. The Contract must provide that the proceeds will be payable to the Trustee (or Insurer); however, the Trustee (or Insurer) shall be required to pay over all proceeds of the Contract to the Participant's "designated Beneficiary" in accordance with the distribution provisions of Article VI. A Participant's Spouse will be the "designated Beneficiary" pursuant to Section 6.2, unless

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a qualified election has been made in accordance with Sections 6.5 and 6.6 of the Plan, if applicable. Under no circumstances shall the Trust retain any part of the proceeds that are in excess of the cash surrender value immediately prior to death. However, the Trustee (or Insurer) shall not pay the proceeds in a method that would violate the requirements of the Retirement Equity Act of 1984, as stated in Article VI of the Plan, or Code §401(a)(9) and the Regulations thereunder. In the event of any conflict between the terms of this Plan and the terms of any insurance Contract purchased hereunder, the Plan provisions shall control.

(e) **No responsibility for act of Insurer.** The Employer, the Administrator and the Trustee shall not be responsible for the validity of the provisions under a Contract issued hereunder or for the failure or refusal by the Insurer to provide benefits under such Contract. The Employer, 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 Contract or which renders the Contract invalid or unenforceable in whole or in part.

7.6 LOANS TO PARTICIPANTS

(a) **Permitted Loans.** The Trustee (or the Administrator if the Trustee is a nondiscretionary Trustee or if loans are treated as Participant directed investments) may, in the Trustee's (or, if applicable, the Administrator's) sole discretion, make loans to Participants. If loans are permitted, then the following shall apply: (1) loans shall be made available to all Participants on a reasonably equivalent basis; (2) loans shall bear a reasonable rate of interest; (3) loans shall be adequately secured; and (4) loans shall provide for periodic repayment over a reasonable period of time. Furthermore, no Participant loan shall exceed the Participant's Vested interest in the Plan. For purposes of this Section, the term Participant shall include any Eligible Employee who is not yet a Participant, if, pursuant to the Adoption Agreement, "rollovers" are permitted to be accepted from Eligible Employees.

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

(c) **Loan program.** The Administrator shall be authorized to establish a Participant loan program to provide for loans under the Plan. In order for the Administrator to implement such loan program, a separate written document forming a part of this Plan must be adopted, which document shall specifically include, but need not be limited to, the following:

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

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

(e) **Loans subject to Plan terms.** Notwithstanding anything in this Section to the contrary, if this is an amendment and restatement of an existing Plan, any loans made prior to the date this amendment and restatement is adopted shall be subject to the terms of the Plan in effect at the time such loan was made.

7.7 ALLOCATION AND DELEGATION OF RESPONSIBILITIES

If there is more than one Trustee, then the responsibilities of each Trustee may be specified by the Employer and accepted in writing by each Trustee. If no such delegation is made by the Employer, then the Trustees may allocate the responsibilities among themselves, in which event the Trustees shall notify the Employer and the Administrator in writing of such action and specify the responsibilities of each Trustee. Except where there has been an allocation and delegation of powers, if there shall be more than one Trustee, they shall act by a majority of their number, but may authorize one or more of them to sign papers on their behalf.

7.8 TRUSTEE'S COMPENSATION AND EXPENSES AND TAXES

The Trustee shall be paid such reasonable compensation as set forth in the Trustee's fee schedule (if the Trustee has such a schedule) or as agreed upon in writing by the Employer and the Trustee. However, an individual serving as Trustee who already receives full-time compensation from the Employer shall not receive compensation from this Plan. In addition, the Trustee shall be reimbursed for any reasonable expenses, including reasonable counsel fees incurred by it as Trustee. Such compensation and expenses shall be paid from

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the Trust Fund unless paid or advanced by the Employer. All taxes of any kind whatsoever that may be levied or assessed under existing or future laws upon, or in respect of, the Trust Fund or the income thereof, shall be paid from the Trust Fund.

7.9 ANNUAL REPORT OF THE TRUSTEE

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

- (1) the net income, or loss, of the Trust Fund;
- (2) the gains, or losses, realized by the Trust Fund upon sales or other disposition of the assets;
- (3) the increase, or decrease, in the value of the Trust Fund;
- (4) all payments and distributions made from the Trust Fund; and
- (5) such further information as the Trustee and/or Administrator deems appropriate.

(b) **Employer approval of report.** The Employer, promptly upon its receipt of each such statement of account, shall acknowledge receipt thereof in writing and advise the Trustee and/or Administrator of its approval or disapproval thereof. Failure by the Employer to disapprove any such statement of account within thirty (30) days after its receipt thereof shall be deemed an approval thereof. The approval by the Employer of any statement of account shall be binding on the Employer and the Trustee as to all matters contained in the statement to the same extent as if the account of the Trustee had been settled by judgment or decree in an action for a judicial settlement of its account in a court of competent jurisdiction in which the Trustee, the Employer and all persons having or claiming an interest in the Plan were parties. However, nothing contained in this Section shall deprive the Trustee of its right to have its accounts judicially settled if the Trustee so desires.

7.10 RESIGNATION, REMOVAL AND SUCCESSION OF TRUSTEE

(a) **Trustee resignation.** Unless otherwise agreed to by both the Trustee and the Employer, a Trustee may resign at any time by delivering to the Employer, at least thirty (30) days before its effective date, a written notice of resignation.

(b) **Trustee removal.** Unless otherwise agreed to by both the Trustee and the Employer, the Employer may remove a Trustee at any time by delivering to the Trustee, at least thirty (30) days before its effective date, a written notice of such Trustee's removal.

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

(d) **Appointment of successor prior to removal of predecessor.** The Employer may designate one or more successors prior to the death, resignation, incapacity, or removal of a Trustee. In the event a successor is so designated by the Employer and accepts such designation, the successor shall, without further act, become vested with all the powers and responsibilities of the predecessor as if such successor had been originally named as Trustee herein immediately upon the death, resignation, incapacity, or removal of the predecessor.

(e) **Trustee's statement upon cessation of being Trustee.** Whenever any Trustee hereunder ceases to serve as such, the Trustee shall furnish to the Employer and Administrator a written statement of account with respect to the portion of the Plan Year during which the individual or entity served as Trustee. This statement shall be either (i) included as part of the annual statement of account for the Plan Year required under Section 7.9 or (ii) set forth in a special statement. Any such special statement of account should be rendered to the Employer no later than the due date of the annual statement of account for the Plan Year. The procedures set forth in Section 7.9 for the approval by the Employer of annual statements of account shall apply to any special statement of account rendered hereunder and approval by the Employer of any such special statement in the manner provided in Section 7.9 shall have the same effect upon the statement as the Employer's approval of an annual statement of account. No successor to the Trustee shall have any duty or responsibility to investigate the acts or transactions of any predecessor who has rendered all statements of account required by Section 7.9 and this subparagraph.

7.11 TRANSFER OF INTEREST

Notwithstanding any other provision contained in this Plan, the Trustee at the direction of the Administrator shall transfer the interest, if any, of a Participant to another trust forming part of a pension, profit sharing, or stock bonus plan that meets the requirements of Code §401(a), provided that the trust to which such transfers are made permits the transfer to be made and further provided that the terms of the transferee plan properly allocates the funds in each account to a transferee account that preserves all the required features and

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restrictions applicable to such account under this Plan. However, the transfer of amounts from this Plan to a nonqualified foreign trust is treated as a distribution and the transfer of assets and liabilities from this Plan to a plan that satisfies Section 1165 of the Puerto Rico Code is also treated as distribution from the transferor plan.

7.12 TRUSTEE INDEMNIFICATION

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

ARTICLE VIII AMENDMENT, TERMINATION AND MERGERS

8.1 AMENDMENT

(a) **General rule on Employer amendment.** The Employer shall have the right at any time to amend this Plan subject to the limitations of this Section. However, any amendment that affects the rights, duties or responsibilities of the Trustee (or Insurer) or Administrator may only be made with the Trustee's (or Insurer's) or Administrator's written consent. Any such amendment shall become effective as provided therein upon its execution. The Trustee (or Insurer) shall not be required to execute any such amendment unless the amendment affects the duties of the Trustee (or Insurer) hereunder.

(b) **Permissible amendments.** The Employer may (1) change the choice of options in the Adoption Agreement, (2) add any appendix to the Adoption Agreement that is specifically permitted pursuant to the terms of the Plan (e.g., Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections)); (3) amend administrative trust or custodial provisions, (4) add certain sample or model amendments published by the Internal Revenue Service or other required good-faith amendments which specifically provide that their adoption will not cause the Plan to be treated as an individually designed plan, and (5) add or change provisions permitted under the Plan and/or specify or change the effective date of a provision as permitted under the Plan.

