

COUNTY OF ALBEMARLE
PENSION PLAN FOR PERMANENT PART-TIME EMPLOYEES

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COUNTY OF ALBEMARLE

PENSION PLAN FOR PERMANENT PART-TIME EMPLOYEES

THIS AGREEMENT is made and entered into as of the 13th day of May,
2013, between COUNTY OF ALBEMARLE, VIRGINIA (hereafter referred to as the "Sponsor") and
Betty J. Burrell and Lorna Gerome (hereafter referred to as the "Trustee" or the "Trustees").

WITNESSETH:

WHEREAS, the Sponsor originally established a money purchase pension plan (hereafter referred to as the "Plan"), effective July 1, 1985, in order to provide retirement and other incidental benefits to Employees who are eligible to participate therein; and

WHEREAS, in accordance with the terms of the Plan, the Sponsor has the ability at any time, and from time to time, to amend the Plan;

NOW, THEREFORE, effective September 1, 2009 (except for those specific provisions that have an earlier or later effective date), the Sponsor hereby amends and restates the Plan in its entirety in order to comply with the requirements of the Internal Revenue Code of 1986, as amended, and all applicable rulings and regulations issued thereunder, and the Trustee accepts the Plan under the following terms and conditions:

ARTICLE 1 DEFINITIONS

1.1 ADMINISTRATOR

The term Administrator means the Employer unless another Administrator is appointed by the Employer pursuant to the provisions of Section 8.1 of the Plan.

1.2 ADOPTING EMPLOYER

The term Adopting Employer means any entity that adopts this Plan with the consent of the Sponsor, and expressly includes the County School Board of Albemarle County, Virginia. An Employee's transfer to or from any Employer or Adopting Employer will not affect his or her Participant's Account balance, total Years of Service (or Periods of Service) and total Years of Service as a Participant (or Periods of Service as a Participant). An Adopting Employer may terminate participation in the Plan by delivering written notice to the Sponsor, the Administrator and the Trustee; but in accordance with Article 9, only the Sponsor can terminate the Plan. If a request for and approval of a transfer of assets from this Plan to any successor qualified retirement plan maintained by the Adopting Employer or its successor is not made in accordance with Section 9.3, Participants who are no longer Employees because the Adopting Employer terminates Plan participation will only be entitled to the commencement of their benefits in accordance with Article 5 after their death, retirement, Disability or Termination of Employment from the Adopting Employer or former Adopting Employer.

1.3 AGE

The term Age means an Employee's actual attained age.

1.4 ANNIVERSARY DATE

The term Anniversary Date means September 1st.

1.5 ANNUITY STARTING DATE

The term Annuity Starting Date means 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 as an annuity, the first day all events have occurred which entitle the Participant to such benefit. The first day of the first period for which a benefit is to be received by reason of Disability will be treated as the Annuity Starting Date only if such benefit is not an auxiliary benefit.

1.6 BENEFICIARY

The term Beneficiary means the recipient designated by the Participant to receive the Plan benefits payable upon the death of the Participant, or the recipient designated by a Beneficiary to receive any benefits which may be payable in the event of the Beneficiary's death prior to receiving the entire death benefit to which the Beneficiary is entitled. All such Beneficiary designations will be made in accordance with the following provisions:

- (a) **Beneficiary Designations By A Participant:** Each Participant may designate a Beneficiary on a form supplied by the Administrator, and may change or revoke that designation by filing written notice with the Administrator. If a Participant completes or has completed a Beneficiary designation form in which the Participant designates his or her Spouse as the Beneficiary, and the Participant and the Participant's Spouse are legally divorced subsequent to the date of such designation, then the designation of such Spouse as a Beneficiary hereunder will be deemed null and void unless the Participant, subsequent to the legal divorce, reaffirms the designation by completing a new Beneficiary designation form. In the absence of a written Beneficiary designation form, the Participant will be deemed to have designated the following Beneficiaries in the

following order: (1) the Participant's Spouse, if then living; (2) the Participant's issue, per stirpes; and (3) the Participant's estate.

- (b) **Beneficiary Designations By A Beneficiary:** In the absence of a Beneficiary designation or other directive from the deceased Participant to the contrary, any Beneficiary may name his or her own Beneficiary in accordance with Section 5.2(e) to receive any benefits which may be payable in the event of the Beneficiary's death prior to the receipt of all the Participant's death benefits to which the Beneficiary was entitled.
- (c) **Beneficiaries Considered Contingent Until Death Of Participant:** Notwithstanding any provision in this Section, any Beneficiary named hereunder will be considered a contingent Beneficiary until the death of the Participant (or Beneficiary, as the case may be), and until such time will have no rights granted to Beneficiaries under the Plan.

1.7 CODE

The term Code means the Internal Revenue Code of 1986, as amended, and the regulations and rulings promulgated thereunder by the Internal Revenue Service.

1.8 CODE §3401 COMPENSATION

The term Code §3401 Compensation means wages within the meaning of Code §3401(a) that are actually paid or made available in gross income for the purposes of income tax withholding at the source but determined without regard to any rules under Code §3401 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)).

1.9 CODE §415 COMPENSATION

The term Code §415 Compensation means wages, salaries, 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, including, but not limited to, commissions paid salespersons, compensation for services based on a percentage of profits, commissions on insurance premiums, tips, bonuses, fringe benefits, and reimbursements, or other expense allowances under a non-accountable plan as described in IRS regulation §1.62-2(c). Code § 415 Compensation includes amounts paid to an Employee within 2-1/2 months following Termination of Employment that would have been paid to the Employee while the Employee continued in the employment of the Employer as regular compensation, or is a payment for accrued bona fide sick, vacation, or other leave, but only if the Employee would have been able to use the leave if employment had continued. Participant's Code §415 Compensation will be determined subject to the following provisions:

- (a) **Amounts Excluded From Code §415 Compensation:** Code §415 Compensation does not include (1) Employer contributions to a plan of deferred compensation which are not includible in gross income for the taxable year in which contributed, or Employer contributions to a simplified employee pension plan to the extent such contributions are deductible by the Employer, or any distributions from a plan of deferred compensation; (2) amounts realized from a non-qualified stock option, or when restricted stock or property held by the Employee either becomes freely transferable or is no longer subject to a substantial risk of forfeiture; (3) amounts realized from the sale, exchange or other disposition of stock acquired under a qualified stock option; and (4) other amounts which receive special tax benefits, or contributions made by an Employer (whether or not under a salary reduction agreement) towards the purchase of an annuity described in Code §403(b) (whether or not the amounts are excludible from an Employee's gross income).

Code §415 Compensation does not include “post-severance compensation” paid more than 2-1/2 months following the Employee’s Termination of Employment

- (b) **Treatment Of Elective Deferrals And Other Amounts:** For Limitation Years beginning on or after January 1, 1998, Code §415 Compensation will include any elective deferrals as defined in Code §402(g)(3), and any amounts contributed or deferred at the election of the Employee that were not includible in the gross income by reason of Code §125 or §457. Code §415 Compensation will also include elective amounts that are not includible in the gross income of the Employee by reason of Code §132(f)(4) for Limitation Years beginning on or after January 1, 2001 (or if elected by the Administrator on a non-discriminatory basis, any earlier Limitation Year beginning on or after January 1, 1998).

1.10 COMPENSATION

The term Compensation means a Participant's Form W-2 Compensation actually paid during a Compensation Determination Period and prior to the Participant’s Termination of Employment, determined subject to the following provisions:

- (a) **Compensation Determination Period:** For purposes hereof, the term Compensation Determination Period means the Plan Year.
- (b) **Treatment Of Elective Deferrals:** Employer contribution amounts made pursuant to a salary reduction agreement which are not currently includible in the gross income of an Employee by reason of Code §125, §402(e)(3), §402(h)(1)(B), or §403(b) will be excluded in determining Compensation. However, if elected by the Administrator on a non-discriminatory basis, Compensation will include elective amounts that are not includible in the gross income of the Employee by reason of Code §132(f)(4), beginning with the Plan Year elected by the Administrator but not earlier than the Plan Year beginning on or after January 1, 1998.
- (c) **Amounts Received Prior To Becoming A Participant:** Except for determining the Code §415 limitations under Article 6, amounts that would otherwise be considered Compensation under any other provision of this Section but are received prior to the date an Employee becomes a Participant will not be considered Compensation.
- (d) **Compensation Received While A Member Of An Ineligible Class Of Employees:** Except for determining the Code §415 limitations under Article 6, Compensation will exclude any amount received while an Employee is a member of an ineligible class of Employees as described in Section 2.1(b).
- (e) **Dollar Limitation On Compensation:** Notwithstanding anything in this Section to the contrary, a Participant’s Compensation for any Compensation Determination Period will not exceed the limitation set forth in Code §401(a)(17) as in effect for that determination period. If a Compensation Determination Period consists of fewer than 12 months, the Code §401(a)(17) limitation will be multiplied by a fraction, the numerator of which is the number of months in that determination period, and the denominator of which is 12.
- (f) **Repeal Of Family Aggregation Rules:** The family aggregation rules that were described in Code §401(a)(17)(A) as in effect prior to January 1, 1997 will not apply to this Plan for Plan Years beginning on or after January 1, 1997.
- (g) **Differential Pay:** Compensation includes “differential pay” as defined in Title 26, Section 3401(h) of the United States Code (referring to an employer payment to an

Employee called to active duty in the uniformed services for more than 30 days that represents all or a portion of the pay the Employee would have received if the Employee were performing services for the Employer.

1.11 DISABILITY

The term Disability means a physical or mental condition arising after an Employee has become a Participant that totally and permanently prevents the Participant from engaging in any occupation for remuneration or profit. The determination as to whether a Participant has suffered a Disability will be made by a physician acceptable to the Administrator.

1.12 EARLY RETIREMENT AGE

There is no Early Retirement Age under the Plan.

1.13 ELIGIBLE PARTICIPANT

The term Eligible Participant means a Participant eligible under this Section to receive an allocation of Employer contributions and Forfeitures allocable for a Plan Year. Any Participant who is an Employee on the last day of the Plan Year and is in an eligible class of Employees as described in Section 2.1(b) will be an Eligible Participant under this Section. Any Participant who terminates employment with the Employer before the last day of the Plan Year will only be an Eligible Participant for that Plan Year in accordance with the following provisions:

- (a) **Retiring Participants:** A Participant who terminates employment before the last day of the Plan Year because of retirement after Normal Retirement Age will be an Eligible Participant for that Plan Year regardless of the number of Hours of Service the Participant completes during that Plan Year, provided such Participant is in an eligible class of Employees as described in Section 2.1(b).
- (b) **Deceased Participants:** A Participant who terminates employment before the last day of the Plan Year because of death will be an Eligible Participant for that Plan Year regardless of the number of Hours of Service the Participant completes during that Plan Year, provided such Participant is in an eligible class of Employees as described in Section 2.1(b).
- (c) **Disabled Participants:** A Participant who terminates employment before the last day of the Plan Year because of Disability will be an Eligible Participant for that Plan Year regardless of the number of Hours of Service the Participant completes during that Plan Year, provided such Participant is in an eligible class of Employees as described in Section 2.1(b).
- (d) **Terminated Participants:** A Participant who terminates employment before the last day of the Plan Year for reasons other than retirement, death or Disability will be an Eligible Participant for that Plan Year regardless of the number of Hours of Service the Participant completes during that Plan Year, provided such Participant is in an eligible class of Employees as described in Section 2.1(b).

1.14 EMPLOYEE

- (a) The term Employee means (a) any person reported on the payroll records of the Employer as an employee who is deemed by the Employer to be a common law employee; and (b) any person who is considered a Leased Employee but who (1) is not covered by a plan described in Code §414(n)(5), or (2) is covered by a plan described in Code §414(n)(5), but Leased Employees constitute more than 20% of the Employer's non-highly compensated workforce, or (3) any person receiving differential wage payments as defined in Title 26, Section 3401(h) of the United States Code (referring to an employer payment to an Employee called to active duty in the

uniformed services for more than 30 days that represents all or a portion of the pay the Employee would have received if the Employee were performing services for the Employer. However, the term Employee will not include any individual who is not reported on the payroll records of the Employer as a common law employee. If such person is later determined by the Sponsor or by a court or governmental agency to be or to have been an Employee, he or she will only be eligible for participation prospectively and may participate in the Plan as of the next entry date in Section 2.2 following such determination and after the satisfaction of all other eligibility requirements.

1.15 EMPLOYER

The term Employer means the Sponsor and any Adopting Employer, including the County School Board of Albemarle County, Virginia. Where applicable, such as determining Hours of Service, Periods of Service and Years of Service, the term Employer or Adopting Employer will also mean any business entity that was an Adopting Employer. As to any Employee, the term Employer at the time of reference means the employer of such Employee.

1.16 ERISA

The term ERISA means the Employee Retirement Income Security Act of 1974, as amended, and the regulations and rulings promulgated thereunder. As a governmental employer within the meaning of Code § 414(d), the Plan is not subject to ERISA and references in this Plan to ERISA shall not be deemed an election on the part of the Employer to become subject to the provisions of ERISA.

1.17 FIDUCIARY

The term Fiduciary means any individual or entity which exercises any discretionary authority or control over the management of the Plan or over the disposition of the assets of the Plan; renders investment advice for a fee or other compensation (direct or indirect); has any discretionary authority or responsibility over Plan administration; or acts to carry out a fiduciary responsibility, when designated by a named Fiduciary pursuant to authority granted by the Plan.

1.18 FISCAL YEAR

The term Fiscal Year means the Employer's accounting year beginning July 1st and ending the following June 30th.

1.19 FORFEITURE

The term Forfeiture means the amount by which a Participant's Account balance exceeds his or her Vested Interest as of the date the Participant receives a distribution of his or her Vested Interest under Article 5. No Forfeitures will occur solely as a result of a Participant's transfer to an Adopting Employer. All Forfeitures will be placed in the Forfeiture Account pending allocation pursuant to Section 3.4.

1.20 FORM W-2 COMPENSATION

The term Form W-2 Compensation means wages within the meaning of Code §3401(a) and all other payments of compensation actually paid or made available in gross income 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 Form W-2 under Code §6041(d), §6051(a)(3) and §6052. Compensation must be determined without regard to any rules under Code §3401(a) limiting 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)).

