CORNELL UNIVERSITY
TAX-DEFERRED ANNUITY PLAN

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This Plan intended to conform to and qualify under §403(b) of the Internal Revenue Code of 1986, as amended. An Employer establishes a Plan under this Plan by executing an Adoption Agreement.

ARTICLE I
DEFINITIONS

1.01 **Account.** Account means the separate Account(s) which the Plan maintains for a Participant.

1.02 **Account Balance or Accrued Benefit.** Account Balance or Accrued Benefit means the amount of a Participant's Account(s) as of any relevant date derived from Plan contributions and from Earnings. In the case of an Annuity Contract that provides additional benefits, to the extent required under the Code, such term also will include the actuarial value of the Participant's vested interest in such other benefits as determined by the Annuity Provider.

1.03 **Accounting Date.** Accounting Date means the last day of the Plan Year. The Plan will allocate Elective Deferrals and Employer Contributions and forfeitures for a particular Plan Year as of the Accounting Date of that Plan Year, and on such other dates, if any, as the Plan and the relevant Funding Vehicle determines, consistent with the Plan's allocation conditions and other provisions.

1.04 **Addendum.** Addendum means the Employer's written attachment to the Plan which is specifically authorized under this basic plan document.

1.05 **Adoption Agreement.** Adoption Agreement means the document executed by each Employer adopting this Plan. References to Adoption Agreement within this basic plan document are to the Adoption Agreement as completed and executed by a particular Employer unless the context clearly indicates otherwise. An adopting Employer's Adoption Agreement and this basic plan document together constitute a single Plan of the Employer. Each elective provision of the Adoption Agreement corresponds (by its parenthetical section reference) to the section of the Plan which grants the election. All "Section" references within an Adoption Agreement are to the basic plan document. All "Election" references within an Adoption Agreement are Adoption Agreement references.

1.06 **Annuity Contract.** Annuity Contract means a Nontransferable Annuity contract issued by an Insurance Company qualified to issue annuities in a State and that includes the right to receive payment in the form of an annuity as described under Treas. Reg. §§1.401(f)-1(d)(2) and (e). See Section 8.03. In the case of an Annuity Contract, the term "Individual Account" when used under the Plan will include individual annuity certificates issued on behalf of a Participant or Beneficiary, in addition to individual Annuity Contracts.

1.07 **Applicable Law.** Applicable Law means the Code, ERISA, USERRA, Treasury, IRS and DOL regulations, rulings, notices, and other written guidance, case law and any other applicable federal, state or local law affecting the Plan and which is binding upon the Plan or upon which the Employer, the Plan Administrator, the Vendor and other Plan fiduciaries may rely in administering the Plan. A specific Plan citation to any Applicable Law includes any successor or modification to the cited provision.

1.08 **Beneficiary.** Beneficiary means a person designated by a Participant or by the

Plan who is or may become entitled to a benefit under the Plan. A Beneficiary who becomes entitled to a benefit under the Plan remains a Beneficiary under the Plan until the Vendor has fully distributed to the Beneficiary his/her Plan benefit. A Beneficiary's right to (and the Plan Administrator's duty to provide to the Beneficiary) information or data concerning the Plan does not arise until the Beneficiary first becomes entitled to receive a benefit under the Plan.

1.09 **Benefiting Participant.** Benefiting Participant means a Participant who is benefiting under the Plan or who is benefiting under any part of the Plan within the meaning of Code Section §410.

1.10 **Church/Church-Related Organization.** Church means a church within the meaning of Code §3121(w)(3)(A) and a qualified church-controlled organization within the meaning of Code §3121(w)(3)(B). A Church-Related Organization means a church or convention or association of churches within the meaning of Code §414(e)(3)(A).

1.11 **Code.** Code means the Internal Revenue Code of 1986, as amended and includes applicable Treasury regulations.

1.12 **Compensation.** Compensation means a Participant's W-2 wages, Code §3401(a) wages, or 415 compensation. The Employer in its Adoption Agreement must specify which definition of Compensation (Section 1.12(A), (B) or (C)) applies under the Plan and any modifications thereto, for purposes of contribution allocations under Article III. If the Employer does not elect one of the above-referenced definitions, the Employer is deemed to have elected the W-2 Wages definition. In the case of a self-employed minister described in Code §414(e)(5)(A), Compensation means Earned Income as defined in Section 1.12(O). Other than Post-Severance Compensation described in Section 1.12(K), Compensation does not include Compensation paid after Severance of Employment.

Any reference in the Plan to Compensation is a reference to the definition in this Section 1.12, unless the Plan reference, or the Employer in its Adoption Agreement, modifies this definition. The Plan will take into account only Compensation actually paid during (or as permitted under the Code, paid for) the relevant period. A Compensation payment includes Compensation paid by the Employer through another person under the common paymaster provisions in Code §§3121 and 3306.

(A) W-2 Wages. W-2 wages means Code §3401(a) Wages, plus all other payments to an Employee in the course of the Employer's trade or business, for which the Employer must furnish the Employee a written statement under Code §§6041, 6051 and 6052.

(B) Code §3401(a) Wages. Code §3401(a) wages means wages within the meaning of Code §3401(a) for the purposes of income tax withholding at the source, but determined without regard to any rules that limit the remuneration included in wages based on the nature or the location of the employment or the services performed (such as the exception for agricultural labor in Code §3401(a)(2)).

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

Code §415 compensation does not include:

(1) Deferred compensation/SEP. Employer contributions to a plan of deferred compensation to the extent the contributions are not included in the gross income of the Employee for the taxable year in which contributed, Employer contributions on behalf of an Employee to a Simplified Employee Pension Plan to the extent such contributions are excludible from the Employee's gross income, and any distributions from a plan of deferred compensation, regardless of whether such amounts are includible in the gross income of the Employee when distributed.

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

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

(4) Other amounts. Other amounts which receive special tax benefits, such as premiums for group term life insurance (but only to the extent that the premiums are not includible in the gross income of the Employee), or contributions made by an Employer (whether or not under a salary reduction agreement) toward the purchase of an annuity contract or custodial account described in Code §403(b) (whether or not the contributions are excludible from the gross income of the Employee).

(5) Other similar items. Other items of remuneration which are similar to any of the items in Sections 1.12(C)(1) through (4).

(D) Deemed 125 Compensation. Deemed 125 Compensation means, in the case of any definition of Compensation which includes a reference to Code §125, amounts under a Code §125 plan of the Employer that are not available to a Participant in cash in lieu of group health coverage, because the Participant is unable to certify that he/she has other health coverage. Compensation under this Section 1.12 does not include Deemed 125 Compensation, unless the Employer in an Addendum elects to include Deemed 125 Compensation under this Section 1.12.

(E) Elective Deferrals. Compensation under Section 1.12 includes Elective Deferrals unless the Employer in its Adoption Agreement elects to exclude Elective Deferrals.