(c) **Volume submitter practitioner amendments.** The Employer (and every Participating Employer) expressly delegates authority to the volume submitter practitioner, the right to amend the Plan by submitting a copy of the amendment to each Employer (and Participating Employer) who has adopted this plan, after first having received a ruling or favorable determination from the Internal Revenue Service that the volume submitter Plan as amended qualifies under Code §401(a) (unless a ruling or determination is not required by the IRS).

(d) **Impermissible amendments.** No amendment to the Plan shall be effective if it authorizes or permits any part of the Trust Fund (other than such part as is required to pay taxes and administration expenses) to be used for or diverted to any purpose other than for the exclusive benefit of the Participants or their Beneficiaries or estates; or causes any reduction in the amount credited to the account of any Participant; or causes or permits any portion of the Trust Fund to revert to or become property of the Employer.

8.2 TERMINATION

(a) **Termination of Plan.** The Employer shall have the right at any time to terminate the Plan by delivering to the Trustee (or Insurer) and Administrator written notice of such termination. Upon any full or partial termination or upon the complete discontinuance of the Employer's Contributions to the Plan (in the case of a Profit Sharing Plan), all amounts credited to the affected Participants' Combined Accounts shall become 100% Vested and shall not thereafter be subject to Forfeiture.

(b) **Distribution of assets.** Upon the full termination of the Plan, the Employer shall direct the distribution of the assets to Participants in a manner that is consistent with and satisfies the provisions of Section 6.5. Distributions to a Participant shall be made in cash (or in property if permitted in the Adoption Agreement) or through the purchase of irrevocable nontransferable deferred commitments from the Insurer.

8.3 MERGER, CONSOLIDATION OR TRANSFER OF ASSETS

This Plan may be merged or consolidated with, or its assets and/or liabilities may be transferred to any other plan only if the benefits which would be received by a Participant of this Plan, in the event of a termination of the plan immediately after such transfer, merger or consolidation, are at least equal to the benefits the Participant would have received if the Plan had terminated immediately before the transfer, merger or consolidation.

ARTICLE IX
MISCELLANEOUS

9.1 EMPLOYER ADOPTIONS

(a) **Method of adoption.** Any organization may become the Employer hereunder by executing the Adoption Agreement in a form satisfactory to the Trustee (or Insurer), and it shall provide such additional information as the Trustee (or Insurer) may require. The consent of the Trustee (or Insurer) to act as such shall be signified by its execution of the Adoption Agreement or a separate agreement (including, if elected in the Adoption Agreement, a separate trust agreement).

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

9.2 PARTICIPANT'S RIGHTS

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

9.3 ALIENATION

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

(b) **Exception for loans.** Subsection (a) shall not apply to the extent a Participant or Beneficiary is indebted to the Plan by reason of a loan made pursuant to Section 7.6. At the time a distribution is to be made to or for a Participant's or Beneficiary's benefit, such portion of the amount to be distributed as shall equal such indebtedness shall be paid to the Plan, to apply against or discharge such indebtedness. Prior to making a payment, however, the Participant or Beneficiary must be given notice by the Administrator that such indebtedness is to be so paid in whole or part from the Participant's interest in the Plan. If the Participant or Beneficiary does not agree that the indebtedness is a valid claim against the Participant's interest in the Plan, the Participant or Beneficiary shall be entitled to a review of the validity of the claim in accordance with procedures provided in Section 2.10.

(c) **Exception for QDRO.** Subsection (a) shall not apply to a "qualified domestic relations order" defined in Code §414(p), and those other domestic relations orders permitted to be so treated by the Administrator under the provisions of the Retirement Equity Act of 1984.

9.4 PLAN COMMUNICATIONS, INTERPRETATION AND CONSTRUCTION

(a) **Applicable law.** This Plan and Trust shall be construed and enforced according to the Code, and the laws of the state or commonwealth in which the Employer's (or if there is a corporate Trustee, the Trustee's, or if the Plan is fully insured, the Insurer's) principal office is located (unless otherwise designated in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections), other than its laws respecting choice of law, to the extent not pre-empted by federal law.

(b) **Administrator's discretion.** The Administrator has total and complete discretion to interpret and construe the Plan and to determine all questions arising in the administration, interpretation and application of the Plan. Any determination the Administrator makes under the Plan is final and binding upon any affected person. The Administrator must exercise all of its Plan powers and discretion, and perform all of its duties in a uniform manner.

(c) **Communications.** All Participant or Beneficiary notices, designations, elections, consents or waivers must be made in a form the Administrator (or, as applicable, the Trustee or Insurer) specifies or otherwise approves. Any person entitled to notice under the Plan may waive the notice or shorten the notice period unless such actions are contrary to applicable law.

(d) **Evidence.** Anyone, including the Employer, required to give data, statements or other information relevant under the terms of the Plan ("evidence") may do so by certificate, affidavit, document or other form which the person to act in reliance may consider pertinent, reliable and genuine, and to have been signed, made or presented by the proper party or parties. The Administrator, Trustee and Insurer are protected fully in acting and relying upon any evidence described under the immediately preceding sentence.

(e) **Plan terms binding.** The Plan is binding upon all parties, including but not limited to, the Employer, Trustee, Insurer, Administrator, Participants and Beneficiaries.

(f) **Parties to litigation.** Except as otherwise provided by applicable law, a Participant or a Beneficiary is not a necessary party or required to receive notice of process in any court proceeding involving the Plan, the Trust or any fiduciary. Any final judgment (not subject to further appeal) entered in any such proceeding will be binding upon all parties, including the Employer, the Administrator, Trustee, Insurer, Participants and Beneficiaries.

(g) **Fiduciaries not insurers.** The Trustee, Administrator and the Employer in no way guarantee the Plan assets from loss or depreciation. The Employer does not guarantee the payment of any money which may be or becomes due to any person from the Plan. The liability of the Employer, the Administrator and the Trustee to make any distribution from the Trust at any time and all times is limited to the then available assets of the Trust.

(h) **Construction/severability.** The Plan, the Adoption Agreement, the Trust and all other documents to which they refer, will be interpreted consistent with and to preserve tax qualification of the Plan under Code §401(a) and tax exemption of the Trust under Code §501(a) and also consistent with other applicable law. To the extent permissible under applicable law, any provision which a court (or other entity with binding authority to interpret the Plan) determines to be inconsistent with such construction and interpretation, is deemed severed and is of no force or effect, and the remaining Plan terms will remain in full force and effect.

(i) **Uniformity.** All provisions of this Plan shall be interpreted and applied in a uniform manner.

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

9.5 GENDER, NUMBER AND TENSE

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

9.6 LEGAL ACTION

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

9.7 PROHIBITION AGAINST DIVERSION OF FUNDS

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

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

9.8 EMPLOYER'S AND TRUSTEE'S PROTECTIVE CLAUSE

The Employer, Administrator and Trustee, and their successors, shall not be responsible for the validity of any Contract issued hereunder or for the failure on the part of the Insurer to make payments provided by any such Contract, or for the action of any person which may delay payment or render a Contract null and void or unenforceable in whole or in part.

9.9 INSURER'S PROTECTIVE CLAUSE

Except as otherwise agreed upon in writing between the Employer and the Insurer, an Insurer which issues any Contracts hereunder shall not have any responsibility for the validity of this Plan or for the tax or legal aspects of this Plan. The Insurer shall be protected and held harmless in acting in accordance with any written direction of the Administrator or Trustee, and shall have no duty to see to the application of any funds paid to the Trustee, nor be required to question any actions directed by the Administrator or Trustee. Regardless of any provision of this Plan, the Insurer shall not be required to take or permit any action or allow any benefit or privilege contrary to the terms of any Contract which it issues hereunder, or the rules of the Insurer.

9.10 RECEIPT AND RELEASE FOR PAYMENTS

Any payment to any Participant, the Participant's legal representative, Beneficiary, or to any guardian or committee appointed for such Participant or Beneficiary in accordance with the provisions of this Plan, shall, to the extent thereof, be in full satisfaction of all claims hereunder against the Trustee (or Insurer) and the Employer.

9.11 ACTION BY THE EMPLOYER

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

9.12 APPROVAL BY INTERNAL REVENUE SERVICE

Notwithstanding anything herein to the contrary, if, pursuant to an application for qualification is made by the time prescribed by law or such later date as the Secretary of Treasury may prescribe, the Commissioner of the Internal Revenue Service or the Commissioner's delegate should determine that the Plan does not initially qualify as a tax-exempt plan under Code §§401 and 501, and such determination is not contested, or if contested, is finally upheld, then if the Plan is a new plan, it shall be void ab initio and all amounts contributed to the Plan, by the Employer, less expenses paid, shall be returned within one (1) year and the Plan shall terminate, and the Trustee (or Insurer) shall be discharged from all further obligations. If the disqualification relates to a Plan amendment, then the Plan shall operate as if it had not been amended. 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.