1.21 HCE

The term HCE means a Highly Compensated Employee.

1.22 HIGHLY COMPENSATED EMPLOYEE

The term Highly Compensated Employee means, for Plan Years beginning after December 31, 1996, any Employee who during the Plan Year or during the look-back year was a 5% owner as defined in Code §416(i)(1), or who for the look-back year had Code §415 Compensation in excess of \$80,000 as adjusted in accordance with Code §415(d) (except that the base year will be the calendar quarter ending September 30, 1996). In determining who is a highly compensated former Employee, the rules for determining Highly Compensated Employee status as in effect for the Plan Year or look-back year for which the determination is being made (in accordance with temporary regulation 1.414(q)-1T, A-4 and Notice 97-45) will be applied. In determining if an Employee is a Highly Compensated Employee for Plan Years beginning in 1997, the amendments to Code §414(q) are deemed to have been in effect for years beginning in 1996. If the Employer maintains more than one qualified retirement plan, the definition of Highly Compensated Employee must be consistently applied to all such plans.

- (a) **Determination Of Look-Back Year:** The look-back year will be the 12-month period immediately preceding the Plan Year for which the determination is being made.
- (b) **Top Paid Group Election:** In determining if an Employee is a Highly Compensated Employee based on Code §415 Compensation, the top paid group election set forth in Code §414(q)(3) is not being applied for any Plan Year beginning on or after January 1, 1997.
- (c) **Repeal Of Family Aggregation Rules:** The family aggregation rules that were described in Code §414(q)(6) as in effect prior to January 1, 1997 will not apply to this Plan for Plan Years beginning on or after January 1, 1997.

1.23 HOUR OF SERVICE

The term Hour of Service means, with respect to any provision of the Plan in which service is determined by reference to an Employee's Periods of Service, each hour for which an Employee is paid, or is entitled to payment, by the Employer for the performance of duties. With respect to any provision of the Plan in which service is determined by reference to an Employee's Years of Service, the term Hour of Service means the following:

- (a) **Determination Of Hours:** The term Hour of Service means (1) each hour an Employee is paid, or entitled to payment, for the performance of duties for the Employer which will be credited to the Employee for the computation period in which the duties are performed; (2) each hour for which an Employee is paid, or entitled to payment, by the Employer on account of a period of time during which no duties are performed (irrespective of whether the employment relationship has terminated) due to vacation, holiday, illness, incapacity (including disability), layoff, jury duty, military duty or leave of absence, except that no more than 501 hours will be credited under this clause (2) for any single continuous period (whether or not such period occurs in a single computation period); and (3) each hour for which back pay, irrespective of mitigation of damages, is either awarded or agreed to by the Employer, except that the same hours will not be credited both under clause (1) or clause (2) and under this clause (3), and these hours will be credited 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. Hours of Service will be calculated and credited pursuant to DOL regulation 2530.200b-2(b) and (c), which are incorporated herein by reference.
- (b) **Use Of Equivalencies:** Notwithstanding paragraph (a), the Administrator may elect for all Employees or for one or more different classifications of Employees (provided such

classifications are reasonable and are consistently applied) to apply one or more of the following equivalency methods in determining the Hours of Service of an Employee paid on an hourly or salaried basis. Under such equivalency methods, an Employee will be credited with either (1) 190 Hours of Service for each month in which he or she is paid or entitled to payment for at least one Hour of Service; or (2) 95 Hours of Service for each semi-monthly period in which he or she is paid or entitled to payment for at least one Hour of Service; or (3) 45 Hours of Service for each week in which he or she is paid or entitled to payment for at least one Hour of Service; or (4) 10 Hours of Service for each day in which he or she is paid or entitled to payment for at least one Hour of Service.

1.24 LEASED EMPLOYEE

The term Leased Employee means, for Plan Years beginning on or after January 1, 1997, any person within the meaning of Code §414(n)(2) and §414(o) who is not reported on the payroll records of the Employer as a common law employee and who provides services to the Employer if (a) the services are provided under an agreement between the Employer and a leasing organization; (b) the person has performed services for the Employer or for the Employer and related persons as determined under Code §414(n)(6) on a substantially full time basis for a period of at least one year; and (c) the services are performed under the primary direction and control of the Employer. Contributions or benefits provided to a Leased Employee by the leasing organization attributable to services performed for the Employer will be treated as provided by the Employer. A Leased Employee will not be considered an Employee of the recipient if he is covered by a money purchase plan providing (a) a non-integrated Employer contribution rate of at least 10% of Code §415 Compensation, including amounts contributed by the Employer pursuant to a salary reduction agreement which are excludible from the Leased Employee's gross income under a cafeteria plan covered by Code §125, a cash or deferred plan under Code §401(k), a SEP under Code §408(k) or a tax-deferred annuity under Code §403(b), and also including, for Plan Years beginning on or after January 1, 2001, any elective amounts that are not includible in the gross income of the Leased Employee because of Code §132(f)(4); (b) immediate participation; and (c) full and immediate vesting. This exclusion is only available if Leased Employees do not constitute more than 20% of the recipient's non-highly compensated work force.

1.25 LIMITATION YEAR

The term Limitation Year means the Plan Year.

1.26 NHCE

The term NHCE means a Non-Highly Compensated Employee.

1.27 NON-HIGHLY COMPENSATED EMPLOYEE

The term Non-Highly Compensated Employee means any Employee who is not a Highly Compensated Employee.

1.28 NORMAL RETIREMENT AGE

The term Normal Retirement Age means the date a Participant reaches Age 65. There is no mandatory retirement age.

1.29 NORMAL RETIREMENT DATE

The term Normal Retirement Date means the date a Participant reaches Normal Retirement Age.

1.30 PARTICIPANT

The term Participant means any Employee who has met the eligibility and participation requirements of the Plan. However, an individual who is no longer an Employee will not be deemed a Participant if his or her entire Plan benefit (a) is paid in a lump sum distribution which

represents such individual's entire interest in the Plan; or (b) is paid in some other form of distribution and the final payment thereunder has been made.

1.31 PARTICIPANT'S ACCOUNT

The term Participant's Account means the account to which is credited a Participant's share of Employer contributions, Forfeitures (if any) that are allocated under Section 3.4, investment earnings or losses allocated under Section 3.3, and the proceeds of insurance policies (if any) that are purchased on a Participant's life under Section 7.13.

1.32 PLAN

The term Plan means this plan and trust agreement, which is named the County of Albemarle Pension Plan for Permanent Part-Time Employees.

1.33 PLAN YEAR

The term Plan Year means the Plan's accounting year beginning September 1st and ending the following August 31st.

1.34 REQUIRED BEGINNING DATE

The term Required Beginning Date means, for Plan Years beginning on or after January 1, 1997, for a Participant who is not a 5% owner, April 1st of the calendar year following the later of the calendar year in which the Participant reaches Age 70½ or the calendar year in which the Participant actually retires. For a Participant who is a 5% owner, the term Required Beginning Date means April 1st of the calendar year following the calendar year in which the Participant reaches Age 70½. A Participant will be treated as a 5% owner if he or she is a 5% owner as defined in Code §416 at any time during the Plan Year ending with or within the calendar year in which such Participant reaches Age 70½. Once distributions have begun to a 5% owner, they must continue even if the Participant ceases to be a 5% owner in a subsequent year. Notwithstanding the foregoing to the contrary, however, a Participant may have a later Required Beginning Date determined as follows:

- (a) **Elimination Of Pre-Retirement Age 70½ Distribution Option:** The pre-retirement Age 70½ distribution option will only be eliminated for Employees who reach Age 70½ in or after a calendar year that begins after the later of December 31, 1998, or the adoption date of this amended Plan. The pre-retirement Age 70½ distribution option is an optional form of benefit under which benefits payable in a particular distribution form (including any modifications that may be elected after benefit commencement) begin at a time during the period that begins on or after January 1st of the calendar year in which an Employee reaches Age 70½ and ends April 1 of the immediately following calendar year.
- (b) **Election To Defer:** If the Administrator offered an election to defer distributions, a Participant who is not a 5% owner who reaches Age 70½ in years after 1995 and who made the election by April 1st of the calendar year following the year in which he or she reached Age 70½ (or by December 31, 1997 in the case of a Participant who reached Age 70½ in 1996) may defer distribution until the calendar year following the calendar year in which his or her retirement occurs. If the Administrator does not offer such an election, or if the election is offered but not made, the Participant will begin receiving distributions by April 1st of the calendar year following the year in which he or she reaches age 70½ (or by December 31, 1997 in the case of a Participant who reached Age 70½ in 1996).
- (c) **Election To Suspend:** If the Administrator offered an election to suspend distributions, a Participant who is not a 5% owner who reaches Age 70½ prior to 1997 and who made the election may stop distributions and recommence by April 1st of the calendar year following the year in which the Participant actually retires. In such an event, the

Administrator may, on a uniform non-discriminatory basis, elect that a new Annuity Starting Date will begin upon the distribution recommencement date.

1.35 ROLLOVER ACCOUNT

The term Rollover Account means the account to which a Participant's Rollover Contributions (if permitted under Section 3.5) are allocated. A Participant will at all times have a 100% Vested Interest in all amounts credited to his or her Rollover Account.

1.36 ROLLOVER CONTRIBUTION

The term Rollover Contribution means an amount transferred to this Plan (a) in a trustee to trustee transfer from another qualified plan; (b) from another qualified plan as a distribution eligible for tax free rollover treatment and which is transferred by the Participant to this Plan within 60 days following his receipt thereof; (c) from a conduit individual retirement account if the only assets therein were previously distributed to the Participant by another qualified plan as a distribution eligible for a tax free rollover within 60 days of receipt thereof and earnings on the assets; or (d) from a conduit individual retirement account meeting the requirements of (a) and transferred to this Plan within 60 days of receipt thereof.

1.37 SPONSOR

The term Sponsor means County of Albemarle Virginia (and any successor thereto that elects to assume sponsorship of this Plan).

1.38 SPOUSE

The term Spouse means the person to whom a Participant is legally married.

1.39 TERMINATION OF EMPLOYMENT

The term Termination of Employment means that a Participant has ceased to be an Employee for reasons other than retirement, death, or Disability.

1.40 TERMINATED PARTICIPANT

The term Terminated Participant means a Participant who has ceased to be an Employee for reasons other than retirement, death or Disability.

1.41 TRUSTEE

The term Trustee means the person(s) or entity named as trustee or trustees in this Plan, or in any superseding trust under Section 7.16, and any successor to such Trustee or Trustees.

1.42 TRUST FUND

The term Trust Fund or Trust means the assets of the Plan.

1.43 VALUATION DATE

The term Valuation Date means the date on which the Trustee determines the value of the Trust Fund. The Trust Fund must be valued at least annually as of the last day of the Plan Year, but the Administrator can elect to have all or any portion of the assets of the Trust Fund valued more frequently, including, but not limited to, semi-annually, quarterly, monthly, or daily.

1.44 VESTED AGGREGATE ACCOUNT

The term Vested Aggregate Account means the aggregate amount in a Participant's Account, Rollover Account (if any), and any other accounts as the Administrator may determine necessary from time to time, in which the Participant has a Vested Interest.

1.45 VESTED, VESTED INTEREST or VESTING

The terms Vested, Vested Interest, and Vesting mean a Participant's nonforfeitable percentage in an account maintained on his or her behalf under the terms of the Plan. A Participant's Vested Interest in his or her Participant's Account will be determined under the provisions of Section 4.6.

1.46 YEAR OF SERVICE

The term Year of Service means a 12-consecutive month computation period during which an Employee (or Participant) completes a specified number of Hours of Service for either the Employer (or any business entity which was an Adopting Employer), determined in accordance with the following provisions:

- (a) **Employment Commencement Date:** As used in this Section, the term Employment Commencement Date means the first day on which an Employee performs an Hour of Service for the Employer; and the term Reemployment Commencement Date means the first day following a termination of employment on which an Employee performs an Hour of Service for the Employer.
- (b) **Year Of Service For Eligibility:** In any Plan Year in which the eligibility requirements under Section 2.1 are based on Years of Service, (1) a Year of Service is a 12-consecutive month period during which an Employee is credited with at least 1 Hour of Service; and (2) an Employee's initial eligibility computation period will begin on the date he or she is first credited with an Hour of Service (the Employment Commencement Date), and each eligibility computation period thereafter will begin on the anniversary of the Employment Commencement Date. ~~If any such Plan Year is less than 12 months, the 1 Hour of Service requirement set forth herein will be proportionately reduced.~~
- (c) **Year Of Service For Vesting:** In any Plan Year in which a Participant's Vested Interest under Section 4.6 is based on Years of Service, (1) a Year of Service is a 12-consecutive month period during which an Employee is credited with at least 1 Hour of Service; and (2) the Vesting computation period will be the Plan Year. If any such Plan Year is less than 12 consecutive months and the Hours of Service requirement set forth herein is greater than one, such requirement will be proportionately reduced.
- (d) **Prior Service Credit:** An Employee will not receive credit for Years of Service with any other entity for any purpose under the terms of this Plan.

