

**LARIMER COUNTY DEFERRED
COMPENSATION PLAN
A GOVERNMENTAL EMPLOYER**

**Teachers Insurance and Annuity Association
College Retirement Equities Fund
730 Third Avenue
New York, New York 10017**

Larimer County
Deferred Compensation Plan

Table of Contents

Article

	GENERAL INFORMATION	3
1.	DEFINITIONS.....	4
2.	PARTICIPATION IN THE PLAN	10
3.	DEFERRAL OF COMPENSATION	11
4.	INVESTMENT OF CONTRIBUTIONS.....	17
5.	ROTH FEATURE.....	18
6.	DISTRIBUTIONS	20
7.	FORM OF PAYMENT.....	24
8.	DEATH BENEFITS	26
9.	TRANSFERS AND ROLLOVERS.....	28
10.	LOANS	31
11.	BENEFICIARY INFORMATION	33
12.	PLAN ADMINISTRATION	34
13.	AMENDMENT OR TERMINATION OF PLAN.....	36
14.	MISCELLANEOUS	37

INTRODUCTION

The purpose of the Plan is to provide deferred compensation for employees covered under the Plan. The Plan is intended to constitute an eligible deferred compensation plan within the meaning of Section 457 of the Internal Revenue Code of 1986, as amended, the regulations issued thereunder and other applicable law.

GENERAL INFORMATION

Larimer County is a local governmental entity located in, Fort Collins, CO. This plan shall be known as Larimer County Deferred Compensation Plan.

The Larimer County previously maintained two Section 457(b) plans. The Larimer County Deferred Compensation Plan's initial Effective Date was January 1, 1981. The Larimer County Sheriff's Office Enhanced Deferred Compensation Program was originally effective on April 1, 2001 and was previously restated on January 1, 2011. Both plans are hereby amended and merged into the Larimer County Deferred Compensation Plan and this restated document is effective October 1, 2013.

The Sheriff's Office will be responsible for ensuring that eligible employees receive information about this Program. They will also be responsible for ensuring that employees who desire to participate in this Program complete the appropriate enrollment forms. Sheriff's Office personnel will review and approve all forms before the forms are sent to the Human Resources Department Payroll Office.

ARTICLE I – DEFINITIONS

- 1.1 **Account Balance.** The account maintained with respect to each Participant which reflects the value of the deferred Compensation credited to the Participant, including the Participant's Elective Deferrals, any Compensation deferred under the Plan by non-elective Employer contribution (either matching contributions or non-elective contributions), the earnings or loss of the investment options held in the Investment Options (net of investment option expenses) allocable to the Participant, any transfers for the Participant's benefit, and any distribution made to the Participant or the Participant's Beneficiary. The Account Balance includes any account established for rollover contributions and transfers made for a Participant, the account established for a Beneficiary after a Participant's death, and any account or accounts established for an alternate payee, as defined in Section 414(p)(8) of the Code.
- 1.2 **Beneficiary** means the individual, trustee, estate or legal entity entitled to receive benefits under this Plan which become payable in the event of the Participant's death.
- 1.3 **Code** means the Internal Revenue Code of 1986, as amended. Reference to a specific section of the Code includes not only the section but any comparable section or sections of any future legislation that amends, supplements or supersedes the section.
- 1.4 **Compensation** means, except for purposes of the contribution limits set forth in Article 6, the total earnings, except as modified in this definition, paid or made available to an Employee by the Employer during any specified period. "Earnings" in this definition means wages within the meaning of Code Section 3401(a) for the purposes of income tax withholding at the source but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code Section 3401(a)(2)). Except as provided herein, Compensation for a specified period is the Compensation actually paid or made available (or if earlier, includible in gross income) during such period.

For Plan Years beginning on or after July 1, 2007, Compensation for a Plan Year shall also include Compensation paid by the later of 2 1/2 months after an Employee's Severance from Employment with the Employer maintaining the Plan or the end of the Plan Year that includes the date of the Employee's Severance from Employment with the Employer maintaining the Plan, if the payment is regular Compensation for services during the Employee's regular working hours, or Compensation for services outside the Employee's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments, and, absent

a Severance from Employment, the payments would have been paid to the Employee while the Employee continued in employment with the Employer.

Any payments not described above shall not be considered Compensation if paid after Severance from Employment, even if they are paid by the later of 2 1/2 months after the date of Severance from Employment or the end of the Plan Year that includes the date of Severance from Employment, except, payments to an individual who does not currently perform services for the Employer by reason of qualified military service (within the meaning of Code Section 414(u)(1)) to the extent these payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the Employer rather than entering qualified military service.

Back pay, within the meaning of section 1.415(c)-2(g)(8) of the regulations, shall be treated as Compensation for the Plan Year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included in this definition.

Compensation paid or made available during a specified period shall include amounts that would otherwise be included in Compensation but for an election under Code Section 125(a), 132(f)(4), 402(e)(3), 402(h)(1)(B), 402(k) or 457(b). Compensation shall also include employee contributions "picked up" by a governmental entity and, pursuant to Code Section 414(h)(2), treated as Employer contributions.

Beginning January 1, 2009, Compensation shall include Differential Wage Payments.

Compensation shall exclude reimbursements or other expense allowances, fringe benefits (cash and noncash), moving expenses, deferred compensation (other than elective contributions), and welfare benefits.

Compensation shall only include Compensation received while an Active Participant. Compensation shall exclude the following: severance benefits.

For years beginning on or after January 1, 2002, the annual Compensation of each Participant taken into account in determining contributions and allocations for any determination period (the period over which Compensation is determined) shall not exceed \$200,000, as adjusted for cost-of-living increases in accordance with Code Section 401(a)(17)(B). The cost of living adjustment in effect for a calendar year applies to any determination period beginning with or within such calendar year.

Provided, however, with respect to an eligible Participant, the reduced dollar limitation in the preceding paragraph does not apply to the extent

that the amount of Compensation allowed to be taken into account under the Plan is reduced below the amount that was allowed to be taken into account under the Plan as in effect on July 1, 1993. For this purpose, "eligible Participant" means an individual who first became a Participant in the Plan during a Plan Year beginning before the first Yearly Date in 1996.

If a determination period consists of fewer than 12 months, the annual compensation limit is an amount equal to the otherwise applicable annual compensation limit multiplied by a fraction. The numerator of the fraction is the number of months in the short determination period, and the denominator of the fraction is 12.

If Compensation for any prior determination period is taken into account in determining a Participant's contributions or allocations for the current Plan Year, the Compensation for such prior determination period is subject to the applicable annual compensation limit in effect for that determination period. For this purpose, in determining contributions and allocations in Plan Years beginning on or after January 1, 2002, the annual compensation limit in effect for determination periods beginning before that date is \$200,000.

- 1.5 ***Differential Wage Payment*** means any payment which is made by the Employer to an Employee with respect to any period during which the Employee is performing service in the uniformed services (as defined in chapter 43 of title 38 of the Code) while on active duty for a period of more than thirty (30) days, and such payment represents all or a portion of the wages the Employee would have received from the Employer if the Employee were performing service for the Employer.
- 1.6 ***Disabled or Disability*** means the definition of disability in Section 72(m)(7) of the Code, to be determined by the Employer.
- 1.7 ***Designated Roth Contributions*** means a Participant's Deferral Contributions that are includible in the Participant's gross income at the time deferred and have been irrevocably designated as Designated Roth Contributions by the Participant in his or her deferral election. A Participant's Designated Roth Contributions will be separately accounted for, as will gains and losses attributable to those Designated Roth Contributions. However, forfeitures may not be allocated to such account. The Plan must also maintain a record of a Participant's investment in the contract (i.e., designated Roth contributions that have not been distributed) and the year in which the Participant first made a Designated Roth Contribution.
- 1.8 ***Effective Date*** means January 1, 1981.