9.13 PAYMENT OF BENEFITS

Except as otherwise provided in the Plan, benefits under this Plan shall be paid, subject to Sections 6.11 and 6.12, only upon death, Total and Permanent Disability, normal or early retirement, severance of employment, or termination of the Plan.

9.14 ELECTRONIC MEDIA

The Administrator may use any electronic medium to give or receive any Plan notice, communicate any Plan policy, conduct any written Plan communication, satisfy any Plan filing or other compliance requirement and conduct any other Plan transaction to the extent permissible under applicable law. A Participant or a Participant's Spouse, to the extent authorized by the Administrator, may use any electronic medium to make or provide any Beneficiary designation, election, notice, consent or waiver under the Plan, to the extent permissible under applicable law. Any reference in this Plan to a "form," a "notice," an "election," a "consent," a "waiver," a "designation," a "policy" or to any other Plan-related communication includes an electronic version thereof as permitted under applicable law. Notwithstanding the foregoing, any Participant or Beneficiary notices and consent that are required pursuant to the Code must satisfy Regulation §1.401(a)-21.

9.15 PLAN CORRECTION

The Administrator in conjunction with the Employer may undertake such correction of Plan errors as the Administrator deems necessary, including correction to preserve tax qualification of the Plan under Code §401(a) or to correct a fiduciary breach under state or local law. Without limiting the Administrator's authority under the prior sentence, the Administrator, as it determines to be reasonable and appropriate, may undertake correction of Plan document, operational, demographic and Employer eligibility failures under a method described in the Plan or under the IRS Employee Plans Compliance Resolution System ("EPCRS") or any successor program to EPCRS. Furthermore, the Employer may make corrective contributions pursuant to this Section regardless of whether the Plan otherwise permits such contribution source. In addition, the Plan is authorized to recover benefits from Participants or Beneficiaries that have been improperly distributed.

9.16 NONTRUSTEED PLANS

If the Plan is funded solely with Contracts, then notwithstanding Sections 9.7 and 9.12, no 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 Insurer must be allocated to Participants' Accounts under the Plan.

**ARTICLE X
PARTICIPATING EMPLOYERS**

10.1 ELECTION TO BECOME A PARTICIPATING EMPLOYER

Notwithstanding anything herein to the contrary, with the consent of the Employer and Trustee (or Insurer), any Employer may adopt the Employer's Plan and all of the provisions hereof, and participate herein and be known as a Participating Employer, by a properly executed document evidencing said intent and will of such Participating Employer (a participation agreement). In the event a Participating Employer is not an Affiliated Employer, then the provisions of Article XII shall apply rather than the provision of this Article XI.

10.2 REQUIREMENTS OF PARTICIPATING EMPLOYERS

(a) **Permissible variations of participation agreement.** The participation agreement must identify the Participating Employer and the covered Employees and provide for the Participating Employer's signature. In addition, in the participation agreement, the Employer shall specify which elections, if any, the Participating Employer can modify, and any restrictions on the modifications. Any such modification shall apply only to the Employees of that Participating Employer. The Participating Employer shall make any such modification by selecting the appropriate option on its participation agreement to the Employer's Adoption Agreement. To the extent that the participation agreement does not permit modification of an election, any attempt by a Participating Employer to modify the election shall have no effect on the Plan and the Participating Employer is bound by the Plan terms as selected by the Employer. If a Participating Employer does not make any permissible participation agreement election modifications, then with regard to any election, the Participating Employer is bound by the Adoption Agreement terms as completed by the "lead Employer."

(b) **Holding and investing assets.** The Trustee (or Insurer) may, but shall not be required to, commingle, hold and invest as one Trust Fund all contributions made by Participating Employers, as well as all increments thereof. However, the assets of the Plan shall, on an ongoing basis, be available to pay benefits to all Participants and Beneficiaries under the Plan without regard to the Employer or Participating Employer who contributed such assets.

(c) **Payment of expenses.** Unless the Employer otherwise directs, any expenses of the Plan which are to be paid by the Employer or borne by the Trust Fund shall be paid by each Participating Employer in the same proportion that the total amount standing to the credit of all Participants employed by such Employer bears to the total standing to the credit of all Participants.

10.3 DESIGNATION OF AGENT

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

10.4 EMPLOYEE TRANSFERS

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

10.5 PARTICIPATING EMPLOYER'S CONTRIBUTION AND FORFEITURES

Any contribution and/or Forfeiture subject to allocation during each Plan Year shall be determined and allocated separately by each Participating Employer, and shall be allocated only among the Participants eligible to share in the contribution and Forfeiture allocation of the Employer or Participating Employer making the contribution or by which the forfeiting Participant was employed.

On the basis of the information furnished by the Administrator, the Trustee (or Insurer) shall keep separate books and records concerning the affairs of each Participating Employer hereunder and as to the accounts and credits of the Employees of each Participating Employer. The Trustee (or Insurer) may, but need not, register Contracts so as to evidence that a particular Participating Employer is the interested Employer hereunder, but in the event of an Employee transfer from one Participating Employer to another, the employing Employer shall immediately notify the Trustee (or Insurer) thereof.

10.6 AMENDMENT

Any Participating Employer hereby authorizes the Employer to make amendments on its behalf, unless otherwise agreed among all affected parties. If a Participating Employer is not an Affiliated Employer, then amendment of this Plan by the Employer at any time when there shall be a Participating Employer shall, unless otherwise agreed to by the affected parties, only be by the written action of each and every Participating Employer and with the consent of the Trustee (or Insurer) where such consent is necessary in accordance with the terms of this Plan.

10.7 DISCONTINUANCE OF PARTICIPATION

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

10.8 ADMINISTRATOR'S AUTHORITY

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

ARTICLE XI MULTIPLE EMPLOYER PROVISIONS

11.1 ELECTION AND OVERRIDING EFFECT

If a Participating Employer that is not an Affiliated Employer adopts this Plan, then the provisions of this Article XI shall apply to each Participating Employer as of the Effective Date specified in its participation agreement and supersede any contrary provisions in the basic Plan document or the Adoption Agreement. If this Article XI applies, then the Plan shall be a multiple employer plan as described in Code §413(c). In this case, the Employer and each Participating Employer acknowledge that the Plan is a multiple employer plan subject to the rules of Code §413(c) and the Regulations thereunder, which are hereby incorporated by reference, and specific annual reporting requirements.

11.2 DEFINITIONS

The following definitions shall apply to this Article XI and shall supersede any conflicting definitions in the Plan:

(a) **Employee.** "Employee" means any common law employee, Leased Employee or other person the Code treats as an employee of a Participating Employer for purposes of the Participating Employer's qualified plan. Either the Adoption Agreement or a participation agreement to the Adoption Agreement may designate any Employee, or class of Employees, as not eligible to participate in the Plan.

(b) **Lead Employer.** "Lead Employer" means the signatory Employer to the Adoption Agreement execution page, and does not include any Affiliated Employer or Participating Employer. The "lead Employer" has the same meaning as the Employer for purposes of making Plan amendments and other purposes regardless of whether the "lead Employer" is also a Participating Employer under this Article XI.

11.3 PARTICIPATING EMPLOYER ELECTIONS

The participation agreement must identify the Participating Employer and the covered Employees and provide for the Participating Employer's signature. In addition, in the participation agreement, the "lead Employer" shall specify which elections, if any, the Participating Employer can modify, and any restrictions on the modifications. Any such modification shall apply only to the employees of that Participating Employer. The Participating Employer shall make any such modification by selecting the appropriate option on its participation agreement to the "lead Employer's" Adoption Agreement. To the extent that the Adoption Agreement does not permit modification of an election, any attempt by a Participating Employer to modify the election shall have no effect on the Plan and the Participating Employer is bound by the Plan terms as selected by the "lead Employer." If a Participating Employer does not make any permissible participation agreement election modifications, then with regard to any election, the Participating Employer is bound by the Adoption Agreement terms as completed by the "lead Employer."

11.4 TESTING

The Administrator shall apply the Code §415 limitation in Section 4.4 for the Plan as a whole.

11.5 COMPENSATION

(a) **Separate determination.** A Participant's Compensation shall be determined separately for each Participating Employer for purposes of allocations under Article IV.

(b) **Joint status.** For all Plan purposes, including but not limited to determining the Code §415 limits in Section 4.4, Compensation includes all Compensation paid by or for any Participating Employer.

11.6 SERVICE

An Employee's service includes all Hours of Service and Years of Service with any and all Participating Employers. An Employee who terminates employment with one Participating Employer and immediately commences employment with another Participating Employer has not separated from service or had a severance from employment.

11.7 COOPERATION AND INDEMNIFICATION

(a) **Cooperation.** Each Participating Employer agrees to timely provide all information the Administrator deems necessary to insure the Plan is operated in accordance with the requirements of the Code and will cooperate fully with the "lead Employer," the Plan, the Plan fiduciaries and other proper representatives in maintaining the qualified status of the Plan. Such cooperation will include payment of such amounts into the Plan, to be allocated to employees of the Participating Employer, which are reasonably required to maintain the tax-qualified status of the Plan.

