

**MUTUAL OF AMERICA LIFE INSURANCE COMPANY**

**403(b) THRIFT PLAN**

**FOR**

**NARRAGANSETT COUNCIL BOY SCOUTS OF  
AMERICA**

**EAST PROVIDENCE, RHODE ISLAND**

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**Section 1 - ADOPTION AGREEMENT**

If you have any questions about this Adoption Agreement, contact Mutual at the address or telephone number below and ask for your Service Representative.

Mutual of America Life Insurance Company  
320 Park Avenue  
New York, New York 10022  
(212) 224-1600

The undersigned Employer hereby establishes or amends its plan to be known as the 403(b) THRIFT PLAN for Employees of the Employer named in Section 1.1(a) and the Employer hereby adopts a 403(b) THRIFT PLAN, (hereinafter referred to as the "Plan"), to be effective (unless otherwise indicated) as of the date specified in 1.1(b) or 1.1(c) as the case may be below, for the exclusive benefit of its Employees who qualify under the terms and conditions thereof.

If an Amendment Effective Date is specified in Section 1.1(c) below, the Plan is a continuation as of the Amendment Effective Date of the plan in effect immediately before that date. The Employer hereby selects the following plan specifications for its Plan.

**1.1 EMPLOYER, ADMINISTRATOR, EFFECTIVE DATE(S)**

(a) NAME OF EMPLOYER: NARRAGANSETT COUNCIL BOY SCOUTS OF AMERICA  
(full corporate name)

(b) PLAN EFFECTIVE DATE: March 1, 1994 (Enter the original effective date of the Plan).

**Note:** A participant's election to make Salary Reduction Contributions to this Plan may not be applied retroactively to Compensation earned prior to the latest of: (i) the date of that election, (ii) the original Effective Date of the Plan or (iii) the original adoption (execution) date of the Plan.

(c) AMENDMENT EFFECTIVE DATE: January 1, 2020 (For purposes of Section 1 and January 1, 2010, except as otherwise indicated, for Sections 2 through 12).

(d) PLAN YEAR: The twelve consecutive month period beginning

(1) January 1 and ending December 31.

(2) \_\_\_\_\_ and ending \_\_\_\_\_.

(e) PLAN ADMINISTRATOR:

(1) Employer.

(2) If more than one employer is covered under the Plan, or an organization other than the Employer is named, the Plan Administrator should be specified below. (Mutual of America may not be the Plan Administrator.)

\_\_\_\_\_  
(Name and/or Title)

\_\_\_\_\_  
\_\_\_\_\_  
(Address)

(f) ORGANIZATIONAL STATUS:

- (1) Section 501(c)(3) Organization (other than a Church or Qualified Church-Controlled Organization described below).
- (2) Church or Qualified Church-Controlled Organization described in Section 3121(w)(3)(A) or (B) of the Code as reflected in this plan document.
- (3) Public Educational Institution sponsored by a state as described in Sections 1.403(b)-2(b)(14) and (20) of the Treasury Regulations.

**Note:** Employers in categories (2) or (3) above who adopt this plan shall adopt a plan that complies with certain provisions of ERISA although certain church and government plans are exempt from ERISA. Employers who are not described in (1), (2) or (3) above may not adopt a 403(b) arrangement.

(g) AFFILIATION:

- (1) With the written consent of the principal employer identified in Section 1.1(a), an employer may become an affiliated employer by adopting this Plan, pursuant to a written resolution of the affiliated employer's Board of Directors or similar governing Board, or an authorized committee of that Board. All affiliated employers are listed on the attached Appendix B including the effective date from which Years of Service are computed for the employees of each affiliated employer.

This Plan may be amended at any time to add or withdraw an affiliated employer from Appendix B specifying in such amendment the effective date of such addition or withdrawal. The principal employer is the agent for the affiliated employer for all purposes under this Plan. For all purposes of this Plan, employment with any affiliated employer shall be considered employment with the Employer.

Every affiliated employer covered under this Plan must be an employer described in Section 1.1(f).

- (2) This Section is not applicable.

(h) TYPE OF ENTITY:

- (1) The Employer is a member of a controlled group as defined in Section 414(b) or (c) of the Code.
- (2) The Employer is a member of an affiliated service group defined in Section 414(m) of the Code.
- (3) Neither of the above apply.

## 1.2 ELIGIBILITY

(a) ELIGIBLE CLASS OF EMPLOYEES:

(1) SALARY REDUCTION CONTRIBUTIONS (Check one)

- (A) Salary Reduction Contributions are not permitted under this Plan.
- (B) All Employees of the Employer described in Section 2.13 are eligible except for those who are non-resident aliens (as described in Section 410(b)(3)(C) of the Code) with no U.S. source income.

- (C) All Employees of the Employer described in Section 2.13 are eligible except for those who are non-resident aliens (as described in Section 410(b)(3)(C) of the Code) with no U.S. source income and those (Check one or more)

- (1) who normally work less than 20 hours per week.

**Note:** An Employee normally works fewer than 20 hours per week if, for the 12-month period beginning on the date the Employee's employment commenced, the Employer reasonably expects the Employee to work fewer than 1,000 hours of service (as defined under section 410(a)(3)(C) of the Internal Revenue Code) in such period, and, for each Plan Year ending after the close of that 12-month period, the Employee has worked fewer than 1,000 hours of service in the preceding 12-month period. Under this provision, an Employee who works 1,000 or more hours of service in the 12-month period beginning on the date the Employee's employment commenced or in a Plan Year ending after the close of that 12-month period shall then be eligible to participate in the Plan. Once an Employee becomes eligible to have Elective Deferrals made on his or her behalf under the Plan under this standard, the Employee cannot be excluded from eligibility to have Elective Deferrals made on his or her behalf in any later year under this standard.

- (2) who are eligible to make Salary Reduction Contributions to another plan of the Employer described in Section 401(k), 403(b) or a governmental eligible deferred compensation plan described in Section 457(b) of the Code.

- (3) who are students performing services described in Section 3121(b)(10) of the Code.

**Note:** If the opportunity to make Salary Reduction Contributions is made available to any member of any class of Employees excludable under this Section 1.2(a)(1)(C), then all Employees of that class will be eligible to make Salary Reduction Contributions (including Roth Contributions).

(2) EMPLOYER MATCHING CONTRIBUTIONS (Check one)

- (A) Employer Matching Contributions are not permitted under this Plan.

- (B) All Employees of the Employer described in Section 2.13 are eligible except for those who are non-resident aliens (as described in Section 410(b)(3)(C) of the Code) with no U.S. source income, and those who are classified or treated as independent contractors or other non-employees by the Employer on its payroll records or otherwise (even if a government agency or court with the jurisdiction determines that such persons are deemed to be Employees for any purpose under common-law principles or federal, state or local law).

- (C) All Employees of the Employer described in Section 2.13 are eligible except for those who are non-resident aliens (as described in Section 410(b)(3)(C) of the Code) with no U.S. source income, those who are classified or treated as independent contractors or other non-employees by the Employer on its payroll records or otherwise (even if a government agency or court with the jurisdiction determines that such persons are deemed to be Employees for any purpose under common-law principles or federal, state or local law) and those (Check one or more):

- (1) who are covered under a collective bargaining agreement between the Employer and Employee representatives if retirement benefits were the

subject of good faith bargaining and if 2% or less of the Employees covered by that agreement are professionals as defined in Section 1.410(b)-9 of the IRS Regulations. For this purpose, the term "Employee representative" does not include any organization more than half of whose members are Employees who are owners, officers or executives of the Employer.

- (2) who are "Highly Compensated Employees".
- (3) who are paid on a commission basis only.
- (4) who are paid on an hourly basis only.
- (5) who are paid on a salaried basis only.
- (6) who are eligible to make Salary Reduction Contributions to another plan of the Employer described in Section 401(k), 403(b) or a governmental eligible deferred compensation plan described in Section 457(b) of the Code.
- (7) who are students performing services described in Section 3121(b)(10) of the Code.
- (8) Other: \_\_\_\_\_. [Must not be a classification that (i) is based on periods of service (such as part-time or seasonal employees) or (ii) excludes all Non-Highly Compensated Employees except the lowest-paid, most recently hired individuals or (iii) excludes all Non-Highly Compensated Employees except the minimum number necessary to satisfy the coverage requirements of Section 410(b) of the Code.]

(A Plan that uses this exception must comply with the minimum participation rule of Section 401(a)(26) of the Code (for Plan Years beginning before 1997) and the minimum coverage rule of Section 410(b) of the Code, unless it is a plan maintained by a church or a qualified church-controlled organization described in Section 3121(w)(3) of the Code, or a governmental plan described in Section 414(d) of the Code that is maintained by a state or local government or a political subdivision, agency or instrumentality of a state or local government.)

**Note:** If the opportunity to receive Employer Matching Contributions is made available to any member of any class of Employees excludable under this Section 1.2(a)(2)(C) then all Employees of that class will be eligible to receive Employer Matching Contributions.

(3) EMPLOYER BASE CONTRIBUTIONS (Check one)

- (A) Employer Base Contributions are not permitted under this Plan.
- (B) All Employees of the Employer described in Section 2.13 are eligible except for those who are non-resident aliens (as described in Section 410(b)(3)(C) of the Code) with no U.S. source income, and those who are classified or treated as independent contractors or other non-employees by the Employer on its payroll records or otherwise (even if a government agency or court with the jurisdiction determines that such persons are deemed to be Employees for any purpose under common-law principles or federal, state or local law).
- (C) All Employees of the Employer described in Section 2.13 are eligible except for those who are non-resident aliens (as described in Section 410(b)(3)(C) of the Code) with no U.S. source income, those who are classified or treated as

independent contractors or other non-employees by the Employer on its payroll records or otherwise (even if a government agency or court with the jurisdiction determines that such persons are deemed to be Employees for any purpose under common-law principles or federal, state or local law) and those (Check one or more):

- (1) who are covered under a collective bargaining agreement between the Employer and Employee representatives if retirement benefits were the subject of good faith bargaining and if 2% or less of the Employees covered by that agreement are professionals as defined in Section 1.410(b)-9 of the IRS Regulations. For this purpose, the term "**Employee representative**" does not include any organization more than half of whose members are Employees who are owners, officers or executives of the Employer.
- (2) who are "**Highly Compensated Employees**".
- (3) who are paid on a commission basis only.
- (4) who are paid on an hourly basis only.
- (5) who are paid on a salaried basis only.
- (6) who are eligible to make Salary Reduction Contributions to another plan of the Employer described in Section 401(k), 403(b) or a governmental eligible deferred compensation plan described in Section 457(b) of the Code.
- (7) who are students performing services described in Section 3121(b)(10) of the Code.
- (8) Other: \_\_\_\_\_. [Must not be a classification that (i) is based on periods of service (such as part-time or seasonal employees) or (ii) excludes all Non-Highly Compensated Employees except the lowest-paid, most recently hired individuals or (iii) excludes all Non-Highly Compensated Employees except the minimum number necessary to satisfy the coverage requirements of Section 410(b) of the Code.]

(A Plan that uses this exception must comply with the minimum participation rule of Section 401(a)(26) of the Code (for Plan Years beginning before 1997) and the minimum coverage rule of Section 410(b) of the Code, unless it is a plan maintained by a church or a qualified church-controlled organization described in Section 3121(w)(3) of the Code, or a governmental plan described in Section 414(d) of the Code that is maintained by a state or local government or a political subdivision, agency or instrumentality of a state or local government.)

**Note:** If the opportunity to receive Employer Base Contributions is made available to any member of any class of Employees excludable under this Section 1.2(a)(3)(C) then all Employees of that class will be eligible to receive Employer Base Contributions.

(b) **MINIMUM AGE AND SERVICE REQUIREMENTS:**

(1) **SALARY REDUCTION CONTRIBUTIONS**

- (A) Salary Reduction Contributions are not permitted under this Plan.
- (B) Salary Reduction Contributions are permitted under this Plan.

(i) Age Requirement

(1) There shall be no minimum age requirement.

(2) The minimum age requirement is \_\_\_\_\_.

(ii) Service Requirement

(1) There shall be no minimum service requirement.

(2) The minimum service requirement is \_\_\_\_\_ Months of Eligibility Service [not to exceed 12 Months] whether or not completed consecutively. For this purpose, a Month of Eligibility Service means a month of Vesting Service determined in accordance with Sections 3.3 and 3.4 but without regard to Section 1.5(c).

(3) The minimum Year(s) of Service requirement is \_\_\_\_\_ Year(s) of Service.

**Note:** There shall be no minimum age requirement and no minimum service requirement to make Salary Reduction Contributions under this Plan unless the Employer is a church or a qualified church-controlled organization described in Section 3121(w)(3) of the Code.

(2) EMPLOYER MATCHING CONTRIBUTIONS

(A) Employer Matching Contributions are not permitted under this Plan.

(B) Employer Matching Contributions are permitted under this Plan.

(i) Age Requirement

(1) There shall be no minimum age requirement.

(2) The minimum age requirement is \_\_\_\_\_.

**Note:** The minimum age required for eligibility generally may not exceed age 21. However, an educational institution described in Section 410(a)(1)(B)(ii) of the Code may require a minimum age up to age 26, if the plan provides for 100% vesting upon the completion of no more than one Year of Vesting Service and does not require more than one Year of Service for eligibility. In addition, a plan maintained by a church or a qualified church-controlled organization described in Section 3121(w)(3) of the Code, or a governmental plan described in Section 414(d) of the Code that is maintained by a state or local government or a political subdivision, agency or instrumentality thereof, may impose a minimum age requirement higher than 21.

(ii) Service Requirement

(1) There shall be no minimum service requirement.

(2) The minimum Year(s) of Service requirement is \_\_\_\_\_ Year(s) of Service.

(3) The minimum service requirement is \_\_\_\_\_ Months of Eligibility Service (not to exceed 24 Months) whether or not completed consecutively. For this purpose, a Month of Eligibility Service means a month of Vesting Service determined in



accordance with Sections 3.3 and 3.4 but without regard to Section 1.5(b).

**Note:** The minimum service requirement for eligibility generally may not exceed one year. However, up to two Years (or 24 Months) of Service may be required for eligibility, if the Plan provides for 100% vesting upon the completion of no more than two Years of Vesting Service. In addition, a plan maintained by a church or a qualified church-controlled organization described in Section 3121(w)(3) of the Code, or a governmental plan described in Section 414(d) of the Code that is maintained by a state or local government or a political subdivision, agency or instrumentality thereof, may require more than one Year of Service for eligibility.

For all Employers adopting this Plan, including those not subject to the requirements of ERISA, the definition of Eligibility Service described in Section 3 is designed to comply with the requirements of ERISA.

(3) EMPLOYER BASE CONTRIBUTIONS

(A) Employer Base Contributions are not permitted under this Plan.

(B) Employer Base Contributions are permitted under this Plan.

(i) Age Requirement

(1) There shall be no minimum age requirement.

(2) The minimum age requirement is \_\_\_\_\_.

**Note:** The minimum age required for eligibility generally may not exceed age 21. However, an educational institution described in Section 410(a)(1)(B)(ii) of the Code may require a minimum age up to age 26, if the plan provides for 100% vesting upon the completion of no more than one Year of Vesting Service and does not require more than one Year of Service for eligibility. In addition, a plan maintained by a church or qualified church-controlled organization described in Section 3121(w)(3) of the Code, or a governmental plan described in Section 414(d) of the Code that is maintained by a state or local government or a political subdivision, agency or instrumentality thereof, may impose a minimum age requirement higher than 21.

(ii) Service Requirement

(1) There shall be no minimum service requirement.

(2) The minimum Year(s) of Service requirement is \_\_\_\_\_ Year(s) of Service.

(3) The minimum service requirement is \_\_\_\_\_ Months of Eligibility Service (not to exceed 24 Months) whether or not completed consecutively. For this purpose, a Month of Eligibility Service means a month of Vesting Service determined in accordance with Sections 3.3 and 3.4 but without regard to Section 1.5(b).

**Note:** The minimum service requirement for eligibility generally may not exceed one year. However, up to two Years (or 24 Months) of Service may be required for eligibility if the Plan provides for 100% vesting upon the completion of no

more than two Years of Vesting Service. In addition, a plan maintained by a church or qualified church-controlled organization described in Section 3121(w)(3) of the Code, or a governmental plan described in Section 414(d) of the Code that is maintained by a state or local government or a political subdivision, agency or instrumentality thereof, may require more than one year of service for eligibility.

For all Employers adopting this Plan, including those not subject to the requirements of ERISA, the definition of Eligibility Service described in Section 3 is designed to comply with the requirements of ERISA.

(c) YEARS OF SERVICE shall mean a period of twelve consecutive months described in Section 1.2(e) in which the Employee completes the following number of Hours of Service:

(1) 1,000 Hours of Service.

(2) \_\_\_\_\_ Hours of Service.

**Note:** May not exceed 1,000 Hours of Service. The Years of Service definition is intended to comply with ERISA and must be used by any Employer adopting this Plan document, even if such Employer's plan is not subject to ERISA.

(d) PRIOR SERVICE COUNTED TOWARDS ELIGIBILITY

(1) The minimum service requirement indicated in Section 1.2(b) is waived for any Employee who has been a Participant in this Plan or a Prior Plan.

(2) The minimum service requirement indicated in Section 1.2(b) is waived for any Employee who has been a Participant in this Plan or a Prior Employer's Plan.

(3) For purposes of eligibility, an Employee's service: (check one or more)

(A) with an organization in the non-profit health or social service field;

(B) with a non-profit educational institution;

within the three-year period immediately before his employment with the Employer shall be counted towards the minimum service requirement indicated in Section 1.2(b) provided he has met the Hours of Service requirement indicated in Section 1.2(c) with such organization for any year of prior service to be counted towards eligibility under this Plan.

(4) The following period(s) of service with the following organization(s) shall be counted toward the minimum service requirement for eligibility:

\_\_\_\_\_  
(specify organization(s) and period(s) of service)

(5) Prior service with any other employer shall not count towards eligibility.

(e) ELIGIBILITY COMPUTATION PERIOD

For purposes of determining Eligibility Service in accordance with Section 3.2, each Employee's initial eligibility computation period shall be the twelve consecutive month period beginning on the day he first performs an Hour of Service for the Employer. Each subsequent eligibility computation period shall be (Check one):

- (1) A twelve consecutive month period beginning on the anniversary of the day that the Employee first performed an Hour of Service for the Employer.
- (2) A Plan Year, beginning with the Plan Year that commences during the Employee's initial eligibility computation period. If this Section 1.2(e)(2) is elected, any Employee who completes at least the number of Hours of Service selected in Section 1.2(c) during both his initial eligibility computation period and the Plan Year in which that period ends will be credited with two years of eligibility service, even if that means that certain Hours of Service are counted twice.

Any other provision of this Plan Document to the contrary notwithstanding, employment with Boy Scouts of America or any Boy Scout council other than the Employer indicated in Section 1.1(a), shall be counted towards the minimum service requirement indicated in this Section.

**1.3 CONTRIBUTIONS**

(a) SALARY REDUCTION CONTRIBUTIONS (Complete (1), (2) and (3) below):

- (1) Amount of Salary Reduction Contributions: Subject to Section 5.1, any Participant who satisfies the eligibility requirements of Sections 1.2(a) and (b)(1) may direct his Employer to make Salary Reduction Contributions to this Plan on his behalf for any Plan Year equal to a dollar amount or percentage amount that is no more than 100% of his Compensation for that year.

**Note:** The maximum permissible Salary Reduction Contribution must be 100% of Compensation for any Plan Year ending after 2001.

- (2) Automatic Enrollment: (Check one):

Choose either an Automatic Contribution Arrangement (ACA) or Eligible Automatic Contribution Arrangement (EACA), below:

(A) Automatic Contribution Arrangement (ACA): (Select (1) or (2) below.)

- (1) New Participants. All Employees who become Participants on or after June 1, 2017 (the effective date of this provision) shall be deemed to have directed the Employer to make Salary Reduction Contributions on his behalf effective as of the first pay period beginning on or after the later of (i) the Entry Date that he begins (or resumes) participation in the Plan or (ii) the day that he satisfies the eligibility requirements of 1.2(a)(1) and (b)(1).

The amount contributed on behalf of such Participant shall be:  
(Complete (i), or (ii) below)

- (i) Fixed Percentage. The amount contributed on behalf of each such Participant shall be 6% of his Compensation for each Plan Year in which Automatic Enrollment Contributions are made on his behalf.

- (ii) Nonqualified Graduated Percentage. The amount contributed on behalf of each such Participant shall be \_\_\_\_\_% of his Compensation for the initial Plan Year in which Automatic Enrollment Contributions are made on his behalf, increasing as follows in subsequent Plan Years per the following schedule:

\_\_\_\_\_ % for the first Plan Year following the Plan Year in which Automatic Enrollment Contributions commenced.

\_\_\_\_\_ % for the second Plan Year following the Plan Year in which Automatic Enrollment Contributions commenced.

\_\_\_\_\_ % for the third Plan Year following the Plan Year in which Automatic Enrollment Contributions commenced.

\_\_\_\_\_ % for the \_\_\_\_\_ Plan Year following the Plan Year in which Automatic Enrollment Contributions commenced.

\_\_\_\_\_ % for the \_\_\_\_\_ Plan Year following the Plan Year in which Automatic Enrollment Contributions commenced.

\_\_\_\_\_ % for the \_\_\_\_\_ (and each subsequent) Plan Year following the Plan Year in which Automatic Enrollment Contributions commenced.

No contributions made pursuant to this provision will be treated as Roth Contributions described in Section 402A of the Code.

- (2) New and Current Participants. Unless he elects otherwise on a form provided by the Plan Administrator, a Participant shall be deemed to have directed the Employer to make Salary Reduction Contributions on his behalf effective as of the first pay period beginning on or after the latest of (i) \_\_\_\_\_ (the effective date of this provision) or (ii) the Entry Date that he begins (or resumes) participation in the Plan, or (iii) the date that he satisfies the eligibility requirements of 1.2(a)(1) and (b)(1).

The amount contributed on behalf of such Participant shall be:  
(Complete (i), or (ii) below)

- (i) Fixed Percentage. The amount contributed on behalf of each such Participant shall be \_\_\_\_\_% of his Compensation for each Plan Year in which Automatic Enrollment Contributions are made on his behalf.

- (ii) Nonqualified Graduated Percentage. The amount contributed on behalf of each such Participant shall be \_\_\_\_\_% of his Compensation for the initial Plan Year in which Automatic Enrollment Contributions are made on his behalf, increasing as follows in subsequent Plan Years per the following schedule:

\_\_\_\_\_ % for the first Plan Year following the Plan Year in which Automatic Enrollment Contributions commenced.

\_\_\_\_\_ % for the second Plan Year following the Plan Year in which Automatic Enrollment Contributions commenced.

\_\_\_\_\_ % for the third Plan Year following the Plan Year in which Automatic Enrollment Contributions commenced.

\_\_\_\_\_ % for the \_\_\_\_\_ Plan Year following the Plan Year in which Automatic Enrollment Contributions commenced.

\_\_\_\_\_ % for the \_\_\_\_\_ Plan Year following the Plan Year in which Automatic Enrollment Contributions commenced.

\_\_\_\_\_ % for the \_\_\_\_\_ (and each subsequent) Plan Year following the Plan Year in which Automatic Enrollment Contributions commenced.

No contributions made pursuant to this provision will be treated as Roth Contributions described in Section 402A of the Code.

**Note: For the ACA Provision, the Plan will not provide the 90-day opt-out withdrawal provision.**

(B) Eligible Automatic Contribution Arrangement (EACA): (Select (1) or (2) below.)

(1) New Participants. All Employees who become Participants on or after \_\_\_\_\_ (the effective date of this provision) shall be deemed to have directed the Employer to make Salary Reduction Contributions on his behalf effective as of the first pay period beginning on or after the later of (i) the Entry Date that he begins (or resumes) participation in the Plan or (ii) the day that he satisfies the eligibility requirements of 1.2(a)(1) and (b)(1).

The amount contributed on behalf of such Participant shall be:  
(Complete (i), or (ii) below)

(i) Fixed Percentage. The amount contributed on behalf of each such Participant shall be \_\_\_\_\_ % of his Compensation for each Plan Year in which Automatic Enrollment Contributions are made on his behalf.

(ii) Nonqualified Graduated Percentage. The amount contributed on behalf of each such Participant shall be \_\_\_\_\_ % of his Compensation for the initial Plan Year in which Automatic Enrollment Contributions are made on his behalf, increasing as follows in subsequent Plan Years per the following schedule:

\_\_\_\_\_ % for the first Plan Year following the Plan Year in which Automatic Enrollment Contributions commenced.

\_\_\_\_\_ % for the second Plan Year following the Plan Year in which Automatic Enrollment Contributions commenced.

\_\_\_\_\_ % for the third Plan Year following the Plan Year in which Automatic Enrollment Contributions commenced.

\_\_\_\_\_ % for the \_\_\_\_\_ Plan Year following the Plan Year in which Automatic Enrollment Contributions commenced.

\_\_\_\_\_ % for the \_\_\_\_\_ Plan Year following the Plan Year in which Automatic Enrollment Contributions commenced.

\_\_\_\_\_ % for the \_\_\_\_\_ (and each subsequent) Plan Year following the Plan Year in which Automatic Enrollment Contributions commenced.

No contributions made pursuant to this provision will be treated as Roth Contributions described in Section 402A of the Code.

- (2) New and Current Participants. Unless he elects otherwise on a form provided by the Plan Administrator, a Participant shall be deemed to have directed the Employer to make Salary Reduction Contributions on his behalf effective as of the first pay period beginning on or after the latest of (i) \_\_\_\_\_ (the effective date of this provision) or (ii) the Entry Date that he begins (or resumes) participation in the Plan, or (iii) the date that he satisfies the eligibility requirements of 1.2(a)(1) and (b)(1).

The amount contributed on behalf of such Participant shall be:  
(Complete (i), or (ii) below)

- (i) Fixed Percentage. The amount contributed on behalf of each such Participant shall be \_\_\_\_\_ % of his Compensation for each Plan Year in which Automatic Enrollment Contributions are made on his behalf.