- 1.9 ***Elective Deferral*** means the annual amount of Compensation that a Participant elects to defer pursuant to a properly executed Voluntary Salary Deferral Agreement.
- 1.10 ***Eligible Governmental Deferred Compensation Plan or Eligible Plan*** means a plan that constitutes an eligible governmental deferred compensation plan within the meaning of Section 457 of the Code.
- 1.11 ***Eligible Employee*** means any person who performs services for the Employer and who is eligible to participate in this Plan. Eligible Employee shall not include any individual who is deemed to be an independent contractor, as determined by the Plan Administrator in its sole and absolute discretion, or a trustee of the Employer. Eligible Employee shall not include any individual who is performing services for the Employer pursuant to an agreement that provides that such individual shall not be eligible to participate in this Plan or other benefit plans of the Employer. If any individual is not classified as an Eligible Employee by the Employer and is subsequently reclassified as an Eligible Employee by any overriding governmental or regulatory authority, such individual shall nevertheless be deemed to have become an Eligible Employee prospectively only, effective as of the date of such reclassification (and not retroactive to the date on which he or she was found to have first become eligible for any other purposes), and then only if he or she otherwise satisfies the requirements of this Plan. “Any temporary employees (hired for a particular period of time and compensated on an hourly basis) shall not be included.”
- 1.12 ***Eligible Retired Public Safety Officer*** means an individual who, by reason of disability or attainment of normal retirement age, has experienced a Severance from Employment as a Public Safety Officer with the Employer.
- 1.13 ***Employee*** means any person who performs services for the Employer to whom compensation is paid on a regular basis. Employee shall not include any leased employee as defined in Section 414(n) of the Code. The term Employee shall not include any individual classified by the Employer as an independent contractor or a trustee of the Employer, in accordance with its general administrative policies. The term Employee shall include any individual receiving a Differential Wage Payment from the Employer. “Any temporary employees (hired for a particular period of time and compensated on an hourly basis) shall not be included.”
- 1.14 ***Employer*** means Larimer County in the State of Colorado.
- 1.15 ***Includible Compensation*** means compensation for services performed for the Employer that is currently includible in the Employee’s gross income for the taxable year for Federal income tax purposes (W-2 earnings), including any Differential Wage Payment made by the Employer to an Employee. Such term shall include any amount excludible from gross income under this Plan or any other plan described in Section 457(b) of the Code, or any amount excludible

from gross income under Section 403(b), Section 401(k), Section 125, or Section 132(f)(4) of the Code.

- 1.16 ***Investment Options*** means any annuity contracts, custodial accounts, and other investment options selected by the Plan Administrator in the trust established in conjunction with this Plan and offered as investment options to Participants and Beneficiaries for the purpose of allocating contributions, rollovers and/or transfers under this Plan. Under current law, the employer (Larimer County) is considered the legal owner of all plan assets; however, the plan assets are held in trust in accordance with Section 14.2 of this Plan for the exclusive benefit of the enrolled employees. The Plan Fiduciaries may change investment options from time to time.
- 1.17 ***Investment Sponsors*** means any insurance company, regulated investment company, or other entity providing Investment Options under the Plan.
- 1.18 ***Normal Retirement Age*** means for purposes of the General Catch-up of Section 3.8(b) the age designated by the Participant that is on or after the age of 55 and no later than age 70 ½. Participants who are qualified police or firefighters as defined above may select their own Normal Retirement Age between the range of age 40 and no later than age 70-1/2.
- 1.19 ***Participant*** means an Eligible Employee or former Eligible Employee who shall have become a Participant in the Plan in accordance with Article II hereof. An Employee shall cease to become a Participant at such time as he or she no longer has any interest in accounts under the Plan. An “Active Participant” means a Participant who is an Employee other than one who is no longer an Eligible Employee.
- 1.20 ***Plan*** means the 457(b) Deferred Compensation Plan set forth herein, as amended from time to time.
- 1.21 ***Plan Administrator*** means the individuals or committee appointed by the Employer to administer the Plan. If the Employer fails to make such appointment, the Employer shall be the Plan Administrator. The Plan administrator for this plan shall be the Committee.
- 1.22 ***Plan Year*** means the calendar year.
- 1.23 ***Public Safety Officer*** has the same meaning as in § 1204(9)(A) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. § 3796b(9)(A)). It includes an individual serving in a public agency in an official capacity, with or without compensation, such as professional firefighters, individuals involved in crime and juvenile delinquency control or reduction, or enforcement of the criminal laws (including juvenile delinquency) such as police, corrections, probation, parole, and judicial officers, designated public employee members of a rescue squad or ambulance crew. Dispatchers, 911 operators, and administrative personnel are not included in this definition.

- 1.24 ***Qualified Health Insurance Premiums*** means premiums for coverage for the Eligible Retired Public Safety Officer, his/her spouse, and dependents, by an accident or health plan or qualified long-term care insurance contract (as defined in Code § 7702B(b)).
- 1.25 ***Restated Effective Date*** means October 1, 2013.
- 1.26 ***Valuation Date*** means any day that the New York Stock Exchange is open for trading.
- 1.27 ***Voluntary Salary Deferral Agreement*** means the agreement between a Participant and the Employer to defer receipt by the Participant of Compensation not yet paid or otherwise made available. Such agreement shall state the Elective Deferral amount to be withheld from a Participant's Compensation and shall become effective no earlier than the first day of the month following execution of such agreement. Once executed, the Voluntary Salary Deferral Agreement shall be legally binding and irrevocable with regard to amounts paid or otherwise made available while the agreement is in effect.

ARTICLE II – PARTICIPATION IN THE PLAN

2.1 *Eligibility.*

- (a) Each present Participant shall continue to be a Participant in the Plan. Any other Employee shall be eligible to participate in the Plan upon classification as an Eligible Employee.
- (b) An Eligible Employee is any Employee of the Employer.
- (c) “Any temporary employees (hired for a particular period of time and compensated on an hourly basis) shall not be included.”

2.2 *Enrollment in the Plan.* To participate in the Plan, each Eligible Employee shall complete and return the applicable forms, including a Voluntary Salary Deferral Agreement, and submit them to the Employer or its designee. Enrollment shall be effective on or after the first day of the month following the date the enrollment forms are properly completed by the Employee and accepted by the Employer or its designee.

2.3 *Information Provided by the Participant.* Each Employee enrolling in the Plan should provide to the Investment Sponsor or the Plan Administrator, as required, at the time of initial enrollment, and later if there are any changes, any information necessary or advisable for the Investment Sponsor or the Administrator, as appropriate, to administer the Plan, including, without limitation, whether the Employee is a participant in any other Eligible Plan under Code Section 457(b).

2.4 *Contributions Made Promptly.* Elective Deferrals under the Plan shall be transferred to the applicable Investment Option within a period that is not longer than is reasonable for the proper administration of the Plan. In no event shall any Elective Deferrals be transferred to the applicable Investment Option later than fifteen (15) days following the end of the month in which the amount would otherwise have been paid to the Participant.