(b) **Indemnity.** Each Participating Employer will indemnify and hold harmless the Administrator, the "lead Employer" and its subsidiaries; officers, directors, shareholders, employees, and agents of the "lead Employer"; the Plan; the Trustees, 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 and penalties) 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.

11.8 INVOLUNTARY TERMINATION

Unless the "lead Employer" provides otherwise in an addendum hereto, the "lead Employer" shall have the power to terminate the participation of any Participating Employer (hereafter "Terminated Employer") in this Plan. If and when the "lead Employer" wishes to exercise this power, the following shall occur:

(a) **Notice.** The "lead Employer" shall give the "Terminated Employer" a notice of the "lead Employer's" intent to terminate the "Terminated Employer's" status as a Participating Employer of the Plan. The "lead Employer" will provide such notice not less than thirty (30) days prior to the date of termination unless the "lead Employer" determines that the interest of Plan Participants requires earlier termination.

(b) **Spin-off.** The "lead Employer" shall establish a new defined contribution plan, using the provisions of this Plan with any modifications contained in the "Terminated Employer's" participation agreement, as a guide to establish a new defined contribution plan (the "spin-off plan"). The "lead Employer" will direct the Trustee to transfer (in accordance with the rules of Code §414(l) and the provisions of Section 8.3) the Accounts of the Employees of the "Terminated Employer" to the "spin-off plan." The "Terminated Employer" shall be the Employer, Administrator, and sponsor of the "spin-off plan." The Trustee of the "spin-off plan" shall be the person or entity designated by the "Terminated Employer." However, the "lead Employer" shall have the option to designate an appropriate financial institution as Trustee instead if necessary to protect the interest of the Participants. The "lead Employer" shall have the authority to charge the "Terminated Employer" or the Accounts of the Employees of the "Terminated Employer" a reasonable fee to pay the expenses of establishing the "spin-off plan."

(c) **Alternatives.** The "Terminated Employer," in lieu of creation of the "spin-off plan" under (b) above, has the option to elect a transfer alternative in accordance with this Subsection (c).

(1) **Election.** To exercise the option described in this Subsection, the "Terminated Employer" must inform the "lead Employer" of its choice, and must supply any reasonably required documentation as soon as practical. If the "lead Employer" has not received notice of a "Terminated Employer's" exercise of this option within ten (10) days prior to the stated date of termination, the "lead Employer" can choose to disregard the exercise and proceed with the Spin-off.

(2) **Transfer.** If the "Terminated Employer" selects this option, the Administrator shall transfer (in accordance with the rules of Code §414(l) and the provisions of Section 8.3) the Accounts of the Employees of the "Terminated Employer" to a qualified plan the "Terminated Employer" maintains. To exercise this option, the "Terminated Employer" must deliver to the "lead Employer" or Administrator in writing the name and other relevant information of the transferee plan and must provide such assurances that the Administrator shall reasonably require to demonstrate that the transferee plan is a qualified plan.

Governmental Defined Contribution Volume Submitter Plan

(d) **Participants.** The Employees of the "Terminated Employer" shall cease to be eligible to accrue additional benefits under the Plan with respect to Compensation paid by the "Terminated Employer," effective as of the date of termination. To the extent that these Employees have accrued but unpaid contributions as of the date of termination, the "Terminated Employer" shall pay such amounts to the Plan or the "spin-off plan" no later than thirty (30) days after the date of termination, unless the "Terminated Employer" effectively selects the Transfer option under Subsection (c)(2) above.

(e) **Consent.** By its signature on the participation agreement, the "Terminated Employer" specifically consents to the provisions of this Article and agrees to perform its responsibilities with regard to the "spin-off plan," if necessary.

11.9 VOLUNTARY TERMINATION

A Participating Employer (hereafter "withdrawing employer") may voluntarily withdraw from participation in this Plan at any time. If and when a "withdrawing employer" wishes to withdraw, the following shall occur:

(a) **Notice.** The "withdrawing employer" shall inform the "lead Employer" and the Administrator of its intention to withdraw from the Plan. The "withdrawing employer" must give the notice not less than thirty (30) days prior to the effective date of its withdrawal.

(b) **Procedure.** The "withdrawing employer" and the "lead Employer" shall agree upon procedures for the orderly withdrawal of the "withdrawing employer" from the plan. Such procedures may include any of the optional spin-off or transfer options described in Section 11.8.

(c) **Costs.** The "withdrawing employer" shall bear all reasonable costs associated with withdrawal and transfer under this Section.

(d) **Participants.** The Employees of the "withdrawing employer" shall cease to be eligible to accrue additional benefits under the Plan as to Compensation paid by the "withdrawing employer," effective as of the effective date of withdrawal. To the extent that such Employees have accrued but unpaid contributions as of the effective date of withdrawal, the "withdrawing employer" shall contribute such amounts to the Plan or the "spin-off plan" promptly after the effective date of withdrawal, unless the accounts are transferred to a qualified plan the "withdrawing employer" maintains.



APPLICATION FOR
GROUP FLEXIBLE PURCHASE PAYMENT DEFERRED FIXED ANNUITY CONTRACT
underwritten by
Nationwide Life Insurance Company
One Nationwide Plaza
Columbus, Ohio 43215
1-877-677-3678

APPLICANT

(the "Applicant"), applies to be the Contract Owner of a Group Flexible Purchase Payment Deferred Fixed Annuity Contract (the "Contract") underwritten by Nationwide Life Insurance Company ("Nationwide"). The Group Flexible Purchase Payment Deferred Fixed Annuity Contract applied for will become effective on the "Effective Date of Contract" if the initial Purchase Payment and this application are accepted by Nationwide. In the event the initial Purchase Payment or this application are not accepted, Nationwide's liability will be limited to a return of the initial Purchase Payment, and any subsequent Purchase Payments remitted.

PURCHASE PAYMENT

Applicant agrees to permit Participants in its Plan to allocate Purchase Payments to the Contract as of the "Effective Date of Contract".

TRANSFER AND EXCHANGE LIMITATION ELECTION

Elect One:

- ☐ **Contract Level Aggregate Exchange Limitation** (the limitation on *Outgoing* Exchanges from the Fixed Account is determined based on total assets held in the Contract's Fixed Account's value under the Contract as of the last Business Day preceding the current calendar year).
- ☐ **Participant Level Exchange Limitation** (the limitation on *Outgoing* Exchanges from the Contract is applied to each Participant Account under the Contract. The Contract Owner, or its designated Record Keeper is responsible for applying this limitation).

STATE INSURANCE FRAUD WARNINGS

FOR DC RESIDENTS ONLY: WARNING: it is a crime to provide false or misleading information to an insurer for the purpose of defrauding the insurer or any other person. Penalties include imprisonment and/or fines. In addition, an insurer may deny insurance benefits if false information materially related to a claim was provided by the applicant.

NOTICE TO FL, MN, ND, SC, SD, TX AND VT RESIDENTS ONLY: Annuity payments, death benefits, surrender values, and other Contract Values are subject to a market value adjustment, and are not guaranteed as to fixed dollar amount, unless otherwise specified.

NOTICE TO OK AND PA RESIDENTS ONLY: Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties.

FOR WA RESIDENTS ONLY: Any person who knowingly presents a false or fraudulent claim for payment of a loss or knowingly makes a false statement in an application for insurance may be guilty of a criminal offense under state law.

NOTICE TO AR, CO, KY, LA, ME, NM, OH, AND TN RESIDENTS ONLY: Any person who, knowingly and with intent to injure, defraud or deceive any insurance company or other person, files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which may be a crime and may subject such person to criminal and civil penalties, fines, imprisonment, or a denial of insurance benefits.

FOR NJ RESIDENTS ONLY: Any person who includes any false or misleading information on an application for an insurance policy is subject to criminal and civil penalties.

ADDITIONAL STATE NOTICES

FOR FL RESIDENTS ONLY: Any person who knowingly and with intent to injure, defraud, or deceive any insurer files a statement of claim or an application containing any false, incomplete, or misleading information is guilty of a felony of the third degree.

SIGNATURES

Signed on behalf of _____ this ____ day of _____

- ☐ Yes ☐ No Do you have existing life insurance or annuity contracts?
- ☐ Yes ☐ No Will the applied for Contract replace any existing life insurance or annuity contracts?

(Authorized Signature of Applicant)

(Title)

- ☐ Yes ☐ No Do you have any reason to believe the Contract applied for is to replace existing annuities or insurance?