ARTICLE 2 PLAN PARTICIPATION

2.1 ELIGIBILITY REQUIREMENTS

Any Employee who was a Participant on August 31, 2009 will be eligible to continue as a Participant without regard to the requirements in paragraph (a) below. Any other Employee who was not already a Participant on August 31, 2009 and is in an eligible class of Employees as described in paragraph (b), and who for purposes of this Article 2 is referred to as an "Eligible Employee," will become eligible to enter the Plan as a Participant on the applicable entry date described in Section 2.2 in accordance with the following provisions:

- (a) **General Eligibility Requirements:** An Eligible Employee will enter the Plan as a Participant on the applicable entry date in Section 2.2 upon completing 5 continuous Years of Service with no intervening absences from the status as an Employee of the Employer. An Employee will be deemed to have completed a Year of Service on the last day of the applicable eligibility computation period during which the Employee is credited with 1 Hour of Service.
- (b) **Eligible Class Of Employees:** All Employees classified by the Employer as "permanent part-time employees" or "regular part-time employees" are eligible to participate in the Plan upon satisfying the eligibility requirements set forth in paragraph (a). No other Employees, including any hired on a temporary basis, are eligible to participate in the Plan.
- (c) **Participation By Employees Whose Status Changes:** If an Employee who is not an Eligible Employee becomes an Eligible Employee, such Employee will participate in the Plan immediately if he or she satisfies the requirements in paragraph (a) and would have previously become a Participant had he or she been an Eligible Employee. The participation of a Participant who becomes a member of an ineligible class will be suspended, and such Participant will be entitled to an allocation of Employer contributions and Forfeitures for the Plan Year only to the extent of Hours of Service completed while an Eligible Employee. Upon returning to an eligible class of Employees, a suspended Participant will immediately participate again in the Plan.
- (d) **Participation By Former Participants:** A Participant who terminates employment with the Employer for any reason but who is reemployed as an Eligible Employee will again become a Participant in the Plan upon completing 5 continuous Years of Service with no intervening absences from the status as an Employee of the Employer.

2.2 ENTRY DATE

An Eligible Employee who satisfies the eligibility requirements in Section 2.1(a) will enter the Plan as a Participant on the first day of the month that next follows the date on which the Employee first satisfies such eligibility requirements, or on the first day of the current month if the Employee first satisfies such eligibility requirements on that date.

2.3 WAIVER OF PARTICIPATION

An Employee who is otherwise eligible to participate in the Plan may not elect to waive such participation.

2.4 PARTICIPATION UPON REEMPLOYMENT

If an Employee terminates employment and is re-employed by the Employer, his or her Years of Service for purposes of eligibility (as well as the time such Employee enters or re-enters the Plan as a Participant) will be determined in accordance with the rules described in the definition of Years of Service and in accordance with Section 2.1.

2.5 EXCLUSION OF ELIGIBLE EMPLOYEE

If any Employee who should have been included as a Participant is erroneously excluded from the Plan in any Plan Year and discovery of such omission is not made until after a contribution for that Plan Year has been allocated, the Employer will correct the omission so that the omitted Employee receives the same amount which the Employee would have received had he or she not been omitted. Such omission can be corrected by one or more of the following methods: (a) by making an additional contribution to the Plan on behalf of the omitted Employee; (b) by allocating any available Forfeitures on behalf of the omitted Employee; and/or (c) by any other method of correction permitted under Revenue Procedure 2008-50 or any subsequent Revenue Procedure or guidance issued by the Internal Revenue Service.

2.6 INCLUSION OF INELIGIBLE EMPLOYEE

If any person who should not have been included as a Participant is erroneously included in any Plan Year and discovery of that incorrect inclusion is not made until after a contribution for that Plan Year has been allocated, and such ineligible Employee has not received a distribution of the amount erroneously allocated to him or her, then the amount erroneously contributed with respect to the ineligible Employee cannot be refunded to the Employer and will be applied as a Forfeiture for the Plan Year in which the error is discovered.

ARTICLE 3
CONTRIBUTIONS AND ALLOCATIONS

3.1 EMPLOYER CONTRIBUTIONS

The Employer intends to pay contributions for a particular Plan Year in such amounts and at such times as the Employer may decide. The Employer does not guarantee either the making of the contributions or the payment of the benefits under the Plan. The Employer reserves the right to reduce, suspend or discontinue contributions for any reason at any time, provided, however, that if the Plan is deemed to be terminated as a result of such reduction, suspension or discontinuance, the provisions of Article 9 will apply. Each Plan Year the Employer does make a contribution, such contribution will be determined in accordance with the following provisions:

- (a) **Contribution Formula:** The Employer's annual contribution will be an amount determined in accordance with the following schedule:

Years of Service	Percentage of Compensation
0 through 4	0%
5 through 9	5%
10 through 14	7%
15 through 19	9%
20 or more	11%

- (b) **Contribution Limitations:** Notwithstanding paragraph (a), no contribution will exceed the maximum amount that would otherwise be deductible under Code §404; no contribution will exceed the limitations in Code §415; no contribution will be made for any Participant who is not an Eligible Participant.
- (c) **Contribution For Mistakenly Excluded Employees:** Notwithstanding paragraphs (a) and (b), if an Employee should have been included as a Participant but is mistakenly excluded for any reason, the omission will be corrected as specified in Section 2.5.
- (d) **Refund Of Contributions:** If a contribution is attributable in whole or in part to a good faith mistake of fact, then an amount may be returned to the Employer which is equal to the excess of the amount contributed over the amount which would have been contributed had the mistake not occurred. Earnings attributable to any such excess contribution will not be returned, but losses attributable to the excess contribution will reduce the amount so returned. Such amount will be returned within one year of the date the contribution was made or the deduction disallowed, as the case may be.
- (e) **Form of Contribution:** The Employer's contribution (if any) may consist of (1) cash; or (2) any other property that is permitted under Code §4975 and is acceptable to the Trustee.
- (f) **Taxation of Contributions:** All Employer contributions made for Plan Years ending prior to January 1, 2013 shall be included in a Participant's taxable Compensation for the year for which the contribution is made to the Plan on behalf of the Participant.

3.2 ALLOCATION OF EMPLOYER CONTRIBUTIONS

Subject to the Code §415 limitations in Article 6, Employer contributions will be allocated on the last day of the Plan Year (and on such other date or dates as determined by the Administrator on a nondiscriminatory basis) to each Eligible Participant's Account in accordance with the schedule set forth in Section 3.1(a). Allocations with respect to Eligible Participants who are absent from service due to Qualified Military Service within the meaning of §10.3 will be made only to the extent required by Code § 414(u).

3.3 ALLOCATION OF EARNINGS AND LOSSES

As of each Valuation Date, accounts which have not been distributed since the prior Valuation Date will have the net income of the Trust Fund earned since the prior Valuation Date allocated in accordance with such rules and procedures as may be established by the Administrator, and applied in a uniform and nondiscriminatory manner; or accounts will be valued and adjusted as hereinafter set forth in this Section. Net income is the net of any interest, dividends, unrealized appreciation and depreciation, capital gains and losses, and investment expenses of the Trust Fund determined on each Valuation Date.

- (a) **Non-Segregated Accounts:** Accounts which have not been segregated from the general Trust Fund for investment purposes will have net income allocated thereto in the ratio that the value of each such non-segregated account bears to the total value of all such non-segregated accounts on the Valuation Date. The value of each non-segregated account on any Valuation Date will be determined before taking into account the allocation of any Employer contributions that have occurred (or are deemed to have occurred) since the prior Valuation Date, and before taking into account any distributions and withdrawals that have occurred since the prior Valuation Date. The Forfeiture Account will not share in the allocation hereunder.
- (b) **Segregated Accounts:** Any accounts which have been segregated for investment purposes, including any Directed Investment Accounts that may be established in accordance with Section 7.15 and any other accounts (including Directed Investment Accounts) which are valued on a daily basis, will only have the net income earned thereon allocated thereto.

3.4 ALLOCATION OF FORFEITURES

The Administrator may elect each Plan Year to first use all or any portion of the Forfeiture Account to pay administrative costs of the Plan. Subject to the Code §415 limitations in Article 6, any remaining Forfeitures will be added to the Employer's contribution for the current Plan Year or a future Plan Year to be allocated therewith under Section 3.2.

3.5 ROLLOVER CONTRIBUTIONS

Rollover Contributions are not currently permitted.

3.6 VOLUNTARY EMPLOYEE CONTRIBUTIONS

Voluntary Employee Contributions are not currently permitted.

ARTICLE 4 PLAN BENEFITS

4.1 BENEFIT UPON NORMAL RETIREMENT

Every Participant who has reached Normal Retirement Age will be entitled upon termination of employment to receive his or her Vested Aggregate Account balance determined as of the most recent Valuation Date coinciding with or immediately preceding the date of distribution. Distribution will be made under Section 5.1.

4.2 BENEFIT UPON LATE RETIREMENT

A Participant who has reached Normal Retirement Age and who remains employed by the Employer will continue to participate in the Plan and will continue to receive allocations under Article 3 until he or she terminates employment with the Employer, at which time the Participant will be entitled to his or her Vested Aggregate Account balance determined as of the most recent Valuation Date coinciding with or immediately preceding the date of distribution. Distribution will be made under Section 5.1.

4.3 BENEFIT UPON DEATH

Upon the death of a Participant prior to Termination of Employment, or upon the death of a Terminated Participant prior to distribution of his or her Vested Aggregate Account, his or her Beneficiary will be entitled to the Participant's Vested Aggregate Account balance determined as of the most recent Valuation Date coinciding with or immediately preceding the date of distribution. If any Beneficiary who is alive on the date of the Participant's death dies before receiving the entire death benefit to which he or she is entitled, the balance of the death benefit will be distributed to the Beneficiary's beneficiary in accordance with Section 5.2. The Administrator's determination that a Participant has died and that a particular person has a right to receive a death benefit will be final. Distribution will be made in accordance with Section 5.2. For purposes of this Plan, a person who dies as a result of Qualified Military Service within the meaning of §10.3 shall be deemed to have died prior to Termination of Employment.

4.4 BENEFIT UPON DISABILITY

If a Participant suffers a Disability prior to Termination of Employment and terminates employment with the Employer as a result of that Disability, or if a Terminated Participant suffers a Disability prior to a distribution of his or her Vested Aggregate Account balance, he or she will be entitled to his or her Vested Aggregate Account balance determined as of the most recent Valuation Date coinciding with or immediately preceding the date of distribution. Distribution will be made in accordance with Section 5.3. For purposes of this Plan, a person who suffers a Disability as a result of Qualified Military Service within the meaning of §10.3 shall be deemed to have died prior to Termination of Employment.

4.5 BENEFIT UPON TERMINATION

A Participant who incurs a Termination of Employment will be entitled to his or her Vested Aggregate Account balance determined as of the most recent Valuation Date coinciding with or immediately preceding the date of distribution. A Terminated Participant's Vested Aggregate Account will be distributed under Section 5.4 unless, prior to the time of distribution set forth therein, the Participant (1) dies, in which case distribution will be made under 5.2; or (2) suffers a Disability, in which case distribution will be made under Section 5.3.

4.6 DETERMINATION OF VESTED INTEREST

A Participant's Vested Interest in his or her Participant's Account will be determined in accordance with the following provisions:

- (a) **100% Immediate Vesting:** A Participant, upon entry into the Plan and at all times thereafter, will have a 100% Vested Interest in his or her Participant's Account.
- (b) **Amendments To Vesting Schedule:** No amendment may directly or indirectly reduce a Participant's Vested Interest in his or her Participant's Account.

**ARTICLE 5
DISTRIBUTION OF BENEFITS**

5.1 BENEFIT UPON RETIREMENT

Unless a cash-out occurs under Section 5.5, the retirement benefit a Participant is entitled to receive under Section 4.1 or Section 4.2 will be distributed as follows:

- (a) **Normal Form Of Distribution:** A Participant's retirement benefit will be distributed in one lump sum payment.
- (b) **Time Of Distribution:** Distribution will begin within an administratively reasonable time after the date a Participant actually retires. However, distribution must begin under this Section no later than the Required Beginning Date.

5.2 BENEFIT UPON DEATH

Unless a cash-out occurs under Section 5.5, a deceased Participant's death benefit as determined under Section 4.3 will be distributed as follows:

- (a) **Surviving Spouse:** If a Participant dies before the Annuity Starting Date and is married on the date of his or her death, the death benefit will be distributed to the surviving Spouse in one lump sum payment. Upon the death of a Participant, distribution will be made to the surviving Spouse within an administratively reasonable time after he or she requests payment, but distribution must begin no later than December 31st of the calendar year in which the Participant would have attained Age 70½.
- (b) **Death Of Surviving Spouse Before Distribution Begins:** If the surviving Spouse dies before distribution of the benefit begins, distribution will be made as if the surviving Spouse were the Participant. Distribution will be considered as having commenced when the deceased Participant would have reached Age 70½ even if payments have been made to the surviving Spouse before that date. If distribution to the surviving Spouse begins in the form of an irrevocable annuity over a period permitted under paragraph (a) before the deceased Participant would have reached Age 70½, distribution will be considered as having begun on the actual annuity commencement date.
- (c) **Non-Spouse Beneficiary:** Any death benefit a non-Spouse Beneficiary is entitled to receive will be distributed to the Beneficiary in one lump sum payment. Distribution will be made to a non-Spouse Beneficiary within an administratively reasonable time after the death of the Participant, but distribution must be made by December 31st of the calendar year that contains the 5th anniversary of the date of the Participant's death.
- (d) **Distribution If The Participant Or Other Payee Is In Pay Status:** If a Participant or Beneficiary who has started receiving distribution of his or her benefit dies before the entire benefit has been distributed, the balance of the benefit will be distributed to the Participant's Beneficiary (or Beneficiary's beneficiary) at least as rapidly as under the method of distribution being used on the date of the Participant's or Beneficiary's death.
- (e) **Payments To A Beneficiary Of A Beneficiary:** In the absence of a Beneficiary designation or other directive from the deceased Participant to the contrary, any Beneficiary may name his or her own Beneficiary to receive any benefits payable in the event of the Beneficiary's death prior to receiving the entire death benefit to which the Beneficiary is entitled; and if a Beneficiary has not named his or her own Beneficiary, the Beneficiary's estate will be the Beneficiary. If any benefit is payable under this paragraph

to a Beneficiary of the deceased Participant's Beneficiary or to the estate of the deceased Participant's Beneficiary, or to any other Beneficiary or the estate thereof, subject to the limitations regarding the latest dates for benefit payment in paragraphs (a) and (c) above, the Administrator may (1) continue to pay the remaining value of such benefits in the amount and form already commenced, or pay such benefits in any other manner permitted under the Plan for a Participant or Beneficiary, and (2) if payments have not already commenced, pay such benefits in any other manner permitted under the Plan. Distribution to the Beneficiary of a Beneficiary must begin no later than the date distribution would have been made to the Participant's Beneficiary. The Administrator's determination under this paragraph will be final and will be applied in a non-discriminatory manner that does not discriminate in favor of HCEs.