ARTICLE III – DEFERRAL OF COMPENSATION

- 3.1 ***Elective Deferrals.*** An Eligible Employee may elect to make Elective Deferrals to the Plan pursuant to a Voluntary Salary Deferral Agreement with the Employer. Elective Deferrals may be made to the Plan up to the maximum amount permitted by law.
- 3.2 ***Leave of Absence.*** Unless the Participant has elected otherwise on a Voluntary Salary Deferral Agreement, if a Participant is absent from work by leave of absence, Elective Deferrals under the Plan shall continue to the extent that Compensation continues.
- 3.3 ***Modifications to Amount Deferred.*** A Participant may elect to change his or her Elective Deferral rate with respect to future Compensation by submitting a new properly executed Voluntary Salary Deferral Agreement to the Employer or its designee. Such change shall take effect as soon as administratively practicable but not earlier than the first pay period commencing with or during the first month following receipt by the Employer or its designee of such Voluntary Salary Deferral Agreement.
- 3.4 ***Deferral of Special Pay.*** A Participant may elect to defer accumulated sick pay, vacation pay or back pay. These amounts may be deferred for any calendar month only if an agreement providing for the Elective Deferral is entered into before the beginning of the month in which the amounts would otherwise be paid or made available. Deferrals on these amounts are eligible for Employer Matching contributions in Section 3.7.
- 3.5 ***Differential wage payments.*** For years beginning after December 31, 2008, (i) an individual receiving a differential wage payment, as defined by Code § 3401(h)(2), shall be treated as an employee of the employer making the payment; (ii) the differential wage payment shall be treated as compensation; and (iii) the plan will not be treated as failing to meet the requirements of any provision described in Code § 414(u)(1)(C) by reason of any contribution or benefit which is based on the differential wage payment. Deferrals on these amounts are eligible for Employer Matching contributions in Section 3.7.
- 3.5 ***Termination of Deferral.*** A Participant may terminate his or her election to have Compensation deferred by so notifying the Employer or its designee in writing. Such termination shall take effect as soon as administratively practicable, but not earlier than the first pay period commencing with or during the first month following receipt by the Employer or its designee of satisfactory written notice of such revocation.
- 3.6 ***Employer Non-Elective Contributions.*** The Employer shall not make non-elective contributions for any Participants in this Plan (other than Employer matching contributions made pursuant to Section 3.7 below).

3.7 Employer Matching Contributions. The Employer shall make matching contributions to the Plan on behalf of certain Eligible Employees in the Larimer County Sheriff's Office.

- (a) Only the following Employees in the Sheriff's Office shall be eligible for Matching Contributions:
 - (1) a sworn Employee, an appointed Employee, an Emergency Services Specialist or an Emergency Services Sergeant who is eligible to participate in the Larimer County Contributory Retirement Plan; and
 - (2) makes Elective Deferrals to the Plan pursuant to a Voluntary Salary Deferral Agreement in accordance with the schedule set out below.
- (b) No Participant shall have the right to elect to receive any amount to be contributed pursuant to this Section 3.7 as cash in lieu of a contribution. All such matching contributions shall be based on the amount of Elective Deferrals properly made by an Active Participant to the Plan during the year.
- (c) Eligible employees may start or stop contributing to the Program in any month as long as the necessary notification is sent to the Larimer County Human Resources Department by the appropriate deadline.
- (d) Current Employees moving into an eligible classification will be notified by the Sheriff's Office when they have satisfied the eligibility requirements to participate in the Program. The employee must then complete the proper paperwork if he/she wishes to participate in the Program.
- (e) Employees who have terminated employment and are subsequently rehired, and who meet all Program participation requirements, may enter into the Program from date of rehire.
- (f) Since participation in the program is voluntary, the payroll staff in the Human Resources Department will not automatically set up, change or cancel any employee contribution amount without proper paperwork completed by the employee and approved by the Sheriff's Office. However, Payroll staff may cancel the employee's contribution and County match and salary offset if the annual maximum amount allowed by IRS regulations has been attained. Payroll staff will cancel the employer match and salary offset contributions to this Program once an employee reaches the 8% contribution level in the Plan.
- (g) A Participant may elect to defer accumulated sick pay, vacation pay, back pay and/or Differential Wage Payments in accordance with Section 3.4. Such deferrals will be matched by the Employer under this Section 3.7.

- (h) The County's contribution match level for this Program is calculated so that the sum of the County's match for the County's Mandatory Retirement Plan and the match for this Program does not exceed 8% of gross salary. For this reason, the County matching contribution in this Program declines as the County match in the County's Mandatory Retirement Plan increases.

Summary of the contributions

	<i>If at this level in the mandatory County 401(a) Retirement Plan....</i>	<i>...then the employee is eligible to contribute at this level in the Enhanced Deferred Compensation Program and receive an Employer Matching Contribution.</i>
Years of Service Completed	Employer/ Employee Contributions	Employer/ Employee Contributions
0 year	5%	3%
5 years	7%	1%
10 years	8%	0%

- (i) The Employer will match Employee contributions up to the maximum contribution limits in subsection (h) above. Participants who want to contribute more than the amounts specified above will be permitted to do so; however, the County will not match more than the percentages described above. When the employee reaches the 8% contribution level for the County's Mandatory Retirement Plan, the County will cease all matching contributions made to this Program on behalf of the participant.

3.8 ***Maximum Deferral.***

- (a) **Primary Limitation.** Effective January 1, 2002, the maximum amount that may be contributed to the Plan pursuant to Sections 3.1, 3.6, and 3.7 hereof on behalf of any Participant, other than by means of a rollover or transfer, shall not exceed the lesser of: (1) the applicable dollar amount, as set forth in Code Section 457 (e)(15), or (2) 100% of the Participant's Includible Compensation for the taxable year.
- (b) **General Catch-Up Limitation.** For one or more of the last three taxable years ending before a Participant's attainment of Normal Retirement Age, the maximum amount that may be contributed to the Plan pursuant to Sections 3.1, 3.6, and 3.7 hereof on behalf of a Participant, other than by means of a rollover or transfer, shall be the lesser of X or Y. X shall be, for any taxable year beginning on or after January 1, 2002, twice the applicable dollar amount in effect under Code Section 457(b)(2)(A) for such year. Y shall be the sum of (i) the primary limitation amount determined under Section 3.8(a) above for the year, and (ii) that portion of

the primary limitation amount determined under Section 3.8(a) above not utilized by the Participant in prior taxable years (beginning after 1978) in which the Participant was eligible to participate in the Plan. The general catch-up limitation is available to a Participant during one three-year period only. If the Participant uses the general catch-up limitation and then postpones retirement or returns to work after retirement, the general catch-up limitation shall not be available again.

- (c) **Catch-Up Limitation For Individuals Age 50 or Over.** Effective January 1, 2002, to the extent permitted by law, in the case of any individual who has attained the age of 50 before the close of a taxable year, the maximum Elective Deferral amount that may be contributed pursuant to Section 3.1 hereof for such taxable year shall be increased by the applicable amount set forth in Section 414(v) of the Code. Notwithstanding the immediately preceding sentence, contributions shall not be made in accordance with this Section 3.8(c) during any year in which Section 3.8(b) hereof provides a higher limitation.
- (d) **Coordination with Other Plans.** If a Participant participates in more than one Code Section 457(b) plan, the maximum deferral under all such plans shall not exceed the applicable limit described in Section 3.8(a) above (subject to modification by the catch-up limitation described in Section 3.8(b) or (c) above). For years beginning before January 1, 2002, if a Participant participates in a plan described in Sections 403(b), 401(k), 408(k) or 501(c)(18) of the Code, amounts deferred by the Participant to any such plan or plans and excluded from his or her gross income in any such taxable year under such plan or plans shall reduce the primary limitation amount described in Section 3.8(a) hereof and the catch-up limitation described in Section 3.8(b) hereof.
- (e) **Distribution of Excess Deferrals.** To the extent that any amount deferred under the Plan for any taxable year exceeds the limitations of this Section 3.8, any excess deferrals will be distributed to the Participant with allocable net income, as soon as administratively practicable after the Employer determines that there is an excess deferral and the amount of the excess deferral. Such excess shall first be deemed to be attributable to contributions made pursuant to Section 3.7 hereof, and then to the extent applicable, attributable to contributions made pursuant to Section 3.6 hereof, and then, to the extent required, attributable to contributions made pursuant to a Voluntary Salary Deferral Agreement under Section 3.1 hereof.