(F) Compensation Dollar Limitation. For any Plan Year, the Plan in allocating contributions under Article III or in testing the Plan for nondiscrimination, cannot take into account more than $200,000 (or such larger or smaller amount as the Commissioner of Internal Revenue may prescribe pursuant to an adjustment made in the same manner as under Code §415(d)) of any Participant's Compensation. Notwithstanding the foregoing, an Employee may make Elective Deferrals with respect to Compensation which exceeds the Plan Year Compensation limitation, provided such Deferrals otherwise satisfy the Annual Deferral Limit and other applicable Plan limitations. In applying any Plan limitation on the amount of Matching Contributions or any Plan limit on Elective Deferrals which are subject to Matching Contributions, where such limits are expressed as a percentage of Compensation, the Plan will apply the Compensation limit under this Section 1.12(F) annually, even if the Matching Contribution formula is applied on a per pay period basis or is applied over any other time interval which is less than the full Plan Year.

(1) Grandfathered Governmental Plan limit. For a restated governmental plan, this

Section 1.12(F) will not apply to an eligible Participant to the extent it would reduce the Participant's Compensation taken into account to an amount less than the amount allowed under the Plan as in effect on July 1, 1993. An "eligible Participant" is a Participant who first became a Participant during a Plan Year beginning before January 1, 1996 (or, if earlier, the first Plan Year in which the Employer amended the Plan to reflect the limitation of Code §401(a)(17)).

(G)Nondiscrimination. For purposes of determining whether the Plan discriminates in favor of HCEs, Compensation means as the Plan Administrator operationally determines provided that any such nondiscrimination testing definition which the Plan Administrator applies must satisfy Code §414(s) and the regulations thereunder. For this purpose the Plan Administrator may, but is not required to, apply for nondiscrimination testing purposes the Plan's allocation definition of Compensation under this Section 1.12 or Annual Additions Limit definition of Compensation under Section 4.04(C). Compensation under this Section 1.12(G) does not include Includible Compensation. The Employer's election in its Adoption Agreement to limit Compensation to Participating Compensation or to include Plan Year Compensation is nondiscriminatory.

(H)Excluded Compensation. Excluded Compensation means such Compensation as the Employer in its Adoption Agreement elects to exclude for purposes of this Section 1.12.

(I) Participating Compensation. Participating Compensation for purposes of this Section 1.12 means Compensation only for the period during the Plan Year in which the Participant is a Participant. The Employer in its Adoption Agreement may elect to allocate all contributions based on Participating Compensation or may elect to allocate specified contribution types based on Participating Compensation.

(J) Plan Year Compensation. Plan Year Compensation for purposes of this Section 1.12 means Compensation for a Plan Year, including Compensation for any period prior to the Participant's Entry Date.

(K)Post-Severance Compensation. The Employer in its Adoption Agreement may elect to include Post-Severance Compensation. Except as the Employer in an Addendum specifies otherwise, Post-Severance Compensation for purposes of this Section 1.12 and Article III includes the amounts described in (1) and (2) below, paid after a Participant's Severance from Employment with the Employer maintaining the Plan (or any other entity that is treated as the Employer pursuant to Code §414(b), (c), (m) or (o)), but only to the extent such amounts are paid by the later of 2 1/2 months after Severance from Employment or by the end of the Limitation Year that includes the date of such Severance from Employment. The Employer, in an Addendum, may elect to exclude from the definition of Post-Severance Compensation the amounts described in (2) below. The Employer, in an Addendum, also may elect to include in the definition of Post-Severance Compensation the amounts described in (3) or (4) below, or both. The Addendum may limit its application only to designated contribution types. Notwithstanding any election the Employer makes regarding Post-Severance Compensation for purposes of this Section 1.12 and Article III, Post-Severance Compensation for purposes of Section 4.04(C) (Compensation for purposes of the Annual Additions Limit) includes all of the amounts described in (1), (2), (3) and (4) of this paragraph K, unless the Employer, in an Addendum, elects to exclude one or more of the amounts described in (2), (3) and (4) for such purposes.

(1) Regular pay. Post-Severance Compensation includes regular pay after Severance of Employment if:

(i) The payment is regular compensation for services during the Participant's regular working hours, or compensation for services outside the Participant's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments; and

(ii) The payment would have been paid to the Participant prior to a Severance from Employment if the Participant had continued in employment with the Employer.

(2) Leave cashouts and deferred compensation. Post-Severance Compensation includes (unless the Employer otherwise elects in an Addendum to exclude all of the amounts described in this (2)) leave cashouts if those amounts would have been included in the definition of Includible Compensation if they were paid prior to the Participant's Severance from Employment, and the amounts are payment for unused accrued bona fide sick, vacation, or other leave, but only if the Participant would have been able to use the leave if employment had continued. In addition, Post-Severance Compensation also includes deferred compensation if the compensation would have been included in the definition of Includible Compensation if it had been paid prior to the Participant's Severance from Employment, and the compensation is received pursuant to a nonqualified unfunded deferred compensation plan, but only if the payment would have been paid at the same time if the Participant had continued in employment with the Employer and only to the extent that the payment is includible in the Participant's gross income.

(3) Salary continuation payments for military service Participants. If (and only if) the Employer elects in an Addendum, Post-Severance Compensation includes payments to an individual who does not currently perform services for the Employer by reason of Qualified Military Service to the extent those payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the Employer rather than entering Qualified Military Service.

(4) Salary continuation payments for disabled Participants. If (and only if) the Employer elects in an Addendum, Post-Severance includes Compensation paid to a Participant who is permanently and totally disabled (as defined in Code §22(e)(3)). If elected, this provision will apply either only to non-highly compensated Participants or to all Participants for the fixed or determinable period specified in the Addendum.

Any payment of Compensation paid after Severance of Employment that is not described in (1), (2), (3) or (4) above is not Post-Severance Compensation, even if payment is made by the later of 2 1/2 months after severance from employment or by the end of the limitation year that includes the date of such Severance of Employment.

If the Employer establishes this Plan using the Elective Deferral-only ("Short Form") Adoption Agreement, and the Employer in the Adoption Agreement does not elect to exclude Post-Severance Compensation in the definition of Compensation, Post-Severance Compensation includes amounts described in (1) and (2) of this paragraph (K), and excludes amounts described in (3) and (4) unless the Plan in the Salary Reduction Agreement otherwise defines Compensation for deferral purposes.

(L) Disability Deemed Compensation. The Employer in an Addendum may elect to include in Compensation of a disabled Participant within the meaning of Code §22(e)(3), the greater of: (i) the Compensation the Participant would have received for the year if the Participant was paid at the same rate as applied immediately prior to Disability; or (ii) Compensation as determined without regard to this Section 1.12(L). This Section 1.12(L), as activated by the Employer's Addendum, applies

only if the affected Participant is a NHCE immediately prior to becoming disabled (or the Addendum provides for the continuation of contributions on behalf of all such disabled Participants for a fixed or determinable period) and all contributions made with respect to Compensation under this Section 1.12(L) are immediately Vested.