5.3 DISABILITY BENEFITS

Unless a cash-out occurs under Section 5.5, the Disability benefit a Participant is entitled to receive under Section 4.4 will be distributed as follows:

- (a) **Normal Form Of Distribution:** A Participant's Disability benefit will be distributed in one lump sum payment.
- (b) **Time Of Distribution:** Distribution will begin within an administratively reasonable time after the date on which a Participant who suffers a Disability terminates employment with the Employer on account of the Disability. However, distribution must begin under this Section no later than the Participant's Required Beginning Date.

5.4 BENEFIT UPON TERMINATION

Unless a cash-out occurs under Section 5.5, the benefit a Terminated Participant is entitled to receive under Section 4.5 will be distributed as follows:

- (a) **Normal Form Of Distribution:** A Terminated Participant's benefit will be distributed in one lump sum payment
- (b) **Time Of Distribution:** Distribution will begin under this Section within an administratively reasonable time after a Terminated Participant requests payment, but in no event later than the earlier of (1) the date the Terminated Participant reaches Normal Retirement Age, or (2) the Required Beginning Date.

5.5 CASH-OUT OF BENEFITS

The Administrator, without the consent of the Participant, may distribute a Participant's Vested Aggregate Account balance in a lump sum any time after a Participant terminates employment, subject to the following provisions:

- (a) **General Rule:** The Administrator can only make distribution under this Section (1) with regard to distributions made for Plan Years beginning prior to August 6, 1997, if the Participant's Vested Aggregate Account balance (determined before taking into account the Participant's Rollover Account) on the date he or she terminates employment with the Employer does not exceed, or at the time of any prior distribution did not exceed, \$3,500 (or such lesser amount as may be designated by the Administrator); and (2) for Plan Years beginning on or after August 6, 1997, if a Participant's Vested Aggregate Account balance (determined before taking into account the Participant's Rollover Account) on the date he or she terminates employment with the Employer does not exceed, or at the time of any prior distribution did not exceed, \$5,000 (or such lesser amount as may be designated by the Administrator). Any such distribution will be made as soon as

administratively feasible after the date the Participant terminates employment, and any portion of the Participant's Account which is not Vested will be treated as a Forfeiture.

- (b) **Later Distribution If Account Falls To \$5,000:** With regard to distributions made for Plan Years beginning on or after October 17, 2000, if a Participant would have received a distribution under paragraph (a) but for the fact that the Participant's Vested Aggregate Account (determined before taking into account the Participant's Rollover Account) exceeded \$5,000 (or such lesser amount as may be designated by the Administrator) when the Participant terminated employment, and if at a later time the Participant's Vested Aggregate Account (determined before taking into account the Participant's Rollover Account) is reduced to an amount not greater than \$5,000 (or such lesser amount as may be designated by the Administrator), the Administrator may distribute such remaining amount in a lump sum without the Participant's consent as soon as administratively feasible after the date the Participant terminates employment with the Employer, and any portion of the Participant's Account which is not Vested will be treated as a Forfeiture.
- (c) **Deemed Distribution:** If a Participant's Vested Interest in his or her Participant's Account is zero on the date the Participant terminates employment, the Participant will be deemed to have received a distribution of such Vested Interest on the date of termination.
- (d) **Form Of Distribution:** If the whereabouts of a terminated Participant are known, distribution under this Section will be made in the form of a lump sum cash payment unless such Participant elects a direct rollover under Section 5.12. If the whereabouts of a terminated Participant are not known, the provisions of Section 5.11 will apply.

5.6 RESTRICTIONS ON IMMEDIATE DISTRIBUTIONS

If a Participant's Vested Aggregate Account balance exceeds the amount set forth in paragraph (a) of this Section and is immediately distributable, such account can only be distributed in accordance with the following provisions:

- (a) **General Rule:** If a Participant's Vested Aggregate Account (determined before taking into account the Participant's Rollover Account) exceeds \$5,000, or if there are remaining payments to be made with respect to a particular distribution option that previously commenced, and if such amount is immediately distributable, the Participant and the Participant's Spouse (or where either the Participant or the Spouse has died, the survivor) must consent to any distribution of such amount. Any portion of the Participant's Account which is not Vested will be treated as a Forfeiture. If less than the entire Vested Aggregate Account balance is distributed, the part of the non-Vested portion that will be treated as a Forfeiture is the total non-Vested portion multiplied by a fraction, the numerator of which is the amount of the distribution attributable to Employer contributions and the denominator of which is the total value of the Vested Interest in the Participant's Account.
- (b) **Transition Rule:** Notwithstanding paragraph (a), with regard to distributions made before October 17, 2000, if a Participant's Vested Aggregate Account balance (determined before taking into account the Rollover Account) exceeds, or at the time of any prior distribution (1) exceeded \$3,500 in Plan Years beginning before August 6, 1997, or (2) exceeded \$5,000 in Plan Years beginning on or after August 6, 1997, and such account balance is immediately distributable, the Participant and the Participant's Spouse (or where either one has died, the survivor) must consent to any distribution of such account.

- (c) **Definition Of Immediately Distributable:** A Participant's benefit is immediately distributable if any part of the benefit could be distributed to the Participant (or the Participant's surviving Spouse) before the Participant reaches (or would have reached if not deceased) the later of his or her Normal Retirement Age or Age 62.

5.7 APPLICATION OF CODE §401(a)(9) REQUIREMENTS

All distributions made under the terms of the Plan will be determined and made in accordance with a good faith interpretation of the regulations issued under Code §401(a)(9), including the minimum distribution incidental benefit requirement of regulation §1.401(a)(9)-2, and any provisions in this Plan which reflect Code §401(a)(9) will override any distribution options which are inconsistent with such Code section and regulations. If Participant's Vested Aggregate Account is paid in a form that is based on life expectancies through other than the purchase of an immediate annuity, the joint life expectancies of the Participant and his or her Spouse will only be recalculated annually if the Participant elects the recalculation method of determining life expectancy. In the case of any other Beneficiary, life expectancy will be calculated at the time payment first commences, and payments for any 12-consecutive month period will be based on such life expectancy minus the number of whole years passed since distribution first commenced.

5.8 STATUTORY COMMENCEMENT OF BENEFITS

Unless a Participant otherwise elects, distribution of his or her benefit must begin no later than the 60th day after the latest of the close of the Plan Year in which the Participant (1) reaches the earlier of Age 65 or Normal Retirement Age; (2) reaches the 10th anniversary of the year the Participant commenced Plan participation; or (3) terminates service with the Employer. However, the failure of a Participant and the Participant's Spouse to consent to a distribution while a benefit is immediately distributable within the meaning of Section 5.6 will be deemed to be an election to defer commencement of payment of any benefit sufficient to satisfy this Section. If this Plan provides for early retirement, a Participant who satisfies the service requirement for early retirement prior to Termination of Employment will be entitled to receive his or her Vested Aggregate Account, if any, upon satisfaction of the age requirement for early retirement.

5.9 SEGREGATION OF BENEFIT BEFORE DISTRIBUTION

With respect to that portion of a Participant's Vested Aggregate Account which the Participant is not permitted to self-direct under Section 7.15, as of the Valuation Date coinciding with or next following the date a Participant terminates employment with the Employer for any reason, the Administrator will, until a distribution is made to the Participant or the Participant's Beneficiary under the Plan, direct the Trustee in a uniform nondiscriminatory manner to either (1) invest such Vested Aggregate Account determined as of such Valuation Date in a separate interest bearing account; or (2) leave such Vested Aggregate Account as part of the general Trust Fund, in which case such account will share in the allocation of earnings and losses under Section 3.3(a).

5.10 DISTRIBUTION IN EVENT OF INCAPACITY

If any person who is entitled to receive a distribution of benefits (the "Payee") suffers from a Disability or is under a legal incapacity, payments may be made in one or more of the following ways as directed by the Administrator: (a) to the Payee directly; (b) to the guardian or legal representative of the Payee's person or estate; (c) to a relative of the Payee, to be expended for the Payee's benefit; or (d) to the custodian of the Payee under any Uniform Transfers to Minors Act or under any Uniform Gifts To Minors Act. The Administrator's determination of the minority or incapacity of any payee will be final.

5.11 MISSING PARTICIPANTS AND UNCLAIMED BENEFITS

Neither the Trustee nor the Administrator will be required to search for or ascertain the whereabouts of any Participant or Beneficiary. With respect to a Participant or Beneficiary who

has not claimed any benefit (the "missing payee") to which such missing payee is entitled, and with respect to any Participant or Beneficiary who has not satisfied the administrative requirements for benefit payment, the following provisions will apply:

- (a) **Attempt To Contact And Forfeiture Of Benefit:** The Administrator will notify a missing payee that he or she is entitled to a distribution under the Plan, by certified or registered mail addressed to the missing payee's last known address. The Administrator, in its sole discretion, may also utilize other methods of locating a missing payee, including letter forwarding programs offered by the Internal Revenue Service or the Social Security Administration, or internet or other search services offered by the Pension Benefit Guaranty Corporation (PBGC) if such services are made available to defined contributions plans; or by placing public notices in a local newspaper. If a missing payee fails to make his or her whereabouts known in writing to the Trustee or Administrator or otherwise fails to claim a benefit, or the administrative requirements for benefit payment for any payee are not satisfied, upon the earlier to occur of (1) the later of the date the Plan is terminated or discontinued or six months from the date the notice was mailed or (2) the date which is two years from the date the notice was mailed, the Administrator may, but will not be required to, treat the payee's benefit as a forfeiture, subject to paragraphs (b) and (c) below.
- (b) **Alternative Methods To Forfeiture:** In lieu of Forfeiture under paragraph (a), the Administrator may elect one the following alternatives described below:
 - (1) **Direct Rollover To IRA:** If a Participant's Vested Aggregate Account balance (determined before taking into account his or her Rollover Account and Voluntary Employee Contribution Account) on the date he or she terminated employment with the Employer does not exceed \$5,000 (or such lesser amount as may be designated by the Administrator), the Administrator may elect to make distribution hereunder in the form of a direct rollover to an individual retirement account (IRA) if the IRA can be established by the Administrator at a qualified financial institution. In establishing the IRA on behalf of the Participant or other payee, the Administrator will select an IRA trustee, custodian or issuer unrelated to the Employer or the Administrator and will make the initial investment choices for the IRA. The default direct rollover will occur not less than 30 days and not more than 90 days after the Code §402(f) notice with the explanation of the default direct rollover is provided to the Participant or other payee.
 - (2) **Escheat To The State:** The Administrator may elect to escheat the payee's benefit to the state in which the Sponsor's principal place of business is located.
 - (3) **Other Methods Of Distribution:** The Administrator may elect to distribute a payee's benefit by any other method approved by the United States Department of the Treasury and/or by the United States Department of Labor.
- (c) **Conditions For Restoration Of Forfeited Benefit:** If a payee whose benefit has been forfeited under paragraph (a) is located, or if a payee whose benefit has been forfeited under paragraph (a) for failure to satisfy the administrative requirements for benefit payment subsequently satisfies the administrative requirements for benefit payment and claims his or her benefit, and if the Plan has not terminated (or if the Plan has, all benefits have not yet been paid), then the benefit will be restored. The Administrator, on a case-by-case basis, may elect to restore the benefit by the use of either earnings from non-segregated Trust Fund assets, or Employer contributions, or any combination thereof.

However, if such missing payee has not been located by the time the Plan terminates and all benefits are distributed, the Forfeiture of such unpaid benefit will be irrevocable.

5.12 DIRECT ROLLOVERS

A distributee may elect to have all or any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover, which is a payment by the Plan to the eligible retirement plan specified by the distributee.

- (a) **Eligible Rollover Distribution:** An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include (1) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or for the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; (2) any distribution to the extent such distribution is required under Code §401(a)(9); (3) the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation on Employer securities); and (4) the portion of any distribution made on or after January 1, 2000 which is attributable to a hardship distribution described in Code §401(k)(2)(B)(i)(IV).
- (b) **Eligible Retirement Plan:** An eligible retirement plan is an individual retirement account described in Code §408(a), an individual retirement annuity described in Code §408(b), an annuity plan described in Code §403(a), or a qualified trust described in Code §401(a), that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving Spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.
- (c) **Definition Of Distributee:** For purposes of this Section, a distributee includes an Employee or former Employee. In addition, an Employee's or former Employee's surviving Spouse and an Employee's or former Employee's Spouse or former Spouse who is the alternate payee under a qualified domestic relations order as defined in Code §414(p), are distributees with regard to the interest of the Spouse or former Spouse.

ARTICLE 6
CODE §415 LIMITATIONS

6.1 MAXIMUM ANNUAL ADDITION

The maximum Annual Addition as defined in paragraph (c) below made to a Participant's various accounts maintained under the Plan for any Limitation Year beginning after December 31, 1986 will not exceed the lesser of the Dollar Limitation set forth in paragraph (a) or the Compensation Limitation set forth in paragraph (b), as follows:

- (a) **Dollar Limitation:** For Limitation Years beginning after December 31, 1994, the Dollar Limitation is \$30,000 as annually adjusted pursuant to Code §415(d).
- (b) **Compensation Limitation:** The Compensation Limitation is equal to 25% of the Participant's Section 415 Compensation for the Limitation Year. This limitation will not apply to any contribution made for medical benefits within the meaning of Code §419A(f)(2) after separation from service which is otherwise treated as an Annual Addition or to any amount treated as an Annual Addition under Code §415(l)(1).
- (c) **Annual Additions:** The term Annual Additions means the sum of the following amounts credited to a Participant's Account for the Limitation Year: (1) Employer contributions; (2) Employee contributions; (3) Forfeitures; (4) amounts allocated after March 31, 1984 to an individual medical account, as defined in Code §415(l)(2), which is part of a pension or annuity plan maintained by the Employer; and (5) amounts derived from contributions paid or accrued after December 31, 1985, in taxable years ending after such date, 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 fund, as defined in Code §419(e), maintained by the Employer. Annual Additions do not include a Participant's rollovers, loan repayments, repayments of prior Plan distributions or prior distributions of mandatory contributions, direct transfers of contributions from another plan to this Plan, deductible contributions to a SEP, or voluntary deductible contributions.