(Authorized Nationwide Agent/Representative Signature)

Date

(Title)

Florida License Identification #: (Florida Agents only)



Nationwide®

Nationwide Retirement Solutions Governmental 401(a) Plan Loan Procedures

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Plan Name: **NEVADA COUNTY 401(a) PLAN**

Nationwide Retirement Solutions, Inc. ("NRS") agrees as the Administrative Service Provider to administer loans in accordance with the terms of these Plan Loan Procedures and the attached **"Plan Election Worksheet"** (see Addendum A) as approved by the Plan Sponsor of the Plan. The Plan Sponsor directs the Plan Administrator of the Plan to administer loans in accordance with this document. The Plan Sponsor or the Plan Administrator may amend these Plan Loan Procedures within any constraints placed by NRS. Any such amendments shall bind the Plan Sponsor and the Plan Administrator. The Plan Sponsor is encouraged to consult with legal advisors in determining whether the procedures identified herein are appropriate for the Plan.

The Plan Sponsor and Plan Administrator (collectively the "Client") acknowledge that NRS may need to make changes from time-to-time to the administrative procedures set forth herein and may request amendments to the Plan documents to maintain the Plan's Loan Program. In such a case, NRS will provide the Client with timely notice of such changes as they become necessary.

The following Plan Loan Procedures shall govern Participant loans offered in the Plan Sponsor's 401(a) Plan ("Plan"):

1. **Loan Administration** - Client delegates to NRS certain administrative duties regarding the administration of loans from the Plan, which are set forth herein and which may be modified by NRS upon timely notice to and acceptance by the Plan Sponsor.
2. **Loan Eligibility** - Any Plan Participant, who falls into one of the employee statuses that the Client has elected, is eligible for a loan from the Plan. Each Participant is entitled to one outstanding loan from the Plan at any time. In addition, a Participant who has defaulted on a previous loan shall not be eligible for another loan from the Plan until all defaulted loans are repaid in full, including accrued interest.
3. **Loan Initiation and Loan Application** - In order to receive a loan from the Plan, an eligible Participant must complete all required documents provided in the Loan Application and return them to NRS. Before a loan is issued, the Participant must enter into a legally enforceable Loan Agreement as provided by NRS in the Loan Application, on behalf of the Plan. A loan initiation fee will be deducted from the Participant's account(s) after the loan has been funded by the Participant's account(s).
4. **Loan Security** - By accepting a loan, the Participant is giving the Plan a security interest in his or her vested Plan balance equal to the total loan amount, but not to exceed 50% of the Participant's vested Plan balance.
5. **Loan Money Source** - A loan shall be modeled taking into account the Participant's entire Plan account balance. Loans shall be funded only from a Participant's available Plan account pre-tax money sources. To the extent that a Participant has a self-directed brokerage account, no funding from such self-directed brokerage account shall be permitted.
6. **Minimum and Maximum Loan Term** - The minimum and maximum loan term over which a loan may be repaid is the term elected by the Client. Except as otherwise provided herein, the maximum loan term shall not exceed 5 years.
7. **Minimum/Maximum Loan Amount** - The minimum loan amount permitted shall be the amount elected by the Client. The maximum amount of any loan permitted under the Plan shall comply with Section 72(p) of the Internal Revenue Code and (when added to the outstanding balance of all other loans from all plans sponsored by the same employer) is the lesser of (i) \$50,000, reduced by the excess (if any) of (A) the highest outstanding balance of loans from all plans sponsored by the same employer, during the one-year period ending on the day before the date on which the loan was made over (B) the outstanding balance of loans from all plans sponsored by the same employer, on the date on which the loan is made, or (ii) one half of the present value of the Participant's vested account balance.

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Plan Name: **NEVADA COUNTY 401(a) PLAN**

8. Loan Amortization - Each loan shall be amortized with interest accruing immediately, with repayments beginning approximately 30 days from the date the loan is processed, in substantially equal repayments consisting of principal and interest during the term of the loan. Repayments of principal and interest shall be made in a manner and pursuant to the terms set forth in the Loan Agreement. The amount of the final payment may be higher or lower depending upon the Participant's repayment history.

9. Loan Repayment - Repayment of any loan made to a Participant shall be made in a manner and pursuant to the terms set forth in the Loan Agreement. Loans must be repaid according to the repayment method elected by the Client. The Participant receiving a loan shall be required to furnish the information and authorization necessary to effectuate the foregoing repayments prior to the commencement of a loan. In the event that a Participant elects to receive a distribution from the Plan that is less than 100% of his outstanding account balance at a time when such person has a loan outstanding, the Participant shall continue to make repayments on the loan.

10. Loan Prepayment - The entire amount of a loan, including outstanding principal and any accrued interest, may be paid without penalty prior to the end of the term of the loan in the manner prescribed by NRS.

11. Loan Overpayment - In the event that NRS receives a loan overpayment, any amount over the repayment amount due will be applied or refunded according to the administrative policies of NRS.

12. Cure Period - If a Participant fails to make a loan repayment when due, the missed repayment must be made within the cure period elected by the Client.

13. Default - If any repayment is not received by NRS by the end of the cure period, the entire amount of the loan will be defaulted and treated as a deemed distribution, effective as of the end of the cure period elected by the Client. A deemed distribution is treated as a distribution from the Plan for federal (and possibly state or local) income tax purposes; therefore amounts treated as a deemed distribution will be subject to federal, state and/or local income taxes, and certain excise taxes and penalties may apply. NRS will issue a Form 1099-R to the Participant reflecting the deemed distribution. Any payment made on a defaulted loan will be applied to the outstanding balance of the loan including accrued interest. Such repayment(s), following the date of default, will be treated as after tax amounts and the Participant will receive tax basis in his or her Plan account for such amounts.

The entire loan, including any accrued interest, will also be due and payable immediately in the event of the death of the Participant. The outstanding balance of the loan will be treated as a deemed distribution following the date of notification of such death provided such notification is in good order as determined by NRS.

14. Loans Offered from Other Administrative Service Providers - In the event the employer offers the Plan through multiple service providers, the Client and/or Participant and not NRS shall at all times remain responsible for ensuring that any loan received under the Plan is in accordance with the limits in Section 7. NRS shall apply the maximum loan amount limit and any other limits imposed under the Internal Revenue Code without regard to any other loans received by the Participant from any other administrative service provider(s) under this Plan or any other plan maintained by the Plan Sponsor.

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15. Suspension of Loan Repayments.

a. **Military Leave of Absence** - A Participant's obligation to repay any loan under the Plan may be suspended as may be required by law, during the period in which the Participant is performing service in the United States military. The Participant must resume repayment of the loan upon his or her completion of military service and the outstanding loan balance, including any accrued interest and fees, must be repaid and may be re-amortized over a period that does not exceed the latest permissible term for a loan under the regulations plus the period of the military service. While the Participant is on active duty in the United States military, the interest rate on the loan shall not exceed 6%, compounded annually unless the Participant elects in writing during or after his or her military leave of absence to have the loan's higher existing interest rate, if applicable, apply to the loan. The Plan Sponsor assumes responsibility to notify NRS when a Participant begins and returns from a military leave of absence.

b. **Non-Military Leave of Absence** - In addition, a Participant's obligation to repay any loan under the Plan may be suspended during the period (not to exceed one year) while the Participant is on an approved non-military leave of absence and the Participant provides requested documentation regarding the non-military leave of absence from his or her employer. The Participant must resume repayment of the loan upon the earlier of his or her return from non-military leave of absence, or one year of suspension. At such point the outstanding loan balance, including any accrued interest and fees, must be repaid or may be re-amortized over a period that does not exceed the latest permissible term for a loan under the regulations. The Plan Sponsor assumes responsibility to notify NRS when a Participant begins and returns from a non military leave of absence.

16. **Loan Interest Rate** - The interest rates for a loan shall be commensurate with interest rates being charged by entities in the business of lending money under similar circumstances. The loan interest rate will be the Prime Rate plus an additional amount expressed as a percentage elected by the Client, plus any other administrative and/or asset fees, as applicable. The Prime Rate shall be the prime rate published by the Wall Street Journal two weeks prior to the end of the most current calendar-year quarter and the new rate will be effective on the first day of the new calendar quarter. The loan interest rate may be adjusted for Participants performing service in the United States military as may be required by law (See Provision 15a.)

17. **Fees** - Fees described in these loan procedures will appear as administrative charges on Participant statements. These fees are subject to change by NRS upon reasonable notice to the Plan Sponsor.

a. **Loan Initiation Fee** - A loan initiation fee of \$50 will be deducted from the Participant's account at the time the loan is funded.

b. **Annual Loan Maintenance Fee** - An annual loan maintenance fee of \$50 will be deducted from the Participant's account on the anniversary date of the original loan initiation, until the loan is repaid in full or the loan has defaulted. In the event that the loan defaults, the annual loan maintenance fee will no longer be assessed and the annual loan default fee described below (See Provision 17f) will be applied.

c. **Asset Fees** - The amount of the outstanding loan balance will be subject to the maximum asset fee, administrative charge or such other fees NRS is entitled to receive under its separate agreement with the Plan Sponsor.

d. **Insufficient Funds Fee** - If NRS is unable to process an ACH debit repayment or personal check on the date due, through no fault of NRS, a fee of \$25 will be deducted from the Participant's account.

e. **Loan Default Fee** - At the time a loan is treated as a deemed distribution, a \$50 fee will be deducted from the Participant's account.

f. **Annual Loan Default Fee** - An annual loan default fee of \$50 will be deducted from the Participant's account on the anniversary date of the original loan default until the loan is repaid in full or offset.