(M) Includible Compensation. Includible Compensation means the Employee's Compensation received from the Employer (or, in the case of a self-employed minister, Earned Income) that is includible in the Participant's gross income for Federal income tax purposes (computed without regard to Code §911) for the most recent period that is a year of service. Includible Compensation also includes any Elective Deferral or other amount contributed or deferred by the Employer at the election of the Employee that would be includible in the Employee's gross income but for the rules of Code §§125, 132(f)(4), 402(e)(2), 402(h)(1)(B), 402(k), or 457(b). For purposes of determining Includible Compensation, a "year of service" means each full year during which the individual is a full-time Employee of the Employer, plus fractional credit for each part for the year during which the Employee is either full-time for part of the year or is part-time, determined in accordance with Treas. Reg. §1.403(b)-4(e). Includible Compensation does not include any Compensation received during a period when the Employer is not an Eligible Employer or any Compensation, other than Post-Severance Compensation, paid after Severance of Employment.

(N) Deemed Includible Compensation. Deemed Includible Compensation means the amount of Compensation a former Employee received from the Employer that is includible in gross income for the most recent period (ending not later than the close of the Taxable Year) which: (a) constitutes one year of service; and (b) precedes the Taxable Year by not more than five years. Deemed Includible Compensation will be determined in accordance with the rules for determining Includible Compensation. An Employer may make contributions with respect to a former Employee's Deemed Includible Compensation only if the Employer elects in its Adoption Agreement to include such Compensation.

(O) Earned Income. Earned Income means net earnings from self-employment for a self-employed minister's trade or business as such, provided personal services of the minister are a material income-producing factor. Earned Income also includes gains and earnings (other than capital gain) from the sale or licensing of property (other than goodwill) by the individual who created that property, even if those gains would not ordinarily be considered net earnings from self-employment. Earned Income does not include items excluded from gross income and the deductions allocable to those items. The Plan will determine net earnings after the deduction allowed to the minister for all contributions made by the Employer under Code §404 and after the deduction allowed to the minister under Code §164(f) for self-employment taxes.

1.13 **Contribution Types.** Contribution Types means the contribution types required or permitted under the Plan as the Employer elects in its Adoption Agreement. If the Employer establishes this Plan using the Elective Deferral-only ("Short Form") Adoption Agreement, the only Contribution Type permitted under the Plan is Elective Deferrals.

1.14 **Custodial Account/Custodial Agreement.** Custodial Account means the Plan or an Account under the Plan in which an amount attributable to 403(b) contributions or amounts rolled over to the Plan and which is held by a Custodian, provided the Custodial Account: (i) invests all amounts held in the Custodial Account in stock of a regulated investment company under Code §851(a) (mutual funds); (ii) satisfies the distribution restrictions in Section 6.01(E); (iii) does not permit the Custodial Account assets to be used

for, or diverted to, purposes other than for the exclusive benefit of Participants and Beneficiaries; and (iv) is not part of an RIA. A Custodial Agreement means a separate written agreement between the Participant (or Employer) and the Custodian which sets forth the terms of the Custodian's engagement. See Section 8.04.

1.15 **Custodian.** Custodian means a bank or person who qualifies as a non-bank custodian under Code §401(f)(2) and who accepts the position of Custodian by executing the Adoption Agreement or by executing a separate Custodial Agreement.

1.16 **Defined Contribution Plan.** Defined Contribution Plan means a retirement plan which provides for an individual account for each Participant and for benefits based solely on the amount contributed to the Participant's Account, and on any Earnings, expenses, and forfeitures which the Plan may allocate to such Participant's Account.

1.17 **Defined Benefit Plan.** Defined Benefit Plan means a retirement plan which does not provide for individual accounts for Employer contributions and which provides for payment of determinable benefits in accordance with the plan's formula.

1.18 **Disability.** Disability means, as the Employer elects in its Adoption Agreement, the basic plan definition or an alternative definition. A Participant who incurs a Disability is "disabled."

(A) Basic Plan Definition. Disability means the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration. The permanence and degree of such impairment must be supported by medical evidence.

(B) Alternative Definition. The Employer in an Addendum may specify any alternative definition of Disability which is not inconsistent with Applicable Law. A Funding Vehicle may specify a different definition of disability which applies to distributions thereunder and which is not inconsistent with Applicable Law.

(C) Administration. For purposes of this Plan, a Participant is disabled on the date the Plan determines the Participant satisfies the definition of Disability. The Plan may require a Participant to submit to a physical examination in order to confirm the Participant's Disability. The provisions of this Section 1.18 will be applied in a nondiscriminatory, consistent and uniform manner. If the Plan satisfies the ERISA Safe Harbor Exemption, the Employer, in any capacity, will not have any discretionary authority to determine if a Participant has a Disability.

1.19 **DOL.** DOL means the U.S. Department of Labor.

1.20 **Earnings.** Earnings means the net income, gain or loss earned by a particular Account or with respect to a contribution or to a distribution, as the context requires.

1.21 **Effective Date.** The Effective Date of this Plan is the date the Employer elects in its Adoption Agreement. However, as to a particular provision, a different effective date may apply as this basic document may provide or as the Employer may elect in its Adoption Agreement, a Participation Agreement or in an Addendum hereto, or as indicated in any other document which evidences the action taken. If this plan restates a previously existing plan (which may include putting some or all plan provisions in writing for the first time), the Effective Date of the provisions of this restatement do not need to be earlier than January 1, 2009.

1.22 **Elective Deferrals.** Elective Deferrals means a Participant's Pre-Tax Deferrals,

Automatic Deferrals, Roth Deferrals and, as the context requires, Catch-Up Deferrals under the Plan. As to other plans, elective deferrals means amounts excludible from the Employee's gross income under Code §§125(a), 132(f)(4), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b), and includes amounts included in the Employee's gross income under Code §402A, and contributed by the Employer, at the Employee's election, to a cafeteria plan, a qualified transportation fringe benefit plan, a SARSEP, a tax-sheltered annuity, a SIMPLE plan or a Code §457 plan.

(A) Pre-Tax Deferral. Pre-Tax Deferral means an Elective Deferral (including a Catch-Up Deferral or an Automatic Deferral) which is not a Roth Deferral.

(B) Roth Deferral. Roth Deferral means an Elective Deferral (including a Catch-Up Deferral or an Automatic Deferral) which a Participant irrevocably designates as a Roth Deferral under Code §402A at the time of deferral and which is subject to income tax when made to the Plan. In the case of an Automatic Deferral, the Plan makes such irrevocable designation in accordance with Sections 3.02(B)(6) and (7).