- (ii) Nonqualified Graduated Percentage. The amount contributed on behalf of each such Participant shall be \_\_\_\_\_ % of his Compensation for the initial Plan Year in which Automatic Enrollment Contributions are made on his behalf, increasing as follows in subsequent Plan Years per the following schedule:

\_\_\_\_\_ % for the first Plan Year following the Plan Year in which Automatic Enrollment Contributions commenced.

\_\_\_\_\_ % for the second Plan Year following the Plan Year in which Automatic Enrollment Contributions commenced.

\_\_\_\_\_ % for the third Plan Year following the Plan Year in which Automatic Enrollment Contributions commenced.

\_\_\_\_\_ % for the \_\_\_\_\_ Plan Year following the Plan Year in which Automatic Enrollment Contributions commenced.

\_\_\_\_\_ % for the \_\_\_\_\_ Plan Year following the Plan Year in which Automatic Enrollment Contributions commenced.

\_\_\_\_\_ % for the \_\_\_\_\_ (and each subsequent) Plan Year following the Plan Year in which Automatic Enrollment Contributions commenced.

No contributions made pursuant to this provision will be treated as Roth Contributions described in Section 402A of the Code.

**Note: For the EACA Provision, the Plan will provide the 90-day opt-out withdrawal provision.**

(C) No Automatic Enrollment. Unless he elects otherwise on a form provided by the Plan Administrator, a Participant shall be deemed to have directed the Employer not to make Salary Reduction Contributions to the Plan on his behalf.

(3) Roth Contributions: A Participant who has elected to make Salary Reduction Contributions in accordance with Sections 1.3(a)(1) and 5.1: (Check one):

(1) may

(2) may not

irrevocably designate all or part of those contributions as Roth Contributions described in Section 402A of the Code by completing a form provided by the Plan Administrator.

**Note:** A plan that does not permit Participants to make designated Roth Contributions may not accept rollovers of such contributions under Section 5.11.

(b) EMPLOYER MATCHING CONTRIBUTIONS (Complete (1) or (2), (3) and (4) below)

(1) **No Contribution.** No Employer Matching Contributions shall be provided under this Plan.

(2) Subject to Section 5.2, the Employer shall make Employer Matching Contributions to the Plan on behalf of a Participant provided that (Check one):

(A) He satisfies the eligibility requirements of Sections 1.2(a) and (b)(2).

(B) He satisfies the eligibility requirements of Sections 1.2(a) and (b)(2) and he is an Employee on the Accounting Date of that Plan Year.

(C) He satisfies the eligibility requirements of Sections 1.2(a) and (b)(2), he completes \_\_\_\_\_ or more (at least 500 but no more than 1,000) Hours of Service during that Plan Year, and he is an Employee on the Accounting Date of that Plan Year.

(D) He satisfies the eligibility requirements of Sections 1.2(a) and (b)(2) and he either (i) is an Employee on the Accounting Date of that Plan Year, or (ii) severed employment with the Employer during that Plan Year due to retirement, death, disability or military service.

(E) He satisfies the eligibility requirements of Sections 1.2(a) and (b)(2) and he either (i) completes \_\_\_\_\_ (at least 500 but no more than 1,000) Hours of Service during that Plan year, and is an Employee on the Accounting Date of

that Plan Year, or (ii) severed employment with the Employer during that Plan Year due to retirement, death, disability or military service.

- (3) Each Participant who satisfies the requirements of Section 1.3(b)(2) for a Plan Year shall receive an allocation of Employer Matching Contributions for that Plan Year determined according to the following formula. (Check one contribution formula):

(A) Fixed Percentage. Such allocation shall be an amount equal to \_\_\_\_\_% of his Salary Reduction Contributions described in Section 1.3(a) that were deferred during that Plan Year while he satisfied the participation requirements for Employer Matching Contributions, and that do not exceed \_\_\_\_\_% of his Compensation received during that Plan Year while he satisfied the participation requirements for Employer Matching Contributions.

■ (B) Discretionary Pro Rata. Such allocation shall be an amount equal to the Participant's pro rata share of any discretionary Employer Matching Contribution made for the Plan Year. For this purpose, the Participant's pro rata share for a Plan Year shall be determined by multiplying any discretionary Employer Matching Contribution made for that Plan Year by a fraction, the numerator of which is the Participant's Salary Reduction Contributions described in Section 1.3(a) that were made for that Plan Year while he satisfied the participation requirements for Employer Matching Contributions and the denominator of which is the total Salary Reduction Contributions described in Section 1.3(a) that were made for that Plan Year by all Participants while they satisfied the participation requirements for Employer Matching Contributions. The Employer shall have the sole right to determine the amount of any discretionary Employer Matching Contribution made for a Plan Year.

The Employer shall have the sole right to determine the amount of any discretionary Employer Matching Contribution made for a Plan Year. Such Employer Matching Contributions shall be limited to Salary Reduction Contributions that do not exceed 6% of Compensation per Plan Year.

(C) Discretionary Percentage. Such allocation shall be an amount equal to a percentage of his Salary Reduction Contributions described in Section 1.3(b)(4) that were deferred during that Plan Year while he satisfied the participation requirements for Employer Matching Contributions. The Employer shall have the sole right to determine the amount allocated for each Plan Year, provided that the same percentage of Salary Reduction Contributions shall be allocated on behalf of every eligible Participant.

(D) Tiered Matching Contribution Formula. Such allocation shall be equal to the sum of (i) and (ii) below:

(i) \_\_\_\_\_% of his Salary Reduction Contributions described in Section 1.3(b)(4) that were deferred during that Plan Year while he satisfied the participation requirements for Employer Matching Contributions and that do not exceed \_\_\_\_\_% of his Compensation received during that Plan Year while he satisfied the participation requirements for Employer Matching Contributions.

(ii) \_\_\_\_\_% of his Salary Reduction Contributions described in Section 1.3(b)(4) that were deferred during that Plan Year while he satisfied the participation requirements for Employer Matching Contributions and that exceed \_\_\_\_\_% (but not \_\_\_\_\_%) of his Compensation received during that Plan Year while he satisfied the participation requirements for Employer Matching Contributions.



- (E) Fixed Percentage and Discretionary Pro Rata. Such allocation shall be an amount equal to the sum of (i) and (ii) below:
- (i) Such allocation shall be an amount equal to \_\_\_\_\_% of his Salary Reduction Contributions described in Section 1.3(b)(4) that were deferred during that Plan Year while he satisfied the participation requirements for Employer Matching Contributions, and that do not exceed \_\_\_\_\_% of his Compensation received during that Plan Year while he satisfied the participation requirements for Employer Matching Contributions.
  - (ii) Discretionary Pro Rata. Such allocation shall be an amount equal to the Participant's pro rata share of any discretionary Employer Matching Contribution made for the Plan Year. For this purpose, the Participant's pro rata share for a Plan Year shall be determined by multiplying any discretionary Employer Matching Contribution made for that Plan Year by a fraction, the numerator of which is the Participant's Salary Reduction Contributions described in Section 1.3(b)(4) that were made for that Plan Year while he satisfied the participation requirements for Employer Matching Contributions and the denominator of which is the total Salary Reduction Contributions described in Section 1.3(b)(4) that were made for that Plan Year by all Participants while they satisfied the participation requirements for Employer Matching Contributions. The Employer shall have the sole right to determine the amount of any discretionary Employer Matching Contribution made for a Plan Year.

A Participant shall be eligible to receive an allocation of discretionary Employer Matching Contributions for a Plan Year under this paragraph provided that (check one):

- (A) He satisfies the eligibility requirements of Sections 1.2(a) and (b)(2).
  - (B) He satisfies the eligibility requirements of Sections 1.2(a) and (b)(2) and he is an Employee on the Accounting Date of that Plan Year.
  - (C) He satisfies the eligibility requirements of Sections 1.2(a) and (b)(2), he completes \_\_\_\_\_ or more (at least 500 but no more than 1,000) Hours of Service during that Plan Year, and he is an Employee on the Accounting Date of that Plan Year.
  - (D) He satisfies the eligibility requirements of Sections 1.2(a) and (b)(2) and he either (i) is an Employee on the Accounting Date of that Plan Year, or (ii) severed employment with the Employer during that Plan Year due to retirement, death, disability or military service.
  - (E) He satisfies the eligibility requirements of Sections 1.2(a) and (b)(2) and he either (i) completes \_\_\_\_\_ (at least 500 but no more than 1,000) Hours of Service during the Plan Year, and is an Employee on the Accounting Date of that Plan Year, or (ii) severed employment with the Employer during that Plan Year due to retirement, death, disability or military service.
- (F) Fixed Percentage and Discretionary Percentage. Such allocation shall be an amount equal to the sum of (i) and (ii) below:
- (i) Such allocation shall be an amount equal to \_\_\_\_\_% of his Salary Reduction Contributions described in Section 1.3(b)(4) that were deferred during that Plan Year while he satisfied the participation requirements for Employer Matching Contributions, and that do not exceed \_\_\_\_\_% of

his Compensation received during that Plan Year while he satisfied the participation requirements for Employer Matching Contributions.

- (ii) Discretionary Percentage. Such allocation shall be an amount equal to a percentage of his Salary Reduction Contributions described in Section 1.3(b)(4) that were deferred during that Plan Year while he satisfied the participation requirements for Employer Matching Contributions. The Employer shall have the sole right to determine the amount allocated for each Plan Year, provided that the same percentage of Salary Reduction Contributions shall be allocated on behalf of every eligible Participant.

A Participant shall be eligible to receive an allocation of discretionary Employer Matching Contributions for a Plan Year under this paragraph provided that (check one):

- (A) He satisfies the eligibility requirements of Sections 1.2(a) and (b)(2).
- (B) He satisfies the eligibility requirements of Sections 1.2(a) and (b)(2) and he is an Employee on the Accounting Date of that Plan Year.
- (C) He satisfies the eligibility requirements of Sections 1.2(a) and (b)(2), he completes \_\_\_\_\_ or more (at least 500 but no more than 1,000) Hours of Service during that Plan Year, and he is an Employee on the Accounting Date of that Plan Year.
- (D) He satisfies the eligibility requirements of Sections 1.2(a) and (b)(2) and he either (i) is an Employee on the Accounting Date of that Plan Year, or (ii) severed employment with the Employer during that Plan Year due to retirement, death, disability or military service.
- (E) He satisfies the eligibility requirements of Sections 1.2(a) and (b)(2) and he either (i) completes \_\_\_\_\_ (at least 500 but no more than 1,000) Hours of Service during the Plan Year, and is an Employee on the Accounting Date of that Plan Year, or (ii) severed employment with the Employer during that Plan Year due to retirement, death, disability or military service.

- (4) For the purpose of determining allocations of Employer Matching Contributions under this Plan (Check one):

- (A) age 50 catch-up contributions made in accordance with Section 5.1 and Section 414(v) of the Code *shall be* considered Salary Reduction Contributions.
- (B) age 50 catch-up contributions made in accordance with Section 5.1 and Section 414(v) of the Code *shall not be* considered Salary Reduction Contributions.

(c) EMPLOYER BASE CONTRIBUTION (Complete (1) or (2) and (3) below:)

- (1) **No Contribution.** No Employer Base Contributions shall be provided under this Plan.

- (2) Subject to Section 5.2, a Participant shall be entitled to receive an allocation of Employer Base Contributions for a Plan Year, whether or not he makes Salary Reduction Contributions to this Plan for that Plan Year, provided that (Check one):

- (A) He satisfies the eligibility requirements of Sections 1.2(a) and (b)(3).

- (B) He satisfies the eligibility requirements of Sections 1.2(a) and (b)(3) and he is an Employee on the Accounting Date of that Plan Year.
- (C) He satisfies the eligibility requirements of Sections 1.2(a) and (b)(3), he completes \_\_\_\_\_ (at least 500 but no more than 1,000) Hours of Service during that Plan Year, and he is an Employee on the Accounting Date of that Plan Year.
- (D) He satisfies the eligibility requirements of Sections 1.2(a) and (b)(3) and he either (i) is an Employee on the Accounting Date of that Plan Year, or (ii) severed employment with the Employer during that Plan Year due to retirement, death, disability or military service.
- (E) He satisfies the eligibility requirements of Sections 1.2(a) and (b)(3) and he either (i) completes \_\_\_\_\_ (at least 500 but no more than 1,000) Hours of Service during that Plan year, and is an Employee on the Accounting Date of that Plan Year, or (ii) severed employment with the Employer during that Plan Year due to retirement, death, disability or military service.
- (3) Each Participant who satisfies the requirements of Section 1.3(c)(2) for a Plan Year shall receive an allocation of Employer Base Contributions for that Plan Year determined according to the following formula (Check one contribution formula).
- (A) Fixed Percentage. Such allocation shall be an amount equal to \_\_\_\_\_% of that Participant's Compensation received during that Plan Year while he satisfied the participation requirements for Employer Base Contributions.
- (B) Fixed Dollar. Such allocation shall be an amount equal to \$\_\_\_\_\_.
- (C) Discretionary Pro Rata. Such allocation shall be an amount equal to the Participant's pro rata share of any discretionary Employer Base Contribution made for the Plan Year. For this purpose, the Participant's pro rata share for a Plan Year shall be determined by multiplying any discretionary Employer Base Contribution made for that Plan Year by a fraction, the numerator of which is the Participant's Compensation received during that Plan Year while he satisfied the participation requirements for Employer Base Contributions, and the denominator of which is the total Compensation paid or made available during that Plan Year to all Participants while they satisfied the participation requirements for Employer Base Contributions. The Employer shall have the sole right to determine the amount of any discretionary Employer Base Contribution made for a Plan Year.
- (D) Discretionary Per Capita. Such allocation shall be an amount equal to the Participant's per capita share of any discretionary Employer Base Contribution made for the Plan Year. For this purpose, the Participant's per capita share for a Plan Year shall be determined by dividing any discretionary Employer Base Contribution made for that Plan Year by the number of Participants who satisfied the participation requirements for Employer Base Contributions for that Plan Year. The Employer shall have the sole right to determine the amount of any discretionary Employer Base Contribution made for a Plan Year.
- (E) Fixed Percentage Integrated with Social Security. Such allocation shall be an amount equal to the sum of (1) \_\_\_\_\_% of the Participant's Compensation received during that Plan Year while he satisfied the participation requirements for Employer Base Contributions, and (2) \_\_\_\_\_% (any percentage from 1% to 5.7%, but not to exceed the percentage in (1)) of the excess, if any, of such Compensation over the Social

Security Taxable Earnings Base. The Social Security Taxable Earnings Base is the contribution and benefit base in effect on the first day of the Plan Year under Section 230 of the Social Security Act. The Employer Base Contribution on behalf of a Participant who has exceeded the cumulative permitted disparity limit shall be equal to his Compensation multiplied by the sum of the percentages in (1) and (2).

**Note:** Option (E) above may not be elected if the Employer maintains any other retirement plan that is integrated with Social Security under Section 401(l) of the Code and benefits any Participant of this Plan.

For the purpose of Option (E) above, a Participant exceeds the cumulative permitted disparity limit if he satisfies the conditions of (i) and (ii) below:

- (i) The Participant benefits under a defined benefit plan or target benefit plan maintained by the Employer that is integrated with Social Security under Section 401(l) of the Code.
- (ii) The Participant is credited with more than 35 total cumulative permitted disparity years. For this purpose, "total cumulative permitted disparity years" means the total number of years credited to the Participant for allocation or accrual purposes under this Plan and any other qualified retirement plan or simplified employee pension plan ever maintained by the Employer that is integrated with Social Security under Section 401(l) of the Code (including terminated plans). For the purpose of counting the Participant's cumulative permitted disparity years, all years ending in the same calendar year shall be treated as the same year.

(F) Fixed Percentage and Discretionary Pro Rata. Such allocation shall be an amount equal to the sum of (i) and (ii) below:

- (i) An amount equal to \_\_\_\_\_% of that Participant's Compensation received during that Plan Year while he satisfied the participation requirements for Employer Base Contributions.
- (ii) An amount equal to the Participant's pro rata share of any discretionary Employer Base Contribution made for the Plan Year. For this purpose, the Participant's pro rata share for a Plan Year shall be determined by multiplying any discretionary Employer Base Contribution made for that Plan Year by a fraction, the numerator of which is the Participant's Compensation received during that Plan Year while he satisfied the participation requirements for Employer Base Contributions, and the denominator of which is the total Compensation paid or made available during that Plan Year to all Participants while they satisfied the participation requirements for Employer Base Contributions. The Employer shall have the sole right to determine the amount of any discretionary Employer Base Contribution made for a Plan Year.

A Participant shall be eligible to receive an allocation of discretionary Employer Base Contributions for a Plan Year under this paragraph provided that (check one):

- (A) He satisfies the eligibility requirements of Sections 1.2(a) and (b)(3).
- (B) He satisfies the eligibility requirements of Sections 1.2(a) and (b)(3) and he is an Employee on the Accounting Date of that Plan Year.
- (C) He satisfies the eligibility requirements of Sections 1.2(a) and (b)(3), he completes \_\_\_\_\_ or more (at least 500 but no more than

1,000) Hours of Service during that Plan Year, and he is an Employee on the Accounting Date of that Plan Year.

- (D) He satisfies the eligibility requirements of Sections 1.2(a) and (b)(3) and he either (i) is an Employee on the Accounting Date of that Plan Year, or (ii) severed employment with the Employer during that Plan Year due to retirement, death, disability or military service.
- (E) He satisfies the eligibility requirements of Sections 1.2(a) and (b)(3) and he either (i) completes \_\_\_\_\_ (at least 500 but no more than 1,000) Hours of Service during the Plan Year, and is an Employee on the Accounting Date of that Plan Year, or (ii) severed employment with the Employer during that Plan Year due to retirement, death, disability or military service.
- (G) Fixed Percentage and Discretionary Per Capita. Such allocation shall be an amount equal to the sum of (i) and (ii) below:
  - (i) An amount equal to \_\_\_\_\_% of that Participant's Compensation received during that Plan Year while he satisfied the participation requirements for Employer Base Contributions.
  - (ii) An amount equal to the Participant's per capita share of any discretionary Employer Base Contribution made for the Plan Year. For this purpose, the Participant's per capita share for a Plan Year shall be determined by dividing any discretionary Employer Base Contribution made for that Plan Year by the number of Participants who satisfied the participation requirements for Employer Base Contributions for that Plan Year. The Employer shall have the sole right to determine the amount of any discretionary Employer Base Contribution made for a Plan Year.

A Participant shall be eligible to receive an allocation of discretionary Employer Base Contributions for a Plan Year under this paragraph provided that (check one):

- (A) He satisfies the eligibility requirements of Sections 1.2(a) and (b)(3).
- (B) He satisfies the eligibility requirements of Sections 1.2(a) and (b)(3) and he is an Employee on the Accounting Date of that Plan Year.
- (C) He satisfies the eligibility requirements of Sections 1.2(a) and (b)(3), he completes \_\_\_\_\_ or more (at least 500 but no more than 1,000) Hours of Service during that Plan Year, and he is an Employee on the Accounting Date of that Plan Year.
- (D) He satisfies the eligibility requirements of Sections 1.2(a) and (b)(3) and he either (i) is an Employee on the Accounting Date of that Plan Year, or (ii) severed employment with the Employer during that Plan Year due to retirement, death, disability or military service.
- (E) He satisfies the eligibility requirements of Sections 1.2(a) and (b)(3) and he either (i) completes \_\_\_\_\_ (at least 500 but no more than 1,000) Hours of Service during the Plan Year, and is an Employee on the Accounting Date of that Plan Year, or (ii) severed employment with the Employer during that Plan Year due to retirement, death, disability or military service.

- (H) Fixed Dollar and Discretionary Pro Rata. Such allocation shall be an amount equal to the sum of (i) and (ii) below:
- (i) An amount equal to \$\_\_\_\_\_.
  - (ii) An amount equal to the Participant's pro rata share of any discretionary Employer Base Contribution made for the Plan Year. For this purpose, the Participant's pro rata share for a Plan Year shall be determined by multiplying any discretionary Employer Base Contribution made for that Plan Year by a fraction, the numerator of which is the Participant's Compensation received during that Plan Year while he satisfied the participation requirements for Employer Base Contributions, and the denominator of which is the total Compensation paid or made available during that Plan Year to all Participants while they satisfied the participation requirements for Employer Base Contributions. The Employer shall have the sole right to determine the amount of any discretionary Employer Base Contribution made for a Plan Year.

A Participant shall be eligible to receive an allocation of discretionary Employer Base Contributions for a Plan Year under this paragraph provided that (check one):

- (A) He satisfies the eligibility requirements of Sections 1.2(a) and (b)(3).
  - (B) He satisfies the eligibility requirements of Sections 1.2(a) and (b)(3) and he is an Employee on the Accounting Date of that Plan Year.
  - (C) He satisfies the eligibility requirements of Sections 1.2(a) and (b)(3), he completes \_\_\_\_\_ or more (at least 500 but no more than 1,000) Hours of Service during that Plan Year, and he is an Employee on the Accounting Date of that Plan Year.
  - (D) He satisfies the eligibility requirements of Sections 1.2(a) and (b)(3) and he either (i) is an Employee on the Accounting Date of that Plan Year, or (ii) severed employment with the Employer during that Plan Year due to retirement, death, disability or military service.
  - (E) He satisfies the eligibility requirements of Sections 1.2(a) and (b)(3) and he either (i) completes \_\_\_\_\_ (at least 500 but no more than 1,000) Hours of Service during the Plan Year, and is an Employee on the Accounting Date of that Plan Year, or (ii) severed employment with the Employer during that Plan Year due to retirement, death, disability or military service.
- (I) Fixed Dollar and Discretionary Per Capita. Such allocation shall be an amount equal to the sum of (1) and (2) below:
- (i) An amount equal to \$\_\_\_\_\_.
  - (ii) An amount equal to the Participant's per capita share of any discretionary Employer Base Contribution made for the Plan Year. For this purpose, the Participant's per capita share for a Plan Year shall be determined by dividing any discretionary Employer Base Contribution made for that Plan Year by the number of Participants who satisfied the participation requirements for Employer Base Contributions for that Plan Year. The Employer shall have the sole right to determine the amount of any discretionary Employer Base Contribution made for a Plan Year.

A Participant shall be eligible to receive an allocation of discretionary Employer Base Contributions for a Plan Year under this paragraph provided that (check one):

- (A) He satisfies the eligibility requirements of Sections 1.2(a) and (b)(3).
- (B) He satisfies the eligibility requirements of Sections 1.2(a) and (b)(3) and he is an Employee on the Accounting Date of that Plan Year.
- (C) He satisfies the eligibility requirements of Sections 1.2(a) and (b)(3), he completes \_\_\_\_\_ or more (at least 500 but no more than 1,000) Hours of Service during that Plan Year, and he is an Employee on the Accounting Date of that Plan Year.
- (D) He satisfies the eligibility requirements of Sections 1.2(a) and (b)(3) and he either (i) is an Employee on the Accounting Date of that Plan Year, or (ii) severed employment with the Employer during that Plan Year due to retirement, death, disability or military service.
- (E) He satisfies the eligibility requirements of Sections 1.2(a) and (b)(3) and he either (i) completes \_\_\_\_\_ (at least 500 but no more than 1,000) Hours of Service during the Plan Year, and is an Employee on the Accounting Date of that Plan Year, or (ii) severed employment with the Employer during that Plan Year due to retirement, death, disability or military service.

#### 1.4 COMPENSATION

For the purposes of calculating Employee and Employer Contributions and with regard to Section 2.7, Compensation:

(a) includes

(b) excludes

all of the following items:

- (1) Employer contributions made pursuant to a salary reduction agreement which are not includible in the gross income of the Participant under Section 125, 402(e)(3), 402(h) or 403(b) of the Code;
- (2) Compensation deferred under an eligible deferred compensation plan within the meaning of Section 457(b) of the Code;
- (3) Salary Reduction Contributions under Section 414(h)(2) of the Code that are picked up by an employing unit under a government plan; and
- (4) For all Plan Years beginning after 2000 (and for any earlier Plan Year beginning after 1997 for which this Plan was operated in accordance with the Community Renewal Tax Relief Act of 2000), Employer contributions made pursuant to a salary reduction agreement that are not includible in the gross income of the Participant under Section 132(f) of the Code.

In addition, Compensation excludes all of the following item(s) unless the Plan benefits one or more Self-Employed Individuals:

- (1) reimbursements;

- (2) expense allowances;
- (3) cash and noncash fringe benefits;
- (4) moving expenses;
- (5) welfare benefits;
- (6) deferred compensation (except as specified in the preceding sentence).

## 1.5 VESTING REQUIREMENT

### (a) GENERAL VESTING

#### (1) SALARY REDUCTION CONTRIBUTIONS

A Participant shall at all times be 100% vested in his Employee Contribution Account.

#### (2) ROLLOVER CONTRIBUTIONS

A Participant shall at all times be 100% vested in his Rollover Contribution Account.

#### (3) EMPLOYER MATCHING CONTRIBUTIONS

(A) Employer Matching Contributions are not applicable to this Plan.

(B) Employer Matching Contributions are applicable to this Plan.

The amounts in a Participant's Employer Matching Contribution Account shall be 100% vested upon the attainment of his Normal Retirement Age, or if earlier, upon meeting the applicable vesting requirements below: (Check one or more of the appropriate boxes)

(i) 100% immediate vesting.

(ii) 100% vesting upon attainment of Early Retirement Age (If you check this box you must also complete (iv), (v) or (vi) below).

(iii) Age 59½ (If you check this box you must also complete (iv), (v) or (vi) below).

(iv) 100% vesting upon the completion of 3 Years of Vesting Service (not to exceed 3 years).



(v) A percentage equal to the percentage determined under the following table:

| <u>Years of Vesting Service</u> | <u>Vesting Percentage</u> |
|---------------------------------|---------------------------|
| Less than 2 years               | 0%                        |
| 2 years                         | 20%                       |
| 3 years                         | 40%                       |
| 4 years                         | 60%                       |
| 5 years                         | 80%                       |
| 6 years or more                 | 100%                      |

(vi) Other (If the table is more liberal at every point than the options in (iv) or (v) above):

| <u>Years of Vesting Service</u> | <u>Vesting Percentage</u> |
|---------------------------------|---------------------------|
| Less than __ year(s)            | <u>0</u> %                |
| __ year(s)                      | __%                       |
| __ years                        | __%                       |
| __ years                        | __%                       |
| __ years                        | __%                       |
| __ years                        | __%                       |
| __ years                        | __%                       |

**(4) EMPLOYER BASE CONTRIBUTIONS**

(A) Employer Base Contributions are not applicable to this Plan.