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18. Loans for the Purchase of a Principal Residence - All loans issued by the Plan will be general purpose loans to be repaid in no more than five years unless the Client elects to offer loans for the purchase of the Participant's principal residence. If the Client elects to allow loans for the purchase of a principal residence, all of the provisions of this document will apply unless otherwise specified.

19. Loan Correction - In the event a loan correction becomes necessary, at the Plan Sponsor's direction, NRS may undertake methods prescribed by the IRS or through any IRS correction program.

20. Adoption of Plan Loan Procedures - The undersigned Plan Sponsor or Plan Administrator, as applicable, hereby adopt these Plan Loan Procedures effective for loans issued on or after the Effective Date set forth below, and instructs NRS to administer loans made to Plan Participants in accordance with these terms and the Client elections made on the attached "Plan Election Worksheet" (See Addendum A). Prior to implementing a loan program, the Plan Sponsor acknowledges or acknowledged the following: (i) that the Plan Sponsor has decided to offer loans under the Plan and the Plan Administrator is instructing NRS to administer loans under the Plan; (ii) that the Plan Sponsor understands that, as a result of offering loans under the Plan, the Plan Participants could be subject to adverse tax consequences upon default of the loan; (iii) that the Plan Sponsor has independently weighed these risks, and despite the risks has determined that offering loans under the Plan is in the best interest of Plan Participants; (iv) that any previous loan procedures or loan reference documents other than the Plan Document itself, are hereby superseded by these Plan Loan Procedures; and (v) NRS shall not be liable for any adverse tax consequences described in (ii), except as specifically stated under paragraph 14 herein, resulting from the Plan Sponsor's decision to offer loans under the Plan.

Plan Sponsor Name ("Sponsor"): NEVADA COUNTY, CALIFORNIA		
Street Address: 950 MAIDU AVENUE		
City, State, Zip Code:	NEVADA CITY	CA 95959
Signer's Email Address: STEVEN.ROSE@CO.NEVADA.CA.US		
Plan Name ("Plan"): NEVADA COUNTY 401(a) PLAN		
Plan Number:		
Plan Sponsor or Plan Administrator Signature:		
Title: DIRECTOR OF HUMAN RESOURCES		
Date of Adoption*: * Unless otherwise indicated below, the Date of Adoption shall be the Effective Date.		
Effective Date:		

An executed copy of these Procedures (including the attached Addendum A - Plan Election Worksheet) should be returned to Nationwide Retirement Solutions.



Nationwide®

Nationwide Retirement Solutions Governmental 401(a) Plan Loan Procedures

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Addendum A - Plan Election Worksheet

The following provisions identify Plan elections which are incorporated and made a part of the attached "Plan Loan Procedures." In the event that an election is not made within any section, Nationwide Retirement Solutions ("NRS") will administer the loan program according to current NRS policies as listed under each provision below. The current NRS policies may be changed by NRS at any time. Unless otherwise specified, only one election is allowed per provision.

The elections contained herein apply solely to the Plan. Any provisions, including limitations, do not extend to any other plans offered by the Sponsor.

1. Loan Eligibility:

Plan elects to allow the following Participants the ability to initiate a loan under the Plan.

The Plan Sponsor is solely responsible for informing NRS of any future changes in the Participant's employment status (check all that apply).

- ☒ Employed
- ☒ Approved Non-military Leave of Absence (only available for ACH)
- ☒ Military Leave of Absence (only available for ACH)
- ☐ Disabled (only available for ACH)
- ☐ Retired (only available for ACH)
- ☐ Terminated (only available for ACH)

Current NRS Policy: All listed Participant employment statuses are eligible to initiate a loan if ACH is the elected repayment method (See Provision 4). If the repayment method elected is Payroll Deduction (See Provision 4), the only eligible Participant employment status is Employed.

2. General Purpose Loan Terms:

2(a). Minimum Loan Term

Plan elects the following minimum loan term:

- ☐ One year
- ☒ Other - Specify minimum loan term: 6 (not to be less than six months)

Current NRS Policy: The minimum loan term is one year.

2(b). Maximum Loan Term

Plan elects the following maximum loan term:

- ☒ Five years
- ☐ Other - Specify maximum loan term: _____ (not to exceed a term of five years)

Current NRS Policy: The maximum loan term is five years.

3. Minimum Loan Amount:

Plan elects to have a minimum loan amount of:

- ☒ \$1,000
- ☐ Other - Specify minimum loan amount: \$ _____ (not to be less than \$500)

Current NRS Policy: The minimum loan amount is \$1,000.

4. Repayment Method:

Plan elects to provide Participants with one of the following loan repayment methods:

- ☒ Monthly Automated Clearing House ("ACH")
- ☐ Payroll Deduction (Plan Sponsor will be required to provide a payroll calendar.
(This repayment method is limited to Employed status - see Provision 1)

Current NRS Policy: Monthly ACH is the repayment method.

Nationwide Retirement Solutions

Governmental 401(a) Plan Loan Procedures

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Addendum A - Plan Election Worksheet

5. Cure Period:

If a Participant misses a scheduled loan repayment, the missed repayment must be received by the end of the specified cure period. Plan elects to apply a cure period with the following length:

☒ 31 Days

☐ 60 Days

☐ 90 Days

☐ The quarter following the quarter in which the scheduled repayment was missed

Current NRS Policy: The cure period is 31 days when ACH is the elected repayment method

(See Provision 4). The cure period is 60 days when the repayment method elected is Payroll Deduction (See Provision 4).

6. Loan Interest Rate:

Plan elects the following interest rate for Participant loans:

☒ Prime Rate plus 1% plus applicable fees

☐ Prime Rate plus 2% plus applicable fees

☐ Prime Rate plus _____% (not to be lower than 0%) plus applicable fees

Current NRS Policy: Prime Rate plus 2% plus applicable fees.

7. Loans for the Purchase of a Principal Residence:

7(a). Plan elects to permit loans for the purchase of the Participant's principal residence:

☒ Yes

☐ No

In the event Plan elects to allow Principal Residence loans, only one Principal Residence loan outstanding at a time is permitted. The Principal Residence loan is included in the maximum number of outstanding loans (See Provision 2 of the Plan Loan Procedures). Additionally, the Participant will be required to sign a Principal Residence Certificate and provide NRS with sufficient additional documents to support the purchase of a principal residence. Internet initiation is not available for Principal Residence loans.

Current NRS Policy: Principal Residence loans are not allowed.

7(b). Minimum Loan Term: Plan elects to have a minimum loan term for Principal Residence loans of:

☐ Five years

☒ Other - Specify minimum loan term: _____ (not to be less than one year)

Current NRS Policy: Principal Residence loans have a minimum term of five years.

7(c). Maximum Loan Term: Plan elects to have a maximum loan term for Principal Residence loans of:

☒ 15 Years

☐ Other - Specify maximum loan term: _____ (not to exceed a term of 30 years)

Current NRS Policy: Principal Residence loans have a maximum term of 15 years.

8. Internet Utilization:

Plan elects to allow Participants to use the internet for:

☐ Only the modeling of loans

☒ Both modeling and initiation of loans

☐ Plan declines the use of the internet for either the modeling or initiation of loans

Current NRS Policy: Participants can use the internet for modeling and initiation of loans.

Loan initiation on the internet is limited to General Purpose loans. Principal Residence loans will not be initiated electronically. Additional limitations exist for particular repayment methods and employment statuses.



Schwab Personal Choice Retirement Account® (PCRA)

Omnibus Implementation Sheet

Page 1 of 2

www.schwab.com | 1-800-231-2855

Plan Information (Please check one.)

☐ Trustee ☐ Custodian

Name: _____

Attach evidence of Trustee/Custodian agreement with the Plan.