(C) Automatic Deferral. See Section 3.02(B)(1).

(D) Age 50 Catch-Up Deferral. See Section 3.02(E)(2).

(E) Qualified Organization Catch-Up Deferral. See Section 3.02(D)(1).

(F) One-time Irrevocable Elections. Contributions made pursuant to a Participant's one-time irrevocable election when he/she is initially eligible to make a salary reduction election are not Elective Deferrals. Contributions made pursuant to a one-time irrevocable election are Employer nonelective contributions.

(G) Mandatory Employee Contributions. A Mandatory Employee Contribution is a pre-tax Employee contribution which the Employee agrees to make as a condition of employment. Mandatory Employee Contributions are Nonelective Contributions.

1.23 **Eligible Employee.** Eligible Employee means an Employee other than an Excluded Employee.

1.24 **Eligible Employer.** Eligible Employer means a State (but only as to a State Employee Performing Services for a Public School), a Code §501(c)(3) organization as to any employee of the Code §501(c)(3) organization, an Employer of a minister described in Code §414(e)(5)(A) (but only as to the minister) and a self-employed minister described in Code §414(e)(5)(A) but only as to a Retirement Income Account established for the minister. In the case of any Funding Vehicle purchased in a plan year beginning before January 1, 1995, the term Eligible Employer will be applied as if any reference to a Code §501(c)(3) organization included a reference to an employer which is an Indian tribal government (as defined by Code §7701(a)(40)), a subdivision of an Indian tribal government (determined in accordance with Code §7871(d)), an agency or instrumentality of an Indian tribal government or subdivision thereof, or a corporation chartered under Federal, State, or tribal law which is owned in whole or in part by any of the foregoing.

1.25 **Employee.** Employee means any common law employee of the Employer. Employee includes a minister who is an Employee or who is self-employed as provided under Applicable Law. Employee does not include an independent contractor. See Section 1.43 regarding Leased Employees.

1.26 **Employee Contribution.** Employee Contribution means a Participant's after-tax contribution to a Funding Vehicle which the Participant designates as an Employee Contribution at the time of contribution. An

Elective Deferral (Pre-Tax or Roth) is not an Employee Contribution.

1.27 **Employer.** Employer means each employer who establishes a Plan by executing an Adoption Agreement and includes to the extent described in Sections 1.27(A) and 1.27(B) below a Related Employer and a Participating Employer. Only an Eligible Employer may establish or become a Participating Employer in the Plan. The Employer for purposes of acting as Plan Administrator, making Plan amendments, terminating the Plan or performing other functions ERISA settlors perform, means the signatory Employer to the Adoption Agreement Execution Page and does not include any Related Employer or Participating Employer.

(A) Related Employer. Related Employer means a member of a controlled group of corporations, a member of a group of organizations which are under common control, a member of an affiliated service group, or an otherwise aggregated business with the Employer under Code §414(b), (c), (m), or (o). If the Employer is a member of a Related Employer group, the term "Employer" includes the related group members for purposes of crediting Hours of Service, determining Years of Service and Breaks in Service, applying the Annual Additions Limit, the definition of Employee, HCE, Compensation and for any other purposes required by the applicable Code section or by a Plan provision. If one or more of the Employer's related group members become Participating Employers by executing a Participation Agreement to the Employer's Adoption Agreement, the term "Employer" includes the Participating Employers for all purposes of the Plan, except as provided in this Section 1.27.

(B) Participating Employer. Participating Employer means a Related Employer which signs the Execution Page of the Adoption Agreement or a Participation Agreement to the Adoption Agreement. Only the Employees of a Participating Employer which is an Eligible Employer may become Participants in the Plan and only a Participating Employer may contribute to the Plan. A Participating Employer is an Employer for all purposes of the Plan except as provided in this Section 1.27.

1.28 **Employer Contribution.** Employer Contribution means a Nonelective Contribution or a Matching Contribution, as the context may require.

1.29 **Entry Date.** Entry Date means the date(s) the Employer elects in its Adoption Agreement upon which an Eligible Employee who has satisfied the Plan's eligibility conditions and who remains employed by the Employer on the Entry Date commences participation in the Plan or in a part of the Plan.

1.30 **EPCRS.** EPCRS means the IRS' Employee Plans Compliance Resolution System for resolving plan defects, or any successor program.

1.31 **ERISA.** ERISA means the Employee Retirement Income Security Act of 1974, as amended, and includes applicable DOL regulations.

1.32 **ERISA Plan.** Being an ERISA Plan means the Plan is subject to ERISA. If the Plan is maintained by a governmental Employer (ERISA §§4(b)(1) and 3(32)) or by a "non-electing" church (ERISA §§4(b)(2) and 3(32)), or if the Plan satisfies the ERISA Safe Harbor Exemption, the Plan is not an ERISA Plan. There are provisions throughout this Plan which, by their terms, do not apply if the Plan is not an ERISA Plan. By an Addendum, the Employer may elect to treat one or more of those provisions as being in effect, regardless of whether the Plan is an ERISA Plan. By electing in an Addendum to apply one or more ERISA provisions, the Employer does not intend to make the plan an ERISA Plan. In the case of a non-ERISA Plan, the Employer, the Plan Administrator, and the Vendor will administer and interpret the Plan as if the Plan does not

contain the ERISA provisions, except that such parties may elect operationally and selectively to apply certain ERISA provisions to facilitate the proper administration of the Plan, but without complying with other ERISA Plan provisions and without causing the Plan to become subject to ERISA.

1.33 **ERISA Safe Harbor Exemption.** ERISA Safe Harbor Exemption means the exemption established by DOL Reg. §2510.3-2(f), under which the Plan, if otherwise subject to Title I of ERISA, is not an ERISA Plan, as explained in DOL Field Assistance Bulletin 2007-02 or any other Applicable Law. If the plan intends to qualify for the ERISA Safe Harbor Exemption, the Plan operationally will allocate the responsibility for performing discretionary determinations that will compromise the exemption to persons other than the Employer. See Section 7.01(I).

1.34 **Excluded Employee.** Excluded Employee means, as the Employer elects in its Adoption Agreement, any Employee, or class of Employees, not eligible to participate in the Plan. The Employer must elect any Excluded Employees in accordance with the Adoption Agreement limitations and consistent with Applicable Law. The Employer in the Adoption Agreement may designate different groups of Excluded Employees for each Contribution Type.

(A) Collective Bargaining Employees. If the Employer elects in its Adoption Agreement to exclude collective bargaining Employees from eligibility to participate, the exclusion applies to any Employee included in a unit of Employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and one or more employers if: (1) retirement benefits were the subject of good faith bargaining; and (2) two percent or fewer of the employees covered by the agreement are "professional employees" as defined in Treas. Reg. §1.410(b)-9, unless the collective bargaining agreement requires the Employee to be included within the Plan. The term "employee representatives" does not include any organization more than half the members of which are owners, officers, or executives of the Employer.