(B) Employer Base Contributions are applicable to this Plan.

The amounts in a Participant's Employer Base Contribution Account shall be 100% vested upon the attainment of his Normal Retirement Age, or if earlier, upon meeting the applicable vesting requirements below: (Check one or more of the appropriate boxes)

(i) 100% immediate vesting.

(ii) 100% vesting upon attainment of Early Retirement Age (If you check this box you must also complete (iv), (v) or (vi) below).

(iii) Age 59½ (If you check this box you must also complete (iv), (v) or (vi) below).

(iv) 100% vesting upon the completion of \_\_\_\_\_ Years of Vesting Service (not to exceed 3 years).

- (v) A percentage equal to the percentage determined under the following table:

| <u>Years of Vesting Service</u> | <u>Vesting Percentage</u> |
|---------------------------------|---------------------------|
| Less than 2 years               | 0%                        |
| 2 years                         | 20%                       |
| 3 years                         | 40%                       |
| 4 years                         | 60%                       |
| 5 years                         | 80%                       |
| 6 years or more                 | 100%                      |

- (vi) Other (If the table is more liberal at every point than the options in (iv) or (v) above):

| <u>Years of Vesting Service</u> | <u>Vesting Percentage</u> |
|---------------------------------|---------------------------|
| Less than ___ year(s)           | ___%                      |
| ___ year(s)                     | ___%                      |
| ___ years                       | ___%                      |
| ___ years                       | ___%                      |
| ___ years                       | ___%                      |
| ___ years                       | ___%                      |
| ___ years                       | ___%                      |

- (b) The following prior period(s) of service with the following organization(s) shall be counted toward the Years of Vesting requirement:

\_\_\_\_\_ (specify organization(s) and period(s) of service)

- (c) Notwithstanding any Plan provision to the contrary, a Participant

- (A) shall  
 (B) shall not

be limited to five Years of Vesting Service for:

- (i) all periods of employment with the Employer before the Effective Date (or the Amendment Effective Date in the case of a restated plan); and  
(ii) all periods of employment with any other employer whenever completed.

(An Employer that checks (B) "shall not" above may be required to demonstrate to the IRS that its Plan does not discriminate in favor of Highly Compensated Employees, if the Plan requires more than five Years of Vesting Service for 100% vesting.)

**Note:** For all Employers adopting this Plan, including those not subject to the requirements of ERISA, the definition of Vesting Service described in Section 3.3 is designed to comply with the requirements of ERISA.

Any other provision of this Plan Document to the contrary notwithstanding, employment with Boy Scouts of America or any Boy Scout council other than the Employer indicated in Section 1.1(a), shall count towards meeting the vesting requirements indicated in this Section.

## 1.6 LOANS

(a) Loans are not permitted under this Plan.

(b) Loans are permitted under this Plan. (If you check this box, you must complete (1), (2) and (3) below.)

### (1) AMOUNT OF LOAN

(A) Loans not in excess of 50% of the borrower's combined vested Accounts (as described in Section 6.1) shall be permitted in accordance with Section 8.5.

(B) Loans not in excess of 50% of the borrower's vested Employee Contribution Accounts (as described in Section 6.1) shall be permitted in accordance with Section 8.5.

### (2) NUMBER OF LOANS

(A) There shall be no limit on the number of loans that a borrower may have outstanding under this Plan at one time.

(B) The maximum number of loans that a borrower may have outstanding under this Plan at one time is \_\_\_\_\_.

### (3) ROTH LOANS

(A) The account balances attributable to designated Roth Contributions *shall* be disregarded for purposes of determining the available loan amount and for purposes of securing a loan.

(B) The account balances attributable to designated Roth Contributions *shall not* be disregarded for purposes of determining the available loan amount and for purposes of securing a loan.

## 1.7 INVESTMENT OPTIONS

Subject to the restrictions below, a Participant shall designate the allocation of all contributions made on his behalf to the investment accounts available under this Plan and described in Section 6.2.

(a) There shall be no restrictions on the allocation of any contributions.

(b) Allocations of Employer Contributions made on the Participant's behalf shall be restricted to the Interest Accumulation Accounts under Contract(s) issued by Mutual of America Life Insurance Company until the Participant is 100% vested in such contributions and thereafter, no further restrictions shall apply.

## 1.8 WITHDRAWAL RESTRICTIONS

The following withdrawal options will apply in addition to the restrictions imposed by Sections 8.3 and 8.4: (complete (a), (b) and (c) below)

(a) Hardship (complete (1), (2), (3) or (4) below):

- (1) A Participant may withdraw any amounts allocated to his Employer Contribution Accounts and Employee Contribution Accounts due to Hardship.
- (2) A Participant may withdraw any amounts allocated to his Employer Contribution Accounts (but not his Employee Contribution Accounts) due to Hardship.
- (3) A Participant may withdraw any amounts allocated to his Employee Contribution Accounts (but not his Employer Contribution Accounts) due to Hardship.
- (4) A Participant may not withdraw any amounts allocated to his Employer Contribution Accounts or Employee Contribution Accounts due to Hardship.

(b) Age 59½ (complete (1), (2) or (3) below):

- (1) A Participant may withdraw any amounts allocated to his Employer Contribution Accounts and Employee Contribution Accounts because he has attained age 59½.
- (2) A Participant may withdraw any amounts allocated to his Employee Contribution Accounts (but not his Employer Contribution Accounts) because he has attained age 59½.
- (3) A Participant may not withdraw any amounts allocated to his Employer Contribution Accounts or Employee Contribution Accounts because he has attained age 59½.

(c) Five Years Participation (complete (1) or (2) below):

- (1) A Participant may withdraw any amounts allocated to his Employer Contribution Accounts because he has completed at least five years of participation in this Plan (except amounts attributable to a custodial account described in Section 403(b)(7) of the Code).
- (2) A Participant may not withdraw any amounts allocated to his Employer Contribution Accounts because he has completed at least five years of participation in this Plan.

A Participant may not withdraw any amounts allocated to his Employee Contribution Accounts because he has completed at least five years of participation in this Plan.

## 1.9 ENTRY DATE

(a) SALARY REDUCTION CONTRIBUTIONS

For the purpose of determining when an Employee becomes a Participant entitled to make Salary Reduction Contributions, Entry Date shall have the following meaning:

- (1) Daily. Each day of each month.
- (2) The first day of each pay period.
- (3) Monthly. The first day of each month.

(b) EMPLOYER CONTRIBUTIONS

For the purpose of determining when an Employee becomes a Participant entitled to receive allocations of Employer Matching Contributions and Employer Base Contributions, Entry Date shall have the following meaning:

- (1) Daily. Each day of each month.
- (2) The first day of each pay period.
- (3) Monthly. The first day of each month.
- (4) Quarterly. Each \_\_\_\_\_ 1st, each \_\_\_\_\_ 1st, each \_\_\_\_\_ 1st and each \_\_\_\_\_ 1st. (Indicate the first, fourth, seventh and tenth calendar months of the Plan Year.)
- (5) Semi-Annual. Each \_\_\_\_\_ 1<sup>st</sup> and each \_\_\_\_\_ 1<sup>st</sup>. (Indicate the first and seventh calendar months of the Plan Year.)

**1.10 ROLLOVER CONTRIBUTIONS**

- (a) This Plan shall accept any rollover contributions described in Section 5.10.
- (b) This Plan shall not accept any rollover contributions.

**1.11 FORFEITURES**

Subject to the provisions of Section 7.3, Forfeitures shall be:

- (a) used to reduce future Employer Contributions.
- (b) allocated to a Participant who is active in the Plan on the Accounting Date in the ratio that the Compensation of such participant bears to the Compensation of all Plan Participants.

**1.12 DEFAULT INVESTMENT ALTERNATIVE**

Any contributions made on behalf of a Participant for which no investment direction is in effect shall be allocated to the following investment account, subject to the Participant's right to transfer those funds in accordance with Plan Section 6.3 and to change the allocation of future contributions in accordance with Plan Section 6.1:

(Select only one)

- (a) Mutual of America Composite Fund.
- (b) Fidelity VIP Asset Manager Portfolio.
- (c) Calvert VP SRI Balanced Portfolio.
- (d) Mutual of America Retirement Funds. Any amount allocated for a Participant or beneficiary under this alternative shall be placed in the Retirement Fund appropriate to his age at the time of allocation.

**THE EMPLOYER HEREBY REPRESENTS THAT:**

The Plan specifications selected in this Adoption Agreement, together with the provisions of the Plan referred to herein, as both may be amended from time to time in accordance with Section 12 of the Plan, shall constitute the entire Plan.

Contributions under this Plan shall be invested in one or more Contract(s) issued in conjunction with this Plan in accordance with the rules and procedures of the Issuer(s). The Issuer(s) of such Contract(s) shall be entitled to rely upon the written statements furnished by the Employer, Plan Administrator or Named Fiduciary(ies) in the performance of their duties under this Plan and payments by an Issuer in accordance with the provisions of its Contract(s) shall fully discharge the Issuer's liability for such payments. Issuers are not responsible for the failure of the Employer, Plan Administrator or Named Fiduciary(ies) to perform their duties under the Plan.

**IN WITNESS WHEREOF**, the Employer has caused this Adoption Agreement to be executed by an authorized individual as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. (the "Adoption Date").

For The Employer, By: \_\_\_\_\_  
(signature of authorized officer)

Title: \_\_\_\_\_

**Appendix A**

**Part I:**

Enter the following information for each Contract that is permitted to make and receive Rollovers and Transfers, and to accept Salary Reduction Contributions or Employer Contributions, under this Plan:

Name of Issuer: Mutual of America Life Insurance Company  
Address: 320 Park Ave, New York, NY 10022  
Contract Number: 403(b) Thrift Plan 073-546-B  
Contract Type:  Annuity described in Section 403(b)(1) of the Code  
 Custodial Account described in Section 403(b)(7) of the Code

Name of Issuer: \_\_\_\_\_  
Address: \_\_\_\_\_  
Contract Number: \_\_\_\_\_  
Contract Type:  Annuity described in Section 403(b)(1) of the Code  
 Custodial Account described in Section 403(b)(7) of the Code

Name of Issuer: \_\_\_\_\_  
Address: \_\_\_\_\_  
Contract Number: \_\_\_\_\_  
Contract Type:  Annuity described in Section 403(b)(1) of the Code  
 Custodial Account described in Section 403(b)(7) of the Code

Name of Issuer: \_\_\_\_\_  
Address: \_\_\_\_\_  
Contract Number: \_\_\_\_\_  
Contract Type:  Annuity described in Section 403(b)(1) of the Code  
 Custodial Account described in Section 403(b)(7) of the Code

Name of Issuer: \_\_\_\_\_  
Address: \_\_\_\_\_  
Contract Number: \_\_\_\_\_  
Contract Type:  Annuity described in Section 403(b)(1) of the Code  
 Custodial Account described in Section 403(b)(7) of the Code

Name of Issuer: \_\_\_\_\_  
Address: \_\_\_\_\_  
Contract Number: \_\_\_\_\_  
Contract Type:  Annuity described in Section 403(b)(1) of the Code  
 Custodial Account described in Section 403(b)(7) of the Code

**Appendix A**

**Part II:**

Enter the following information for each Contract that is permitted to make and receive Rollovers and Transfers, but may not accept Salary Reduction Contributions or Employer Contributions, under this Plan:

Name of Issuer: \_\_\_\_\_  
Address: \_\_\_\_\_  
Contract Number: \_\_\_\_\_  
Contract Type:  Annuity described in Section 403(b)(1) of the Code  
 Custodial Account described in Section 403(b)(7) of the Code

Name of Issuer: \_\_\_\_\_  
Address: \_\_\_\_\_  
Contract Number: \_\_\_\_\_  
Contract Type:  Annuity described in Section 403(b)(1) of the Code  
 Custodial Account described in Section 403(b)(7) of the Code

Name of Issuer: \_\_\_\_\_  
Address: \_\_\_\_\_  
Contract Number: \_\_\_\_\_  
Contract Type:  Annuity described in Section 403(b)(1) of the Code  
 Custodial Account described in Section 403(b)(7) of the Code

Name of Issuer: \_\_\_\_\_  
Address: \_\_\_\_\_  
Contract Number: \_\_\_\_\_  
Contract Type:  Annuity described in Section 403(b)(1) of the Code  
 Custodial Account described in Section 403(b)(7) of the Code

Name of Issuer: \_\_\_\_\_  
Address: \_\_\_\_\_  
Contract Number: \_\_\_\_\_  
Contract Type:  Annuity described in Section 403(b)(1) of the Code  
 Custodial Account described in Section 403(b)(7) of the Code

Name of Issuer: \_\_\_\_\_  
Address: \_\_\_\_\_  
Contract Number: \_\_\_\_\_  
Contract Type:  Annuity described in Section 403(b)(1) of the Code  
 Custodial Account described in Section 403(b)(7) of the Code



**Appendix A**

**Part III:**

Enter the following information for each Contract that is permitted to make Rollovers and Transfers, but may not receive Rollovers, Transfers, Salary Reduction Contributions or Employer Contributions, under this Plan:

Name of Issuer: \_\_\_\_\_  
Address: \_\_\_\_\_  
Contract Number: \_\_\_\_\_  
Contract Type:  Annuity described in Section 403(b)(1) of the Code  
 Custodial Account described in Section 403(b)(7) of the Code

Name of Issuer: \_\_\_\_\_  
Address: \_\_\_\_\_  
Contract Number: \_\_\_\_\_  
Contract Type:  Annuity described in Section 403(b)(1) of the Code  
 Custodial Account described in Section 403(b)(7) of the Code

Name of Issuer: \_\_\_\_\_  
Address: \_\_\_\_\_  
Contract Number: \_\_\_\_\_  
Contract Type:  Annuity described in Section 403(b)(1) of the Code  
 Custodial Account described in Section 403(b)(7) of the Code

Name of Issuer: \_\_\_\_\_  
Address: \_\_\_\_\_  
Contract Number: \_\_\_\_\_  
Contract Type:  Annuity described in Section 403(b)(1) of the Code  
 Custodial Account described in Section 403(b)(7) of the Code

Name of Issuer: \_\_\_\_\_  
Address: \_\_\_\_\_  
Contract Number: \_\_\_\_\_  
Contract Type:  Annuity described in Section 403(b)(1) of the Code  
 Custodial Account described in Section 403(b)(7) of the Code

Name of Issuer: \_\_\_\_\_  
Address: \_\_\_\_\_  
Contract Number: \_\_\_\_\_  
Contract Type:  Annuity described in Section 403(b)(1) of the Code  
 Custodial Account described in Section 403(b)(7) of the Code



## Section 2 - GENERAL DEFINITIONS

The following words and phrases as used herein have the meanings defined, unless a different meaning is plainly required by the context. Words of the masculine gender as used herein shall include the feminine, and words in the singular form as used herein shall be construed as though they were also used in the plural form in all cases where they would so apply and vice versa.

- 2.1 **"Accounting Date"** means the last day of the Plan Year.
- 2.2 **"Accounts"** means the Accounts maintained for each Participant representing the Participant's interest in the investment accounts under this Plan.
- 2.3 **"Beneficiary"** means the individual or estate which is to receive any payments upon the death of the Participant, as designated under Section 9.5.
- 2.4 **"Benefit Commencement Date"** means the first day of a calendar month, on or after a Participant's date of termination of employment with the Employer, on which a Participant's annuity payments begin under the Plan. A Participant shall choose his Benefit Commencement Date for a distribution from a Contract by notifying the Issuer in accordance with the terms of that Contract.
- 2.5 **"Church"** means an organization described in Section 3121(w)(3)(A) of the Code and the Treasury Regulations thereunder, and generally refers to a church, a convention or association of churches, or an elementary, secondary school or seminary that is controlled, operated, or principally supported by a church or a convention or association of churches.
- 2.6 **"Code"** means the Internal Revenue Code of 1986, as amended.
- 2.7 **"Compensation"** means, (for all purposes except as specified in Sections 2.19 and 5, and except as otherwise provided in Section 1.4), in the case of a Participant who is a Self-Employed Individual, the Earned Income of that Participant. In the case of any other Participant, Compensation means, (for all purposes except as specified in Sections 5 and 10), all wages, salaries, fees for professional services and other amounts received by the Participant during the determination period (in cash or otherwise) for personal services actually rendered in the course of employment with the Employer, to the extent that such amounts are includible in the Participant's gross income under the Code.

Compensation includes, but is not limited to:

- (a) tips;
- (b) bonuses;
- (c) commissions paid to salesmen;
- (d) compensation for services on the basis of a percentage of profits;
- (e) commissions on insurance premiums; and
- (f) except as provided below, fringe benefits, and reimbursements or other expense allowances under a nonaccountable plan described in IRS Regulations Section 1.62-2(c).

In addition, if so elected in Section 1.4, Compensation includes all of the following items:

- (a) employer contributions made pursuant to a salary reduction agreement which are not includible in the gross income of the Participant under Sections 125, 402(e)(3), 402(h) and 403(b) of the Code;
- (b) compensation deferred under an eligible deferred compensation plan within the meaning of Section 457(b) of the Code;

- (c) employee contributions under Section 414(h)(2) of the Code that are picked up by an employing unit under a government plan; and
- (d) for all Plan Years beginning after 2000 (and for any earlier Plan Year beginning after 1997 for which this Plan was operated in accordance with the Community Renewal Tax Relief Act of 2000), Employer contributions made pursuant to a salary reduction agreement that are not includible in the gross income of the Participant under Section 132(f) of the Code.

Compensation does not include any of the following items:

- (a) employer contributions to a plan of deferred compensation (other than a plan described in the preceding sentence) which are not includible in the Participant's gross income for the taxable year in which contributed, or employer contributions under a simplified employee pension plan to the extent such contributions are excludable from the gross income of the employee, or any distributions from a plan of deferred compensation;
- (b) amounts realized from the exercise of a non-qualified stock option, or when restricted stock (or property) held by the employee either becomes freely transferable or is no longer subject to a substantial risk of forfeiture;
- (c) amounts realized from the sale, exchange or other disposition of stock acquired under a qualified stock option;
- (d) other amounts that receive special tax benefits, such as premiums for group-term life insurance (but only to the extent that the premiums are not includible in the Participant's gross income); and
- (e) (for any determination period in which no Self-Employed Individual benefits under the Plan pursuant to IRS Regulations Section 1.410(b)-3(a)) any other deferred compensation (other than deferred compensation described in the preceding sentence), reimbursements, expense allowances, cash or noncash fringe benefits, moving expenses and welfare benefits.

However, the Compensation of a Participant who is re-employed after a period of military service shall be determined in accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended. In addition, for years beginning after 2008, Compensation includes payments to a Participant who does not currently perform services for the Employer by reason of qualified military service (within the meaning of Section 414(u) of the Code) to the extent that these payments do not exceed the amount that this individual would have received if he had continued to perform services for the Employer rather than entering qualified military service.

The amount of annual Compensation taken into account for the purpose of determining a Participant's contributions or benefits for any determination period beginning after 1988 shall not exceed the annual Compensation limit in effect for that determination period. Except as provided below, this annual Compensation limit is \$200,000 as adjusted for increases in the cost of living in accordance with Section 401(a)(17)(B) of the Code, for determination periods beginning after 2001. For this purpose, the cost of living adjustment in effect for a calendar year applies to any determination period beginning in that calendar year.

However, in no event will the annual Compensation limit be less than it was on July 1, 1993 for any Participant of a governmental plan described in Section 1.401(a)(17)-1(d)(4)(ii) of the Treasury Regulations.

The annual Compensation limit for a short determination period of fewer than twelve consecutive months is an amount equal to the annual Compensation limit for the calendar year in which the short determination period begins multiplied by a fraction, the denominator of which is 12 and the numerator of which is the number of months in the short determination period.

If Compensation for any prior determination period is taken into account in determining a Participant's contributions or benefits for the current determination period, the Compensation for such prior period is subject to the applicable annual Compensation limit in effect for that prior period. For the purpose of determining a Participant's contributions or benefits for any determination period beginning after 2001, the annual Compensation limit for any determination period beginning before 2002 is \$200,000.

For the purposes of this Section 2.7, the determination period shall be the Plan Year.

- 2.8 **"Contract"** means a contract listed in Appendix A of this Plan document that holds funds on behalf of a Participant under this Plan. A Contract must be either an annuity contract described in Section 403(b)(1) of the Code or a custodial account described in Section 403(b)(7) of the Code.
- 2.9 **"Early Retirement Age"** means the date on which a Participant attains his 55th birthday.
- 2.10 **"Early Retirement Date"** means the first day of any month on or after a Participant's Early Retirement Age and before his Normal Retirement Age on which the Participant elects, by written notification to the Plan Administrator, to retire.
- 2.11 **"Eligible Spouse"** means the person to whom a Participant is legally married at his Benefit Commencement Date or any earlier date on which a distribution of all or a portion of the Participant's Accounts is made under this Plan, provided that an Eligible Spouse shall include a surviving spouse under Section 9 of the Plan and a former spouse if required pursuant to a qualified domestic relations order as defined in Section 414(p) of the Code.
- 2.12 **"Employee"** means any person employed as a common law employee by the Employer or any other employer that adopts this Plan and is required to be aggregated with such Employer under Section 414(b), (c), (m) or (o) of the Code.

In the case of a Public School, an Employee must be paid by a State and an elected or appointed public official is not considered an Employee unless his election or appointment is conditioned on his training or experience in the field of education in accordance with Section 1.403(b)-2(b)(10) of the Treasury Regulations.

The term "Employee" also includes a self-employed minister or chaplain described in Sections 414(e)(5)(A)(i)(I) and (II) of the Code.

In addition, for years beginning after 2008, an individual who receives differential pay from the Employer during a period of qualified military service in accordance with Section 414(u)(12) of the Code shall be considered an Employee receiving wages for purposes of this Plan.

- 2.13 **"Employer"** means the company indicated in Section 1.1(a) and any other corporation which has adopted or hereafter adopts the Plan with the approval of the company.
- 2.14 **"Employer Base Contribution"** means an Employer Contribution made to this Plan on behalf of a Participant pursuant to Section 1.3(c).
- 2.15 **"Employer Contributions"** means the total contributions (Employer Matching Contributions and Employer Base Contributions, if specified in Section 1.3(b) and (c)), made by an Employer to this Plan.
- 2.16 **"Employer Matching Contributions"** means an Employer Contribution made to this Plan on behalf of a Participant pursuant to Section 1.3(b) on account of a Salary Reduction Contribution made by such Participant.

- 2.17 **"Entry Date"** means the applicable date indicated in Section 1.9.
- 2.18 **"ERISA"** means the Employee Retirement Income Security Act of 1974 and any amendments thereto.
- 2.19 **"Highly Compensated Employee"** means Highly Compensated Active Employees and Highly Compensated Former Employees. For Determination Years beginning after 2008, a Highly Compensated Active Employee includes any Employee who performs services for the Employer during the Determination Year and either (a) is or was a 5% owner (as defined in Section 416(i)(1) of the Code) at any time during the Determination Year or the Look-Back Year; or (b) received Compensation from the Employer for the Look-Back Year in excess of \$105,000 (as adjusted pursuant to Sections 414(q) and 415(d) of the Code), and was one of the Top-Paid Group for the Look-Back Year. For this purpose, the **"Top-Paid Group"** for a year consists of the top 20% of the Employer's Employees ranked on the basis of compensation paid during that year.

For this purpose, the **"Determination Year"** used to determine who is a Highly Compensated Employee shall be the Plan Year. The **"Look-Back Year"** shall be the twelve-month period immediately preceding the Determination Year.

A Highly Compensated Former Employee (a) includes any Employee who separated from service (or was deemed to have separated) before the Determination Year; (b) performs no services for the Employer during the Determination Year; (c) and was a Highly Compensated Active Employee for either the year of separation or any Determination Year ending on or after the Employee's 55th birthday.

The determination of who is a Highly Compensated Employee, including the determinations of the number and identity of Employees in the top-ten group, the top 100 Employees, the number of Employees treated as officers and the Compensation that is considered, shall be made in accordance with Section 414(q) of the Code and the regulations thereunder.

- 2.20 **"Issuer"** means the insurance company that issued any Contract described in Section 403(b)(1) of the Code and the custodian of any Contract described in Section 403(b)(7) of the Code.
- 2.21 **"Non-Highly Compensated Employee"** means any Employee who is not a Highly Compensated Employee.
- 2.22 **"Normal Retirement Age"** means the date on which the Participant attains his 65th birthday.
- 2.23 **"Normal Retirement Date"** means the first day of the month coinciding with or next following a Participant's Normal Retirement Age, on which a Participant elects, by written notification to the Plan Administrator, to retire.
- 2.24 **"Participant"** means an eligible Employee who has met the participation requirements as specified in Section 1.2 and is covered under the terms of this Plan. An Employee who would be a Participant but for the failure to elect to make a Salary Reduction Contribution shall be treated as a Participant on whose behalf no Employer Matching Contribution is made.
- 2.25 **"Plan"** means the Thrift Plan of the Employer as set forth herein and as it may be amended from time to time.
- 2.26 **"Prior Employer"** means any prior employer of an Employee, other than the current Employer, which contributed to a pension plan funded under a Contract with Mutual of America Life Insurance Company under which the Employee was a participant.