6.2 ADJUSTMENTS TO MAXIMUM ANNUAL ADDITION

In applying the limitation on Annual Additions set forth in Section 6.1, the following adjustments must be made to the limitation:

- (a) **Short Limitation Year:** In a Limitation Year of less than 12 months, the Defined Contribution Dollar Limitation in Section 6.1(a) will be adjusted by multiplying it by the ratio that the number of months in the short Limitation Year bears to 12.
- (b) **Multiple Defined Contribution Plans:** If a Participant participates in multiple defined contribution plans sponsored by the Employer which have different Anniversary Dates, the maximum Annual Addition in this Plan for the Limitation Year will be reduced by the Annual Additions credited to the Participant's accounts in the other defined contribution plans in the Limitation Year. If a Participant participates in multiple defined contribution plans sponsored by the Employer which have the same Anniversary Date, (1) if only one of the plans is subject to Code §412, Annual Additions will first be credited to the Participant's account in the plan subject to Code §412; and (2) if more than one of the plans is subject to Code §412, the maximum Annual Addition in this Plan for a given Limitation Year will be equal to the product of the maximum Annual Addition for such Limitation Year minus any other Annual Additions previously credited to the Participant's account under clause (1), multiplied by the ratio the Annual Additions which

would be credited to a Participant's accounts hereunder without regard to the limitations in Section 6.1 bears to the Annual Additions for all plans described in this clause (2).

6.3 MULTIPLE PLANS AND MULTIPLE EMPLOYERS

All defined benefit plans (whether terminated or not) of the Employer will be treated as one defined benefit plan, and all defined contribution plans (whether terminated or not) of the Employer will be treated as one defined contribution plan.

6.4 ADJUSTMENT FOR EXCESSIVE ANNUAL ADDITIONS

If for any Limitation Year the Annual Additions allocated to a Participant's Account exceeds the maximum amount permitted under Section 6.1 above because of an allocation of Forfeitures, a reasonable error in estimating a Participant's Compensation, a reasonable error in determining the amount of elective contributions (within the meaning of Code §402(g)(3)), or because of other limited facts and circumstances that the Commissioner finds justify the availability of the rules set forth in this Section, then such Participant's Account will be adjusted in accordance with the following provisions in order to reduce the excess Annual Additions:

- (a) **Return Of Employee Contributions:** First, Voluntary Employee Contributions, if any, and second, the amount of elective deferrals and corresponding Employer matching contributions, if any, to the extent that they would reduce the excess amount, will be calculated. Such elective deferrals and Voluntary Employee Contributions plus attributable earnings, will be returned to the Participant. Any Employer matching contribution amount will be applied as described in (b) or (c) below, depending on whether the Participant is covered by the Plan at the end of the Limitation Year.
- (b) **Excess Used To Reduce Employer Contributions If Participant Is Still Covered By The Plan:** If, after the application of paragraph (a), an excess amount still exists and the Participant is covered by the Plan at the end of the Limitation Year, the excess amount in the Participant's Account plus applicable earnings thereon, if any, will be used to reduce Employer contributions (including any allocation of Forfeitures) for such Participant in the next Limitation Year, and in each succeeding Limitation Year if necessary.
- (c) **Excess Used To Reduce Employer Contributions If Participant Is Not Covered By The Plan:** If, after the application of paragraph (a), an excess amount still exists and the Participant is not covered by the Plan at the end of a Limitation Year, the excess amount, plus applicable earnings thereon, if any, will be held unallocated in a suspense account. The suspense account will be applied to reduce future Employer contributions (including the allocation of any Forfeitures) for all remaining Participants in the next Limitation Year, and in each succeeding Limitation Year if necessary.
- (d) **Suspense Account:** If a suspense account is in existence at any time during a Limitation Year pursuant to this Section, such suspense account will not participate in the allocation of the Trust's investment gains and losses. If a suspense account is in existence at any time during a particular Limitation Year, all amounts in the suspense account must be allocated and reallocated to Participants' Accounts before any Employer Contributions or any Employee contributions may be made to the Plan for that Limitation Year. Excess amounts may not be distributed to Participants or former Participants.

6.5 MULTIPLE PLAN REDUCTION

For Limitation Years beginning before January 1, 2000, if an Employee is, or has been, a Participant in one or more Employer-sponsored defined benefit plans and in one or more Employer-sponsored defined contribution plans, the sum of the defined benefit plan fraction and

the defined contribution plan fraction for any Limitation Year may not exceed 1.0, determined in accordance with the following provisions:

- (a) **Defined Benefit Fraction:** The defined benefit fraction has as its numerator the Participant's Projected Annual Benefits determined as of the close of the Limitation Year and has as its denominator the lesser of 125% of the dollar limitation for the Limitation Year determined under Code §415(b) and §415(d), or 140% of the amount which may be taken into account under Code §415(b)(1)(B) for such Limitation Year. However, with respect to anyone who was a Participant as of the first day of the first Limitation Year beginning after December 31, 1987, in one or more defined benefit plans maintained by the Employer which were in existence on May 6, 1986, the denominator of the defined benefit fraction will not be less than 125% of the Current Accrued Benefit.
- (b) **Definitions:** The term Projected Annual Benefits means the annual benefits payable to a Participant under all defined benefit plans (whether terminated or not) of the Employer as determined under regulation §1.415-7(b)(3); and the term Current Accrued Benefit means a Participant's accrued benefit under a defined benefit plan, determined as if the Participant had separated from service as of the close of the last Limitation Year beginning before January 1, 1987, when expressed as an annual benefit within the meaning of Code §415(b)(2). In determining a Participant's Current Accrued Benefit, the Administrator will disregard any changes to the Plan after May 5, 1986, and any cost of living adjustment after May 5, 1986. The Current Accrued Benefit will only be used as set forth above if the defined benefit plans individually and in the aggregate satisfied the requirements of Code §415 for all Limitation Years beginning before January 1, 1987.
- (c) **Defined Contribution Fraction:** The defined contribution fraction has as its numerator the sum of the Annual Additions to the Participant's Account under all the defined contribution plans (whether terminated or not) maintained by the Employer for the current Limitation Year and all prior Limitation Years (including the Annual Additions attributable to the Participant's non-deductible contributions to all Employer maintained defined benefit plans, whether terminated or not, and the Annual Additions attributable to all welfare benefit funds, as defined in Code §419(e), and individual medical accounts, as defined in Code §415(l)(2) maintained by the Employer), and has as its denominator the sum of the maximum aggregate amounts for the current Limitation Year and all prior Limitation Years the Employee was employed by the Employer (regardless of whether a defined contribution plan was maintained by the Employer). The maximum permissible aggregate amount in any Limitation Year is the lesser of (1) 125% of the dollar limitation in effect in Code §415(c)(1)(A) for such Limitation Year determined without regard to Code §415(c)(6) and adjusted per regulation §1.415-7(d)(1) and Notice 83-10, or (2) 35% of the Participant's Section 415 Compensation.
- (d) **Adjustment Of Fraction:** If an Employee was a Participant as of the end of the first day of the first Limitation Year beginning after December 31, 1986 in one or more defined contribution plans maintained by the Employer which were in existence on May 6, 1986, the numerator of the defined contribution fraction will be adjusted if the sum of such defined contribution fraction and the defined benefit fraction would otherwise exceed 1.0 under the terms of this Plan. Under the adjustment, an amount equal to the product of the excess of the sum of the defined benefit fraction and the defined contribution fraction over 1.0 multiplied by the denominator of the defined contribution fraction will be permanently subtracted from the numerator of the defined contribution fraction. The adjustment will be calculated using the fractions as they would be computed as of the end of the last Limitation Year beginning before January 1, 1987, disregarding any changes in

the terms and conditions of the Plan made after May 5, 1986, but using the Code §415 limitation applicable to the first Limitation Year beginning on or after January 1, 1987.

**ARTICLE 7
DUTIES OF THE TRUSTEE**

7.1 APPOINTMENT, RESIGNATION, REMOVAL AND SUCCESSION

The Plan will have one or more individual Trustees, a corporate Trustee or any combination thereof appointed as follows:

- (a) **Appointment of Trustee:** Each Trustee will be appointed by the Sponsor and will serve until its successor has been named or until such Trustee's resignation, death, incapacity, or removal, in which event the Employer will name a successor Trustee. The term Trustee will include the original and any successor Trustees.
- (b) **Resignation of Trustee:** A Trustee may resign by giving 30 days written notice in advance to the Sponsor, unless such notice is waived by the Sponsor. The Sponsor may remove a Trustee any time, with or without cause, by giving written notice of the removal to the Trustee.
- (c) **Successor Trustee:** Each successor Trustee will succeed to title to the Trust by filing a written acceptance of appointment with the former Trustee and the Sponsor. The former Trustee, upon receipt of such acceptance, will execute all documents and perform all acts necessary to vest the Trust Fund's title of record in any successor Trustee. No successor Trustee will be personally liable for any act or failure to act of any predecessor Trustee.
- (d) **Merger of Corporate Trustee:** If any corporate Trustee, before or after qualification, changes its name, consolidates or merges with another corporation, or otherwise reorganizes, any resulting corporation which succeeds to the fiduciary business of such Trustee will become a Trustee hereunder in lieu of such corporate Trustee.

7.2 INVESTMENT ALTERNATIVES OF THE TRUSTEE

The Trustees will implement an investment program based on the Employer's investment objectives. In addition to powers given by law, the Trustees may engage in the following investment activities on behalf of the Trust under the direction of the Administrator, and to the extent permitted by Virginia law:

Property: The Trustee may invest assets in any form of property, including common and preferred stocks, exchange covered call options, bonds, money market instruments, mutual funds, savings accounts, certificates of deposit, Treasury bills, insurance policies and contracts, or in any other property, real or personal, foreign or domestic, having a ready market including securities issued by an institutional Trustee and/or affiliate of the institutional Trustee. An institutional Trustee may invest in its own deposits if such deposits bear a reasonable interest rate. The Trustee may retain, manage, operate, repair, improve and mortgage or lease for any period on such terms as it deems proper any real estate or personal property held by the Trustee, including the power to demolish any building or other improvements in whole or part. The Trustee may erect buildings or other improvements, make leases that extend beyond the term of this Trust, and foreclose, extend, renew, assign, release or partially release and discharge mortgages or other liens.

Pooled Funds And Common Trusts: If the Sponsor maintains more than one qualified retirement plan, the assets of two or more of such plans may be maintained by the Trustee in a single trust established by the Sponsor. In addition, the Trustee may transfer any Trust assets to a collective trust established to permit the pooling of funds of separate pension and profit-sharing trusts provided the Internal Revenue Service has ruled such collective trust to be qualified under Code §401(a) and exempt under Code §501(a) (or under the applicable corresponding provision

of any other Revenue Act) or to any other common, collective, or commingled trust fund which has been or may hereafter be established and maintained by the Trustee and/or affiliates of an institutional Trustee. Such commingling of assets of the Fund with assets of other qualified trusts is specifically authorized, and to the extent of the investment of the Trust Fund in such a group or collective trust, the terms of the instrument establishing the group or collective trust will be a part hereof as though set forth herein.

Cash Reserves: The Trustee may retain in cash such Trust Fund assets as the Trustee may deem advisable to satisfy the liquidity needs of the Plan and to deposit any cash held in the Trust Fund in a bank account without liability for the highest rate of interest available. If a bank is acting as Trustee, such Trustee is specifically given authority to invest in deposits of such Trustee. The Trustee may also hold cash un-invested at any time and from time to time and in such amount or to such extent as the Trustee deems prudent, and the Trustee will not be liable for any losses that may be incurred as the result of the failure to invest same.

Reorganizations, Recapitalizations, Consolidations, Sales Or Mergers: The Trustee may join in or oppose the reorganization, recapitalization, consolidation, sale or merger of corporations or properties, upon such terms as the Trustee deems wise.

Registration of Securities: The Trustee may cause any securities or other property to be registered in the Trustee's own name or in the name of the Trustee's nominee or nominees, and may hold any investments in bearer form, but the records of the Trustee will at all times show all such investments as part of the Trust Fund.

Proxies: The Trustee may vote proxies and if appropriate pass them on to any investment manager which may have directed the investment in the equity giving rise to the proxy.

Ownership Rights: The Trustee may exercise all ownership rights with respect to any assets held in the Trust Fund.

Other Investments: The Trustee may accept and retain for such time as the Trustee deems advisable any securities or other property received or acquired as Trustee, whether or not such securities or property would normally be purchased as investments hereunder.

Loans To The Trust: The Trustee may borrow or raise money for purposes of the Plan in such amounts, and upon such terms and conditions, as the Trustee deems advisable; and for any sum so borrowed, the Trustee may issue a promissory note as Trustee, and secure repayment of the loan by pledging all, or any part, of the Trust Fund as collateral. No person lending money to the Trustee will be bound to see to the application of the money lent or to inquire into the validity or propriety of any borrowing.

Agreements With Banks: The Trustee may with the consent of the Sponsor and upon such terms as they deem necessary, enter into an agreement with a bank or trust company providing for the deposit of all or part of the Trust assets with such bank or trust company, and the appointment of such bank or trust company as the agent or custodian of the Trustees for investment purposes, with such discretion in investing and reinvesting the funds of the Trust as the Trustees deem it necessary or desirable to delegate.

Litigation: The Trustee may begin, maintain, or defend any litigation necessary in connection with the administration of the Plan, except that the Trustee will not be obliged or required to do so unless indemnified to its satisfaction.

- (a) **Claims, Debts or Damages:** The Trustee may settle, compromise, or submit to arbitration any claims, debts, or damages due or owing to or from the Plan.
- (b) **Miscellaneous:** The Trustee may do all such acts (including, but not limited to, margin trading and futures and commodities trading) and exercise all such rights, although not specifically mentioned herein, as the Trustee deems necessary. The Trustee will not be restricted to securities or other property of the character expressly authorized by applicable law for trust investments, provided the Trustee discharges its duties 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 similar character and with similar aims by diversifying the investments to minimize the risks of large losses unless under the circumstances it is clearly prudent not to do so.