(B) Nonresident Aliens. If the Employer elects in its Adoption Agreement to exclude nonresident aliens from eligibility to participate, the exclusion applies to any nonresident alien Employee who does not receive any earned income, as defined in Code §911(d)(2), from the Employer which constitutes United States source income, as defined in Code §861(a)(3).

(C) Student Employees. If the Employer elects in its Adoption Agreement to exclude Student Employees, the exclusion applies to students performing services described in Code §3121(b)(10).

(D) Reclassified Employees. If the Employer elects in its Adoption Agreement to exclude reclassified Employees from eligibility to participate, the exclusion applies to any person the Employer does not treat as an Employee (including, but not limited to, independent contractors, persons the Employer pays outside of its payroll system and out-sourced workers) for federal income tax withholding purposes under Code §3401(a), irrespective of whether there is a binding determination that the individual is an Employee of the Employer.

(E) Employees who normally work less than 20 hours per week. The Employer in its Adoption Agreement may elect to exclude any Employees who normally work less than 20 hours per week; provided (1) for the Initial Eligibility Computation Period, the Employer reasonably expected the Employee to work less than 1,000 Hours of Service in such period; and (2) for each Subsequent Eligibility Computation Period, the Employee worked less than 1,000 Hours of Service in the preceding Eligibility Compensation Period (or, if this Plan is an ERISA Plan, in any preceding Eligibility

Computation Period). For purposes of this Section 1.34(E), if the Employer maintains its Plan on the Elective Deferral-only ("Short Form") Adoption Agreement, the Plan Administrator operationally will determine the 12-month period constituting the subsequent Eligibility Computation Periods on a uniform basis for all Employees. The provisions of Section 2.02(C) apply by analogy to the determination of Eligibility Computation Periods and service within an Eligibility Computation Period.

(F) Transition rules. Unless the Employer indicates otherwise in its Adoption Agreement, the Plan excludes for purposes of making Elective Deferrals employees described in Treas. Reg. §1.403(b)-11(d), to the extent and for the time periods specified therein. Under these rules, if the Plan excluded from deferring, on July 26, 2007, certain visiting professors, employees affiliated with a religious order who are under a vow of poverty, or employees who made a one-time election to participate in a governmental plan that is not a 403(b) plan, then the Plan may maintain that exclusion during the plan year which begins in 2009. Additionally, if the Plan excluded from deferring, on July 26, 2007, certain collective bargaining employees, then the Plan may maintain that exclusion until July 26, 2010, or, if earlier, the date on which the related collective bargaining agreement terminates. If the Plan is a governmental plan for which amendment authority rests with a legislative body which meets in session, then the foregoing deadlines are extended to January 1, 2011, or, if earlier, the close of the first regular legislative session of the legislative body with the authority to amend the plan that begins on or after January 1, 2009.

1.35 **Fixed Matching Contribution.** Fixed Matching Contribution means a Matching Contribution which the Employer, subject to satisfaction of allocation conditions, if any, must make pursuant to a formula in the Adoption Agreement. Under the formula, the Employer contributes a specified percentage or dollar amount on behalf of a Participant based on that Participant's Elective Deferrals and/or Employee Contributions eligible for a match.

1.36 **403(b) Plan.** 403(b) Plan means the 403(b) plan the Employer establishes under its Adoption Agreement.

1.37 **401(m) Plan.** 401(m) Plan means the 401(m) plan, if any, the Employer establishes under its Adoption Agreement.

1.38 **Funding Vehicle/Funding Vehicle Documentation.** Funding Vehicle means as the context requires a Custodial Account, an Annuity Contract or an RIA. Funding Vehicle Documentation means the terms and agreements associated with a Funding Vehicle, such as a Custodial Agreement, an Annuity Contract, or other documents that Funding Vehicle Documentation may reference, such as a service agreement. With respect to any Participant, a Funding Vehicle refers to the Funding Vehicle or Funding Vehicles which hold all or part of the Participant's Account.

1.39 **HCE.** HCE means a highly compensated Employee, defined under Code §414(q) as an Employee who satisfies one of Sections 1.39(A) or (B) below.

(A) More than 5% owner. During the Plan Year or during the preceding Plan Year, the Employee is a more than 5% owner of the Employer (applying the constructive ownership rules of Code §318 as modified by Code §416(i)(1)(B)(iii)(I), and applying the principles of Code §318 as modified by Code §416(i)(1)(B)(iii)(I), for an unincorporated entity).

(B) Compensation Threshold. During the preceding Plan Year (or in the case of a short Plan Year, the immediately preceding 12 month period) the Employee had Compensation in excess of $80,000 (as adjusted by the Commissioner of Internal Revenue for the relevant year) and, if the Employer under its Adoption Agreement makes the top-paid group

election, was part of the top-paid 20% group of Employees (based on Compensation for the preceding Plan Year).

(C) Compensation Definition. For purposes of this Section 1.39, "Compensation" means Compensation as defined in Section 4.04(C).

(D) Top-paid Group/Calendar Year Data. The determination of who is an HCE, including the determinations of the number and identity of the top-paid 20% group, must be consistent with Code §414(q) and regulations issued under that Code section. The Employer in its Adoption Agreement may make a calendar year data election to determine the HCEs for the Plan Year, as prescribed by Treasury regulations or by other guidance published in the Internal Revenue Bulletin. A calendar year data election must apply to all plans of the Employer which reference the HCE definition in Code §414(q). For purposes of this Section 1.39, if the current Plan Year is the first year of the Plan, then the term "preceding Plan Year" means the 12-consecutive month period immediately preceding the current Plan Year.

1.40 **Hour of Service.** Hour of Service means:

(i) Paid and duties. Each Hour of Service for which the Employer, either directly or indirectly, pays an Employee, or for which the Employee is entitled to payment, for the performance of duties. The Plan credits Hours of Service under this Paragraph (i) to the Employee for the computation period in which the Employee performs the duties, irrespective of when paid;

(ii) Back pay. Each Hour of Service for back pay, irrespective of mitigation of damages, to which the Employer has agreed or for which the Employee has received an award. The Plan credits Hours of Service under this Paragraph (ii) to the Employee for the computation period(s) to which the award or the agreement pertains rather than for the computation period in which the award, agreement or payment is made; and

(iii) Payment but no duties. Each Hour of Service for which the Employer, either directly or indirectly, pays an Employee, or for which the Employee is entitled to payment (irrespective of whether the employment relationship is terminated), for reasons other than for the performance of duties during a computation period, such as leave of absence, vacation, holiday, sick leave, illness, incapacity (including disability), layoff, jury duty or military duty. The Plan will credit no more than 501 Hours of Service under this Paragraph (iii) to an Employee on account of any single continuous period during which the Employee does not perform any duties (whether or not such period occurs during a single computation period). The Plan credits Hours of Service under this Paragraph (iii) in accordance with the rules of paragraphs (b) and (c) of Labor Reg. §2530.200b-2, which the Plan, by this reference, specifically incorporates in full within this Paragraph (iii).