- 2.27 **"Prior Employer's Plan"** means any pension plan of a Prior Employer funded under a contract with Mutual of America Life Insurance Company under which an Employee may become entitled to a benefit.
- 2.28 **"Prior Plan"** means, with respect to any Participant, the Employer's plan as in effect before the date indicated in Section 1.1(b).
- 2.29 **"Public Educational Institution" or "Public School"** means a State-sponsored educational organization described in Section 170(b)(1)(A)(ii) of the Code (relating to educational organizations that normally maintain a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where educational activities are regularly carried out).
- 2.30 **"Qualified Church-Controlled Organization (QCCO)"** means an organization described in Section 3121(w)(3)(B) of the Code and the Treasury regulations thereunder, and generally refers to any church controlled, tax-exempt organization described in Section 501(c)(3) of the Code, other than an organization which:
- (A) offers goods, services, or facilities for sale, other than on an incidental basis, to the general public, other than goods, services, or facilities which are sold at a nominal charge which is substantially less than the cost of providing such goods, services, or facilities; and
  - (B) normally receives more than 25% of its support from either: (1) governmental services, or (2) receipts from admissions, sales of merchandise, performance of services, or furnishings of facilities, in activities which are not unrelated trades or businesses, or both.
- 2.31 **"Related Employer"** means any entity that is an eligible 403(b) sponsor which is under common control with the Employer under Section 414(b), (c), (m) or (o) of the Code. If the Employer is a Public School, a Church or a QCCO, the Employer shall determine which entities are Related Employers based on a reasonable, good faith standard and taking into account the special rules applicable under IRS Notice 89-23.
- 2.32 **"Roth Contributions"** means Salary Reduction Contributions that have been designated as Roth Contributions described in Section 402A of the Code. Except as otherwise provided, Roth Contributions shall be treated in the same way as other Salary Reduction Contributions for all purposes of this Plan.
- 2.33 **"Salary Reduction Contributions"** means elective deferrals made by the Employer on behalf of a Participant pursuant to a salary reduction agreement between the Participant and the Employer, including any amounts contributed pursuant to the automatic enrollment provision of Section 1.3(a)(2).
- 2.34 **"Severance From Employment"** means that an Employee ceases to be employed by the Employer maintaining the Plan or a Related Employer that is eligible to maintain a Section 403(b) Plan under Section 1.403(b)-2(b)(8) of the Regulations (an "eligible employer"), even if the Employee remains employed with another entity that is a Related Employer where either (a) such Related Employer is not an eligible employer or (b) the Employee is employed in a capacity that is not employment with an eligible employer.
- 2.35 **"State"** means a State, a political subdivision of a State, or an agency or instrumentality of a State. "State" includes the District of Columbia (pursuant to Section 7701(a)(10) of the Code). An Indian tribal government is treated as a State pursuant to Section 7871(a)(6)(B) of the Code for purposes of Section 403(b)(1)(A)(ii) of the Code.

2.36 **"Vested Retirement Age"** means a Participant's Normal Retirement Age, unless Section 1.5 indicates that the Participant's right to the amounts in his Accounts attributable to Employer Contributions shall be 100% nonforfeitable upon the attainment of an earlier age.



## Section 3 - SERVICE

### 3.1 Hour Of Service

**"Hour of Service"** means:

- (a) Each hour for which an Employee is paid, or entitled to payment, for the performance of duties for the Employer. These hours shall be credited to the Employee for the computation period in which the duties are performed; and
- (b) 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, provided, however, that no more than 501 Hours of Service shall be credited under this Clause (b) for any single continuous period (whether or not such period occurs in a single computation period). Hours under this paragraph shall be calculated and credited pursuant to Section 2530.200b-2 of the Department of Labor Regulations which are incorporated herein by this reference; and
- (c) Each hour for which back pay, irrespective of mitigation of damages, is either awarded or agreed to by the Employer. The same Hours of Service shall not be credited both under Clause (a) or Clause (b), as the case may be, and under this Clause (c). These hours shall be credited to the Employee for the computation period or periods to which the award or agreement pertains rather than the computation period in which the award, agreement or payment is made; and
- (d) Each hour for which an Employee would have been scheduled to work for the Employer during the period of time that he is absent from work because of service with the Armed Forces of the United States, but only if the Employee returns to work within the period during which he retains reemployment rights pursuant to federal law.

Hours of Service shall be determined on the basis of actual hours for which an Employee is paid or entitled to payment.

Hours of Service shall be credited for employment with other members of an affiliated service group (under Section 414(m) of the Code), a controlled group of corporations (under Section 414(b) of the Code), or a group of trades or businesses under common control (under Section 414(c) of the Code), of which the adopting Employer is a member and any other entity required to be aggregated with the Employer pursuant to Section 414(o) of the Code and the regulations thereunder. Hours of Service shall also be credited for any individual considered an employee for purposes of this Plan under Section 414(n) or Section 414(o) of the Code and the regulations thereunder.

Where the Employer maintains the plan of a predecessor employer, service for such predecessor employer shall be treated as service for the Employer.

### 3.2 Eligibility Service

Except as provided in Section 1.2(b), an Employee shall be credited with a **"Year of Service"** for the first eligibility computation period described in Section 1.2(e) during which the Employee completes the number of Hours of Service as selected in Section 1.2(c) and for each eligibility computation period thereafter during which the Employee completes such Hours of Service.

During the Employee's initial or subsequent eligibility computation period, in the case of an Employee who is absent from work for any period after December 31, 1984 (a) by reason of the pregnancy of the Employee, (b) by reason of the birth of a child of the Employee, (c) by reason of the placement of a child with the Employee in connection with the adoption of such child by the

Employee, or (d) for purposes of caring for such child for a period beginning immediately following such birth or placement, the Plan shall treat as Hours of Service, solely for purposes of determining under this paragraph whether a One Year Break-in-Service has occurred, the Hours of Service that normally would have been credited such Employee but for such absence (or if the number of such hours cannot be determined, then 8 hours per day) up to a maximum of 501 hours. Such hours shall be credited to the year in which such absence begins if such crediting shall prevent a Break-in-Service from occurring or if not required to be credited for that purpose, to the immediately following year.

In addition, solely for purposes of determining whether a One Year Break in Service for eligibility purposes has occurred in a computation period, an Employee who is absent from work on or after April 6, 1995 due to an unpaid leave of absence required by the Family and Medical Leave Act of 1993 shall receive credit for the Hours of Service that would otherwise have been credited to such individual but for such absence, or in any case in which such hours can not be determined, 8 Hours of Service per day of such absence.

Moreover, to the extent required by Section 414(u) of the Code, a Participant's period of military service shall not be treated as a Break-in-Service if he is re-employed by the Employer.

A "One Year Break-in-Service" for purposes of this Section shall be an eligibility computation period described above during which the Employee does not complete more than 500 Hours of Service.

Year(s) of Service and Breaks-in-Service shall be measured on the same eligibility computation period.

If the Plan requires more than one Year of Service under Section 1.2(b), and an Employee has a One Year Break-in-Service before satisfying that requirement, service before such break shall not be taken into account for purposes of this Section.

If a Participant does not have a nonforfeitable right to any part of his Accounts derived from Employer Contributions, Year(s) of Service before a period of consecutive One Year Breaks-in-Service shall not be taken into account in computing eligibility service if the number of consecutive One Year Breaks-in-Service in such period equals or exceeds the greater of five or the aggregate number of Year(s) of Service. Such aggregate number of Year(s) of Service shall not include any Year(s) of Service disregarded under the preceding sentence by reason of prior Breaks-in-Service.

If a Participant's Year(s) of Service is disregarded pursuant to the preceding paragraph, such Participant shall be treated as a new Employee for eligibility purposes. If a Participant's Year(s) of Service is not disregarded pursuant to the preceding paragraph, such Participant shall continue to participate in the Plan, or if terminated, shall participate immediately upon reemployment.

For purposes of applying the two preceding paragraphs in Plan Years beginning after 2005, a Participant shall be considered vested in a portion of his Employer Contribution Accounts if he is vested in any portion of his Employee Contribution Accounts.

**Any other provision of this Plan Document to the contrary notwithstanding, Eligibility Service, as defined herein, shall include all service with Boy Scouts of America or any Boy Scout council.**

### 3.3 Vesting Service

Except as provided in Section 1.5, an Employee's entire Period of Service as hereinafter defined shall be credited to the Employee as Years of Vesting Service. In computing total Years of Vesting Service, credit shall be granted for years and completed months of service, any fraction of a month being considered as one-twelfth of a year.

A "Period of Service" shall mean the period of time beginning on the day an Employee first performs an Hour of Service for the Employer and ending on his Employment Severance Date.

A Period of Service under this Plan shall also include:

- (a) any period during which the Employee is absent from work with the Employer after his Employment Severance Date if he returns to work with the Employer within the twelve-month period following the earlier of his Employment Severance Date and his most recent date of absence from employment for any reason,
- (b) in the case of an Employee who terminates his employment with the Employer and who is later reemployed, the period beginning on the date on which he completes an Hour of Service for the Employer after his date of reemployment (exclusive of any period referred to in the preceding Clause (a)) and ending on a subsequent Employment Severance Date, and

If the Employer is a member of an affiliated service group (under Section 414(m) of the Code), a controlled group of corporations (under Section 414(b) of the Code), or a group of trades or businesses under common control (under Section 414(c) of the Code), service shall be credited for service with any individual member of such group. Service shall also be credited for any individual required under Section 414(n) or Section 414(o) of the Code to be covered as an Employee of any Employer aggregated under Sections 414(b), (c) or (m) of the Code for purposes of this Plan.

A Period of Service under this Plan shall not include any period between the first and second anniversaries of the date on which an Employee begins a period of absence from work with the Employer due to maternity or paternity reasons (as defined in Section 3.4) if such Employee's leave of absence for such reasons extends beyond such first anniversary.

In the case of a Participant who has five or more consecutive One Year Breaks-in-Service, all Years of Vesting Service after such Breaks-in-Service shall be disregarded for the purpose of vesting his Accounts that accrued before such Breaks-in-Service. In addition, in the case of a Participant who has five or more consecutive One Year Breaks-in-Service, all Years of Vesting Service before such Breaks-in-Service shall be disregarded for the purpose of vesting his Accounts that accrued before and after such Breaks-in-Service unless such Participant had a nonforfeitable right to any part of his Accounts derived from Employer contributions upon his Employment Severance Date.

For this purpose, a "One Year Break-in-Service" is a period of twelve consecutive months in which the Participant does not earn Vesting Service as described in this Section. However, an absence from work for up to 24 consecutive months for maternity or paternity reasons (as defined in Section 3.4) shall not count toward a One Year Break-in-Service even if the Participant does not receive Vesting Service for the entire period of absence. In addition, an absence from work on or after April 6, 1995 due to an unpaid leave of absence required by the Family and Medical Leave Act of 1993 shall not count toward a One Year Break in Service for vesting purposes. Moreover, to the extent required by Section 414(u) of the Code, a Participant's period of military service shall not be treated as a Break-in-Service if he is re-employed by the Employer.

For purposes of applying the two preceding paragraphs in Plan Years beginning after 2005, a Participant shall be considered vested in a portion of his Employer Contribution Accounts if he is vested in any portion of his Employee Contribution Accounts.

**Any other provision of this Plan Document to the contrary notwithstanding, Vesting Service, as defined herein, shall include all service with Boy Scouts of America or any Boy Scout council.**

### **3.4 Employment Severance Date**

Except as provided in the following paragraph, an Employee's Employment Severance Date shall mean the earlier of (a) the date on which the Employee quits, is discharged, retires, or dies, and (b) the date that marks the first anniversary of the date on which the Employee is first absent from work with the Employer due to disability, vacation, leave, layoff or similar reason.

Anything in the preceding paragraph to the contrary notwithstanding, an Employee's "**Employment Severance Date**" shall mean:

- (a) in the case of an Employee who is absent from work with the Employer for service with the Armed Forces of the United States, the Employee's date of termination of employment with the Employer unless such Employee returns to the employment of the Employer in accordance with Section 414(u) of the Code or other federal law; and
- (b) solely as it applies to the Employment Severance Date for determining when a Break-in-Service has occurred, in the case of an Employee who is absent from work with the Employer for maternity or paternity reasons, the date that marks the second anniversary of the date on which the Employee begins a period of absence from work with the Employer due to maternity or paternity reasons if such leave of absence extends beyond the first anniversary of such first date of absence.

For purposes of this Section 3, an absence from work for maternity or paternity reasons means an absence by reason of (a) the pregnancy of the Employee, (b) the birth of a child of the Employee, (c) the placement of a child with the Employee in connection with the adoption of such child by such Employee, or (d) the care of such child for a period beginning immediately following such birth or placement.

**Any other provision of this Plan Document to the contrary notwithstanding, for purposes of determining an Employee's Employment Severance Date, all service with Boy Scouts of America or any Boy Scout council will be counted.**

### **3.5 Qualified Military Service**

Employees shall be credited with Eligibility Service and Vesting Service with respect to qualified military service in accordance with Section 414(u) of the Code.

## Section 4 - ELIGIBILITY FOR PLAN PARTICIPATION

### 4.1 When An Employee Becomes A Participant

Each Employee of the Employer who has satisfied the eligibility requirements of Section 1.2 shall become a Participant in the Plan on the Effective Date of this Plan.

If indicated in Section 1.1(c), each Employee, on the Amendment Effective Date, who was a Participant in the Plan as it existed before the Amendment Effective Date shall continue to be a Participant in this Plan on the Amendment Effective Date.

Any other Employee shall become a Participant in the Plan on the first Entry Date coincident with or next following the date on which he has completed the eligibility requirements specified in Section 1.2.

In the event an Employee who is not a member of the Eligible Class of Employees becomes a member of the Eligible Class, such Employee shall participate immediately if (a) he has completed both the minimum age and service requirements indicated in Section 1.2(b) and (b) he would have otherwise previously become a Participant of the Plan had he been in the Eligible Class.

In the event a Participant becomes ineligible to participate in this Plan because he is no longer a member of the Eligible Class of Employees and has not incurred a Break-in-Service, such Participant shall participate immediately upon his return to the Eligible Class of Employees. If such Participant shall incur a Break-in-Service, eligibility shall be determined under the Break-in-Service rules, as specified in Section 3.2.

**Any other provision of this Plan Document to the contrary notwithstanding, an Employee of Boy Scouts of America or any Boy Scout council other than the Employer indicated in Section 1.1(a), shall not become a Participant in this Plan and will not be eligible to make Salary Reduction Contributions or to receive allocations of Employer Matching or Employer Base Contributions unless and until he is an Employee of the Employer indicated in Section 1.1(a) and has satisfied the eligibility requirements of this Plan and is a member of the Eligible Class of Employees.**

### 4.2 Participation Procedures

The Plan Administrator shall determine the Employees who are eligible to become Participants. Any Employee eligible to become a Participant shall be provided with such forms for his execution as may be needed for plan administration purposes and shall consent to be bound by the terms and conditions of this Plan and any and all amendments thereto as may be adopted from time to time.

Any eligible Employee may elect to make Salary Reduction Contributions (including Roth Contributions) as specified pursuant to Section 1.3(a). Such Participant shall execute a written enrollment form and a salary reduction agreement specifying the amount of his includible compensation to be withheld for allocation to his Employee Contribution Accounts for Roth Contributions and his Employee Contribution Accounts for other Salary Reduction Contributions.

Any eligible Employee who elects not to make Salary Reduction Contributions to this Plan on his original Entry Date, may on any later Entry Date, elect to contribute by completing a salary reduction agreement as provided by the Employer.

## **Section 5 - CONTRIBUTIONS**

### **5.1 Salary Reduction Contributions**

By completing an enrollment form and salary reduction agreement pursuant to Section 4.2, any eligible Employee may elect to defer receipt of a portion of his includible compensation and direct the Employer to contribute that deferral to this Plan on his behalf as a Salary Reduction Contribution. Any Salary Reduction Contribution so authorized by a Participant shall be paid to the Plan by the Employer as soon as administratively practicable but no later than the 15th business day of the calendar month immediately following the calendar month in which that contribution was withheld from the Participant's pay (or such other deadline required or permitted by the Department of Labor).

Salary Reduction Contributions on behalf of any eligible Employee shall be subject to the provisions of Sections 5.5, 5.6, and 5.7 of the Plan. The amount of includible compensation deferred by an eligible Employee for any calendar year shall not exceed the limitations described in Sections 402(g) of the Code. Any Salary Reduction Contributions on behalf of an Employee may be reduced prospectively at the discretion of the Employer to satisfy the limitations of Sections 401(m), 402(g), 403(b)(2) and 415 of the Code. In addition, Salary Reduction Contributions on behalf of a Participant who has made a withdrawal due to financial Hardship shall be restricted in accordance with Section 8.4. Moreover, to the extent required under Section 414(u) of the Code, a Participant who is re-employed after a period of military service shall be permitted to make additional contributions to this Plan in an amount not to exceed the Salary Reduction Contributions that he would have been permitted to make if he had continued in employment with the Employer during that period of military service.

An eligible Employee's salary reduction agreement commencing Salary Reduction Contributions shall take effect as soon as reasonably practicable as of the first day of a pay period beginning on or after the latest of (a) the date specified in that salary reduction agreement, (b) the date that the salary reduction agreement is received by the Employer or (c) the Entry Date that the eligible Employee first became a Participant pursuant to Section 4.1. An eligible Employee's salary reduction agreement commencing Salary Reduction Contributions may not be retroactively applied to includible compensation already earned prior to the date of the agreement, shall be irrevocable as to Salary Reduction Contributions made while the agreement is in effect, and shall remain in effect until the earlier of (a) the date that the salary reduction agreement is modified or revoked pursuant to this Section 5.1, or (b) the earliest date that the Employee is no longer eligible to make Salary Reduction Contributions pursuant to Section 1.2.

An eligible Employee who previously authorized the Employer to make Salary Reduction Contributions on his behalf may modify, cease or resume those contributions by completing a new salary reduction agreement. An eligible Employee's salary reduction agreement modifying, ceasing or resuming Salary Reduction Contributions shall take effect as soon as reasonably practicable as of the first day of a pay period beginning on or after the later of (a) the date specified in the salary reduction agreement or (b) the date that the salary reduction agreement is received by the Employer. An eligible Employee's salary reduction agreement modifying, ceasing or resuming Salary Reduction Contributions may not be applied retroactively, shall be irrevocable as to Salary Reduction Contributions made while the agreement is in effect and shall remain in effect until the earlier of (a) the date that the salary reduction agreement is modified or revoked pursuant to this Section 5.1, or (b) the earliest date that the Employee is no longer eligible to make Salary Reduction Contributions pursuant to Section 1.2.

Any Salary Reduction Contribution made on behalf of an eligible Employee shall be allocated to the Employee Contribution Accounts maintained for that Participant pursuant to Section 6.1.

For purposes of this Section 5.1, a Participant's right to make, modify, cease or resume Salary Reduction Contributions by executing a salary reduction agreement shall include the right to

designate how much (if any) of those Salary Reduction Contributions shall be treated as Roth Contributions.

Salary Reduction Contributions on behalf of a Participant for any taxable year beginning after 2001 shall be a portion of his includible compensation for that year determined under Section 403(b)(3) of the Code not to exceed 100%.

Salary Reduction Contributions on behalf of a Participant for any taxable year beginning after 2001 shall not exceed the dollar limitation contained in Section 402(g) of the Code in effect for such taxable year, except to the extent permitted under Section 414(v) of the Code, if applicable.

Any Participant who is otherwise eligible to make Salary Reduction Contributions for a Plan Year ending after 2001, and who has attained age 50 before the close of the taxable year beginning or ending in that Plan Year, shall be eligible to make catch-up contributions in accordance with, and subject to the limitations of, Section 414(v) of the Code. Such catch-up contributions shall not be taken into account for purposes of the provisions of the Plan implementing the required limitations of Sections 402(g) and 415 of the Code. The Plan shall not be treated as failing to satisfy the provisions of the Plan implementing the requirements of Sections 403(b)(12) or 410(b) of the Code, as applicable, by reason of the making of such catch-up contributions.

Notwithstanding the above, a Participant's Salary Reduction Contributions for any taxable year beginning after 2008 shall be any percentage of his Includible Compensation for that year not to exceed 100%.

Any Salary Reduction Contributions made on behalf of a Participant for any taxable year beginning after 2008 shall be remitted to the Issuer of any Contract listed in Part I of Appendix A that is selected by the Participant and permits such contributions.

## **5.2 Employer Contributions**

The Employer shall contribute to this Plan on behalf of each Participant the amount necessary to provide any allocation of Employer Contribution to which the Participant is entitled under Sections 1.3(b) and 1.3(c) of the Plan, subject to the limitations of Sections 5.6, and 5.7.

Any Employer Matching Contributions made pursuant to Section 1.3(b) shall also be subject to the provisions of Sections 5.3 and 5.4 of the Plan.

If a Participant is re-employed after a period of military service, the Employer shall also contribute to this Plan the amount necessary to provide any additional allocation to which such Participant is entitled under Section 414(u) of the Code.

Any Employer Contributions made on behalf of a Participant shall be allocated to the Employer Contribution Accounts for that Participant pursuant to Section 6.1.

The Employer may also contribute to this Plan any additional amounts necessary to correct a violation of the tax qualification or other legal requirements in accordance with the Employee Plans Compliance Resolution System (currently described in IRS Revenue Procedure 2013-12) or the Voluntary Fiduciary Correction Program adopted by the Department of Labor.

Any Employer Contributions made on behalf of a Participant for any taxable year beginning after 2008 shall be remitted to the Issuer of any Contract listed in Part I of Appendix A that is selected by the Participant and permits such contributions, subject to Section 1.7.

All Employer Contributions for a Plan Year shall be paid to the Plan no later than the 15th day of the tenth calendar month following the close of the Employer's taxable year (or fiscal year, if the Employer has no taxable year) with or within which that Plan Year ends.

All Employer Matching Contributions for a Plan Year shall be paid to the Plan no later than the last day of the twelfth calendar month following the close of the Plan Year.

### 5.3 Actual Contribution Percentage (ACP) Test

For purposes of the following tests the term "**Actual Contribution Percentage**", hereafter "**ACP**", means the average of the Contribution Percentages of the eligible Participants in a specified group. The term "**Contribution Percentage**" means the ratio (expressed as a percentage) of a Participant's Contribution Percentage Amounts to his Compensation for a Plan Year.

The term "**Contribution Percentage Amounts**" means the Employer Matching Contributions made on behalf of such Participant for a Plan Year. Such Contribution Percentage Amounts shall not include Employer Matching Contributions that are forfeited to correct Excess Aggregate Contributions, or because the contributions to which they relate are Excess Contributions or Excess Elective Deferrals.

The ACP for Participants who are Highly Compensated Employees for each Plan Year and the ACP for Participants who are Non-Highly Compensated Employees for the same Plan Year must satisfy one of the following tests:

- (a) The ACP for Participants who are Highly Compensated Employees for the Plan Year shall not exceed the ACP for Participants who are Non-Highly Compensated Employees for the same Plan Year multiplied by 1.25; or
- (b) The ACP for Participants who are Highly Compensated Employees for the Plan Year shall not exceed the ACP for Participants who are Non-Highly Compensated Employees for the same Plan Year multiplied by two, provided that the ACP for Participants who are Highly Compensated Employees does not exceed the ACP for Participants who are Non-Highly Compensated Employees by more than two percentage points, or such lesser amount as may be required by applicable regulations prohibiting the multiple use of this alternative limitation (b), if the Employer that maintains this Plan also maintains a retirement plan subject to the actual deferral percentage test described in Section 401(k)(3) of the Code. Any reduction of this alternative limitation (b) required by these regulations will apply only to Highly Compensated Employees eligible under both this Plan and the plan subject to Section 401(k)(3) of the Code.

#### Special Rules

- (a) The ACP of any group of Participants for any Plan Year shall be the average Contribution Percentage of that group for that Plan Year.
- (b) If the Employer so elects in accordance with Section 401(m) of the Code and applicable IRS regulations, any Compensation paid to a Participant during any part of a Plan Year in which he did not satisfy the eligibility requirements for Employer Matching Contributions shall be disregarded for the purpose of determining the ACP of that Participant for that Plan Year.
- (c) If the Employer so elects in accordance with Section 401(m) of the Code and applicable IRS regulations, the ACP test shall be applied separately to the group of Participants who have not attained age 21 and completed at least one Year of Service for eligibility.
- (d) For any Plan Year beginning after 1998, the Employer may elect in accordance with Section 401(m) of the Code, to apply the ACP test without regard to all Non-Highly Compensated



Employees who have not attained age 21 and completed at least one Year of Service for eligibility.

- (e) **Multiple Use:** If one or more Highly Compensated Employees participate in both a plan subject to the ADP test and a plan subject to the ACP test maintained by the Employer and the sum of the ADP and ACP of those Highly Compensated Employees subject to either or both tests exceeds the Aggregate Limit for a Plan Year beginning after 1996 and before 2002, then the ACP of those Highly Compensated Employees who also participate in a plan subject to the ADP test shall be reduced so that the limit is not exceeded. The ACP of such Highly Compensated Employees shall be reduced in order of their Contribution Percentage Amounts, beginning with the largest of those amounts. The amount by which each Highly Compensated Employee's Contribution Percentage Amount is reduced shall be treated as an Excess Aggregate Contribution. The ADP and ACP of Highly Compensated Employees are determined after any corrections required to meet the ADP and ACP tests and are deemed to be the maximum permitted under such tests for the Plan Year. Multiple use does not occur if either the ADP and ACP of Highly Compensated Employees does not exceed 1.25 multiplied by the ADP and ACP of Non-Highly Compensated Employees.
- (f) For purposes of determining the ACP test, Employer Matching Contributions shall be considered made for a Plan Year if made no later than the end of the twelve-month period beginning on the day after the close of the Plan Year.
- (g) If this Plan is aggregated with another retirement plan or plans for purposes of Section 410(b) of the Code, this Section 5.3 shall be applied by determining the applicable Contribution Percentages as if all such plans were a single plan.
- (h) For purposes of this Section, the Contribution Percentage for any Participant who is a Highly Compensated Employee and who is eligible to have Contribution Percentage Amounts allocated to his Accounts under two or more plans maintained by the Employer, shall be determined as if the total of such Contribution Percentage Amounts were made under one plan. If a Highly Compensated Employee participates in two or more such plans that have different plan years, his ACP under any plan for any plan year shall be determined by aggregating all of his Contribution Percentage Amounts allocated under all such plans during the plan year being tested. Notwithstanding the foregoing, certain plans shall be treated as separate if mandatorily disaggregated under regulations under Section 401(m) of the Code.
- (i) The Employer shall maintain records sufficient to demonstrate satisfaction of the ACP test.
- (j) The requirements of this Section 5.3 do not apply to a plan maintained by a Church or a Qualified Church-Controlled Organization described in Section 3121(w)(3) of the Code, or a governmental plan described in Section 414(d) of the Code.