3.9 **Vesting.** A Participant shall be fully vested at all times in his or her accrued benefits under this Plan. Such accrued benefits shall be non-forfeitable at all times.

- 3.10 ***Transfers to the Plan.*** A Participant may elect to make, and each Investment Sponsor shall accept, subject to the rules of such Investment Sponsor, contributions that are transferred directly from any other Eligible Governmental Deferred Compensation Plan under Section 457(b) of the Code associated with a former employer of the Participant. Notwithstanding the foregoing, transfers shall be permitted only to the extent (i) the transferor plan provides for such direct transfers, (ii) the Participant will have an amount deferred immediately after the transfer at least equal to the amount deferred with respect to that Participant or Beneficiary immediately before the transfer, and (iii) the Participant gives written direction to the Employer or its designee in a satisfactory form to make such transfer. The Plan Administrator may require such documentation from the other plan as it deems necessary to effectuate the transfer in accordance with Section 457(e)(10) of the Code and Section 1.457-10(b) of the Income Tax Regulations and to confirm that the other plan is an eligible governmental plan as defined in Section 1.457-2(f) of the Income Tax Regulations.

The amount so transferred shall be credited to the Participant's Account Balance and shall be held, accounted for, administered and otherwise treated in the same manner as an Elective Deferral by the Participant under the Plan, except that the transferred amount shall not be considered an Elective Deferral under the Plan in determining the maximum deferral under Section 3.8. Such funds and the accumulation generated from them shall be fully vested and nonforfeitable at all times.

- 3.11 ***Acceptance of Rollover Contributions.*** On or after January 1, 2002, if a Participant is entitled to receive, and elects to receive, a distribution from another eligible deferred compensation plan maintained by a State, political subdivision of a State or any agency or instrumentality of a State or political subdivision of a State, or from a plan qualified under Section 401(a) or 403(a) of the Code, or from a plan described in Section 403(b) of the Code, that is in each case an eligible rollover distribution under the Code, each Investment Sponsor shall, subject to the rules of such Investment Sponsor, accept such amount under this Plan, provided that the rollover to this Plan is made either directly from another such plan or by the Participant within sixty (60) days of the receipt of the distribution. Any such amounts rolled over from any such plan shall be made in the form of cash only and accounted for separately upon acceptance as a rollover under this Plan. Such funds and the accumulation generated from them shall be fully vested and nonforfeitable at all times and shall not be considered when calculating the maximum deferral limit under Section 3.8.

3.12 ***Qualified Military Service***

- (a) Notwithstanding any provision of this Plan to the contrary, contributions, benefits, and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the Code.

- (b) An Eligible Employee whose employment is interrupted by qualified military service under Code Section 414(u) or who is on a leave of absence for qualified military service under Code Section 414(u) may elect to make additional Elective Deferrals upon resumption of employment with the Employer equal to the maximum Elective Deferrals that the Eligible Employee could have elected during that period if the Employee's employment with the Employer had continued (at the same level of Compensation) without the interruption or leave, reduced by the Elective Deferrals, if any, actually made for the Employee during the period of the interruption or leave. This right applies for five (5) years following the resumption of employment (or, if sooner, for a period equal to three (3) times the period of the interruption or leave).

ARTICLE IV – INVESTMENT OF CONTRIBUTIONS

- 4.1 ***Direction of Investment.*** A Participant may request that amounts contributed to the Plan on his or her behalf be allocated among the available Investment Options established under the Plan.. The initial allocation request may be made at the time of enrollment. Once made, an investment allocation request shall remain in effect for all subsequent contributions until changed by the Participant.
- 4.2 ***Investment Changes.*** A Participant may change any investment allocation made by such Participant hereunder, or transfer existing accumulations to another Investment Option available under the Plan, by submitting a written request to the Employer or its designee on such form as may be required by the Employer or its designee. Any such changes shall become effective as soon as administratively feasible after the Employer or its designee receives a satisfactory written request.

ARTICLE V – ROTH FEATURE

- 5.1 ***Adoption and effective date.*** The Employer adopts this Roth Feature to reflect Code Section 402A, as amended by the Small Business Jobs Act of 2010 ("SBJA"). This feature is intended to comply with the requirements of Code Section 402A and guidance issued thereunder, and shall be interpreted in a manner consistent with such guidance. This feature is available for contributions on or after December 6, 2011. The provisions of this Article V shall supersede the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Amendment.
- 5.2 ***Designated Roth Contributions are permitted.*** Designated Roth Contributions shall be treated in the same manner as Elective Deferrals for all Plan purposes except as provided in Article V. The Employer may, in operation, implement deferral election procedures provided such procedures are communicated to Participants and permit Participants to modify their elections at least once each Plan Year.
- 5.3 ***Unforeseeable emergency.*** Designated Roth Contributions may be withdrawn on account of an unforeseeable emergency subject to the same qualifications that apply to pre-tax Elective Deferrals.
- 5.4 ***Distribution Rule.*** Withdrawals (including, but not limited to, withdrawals on account of an unforeseeable emergency) from Participant's accounts may be directed by the Participant from either Salary Reduction Contributions, Designated Roth Contributions or pro rata from Salary Reduction Contributions and Designated Roth Contributions.
- 5.5 ***Corrective distributions attributable to Designated Roth Contributions.*** For any Plan Year in which a Participant may make both Designated Roth Contributions and Salary Reduction Contributions, the corrective distribution from the Participant's accounts will be taken pro rata from a Participant's Salary Reduction Contributions and Designated Roth Contributions. Furthermore, such procedure may permit the Participant to elect which type of Deferral Contributions shall be distributed first.
- 5.6 ***Loans.*** Loans from Roth Contributions are not available in accordance with the provisions of Article X. However, Roth accumulations will be used in the calculation of an individual's maximum loan availability. Additionally, the loan policy or program is modified to provide that, with respect to the default of a loan which is attributable to Salary Reduction Contributions and Designated Roth Contributions, such default will be attributed to the Participant's Salary

Reduction Contribution, Employer Match (if applicable) and Rollover Contribution on a pro rata basis.

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

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

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

5.8 ***Operational Compliance.*** The Plan and the Administrative Services Provider will administer Designated Roth Contributions in good faith with applicable regulations or other binding authority not reflected in this Article V. Any applicable regulations or other binding authority shall supersede any contrary provision in this Article.