The Plan will not credit an Hour of Service under more than one of the above Paragraphs (i), (ii) or (iii). A computation period for purposes of this Section 1.40 is the Plan Year, Year of Service period, Break in Service period or other period, as determined under the Plan provision for which the Plan is measuring an Employee's Hours of Service. The Plan will resolve any ambiguity with respect to the crediting of an Hour of Service in favor of the Employee.

(A) Method of Crediting Hours of Service. The Employer must elect in its Adoption Agreement the method the Plan will use in crediting an Employee with Hours of Service and the purpose for which the elected method will apply.

(1) Actual Method. Under the Actual Method as determined from records, an Employee receives credit for Hours of Service

for hours worked and hours for which the Employer makes payment or for which payment is due from the Employer.

(2) Equivalency Method. Under an Equivalency Method, for each equivalency period for which the Plan would credit the Employee with at least one Hour of Service, the Plan will credit the Employee with: (1) 10 Hours of Service for a daily equivalency; (2) 45 Hours of Service for a weekly equivalency; (3) 95 Hours of Service for a semimonthly payroll period equivalency; and (4) 190 Hours of Service for a monthly equivalency.

(3) Elapsed Time Method. Under the Elapsed Time Method, an Employee receives credit for Service for the aggregate of all time periods (regardless of the Employee's actual Hours of Service) commencing with the Employee's Employment Commencement Date, or with his/her Re-employment Commencement Date, and ending on the date a Break in Service begins. An Employee's Employment Commencement Date or his/her Re-employment Commencement Date begins on the first day he/she performs an Hour of Service following employment or re-employment. In applying the Elapsed Time Method, the Plan will credit an Employee's Service for any Period of Severance of less than 12-consecutive months and will express fractional periods of Service in days.

(i) Elapsed Time – Break in Service. Under the Elapsed Time Method, a Break in Service is a Period of Severance of at least 12-consecutive months. In the case of an Employee who is absent from work for maternity or paternity reasons, the 12-consecutive month period beginning on the first anniversary of the first date the Employee is otherwise absent from Service does not constitute a Break in Service.

(ii) Elapsed Time – Period of Severance. A Period of Severance is a continuous period of time during which the Employee is not employed by the Employer. The continuous period begins on the date the Employee retires, quits, is discharged, or dies or if earlier, the first 12-month anniversary of the date on which the Employee otherwise is absent from Service for any other reason (including disability, vacation, leave of absence, layoff, etc.).

(B) Maternity/Paternity Leave/Family and Medical Leave Act. Solely for purposes of determining whether an Employee incurs a Break in Service under any provision of this Plan, the Plan must credit Hours of Service during the Employee's unpaid absence period: (1) due to maternity or paternity leave; or (2) as required under the Family and Medical Leave Act. An Employee is on maternity or paternity leave if the Employee's absence is due to the Employee's pregnancy, the birth of the Employee's child, the placement with the Employee of an adopted child, or the care of the Employee's child immediately following the child's birth or placement. The Plan credits Hours of Service under this Section 1.40(B) on the basis of the number of Hours of Service for which the Employee normally would receive credit or, if the Plan cannot determine the number of Hours of Service the Employee would receive credit for, on the basis of 8 hours per day during the absence period. The Plan will credit only the number (not exceeding 501) of Hours of Service necessary to prevent an Employee's Break in Service. The Plan credits all Hours of Service described in this Section 1.40(B) to the computation period in which the absence period begins or, if the Employee does not need these Hours of Service to prevent a Break in Service in the computation period in which his/her absence period begins, the Plan credits these Hours of Service to the immediately following computation period.

(C) Qualified Military Service. Hour of Service also includes any Service the Plan must credit for contributions and benefits in order to satisfy the crediting of Service requirements of Code §414(u).

1.41 **Insurance Company.** Insurance company means the insurance company which issues or provides the Annuity Contract and which accepts the terms of the Plan by executing the Adoption Agreement or by executing the Annuity Contract or a separate written document.

1.42 **IRS.** IRS means the Internal Revenue Service.

1.43 **Leased Employee.** Leased Employee means an individual (who otherwise is not an Employee of the Employer) who, pursuant to an agreement between the Employer and any other person (the "leasing organization"), has performed services for the Employer (or for the Employer and any persons related to the Employer within the meaning of Code §144(a)(3)) on a substantially full time basis for at least one year and who performs such services under primary direction or control of the Employer within the meaning of Code §414(n)(2). Except as described in Section 1.43(A), a Leased Employee is an Employee for purposes of nondiscrimination testing under Sections 4.05 to 4.09 of the Plan and the "Compensation" of the Leased Employee includes Compensation from the leasing organization which is attributable to services performed for the Employer. However, a Leased Employee cannot be a Participant in his or her capacity as a Leased Employee, and Compensation the leasing organization pays to the Leased Employee is not Compensation for any purpose under this Plan except applying Sections 4.05 to 4.09.

(A) Safe Harbor Plan Exception. A Leased Employee is not an Employee if the leasing organization covers the employee in a safe harbor plan and, prior to application of this safe harbor plan exception, 20% or fewer of the NHCEs, excluding those NHCEs who do not satisfy the "substantially full-time" standard of Code §414(n)(2)(B), are Leased Employees. A safe harbor plan is a Money Purchase Pension Plan providing immediate participation, full and immediate vesting, and a nonintegrated contribution formula equal to at least 10% of the employee's compensation, without regard to employment by the leasing organization on a specified date. The safe harbor plan must determine the 10% contribution on the basis of compensation as defined in Code §415(c)(3) including Elective Contributions.

(B) Other Requirements. The Plan must apply this Section 1.43 in a manner consistent with Code §§414(n) and 414(o) and the regulations issued under those Code sections.

1.44 **Limitation Year.** Limitation Year means the consecutive month period the Employer specifies in its Adoption Agreement as applicable to allocations under Article IV. If the Employer elects the same Plan Year and Limitation Year, the Limitation Year is always a 12-consecutive month period even if the Plan Year is a short period, unless the short Plan Year results from an amendment, in which case, the Limitation Year also is a short year. If the Employer amends the Limitation Year to a different 12-consecutive month period, the new Limitation Year must begin on a date within the Limitation Year for which the Employer makes the amendment, creating a short Limitation Year.

1.45 **Matching Contribution.** Matching Contribution means a contribution the Employer makes on account of Elective Deferrals or Employee Contributions under a 403(b) Plan. Matching Contributions also include Participant forfeitures allocated on account of such Elective Deferrals.