7.3 VALUATION OF THE TRUST FUND

On each Valuation Date, the Trustee will determine the net worth of the Trust Fund. The fair market value of securities listed on a registered stock exchange will be the prices at which they were last traded on such exchange preceding the close of business on the Valuation Date. If the 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 will be valued at the prices at which they were last traded prior to the Valuation Date. Any unlisted security will be valued at its bid price next preceding the close of business on the Valuation Date, which bid price will be obtained from a registered broker or an investment banker. To determine the fair market value of assets other than securities for which trading or bid prices can be obtained, the Trustee may use any reasonable method to determine the value of such assets, or may elect to employ one or more appraisers for that purpose and rely on the values established by such appraiser or appraisers.

7.4 COMPENSATION AND EXPENSES

The Trustee, either from the Trust Fund or from the Employer, will be reimbursed for all of its expenses and will be paid reasonable compensation as agreed upon from time to time with the Employer; but no person who receives full-time pay from the Employer will receive any fees for services to the Plan as Trustee or in any other capacity. Expenses will be paid by each Adopting Employer in the ratio that each Adopting Employer's Participants' Accounts bears to the total of all the Participants' Accounts maintained by this Plan.

7.5 PAYMENTS FROM THE TRUST FUND

The Trustee will pay Plan benefits and other payments as the Administrator directs, and the Trustee will not be responsible for the propriety of such payments. Any payment made to a Participant, or a Participant's legal representative or Beneficiary in accordance with the terms of the Plan will, to the extent of such payment, be in full satisfaction of all claims arising against the Trust, the Trustee, the Employer, and the Administrator. Any payment or distribution made from the Trust is contingent on the recipient executing a receipt and release acceptable to the Trustee, Administrator, or Employer.

7.6 PAYMENT OF TAXES

The Trustee will pay all taxes of the Trust Fund, including property, income, transfer and other taxes which may be levied or assessed upon or in respect of the Trust Fund or any money, property or securities forming a part of the Trust Fund. The Trustee may withhold from distributions to any payee such sum as the Trustee may reasonably estimate as necessary to cover federal and state taxes for which the Trustee may be liable, which are, or may be, assessed with regard to the amount distributable to such payee. Prior to making any payment, the Trustee may require such releases or other documents from any lawful taxing authority and may require such indemnity from any payee or distributee as the Trustee deems necessary.

7.7 ACCOUNTS, RECORDS AND REPORTS

The Trustee will keep accurate records reflecting its administration of the Trust Fund and will make them available to the Administrator for review and audit. At the request of the Administrator, the Trustee will, within 90 days of such request, file with the Administrator an accounting of its administration of the Trust Fund during such period or periods as the Administrator determines. The Administrator will review the accounting and notify the Trustee within 90 days if the report is disapproved, providing the Trustee with a written description of the items in question. The Trustee will have 60 days to provide the Administrator with a written explanation of the items in question. If the Administrator again disapproves of the report, the Trustee will file its accounting in a court of competent jurisdiction for audit and adjudication.

7.8 EMPLOYMENT OF AGENTS AND COUNSEL

The Trustee may employ or designate such agents, counsel, consultants, or service companies as it deems necessary and may pay their reasonable expenses and compensation. The Trustee will not be liable for any action taken or omitted by the Trustee in good faith pursuant to the advice of such agents and counsel. Any agent, counsel, consultant, service company and/or its successors will exercise no discretionary authority over investments or the disposition of Trust assets, and their services and duties will be ministerial only and will be to provide the Plan with those things required by law or by the terms of the Plan without in any way exercising any fiduciary authority or responsibility under the Plan. The duties of a third party administrator will be to safe-keep the individual records for all Participants and to prepare all required actuarial services and disclosure forms under the supervision of the Administrator and any Fiduciaries of the Plan. It is expressly stated that the third party administrator's services are only ministerial in nature and that under no circumstances will such third party administrator exercise any discretionary authority whatsoever over Plan Participants, Plan investments, or Plan benefits.

7.9 DIVISION OF DUTIES AND INDEMNIFICATION

The division of duties and the indemnification of the Trustee of this Plan will be governed by the following provisions:

- (a) **No Guarantee Against Loss:** The Trustee will have the authority and discretion to manage and control the Trust Fund to the extent provided in this instrument, but does not guarantee the Fund in any manner against investment loss or depreciation in asset value, or guarantee the adequacy of the Fund to meet and discharge all or any liabilities of the Plan. Furthermore, the Trustee will not be liable for the making, retention or sale of any investment or reinvestment made by it, as herein provided, or for any loss to or diminution of the Fund, or for any other loss or damage which may result from the discharge of its duties hereunder, except to the extent it is judicially determined that the Trustee failed to exercise 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 like character and like aims.
- (b) **Representations Of The Sponsor:** The Sponsor warrants that all directions issued to the Trustee by it or the Plan Administrator will be in accordance with the terms of the Plan and not contrary to the provisions of any laws or regulations to which the Sponsor is subject.
- (c) **Directions By Others:** The Trustee will not be answerable for any action taken pursuant to any direction, consent, certificate, or other paper or document on the belief that the same is genuine and signed by the proper person. All directions by the Employer, a Participant or the Plan Administrator will be in writing. The Plan Administrator will

deliver to the Trustee certificates evidencing the individual or individuals authorized to act as the Administrator and will deliver to the Trustee specimens of their signatures.

- (d) **Duties And Obligations Limited By The Plan:** The duties and obligations of the Trustee will be limited to those expressly imposed upon it by this Plan or subsequently agreed upon by the parties. Responsibility for administrative duties required under the Plan or applicable law not expressly imposed upon or agreed to by the Trustee, will rest solely with the Sponsor and with the Administrator.
- (e) **Trustee Not Responsible For Application Of Payments:** The Trustee will not be responsible in any way for the application of any payments it is directed to make or for the adequacy of the Fund to meet and discharge any and all liabilities under the Plan.
- (f) **Multiple Trustees:** If more than one Trustee is appointed, all acts and/or transactions taken on behalf of the Trust can only be taken with the consent of a majority of the Trustees unless the Trustees have agreed by a majority vote that a particular act and/or transaction, including signing documents or checks, can be taken or approved by a single Trustee.
- (g) **Limitation Of Liability:** No Trustee will be liable for the act of any other Trustee or Fiduciary unless the Trustee has knowledge of such act.
- (h) **Trustee As Participant Or Beneficiary:** Trustee will not be prevented from receiving any benefits to which it may be entitled as a Participant or Beneficiary in the Plan, so long as the benefits are computed and paid on a basis that is consistent with the terms of the Plan as applied to all other Participants and Beneficiaries.
- (i) **No Self-Dealing:** The Trustee will not (1) deal with the assets of the Trust Fund in its own interest or for its own account; (2) in its individual or in any other capacity, act in any transaction involving the Trust Fund on behalf of a party (or represent a party) whose interests are adverse to the interests of the Plan, or its Participants or Beneficiaries; or (3) receive any consideration for its own personal accounts from any party dealing with the Plan in connection with a transaction involving assets of the Trust Fund.

7.10 APPOINTMENT OF INVESTMENT MANAGER

The Trustee, if so directed by the Sponsor, will appoint an Investment Manager to manage and control the investment of all or any portion of the Trust Fund. Each Investment Manager will be either (a) an investment advisor registered under the Investment Advisors Act of 1940; (b) a bank as defined in that Act; or (c) an insurance company qualified to manage, acquire or dispose of any asset of the Trust under the laws of more than one state. An Investment Manager must acknowledge in writing that it is a Fiduciary. The Sponsor will enter into an agreement with an Investment Manager specifying the duties and compensation of the Investment Manager and further specifying any other terms and conditions under which the Investment Manager will be retained. The Trustee will not be liable for any act or omission of an Investment Manager, and will not be liable for following the advice of an Investment Manager with respect to any duties delegated by the Sponsor to the Investment Manager. The Sponsor will determine the portion of the Trust Fund to be invested by an Investment Manager and will establish investment objectives and guidelines for the Investment Manager to follow.

7.11 ASSIGNMENT AND ALIENATION OF BENEFITS

Except as may otherwise be permitted under Code §401(a)(13)(C) effective August 5, 1997, or as may otherwise be permitted under a Qualified Domestic Relations Order as provided in Section

8.11, or as otherwise be permitted under Section 7.14 if loans to Participants are permitted, no right or claim to, or interest in, any part of the Trust Fund, or any payment therefrom, will be assignable, transferable, or subject to sale, mortgage, pledge, hypothecation, commutation, anticipation, garnishment, attachment, execution, or levy of any kind, and the Trustees will not recognize any attempt to assign, transfer, sell, mortgage, pledge, hypothecate, commute, or anticipate the same, except to the extent required by law.

7.12 EXCLUSIVE BENEFIT RULE

All contributions made by an Employer to the Trust Fund will be used for the exclusive benefit of all Participants and their Beneficiaries and will not be used for nor diverted to any other purpose except the payment of the costs of maintaining the Plan.

7.13 PURCHASE OF INSURANCE

The purchase of insurance policies on the life of a Participant is not currently permitted in this Plan.

7.14 LOANS TO PARTICIPANTS

Loans to Participants are not permitted.

7.15 DIRECTED INVESTMENT ACCOUNTS

The Trustee may permit Participants to direct the investment of one or more of their accounts, and subject to any such rules or procedures, investment directives will be given in accordance with the following provisions:

- (a) **Accounts That Can Be Directed:** The Administrator will designate which accounts a Participant or other payee can direct, and whether the Participant or payee can direct all or only a portion of each such account. Any such designation can be changed by the Administrator from time to time by communicating new procedures to the Participants.
- (b) **Investment Funds:** Any amount a Participant or other payee directs will be put into a segregated investment selected by the Participant; or alternative investment funds established by the Trustee as part of the overall Trust Fund. Such alternative investment funds will be under the full control and management of the Trustee. In the event a Participant or other payee fails to make a timely investment election, at the Administrator's discretion either no election will be deemed to have been made or the Participant or other payee will be considered to have made an election to invest 100% of his or her account in an investment option, the primary objective of which is the preservation of principal, until such time as an investment decision by the Participant or other payee becomes effective.
- (c) **Investment Designation Form:** A Participant's investment direction will be made in a form acceptable to, and in accordance with procedures established by, the Administrator. Unless changed by procedures established by the Administrator and communicated to Participants and other payees, (1) a Participant or other payee may change an investment election by filing a new investment designation form with the Administrator or the Administrator's designee; (2) any change will be effective no later than the first day of the next investment election period; and (3) investment election periods will be established at the discretion of the Administrator but in any event will occur no less frequently than once in every 12-month period or, at the discretion of the Administrator and the Trustee, once in every 3-month or 6-month period or at such other more frequent time which is uniformly available as determined and promulgated by the Administrator and the Trustee.

- (d) **Transfers Between Funds:** Unless changed by procedures established by the Administrator and communicated to Participants and other payees, if multiple investment fund options are made available, a Participant or other payee may elect to transfer all or part of his or her Account in one or more of the investment funds from one investment fund to another investment fund by filing an investment designation form with the Administrator or with the Administrator's designee within a reasonable administrative period prior to the next period for which investment options may be elected to be transferred. The funds will be transferred by the Trustee or the Administrator's designee as soon as practicable prior to, or by the start of, the new election period. If made available, telephone or other electronic or computer transfers will be permitted under uniform procedures approved adopted by the Administrator and agreed to by the Trustee.
- (e) **Administrator Responsibility:** Either the Administrator or the Administrator's designee will be responsible when transmitting Employer and Employee contributions or other Trust Fund assets to indicate the dollar amount which is to be credited to each investment fund on behalf of each Participant or other payee.
- (f) **No Administrator Liability:** Except as otherwise provided herein, neither the Trustee, nor the Administrator, nor the Employer, nor any Fiduciary of the Plan will be liable to the Participant or other payee (or to his or her Beneficiaries) for any loss resulting from action taken under this Section at the direction of the Participant or other payee.
- (g) **Charges And Fees:** Any charge or fee which may be imposed by the Trustee or by any broker, investment advisor, or otherwise, including legal fees, incurred in connection with a Participant's direction under this Section of any Plan account maintained on the Participant's behalf may be charged to and paid from the assets of such account.

7.16 SUPERSEDING TRUST OR CUSTODIAL AGREEMENT

If any assets of the Plan are invested in a separate trust or custodial account maintained by a Trustee or custodian, the provisions of such separate trust or custodial agreement will supersede all provisions of this Article 7 except Sections 7.11, 7.12, 7.13 and 7.14. In addition, in the absence of a specific provision in such separate trust or custodial agreement regarding the valuation of securities held by the Trust Fund, Section 7.3 will not be superseded by any such separate trust or custodial account. If such separate trust or custodial account should for any reason fail, be found invalid or terminate prior to the termination of this Plan and the distribution of all the assets hereof, this Article 7 will be deemed to have again become effective immediately prior to such failure, invalidity or termination.

**ARTICLE 8
DUTIES OF THE ADMINISTRATOR**

8.1 APPOINTMENT, RESIGNATION, REMOVAL AND SUCCESSION

Each Administrator appointed by the Sponsor will continue until his or her death, resignation, or removal at any time, with or without cause, by the Sponsor, and any Administrator may resign by giving 30 days written notice to the Sponsor. If an Administrator dies, resigns, or is removed by the Sponsor, such Administrator's successor will be appointed as promptly as possible, and such appointment will become effective upon its acceptance in writing by such successor Administrator. Pending the appointment and acceptance of any successor Administrator, any then acting or remaining Administrator will have full power to act.

8.2 POWERS AND DUTIES OF THE ADMINISTRATOR

The powers and duties of the Administrator will include (a) appointing the Plan's attorney, accountant, actuary, or any other party needed to administer the Plan; (b) directing the Trustee or Trustees with respect to Trustee duties under Article 7, including making payments from the Trust Fund; (c) deciding if an applicant is entitled to a benefit from the Plan, which will be paid only if the Administrator in its sole discretion decides that the applicant is entitled to it; (d) communicating with Employees regarding their participation and benefits, including the administration of all claims procedures; (e) filing any returns and reports with a governmental agency, as required; (f) reviewing and approving any financial reports, investment reviews, or other reports prepared by any party under (a) above; (g) construing and resolving any question of Plan interpretation; and (h) making any findings of fact the Administrator deems necessary to proper Plan administration.