Independent Recordkeeper (IR) and Plan Information

IR ID	Plan Name Nevada County 401(a) Plan		
Plan Address 950 Maidu Avenue	City Nevada City	State CA	Zip Code 95959
Contact Name Steve Rose	Contact Phone (530) 267-7046		
Plan Year-End	Plan Tax ID Number 94-6000526		
Date Plan Established (mm/dd/yyyy)			
Type of Plan <input type="checkbox"/> Profit Sharing <input checked="" type="checkbox"/> Money Purchase <input type="checkbox"/> 401(k) <input type="checkbox"/> 403(b) <input type="checkbox"/> 457b <input type="checkbox"/> 457f <input type="checkbox"/> Non-Qualified <input type="checkbox"/> Other (specify) _____			
Link to Existing Schwab Master Accounts (provide FA or SL number):			

FA Master (New)	
Upload Master	
Cash In/Cash Out	
EAO Login ID/Internal Contract Number	EAO Password

Plan Features

Electronic Account Opening (EAO) (Please check one):

☒ Yes ☐ No

Your Consent to Enroll in Schwab's Cash Features Program

The Cash Features Program is a service that offers the Bank Sweep feature (named with respect to retirement plans the "Schwab Bank Sweep for Benefit Plans" feature) (a "Cash Feature") to permit uninvested cash (the "Free Credit Balance") in the Plan and/or Participant brokerage accounts under the Plan, as applicable, to earn income while you and/or your Participants, as applicable, decide how those funds should be invested longer term.

You understand that the terms and conditions of the Cash Features Program and of each Cash Feature are set forth in the Cash Features Disclosure Statement.

You instruct and direct Schwab to include the Free Credit Balance under the Plan in the Cash Features Program, as described in the Cash Features Disclosure Statement.

The Bank Sweep feature (including the Schwab Bank Sweep for Benefit Plans feature) is designated as the Cash Feature for brokerage accounts of account holders residing in the U.S. Through the Bank Sweep feature, Schwab automatically makes deposits to and withdrawals from deposit accounts at one or more Sweep Banks that are insured by the Federal Deposit Insurance Corporation (FDIC) up to certain prescribed FDIC limits.

You understand and agree that Schwab may (1) make changes to the terms and conditions of the Cash Features Program; (2) make changes to the terms and conditions of any Cash Feature; (3) change, add, or discontinue any Cash Feature; (4) change the Plan's and/or any Participant's investment from one Cash Feature to another if the Plan and/or any Participant, as applicable, becomes ineligible for the current Cash Feature or the current Cash Feature is discontinued; and (5) make any other changes to the Cash Features Program or Cash Feature as allowed by law. Schwab will notify you in writing of changes to the terms of the Cash Features, changes to the Cash Features we make available, or changes to the Cash Features Program prior to the effective date of the proposed change.

Please note: Participants in 403(b) retirement plans will be placed in the Schwab Government Money Fund™ (SWGXX). If this is a 403(b) plan, you instruct and direct Schwab to include this fund.



Allowance of Investment Advisor (IA) and Deduction of IA Fees

1. Do you wish to allow the delegation of trading authority to an Investment Advisor or a Third Party?

- ☐ Yes. By executing a Schwab PCRA Limited Power of Attorney (LPOA) for an Investment Advisor or for a Third Party, Participant may grant authority to an Investment Advisor who has a relationship with Schwab or to a Third Party to trade in the Participant's PCRA.
- ☒ No. Not permitted under this Plan.

2. Do you wish to allow the deduction of fees from the Participant's PCRA's for an Investment Advisor who has a relationship with Schwab?

- ☐ Yes.
- ☒ No. IA fees are not to be taken from Participant's PCRA's.

Trading Menu

Please complete the Schwab PCRA Plan Trading Menu Establishment form attached.

This Agreement, as it pertains to the Recordkeeper, may be delivered via facsimile or otherwise scanned and delivered to Schwab. By signing below, you acknowledge and agree that this Agreement and any such scanned signatures will be treated as, and are just as binding as, an original copy.

Signature and Acknowledgment**X**

IR Signature



Print Name

STEVE ROSE

Date

1/29/20

Authorized party? ☐ Yes ☐ No**Fax to PCRA Operations: 1-877-535-3403.**

Schwab Personal Choice Retirement Account® (PCRA) Plan Trading Menu Establishment

Page 1 of 2

Complete each section below to indicate the securities¹ that PCRA Participants have the ability to trade. These selections create the PCRA Trading Menu and apply to any PCRA associated with the Plan.

The Trustee(s)/Custodian(s) and/or Plan Sponsor authorize Schwab to allow any Participant who completes a **Schwab PCRA Limited Power of Attorney (LPOA) for Participant** form to make trades in the Participant's PCRA. A Participant will never be restricted from selling a position unless Schwab is instructed to restrict the sale by the Trustee(s)/Custodian(s) and/or Plan Sponsor. The Trustee(s)/Custodian(s) and/or Plan Sponsor acknowledge that they are responsible for determining whether any of the investments selected below (including any employer securities) are permissible under the terms of the Plan, the Internal Revenue Code (the "Code"), or the Employee Retirement Income Security Act of 1974 ("ERISA") and that Schwab shall have no responsibility or liability with respect to such determination. Please note that, generally, 403(b) contributions can only be invested in SEC-registered fund shares.

Trading restrictions. PCRA's may not include trading on collectibles, currencies, precious metals, real estate, futures, commodities, private placements, margin accounts, or short sales. If specifically allowed by a Participant's retirement plan, a Participant may be able to write covered calls and buy protective puts. A Participant should complete a **Schwab Personal Choice Retirement Account (PCRA) Options Application—Participant** form to be approved to trade options.

At the time of conversion to the Schwab platform, securities in Participant accounts will be reviewed solely for the purpose of confirming if such securities are able to be held and traded on the Schwab broker-dealer platform. In addition, once assets have transferred, Schwab shall also review all securities solely to confirm that such securities are consistent with the authorization and direction from the Plan Sponsor via the Plan Trading Menu.

Note: From time to time, securities may change characteristics, which could change the availability of the asset within your Plan. Schwab has no obligation to review or monitor securities' classification following the initial review at conversion.

A. Taxable Mutual Funds:

- ☒ All except those listed in Section I
☐ Schwab Mutual Fund OneSource®/Schwab Funds® only²
☐ None except those listed in Section I

B. Tax-Exempt Mutual Funds:

- ☒ All except those listed in Section I
☐ Schwab Mutual Fund OneSource/Schwab Funds only²
☐ None except those listed in Section I

C. Equities: (To include foreign securities that trade over-the-counter, you must select "All except those listed in Section I" below and under Section G.)

- ☒ All except those listed in Section I
☐ Listed only³
☐ Listed and NASDAQ market securities only⁴ (Selecting this will exclude all foreign securities on other exchanges, including over-the-counter securities.)
☐ Exchange-traded funds (ETFs) only⁵
☐ Schwab ETF OneSource™ funds only⁵
☐ Closed-end mutual funds only
☐ ETFs and closed-end mutual funds
☐ None except those listed in Section I

D. Publicly Traded Limited Partnerships:⁶ (Please read important footnote on the next page.)

- ☐ All except those listed in Section I
☒ None except those listed in Section I

E. Taxable Fixed Income:⁷

- ☒ All except those listed in Section I
☐ None except those listed in Section I
☐ Certificates of deposit (CDs) only

F. Tax-Exempt Fixed Income:

- ☒ All except those listed in Section I
☐ None except those listed in Section I
☐ Treasuries only

G. Foreign Securities:⁸

- ☐ All except those listed in Section I
☒ None except those listed in Section I

H. Options: (Options trading is limited to writing covered calls and buying protective puts.)

- ☐ Yes. Options trading is permitted on the Plan-level account by the Plan document and on all associated PCRA's. **Note:** All parties with trading authority must complete a separate Schwab options application.
☒ No. Options trading is not permitted.

I. Please list all exceptions below. If you have more than four exceptions, please attach an additional sheet.

Fund/Security Description	CUSIP Number	Symbol	Permitted	Not Permitted
			<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>



I certify under penalties of perjury that: (1) the Taxpayer Identification Number shown on this application is correct, (2) the Plan is not subject to backup withholding due to failure to report interest and dividend income, (3) the Plan is a U.S. person, and (4) the Plan is exempt from FATCA reporting. I understand that if I have been notified by the IRS that the Plan is subject to backup withholding as a result of dividend or interest underreporting and I have not received a notice from the IRS advising me that backup withholding is terminated, I must cross out item 2 above.

THE INTERNAL REVENUE SERVICE DOES NOT REQUIRE YOUR CONSENT TO ANY PROVISIONS OF THIS DOCUMENT OTHER THAN THE CERTIFICATIONS REQUIRED TO AVOID BACKUP WITHHOLDING.

Signature and Date Required

X

Plan Sponsor Signature



Date

1/29/20

Print Name

STEVE

ROSE

Title

HR Director

Fax to PCRA Operations: 1-877-535-3403.

¹ If company is publicly traded, most companies will restrict the trading of employer stock inside a PCRA. Note: Schwab cannot monitor PCRA's for insider trading.

² Charles Schwab & Co., Inc. (Member SIPC) receives remuneration from fund companies for recordkeeping and shareholder services and other administrative services for shares purchased through Schwab's Mutual Fund OneSource® program. Schwab also may receive remuneration from transaction fee fund companies for certain administrative services.