(A) Discretionary Matching Contribution. Discretionary Matching Contribution means a Matching Contribution which the Employer in its sole discretion elects to make to the Plan. The Employer retains discretion over the Discretionary Matching Contribution amount, formula(s), the limit(s) on Elective Deferrals or Employee Contributions subject to match, the per Participant match allocation limit(s), and the

time period applicable to any matching formula(s), except to the extent of limitations that the Employer otherwise elects in its Adoption Agreement.

1.46 **Nonelective Contribution.** Nonelective Contribution means a fixed or discretionary Employer Contribution which is not a Matching Contribution.

(A) QNEC. QNEC means a qualified Nonelective Contribution which is 100% Vested at all times and which is subject to the distribution restrictions described in Section 6.01(D). Nonelective Contributions are not 100% Vested at all times if the contributions are subject to a vesting schedule. Any Nonelective Contributions allocated to a Participant's QNEC Account under the Plan automatically satisfy and are subject to the QNEC definition, including the requirement to be 100% Vested.

1.47 **NHCE.** NHCE means a nonhighly compensated employee, which is any Employee who is not an HCE.

1.48 **Nontransferable Annuity.** Nontransferable Annuity means an annuity contract which by its terms provides that it may not be sold, assigned, discounted, pledged as collateral for a loan or security for the performance of an obligation or for any purpose to any person other than the insurance company. If the Plan distributes an annuity contract, the contract must be a Nontransferable Annuity.

1.49 **Participant.** Participant means an Eligible Employee who becomes a Participant in accordance with the provisions of Section 2.01.

1.50 **Plan.** Plan means the 403(b) Plan established or continued by the Employer in the form of this Plan, including the Adoption Agreement under which the Employer has elected to establish this Plan and any Addendum thereto. The Plan includes the Funding Vehicle Documentation under Section 8.01(B). The Plan is not intended to be a Code §§401(a), 403(a) or 457(b) plan. The Employer must designate the name of the Plan in its Adoption Agreement. An Employer may execute more than one Adoption Agreement offered under this Plan, each of which will constitute a separate Plan established or continued by that Employer. The Plan created by each adopting Employer is a separate Plan, independent from the plan of any other employer adopting this Plan. All section references within this basic plan document are Plan section references unless the context clearly indicates otherwise. The Plan Administrator or a Vendor or a designee thereof, as appropriate, may perform any action the Plan Administrator is to perform hereunder.

1.51 **Plan Administrator.** Plan Administrator means the Employer unless the Employer designates another person or persons to hold the position of Plan Administrator. Any person(s) the Employer appoints as Plan Administrator may or may not be Participants in the Plan. In addition to its other duties, the Plan Administrator has full responsibility for the Plan's compliance with the reporting and disclosure rules under ERISA, as applicable. If the Employer is the Plan Administrator, any requirement under the Plan for communication between the Employer and the Plan Administrator automatically is deemed satisfied, and the Employer has discretion to determine the manner of documenting any decision deemed to be communicated under this provision.

1.52 **Plan Year.** Plan Year means the consecutive month period the Employer specifies in its Adoption Agreement.

1.53 **Protected Benefit.** Protected Benefit means any accrued benefit described in Treas. Reg. §1.411(d)-4, including any optional form of benefit provided under the Plan which may not (except in accordance with such Regulations) be reduced, eliminated or made subject to Employer discretion.

1.54 **Public School/Employee Performing Services for a Public School.** Public School means a State-sponsored educational organization under Code §170(b)(1)(A)(ii), relating to educational organizations that normally maintain a regular faculty and curriculum and normally have a regularly

enrolled body of pupils or students in attendance where the educational activities are regularly carried on. Employee Performing Services at a Public School means an Employee performing services as an employee at a Public School, provided that the Employee's compensation is paid by the State. A person occupying an elected or appointive public office is not an Employee Performing Services for a Public School unless the office is one that one may hold only if he/she has received training, or is experienced in, the field of education.

1.55 **QDRO.** QDRO means a qualified domestic relations order under Code §414(p).

1.56 **Qualified Military Service.** Qualified Military Service means qualified military service as defined in Code §414(u)(5). Notwithstanding any provision in the Plan to the contrary, as to Qualified Military Service, the Plan will credit Service under Section 1.40(C), the Employer will make contributions to the Plan and the Plan will provide benefits in accordance with Code §414(u).

1.57 **Restated Plan.** A Restated Plan means a plan the Employer adopts in substitution for, and in amendment of, an existing plan, as the Employer elects in its Adoption Agreement. The provisions of this Plan, as a Restated Plan, apply solely to an Employee whose employment with the Employer terminates on or after the restated Effective Date of the Plan. If an Employee's employment with the Employer terminates prior to the restated Effective Date, that Employee is entitled to benefits under the Plan as the Plan existed on the date of the Employee's termination of employment.

1.58 **Retirement Income Account ("RIA").** Retirement Income Account or "RIA" means a Defined Contribution Plan established or maintained by a Church-Related Organization to provide 403(b) benefits for its Employees or their Beneficiaries or a self-employed minister to provide 403(b) benefits for himself or herself. Under an RIA: (i) there is a separate accounting for the RIA's interest in the underlying assets so as to distinguish the RIA's interest in such assets from any other interest therein; (ii) investment performance is based on the gains and losses of the RIA's assets; (iii) assets may not be used for, or diverted to, purposes other than for the exclusive benefit of Participants and Beneficiaries; and (iv) the Employer in its Adoption Agreement must elect to treat the Plan as an RIA. See Section 8.05.

1.59 **Rollover Contribution.** A Rollover Contribution means an amount of cash or property (including a Participant loan from another plan) which the Code permits an Eligible Employee or Participant to transfer directly or indirectly to this Plan from another Eligible Retirement Plan within the meaning of Code §402(c)(8)(B) and Section 6.08(D)(2).

1.60 **Safe Harbor Contribution/Additional Matching Contribution.** Safe Harbor Contribution means a Safe Harbor Nonelective Contribution or a Safe Harbor Matching Contribution as the Employer elects in its Adoption Agreement. Additional Matching Contribution means as the Employer elects in its Adoption Agreement. See Section 3.04.

1.61 **Salary Reduction Agreement.** A Salary Reduction Agreement means a Participant's written election to make Elective Deferrals to the Plan, made on the form the Plan provides for this purpose.

(A) Effective Date. A Salary Reduction Agreement may not be effective earlier than the following date which occurs last: (1) under Article II, the Participant's Entry Date or, in the case of a re-hired Employee, his/her re-participation date; (2) the execution date of the Salary Reduction Agreement; (3) the date the Employer adopts the 403(b) Plan; or (4) the Effective Date of the 403(b) Plan.

(B) Compensation. A Salary Reduction Agreement must specify the dollar amount of Compensation or the percentage of Compensation the Participant wishes to defer. The Salary Reduction Agreement will apply: (1) only to Compensation which becomes currently available after the effective date of the Salary Reduction Agreement; and (2) to all Elective Deferral Compensation or Salary Reduction Agreement Compensation as the Employer elects in its Adoption Agreement, unless the

Participant in his/her Salary Reduction Agreement elects to apply the Agreement only to a lesser amount of such Compensation.