#### 5.4 Distribution Of Excess Aggregate Contributions

Notwithstanding any other provision of this Plan, Excess Aggregate Contributions (as defined in Section 5.8(c)) plus any income and minus any loss allocable thereto, shall be forfeited, unless vested under the terms of this Plan, or if vested, distributed no later than the last day of each Plan Year to Participants to whose Accounts such Excess Aggregate Contributions were allocated for the preceding Plan Year. Excess Aggregate Contributions shall be treated as Annual Additions under Section 5.8(a) even if forfeited or distributed.

**Determination of Income and Loss:** Excess Aggregate Contributions for Plan Years beginning prior to 2008 shall be adjusted for any income or loss up to the date of distribution. The income or loss allocable to such Excess Aggregate Contributions is the sum of (a) income or loss allocable to the Participant's Employer Contribution Accounts for the Plan Year (to the extent that amounts therein are used in the ACP test) multiplied by a fraction, the numerator of which is such

Participant's Excess Aggregate Contributions for the year and the denominator is the Participant's account balance attributable to Contribution Percentage Amounts without regard to any income or loss occurring during such Plan Year; and (b) 10% of the amount determined under (a) above, multiplied by the number of whole calendar months between the end of the Plan Year and the date of distribution, counting the month of distribution if distribution occurs after the 15th day of the month.

Excess Aggregate Contributions for Plan Years beginning after 2007 shall be adjusted for any income or loss up to the end of the Plan Year. The income or loss allocable to such Excess Aggregate Contributions is the income or loss allocable to the Participant's Employer Contribution Accounts for the Plan Year (to the extent that amounts therein are used in the ACP test) multiplied by a fraction, the numerator of which is such Participant's Excess Aggregate Contributions for the year and the denominator is the Participant's account balance attributable to Contribution Percentage Amounts without regard to any income or loss occurring during such Plan Year.

## 5.5 Distribution Of Excess Elective Deferrals

Notwithstanding any other provision of the Plan, Excess Elective Deferrals assigned to this Plan by a Participant for a taxable year, plus any income and minus any loss allocable thereto, shall be distributed to that Participant no later than the first April 15 following the close of that taxable year. Notwithstanding the vesting provisions of Section 7.2, any Employer Matching Contributions attributable to any Excess Elective Deferrals distributed to a Highly Compensated Employee shall be treated as forfeitures pursuant to Section 7.3.

(a) **Determination of Income and Loss:** Any Excess Elective Deferrals for a taxable year shall be adjusted for any income or loss up to the end of the taxable year. The income or loss allocable to such Excess Elective Deferrals is the income or loss allocable to the Participant's Salary Reduction Contribution Accounts for the taxable year multiplied by a fraction, the numerator of which is such Participant's Excess Elective Deferrals for the year and the denominator of which is the Participant's account balance attributable to Elective Deferrals, without regard to any income or loss occurring during such taxable year.

(b) **Definitions:**

(1) **"Elective Deferrals"** shall mean any Salary Reduction Contributions made to the Plan at the election of the Participant in lieu of cash compensation under Section 1.3(a) pursuant to a salary reduction agreement. With respect to any taxable year, a Participant's Elective Deferral is the sum of all contributions made on behalf of such Participant pursuant to an election to defer under any qualified plan described in Section 401(k) of the Code; any simplified employee pension cash or deferred arrangement as described in Section 402(h)(1)(B) of the Code, any plan as described under Section 501(c)(18) of the Code, any contributions made on behalf of a Participant for the purchase of an annuity contract under Section 403(b) of the Code pursuant to a salary reduction agreement and for taxable years beginning after 1996, salary reduction contributions to a Simple Retirement Account described in Section 408(p) of the Code. Elective Deferrals shall not include any deferrals properly distributed as excess Annual Additions or any Automatic Enrollment contributions withdrawn pursuant to Section 8.3(a)(12).

(2) **"Excess Elective Deferrals"** shall mean a Participant's Elective Deferrals for a taxable year that exceed the limitation under Section 402(g) of the Code for such year (including, if applicable, the dollar limitation on catch-up contributions under Section 414(v) of the Code for that year). Excess Elective Deferrals shall be treated as Annual Additions under Section 5.8(a) unless such amounts are distributed no later than the first April 15 following the close of the Participant's taxable year.

- A. **Basic Annual Limitation.** Except as provided below, the dollar limitation under Section 402(g) of the Code is \$15,500 for taxable years beginning in 2008. After 2008, the \$15,500 limitation will be adjusted by the Secretary of the Treasury for cost-of-living increases in multiples of \$500 under Section 402(g)(4) of the Code.
- B. **Special Section 403(b) Catch-Up for Employees with 15 Years of Service.** If the Employer is a "qualified organization" described in Section 1.403(b)-4(c)(3)(ii) of the Treasury Regulations, the dollar limitation under Section 402(g) of the Code for any "qualified employee" is increased by the least of (i), (ii) or (iii) below:
- (i) \$3,000; or
  - (ii) The excess of \$15,000 over the total special 403(b) catch-up elective deferrals made for the qualified employee by the qualified organization for prior years; or
  - (iii) The excess of:
    - \$5,000 multiplied by the number of years of service of the qualified employee with the qualified organization, over
    - The total Salary Reduction Contributions made for the employee by the qualified organization.

For this purpose, a "qualified employee" means an employee who has completed at least 15 years of service taking into account only employment with the Employer, and a "year of service" means a year described in Sections 1.403(b)-2(b)(21) and 1.403(b)-4(e) of the Treasury Regulations and the includible compensation definition of Section 5.8(b).

- C. **Age 50 Catch-Up Contributions.** In the case of a Participant aged 50 or older by the end of a taxable year, the dollar limitation described in (A) or (B) above is increased by the amount of his Salary Reduction Contributions that may be Age 50 Catch-Up Contributions under Section 414(v) of the Code. A Participant's Age 50 Catch-Up Contributions may not exceed \$5,000 for taxable years beginning in 2008. After 2008, the \$5,000 limitation will be adjusted by the Secretary of the Treasury for cost-of-living increases in multiples of \$500 under Section 414(v) (2)(C) of the Code.

Amounts in excess of the Basic Annual Limitation set forth in (A) above shall be allocated first to the Special Section 403(b) Catch-Up for Employees with 15 Years of Service under (B) above and next as Age 50 Catch-Up Contributions under (C) above.

A Participant may assign to this Plan any Excess Elective Deferral made during a taxable year of the Participant by notifying the Plan Administrator in writing of the amount of the Excess Elective Deferral to be assigned on or before the first March 15 following the close of that taxable year. A Participant is deemed to notify the Plan Administrator of any Excess Elective Deferrals that arise by taking into account only those Elective Deferrals made to this Plan. In no event shall an Issuer be responsible for any failure to timely distribute any Excess Deferral from its Contract unless the Plan Administrator notifies it in writing at its home office no later than the first March 15 following the close of the taxable year in which the Excess Deferral was made, or as otherwise provided by the Contract. Notification by the affected Participant to the Issuer shall be deemed notification by the Plan Administrator for this purpose, if so permitted by the Contract.

## 5.6 Limitation On Contributions

In no event shall contributions be allocated to a Participant's Accounts resulting in an Annual Addition to such Accounts for any Limitation Year in excess of the "Maximum Permissible Amount" permitted by Section 415 of the Code and described below:

Except as provided by Section 414(v) of the Code, for Limitation Years beginning after December 31, 2001, the Maximum Permissible Amount is the lesser of (a) or (b) below:

- (a) \$40,000, as adjusted for increases in the cost of living under Section 415(d) of the Code; or
- (b) 100% of that Participant's Compensation for such Limitation Year.

The Compensation limitation referred to in (b) shall not apply to any contribution for medical benefits (within the meaning of Section 401(h) or Section 419A(f)(2) of the Code) which is otherwise treated as an Annual Addition under Section 415(l)(1) or Section 419A(d)(2) of the Code.

However, a Participant may elect to have his Maximum Permissible Amount determined under Section 415(c)(7) of the Code if his Employer is a Church organization subject to that Code Section. Under Section 415(c)(7)(A) of the Code, a Participant may elect a Maximum Permissible Amount of up to \$10,000 per Limitation Year until the Annual Additions received due to that election total \$40,000. Under Section 415(c)(7)(C) of the Code, a Participant performing services for a Church organization outside of the United States may elect a Maximum Permissible Amount of \$3,000 per Limitation Year if his adjusted gross income (determined separately and without regard to community property laws) does not exceed \$17,000.

Any contribution made on behalf of a Participant who is re-employed after a period of military service in accordance with Section 414(u) of the Code shall comply with the contribution limit in effect for the Limitation Year to which that contribution relates, rather than the Limitation Year in which that contribution is made.

If a short Limitation Year is created by an amendment changing the Limitation Year to a different twelve consecutive month period, the Maximum Permissible Amount for that short Limitation Year shall be adjusted according to this paragraph. The dollar limitation in (a) shall be reduced by a fraction, the denominator of which is 12 and the numerator of which is the number of months (including any fractional month) in the short Limitation Year. The Compensation limitation in (b) shall be based only on Compensation for the short Limitation Year.

Before the Participant's actual Includible Compensation for any Limitation Year is determined for purposes of this Section 5.6, the Maximum Permissible Amount may be determined on the basis of the Participant's estimated Compensation for such Limitation Year. Such estimated Compensation shall be determined on a reasonable basis and shall be uniformly determined for all Participants similarly situated. Any Employer Contributions based on estimated annual Compensation shall be reduced by any Excess Amount carried over from preceding years.

As soon as is administratively feasible after the end of the Limitation Year, the Maximum Permissible Amount for such Limitation Year shall be determined on the basis of the Participant's actual Compensation for such Limitation Year.

The Maximum Permissible Amount that may be allocated to a Participant's Accounts under this Plan for a Limitation Year is reduced by the amount of any Annual Additions allocated to his accounts under all of the following plans for that Limitation Year:

- a) Any other plan or arrangement described in Section 403(b) of the Code maintained by the Employer;

- b) Any other plan or arrangement described in Section 403(b) of the Code, any defined contribution plan qualified under Section 401(a) or 403(c) of the Code, and any simplified employee pension described in Section 408(k) of the Code maintained by an employer that is controlled by the Participant in accordance with Sections 414(b), 414(c) and 414(h) of the Code; and
- c) Any other plan or arrangement described in Section 403(b) of the Code maintained by any other employer that employs the Participant.

Each Participant is responsible for providing the Plan Administrator with any information necessary to apply the aggregation rules discussed above. The Plan Administrator shall provide each Participant with a written or electronic notice that explains these rules in terms calculated to be understood by the average Participant, and warns the Participant that failure to provide the necessary information may subject him to adverse federal income tax consequences. Each Participant will be provided with this notice annually, starting with the year that he becomes a Participant.

### 5.7 Disposition Of Excess Amounts

Contributions to a Participant's Accounts under this Plan for a Limitation Year will be reduced prospectively to the extent necessary to prevent an Excess Amount for that Year. If an Excess Amount nevertheless results with respect to a Participant for a Limitation Year (due to the aggregation of plans, the reallocation of forfeitures, or otherwise), such Excess Amount shall be allocated to a separate account described in Section 72 of the Code and distributed to him as soon as administratively possible in accordance with the terms of the Contract to which that excess amount was allocated. This separate account will be treated as a separate contract subject to Section 403(c) (or any other applicable provision) of the Code, and amounts held in such account may be distributed at any time, notwithstanding any other provision of the Plan.

### 5.8 Definitions

The following terms as used in this Section 5 shall have the meanings defined.

- (a) The term "**Annual Additions**" means the sum of:
  - (1) all Employer contributions including Employer contributions to a simplified employee pension (whether or not under a salary reduction agreement);
  - (2) All Salary Reduction Contributions and employee contributions (but not Rollover Contributions described in Section 5.10 or age 50 catch-up contributions described in Section 5.5(b)(2)(C) and Section 414(v) of the Code);
  - (3) forfeitures; and
  - (4) amounts allocated, after March 31, 1984, to an individual medical account, as defined in Section 415(l)(2) of the Code, which is part of a pension or annuity plan maintained by the Employer and amounts derived from contributions paid or accrued after December 31, 1985, in taxable years ending after such date, which are attributable to post-retirement medical benefits allocated to the separate account of a Key Employee, as defined in Section 419A(d)(3) of the Code, under a welfare benefit fund, as defined in Section 419(e) of the Code, maintained by the Employer.

For this purpose, any Excess Amount applied to reduce Employer Contributions in a Limitation Year shall be considered part of the Annual Additions for such Limitation Year.

However, restorative payments to the Plan intended to make up losses due to a breach of fiduciary duty in accordance with Section 1.415(c)-1(b)(2)(ii)(C) of the Treasury Regulations shall not be considered part of the Annual Additions for any Limitation Year beginning on or after July 1, 2007.

- (b) The term “**Compensation**” has the following meaning for the purposes of Sections 5.3, 5.4, 5.6 and 5.7. For these purposes Compensation means the Participant's earned income, wages, salaries, fees for professional services, and other amounts received (in cash or otherwise) for personal services actually rendered in the course of employment with the Employer, to the extent that such amounts are includible in gross income during the Limitation Year, including, but not limited to, commissions paid salesmen, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips, bonuses, reimbursements, fringe benefits, and expense allowances. Except as provided below, Compensation shall not include:
- (1) Employer contributions to a plan of deferred compensation which are not includible in the Participant's gross income for the taxable year in which contributed, or Employer contributions under a simplified employee pension plan to the extent such contributions are excludable by the Participant, or any distributions from a plan of deferred compensation;
  - (2) other amounts which received special tax benefits such as premiums for group-term life insurance (but only to the extent that the premiums are not includible in the Participant's gross income), or contributions made by the Employer (whether or not under a salary reduction agreement) towards the purchase of an annuity contract described in Section 403(b) of the Code (whether or not the contributions are actually excludable from the Participant's gross income);
  - (3) amounts realized from the exercise of a non-qualified stock option, or when restricted stock (or property) held by the Participant either becomes freely transferable or is no longer subject to a substantial risk of forfeiture; and
  - (4) amounts realized from the sale, exchange, or other disposition of stock acquired under a qualified stock option.

However, Compensation includes salary reduction contributions that are not includible in the gross income of the Participant under Sections 125, 132(f), 402(g)(3) or 457 of the Code. Compensation shall be limited to \$200,000 as adjusted in accordance with Section 401(a)(17)(B) of the Code for the purposes of Sections 5.3 and 5.4 (and for the purposes of Section 5.6 for Limitation Years beginning on or after July 1, 2007).

Compensation for any Limitation Year is the Compensation actually paid or made available during such year.

Notwithstanding the above, compensation for a participant in a defined contribution plan who is permanently and totally disabled (as defined in Section 22(e)(3) of the Code) is the compensation such participant would have received for the Limitation Year if the participant had been paid at the rate of compensation paid immediately before becoming permanently and totally disabled, if the plan so provides in accordance with Section 415(c)(3)(C) of the Code.

Compensation also includes Employer contributions made pursuant to a salary reduction agreement that are not includible in the gross income of the Participant under Section 132(f) of the Code.

Notwithstanding the above, a Participant's Compensation means his includible compensation for the purpose of applying Section 5.6 in Limitation Years beginning on or after July 1, 2007. For this purpose, a Participant's includible compensation means any salary, wages or other remuneration received by that Participant that is includible in his gross income for federal income tax purposes for the most recent period that is a "year of service", plus any salary reduction contributions made on his behalf that are not includible in his gross income for federal income tax purposes under Sections 125, 132(f), 402(g)(3) or 457(b) of the Code, including Salary Reduction Contributions to this Plan. The includible compensation of a self-employed minister is his earned income described in Section 401(c)(2) of the Code, determined without regard to Section 911 of the Code. Includible compensation shall be determined without regard to community property laws and in accordance with applicable Treasury Regulations.

For purposes of determining includible compensation, a "year of service" means each full year during which the Participant is a full-time employee of the Employer, plus fractional credit for each part of a year in which the Participant is either a full-time or part-time employee. If the Employer is a Church-related organization that has an association with another Church-related organization (as defined in Section 414(e)(3)(D) of the Code), a Participant's periods of service with both organizations will be aggregated to determine his years of service in accordance with Sections 1.403(b)-2(b)(21) and 1.403(b)-4(e) of the Treasury Regulations.

For Limitation Years beginning on or after July 1, 2007, to the extent required by Treasury Regulations, Compensation includes amounts includible in the gross income of the Participant under Sections 409A or 457(f)(1)(A) of the Code.

Moreover, for Limitation Years beginning on or after July 1, 2007, Compensation for a Limitation Year shall also include Compensation paid by the later of 2½ months after an Employee's Severance From Employment with the Employer maintaining the Plan or the end of the Limitation 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; or
- the payment is for unused accrued bona fide sick, vacation or other leave that the Employee would have been able to use if employment had continued; or
- the payment is received by the Employee pursuant to a nonqualified unfunded deferred compensation plan and would have been paid at the same time if employment had continued, but only to the extent includible in gross income.

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 2½ months after the date of Severance From Employment or the end of the Limitation 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 Section 414(u)(1) of the Code) 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; or

- Compensation paid to a Participant who is permanently and totally disabled, as defined in Section 22(e)(3) of the Code, provided salary continuation applies to all Participants who are permanently and totally disabled for a fixed or determinable period, or the Participant was not a Highly Compensated Employee, as defined in Section 414(q) of the Code immediately before becoming disabled.

Back pay, within the meaning of Section 1.415(c)-2(g)(8) of the Treasury Regulations, shall be treated as Compensation for the Limitation Year to which the back pay relates, to the extent that the back pay represents wages and Compensation that would otherwise be included under this definition.

In addition, the Compensation of a Participant who is re-employed after a period of military service shall be determined in accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended. Moreover, for years beginning after 2008, Compensation includes payments to a Participant who does not currently perform services for the Employer by reason of qualified military service (within the meaning of Section 414(u) of the Code) to the extent that these payments do not exceed the amount that this individual would have received if he had continued to perform services for the Employer rather than entering qualified military service.

- (c) The term “**Employer**” means (1) the Employer that adopts this Plan, and (2) all members of a controlled group of corporations, as defined in Section 414(b) of the Code as modified by Section 415(h), all commonly controlled trades or businesses, as defined in Section 414(c) of the Code as modified by Section 415(h), or affiliated service groups, as defined in Section 414(m) of the Code, of which the Employer is a part, and any other entity required to be aggregated with the Employer pursuant to regulations under Section 414(o) of the Code.
- (d) “**Excess Aggregate Contributions**” means, with respect to any Plan Year, the excess of (1) the aggregate Contribution Percentage Amounts taken into account in computing the numerator of the Contribution Percentage actually made on behalf of Highly Compensated Employees for such Plan Year, over (2) the maximum Contribution Percentage Amounts permitted by the ACP test. For Plan Years beginning before 1997, Excess Aggregate Contributions are determined by reducing contributions made on behalf of Highly Compensated Employees in order of their Contribution Percentages beginning with the highest of such percentages. For Plan Years beginning after 1996, Excess Aggregate Contributions are determined by reducing contributions made on behalf of Highly Compensated Employees in order of the dollar amount of their contributions, beginning with the Highly Compensated Employee with the largest contribution. This determination shall be made after first determining Excess Elective Deferrals under Section 5.5 and disposing of Excess Amounts under Section 5.7 of the Plan.
- (e) The term “**Excess Amount**” means the excess of a Participant's Annual Additions for a Limitation Year over the Maximum Permissible Amount. Except as provided below, a Participant's Excess Amount will be deemed to consist of the Annual Additions most recently allocated on his behalf. However:
  - 1) For this purpose, Annual Additions attributable to any defined contribution plan qualified under Section 401(a) or 403(c) of the Code, or any simplified employee pension described in Section 408(k) of the Code, that must be aggregated with this Plan under Section 5.6, will be deemed to have been allocated first.
  - 2) If Excess Amounts are allocated on behalf of a Participant under this Plan and another plan or arrangement of the Employer described in Section 403(b) of the Code, on the same day of a Limitation Year, the Excess Amount attributable to this Plan shall be an amount equal to the product of (A) and (B) below:



- A. The total Excess Amount allocated on that date.
  - B. The ratio of (i) the total Annual Additions allocated on behalf of the Participant for the Limitation Year as of that date under this Plan, divided by (ii) the total Annual Additions allocated on behalf of the Participant for the Limitation Year as of that date under this Plan and all other plans or arrangements of the Employer described in Section 403(b) of the Code.
- (f) The term “**Limitation Year**” means a calendar year unless the Employer chooses another twelve consecutive month period in accordance with applicable regulations. However, if Annual Additions under this Plan must be aggregated with Annual Additions under another retirement plan, the Limitation Year under this Plan shall be the same as the Limitation Year under that other plan, if so required by applicable regulations.

## 5.9 Corrections

Any corrective distribution required under this Section 5 shall be withdrawn from the Contract(s) and investment alternatives selected by the Participant, if the Participant's written election is received by the Issuer at its home office at least 30 business days before the deadline for making that distribution, or as otherwise provided by the Contract. If the Participant's written election is not received by the Issuer at the time and in the matter required by the Contract, the corrective distribution shall be withdrawn from one or more of the Participant's investment alternatives determined in accordance with the order of priority used to pay the monthly per participant administrative charge under the Contract, unless otherwise provided by the Contract.

If a Participant is required to receive a corrective distribution from his Employee Contribution Accounts under this Section 5, amounts attributable to designated Roth Contributions described in Section 402A of the Code shall be withdrawn after amounts attributable to other Salary Reduction Contributions unless the Participant elects otherwise in writing. The Participant's written election must be received by Mutual at its home office at least 30 business days before the deadline for making that corrective distribution.

If a Participant's Salary Reduction Contributions are reduced prospectively to satisfy the limitations of this Section 5, his designated Roth Contributions described in Section 402A of the Code shall be reduced after his other Salary Reduction Contributions unless the Participant elects otherwise in writing. The Participant's written election must be received by Mutual at its home office at least 30 business days before that reduction.

## 5.10 Rollover Contributions

Unless otherwise indicated in Section 1.10, this Plan will accept the following rollover contributions on behalf of any Participant to the Contract of any Issuer listed in Part I or Part II of Appendix A that is selected by the Participant and permits such contributions:

- (a) An eligible rollover distribution from an arrangement described in Section 403(b) of the Code, excluding after-tax employee contributions (but including distributions attributable to designated Roth Contributions described in Section 402A of the Code, effective January 1, 2007).
- (b) An eligible rollover distribution from an individual retirement account or annuity described in Section 408(a) or (b) of the Code (other than a Roth IRA described in Section 408A of the Code).
- (c) An eligible rollover distribution from a qualified plan described in Section 401(a) or 403(a) of the Code, excluding after-tax employee contributions (but including distributions attributable

to designated Roth Contributions described in Section 402A of the Code, effective January 1, 2006).

- (d) A repayment of a "qualified hurricane distribution" or similar distribution in accordance with Section 1400Q(a) of the Code.

Any rollover contributions to this Plan that are attributable to designated Roth Contributions described in Section 402A of the Code shall be separately accounted for. No rollovers attributable to designated Roth Contributions may be accepted by this Plan unless Section 1.3(a)(3) permits Participants to make such contributions.

Any rollover accepted must be in cash, a check drawn on a U.S. bank, or other property acceptable to the Issuers of the affected Contracts. The Plan Administrator and the Issuers of the affected Contracts shall have the authority to determine whether a proposed rollover satisfies the requirements of this Section and applicable law. The Plan Administrator and the Issuers of the affected Contracts may require such information and establish such procedures as they may deem appropriate to assure that all rollover contributions accepted by this Plan comply with the applicable law and Contract provisions, including tax basis accounting and corrective distributions of invalid rollovers and earnings thereon. Any rollover contributions accepted on behalf of a Participant will be allocated to the Rollover Contribution Accounts maintained for that Participant under the affected Contracts.

## Section 6 - PARTICIPANT ACCOUNTS

### 6.1 Individual Accounts

All funds held on behalf of a Participant under this Plan shall be invested in one or more Contract(s) in accordance with the terms of those Contract(s) and the Participant's directions (subject to Section 1.7).

The Issuer of each Contract shall maintain individual Accounts reflecting the funds allocated on behalf of each Participant who has invested in that Contract. Each individual Account shall reflect (a) the total amount of contributions, transfers and other additions that are allocated to such Account on the Participant's behalf and the earnings thereon, (b) any payments or withdrawals on the Participant's behalf from such Accounts, and (c) any expenses of such Accounts attributable to the Participant's interest therein.

The Issuer of each Contract shall maintain the following individual Accounts on behalf of each Participant who has invested in that Contract, and any other accounts necessary for the proper administration of the Plan:

- (a) **"Employee Contribution Accounts"** reflecting all Salary Reduction Contributions made on the Participant's behalf. Separate Employee Contribution Accounts will be maintained for any amounts attributable to designated Roth Contributions described in Section 402A of the Code.
- (b) **"Employer Contribution Accounts"** reflecting all Employer Matching Contributions and Employer Base Contributions, if applicable, made on the Participant's behalf.
- (c) **"Rollover Contribution Accounts"** means the individual accounts maintained for each Participant reflecting all Rollover Contributions, if applicable, made on his behalf. Participants may direct the investment and transfer of amounts in their Rollover Contribution Accounts in accordance with Sections 6.2 and 6.3. Separate Rollover Contribution Accounts will be maintained for any amounts attributable to designated Roth contributions described in Section 402A of the Code
- (d) **"Excess Amount Accounts"** reflecting any Excess Amounts allocated on the Participant's behalf pursuant to Section 5.7.

### 6.2 Investment Accounts

Each Contract shall provide for one or more investment alternatives. Subject to Section 1.7, any Participant who invests in a Contract may choose which investment alternative(s) his contributions will be allocated to, in accordance with the terms of that Contract. If a Participant does not designate which investment alternative(s) his contributions will be allocated to, such contributions shall be allocated to the investment account designated in Plan Section 1.12.