ARTICLE VI – DISTRIBUTIONS

6.1 *Eligibility for Payment.*

- (a) Distribution of benefits from the Plan shall be made no earlier than: (i) Severance from Employment, (ii) the calendar year in which the Participant attains age 70-1/2, (iii) in the event of an approved financial hardship due to an Unforeseeable Emergency, as defined below, or (iv) to the extent permitted under Section 6.2 below.
- (b) “Severance from Employment” means the termination of a Participant’s employment with the Employer for any reason including the Participant’s death or retirement.
 - (1) Effective for distributions on or after January 1, 2002, a Participant will be deemed to have incurred a Severance from Employment without regard to whether such Participant continues in the same job for a different employer following liquidation, merger, consolidation or other similar transaction.
 - (2) “Severance from Employment” shall not include the situation described in Section 6.6(b) below under which a Participant is treated as having severed from employment while performing military service to enable him or her to take a distribution.

6.2 *In-service Distributions.* A Participant may elect to receive an in-service distribution of all or a part of the Participant’s benefit under the Plan if the following requirements are met:

- (a) the total amount of the Participant’s benefit under the Plan does not exceed \$5,000 (or the dollar limit under Section 411(a)(11) of the Code, if greater),
- (b) the Participant has not previously received an in-service distribution of the Participant’s benefit under the Plan, and
- (c) no amounts have been deferred under the Plan with respect to the Participant during the two-year period ending on the date of the in-service distribution.

6.3 *In-service Distributions from Rollover Account.* If a Participant has a separate account attributable to rollover contributions to the Plan, the Participant may at any time elect to receive a distribution of all or any portion of the amount held in the rollover account.

6.4 ***Small Balance Distributions.*** The Employer may, in its discretion from time to time, distribute the total amount payable to a Participant who has a Severance from Employment in the form of a lump sum payment, but only if the total amount does not exceed \$1,000. The determination of whether a Participant's account balance exceeds \$1,000 shall be determined by including rollover contributions (and earnings attributable thereto) within the meaning of Sections 402(e), 403(a)(4), 403(b)(8), 408(d)(3)(A)(ii), and 457(e)(16) of the Code.

6.5 ***Distribution Due to Unforeseeable Emergency***

(a) A Participant may request a distribution due to an Unforeseeable Emergency by submitting a written request to the Employer or its designee, accompanied by evidence to demonstrate that the circumstances being experienced qualify as an Unforeseeable Emergency. The Employer or its designee shall have the authority to require such evidence, as it deems necessary to determine if a distribution shall be warranted. If an application for a distribution due to an Unforeseeable Emergency is approved, the distribution shall be limited to an amount sufficient to meet the Unforeseeable Emergency.

(b) "Unforeseeable Emergency" means a severe financial hardship to the Participant resulting from a sudden and unexpected illness or accident of the Participant, the Participant's spouse, or a dependent of the Participant (as defined in Code Section 152, and, for taxable years beginning on or after January 1, 2005, without regard to Section 152(b)(1), (b)(2), and (d)(1)(B)), loss of the Participant's property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the Participant. The circumstances that will constitute an Unforeseeable Emergency will depend upon the facts of each case, but, in any case, payment may not be made to the extent that such hardship is or may be relieved:

- (1) Through reimbursement or compensation by insurance or otherwise;
- (2) By liquidation of the Participant's assets, to the extent that liquidation of such assets would not itself cause severe financial hardship; or
- (3) By cessation of deferrals under the Plan.

The need to send a Participant's child to college or the desire to purchase a home shall not be considered to be an Unforeseeable Emergency.

6.6 *Special Considerations Relating to Military Service*

- (a) A Participant who dies or becomes Disabled while performing qualified military service will be treated as if he had resumed employment with the Employer on the date preceding death or Disability and terminated employment on the actual date of death or Disability.
- (b) A Participant shall be treated as having been severed from employment during any period the individual is performing service in the uniformed services described in Section 3401(h)(2)(A) of the Code, thereby enabling a distribution, but if the Participant elects such a distribution, the Participant may not make any Elective Deferrals during the six-month period beginning on the date of distribution.
- (c) In accordance with Section 401(a)(37) of the Code, any additional benefits (other than benefit accruals relating to the period of qualified military service) made available to the Beneficiary of a Participant who dies while in the active service of the Employer shall be made available to the Beneficiary of an active Employee who is on leave and dies while performing qualified military service (as defined in Section 414(u) of the Code).

6.7 *Commencement of Distributions.*

- (a) For distributions on or after January 1, 2002, a Participant may commence distribution of benefits at any time following Severance from Employment by submitting a request to the Investment Sponsor.
- (b) Notwithstanding the provisions of Section 6.7(a) above, in no event shall distribution of benefits commence with respect to any Participant later than the April 1st of the calendar year following the calendar year in which the Participant attains age 70-½, or if later, the April 1st of the calendar year following the calendar year in which the Participant separates from service.

6.8 *Tax-Free Payments for Retired Public Safety Officer's Insurance Premiums*

- (a) Qualified Public Safety Officers may elect to subtract a total of \$3,000 annually from their gross income for retirement plan distributions to pay for accident, health or long-term care insurance premiums. These distributions may be excluded from gross income if they come from an Eligible Governmental Retirement Plan (such as a 401(a), 403(b) or 457(b) plan) that offers this option.
- (b) Distributions must be paid directly to an insurance company for Qualified Health Insurance Premiums.

- (c) Distributions to surviving spouses and dependents are not eligible for this tax exclusion.
- (d) To receive the tax benefit, an Eligible Public Safety Officer must be severed from employment due to disability or attainment of the normal retirement age of 55. The Participant must have been serving as an Eligible Public Safety Officer at the time of retirement or disability. Benefits attributable to service other than as an Eligible Public Safety Officer qualifies for favorable tax treatment provided the participant severs from employment as an Eligible Public Safety Officer because of retirement or disability with the employer maintaining the Eligible Governmental Retirement Plan.

ARTICLE VII – FORM OF PAYMENT

- 7.1 **General Rule.** This Article VII is intended to comply with Code Section 457(d) and the regulations issued thereunder. To the extent that there is any conflict between the provisions of Code Section 457(d) and the regulations issued thereunder and any other provision in this Plan, the provisions of Code Section 457(d) and the regulations issued thereunder will control.
- 7.2 **Form of Payment.** The forms of benefit payments available to the Participant shall include:
- (a) Lump Sum. A single lump sum payment of all or a part of the Account Balance credited to a Participant's account.
 - (b) Single Life Annuity. An annuity payable in equal installments for the life of the Participant that terminates upon the Participant's death.
 - (c) Joint Life Annuity. An annuity payable in equal installments for the joint lives of the Participant and his or her Beneficiary.
 - (d) Fixed Period Payments. Payments for a fixed period subject to the terms or limitations of the applicable Investment Sponsor or Investment Options.
 - (e) Such other annuity and withdrawal options as provided under the Investment Options available under this Plan.
- All forms of payments shall be subject to the limitations of the applicable Investment Sponsor and its Investment Options.
- 7.3 **Limits on Income Options.** Distributions, if not made in a single lump sum, shall be made over a period that does not exceed:
- (a) the life of the Participant;
 - (b) the lives of the Participant and his or her designated Beneficiary;
 - (c) a period certain not extending beyond the life expectancy of the Participant; or
 - (d) a period certain not extending beyond the life expectancies of the Participant and his or her designated Beneficiary.