8.3 APPOINTMENT OF ADMINISTRATIVE COMMITTEE

The Employer may elect to appoint one or more members to an Administrative/Advisory Committee (to be known as the "Committee"), to which the Sponsor may elect to delegate certain of its responsibilities as Plan Administrator. Members of the Committee need not be Participants or Beneficiaries, and officers and directors of the Sponsor will not be precluded from serving as members. A member will serve until his or her resignation, death, or disability, or until removed by the Sponsor. In the event of any vacancy arising by reason of the death, disability, removal, or resignation of a member of the Committee, the Sponsor may, but is not required to, appoint a successor to serve in his or her place. The Committee will select a chairman and a secretary from among its members. Members of the Committee will serve in such capacity without compensation. The Committee will act by majority vote.

8.4 FINALITY OF ADMINISTRATIVE DECISIONS

The Administrator's interpretation of Plan provisions, and any findings of fact, including eligibility to participate and eligibility for benefits, are final and will not be subject to "de novo" review unless shown to be arbitrary and capricious.

8.5 MULTIPLE ADMINISTRATORS

If there is more than one Administrator, the Administrators may delegate specific responsibilities among themselves, including the authority to execute documents unless the Sponsor revokes such delegation. The Sponsor and Trustee will be notified in writing of any such delegation of responsibilities, and the Trustee thereafter may rely upon any documents executed by the appropriate Administrator.

8.6 COMPENSATION AND EXPENSES

The Administrator, the Committee and any party appointed by the Administrator under Section 8.7 may receive such compensation as agreed upon by the Sponsor, provided that any person who already receives full-time pay from the Employer may not receive any fees for services to the

Plan as Administrator or in any other capacity. The Sponsor will pay all "settlor" expenses (as described in DOL Advisory Opinion 2001-01-A) incurred by the Administrator, the Committee or any party appointed under Section 8.7 in the performance of their duties. The Sponsor may, but is not required to pay, all "non-settlor" expenses incurred by the Administrator, the Committee, or any party appointed under Section 8.7 in the performance of their duties. Any "non-settlor" expenses incurred by the Administrator, the Committee or any party appointed under Section 8.7 that the Sponsor elects not to pay will be reimbursed from Trust Fund assets. Any expenses paid from the Trust Fund will be charged to each Adopting Employer in the ratio that each Adopting Employer's Participants' Accounts bears to the total of all the Participants' Accounts maintained by this Plan, or in any other reasonable method elected by the Administrator.

8.7 APPOINTMENT OF AGENTS AND COUNSEL

The Administrator or Committee may appoint such actuaries, accountants, custodians, counsel, agents, consultants, and other persons the Administrator or Committee deems necessary to the administration and operation of the Plan. The actions of any such third parties will be subject to the limitations described in Section 7.8 of the Plan; and no such third parties will be given any authority or discretion concerning the management and operation of the Plan that would cause them to become Fiduciaries of the Plan.

8.8 CORRECTING ADMINISTRATIVE ERRORS

The Administrator may take such steps as it considers necessary and appropriate in its discretion to remedy administrative or operational errors. Such steps may include, but will not be limited to the following: (a) taking any action required under the employee plans compliance resolution system of the Internal Revenue Service, any asset management or fiduciary conduct error correction program available through the Internal Revenue Service, United States Department of Labor or other governmental administrative agency; (b) a reallocation of Plan assets; (c) adjustments in amounts of future payments to Participants, Beneficiaries or Alternate Payees; and (d) institution and prosecution of actions to recover benefit payments made in error or on the basis of incorrect or incomplete information.

8.9 PROMULGATING NOTICES AND PROCEDURES

The Sponsor and Administrator are given the power and responsibility to promulgate certain written notices, policies and/or procedures under the terms of the Plan and disseminate same to the Participants, and the Administrator may satisfy such responsibility by the preparation of any such notice, policy and/or procedure in a written form which can be published and communicated to a Participant in any manner determined by the Administrator to result in the Participant reasonably receiving the notice.

8.10 CLAIMS PROCEDURES

The procedures in this Section will be the sole and exclusive remedy for an Employee, Participant or Beneficiary ("Claimant") to make a claim for benefits under the Plan. All claims determinations made by the Administrator (and when applicable by the Committee if one has been appointed under Section 8.3) and will be made in accordance with the provisions of this Section and the Plan, and will be applied consistently to similarly situated Claimants. For purposes of this Section 8.10, if a Committee has not been appointed under Section 8.3, any reference to Committee will be considered a reference to the Administrator.

- (a) **Written Claim:** A Claimant, or the Claimant's duly authorized representative, may file a claim for a benefit to which the Claimant believes that he or she is entitled under the Plan. Any such claim must be filed in writing with the Administrator.
- (b) **Denial Of Claim:** The Administrator, in its sole and complete discretion, will make all initial determinations as to the right of any person to benefits. If the claim is denied in

whole or in part, the Administrator will send the Claimant a written or electronic notice, informing the Claimant of the denial. The notice shall be written in a manner calculated to be understood by the Claimant and shall contain the following information: the specific reason(s) for the denial; a specific reference to pertinent Plan provisions on which the denial is based; if additional material or information is necessary for the Claimant to perfect the claim, a description of such material or information and an explanation of why such material or information is necessary; and an explanation of the Plan's claim review (i.e., appeal) procedures; and the time limits applicable to such procedures. Written or electronic notice of the denial will be given within a reasonable period of time from the date the Administrator receives the claim.

- (c) **Request for Appeal:** If the Administrator denies a claim in whole or in part, the Claimant may elect to appeal the denial. If the Claimant does not appeal the denial pursuant to the procedures set forth herein, the denial will be final, binding and unappealable. A written request for appeal must be filed by the Claimant (or the Claimant's duly authorized representative) with the Committee within 60 days after the date on which the Claimant receives the Administrator's notice of denial. If a request for appeal is timely filed, the Claimant will be afforded a full and fair review of the claim and the denial. As part of this review, the Claimant may submit written comments, documents, records, and other information relating to the claim, and the review will take into account all such comments, documents, records, or other information submitted by the Claimant, without regard to whether such information was submitted or considered in the Administrator's initial benefit determination. The Claimant also may obtain, free of charge and upon request, records and other information relevant to the claim, without regard to whether such information was relied upon by the Administrator in making the initial benefit determination.
- (d) **Review Of Appeal:** The Committee will determine, in its sole and complete discretion, whether to uphold all or a portion of the initial claim denial. If, on appeal, the Committee determines that all or a portion of the initial denial should be upheld, the Committee will send the Claimant a written or electronic notice informing the Claimant of its decision to uphold all or a portion of the initial denial, written in a manner calculated to be understood by the Claimant and containing the following information: the specific reason(s) for the denial; a specific reference to pertinent Plan provisions on which the denial is based; and a statement that the Claimant is entitled to receive, upon request and free of charge, reasonable access to and copies of all documents and other information relevant to the claim. Written or electronic notice will be given within a reasonable period of time from the date the Committee receives the request for appeal.

8.11 QUALIFIED DOMESTIC RELATIONS ORDERS

A Qualified Domestic Relations Order, or QDRO, is a signed domestic relations order issued by a State Court that creates, recognizes or assigns to an alternate payee(s) the right to receive all or part of a Participant's Plan benefit. An alternate payee is a Spouse, former Spouse, child, or other dependent of a Participant who is treated as a Beneficiary under the Plan as a result of the QDRO. The Administrator may establish QDRO procedures, but in the absence of such procedures, the Administrator will determine if a domestic relations order is a Qualified Domestic Relations Order in accordance with the following provisions:

- (a) **Administrator's Determination:** Promptly upon receipt of a domestic relations order, the Administrator will notify the Participant and any alternate payee(s) named in the order of such receipt, and will include a copy of this Section. Within a reasonable time after receipt of the order, the Administrator will make a determination as to whether or not the

order is a QDRO as defined in Code §414(p) and will promptly notify the Participant and any alternate payee(s) in writing of the determination.

- (b) **Specific Requirements Of QDRO:** In order for a domestic relations order to be a Qualified Domestic Relations Order, it must specifically state all of the following: (1) the name and last known mailing address (if any) of the Participant and each alternate payee covered by the order; (2) the dollar amount or percentage of the benefit to be paid to each alternate payee, or the manner in which the amount or percentage will be determined; (3) the number of payments or period for which the order applies; and (4) the name of the plan to which the order applies. The domestic relations order will not be deemed a Qualified Domestic Relations Order if it requires the Plan to provide any type or form of benefit, or any option not already provided for in the Plan, or increased benefits, or benefits in excess of the Participant's Vested Interest, or payment of benefits to an alternate payee required to be paid to another alternate payee under another QDRO.
- (c) **Disputed Orders:** If there is a question as to whether or not a domestic relations order is a Qualified Domestic Relations Order, there will be a delay in any payout to any payee including the Participant, until the status is resolved. In such event, the Administrator will segregate the amount that would have been payable to the alternate payee(s) if the order had been deemed a QDRO. If the order is not determined to be a QDRO, or the status is not resolved (for example, it has been sent back to the Court for clarification or modification) within 18 months beginning with the date the first payment would have to be made under the order, the Administrator will pay the segregated amounts plus interest to the person(s) who would have been entitled to the benefits had there been no order. If a determination as to the Qualified status of the order is made after the 18-month period, then the order will only be applied on a prospective basis. If the order is determined to be a QDRO, the Participant and alternate payee(s) will again be notified promptly after such determination. Once an order is deemed a QDRO, the Administrator will pay to the alternate payee(s) all the amounts due under the QDRO, including segregated amounts plus interest that may have accrued during a dispute as to the order's qualification.
- (d) **Payment Prior To Termination Of Employment:** A QDRO may provide for the payment of benefits to an alternate payee prior to the time a Participant has terminated employment. Further, such payment can be made even if the affected Participant has not yet reached the Earliest Retirement Age, which is the earlier of (1) the date on which the Participant is entitled to a distribution under this Plan, or (2) the later of the date the Participant attains age 50 or the earliest date on which the Participant could receive benefits hereunder if the Participant terminated employment with the Employer.

**ARTICLE 9
AMENDMENT, TERMINATION AND MERGER**

9.1 AMENDMENT OF THE PLAN

The Sponsor will have the right to amend the Plan at any time. Amendments must be in writing and cannot (1) increase the responsibilities of the Trustee or Administrator without written consent; (2) deprive any Participant or Beneficiary of benefits to which he or she is entitled; (3) decrease the amount of any Participant's Account except as permitted under Code §412(c)(8); (4) permit any part of the Trust to be used for or diverted to purposes other than the exclusive benefit of the Participants or their Beneficiaries except as required to pay taxes and administration expenses, or cause or permit any portion of the Trust Fund to revert to or become the property of the Employer; or (5) have the effect of eliminating or restricting the ability of a Participant or other payee to receive payment of his or her Account balance or benefit entitlement under a particular optional form of benefit provided under the Plan.

9.2 TERMINATION OF PLAN BY SPONSOR

The Sponsor at any time can terminate the Plan and Trust in whole or in part in accordance with the following provisions:

- (a) **Termination Of Plan:** The Sponsor can terminate the Plan and Trust by filing written notice thereof with the Administrator and Trustee and by completely discontinuing contributions to the Plan. Upon any such termination, the Trustee will continue to administer the Trust until distribution has been made to the Participants and other payees, which distribution must occur as soon as administratively feasible after the termination of the Plan, and must be made in accordance with the provisions of Article 5 of the Plan. However, the Administrator may elect not to distribute the Accounts of Participants and other payees upon termination of the Plan but instead to transfer the entire Trust Fund assets and liabilities attributable to this terminated Plan to another qualified plan maintained by the Employer or its successor.
- (b) **Vesting Requirement:** Upon complete termination of the Plan, or upon a complete discontinuance of contributions, all Participants who are affected by the termination, all Participants who have not incurred a Termination of Employment will have a 100% Vested Interest in their unpaid Participant's Accounts.
- (c) **Discontinuance Of Contributions Only:** The Sponsor may elect at any time to completely discontinue contributions to the Plan but continue the Plan in operation in all other respects, in which event the Trustee will continue to administer the Trust until eventual full distribution of all benefits has been made to the Participants and other payees in accordance with Article 5 after their death, retirement, Disability or Termination of Employment. Any such discontinuance of contributions without an additional notice of termination from the Sponsor to the Administrator and Trustee will not constitute a termination of the Plan.

9.3 TERMINATION OF PARTICIPATION BY ADOPTING EMPLOYER

Any Adopting Employer may by written resolution terminate participation in the Plan at any time by notification to the Sponsor, the Administrator, and the Trustee. Such Adopting Employer may thereupon request a transfer of Trust Fund assets attributable to its Employees from this Plan to any successor qualified retirement plan maintained by the Adopting Employer or its successor. The Administrator may, however, refuse to make such transfer if in its considered opinion such transfer would operate to the detriment of any Participant, jeopardize the continued qualification

of the Plan, or if such transfer does not comply with any requirements of the Internal Revenue Service. If no transfer is made, the provisions in the definition of Adopting Employer in Article I will apply with respect to the payment of benefits for Employees of such Adopting Employer.

9.4 MERGER OR CONSOLIDATION

This Plan and Trust may not be merged or consolidated with, nor may any of its assets or liabilities be transferred to, any other plan, unless the benefits payable to each Participant if the Plan was terminated immediately after such merger, consolidation or transfer would be equal to or greater than the benefits such Participant would have been entitled to if this Plan had been terminated immediately before such merger, consolidation or transfer.

**ARTICLE 10
MISCELLANEOUS PROVISIONS**

10.1 NO CONTRACT OF EMPLOYMENT

Except as otherwise provided by law, neither the establishment of this Plan, nor any modification hereto, nor the creation of any fund or account, nor the payment of any benefits, will be construed as giving any Participant or other person any legal or equitable rights against the Employer, any officer or Employee thereof, or the Trustee, except as herein provided; and the terms of employment of any Participant will not be modified or affected by this Plan.

10.2 TITLE TO ASSETS

No Participant or Beneficiary will have any right to, or any interest in, any assets of the Trust upon separation from service with the Employer or Adopting Employer, except as otherwise provided by the terms of the Plan.