### 6.3 Transfer Between Accounts

Each Contract shall provide for one or more investment alternatives. Subject to Section 1.7, any Participant who invests in a Contract may elect to transfer funds from one investment alternative under that Contract to another, in accordance with the terms of that Contract.

## 6.4 Direct Rollover

### (a) Election

Except as provided below, any Distributee who is entitled to an Eligible Rollover Distribution from this Plan may elect to forgo receipt of any portion of that distribution and direct the Plan Administrator to pay such amount on his behalf to an Eligible Retirement Plan as a Direct Rollover. However:

- (1) **Forms.** An election to have all or a part of an Eligible Rollover Distribution paid as a Direct Rollover must be made in writing on a form provided by the Plan Administrator.
- (2) **Small Distributions.** No portion of a Distributee's Eligible Rollover Distribution may be paid as a Direct Rollover unless that distribution, plus all other Eligible Rollover Distributions payable to that Distributee during the same calendar year, may be reasonably expected to have a total value of at least \$200. Eligible Rollover Distributions attributable to designated Roth Contributions described in Section 402A of the Code shall be included for the purpose of determining whether a Distributee is entitled to a Direct Rollover in accordance with this Section.
- (3) **Partial Rollovers.** No amount less than \$500 may be paid as a Direct Rollover unless it represents the total value of an Eligible Rollover Distribution. Amounts attributable to designated Roth Contributions described in Section 402A of the Code shall be included for the purpose of determining whether a Distributee is entitled to a Direct Rollover in accordance with this Section.
- (4) **Single Eligible Retirement Plan.** All Direct Rollovers attributable to the same Eligible Rollover Distribution must be paid to the same Eligible Retirement Plan.

### (b) Notice

Any Distributee who is entitled to an Eligible Rollover Distribution from this Plan shall be notified of his right to have it paid to an Eligible Retirement Plan on his behalf as a Direct Rollover. This notice shall be provided in writing by the Plan Administrator in accordance with Section 402(f) of the Code. If an Eligible Rollover Distribution is payable in the form of a non-periodic payment, this notice shall be provided at least 30 days, but not more than 180 days before that payment is made. If a series of periodic Eligible Rollover Distributions is payable, this notice shall be provided at least 30 days, but not more than 180 days before the first payment is made and at least once every calendar year thereafter, until payments cease. However, an eligible Rollover Distribution may be paid less than 30 days after the Distributee has been notified of his Direct Rollover rights if the Distributee so elects.

### (c) Definitions

For the purpose of this Section 6.4, the following terms have the following meanings:

- (1) **"Direct Rollover"** means the payment by the Plan of all or a part of an Eligible Rollover Distribution to an Eligible Retirement Plan selected by the Distributee.
- (2) **"Distributee"** means any of the following payees:
  - (A) a Participant; or
  - (B) a former Participant; or
  - (C) the surviving spouse of a Participant or former Participant; or

(D) a spouse or former spouse of a Participant or former Participant who is entitled to a distribution from this Plan under a qualified domestic relations order, as defined in Section 414(p) of the Code.

(3) **“Eligible Retirement Plan”** means a retirement plan that is permitted to accept a Direct Rollover on behalf of a Distributee.

For any portion of an Eligible Rollover Distribution that consists of after-tax employee contributions that are not includible in the Distributee’s gross income, an “Eligible Retirement Plan” means a plan described in Section 401(a) of the Code or an annuity described in Section 403(a) or (b) of the Code that agrees to separately account for that portion, or an individual retirement arrangement described in Section 408 of the Code.

For any other Eligible Rollover Distribution, an “Eligible Retirement Plan” means any of the following plans:

- (A) An individual retirement arrangement described in Section 408 of the Code; or
- (B) A defined contribution plan that is either a qualified trust described in Section 401(a) of the Code or a qualified annuity described in Section 403(a) of the Code; or
- (C) An annuity contract described in Section 403(b) of the Code; or
- (D) An eligible plan described in Section 457(b) of the Code which is maintained by a state, a political subdivision of a state, or any agency or instrumentality of a state or a political subdivision of a state, and which agrees to separately account for amounts transferred to that plan from this Plan; or
- (E) Effective January 1, 2008, a Roth individual retirement arrangement described in Section 408A of the Code.

(4) **“Eligible Rollover Distribution”** means any distribution of all or a part of a Distributee’s benefit under this Plan payable on or after January 1, 1993 except any of the following distributions:

- (A) any distribution that is one of a series of substantially equal periodic payments payable no less frequently than annually over the life (or life expectancy) of the Distributee or the joint lives (or joint life expectancies) of the Distributee and his Beneficiary; or
- (B) any distribution that is one of a series of substantially equal periodic payments payable no less frequently than annually over a specified period of 10 years or longer; or
- (C) any distribution that is required under Section 9.3 of the Plan and Section 401(a)(9) of the Code; or
- (D) Any distribution paid during 2009 to the extent that it would have been a required minimum distribution for 2009 but for the enactment of Section 401(a)(9)(H) of the Code; or
- (E) any distribution that is a corrective distribution made according to Section 5.9; or

- (F) any portion of any distribution that is not includible in the gross income of the Distributee; or
- (G) any other distribution designated by the Commissioner in regulations, revenue rulings, notices and other guidance of general applicability.

An Eligible Rollover Distribution shall include any portion of a distribution paid after December 31, 2001 that consists of after-tax employee contributions that are not includible in the Distributee's gross income and shall exclude any distribution from a Distributee's Accounts on account of a Hardship Withdrawal after December 31, 2001.

**(d) Nonspouse Rollovers**

Any Beneficiary who is entitled to a distribution from this Plan may elect to forgo receipt of any portion of that distribution and direct the Plan Administrator and the Issuer of the affected Contract to pay such amount on his behalf to an individual retirement arrangement described in Section 408 of the Code provided that all of the following conditions are satisfied:

- (1) The Beneficiary is a designated beneficiary described in Section 401(a)(9)(E) of the Code.
- (2) The Beneficiary is not a Distributee.
- (3) The distribution would have been an Eligible Rollover Distribution if it had been payable to a Distributee. For this purpose, the portion of the distribution (if any) that is not eligible for rollover because it is a required minimum distribution described in Section 401(a)(9) of the Code shall be determined in accordance with IRS Notice 2007-7 and any subsequent guidance.
- (4) The individual retirement arrangement that accepts the transfer satisfies the requirements for an inherited IRA described in Section 402(c)(11) of the Code.

## Section 7 - VESTING AND FORFEITURES

### 7.1 Salary Reduction and Rollover Contributions

A Participant shall at all times have a nonforfeitable right to 100% of the amounts in his Employee Contribution Accounts and Rollover Contribution Accounts.

### 7.2 Employer Contributions

A Participant's right to the amounts in his Accounts attributable to Employer Contributions shall be 100% vested and nonforfeitable if:

- (a) he has attained his Vested Retirement Age; or
- (b) his employment with the Employer terminates by reason of death or total and permanent Disability before his Vested Retirement Age; or
- (c) he dies on or after January 1, 2007 while performing qualified military service in accordance with Sections 401(a)(37) and 414(u) of the Code); or
- (d) his employment with the Employer terminates for a reason other than death or total and permanent Disability before his Vested Retirement Age and he has satisfied the vesting requirement indicated in Section 1.5.

If Section 1.5 indicates that partial vesting applies under this Plan, and if the Participant terminates his employment with the Employer for a reason other than death or total and permanent Disability before his Vested Retirement Age, the Participant's nonforfeitable right to the amounts in his Accounts attributable to Employer Contributions shall be equal to the nonforfeitable percentage of such amounts as determined in accordance with the vesting requirement in Section 1.5. All non-vested amounts in the Participant's Accounts shall be maintained in a separate account for the Participant that is subject to forfeiture in accordance with the provisions of Section 7.3 and is treated as a separate contract to which Section 403(c) of the Code applies.

### 7.3 Forfeitures

The term "**Forfeitures**" shall mean those Employer Contributions and any earnings thereon allocated to a Participant's Accounts to which a Participant who terminates employment does not have a nonforfeitable right. All non-vested amounts in the Participant's Accounts shall be forfeited, subject to the repayment provision of Section 9.7, as of the earlier of (a) the date that the former Participant receives a distribution of the vested portion of his Accounts pursuant to Section 9.7 or (b) the date that he completes five consecutive One-Year Breaks-in-Service.

Forfeitures which shall occur during a Plan Year shall be applied in the following order: (i) first to pay any charge under the Contract made in connection with the termination of employment of the Participant whose termination resulted in the Forfeiture and, any other charges under the Contract which are past due; (ii) second, if the Employer so elects, to restore the forfeited portion of the Accounts of reemployed Participants in accordance with this Plan Section 7.3; and (iii) third, to the purpose specified in Section 1.11.

If a Participant is reemployed before incurring five consecutive One Year Breaks-in-Service, the forfeited portion of his Accounts, determined as of the date the Accounts were distributed shall be restored from unapplied forfeitures or from Employer Contributions, subject to the provisions of Section 9.7.

The Participant's Accounts shall be restored no later than the end of the Plan Year following the Plan Year in which repayment occurs pursuant to Section 9.7.

#### 7.4 Disability

A Participant who suffers a Disability shall become fully vested in the amounts in his Accounts as of the date of Disability.

The term "Disability" means the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months.

Disability must be established by either submission of the written opinion of a licensed physician or a determination letter from the Social Security Administration awarding Social Security Disability Benefits.

#### 7.5 Vesting After In-Service Withdrawals

If a Participant receives a distribution from his Employer Contribution Accounts at a time when he has a nonforfeitable right to less than 100% of those Accounts, and the nonforfeitable percentage of those Accounts may increase, the Participant's nonforfeitable portion of those Accounts at any relevant time shall be equal to an amount ("X") determined by the following formula:

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

For the purposes of applying the formula:

P = is the nonforfeitable percentage at the relevant time;

AB = is the account balance at the relevant time;

D = is the amount of the distribution; and

the relevant time is the time at which the vested percentage of the Accounts cannot increase under the Plan.



## **Section 8 - BENEFITS**

### **8.1 Retirement Benefit**

Any Participant who experiences a separation from service shall be entitled to receive a retirement benefit beginning on his Benefit Commencement Date on or after the date that he separated from service, provided by the vested portion of his Accounts as of that Benefit Commencement Date.

### **8.2 Death Benefit**

If a Participant dies before the Benefit Commencement Date as of which he begins to receive his retirement benefit pursuant to Section 8.1, a death benefit provided by the vested portion of the Participant's Accounts, determined in accordance with Section 7, shall become payable under this Plan. Payment of the death benefit shall be made in accordance with the provisions of Section 9.3(g).

Except as provided below, the death benefit payable under this Section 8.2 shall be paid to the Participant's Beneficiary determined according to Section 9.5. However, if the Participant is married at the time of his death, his Beneficiary shall be his Eligible Spouse unless he appointed a substitute Beneficiary in accordance with this Section 8.2 and Section 9.5.

A Participant may not appoint a substitute Beneficiary without the consent of his Eligible Spouse unless it is established to the satisfaction of a Plan representative that the Participant has no Eligible Spouse or that his Eligible Spouse cannot be located. A former spouse of a Participant may not consent to the appointment of a substitute Beneficiary by that Participant if that Participant is married to another person on his date of death.

A Participant's appointment of a substitute Beneficiary must satisfy conditions (a) and (c) below, and his Eligible Spouse's consent (if required) must satisfy all of the following conditions. The consent must be (a) in writing, (b) witnessed by a Plan representative or notary public, (c) identify the substitute Beneficiary who shall receive the death benefit in lieu of the Eligible Spouse, and (d) acknowledge the effect of the substitution. An Eligible Spouse may provide a general consent authorizing the Participant to appoint any substitute Beneficiary (or any member of a specified class of Beneficiaries) without obtaining further spousal consent. However, such a general consent must specifically state that the Eligible Spouse has the right to limit consent to a specific substitute Beneficiary and has voluntarily elected to relinquish that right.

A Participant's appointment of a substitute Beneficiary (and his Eligible Spouse's consent, if required) must be made (and may be revoked) at any time during an election period that begins on the day that the Participant becomes a Participant according to Section 4.1 and ends on the Participant's date of death. However, an appointment of a substitute Beneficiary made before the first day of the Plan Year in which the Participant attains age 35 shall become invalid on that date.

The Plan Administrator shall provide each Participant with a written explanation of the death benefit comparable to the written explanation of the Qualified Joint and Survivor Annuity described in Section 9.1(c). Except as provided below, this explanation of the death benefit shall be furnished to the Participant within the period described in (a) or (b) below, whichever ends last:

- (a) The period beginning on the first day of the Plan Year in which the Participant attains age 32 and ending on the last day of the Plan Year in which he attains age 34.
- (b) The period beginning on the day that the Participant becomes a Participant according to Section 4.1 and ending on the first anniversary of that date.

However, a Participant who terminates his employment with the Employer before his 35th birthday must receive the written explanation of the death benefit within the period beginning one year before, and ending on the first anniversary of the date his employment terminated.

Subject to Section 9.3(b) of the Plan, the Beneficiary may elect to receive the death benefit at any time and according to any form of payment described in Section 9.8 of the Plan or under the Fixed Amount Option described below:

The Fixed Amount Option provides for a specified number of fixed monthly payments to the Beneficiary over a specified period not to exceed his Life Expectancy. The Beneficiary must specify a fixed amount of at least \$100 to be paid each month. For this purpose, the Beneficiary's Life Expectancy will be determined in accordance with Section 9.3(c)(3) as of his Benefit Commencement Date and may not be recalculated. No additional benefits will be payable after the Beneficiary has received the specified number of monthly payments, even if he is still alive. If the Beneficiary dies before receiving the specified number of monthly payments, the commuted value of the remaining payments will be paid in a single sum to the Beneficiary's beneficiary determined in accordance with Section 9.5. Any election of the Fixed Amount Option is irrevocable.

Alternatively, the Beneficiary may elect to forgo receipt of all or part of the death benefit and direct the Plan Administrator to transfer all or part of such amount on his behalf to an individual retirement arrangement described in Section 408 of the Code (or a Roth individual retirement arrangement described in Section 408A of the Code), if so permitted by Section 6.4(d) and Section 402(c)(11) of the Code.

### **8.3 Withdrawals**

#### **(a) Requirements**

A Participant may withdraw funds from any of his Accounts under the Plan prior to his Benefit Commencement Date for any of the following reasons, subject to the terms of the affected Contracts and any restrictions in Section 1.8:

- (1) **Severance From Employment.** The total balance of a Participant's Accounts shall be payable upon his Severance From Employment with the Employer, as described in Sections 1.403(b)-2(b)(19) and 1.403(b)-6(h) of the Treasury Regulations.
- (2) **Death.** The total balance of a Participant's Accounts shall be payable upon his death.
- (3) **Disability.** A Participant who suffers a Disability described in Section 7.4 may withdraw the total balance of his Accounts.
- (4) **Age 59-1/2.** A Participant who has attained age 59-1/2 may withdraw the total balance of his Accounts.
- (5) **Plan Termination.** The total balance of a Participant's Accounts shall be payable upon the termination of this Plan in accordance with Section 12.2.
- (6) **Hardship.** A Participant who experiences a Hardship described in Section 8.4 may withdraw the total balance of his Accounts (except for any earnings allocated to his Employee Contribution Accounts after the close of the last taxable year beginning before January 1, 1989 and any amounts attributable to his Employer Contribution Accounts under a custodial account described in Section 403(b)(7) of the Code).
- (7) **Five Years Participation.** A Participant who has completed at least five years of participation under this Plan since becoming a Participant may withdraw the total balance of his Accounts (except for any amounts allocated to his Employee Contribution Accounts

after the close of the last taxable year beginning before January 1, 1989 and any amounts attributable to his Employer Contribution Accounts under a custodial account described in Section 403(b)(7) of the Code).

- (8) Other Reasons. A Participant may withdraw funds from his Accounts at any time for any reason provided that the amount distributed does not exceed the sum of:
- A. His Rollover Contribution Accounts;
  - B. The total amount allocated to his Employee Contribution Accounts as of the close of the last taxable year beginning before January 1, 1989; and
  - C. His Employer Contribution Accounts under any Contract to which he contributed before January 1, 2009.
- (9) The amount withdrawn satisfies the requirements of a "qualified hurricane distribution" or similar distribution described in Section 1400Q(a) of the Code (for withdrawals on or after August 25, 2005).
- (10) The amount withdrawn satisfies the requirements of a "qualified reservist distribution" described in Section 72(t)(2)(G)(iii) of the Code (for withdrawals on or after September 12, 2001).
- (11) The Participant has been absent from employment with the Employer for at least 30 days due to active military service (as defined in Section 414(u)(12)(B) of the Code) and both of the following conditions are satisfied:
- (i) The amount withdrawn by the Participant does not exceed the amount then allocated to his Employee Contribution Accounts, and
  - (ii) The Participant ceases all employee contributions and salary reduction contributions for a period of at least six months after the date of the withdrawal in accordance with Section 414(u)(12)(B) of the Code.
- (12) In accordance with Code Section 414(w), any Participant who was automatically enrolled in this Plan pursuant to Section 1.3(a)(2) may elect to withdraw all the Salary Reduction Contributions automatically made on his behalf for all payroll periods ending on or before the earlier of (i) or (ii) below (adjusted for earnings and losses):
- (i) The pay day of the second payroll period that begins after the Participant requests this withdrawal; or
  - (ii) The first pay day that occurs at least 30 days after the Participant requests this withdrawal.

Unless the Participant affirmatively elects otherwise, this withdrawal will be treated as an election to cease Automatic Enrollment Contributions as of the earlier of (i) or (ii) above.

This withdrawal may not be elected more than 90 days after the first automatic Salary Reduction Contribution was made on behalf of the Participant pursuant to Section 1.3(a)(2).

Salary Reduction Contributions withdrawn by a Participant under this provision shall not be counted for the purpose of determining any subsequent allocation of Employer Matching Contributions. Any Employer Matching Contributions previously

made on account of Salary Reduction Contributions that are later withdrawn under this provision shall be treated as Forfeitures pursuant to Section 7.3, notwithstanding the vesting provisions of Section 7.2.

Any fee charged for a withdrawal in accordance with this Section will be no higher than the fee that would apply to any other cash withdrawal.

A Participant may not elect a withdrawal in accordance with this Section if he was enrolled pursuant to an automatic contribution arrangement that does not qualify as an eligible automatic contribution arrangement.

**(b) Procedures**

Any request for a withdrawal pursuant to this Section 8.3 shall be made in writing by the Participant to the Plan Administrator at such time, in such manner and on such form as may be prescribed by the Plan Administrator. The Plan Administrator may prescribe rules and procedures governing such requests, including a dollar minimum and/or dollar maximum on the amount that may be withdrawn. Any request for a withdrawal shall comply with the spousal consent requirement of Section 9.1 and the Participant consent requirements of Sections 6.4 and 9.6 (if applicable).

The Plan Administrator shall have the sole discretionary authority to determine whether a Participant satisfies the requirements for a withdrawal under this Section 8.3. However, any request for a withdrawal must comply with the terms of the Contract from which the withdrawal will be made. Any withdrawal will be distributed from the Accounts and Contracts specified by the Participant, subject to the provisions of this Section 8.3 and the terms of the affected Contracts.

Any amount withdrawn by a Participant from his Employee Contribution or Rollover Contribution Accounts pursuant to this Section 8.3 shall be withdrawn from the Investment Accounts selected by him (or pro rata from all of his Investment Accounts if he fails to specify). Amounts attributable to designated Roth Contributions described in Section 402A of the Code shall be withdrawn after amounts attributable to other Salary Reduction Contributions unless the Participant elects otherwise.

**(c) Method of Payment**

Any amount withdrawn pursuant to this Section 8.3 shall be distributed under a method of payment selected by the Participant and permitted by the Contract from which the withdrawal is made, including the single sum and Specified Payment Options permitted by Contracts issued by Mutual of America Life Insurance Company ("Mutual").

The Specified Payments Option provides for a series of monthly withdrawals from the Participant's Accounts. Under this option, the Participant shall specify an amount of at least \$100 to be withdrawn each month from any of his Investment Accounts. The value of the designated Investment Accounts shall be reduced each month by the amount of the specified payment. Monthly withdrawals by a Participant may not commence before the first day of the month in which he attains age 55 (if he has terminated employment) or age 59-1/2 (if he is actively employed). Monthly withdrawals shall continue until the earliest of:

- (1) the death of the Participant;
- (2) the date that the Participant's written notice canceling future payments is received by Mutual at its home office;

- (3) the first date that the value of the Investment Account designated by the Participant is insufficient to provide for the specified payment; or
- (4) the Participant's Benefit Commencement Date.

At any time before monthly withdrawals cease, the Participant may elect in writing to cancel future withdrawals or change the amount to be withdrawn each month. This election shall take effect on the later of the date specified by the Participant or the date that the Participant's written election is received by Mutual at its home office.

#### **8.4 Financial Hardship**

A Participant shall be permitted to make a withdrawal due to Hardship only if all of the following conditions are satisfied:

##### **(a) Immediate and Heavy Financial Need**

- (1) The Plan Administrator determines that the Participant needs the withdrawal to pay one of the following expenses:
  - (A) The cost of medical care (as defined in Section 213(d) of the Code) for the Participant, the Participant's Eligible Spouse or any of his dependents.
  - (B) Tuition and related educational fees for the next twelve months of post-secondary education for the Participant, the Participant's Eligible spouse, or any of his dependents.
  - (C) Expenses directly related to the purchase of a principal residence for the Participant (excluding mortgage payments except as provided below).
  - (D) Payments necessary to prevent the eviction of the Participant from his principal residence or foreclosure on the mortgage on that residence.
  - (E) Expenses for the repair of damage to the Participant's principal residence that would qualify for the casualty loss deduction under Section 165 of the Code, determined without regard to whether the loss exceeds 10% of adjusted gross income (effective for withdrawals in Plan Years beginning after 2005).
  - (F) Funeral expenses for the Participant's deceased parent, spouse, child or dependents as defined in Section 152 of the Code, determined without regard to Section 152(d)(1)(B) of the Code (effective for withdrawals in Plan Years beginning after 2005).
  - (G) Any expense described in paragraph (A), (B) or (F) above for a Beneficiary who is entitled to receive all or part of a Participant's Accounts in the event of the Participant's death in accordance with Section 9.5 (effective for withdrawals on or after August 17, 2006).
  - (H) Any other expense specified by the Internal Revenue Service in a regulation, revenue ruling, notice or other document of general applicability.

##### **(b) Exhaustion Of Other Resources**

The Plan Administrator determines that the Participant has already obtained all nontaxable loans and all distributions (other than Hardship withdrawals) currently available under all plans maintained by the Employer.

**(c) Amount Of Withdrawal**

The Plan Administrator determines that the amount that the Participant wishes to withdraw does not exceed the amount necessary to pay the expenses described in Subsection (a) above, including the amount necessary to pay any federal, state or local income taxes or penalties reasonably anticipated to result from the withdrawal.

**(d) Suspension Of Salary Reduction Contributions**

As soon as reasonably practicable after receipt of his Hardship withdrawal, the Participant ceases all employee contributions and elective deferrals to all plans maintained by the Employer (including Automatic Enrollment Contributions and other Salary Reduction Contributions under Section 5.1) for a period of six consecutive months, except as provided by IRS regulations.

**8.5 Loans To Participants**

If the Employer has elected to permit loans under Section 1.6 of the Adoption Agreement, loans may be made to Participants under this Plan. The Plan Administrator shall administer the loan provisions of the Plan but may engage a service provider, including a duly licensed insurance company issuing contracts in conjunction with the funding of the Plan, to assist in such administration. Fees or charges made by a service provider engaged to provide assistance in the administration of loans made pursuant to this Section 8.5; shall be paid for by the Participant. Such loans shall be based on the following terms and conditions, which may be amended from time to time.

Generally, loans shall (a) be made available to all Participants on a reasonably equivalent basis, (b) bear a reasonable rate of interest that may not exceed the legal limit, may reflect fees or charges made by a service provider engaged to provide assistance in the administration of loans made pursuant to this Section 8.5, and shall be commensurate with interest rates charged by persons in the business of lending money, including duly licensed insurance companies issuing contracts funding qualified retirement plans, which would be made under similar circumstances, (c) be adequately secured, (d) provide for repayment over a reasonable period of time and (e) may not exceed the value of the nonforfeitable portion of the borrower Participant's Accounts. However, such loans shall not be made available to Participants who are Highly Compensated Employees in an amount greater than an amount available to other Participants or to Participants who are in default pursuant to the provisions of a repayment agreement evidencing a loan previously made under this Plan or any plan of the Employer required to be aggregated for purposes of determining the limitation on the amount of loans which may be made under this Section 8.5 as hereinafter set forth. Any application for a loan by a Participant shall be made in writing in such manner as the Plan Administrator shall direct.

Any prospective borrower who is married shall be required to obtain the consent of the borrower's Eligible Spouse for the use of the borrower's vested Accounts as collateral. Such consent must be given within the 90-day period before the loan is secured (if the Eligible Spouse consents in a plan year beginning prior to 2007) or the 180-day period before the loan is secured (if the Eligible Spouse consents in a plan year beginning after 2006). The consent must be given in writing, must acknowledge the effect of the loan and must be witnessed by a Plan representative or notary public. Such consent is irrevocable and shall thereafter be binding upon the consenting Eligible Spouse or any subsequent spouse with respect to that loan. A new consent shall be required if the borrower's vested Accounts are used as collateral for the renegotiation, extension, renewal or other modification of the loan.

Notwithstanding any other provision of this Plan, if a valid spousal consent has been obtained in accordance with the preceding paragraph, the portion of the Participant's vested Accounts used as a security interest held in the Plan by reason of a loan outstanding to the Participant shall be taken

into account for purposes of determining the amount of the Accounts payable at the time of death or distribution, but only if the reduction is used as repayment of the loan. If less than 100% of the Participant's vested Accounts (determined without regard to the preceding sentence) is payable to the surviving Eligible Spouse, then the Accounts shall be adjusted by first reducing the vested Accounts by the amount of the security used as repayment of the loan and then determining the benefit payable to the surviving Eligible Spouse.