7.4 ***Minimum Amounts to be Distributed***

- (a) If a Participant's retirement payments are to be distributed in a form other than a single lump sum, the amount to be distributed each year, and the times those amounts are paid, shall satisfy the requirements specified in Section 401(a)(9) of the Code and the regulations issued thereunder.
- (b) Notwithstanding the foregoing Section 7.4(a), a Participant or Beneficiary who would have been required to receive required minimum distributions for 2009 but for the enactment of Section 401(a)(9)(h) of the Code ("2009 RMDs"), and who would have satisfied that requirement by receiving distributions that are (1) equal to the 2009 RMDs or (2) one or more payments in a series of substantially equal distributions (that include the 2009 RMDs) made at least annually and expected to last for the life (or life expectancy) of the Participant, the joint lives (or joint life expectancy) of the Participant and the Participant's designated Beneficiary, or for a period of at least ten (10) years ("Extended 2009 RMDs"), will receive those distributions for 2009 unless the Participant or Beneficiary chooses not to receive such distributions. Participants and Beneficiaries described in the preceding sentence will be given the opportunity to elect not to receive the distributions described in this Section 7.4(b).

7.5 ***Election.*** Subject to the rules of the Investment Sponsor, a Participant or Beneficiary may elect the form of distribution of his or her benefits and may revoke that election, with or without a new election, at any time at least thirty (30) days before his or her benefits begin, or such other time as permitted by the Employer or its designee, by notifying the Employer or its designee in writing of his or her election. All distributions of benefits paid pursuant to the terms of this Plan shall be made directly by the applicable Investment Sponsor to the Participant or Beneficiary.

7.6 ***Failure to Make Election.*** If a Participant or Beneficiary fails to elect a form of payment in a timely manner, benefits shall be paid in a single lump sum.

ARTICLE VIII – DEATH BENEFITS

- 8.1 ***Form of Payment.*** Distributions to Beneficiaries will be made in a single lump sum to the designated Beneficiary as soon as administratively feasible following the death of the Participant unless the Beneficiary selects an alternative distribution option. These alternative distribution options may include:
- (a) Single Life Annuity. An annuity payable in equal installments for the life of the Beneficiary that terminates upon the Beneficiary's death.
 - (b) Joint Life Annuity. An annuity payable in equal installments for the joint lives of the Beneficiary and his or her beneficiary.
 - (c) Fixed Period Payments. Payments for a fixed period subject to the terms or limitations of the applicable Investment Sponsor or Investment Options.
 - (d) Such other annuity and withdrawal options provided under the Investment Options.

All forms of payments shall be subject to the limitations of the applicable Investment Sponsor and its Investment Options.

- 8.2 ***Death Distribution Requirements.*** Notwithstanding any other provisions in this section, any distribution option selected by a Beneficiary must comply with the following distribution provisions:
- (a) **Death After Distributions Begin.** If the Participant dies after distribution of his or her interest has commenced, the remaining portion of such interest shall continue to be distributed at least as rapidly as the method of distribution being used prior to the Participant's death.
 - (b) **Death Before Distributions Begin.** If the Participant dies before distribution of his or her interest has commenced, distribution of the Participant's entire interest shall be completed by the December 31 of the calendar year containing the fifth anniversary of the Participant's death, except to the extent that the recipient of such benefits elects to receive distributions in accordance with (1) or (2) below:
 - (1) If any portion of the Participant's interest is payable to a designated Beneficiary, distributions may be made in substantially equal annual payments over the life of the designated Beneficiary, or over a period certain not extending beyond the life expectancy of the designated Beneficiary, and commencing no later than the December 31 of the calendar year immediately following the calendar year in which the Participant died;

- (2) If the designated Beneficiary is the Participant's surviving spouse, the date distributions are required to begin in accordance with (1) above shall be the December 31 immediately following the calendar year in which the Participant died or, if later, the December 31 of the calendar year in which the Participant would have attained age 70-½. If the Participant has not made an election pursuant to this Section 8.2 by the time of his or her death, the Participant's designated Beneficiary must elect the method of distribution no later than the earlier of (a) the December 31 of the calendar year in which distributions would be required to begin under this Section 8.2, or (b) the December 31 of the calendar year which contains the fifth anniversary of the date of death of the Participant. If the Participant has no designated Beneficiary, or if the designated Beneficiary does not elect a method of distribution, distribution of the Participant's entire interest must be completed by the December 31 of the calendar year containing the fifth anniversary of the Participant's death.
- (c) For purposes of Section 8.2(b), if the surviving spouse dies after the Participant, but before payments to such spouse begins, the provisions of Section 8.2(b) with the exception of paragraph (2) shall be applied as if the surviving spouse were the Participant.
- (d) For purposes of this Section 8.2, any amount paid to a child of the Participant will be treated as if it had been paid to the surviving spouse if the amount becomes payable to the surviving spouse when the child reaches the age of majority.
- (e) For the purposes of this Section 8.2, distribution of a Participant's interest is considered to begin on the Participant's required beginning date (or, if applicable, the date distribution is required to begin to the surviving spouse). If distribution in the form of an annuity irrevocably commences to the Participant before the required beginning date, the date distribution is considered to begin is the date distribution actually commences.

8.3 ***Death of Beneficiary Before Benefits Commence***

In the event that a Beneficiary dies after becoming entitled to receive benefits under this Plan but before distributions to the Beneficiary have commenced, the benefits due such Beneficiary shall be paid to the estate of the Beneficiary in a single lump sum payment as soon as administratively feasible following the Beneficiary's death. No other distribution elections shall be permitted.

ARTICLE IX– TRANSFERS AND ROLLOVERS

9.1 *Transfers from the Plan*

- (a) To the extent permitted by law, any Participant or Beneficiary can elect to have all or any portion of their Account Balance transferred to another Eligible Governmental Deferred Compensation Plan within the meaning of Section 457(b) of the Code and section 1.457-2(f) of the Income Tax Regulations. A transfer is permitted under this Section 9.1 for a Participant only if the Participant has had a Severance from Employment with the Employer and is an employee of the entity that maintains the other Eligible Governmental Deferred Compensation Plan. Further, a transfer is permitted under this Section 9.1 only if (i) the plan receiving such amounts provides for acceptance of such transfers, (ii) the Participant or Beneficiary will have an amount deferred immediately after the transfer at least equal to the amount deferred with respect to that Participant or Beneficiary immediately before the transfer, and (iii) the Participant or Beneficiary gives written direction to the Employer or its designee in a satisfactory form to make such transfer.
- (b) Upon the transfer of assets under this Section 9.1, the Plan's liability to pay benefits to the Participant or Beneficiary under this Plan shall be discharged to the extent of the amount so transferred for the Participant or Beneficiary. The Administrator may require such documentation from the receiving plan as it deems appropriate or necessary to comply with this Section 9.1 (for example, to confirm that the receiving plan is an eligible governmental plan under paragraph (a) of this Section 9.1, and to assure that the transfer is permitted under the receiving plan) or to effectuate the transfer.

9.2 *Permissive Service Credit Transfers*

- (a) Any Participant who participates in a tax-qualified defined benefit governmental plan (as defined in Code Section 414(d)) that provides for the acceptance of plan-to-plan transfers with respect to the Participant may elect to have any portion of the Participant's Account Balance transferred from this Plan to the defined benefit governmental plan. A transfer under this Section 9.2 may be made before the Participant has had a Severance from Employment.
- (b) A transfer may be made under this Section 9.2 only if the transfer is either for (i) the purchase of permissive service credit (as defined in Section 415(n)(3)(A) of the Code) under the receiving defined benefit governmental plan; or (ii) the repayment of contributions and earnings

related to a previous forfeiture of service credit under the defined benefit governmental plan.

- 9.3 ***Direct Rollovers.*** Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this provision, a "distributee" may elect, at the time and in the manner prescribed by the Employer, 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.