10.3 QUALIFIED MILITARY SERVICE

Notwithstanding any other provision of the Plan to the contrary, effective December 12, 1994, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with the requirements of Code §414(u).

10.4 SEVERABILITY OF PROVISIONS

If any Plan provision is held invalid or unenforceable, such invalidity or unenforceability will not affect any other provision of this Plan, and this Plan will be construed and enforced as if such provision had not been included.

10.5 GENDER AND NUMBER

Words used in the masculine gender will be construed as though they were also used in the feminine or neuter gender where applicable, and words used in the singular will be construed as though they were also used in the plural where applicable.

10.6 HEADINGS AND SUBHEADINGS

Headings and subheadings are inserted for convenience of reference. They constitute no part of this Plan and are not to be considered in its construction.

10.7 LEGAL ACTION

In any claim, suit or proceeding concerning the Plan and/or Trust which is brought against the Trustee or Administrator, the Plan and Trust will be construed and enforced according to the laws of the state of Virginia; and unless otherwise prohibited by law, either the Employer or the Trust, in the sole discretion of the Employer, will reimburse the Trustee and/or Administrator for all costs, attorneys fees and other expenses associated with any such claim, suit or proceeding.

10.8 QUALIFIED PLAN STATUS

This Plan and the related Trust Agreement are intended to be a qualified retirement plan under the provisions of Code §401(a) and §501(a).

10.9 MAILING OF NOTICES TO ADMINISTRATOR, EMPLOYER OR TRUSTEE

Any notices, documents or forms required to be given to or filed with the Administrator, the Employer or the Committee will be hand delivered or mailed by first class mail, postage prepaid, to the Committee or Employer at the Employer's principal place of business. Any notices, documents or forms required to be given to or filed with the Trustee will be hand delivered or mailed by first class mail, postage prepaid, to the Trustee at its principal place of business.

10.10 PARTICIPANT NOTICES AND WAIVERS OF NOTICES TO PARTICIPANTS

Whenever written notice is required to be given under the terms of this Plan, such notice will be deemed to be given on the date that such written notice is either hand delivered to the recipient or deposited at a United States Postal Service Station, first class mail, postage paid. Notice may be waived by any party otherwise entitled to receive written notice concerning any matter under the terms of this Plan.

10.11 NO DUPLICATION OF BENEFITS

There will be no duplication of benefits under the Plan because of employment by more than one participating employer.

10.12 EVIDENCE FURNISHED CONCLUSIVE

Anyone required to give evidence under the terms of the Plan may do so by certificate, affidavit, document or other information 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 Fiduciaries under the Plan will be fully protected in acting and relying upon any evidence described under this Section.

10.13 RELEASE OF CLAIMS

Any payment to any Participant or Beneficiary, his or her legal representative, or to any guardian or committee appointed for such Participant or Beneficiary, will, to the extent thereof, be in full satisfaction of all claims hereunder against the Administrator and the Trustee, either of whom may require such Participant, legal representative, Beneficiary, guardian or committee, as a condition precedent to such payment, to execute a receipt and release thereof in such form as determined by the Administrator or the Trustee.

10.14 MULTIPLE COPIES OF PLAN AND/OR TRUST

This Plan and the related Trust Agreement may be executed in any number of counterparts, each of which will be deemed an original, but all of which will constitute one and the same Agreement or Trust Agreement, as the case may be, and will be binding on the respective successors and assigns of the Employer and all other parties.

IN WITNESS WHEREOF, this Plan and Trust have been executed by the Employer and the Trustee as of this 13th day of May, 2013.

COUNTY OF ALBEMARLE VIRGINIA

Witnesses to the Sponsor:

By Thomas P. Foley

Diane B. Mulline

Date 5/13/13

COUNTY SCHOOL BOARD OF ALBEMARLE COUNTY, VIRGINIA

Witness to the Adopting Employer:

By Pamela Moran

Mc Thompson

Date May 10, 2013

TRUSTEES

Witness to the Trustees:

Betty J. Burrell
Betty J. Burrell, Trustee

Tasha Anderson

Lorna Gerome
Lorna Gerome, Trustee

**EGTRRA "GOOD FAITH" PLAN AMENDMENT
FOR DEFINED CONTRIBUTION PLANS WHICH DO NOT INCLUDE 401(k) PROVISIONS**

**Per IRS Notices 2001-42, 2001-56, and 2001-57 and the
Job Creation and Worker Assistance Act of 2002 (the 2002 Tax Act)**

Name Of Plan: County of Albemarle Pension Plan for Permanent Part-Time Employees (the "Plan")

Plan Sponsor: County of Albemarle Virginia (the "Sponsor")

This Amendment is adopted by the Sponsor to reflect certain provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA"), is intended as good faith compliance with the requirements of EGTRRA, and is to be construed in accordance with EGTRRA and guidance issued thereunder, including IRS Notices 2001-42, 2001-56, and 2001-57, and with the Job Creation and Worker Assistance Act of 2002 (the 2002 Tax Act). This amendment will supersede the provisions of the Plan to the extent they are inconsistent with the provisions of this amendment, and except as otherwise indicated, is effective as of the first day of the first Plan Year beginning after December 31, 2001.

- **§611(b) and §632 of EGTRRA - LIMITATIONS ON CONTRIBUTIONS**

Maximum Annual Addition: Except to the extent permitted under this amendment which provides for catch-up contributions under EGTRRA §631 and Code §414(v), if applicable, the Annual Addition that may be contributed or allocated to a Participant's Account under the Plan for any Limitation Year will not exceed the lesser of (a) \$40,000, as adjusted for increases in the cost-of-living under Code §415(d), or (b) 100 percent of the Participant's Compensation, within the meaning of Code §415(c)(3), for the Limitation Year. The Compensation limit referred to in (b) will not apply to any contribution for medical benefits after separation from service (within the meaning of Code §401(h) or Code §419A(f)(2)) which is otherwise treated as an Annual Addition.

- **§611(c) of EGTRRA - INCREASE IN COMPENSATION LIMIT**

The annual Compensation of each Participant used in determining allocations (including Top-Heavy Minimum Allocations) will not exceed \$200,000 as adjusted for cost-of-living increases under Code §401(a)(17)(B). Annual Compensation means Compensation during the plan year or such other consecutive 12-month period over which Compensation is otherwise determined under the Plan (the determination period). The cost-of-living adjustment in effect for a calendar year applies to annual Compensation for the determination period that begins with or within such calendar year.

- **§641, §642 and §643 of EGTRRA - DIRECT ROLLOVERS OF PLAN DISTRIBUTIONS**

1. **Effective Date:** This section will apply to distributions made after December 31, 2001.
2. **Modification Of Definition Of Eligible Retirement Plan:** For purposes of the Direct Rollover section of the Plan, an eligible retirement plan will also mean an annuity contract described in Code §403(b) and an eligible plan under Code §457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan. The definition of eligible retirement plan will also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relation order, as defined in Code §414(p).

3. **Modification Of Definition Of Eligible Rollover Distribution To Include After-Tax Employee Contributions:** For purposes of the Direct Rollover provisions of the Plan, a portion of a distribution will not fail to be an eligible rollover distribution merely because the portion consists of after-tax or non-deductible Employee contributions which are not includible in gross income. However, such portion may be paid only to an individual retirement account or annuity described in Code §408(a) or (b), or to a qualified defined contribution plan described in Code §401(a) or §403(a) that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible. In accordance with the 2002 Tax Act, when a distribution includes after-tax Employee contributions which are not includible in gross income, the amount that is rolled over will first be attributed to amounts includible in gross income.

4. **Modification Of The Definition Of Eligible Rollover Distribution To Exclude Hardship Distributions:** For purposes of the Direct Rollover provisions of the Plan, any amount distributed on account of hardship will not be an eligible Rollover distribution and the distributee may not elect to have any portion of such a distribution paid directly to an eligible retirement plan.

COUNTY OF ALBEMARLE VIRGINIA

Witnesses to the Sponsor:

By Thomas C. Foley

Aiane B. Mullins

Date 5/13/13

COUNTY SCHOOL BOARD OF ALBEMARLE COUNTY, VIRGINIA

Witness to the Adopting Employer:

By: Pamela Moran

McCarthy

Date May 10, 2013

**FINAL CODE §401(a)(9) AMENDMENT
REGARDING MINIMUM DISTRIBUTION REQUIREMENTS**

Name Of Plan: County of Albemarle Pension Plan for Permanent Part-Time Employees (the "Plan")

Plan Sponsor: County of Albemarle Virginia (the "Sponsor")

This Amendment is hereby adopted by the Sponsor to permit the Plan to make required minimum distributions in accordance with final Internal Revenue Service regulations under Code §401(a)(9) effective no later than for calendar years which begin in 2003 in accordance with Rev. Proc. 2002-29.

Section 1. General Rules

- 1.1. **Effective Date.** The provisions of this amendment will apply for purposes of determining required minimum distributions for calendar years beginning with the 2002 calendar year.
- 1.2. **Coordination with Minimum Distribution Requirements Previously in Effect.** Required minimum distributions for calendar 2002 will be determined as follows: If the total amount of 2002 required minimum distributions under the Plan made to a distributee for calendar 2002 (a) equals or exceeds the required minimum distributions determined under this amendment, then no additional distributions will be required to be made for 2002 on or after such date to the distributee; or (b) is less than the amount determined under this amendment, then required minimum distributions for 2002 on and after such date will be determined so that the total amount of required minimum distributions for 2002 made to the distributee will be the amount determined under this amendment.
- 1.3. **Precedence.** The requirements of this amendment will take precedence over any inconsistent provisions of the Plan and any prior amendments thereto.
- 1.4. **Requirements of Internal Revenue Service Regulations Incorporated.** All distributions required under this amendment will be determined and made in accordance with the Internal Revenue Service regulations under Code §401(a)(9).
- 1.5. **TEFRA §242(b)(2) Elections.** Notwithstanding the other provisions of this amendment, distributions may be made under a designation made before January 1, 1984, in accordance with §242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and the provisions of the Plan that relate to §242(b)(2) of TEFRA.

Section 2. Time and Manner of Distribution

- 2.1. **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.
- 2.2. **Death of Participant Before Distributions Begin.** If the Participant dies before distributions begin, his or her entire interest will be distributed, or begin to be distributed, no later than as follows:

- (a) If the Participant's surviving Spouse is the Participant's sole designated Beneficiary, then subject to section 2.2 (e) below distributions to the surviving Spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70½, if later.
- (b) If the Participant's surviving Spouse is not the Participant's sole designated Beneficiary, then subject to section 2.2(e) 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.
- (c) If there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
- (d) 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 2.2, other than section 2.2(a), will apply as if the surviving Spouse were the Participant.
- (e) If the Participant dies before distributions begin and there is a designated Beneficiary, distribution to the designated Beneficiary is not required to begin by the date specified in sections 2.2(a) or (b) above if the Participant's entire interest is distributed to the designated Beneficiary by December 31 of the calendar year containing the fifth anniversary of the Participant's death. In addition, a designated Beneficiary who is receiving payments under this 5-year rule may make a new election to receive payments under the life expectancy rule until December 31, 2003, provided that all amounts that would have been required to be distributed under the life expectancy rule for all distribution calendar years before 2004 are distributed by the earlier of December 31, 2003 or the end of the 5-year period.

For purposes of this section 2.2 and section 4, unless section 2.2(d) applies, distributions are considered to begin on the Participant's Required Beginning Date. If section 2.2(d) applies, distributions are considered to begin on the date distributions are required to begin to the surviving Spouse under section 2.2(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 2.2(a)), the date distributions are considered to begin is the date distributions actually commence.

2.3. 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 3 and 4 of this amendment. 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 IRS regulations.

Section 3. Required Minimum Distributions During Participant's Lifetime

- 3.1. Amount of Required Minimum Distribution for Each Distribution Calendar Year.** During the Participant's lifetime, the minimum amount that will be distributed each distribution calendar year is the lesser of (a) the quotient obtained by dividing the Participant's account balance by the distribution period in the Uniform Lifetime Table in §1.401(a)(9)-9 of the IRS regulations using the Participant's age as of his or her birthday in the distribution calendar year; or (b) if the Participant's sole designated Beneficiary for the distribution calendar year is the Participant's Spouse, the quotient obtained by dividing the Participant's account balance by the number in the Joint and Last Survivor Table in §1.401(a)(9)-9 of the IRS regulations using the Participant's and Spouse's attained ages as of the Participant's and Spouse's birthdays in the distribution calendar year.
- 3.2. Lifetime Required Minimum Distributions Continue Through Year of Participant's Death.** Required minimum distributions will be determined under this section 3 beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the Participant's date of death

Section 4. Required Minimum Distributions After Participant's Death

4.1. Death On or After Date 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: (1) 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; (2) if the Participant's surviving Spouse is the 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; and (3) 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.
- (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 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 each subsequent year.

4.2. Death Before Date Distributions Begin

- (a) **Participant Survived by Designated Beneficiary.** If the Participant dies before the date distributions begin and there is a designated Beneficiary, the minimum amount that will be distributed for each 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, as determined in section 4.1.
- (b) **No Designated Beneficiary.** If the Participant dies before 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 5th 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 2.2(a), this section 4.2 will apply as if the surviving Spouse were the Participant.

Section 5. Definitions

- 5.1. **Designated Beneficiary.** The Beneficiary designated by the Participant is the designated Beneficiary under Code §401(a)(9) and §1.401(a)(9)-1, Q&A-4 of the IRS regulations.
- 5.2. **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 distributions are required to begin under section 2.2. 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.
- 5.3. **Life Expectancy.** Life expectancy as computed by use of the Single Life Table in §1.401(a)(9)-9 of the IRS regulations.

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

COUNTY OF ALBEMARLE VIRGINIA

Witnesses to the Sponsor:

By Thomas C. Foley

Aiane B. Mullins

Date 5/13/13

COUNTY SCHOOL BOARD OF ALBEMARLE COUNTY, VIRGINIA

Witness to the Adopting Employer:

By: Pamela Moran

Mike Thompson

Date May 10, 2013