In no event may a borrower exceed the maximum number of outstanding loans permitted by Section 1.6(b)(2).

The Plan Administrator shall not approve an application to borrow an amount less than the minimum amount specified in (a) or more than the maximum amount specified in (b) below:

- a) Minimum Loan Amount. In no event shall the Plan Administrator approve an application to borrow an amount less than \$1,000.
- b) Maximum Loan Amount. In no event shall the Plan Administrator approve an application to borrow an amount greater than the least of (1), (2) or (3) below:
  - (1) 50% of the value of the borrower's combined vested Accounts on the day that the loan is made, regardless of the value of those Accounts.

For purposes of this subparagraph (1), amounts held on behalf of the borrower under other retirement plans and programs of the Employer (or any employer that must be combined with the Employer under Section 414(b), (c), (m) or (o) of the Code) shall be treated as part of his Accounts under this Plan in accordance with Section 72(p) of the Code.

- (2) \$50,000, reduced by the excess of (A) over (B):

- A. The largest unpaid loan balance (principal and interest) that the borrower owed to the Plan at any time during the one-year period ending on the day before the day the loan is made.
- B. the unpaid loan balance (principal and interest) that the borrower owes to the Plan on the day that the loan is made.

For the purpose of this subparagraph (2), any amount owed to any plan maintained by the Employer (or by any employer that must be combined with the Employer under Section 414(b), (c), (m) or (o) of the Code) shall be treated as an amount owed to this Plan in accordance with Section 72(p) of the Code.

- (3) The maximum amount permitted by the terms of the Contract(s) that will be used as collateral for the loan under this Section 8.5.

All loans made under this Plan shall be evidenced by a repayment agreement and shall be secured by a pledge of the borrower's Accounts under this Plan. No more than 50% of the value of a borrower's Accounts may be used as collateral for all of his outstanding loans. The borrower shall specify the Accounts and Contract(s) that will be used as collateral for his loan, subject to the provisions of those Contracts. The Plan Administrator and the Issuer(s) of the affected Contract(s) shall specify the repayment schedule for each loan at the time that it is approved. The term specified for the repayment of the loan shall be a reasonable period of time not to exceed ten years if the loan is used to acquire a dwelling unit that is to be used as a principal residence of the borrower within a reasonable period of time. The term specified for the repayment of a loan used for any other purpose shall be a reasonable period of time not to exceed five years.

Anything in the preceding paragraph to the contrary notwithstanding, an amount equal to the

outstanding loan balance plus interest and any other applicable amounts shall be payable in full on the earliest of:

- (a) the date of the Participant's death;
- (b) the date retirement benefits commence to the Participant;
- (c) the first business day following the expiration of the grace period, if any, provided for in the repayment agreement; and
- (d) the date the Plan terminates.

In no event shall a repayment agreement provide for payments to be made less frequently than quarterly or for a repayment schedule that does not result in a substantially level amortization of the loan over the applicable term, except as may be provided in Income Tax Regulations promulgated under Section 72(p) of the Code.

If a borrower defaults on a loan from the Plan, the value of his Accounts pledged as security for that loan shall be reduced by his outstanding loan balance plus interest. However, this reduction shall not occur before the earliest date that the borrower is entitled to a distribution from the Plan.

Notwithstanding anything in the preceding paragraphs to the contrary, a Participant's Employee Contribution Accounts and Rollover Contribution Accounts attributable to designated Roth Contributions described in Section 402A of the Code shall not be considered part of his vested Accounts for the purpose of determining how much he may borrow or for the purpose of securing a loan under this Section 8.5 unless otherwise provided in Section 1.6(b)(3).



## Section 9 - FORM OF BENEFIT PAYMENTS

### 9.1 Joint And Survivor Annuity Requirements

#### (a) Qualified Joint And Survivor Annuity For Married Participants

- (1) Unless an optional form of benefit is selected pursuant to a Qualified Election within the applicable election period ending on the Benefit Commencement Date, a married Participant's vested Accounts shall be paid in the form of the Qualified Joint and Survivor Annuity described in Section 9.1(b)(2) and an unmarried Participant's vested Accounts shall be paid in the form of a Non-Refund Life Annuity described in Section 9.8(a). The Participant may elect to have such annuity distributed upon attainment of the Earliest Retirement Age under this Plan. For elections in plan years beginning prior to 2007, the applicable election period is the 90-day period ending on the Benefit Commencement Date. For elections in plan years beginning after 2006, the applicable election period is the 180-day period ending on the Benefit Commencement Date.
- (2) If a married Participant dies before benefits have commenced, the Participant's vested Accounts shall be paid in accordance with Section 8.2.

#### (b) Definitions

- (1) **"Qualified Election"** means a waiver of a Qualified Joint and Survivor Annuity. Any waiver of a Qualified Joint and Survivor Annuity shall not be effective unless: (A) the Participant's Eligible Spouse consents in writing to the election; (B) the election designates a specific Beneficiary, including any class of beneficiaries or any contingent beneficiaries, which may not be changed without spousal consent (or the Eligible Spouse expressly permits designations by the Participant without any further spousal consent); (C) the Eligible Spouse's consent acknowledges the effect of the election; and (D) the Eligible Spouse's consent is witnessed by a Plan representative or notary public. Additionally, a Participant's waiver of the Qualified Joint and Survivor Annuity shall not be effective unless the election designates a form of benefit payment which may not be changed without spousal consent (or the Eligible Spouse expressly permits designations by the Participant without any further spousal consent). If it is established to the satisfaction of a Plan representative that there is no Eligible Spouse or that the Eligible Spouse cannot be located, a waiver shall be deemed a Qualified Election, notwithstanding there is no consent by the Eligible Spouse.

Any consent by an Eligible Spouse obtained under this provision (or establishment that the consent of an Eligible Spouse may not be obtained) shall be effective only with respect to such Eligible Spouse. A consent that permits designations by the Participant without any requirement of further consent by such Eligible Spouse must acknowledge that the Eligible Spouse has the right to limit consent to a specific Beneficiary, and a specific form of benefit where applicable, and that the Eligible Spouse voluntarily elects to relinquish either or both of such rights. A revocation of a prior waiver may be made by a Participant without the consent of the Eligible Spouse at any time before the commencement of benefits. The number of revocations shall not be limited. No consent obtained under this provision shall be valid unless the Participant has received notice as provided in Section 9.1(c) below.

- (2) **"Qualified Joint and Survivor Annuity"** means an immediate Joint and Survivor with Period Certain and Continuous Annuity for the life of the Participant with a survivor annuity for the life of the Eligible Spouse equal to 66<sup>2</sup>/<sub>3</sub>% of the amount of the annuity which is payable during the joint lives of the Participant and the Eligible Spouse, with 120 monthly payments guaranteed, as described in Section 9.8(e) which can be

purchased with the Participant's vested Accounts. In addition, if both the Participant and the Eligible Spouse die within the 120 month guarantee period, then the benefit being paid to the last survivor of the two shall be continued to the Beneficiary for the balance of the period.

- (3) **"Earliest Retirement Age"** means the earliest date on which the Participant may elect to receive a distribution from the Plan.

(c) **Notice Requirements**

In the case of a Qualified Joint and Survivor Annuity as described in Section 9.1(a)(2), the Plan Administrator shall provide each Participant a written explanation of (1) the terms and conditions of a Qualified Joint and Survivor Annuity; (2) the Participant's right to make, and the effect of, an election to waive the Qualified Joint and Survivor Annuity form of benefit; (3) the rights of a Participant's Eligible Spouse; and (4) the right to make, and the effect of, a revocation of a previous election to waive the Qualified Joint and Survivor Annuity. This written explanation must comply with the requirements of Section 1.417(a)(3)-1 of the Treasury Regulations.

This notice must be provided to the Participant no less than 30 days and no more than 90 days before his Benefit Commencement Date (if the notice is distributed in a Plan Year beginning before 2007) or no less than 30 days and no more than 180 days before his Benefit Commencement Date (if the notice is distributed in a Plan Year beginning after 2006).

However, a distribution may be made or commenced on or after September 22, 1995, less than 30 days after this notice is given pursuant to an affirmative election of the Participant, with the consent of his Eligible Spouse if applicable, provided (a) the Plan Administrator informs the Participant that he has a right to at least 30 days to consider whether to waive the Qualified Joint and Survivor Annuity; (b) the Participant is permitted to revoke the affirmative distribution election at any time prior to the Benefit Commencement Date or, if later, the eighth day following the date the notice was provided; and (c) either the Benefit Commencement Date is after the date the notice was provided to the Participant, or distribution is not made or commenced until after the seventh day following the date the notice was given to the Participant.

Notwithstanding the foregoing, only the Participant must consent to a distribution in the form of a Qualified Joint and Survivor Annuity. Neither the consent of the Participant nor the Eligible Spouse is required for a distribution to the extent it is required to satisfy Sections 401(a)(9), 401(m), 402(g) or 415 of the Code, or any other corrective distribution made in accordance with IRS regulations, or for any withdrawal of Automatic Enrollment contributions pursuant to Section 8.3(a)(12).

**9.2 Determination Of Form of Payment**

Subject to the requirements of Section 9.1, a Participant who is married and who begins to receive payments under this Plan shall have his retirement benefit distributed in the form of a monthly annuity on the Qualified Joint and Survivor Annuity form described in Section 9.1(b)(2). However, at any time during the election period described in Section 9.1(a)(1), such Participant may elect not to have his retirement benefit distributed in this manner and may instead elect to have his retirement benefit distributed in one of the alternative forms of payment described in Section 9.8 subject to the limits on distribution set forth in Section 9.3(a).

Subject to the requirements of Section 9.1, a Participant who is not married and who begins to receive payments under this Plan shall have his retirement benefit distributed in the form of a monthly annuity on the Non-Refund Life Annuity form described in Section 9.8 (a). However, at any time during the election period described in Section 9.1(a)(1), such Participant may elect not to

have his retirement benefit distributed in this manner and may instead elect to have his retirement benefit distributed in one of the alternative forms of payment described in Section 9.8 subject to the limits on distribution set forth in Section 9.3(a).

Notwithstanding anything to the contrary, subject to the requirements of Sections 9.1 and 9.3, any Participant who begins to receive payments under this Plan may elect to have his retirement benefit distributed in any other annuity form to the extent that the Plan may be required to offer such other form by Section 411(d)(6) of the Code and applicable regulations thereunder.

### **9.3 Distribution Requirements**

#### **(a) General Rules**

- (1) **Precedence.** Subject to Section 9.1, the requirements of this Section 9.3 shall apply to any distribution of a Participant's Accounts and will take precedence over any inconsistent provisions of the Plan.
- (2) **Effective Date.** The provisions of this Section 9.3 apply for purposes of determining required minimum distributions for Distribution Calendar Years beginning with the 2003 calendar year. Minimum distributions for Distribution Calendar Years beginning prior to 2003 will be determined and made in accordance with the Plan provisions in effect at that time.
- (3) **Requirements of Treasury Regulations Incorporated.** All distributions required under this Section 9.3 will be determined and made in accordance with the Treasury Regulations under Sections 401(a)(9) and 403(b) of the Code, including the minimum distribution incidental benefit provision of Section 401(a)(9)(G) of the Code. Minimum distributions for Distribution Calendar Years beginning prior to 2003 will be determined and made in accordance with the Treasury Regulations and other guidance in effect at that time.
- (4) **Limits on Distribution Periods.** As of the first Distribution Calendar Year, distributions, if not made in a single sum, may only be made over one of the following periods (or a combination thereof):
  - (A) The life of the Participant;
  - (B) The life of the Participant and a Designated Beneficiary;
  - (C) A period certain not extending beyond the Life Expectancy of the Participant; or
  - (D) A period certain not extending beyond the joint and last survivor expectancy of the Participant and a Designated Beneficiary.

#### **(b) Time and Manner of Distributions**

- (1) **Required Beginning Date.** The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's Required Beginning Date.
- (2) **Death of Participant Before Distributions Begin.** If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:
  - (A) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary, then, except as provided in Paragraph (C) 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, except as provided in Paragraph (C) 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 the Participant's Designated Beneficiary so elects, distributions to the Designated Beneficiary are not required to begin by the date specified in Paragraph (A) or (B) above, but the Participant's entire interest will be distributed to the Designated Beneficiary by December 31 of the calendar year containing the fifth anniversary of the Participant's death. The election must be made no later than the earlier of the end of the calendar year in which distribution would be required to begin under Paragraph (A) or (B) above, or by the end of the calendar year which contains the fifth anniversary of the Participant's (or, if applicable, the surviving spouse's) death. If the Designated Beneficiary fails to make an election under this Paragraph (C), the Participant's entire interest will be distributed no later than December 31 of the calendar year containing the fifth anniversary of the Participant's death, or if later, begin to be distributed by the date specified in Paragraph (A) or (B) above, as applicable.
  - (D) 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.
  - (E) 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 9.3(b)(2), other than Section 9.3(b)(2)(A), will apply as if the surviving spouse were the Participant.
  - (F) For purposes of this Section 9.3(b)(2) and Section 9.3(d), unless Section 9.3(b)(2)(E) applies, distributions are considered to begin on the Participant's Required Beginning Date. If Section 9.3(b)(2)(E) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under Section 9.3(b)(2)(A). If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's Required Beginning Date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under Section 9.3(b)(2)(A)), the date distributions are considered to begin is the date distributions actually commence.
- (3) Forms of Distribution. Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first Distribution Calendar Year distributions will be made in accordance with Sections 9.3(c) and (d). If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Section 401(a)(9) of the Code and the Treasury Regulations.

**(c) Required Minimum Distributions During Participant's Lifetime**

- (1) Amount of Required Minimum Distribution For Each Distribution Calendar Year. During the Participant's lifetime, the minimum amount that will be distributed for each Distribution Calendar Year is the lesser of:
  - (I) The quotient obtained by dividing the Participant's Account Balance by the distribution period in the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury Regulations, using the Participant's age as of the Participant's birthday in the Distribution Calendar Year; or
  - (II) If the Participant's sole Designated Beneficiary for the Distribution Calendar Year is the Participant's spouse, the quotient obtained by dividing the Participant's Account Balance by the number in the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9 of the Treasury Regulations, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the Distribution Calendar Year.
- (2) Lifetime Required Minimum Distributions Continue Through Year of Participant's Death. Required minimum distributions will be determined under this Section 9.3(c) beginning with the first Distribution Calendar Year and up to and including the Distribution Calendar Year that includes the Participant's date of death.

**(d) Required Minimum Distributions After Participant's Death**

- (1) Death On or After Date Distributions Begin
  - (A) Participant Survived by Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is a Designated Beneficiary, the minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the longer of the remaining Life Expectancy of the Participant or the remaining Life Expectancy of the Participant's Designated Beneficiary, determined as follows:
    - (i) 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.
    - (ii) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary, the remaining Life Expectancy of the surviving spouse is calculated for each Distribution Calendar Year after the year of the Participant's death using the surviving spouse's age as of the spouse's birthday in that year. For Distribution Calendar Years after the year of the surviving spouse's death, the remaining Life Expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.
    - (iii) 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 Designated 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 for each subsequent year.

(2) **Death Before Date Distributions Begin.**

(A) **Participant Survived by Designated Beneficiary.** Unless the Participant's interest is distributed in accordance with the five-year rule described in Section 9.3(b)(2)(C) above, if the Participant dies before the date distributions begin and there is a Designated Beneficiary, the minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the remaining Life Expectancy of the Participant's Designated Beneficiary, determined as provided in Section 9.3(d)(1).

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

(C) **Death of Surviving Spouse Before Distributions to Surviving Spouse Are Required to Begin.** If the Participant dies before the date distributions begin, the Participant's surviving spouse is the Participant's sole Designated Beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under Section 9.3(b)(2)(A), this Section 9.3(d)(2) will apply as if the surviving spouse were the Participant.

(e) **Definitions**

The following terms as used in this Section 9.3 shall have the following meanings defined:

(1) **"Designated Beneficiary"** means the individual who is designated as the beneficiary under Section 9.5 of the Plan and is the Designated Beneficiary under Section 401(a)(9) of the Internal Revenue Code and Section 1.401(a)(9)-4, of the Treasury Regulations.

(2) **"Distribution Calendar Year"** means a calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first Distribution Calendar Year is the calendar year immediately preceding the calendar year which contains the Participant's Required Beginning Date. For distributions beginning after the Participant's death, the first Distribution Calendar Year is the calendar year in which distributions are required to begin under Section 9.3(b)(2). The required minimum distribution for the Participant's first Distribution Calendar Year will be made on or before the Participant's Required Beginning Date. The required minimum distribution for other Distribution Calendar Years, including the required minimum distribution for the Distribution Calendar Year in which the Participant's Required Beginning Date occurs, will be made on or before December 31 of that Distribution Calendar Year.

(3) **"Life Expectancy"** means life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9, Q& A-1 of the Treasury Regulations.

- (4) **“Participant’s Account Balance”** means 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.
- (5) **“Required Beginning Date”** means the date determined under (A), (B), (C) or (D) below, (whichever is applicable).
- (A) For a Participant in a plan not maintained by a Church or government, who was a 5% owner for the Plan Year ending in the calendar year in which he attained age 70½, the Required Beginning Date is April 1 of the calendar year following the calendar year in which the Participant attained age 70½.
- (B) If this Plan is a continuation of a plan in effect prior to the effective date of its amendment reflecting changes under the Small Business Job Protection Act of 1996, the Required Beginning Date for any Participant who is not a 5% owner described in (A) above, and who attained age 70½ in a calendar year prior to 2002, is April 1 of the calendar year following the calendar year in which the Participant attained age 70½.
- (C) For all other Participants, the Required Beginning Date is the later of (I) April 1 of the calendar year following the calendar year in which the Participant attained age 70½, or (II) April 1 of the calendar year following the calendar year in which the Participant retired.
- (D) However, a Participant may choose a Required Beginning Date on or after April 1 of the calendar year following the calendar year in which the Participant attained age 70½, but no later than April 1 of the calendar year following the calendar year in which the Participant retires, provided all of the following conditions apply:
- (1) This Plan is a continuation of a plan in effect prior to the adoption date of its amendment reflecting changes under the Small Business Job Protection Act of 1996; and
- (2) That adoption date occurred on or after the first day of the calendar year in which the Participant attained age 70½ or after the close of the remedial amendment period for changes under the Small Business Job Protection Act of 1996 (including any extensions); and
- (3) This Plan does not otherwise permit the Participant to withdraw amounts equal to the payments that the Participant would be required to receive under Section 9.3(a); and
- (4) The plan provisions in effect on that adoption date would have required or permitted that Participant to treat April 1 of the calendar year following the calendar year in which he attained age 70½ as his Required Beginning Date.

**(f) Transitional Rule**

Notwithstanding the other requirements of Sections 9.3(a) and 9.3(b) and subject to the requirements of Section 9.1, distribution on behalf of any Participant, including a five percent owner, may be made in accordance with all of the following requirements (regardless of when such distributions commence):

- (1) The distribution by the Plan is one which would not have disqualified such Plan under Section 401(a)(9) of the Code as in effect before amendment by the Deficit Reduction Act of 1984.
- (2) The distribution is in accordance with the method of distribution designated by the Participant whose Accounts in the Plan are being distributed or, if the Participant is deceased, by a Beneficiary of such Participant.
- (3) Such designation was in writing, was signed by the Participant or the Beneficiary, and was made before January 1, 1984.
- (4) The Participant had accrued a benefit under the Plan as of December 31, 1983.
- (5) The method of distribution designated by the Participant or the Beneficiary specifies the time at which distribution shall commence, the period over which distributions shall be made, and, in the case of any distribution upon the Participant's death, the Beneficiaries of the Participant listed in order of priority.

A distribution upon death shall not be covered by this Section 9.3(f) unless the information in the designation contains the required information described in Section 9.3(b) with respect to the distributions to be made upon the death of the Participant.

For any distribution which commences before January 1, 1984, but continues after December 31, 1983, the Participant, or the Beneficiary, to whom such distribution is being made, shall be presumed to have designated the method of distribution under which the distribution is being made if the method of distribution was specified in writing and the distribution satisfies the requirements in Section 9.3(d)(1).

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

**(g) Commencement Of Benefits**

Notwithstanding anything in the Plan to the contrary, the distribution of a Participant's Accounts shall commence no later than the earlier of (1) or (2) below:



- (1) The latest date permitted under Section 9.3(a), 9.3(b), 9.3(c) or 9.3(d) as applicable.
- (2) Unless the Participant (or his Beneficiary) elects otherwise, the 60th day after the close of the Plan Year in which the latest of the following events occurs:
  - (A) the Participant attains age 65 (or Normal Retirement Age, if earlier);
  - (B) the 10th anniversary of the year that the Participant commenced participation in the Plan; or
  - (C) the Participant terminates employment with the Employer.

For this purpose, the Participant (or his Beneficiary) shall be deemed to have elected to postpone benefit commencement if he fails to consent to a distribution.

**(h) Method Of Payment For Required Distributions**

Any distribution to a Participant or Beneficiary on or after his applicable Required Beginning Date that is intended to comply with the requirements of Section 9.3(a), 9.3(b), 9.3(c) or 9.3(d) shall be paid under one of the forms of payment described in Section 9.8 unless the recipient is a Participant who is currently employed by the Employer, or another method of payment is required under Section 411(d)(6) of the Code and applicable regulations thereunder.

**(i) Temporary Waiver of Minimum Distribution Requirements**

In accordance with Section 401(a)(9)(H) of the Code, the requirements of Plan Sections 9.3(a), 9.3(b), 9.3(c) and 9.3(d) shall not apply for the 2009 calendar year.

Accordingly, the calendar year 2009 will be disregarded for purposes of applying the five-year rule described in Plan Section 9.3(b)(2)(C).

However, for purposes of applying the requirements of Plan Sections 9.3(a), 9.3(b), 9.3(c) and 9.3(d) in calendar years after 2009, a Participant's Required Beginning Date will be determined as if those requirements applied for 2009.

A Participant or Designated Beneficiary who would have been required to receive a minimum distribution for 2009 ("his 2009 RMD") but for the enactment of Section 401(a)(9)(H) of the Code, and who would have satisfied that requirement by withdrawing an amount equal to his 2009 RMD, will not receive that distribution unless he elects otherwise. Affected Participants and Beneficiaries will be given the opportunity to elect such distributions.

**9.4 Small Benefit Payments**

Except as otherwise provided in Section 1.14, if a Participant terminates service, and the value of the Participant's vested Accounts derived from Employer Contributions, Salary Reduction Contributions, and Rollover Contributions, if any, are not greater than \$3,500 for Plan Years prior to August 5, 1997; \$5,000 for Plan Years after August 5, 1997; or, effective for distributions that would be paid on or after March 28, 2005 (after taking into account 45 days for the notice and election period and disregarding any right of a Participant to waive such period), \$1,000, and did not exceed such amount at the time of a prior distribution (for purposes of applying this Section 9.4 prior to October 17, 2000), the Participant shall receive a distribution of the value of the entire vested portion of such Accounts and the non-vested portion shall be treated as a forfeiture. However, no distribution shall be made pursuant to the preceding sentence after the first day of the first period for

which an amount is received in the form of an annuity or other periodic payments unless the Participant and his Eligible Spouse consent in writing to such distribution.

For purposes of this Section, if the value of a Participant's vested Accounts is zero, the Participant shall be deemed to have received a distribution of such vested Accounts. A Participant's vested Accounts shall not include accumulated deductible employee contributions within the meaning of Section 72(o)(5)(B) of the Code for Plan Years beginning before January 1, 1989.

Any amounts attributable to designated Roth Contributions described in Section 402A of the Code shall be included in the value of a Participant's vested Accounts for purposes of determining whether he, his spouse or other beneficiary must receive an involuntary cash-out in accordance with this Section.

A Participant's Rollover Contribution Account (if any) shall be included in the value of his vested Accounts for purposes of determining whether he, his spouse or other beneficiary must receive an involuntary cash-out in accordance with "Small Benefit Payments" or consent to a distribution in accordance with "Restrictions on Immediate Distributions". This applies to all distributions made on or after January 1, 2002.

## **9.5 Beneficiary**

A Beneficiary is an individual or entity that is entitled to receive all or part of the value of a Participant's Accounts (or the remainder due under any method of payment elected by a Participant) in the event of that Participant's death. A Participant may appoint (or change) the Beneficiary entitled to receive any portion of his interest under a Contract subject to the terms of that Contract and this Section 9.

## **9.6 Restrictions On Immediate Distributions**

If the value of a Participant's vested Accounts (including his Rollover Account, if any) exceeds (or at the time of any prior distribution exceeded) \$1,000 (or such greater amount that may be permitted by the Code), and the Accounts are immediately distributable, the Participant and the Participant's Eligible Spouse (or where either the Participant or the Eligible Spouse has died, the survivor) must consent to any distribution of such Accounts. The consent of the Participant and the Eligible Spouse shall be obtained in writing within the applicable election period ending on the Benefit Commencement Date. The applicable election period is the 90-day period ending on the Benefit Commencement Date (for elections in Plan Years beginning before 2007) or the 180-day period ending on the Benefit Commencement Date (for elections in Plan Years beginning after 2006). The Benefit Commencement Date is the first day of the first period for which an amount is paid as an annuity or any other form. The Plan Administrator shall notify the Participant and the Eligible Spouse of the right to defer any distribution until the Participant's Accounts are no longer immediately distributable. Such notification shall include a general description of the material features, and an explanation of the relative values of, the optional forms of benefit available under the Plan in a manner that would satisfy the notice requirements of Section 417(a)(3) of the Code, and shall be provided no less than 30 days and no more than 90 days before the Benefit Commencement Date (if the notice is distributed in a Plan Year beginning before 2007) or no less than 30 days and no more than 180 days before the Benefit Commencement Date (if the notice is distributed in a Plan Year beginning after 2006). However, a distribution may commence less than 30 days after this notice is provided if the requirements of the third paragraph of Section 9.1(c) are satisfied.