For purpose of implementing the requirements of this provision, certain terms contained in this Section 9.3 shall be defined as follows:

(a) Eligible Rollover Distribution.

An eligible rollover distribution is any distribution of all or any portion of the Account Balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated Beneficiary, or for a specified period of ten (10) years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Code; and any other exception permitted by law or the Internal Revenue Service. Any amount that is distributed on account of hardship shall 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). For 2009 only, the following shall also be treated as an eligible rollover distribution: 2009 RMDs and Extended 2009 RMDs as defined in Section 7.4(b) of the Plan.

(b) Eligible Rollover Distribution to a Roth IRA

Effective January 1, 2008, a Participant or any designated Beneficiary of the Participant may elect to roll over amounts in accordance with Section 408A(e) of the Code directly to a Roth IRA, provided that for any taxable year prior to January 1, 2010, the provisions of Section 408A(c)(3)(B) of the Code are satisfied.

(c) Eligible Retirement Plan

An eligible retirement plan is an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, an individual retirement account described in Section 408A(b) of the Code which has been designated at the time of establishment as a Roth IRA, an annuity plan described in Section 403(a) of the Code, or a qualified trust described in Section 401(a) of the Code, that accepts the distributee's eligible rollover distribution. An eligible retirement plan shall also mean an

annuity contract described in Section 403(b) of the Code and an Eligible Plan under Section 457(b) of the Code which is maintained by a State, political subdivision of a State, or any agency or instrumentality of a State or political subdivision of a State, and which agrees to separately account for amounts transferred into such plan from this Plan. This definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relation order, as defined in Section 414(p) of the Code.

(d) Distributee

A distributee includes an Employee or former Employee. In addition, the Employee's or former Employee's surviving spouse and the Employee's or former Employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code, are distributees with regard to the interest of the spouse or former spouse. Effective beginning January 1, 2010, consistent with the provisions of Code Section 402(c)(11), in the case of a distribution to a designated Beneficiary for purposes of Code Section 401(a)(9) who at the time of the Participant's death was neither the spouse of the Participant nor the spouse or former spouse of the Participant who is an alternate payee under a domestic relations order, a direct rollover is payable only to an individual retirement account, Roth IRA or individual retirement annuity (IRA) that has been established on behalf of the Beneficiary as an inherited IRA (within the meaning of Section 408(d)(3)(C) of the Code).

ARTICLE X – LOANS

- 10.1 **Availability.** To the extent permitted by the Investment Options, a Participant who is an Employee may apply for and receive a loan from his or her Account Balance as provided in this Article X. All loans must be subject to the terms of the Investment Options available under the Plan from which they are taken and subject to such rules and procedures as the Plan Administrator may adopt. Any such loan must be available to all Participants on a reasonably equivalent basis and may not be for an amount less than \$1,000. All applications for a loan shall be made to the Investment Sponsor sponsoring the Investment Option from which the loan is taken.
- 10.2 **Maximum Loan Amount.** No loan to a Participant hereunder may exceed the lesser of:
- (a) \$50,000, reduced by the greater of (i) the outstanding balance on any loan from the Plan to the Participant on the date the loan is made or (ii) the highest outstanding balance on loans from the Plan to the Participant during the one-year period ending on the day before the date the loan is approved by the Investment Sponsor (not taking into account any payments made during such one-year period), or
 - (b) one-half of the value of the Participant's vested Account Balance (as of the Valuation Date immediately preceding the date on which such loan is approved by the Investment Sponsor).

For purposes of this Section 10.2, any loan from any other plan maintained by a participating employer shall be treated as if it were a loan made from the Plan, and the Participant's vested interest under any such other plan shall be considered a vested interest under this Plan; provided, however, that the provisions of this paragraph shall not be applied so as to allow the amount of a loan under this Section 10.2 to exceed the amount that would otherwise be permitted in the absence of this paragraph.

- 10.3. **Terms of Loan.** The terms of the loan shall:
- (a) require level amortization with payments not less frequently than quarterly throughout the repayment period.
 - (b) require that the loan be repaid within five (5) years unless the Participant certifies in writing to the Plan Administrator that the loan is to be used to acquire any dwelling unit which, within a reasonable time, is to be used (determined at the time the loan is made) as a principal residence of the Participant, in which case the loan may be repaid over a period not greater than ten (10) years.

- (c) provide for interest at a rate to be determined under the terms of the Investment Option or the loan procedures of the Investment Sponsor.
- 10.4 ***Extended Loan Term for Leaves of Absence due to Military Service.*** The Plan may suspend the obligation to repay a loan for any period during which a Participant is performing military service in accordance with Section 414(u)(4) of the Code, even if the service is not qualified military service as defined under the Uniformed Services Employment and Reemployment Rights Act of 1994. Loan repayments must resume upon the completion of the military service, and the loan must be repaid in full (including interest that accrues during the period of military service) by amortization in substantially level payments over a period that ends not later than five (5) years after the origination date of the loan (unless the loan is for the purchase of a principal residence) plus the period of the military service.
- 10.5 ***Loan Default.*** In the event that a Participant fails to make a loan payment under this Article X by the end of the calendar quarter following the calendar quarter in which the loan payment was due, a default on the loan shall occur. Loan defaults shall be administered in accordance with specific rules documented under the Investment Options and the Code.

ARTICLE XI – BENEFICIARY INFORMATION

- 11.1 ***Designation.*** A Participant shall have the right to designate a Beneficiary, and amend or revoke such designation at any time prior to commencement of benefits, in writing, in a form approved by the Employer or the Investment Sponsor. Such Beneficiary designations, amendments, or revocations will be maintained by the Investment Sponsor and shall be effective upon satisfactory receipt by the Investment Sponsor.
- 11.2 ***Failure to Designate a Beneficiary.*** Benefits shall be paid to the Participant's estate if, prior to the date a Participant commences to receive payment of benefits under the Plan, the Participant has not designated a Beneficiary or no designated Beneficiary survives the Participant and benefits are payable following the Participant's death.

ARTICLE XII – PLAN ADMINISTRATION

- 12.1 ***Plan Administration.*** The Employer shall be responsible for appointing a Plan Administrator to administer the Plan. The Plan Administrator may authorize a committee comprised (to the extent possible) of not less than three persons, to act collectively with regard to administration of the Plan. The Plan Administrator shall have sole discretionary responsibility for the interpretation of the Plan, enrolling Participants in the Plan, sending contributions on behalf of each Participant to the applicable Investment Sponsor, and for performing other duties required for the operation of the Plan. Any action taken on any matter within the discretion of the Plan Administrator shall be made in its sole and absolute discretion based on this Plan document and the Adoption Agreement, and shall be final, conclusive, and binding on all parties. In order to discharge its duties hereunder, the Plan Administrator shall have the power and authority to delegate ministerial duties and to employ such outside professionals as may be required for prudent administration of the Plan. The Plan Administrator shall also have authority to enter into agreements on behalf of the Employer necessary to implement this Plan.
- 12.2 ***Accounts and Expenses.*** The Employer shall establish and maintain accounts on behalf of each Participant. Such Participant's accounts shall be valued in accordance with the rules of the Investment Option in which the accounts are invested. Each Participant shall receive a written notice of his or her Account Balance following such valuation or valuations, provided that such notice shall not be required to be given more than one time per calendar quarter. Each Participant's Account Balance shall reflect the aggregate of his or her aggregate Elective Deferrals, Employer non-elective contributions, Employer matching contributions, and transfers and rollovers, if any, and shall also reflect investment experience credited to such Account Balance and expense charges applied to, and distributions made from, such Account Balance.
- 12.3 ***Mistaken Contribution.*** If any contribution (or any portion of a contribution) is made to the Plan by a good faith mistake of fact, then within one year after the payment of the contribution, and upon receipt in good order of a proper request approved by the Plan Administrator, the amount of the mistaken contribution (adjusted for any income or loss in value, if any, allocable thereto) shall be returned directly to the Participant or, to the extent required or permitted by the Plan Administrator, to the Employer.
- 12.4 ***Domestic Relations Orders.*** If a judgment, decree or order (including approval of a property settlement agreement) that relates to the provision of child support, alimony payments, or the marital property rights of a spouse or former spouse, child, or other dependent of a Participant is made pursuant to the domestic relations law of any State ("domestic relations order"), then the amount of the Participant's Account balance shall be paid in the manner and to the person or