Trades in no-load mutual funds available through OneSource (including Schwab Funds®), as well as certain other funds, are available without transaction fees when placed through Schwab.com or our automated phone channels. Schwab reserves the right to change the funds we make available without transaction fees and to reinstate fees on any funds. Funds are also subject to management fees and expenses.

Schwab's short-term redemption fee will be charged on redemption of funds (except certain Schwab Funds) bought through Schwab's Mutual Fund OneSource program (and certain other funds) with no transaction fee and held for 90 days or less. Schwab reserves the right to exempt certain funds from this fee, including Schwab Funds, which may charge a separate redemption fee, and funds that accommodate short-term trading.

³ Equity trading is limited to securities listed on the New York Stock Exchange (NYSE), NYSE Amex Equities, and other exchanges (excludes the NASDAQ Stock Market, Inc. [NASDAQ] and over-the-counter [OTC] securities).

⁴ Securities that are not available to trade include pink sheets, OTC securities, and Bulletin Board stocks.

⁵ Conditions apply: Trades in ETFs available through Schwab ETF OneSource™ (including Schwab ETFs™) are available without commissions when placed online through a Schwab account. Service charges apply for trade orders placed through a broker (\$25). An exchange-processing fee applies to sell transactions. Certain types of Schwab ETF OneSource transactions are not eligible for the commission waiver, such as short sells and buys to cover (not including Schwab ETFs). Schwab reserves the right to change the ETFs we make available without commissions. All ETFs are subject to management fees and expenses. Please see the *Charles Schwab Pricing Guide for Retirement Plan Accounts* (the "Pricing Guide") for additional information.

Investment returns will fluctuate and are subject to market volatility, so that an investor's shares, when redeemed or sold, may be worth more or less than their original cost. Shares are bought and sold at market price, which may be higher or lower than the net asset value (NAV).

Charles Schwab & Co., Inc. receives remuneration from third-party ETF companies participating in Schwab ETF OneSource for recordkeeping, shareholder services, and other administrative services, including program development and maintenance. Third parties are not affiliated with Schwab. Schwab makes no representation about the accuracy of the information provided by them or its appropriateness for any given situation.

Schwab ETFs are distributed by SEI Investments Distribution Co. (SIDCO). SIDCO is not affiliated with Charles Schwab & Co., Inc. Learn more at schwab.com/schwabETFs.

⁶ Restricting publicly traded limited partnerships will exclude the purchase of any publicly traded limited partnership and any security (which may include certain ETFs, royalty trusts, and other possible securities) that reports income via a Schedule K-1 Form and, as a result, could generate Unrelated Business Taxable Income (UBTI).

⁷ Excludes debt securities issued by Charles Schwab & Co., Inc. and its affiliates. These securities are not allowed to be purchased in a PCRA.

⁸ Restricting foreign securities does not include American Depositary Receipt (ADR) securities and foreign securities traded on a domestic equity market, but does restrict the purchase of non-ADR foreign securities available on the U.S. OTC market. Some foreign securities may be subject to additional foreign tax withholding requirements, including ADRs and foreign securities traded on a domestic market.





Cash Features Program General Terms and Conditions

Page 1 of 2

The automatic investment of your free credit balance, including the frequency and the amount of each sweep, is governed by the terms and conditions set forth in the Cash Features Disclosure Statement and in the Account Agreement applicable to your account. The material in this document is intended for informational purposes only. If there is any conflict between the descriptions in this document and the terms of your Account Agreement, your Account Agreement will control.

How the Cash Features Program Works	Schwab's Cash Features Program is the service (described in the Cash Features Disclosure Statement) that we provide to automatically invest, or "sweep," the Free Credit Balance in your account into a liquid investment to earn interest. The program permits you to earn income while you decide how those funds should be invested longer term.
Available Cash Feature	<p>The available cash features currently consist of:</p> <ul style="list-style-type: none">▪ Interest payments by Schwab on the Free Credit Balance in your eligible account (the "Schwab One® Interest feature");▪ Interest-bearing Deposit Accounts at our affiliated bank, Schwab Bank (the "Bank Sweep feature," which consists of the "Schwab Bank Sweep feature" and the "Schwab Bank Sweep for Benefit Plans feature"); and▪ For some accounts, one or more affiliated money market mutual funds (the "Money Fund Sweep feature").
Eligibility	Eligibility for each cash feature is based on the registered ownership and the type of account. Not all account registrations and account types will be eligible for all cash features. Some account registrations and account types will be eligible for only one cash feature. Please see your Account Application and the Cash Features Disclosure Statement for more complete eligibility details.
Duty to Monitor Eligibility for Cash Features	It is your responsibility to monitor your eligibility for the cash features and determine the best cash feature available to you. Schwab is not responsible for contacting you if you are, or later become, eligible for other higher-yielding cash features.
Interest Rates and Yields	<p>The interest rates and yields for the different cash features vary over time. Current interest rates and yields can be obtained by contacting your independent investment advisor or your Financial Consultant, or by calling us at 1-800-435-4000. If you already have an account, you can visit our website at www.schwab.com/cash. If your account is an Advisor Services account, please contact your advisor, visit www.schwab.com/SA_cash, or call Schwab Alliance at 1-800-515-2157.</p> <ul style="list-style-type: none">▪ The interest rate on the Schwab One Interest feature is set by Schwab. We may seek to pay as low a rate as possible consistent with our views of competitive necessities. With certain exceptions, the rate will be tiered based upon the overall Household Balance of your account(s).▪ The interest rate on the Schwab Bank Sweep feature is set by Schwab Bank, which may seek to pay as low a rate as possible consistent with its views of competitive necessities. With certain exceptions, the rate will be tiered based upon account type and the overall household value of your account(s) with Schwab and Schwab Bank.▪ The interest rate on the Schwab Bank Sweep for Benefit Plans feature is set by Schwab Bank, which intends to pay interest consistent with reasonable rate provisions of applicable legal and regulatory authority. Interest rates do not vary by tiers and do not vary based on householding of assets.

Brokerage Products: Not FDIC-Insured • No Bank Guarantee • May Lose Value

Interest Rates and Yields (Continued)	<ul style="list-style-type: none"> • Money market mutual funds offered through the Money Fund Sweep feature seek to achieve the highest yield (less fees and expenses) consistent with prudence and their investment objectives. <p>Cash features are not intended to be long-term investments. If you desire to maintain cash balances for other than a short-term period and/or are seeking the highest yields currently available in the market, please contact your Schwab representative or visit www.schwab.com/cash for investment options that may be available outside of the Cash Features Program to help maximize your return potential consistent with your investment objectives and risk tolerance. If your account is an Advisor Services account, please contact your advisor, visit www.schwab.com/SA_cash, or call Schwab Alliance at 1-800-515-2157.</p>
Benefits to Schwab	<p>We may charge fees and receive certain benefits under the different cash features. A portion of these fees and benefits may be shared with your investment professional. Because of these fees and benefits, we have a financial incentive to select the particular cash features included in the Cash Features Program.</p>
Differing Risks and Account Protection	<p>The different cash features are subject to different risks and account protection:</p> <ul style="list-style-type: none"> • The Schwab One® Interest feature is not subject to market risk and value loss but is subject to the risk of Schwab's failure. In the unlikely event that Schwab fails, cash is eligible for SIPC coverage up to a limit of \$250,000 (including principal and interest) per client in each insurable capacity (e.g., individual or joint). Free Credit Balances held at Schwab are not insured or guaranteed by the FDIC. • The Bank Sweep feature, which includes the Schwab Bank Sweep feature and the Schwab Bank Sweep for Benefit Plans feature, is not subject to market risk and value loss but is subject to the risk of Schwab Bank's failure. In the unlikely event that Schwab Bank fails, deposits at Schwab Bank are eligible for FDIC insurance protection up to a limit of \$250,000 (including principal and interest) per depositor in each insurable capacity (e.g., individual, joint, and plan participant). This limit includes any other deposits you may have at Schwab Bank outside of the Bank Sweep feature. You are responsible for monitoring your bank balances in the Bank Sweep feature and the balances in any of your other bank accounts at Schwab Bank to determine if these, in total, exceed FDIC insurance limits. Monies held in the Bank Sweep feature are not covered by SIPC. • Money market mutual funds in the Money Fund Sweep feature invest in high-quality, short-term securities and seek to maintain a stable value, but are subject to market risks and potential value loss. They are not bank accounts and are not subject to FDIC insurance protection. They are instead covered by SIPC, which protects against the custodial risk (and not a decline in market value) when a brokerage firm fails by replacing missing securities and cash up to a limit of \$500,000, of which \$250,000 may be cash. Shares held through the Money Fund Sweep feature are not considered cash, but are treated as securities for SIPC coverage.

Brokerage Products: Not FDIC-Insured • No Bank Guarantee • May Lose Value