Notwithstanding the foregoing, only the Participant need consent to the commencement of a distribution while the Accounts are immediately distributable if any of the following conditions applies:

- (a) The distribution is in the form of a Qualified Joint and Survivor Annuity; or

- (b) The Participant is not required to receive payment in the form of a Qualified Joint and Survivor Annuity pursuant to Section 9.1(a) of the Plan; or
- (c) The value of the Participant's vested Accounts does not exceed \$5,000 at the time of distribution.

Neither the consent of the Participant nor the Eligible Spouse shall be required for a withdrawal of Automatic Enrollment contributions pursuant to Section 8.3(a)(12) or to the extent that a distribution is required to satisfy Sections 401(a)(9), 401(k), 401(m), 402(g) or 415 of the Code, or any other corrective distribution requirement in accordance with IRS Regulations or other guidance of general applicability.

An Account is immediately distributable if any part of the Account could be distributed to the Participant (or Eligible Spouse) before the Participant attains (or would have attained if not deceased) the later of Normal Retirement Age or age 62.

For purposes of determining the applicability of the foregoing consent requirements to distributions made before the first day of the first Plan Year beginning after December 31, 1988, the Participant's vested Accounts shall not include amounts attributable to accumulated deductible employee contributions within the meaning of Section 72(o)(5)(B) of the Code.

Any amounts attributable to designated Roth Contributions described in Section 402A of the Code shall be included in the value of a Participant's vested Accounts for purposes of determining whether he, his spouse or other beneficiary must consent to a distribution in accordance with this Section.

#### 9.7 Plan Repayment

If a Participant terminates employment and receives or is deemed to receive the value of the vested portion of his Accounts as provided for in Sections 9.4 or 9.6 of the Plan, the non-vested portion shall be treated as a forfeiture.

If a Participant receives or is deemed to receive a distribution pursuant to this Section and the Participant resumes employment and coverage under this Plan, the previously forfeited portion of the Participant's Accounts shall be restored to the amount on the date of distribution, if the Participant repays to the Plan the full amount of the distribution (if any) before the earlier of (a) the date the Participant incurs five consecutive One Year Breaks-in-Service following the date of distribution or (b) five years after the first date on which the Participant is subsequently reemployed by the Employer.

The Employer shall make any contributions necessary to accomplish this restoration.

#### 9.8 Description of Forms of Payment

- (a) **Non-Refund Life Annuity** - A monthly benefit payable during the lifetime of the retired Participant, with no further retirement benefit payments payable after his death.
- (b) **Full Cash Refund Annuity** - An adjusted monthly benefit payable during the lifetime of the retired Participant continuing to the first day of the month in which his death occurs. Upon his death, the Beneficiary shall be entitled to receive, in cash, the excess, if any, of 100% of the value of the Participant's Accounts as of his Benefit Commencement Date over the aggregate amount of payments made to the retired Participant.
- (c) **Period Certain and Continuous Annuity** - An adjusted monthly benefit payable during the lifetime of the retired Participant, with a certain number of monthly payments guaranteed. The

retired Participant may choose a 36, 60, 100, 120 or 180 month guarantee. If the retired Participant dies before receiving the guaranteed number of monthly payments, the same adjusted monthly benefit shall be paid to his Beneficiary until the total number of payments paid to the retired Participant and his Beneficiary equals the guaranteed number of payments. If the retired Participant dies after receiving the guaranteed number of monthly payments, no further retirement benefits will be payable.

- (d) **Joint And Survivor Life Annuity** - An adjusted monthly benefit payable during the lifetime of the retired Participant, with a percentage of that monthly benefit payable after his death to a single joint annuitant appointed by him. If the retired Participant dies and his joint annuitant survives him, the joint annuitant will receive monthly payments during the joint annuitant's lifetime. Each monthly payment to the joint annuitant shall be equal to a percentage of the monthly payment that the retired Participant was receiving before his death. The retired Participant may choose a survivorship percentage of 50%, 66<sup>2</sup>/<sub>3</sub>%, 75% or 100%. If the retired Participant dies and the joint annuitant does not survive him, no further retirement benefits will be payable.
- (e) **Joint And Survivor With Period Certain and Continuous Annuity** - An adjusted monthly benefit payable during the lifetime of the retired Participant, with a percentage of that monthly benefit payable after his death to a single joint annuitant appointed by him, and with a certain number of monthly payments guaranteed. If the retired Participant dies and his joint annuitant survives him, the joint annuitant will receive monthly payments during the joint annuitant's lifetime. Each monthly payment to the joint annuitant shall be equal to a percentage of the monthly payment that the retired Participant was receiving before his death. The retired Participant may choose a survivorship percentage of 50%, 66<sup>2</sup>/<sub>3</sub>%, 75% or 100%. If the retired Participant and the joint annuitant die before receiving the guaranteed number of monthly payments, the remaining guaranteed payments shall be paid to the retired Participant's Beneficiary. Each monthly payment to the Beneficiary shall be equal to the monthly payment that was paid to the retired Participant or the joint annuitant (whoever died last). The Beneficiary shall receive monthly payments until the total number of payments made to the retired Participant, the joint annuitant and the Beneficiary equals the guaranteed number of payments. The retired Participant may choose a 36, 60, 120 or 180 month guarantee.
- (f) **Lump Sum Option** - Except as otherwise described in this Section 9.8(f) or as required by the Plan, the Lump-Sum Option provides for a single sum cash payment to the Participant equal to 100% of the value of the Participant's Accounts as of his Benefit Commencement Date. However, to the extent that any portion of the Participant's Accounts is allocated to investment alternatives under a Contract which restricts the distribution of such portion from such investment alternatives as of the Participant's Benefit Commencement Date, the then value of such portion shall be subtracted from 100% of the value of the Participant's Accounts as his Benefit Commencement Date and any single sum cash payment made under a Lump-Sum Option to the Participant shall be equal to the difference. The distribution of the portion of the Participant's Accounts then remaining after such reduced single sum payment has been made to the Participant shall be subject to the provisions of the Contract then applicable to the investment alternatives to which such portion has been allocated.
- (g) Any other method of payment permitted under the Contract from which the distribution is paid.

## **Section 10 - ADMINISTRATION AND FUNDING**

### **10.1 Rights Under Plan**

The rights of Participants and Beneficiaries to receive any benefits under this Plan, and the amount of any such benefits, shall be determined in accordance with the terms of this Plan.

The payment of benefits under this Plan or any prior plan with respect to a Participant shall, if applicable, be subject to the requirements of any qualified domestic relations order (as defined in Section 414 of the Code) in effect with respect to the Participant.

Benefits shall not be paid under this Plan unless and until all information, notices and papers necessary to process the benefit have been received by the Plan Administrator and the Issuer of the affected Contract.

### **10.2 Rules**

Any general rules which may be adopted under this Plan shall operate so as not to discriminate in favor of any person, including any Highly Compensated Employee. The records of the Plan shall be conclusive and binding upon the Employer and all other persons having an interest under this Plan.

### **10.3 Payment Of Plan Benefits**

The payment of benefits provided by this Plan shall be made by the Issuers under the terms of the Contracts. Any annuity contract distributed by the Plan must be nontransferable.

### **10.4 Funding Policy**

All funds held on behalf of a Participant under this Plan shall be invested in one or more Contract(s) in accordance with the terms of those Contract(s) and the Participant's directions (subject to Section 1.7).

### **10.5 Fiduciaries**

The Employer has the overall responsibility and authority to manage and control the operation and administration of this Plan and shall be the Named Fiduciary as described in Section 402 of ERISA, if this Plan is subject to ERISA. The Employer may designate one or more persons to carry out its responsibilities under the Plan, including its duties as the Plan Administrator, if the Employer is so designated in Section 1.1(e), and may allocate specific duties and responsibilities among fiduciaries. Any such designation or allocation shall be made in writing and the acceptance of such designation or allocation by the fiduciary shall also be in writing. However, the fiduciary responsible for determining whether an individual is eligible to participate in the Plan pursuant to Section 1.2 shall be the Employer that employs that individual, and this responsibility may not be delegated to another fiduciary.

### **10.6 Responsibility Of Fiduciaries**

A fiduciary shall discharge his respective duties with respect to the Plan solely in the interest of the Participants and Beneficiaries and with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

A fiduciary shall not be liable for an act or omission of another person in carrying out any fiduciary responsibility where such fiduciary responsibility is allocated to such other person by the Employer except to the extent provided by law.

## **10.7 Powers And Duties Of The Plan Administrator**

The Plan Administrator shall have such powers and duties necessary to carry out the provisions of the Plan, and to discharge his duties thereunder, and without limiting the generality of the foregoing, shall have the following powers:

- (a) to adopt such policies, rules and regulations as he may deem necessary and proper to carry out the provisions of this Plan, which policies, rules and regulations may be changed from time to time in the light of experience, and which policies, rules and regulations shall be applied fairly and uniformly to all Participants;
- (b) to decide applicable questions, including the interpretation of Plan provisions arising in the administration and application of this Plan, including questions of eligibility for participation and/or benefits and of the status and rights of Participants, Beneficiaries, and any other person thereunder;
- (c) to maintain, in conjunction with the Employer, all necessary records for the proper administration of this Plan;
- (d) to receive from the Employer and from Participants such information as shall be necessary for the proper administration of this Plan;
- (e) to be responsible for the preparation and filing of all reports, returns and other documents required under ERISA (if applicable) or the Code;
- (f) to furnish each Participant with such information and reports as may be required by law or by the terms of the Plan, including any required explanations of his right to designate investments and the Default Investment Alternative described in Plan Section 1.12. If Section 1.3(a)(2) provides for automatic enrollment, each affected Participant will be notified of his right not to contribute (or to contribute a different amount) within a reasonable time before automatic contributions commence and at least once annually thereafter, within a reasonable time before the beginning of each Plan Year. For purposes of this automatic enrollment notice, a period of at least 30 (but no more than 90) days shall be considered a "reasonable time".

The decisions and determinations of the Plan Administrator, including interpretations of Plan provisions, made in good faith upon any matter within the scope of his authority shall be conclusive and binding on all persons, and the Plan Administrator shall act in a uniform and nondiscriminatory manner in carrying out his decisions thereunder. The Plan Administrator shall have no power to add to, or subtract from or modify any of the terms of this Plan, or to change or add to any benefits provided by this Plan, or to waive or fail to apply any requirements of eligibility under this Plan.

## **10.8 Claim Procedures**

All claims for benefits under this Plan shall be directed to the attention of the Plan Administrator. The Plan Administrator shall have 90 days after receipt of the claim within which to render a decision, and upon written notice to the claimant, may extend this period for an additional 90 days if there are special circumstances that require such an extension.

In the event that a claim is wholly or partially denied, the Plan Administrator shall inform the claimant of the reason or reasons for the denial, the specific reference to any Plan provisions on which the denial was based, including any reasonable interpretations of such provisions as authorized in accordance with the provisions of Section 10.7, any additional information which may be necessary to perfect the claim with the reasons therefor, and the procedure for reviewing denied claims.

The Plan Administrator shall have the right to interpret the provisions of the Plan in connection with any claim for benefits (or review after appeal) and such interpretation shall be binding as provided in Section 10.7.

#### **10.9 Claim Review Procedures**

In the event a claim is wholly or partially denied, the claimant or his representative shall have a reasonable opportunity to appeal to the Plan Administrator for review thereof by requesting such review in writing to the Plan Administrator.

The Plan Administrator shall render a decision on review not later than 60 days after receipt of the request for review from the claimant unless special circumstances require extension, in which case the decision may, upon written notice to the claimant, be rendered within 120 days of receipt of the request for review.

The decision on the review shall be rendered in writing and shall include specific reasons with specific reference to the Plan provisions upon which it is based.

#### **10.10 Agents Of The Plan Administrator**

The Plan Administrator may employ agents and provide for such clerical, legal, accounting, advisory or other services as he deems necessary to perform his duties under this Plan. The Plan Administrator shall be, to the extent permitted by law, fully protected in respect to any action taken or omitted by him in good faith resulting from reliance upon the advice or services of any such agents.

#### **10.11 Certain Records**

The Plan Administrator shall keep on file at the Employer's office a copy of this Plan and the Contract, including any subsequent amendments thereto, and all annual reports for this Plan, for examination by Participants during reasonable business hours to the extent required by law, and, in addition, shall maintain adequate records of his actions in administering this Plan. A Participant shall not be entitled to receive records pertaining to any other Participant. The Plan Administrator may, in his complete discretion, cause to be sent to the Participants other statements of their respective benefits.

#### **10.12 Reports**

The Plan Administrator shall file all reports and take such other actions as he shall deem necessary in order to comply fully with the reporting and disclosure requirements of ERISA (if applicable) and the Code and with any additional reporting and disclosure requirements imposed by any regulations issued thereunder.

#### **10.13 Information From Employer**

The Employer shall promptly furnish all necessary information to the Plan Administrator to permit him to perform his duties and responsibilities under this Plan. The Plan Administrator shall be entitled to rely on the accuracy and completeness of all information supplied to him by the Employer, unless he knows or should have known that such information is erroneous.

#### **10.14 Information from Issuers**

The Employer shall enter into an Information Sharing Agreement with each Issuer of each Contract for the exchange of any information regarding Employees, Participants and Contracts that is

necessary to comply with the terms of the Plan and any applicable legal or regulatory requirements under the Code, ERISA or otherwise. The Employer shall be entitled to rely on the accuracy and completeness of all information supplied to him by an Issuer, unless the Employer knows or should have known that such information is erroneous. Information obtained from Issuers shall be provided to the Plan Administrator by the Employer pursuant to Section 10.13.



## **Section 11 - GENERAL PROVISIONS**

### **11.1 Non-Alienation Of Benefits**

Except as may otherwise be provided in accordance with any judgment for an unpaid tax assessment owed to the United States government, any levy issued by the Internal Revenue Service pursuant to Section 6331 of the Code, or any domestic relations order determined to be a qualified domestic relations order as defined in Section 414(p) of the Code in effect with respect to a Participant, no amount payable under this Plan with respect to a Participant may be voluntarily or involuntarily assigned (either at law or in equity), alienated or be subject to attachment, garnishment, levy, execution or other legal or equitable process, and, to the extent permitted by law, no such amount shall in any way be subject to any legal process to subject the same to the payment of any claim against the payee.

### **11.2 Misstated Information**

If a benefit payable under this Plan with respect to a Participant was based on information that has been misstated, such benefit shall not be invalidated but the amount of the benefit shall be adjusted to the proper amount as determined on the basis of the correct information. Overpayments shall be charged against and underpayments shall be added to any payments thereafter falling due with respect to the Participant.

### **11.3 Receipt Of Notice**

Whenever a right or benefit for a Participant or payee under a Contract is conditioned upon the receipt of notice by the Issuer, the date that such notice is received shall be determined in accordance with the terms of that Contract.

### **11.4 Limitation Of Liability**

The payment of any benefits under this Plan is limited to the amount that can be provided by the assets of the Plan in accordance with the terms of the Contract. The Employer shall not have any liability in excess of this except as may be provided by ERISA, (if this Plan is subject to ERISA).

### **11.5 Separability Of Provisions**

If any provision of this Plan is found to be invalid, the remainder of the provisions shall remain in full force and effect.

### **11.6 Rights Of Employees**

The establishment of this Plan shall not be construed as conferring any right upon any Employee or any other person for a continuation of employment, nor shall it be construed as limiting in any way the right of the Employer to discharge any Employee or to treat him without regard to the effect which such treatment might have upon him as a Participant under this Plan.

### **11.7 Payment Of Benefits**

Payment of benefits under this Plan shall be made to Participants and Beneficiaries at the last known address filed with the Plan Administrator or the payor.

### **11.8 Conflict With Contract**

In the event of any conflict between the terms of this Plan and the terms of any Contract referred to herein, the Plan provisions shall control as to the benefits and rights of Participants and

Beneficiaries under the Plan, but shall not be deemed to amend the Contract or to deprive the Issuer of any of its rights under the Contract. However, the terms of any annuity contract purchased by the Plan and distributed to a Participant or Beneficiary must comply with the provisions of the Plan.

## **11.9 Transfer Of Funds**

### **(a) Transfers to the Plan**

This Plan will accept a transfer of funds on behalf of any Participant from any arrangement described in Section 403(b) of the Code to the Contract of any Issuer listed in Part I or Part II of Appendix A selected by the Participant if all of the following conditions are satisfied:

- (1) The transferor arrangement permits such transfers.
- (2) The transferee Contract provides for the acceptance of such transfers.
- (3) The transferred funds are subject to the same (or stricter) withdrawal conditions under the transferee Contract than they were in the transferor arrangement.
- (4) If the Participant's entire interest in the transferor arrangement is transferred to this Plan, his accumulated benefit under this Plan immediately after the transfer must be at least equal to his accumulated benefit under the transferor plan immediately before the transfer.
- (5) If a portion of the Participant's interest in the transferor arrangement is transferred to this Plan, any amount accepted by a Contract under this Plan will be treated as a pro rata transfer from each of the Participant's Contribution Accounts (such as his Salary Reduction Contribution Account) under the transferor arrangement.

Any transfer accepted must be in cash, a check drawn on a U.S. bank, or other property acceptable to the Issuers of the affected Contracts. The Plan Administrator and the Issuers of the affected Contracts shall have the authority to determine whether a proposed transfer satisfies the requirements of this Section and applicable law. The Plan Administrator and the Issuers of the affected Contracts may require such information and establish such procedures as they may deem appropriate to assure that all transfers accepted by this Plan comply with the applicable law and Contract provisions, including corrective distributions of invalid transfers and earnings thereon. Any transfer accepted on behalf of a Participant will be allocated to the Accounts maintained for that Participant under the affected Contracts.

### **(b) Transfers Between Contracts**

A Participant may transfer funds from any Contract to any Contract listed in Part I or Part II of Appendix A (but not to a Contract listed in Part III of that Appendix) if so permitted by the terms of the affected Contracts.

### **(c) Transfer from the Plan**

A Participant may not transfer funds from this Plan to any other plan or arrangement unless he is entitled to a distribution of those funds pursuant to Section 8.3(a).

Any transfer from this Plan to another arrangement described in Section 403(b) of the Code must comply with the requirements of subsection (a) above.

In accordance with Section 1.403(b)-10(b)(4) of the Treasury Regulations, this Plan may transfer funds to a defined benefit plan that is a governmental plan for the purchase of permissive service credits or repayment of a cashout.

#### **11.10 Exclusive Benefit Of Participants**

Except as provided in this Section 11.10, the assets of this Plan shall be held and administered for the exclusive purpose of providing benefits to Participants and Beneficiaries (and defraying reasonable expenses of the Plan). Plan assets shall be used for or diverted to other purposes only under the following circumstances:

**(a) Qualified Domestic Relations Order**

Nothing in this Section 11.10 shall prohibit the Plan from making a distribution to an alternate payee pursuant to a qualified domestic relations order, as described in Section 11.1.

**(b) Mistake Of Fact**

Any contribution made to the Plan due to a mistake of fact shall be returned to the Employer within one year after the date of the contribution, if the Employer so requests in writing to the Plan Administrator within an administratively reasonable time before the expiration of that one-year period. The amount returned to the Employer shall be reduced by any investment losses and contract charges attributable to the mistaken contribution, but shall not be increased by investment gains.

**(c) Certain Benefit Offsets**

To the extent permitted by, and subject to the conditions of, Code Section 401(a)(13), in conjunction with a court judgment, order or decree, or a settlement agreement to which the U.S. Department of Labor or the Pension Benefit Guaranty Corporation is a party, issued or entered into on or after August 5, 1997, as such judgments, orders, decrees and agreements are described in that Code Section, the Plan may offset all or part of the amount ordered or required to be paid to the Plan by a Participant against the Participant's benefits under the Plan.

## Section 12 - AMENDMENT AND TERMINATION

### 12.1 Amendment

Although the Employer expects the Plan as adopted by executing the Adoption Agreement to remain in effect indefinitely, the Employer reserves the right to amend the Plan, when and as it deems advisable, without the consent of any Participant, former Participant, retired Participant or Beneficiary (including alternate payees as defined in Section 414(p) of the Code).

Any amendment to this Plan shall be accomplished by the execution of a written instrument in the name of the Employer by an officer or officers of the Employer authorized to do so by a written resolution of the Employer's Board of Director's, or similar governing Board, or an authorized Committee of that Board.

The Employer may (a) change the choice of options in the Adoption Agreement (including the information in Appendices A and B), (b) add overriding language in the Adoption Agreement when such language is necessary to satisfy Section 415 of the Code because of the required aggregation of multiple plans, and (c) add or change provisions permitted under the Plan, and/or specify or change the effective date of a provision as permitted under the Plan, and correct obvious and unambiguous typographical errors and /or cross-references that merely correct a reference but that do not in any way change the original intended meaning of the provisions.

Any modification or amendment made pursuant to this Section 12.1 may apply, in whole or in part, to any or all of the provisions of this Plan and the right of the Employer to make such modification or amendment is subject to the condition that:

- (a) no modification or amendment may be made which shall reduce the benefits under this Plan of anyone receiving a retirement income whether he be a Participant or a Beneficiary;
- (b) no part of the assets of this Plan shall, by reason of any modification or amendment, be used for, or diverted to, purposes other than for the exclusive benefit of Participants and Beneficiaries under this Plan;
- (c) no amendment to the vesting requirement in Section 1.5 shall deprive a Participant of his nonforfeitable right to the portion of his Accounts attributable to Salary Reduction Contributions;
- (d) nor shall any amendment eliminate an optional form of distribution except as permitted by Section 411 (d)(6).

Furthermore, if the Employer amends the vesting requirement of this Plan or if this Plan is amended in any way that directly or indirectly affects the computation of a Participant's nonforfeitable percentage, each Participant with at least three Years of Service with the Employer may elect to have his nonforfeitable percentage computed under the Plan without regard to such amendment or change. For Participants who do not have at least one Hour of Service in any Plan Year beginning after December 31, 1988, the preceding sentence shall be applied by substituting "five Years of Service" for "three Years of Service" wherever such language appears. The period during which the election may be made shall begin on the date on which the amendment is adopted and shall end 60 days after the latest of the date:

- (a) the amendment is adopted,
- (b) the amendment becomes effective, and

- (c) the Participant is issued written notice of the amendment by the Employer or Plan Administrator.

In no event shall any amendment to this Plan:

- (a) be effective to the extent that it has the effect of decreasing a Participant's Accounts or eliminating an optional form of distribution. Notwithstanding the preceding sentence, a Participant's Accounts may be reduced to the extent permitted under Section 412(d)(2) of the Code and an optional form of distribution may be eliminated to the extent permitted under Section 411(d)(6) of the Code. For purposes of this Paragraph, a Plan amendment which has the effect of decreasing a Participant's Accounts or eliminating an optional form of benefit, with respect to benefits attributable to service before the amendment, shall be treated as decreasing a Participant's Accounts. Furthermore no amendment to the Plan shall have the effect of decreasing a Participant's vested Accounts determined without regard to such amendment as of the later of the date such amendment is adopted or the date it becomes effective;
- (b) change the duties, liabilities or responsibilities of the fiduciaries without their written consent;
- (c) alter the basic purpose of this Plan to provide for the use of funds or assets or the income held under this Plan other than for the benefit of Participants and their Beneficiaries; or
- (d) deprive any Issuer of any of its rights, exemptions and immunities with respect to any Contract.

## **12.2 Termination Of Plan By Employer**

It is intended by the Employer that the Plan constitute a permanent plan for providing benefits for Employees. However, the Employer reserves the right to terminate the Plan in whole or in part, at any time by an amendment to the Plan in accordance with Section 12.1. Thereafter, no Participant affected by such termination shall accrue additional benefits hereunder. Upon termination or partial termination of the Plan, the rights of all affected Participants to benefits accrued to the date of such termination, to the extent then funded, are nonforfeitable.

This Plan may be terminated only if the following conditions are satisfied in accordance with Section 1.403(b)-10(a) of the Treasury Regulations:

- a) All Plan assets must be distributed to all Participants and Beneficiaries as soon as administratively practicable after the termination of the Plan; and
- b) Except as permitted by Treasury Regulations, the Employer may not contribute to another plan described in Section 403(b) of the Code during the period beginning on the Plan's termination date and ending twelve months after all Plan assets have been distributed.

## **12.3 Non-Diversion Of Plan Assets**

Subject to the provisions of Section 11.10, no assets of this Plan may by reason of any modification, amendment or termination or otherwise, be used for, or diverted to, purposes other than for the exclusive benefit of Participants or their Beneficiaries until after satisfaction of all liabilities of the Plan.

## **12.4 Allocation**

If this Plan is terminated, the funds of this Plan which are then allocated to individual Participants, former Participants or Beneficiaries, shall remain allocated to such persons, and any funds which

have not been allocated shall be allocated according to the terms of the Plan as it exists as of the date of termination until distributed in accordance with the provisions of the Plan.

There shall be no liability or obligation on the part of the Employer to make any further contributions under this Plan toward the provision of benefits in the event of termination of this Plan, except as may be required by ERISA, (if this Plan is subject to ERISA).

#### **12.5 Merger, Consolidation Or Transfer Of Assets**

This Plan shall not be merged or consolidated with, nor shall any assets or liabilities of this Plan be transferred to any other retirement plan unless:

- (a) immediately after the merger, consolidation or transfer each Participant in this Plan would receive a benefit equal to or greater than the benefit he would have been entitled to receive if this Plan had terminated immediately before the merger, consolidation or transfer, and
- (b) an instrument in writing executed in the name of the Employer by an officer or officers duly authorized to execute such instruments, or of any new or successor Employer of the affected Participants, shall authorize such transfer of assets with such resolutions to include, in the case of such new or successor Employer, an assumption of liabilities with respect to the inclusion of such Participants in the new Employer's plan.

For the purposes of this Section 12.5, the amount of benefit each Participant is entitled to receive immediately before a merger shall be the benefit provided by the funds allocated to each Participant under the provisions of Section 12.4 and the Contract, determined as if this Plan had terminated on the day immediately preceding a merger.

The amount of benefit each Participant is entitled to receive immediately after a merger shall be determined under the applicable provisions of the merged plan on the assumption that the merged plan terminated the day after the merger and the funds held by the merged plan are allocated to Participants in accordance with the provisions of Section 12.4 of this Plan.