persons so directed in the domestic relations order provided such domestic relations order is found to be qualified under the provisions of Section 414(p) of the Code. Such payment shall be made without regard to whether the Participant is eligible for a distribution of benefits under the Plan. The Investment Sponsor shall establish reasonable procedures for determining the status of any such decree or order and for effectuating distribution pursuant to the domestic relations order. The Plan Administrator shall establish such procedures, in the absence of any procedures established by the Investment Sponsor.

- 12.5 ***Location of Participant or Beneficiary Unknown.*** The Plan Administrator shall make all reasonable attempts to determine the identity and address of a Participant or a Participant's Beneficiary entitled to benefits under the Plan. For this purpose a reasonable attempt means (a) the mailing by certified mail of a notice to the last known address shown on the Employer's records, (b) notification sent to the Social Security Administration under their program to identify payees under retirement plans, or (c) employing the services of a locator service. If after one or more of these methods is employed and the Participant or Beneficiary has not responded within six (6) months, and no claim has been made for such benefits, the benefits due such Participant or Beneficiary shall continue to be held in the Investment Option until such time as the Investment Sponsor deems it appropriate to apply State abandoned property law to distribute the benefits from the Plan or to forfeit the benefit, in accordance with the terms of the Investment Option.
- 12.6 ***Payments to Minors and Incompetents.*** If a Participant or Beneficiary entitled to receive any benefits hereunder is a minor or is adjudged to be legally incapable of giving valid receipt and discharge for such benefits, or is deemed so by the Plan Administrator or the Investment Sponsor, the Investment Sponsor shall make the distribution of benefits to the Participant's or Beneficiary's guardian, conservator, custodian, attorney-in-fact, or to any other legal representative adjudged to be appropriate upon receiving satisfactory evidence of such status or a court order to that effect.

ARTICLE XIII – AMENDMENT OR TERMINATION OF PLAN

- 13.1 ***Amendment of Plan.*** While it is expected that this Plan will continue indefinitely, the Employer reserves the right at any time to amend or otherwise modify the Plan without any liability for such action. No amendment shall increase the duties or responsibilities of any Investment Sponsor without its prior consent thereto in writing.
- 13.2 ***Termination of Plan.*** The Employer shall have the right at any time to terminate the Plan. No termination shall affect the funds already deferred under the Plan. In order for the Plan to be considered terminated, amounts deferred under the Plan must be distributed to all Plan Participants and Beneficiaries as soon as administratively practicable after termination of the Plan, in accordance with the terms of the Investment Option.

ARTICLE XIV – MISCELLANEOUS

- 14.1 ***Plan Non-Contractual.*** Nothing contained in this Plan will be construed as a commitment or agreement on the part of any person to continue his or her employment with the Employer, and nothing contained in this Plan will be construed as a commitment on the part of the Employer to continue the employment or the rate of compensation of any person for any period, and all Employees of the Employer will remain subject to discharge to the same extent as if the Plan had never been put into effect.
- 14.2 ***Trust Fund.*** To the extent the trust requirements of Section 457(g)(3) of the Code are not satisfied through one or more annuity contracts or custodial agreements satisfying the requirements of Section 401(f) of the Code, all amounts of deferrals and contributions to the Plan, all property and rights purchased with such amounts, and all income attributable to such amounts, property, or rights shall be held and invested in the “Trust Fund” in accordance with this Plan and any trust agreement. The Trust Fund, and any subtrust established under the Plan, shall be established pursuant to a written agreement that constitutes a valid trust under the laws of the state in which the Employer is located. The trustee shall ensure that all investments, amounts, property, and rights held under the Trust Fund are held for the exclusive benefit of the Participants and their Beneficiaries. The Trust Fund shall be held in trust pursuant to a trust agreement for the exclusive benefit of Participants and their Beneficiaries and defraying reasonable expenses of the Plan and of the Trust Fund. It shall be impossible prior to the satisfaction of all liabilities with respect to Participants and their Beneficiaries, for any part of the assets and income of the Trust Fund to be used for, or diverted to, purposes other than for the exclusive benefit of Participants and their Beneficiaries.
- 14.3 ***Claims of Other Persons.*** The provisions of the Plan will in no event be construed as giving any Participant or any other person, firm, corporation or other legal entity, any legal or equitable right against the Employer, its officers, employees, directors or trustees, except the rights as are specifically provided for in this Plan or created in accordance with the terms and provisions of this Plan.
- 14.4 ***Assignments.*** No benefit or interest available hereunder will be subject to assignment or alienation, either voluntarily or involuntarily, other than as provided under Section 401(a)(13) of the Code. The preceding sentence shall also apply to the creation, assignment, or recognition of a right to any benefit payable with respect to a Participant pursuant to a domestic relations order, unless, effective with respect to distributions made on or after January 1, 2002, such order is determined to be a qualified domestic relations order, as defined in Section 414(p) of the Code.

- 14.5 **Contracts.** The terms of each Investment Option offered to Participants as an investment option hereunder, the terms of a trust in which an investment option may be held, and any contract issued on behalf of a Participant or certificate issued to a Participant, are a part of the Plan as if fully set forth in the Plan document and the provisions of which are hereby incorporated by reference into the Plan. In the case where there is any inconsistency or ambiguity between the terms of the Plan and those of any contract, certificate or trust, if any, funding the Plan, the terms of the contract, certificate or trust will control to the extent not inconsistent with the provisions of Section 457(b) of the Code and any applicable regulations issued thereunder.
- 14.6 **Pronouns.** Whenever used herein, the masculine pronoun is deemed to include the feminine. The singular form, whenever used herein, shall mean or include the plural form where applicable, and vice versa.
- 14.7 **Representations.** The Employer does not represent or guarantee that any particular Federal or State income, payroll, personal property or other tax consequence will result from participation in this Plan. A Participant should consult with professional tax advisors to determine the tax consequences of his or her participation. Furthermore, the Employer does not represent or guarantee investment returns with respect to any Investment Option and shall not be required to restore any loss which may result from such investment or lack of investment.
- 14.8 **Severability.** If a court of competent jurisdiction holds any provision of this Plan to be invalid or unenforceable, the remaining provisions of the Plan shall continue to be fully effective.
- 14.9 **Applicable Law.** This Plan shall be construed in accordance with applicable Federal law and, to the extent otherwise applicable, the laws of the State in which the Employer is located.

IN WITNESS WHEREOF, this Plan Document has been executed this _____ day of _____, 20____.

Employer: _____

By: _____

Printed Name: _____

Title: _____