(C) Additional Rules. The Plan in the Plan's Salary Reduction Agreement form, or in a Salary Reduction Agreement policy will specify additional rules and restrictions applicable to a Participant's Salary Reduction Agreement. Any such rules and restrictions must be consistent with the Plan and with Applicable Law.

1.62 **Separation from Service/Severance from Employment.** Separation from Service means an event after which the Employee no longer has an employment relationship with the Employer maintaining this Plan or with a Related Employer. The Plan applies Separation from Service for all purposes except as otherwise provided. For purposes of distribution of Restricted Balances in Article VI, the application of Post-Severance Compensation in Article III and look-back period distributions under Article X, the Plan will apply the definition of Severance from Employment under EGTRRA §646 (as modified by Code §415(h)).

1.63 **Service.** Service means any period of time the Employee is in the employ of the Employer, including any period the Employee is on an unpaid leave of absence authorized by the Employer under a uniform, nondiscriminatory policy applicable to all Employees.

(A) Related Employer Service. See Section 1.27(A).

(B) Service with a Predecessor Employer. The Plan does not credit Service with a predecessor employer, unless the Employer in its Adoption Agreement (or in a Participation Agreement, if applicable) elects to credit designated predecessor employer Service and specifies the purposes for which the Plan will credit service with that predecessor employer. Unless the Employer under its Adoption Agreement provides for this purpose specific Entry Dates, an Employee who satisfies the Plan's eligibility condition(s) by reason of the crediting of predecessor service will enter the Plan in accordance with the provisions of Article II as if the Employee were a re-employed Employee on the first day the Plan credits predecessor service.

1.64 **State.** State means a State, a political subdivision of a State, or any agency of instrumentality of a State, and includes the District of Columbia. In determining whether an individual is Performing Services for a Public School, a State includes an Indian tribal government.

1.65 **Successor Plan.** Successor Plan means a plan in which at least 50% of the Eligible Employees of the first Plan Year were eligible under another 401(m) Plan maintained by the Employer in the prior Plan Year.

1.66 **Type of 403(b) Plan.** Type of 403(b) Plan means the type of 403(b) Plan the Employer elects in its Adoption Agreement.

(A) Custodial Account Plan. A Custodial Account Plan means a 403(b) Plan which invests contributions in regulated investment company within the meaning of Code §851(a) held by a Custodian ("Mutual Funds") and which satisfies the requirements of Code §403(b)(7).

(B) Annuity Contract Plan. An Annuity Contract Plan means a 403(b) Plan which invests contributions in Annuity Contracts and which satisfies the requirements of Code §403(b)(1).

(C) Combination Annuity Contract and Custodial Account Plan. A Combination Annuity Contract and Custodial Account Plan means a 403(b) Plan which invests contributions in Mutual Funds and Annuity Contracts and which satisfies the respective requirements of Code §§403(b)(1) and (b)(7).

(D) Retirement Income Account (RIA) Plan. A Retirement Income Account Plan means a 403(b) Plan which holds and invests contributions in an account which satisfies the requirements of Code §403(b)(9).

1.67 **Taxable Year.** Taxable Year means the taxable year of a Participant.

1.68 **Vested.** Vested means a Participant or a Beneficiary has an unconditional claim, legally enforceable against the Plan, to the Participant's Account Balance or Accrued Benefit or to a portion thereof if not 100% vested.

1.69 **USERRA.** USERRA means the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended.

1.70 **Vendor.** Vendor means the Custodian, the Insurance Company, or in the case of an RIA, the person or entity holding the RIA assets, as the context requires. With regard to a Funding Vehicle, the Vendor is the provider of that Funding Vehicle. With regard to a Participant, the Vendor is the provider of any Funding Vehicle holding all or part of the Participant's Account.

ARTICLE II
ELIGIBILITY AND PARTICIPATION

2.01 ELIGIBILITY. Each Eligible Employee becomes a Participant in the Plan in accordance with the eligibility conditions the Employer elects in its Adoption Agreement. The Employer may elect different age and service conditions for different Contribution Types under the Plan.

(A) Elective Deferrals/Universal Availability. An Employee, other than an Excluded Employee which the Employer may properly exclude from making Elective Deferrals under Code §403(b), must become a Participant in the Elective Deferral portion of the Plan on his/her first day of employment with the Employer, or, if later, the Effective Date of the Plan.

(B) Nonelective and Matching. The provisions of this Section 2.01(B) apply to Employer Contributions and Employee Contributions, and do not apply to Elective Deferrals.

(1) Eligibility Conditions. The Employer in its Adoption Agreement will elect the age and service conditions applicable to Employer Contributions or Employee Contributions, if any. For purposes of an Eligible Employee's participation in Employer Contributions or Employee Contributions, the Plan may not impose an age condition exceeding age 21 and may not require completion of more than one Year of Service, except under Section 2.02(E).

(2) New Plan. Any Eligible Employee who has satisfied the Plan's eligibility conditions and who has reached his/her Entry Date as of the Effective Date is eligible to participate as of the Effective Date, assuming the Employer continues to employ the Employee on that date. Any other Eligible Employee becomes eligible to participate: (1) upon satisfaction of the eligibility conditions and reaching his/her Entry Date; or (2) upon reaching his/her Entry Date if such Employee had already satisfied the eligibility conditions prior to the Effective Date.

(3) Restated Plan. If this Plan is a Restated Plan, each Employee who was a Participant in the Plan on the day before the restated Effective Date continues as a Participant in the Restated Plan, irrespective of whether he/she satisfies the eligibility conditions of the Restated Plan, unless the Employer provides otherwise in its Adoption Agreement.

2.02 APPLICATION OF SERVICE CONDITIONS. The Plan Administrator will apply this Section 2.02 in administering the Plan's eligibility service condition(s) for Employer Contributions and Employee Contributions, if any. This Section will not apply to Elective Deferrals.

(A) Definition of Year of Service. A Year of Service for purposes of an Employee's participation in the Plan, means the applicable Eligibility Computation Period under Section 2.02(C), during which the Employee completes the number of Hours of Service (not exceeding 1,000) the Employer specifies in its Adoption Agreement, without regard to whether the Employer continues to employ the Employee during the entire Eligibility Computation Period.

(B) Counting Years of Service. For purposes of an Employee's participation in the Plan, the Plan counts all of an Employee's Years of Service, except as provided in Section 2.03.

(C) Initial and Subsequent Eligibility Computation Periods. If the Plan requires one Year of Service for eligibility and an Employee does not complete one Year of Service during the Initial Eligibility Computation Period, the Plan measures Subsequent Eligibility Computation Periods in accordance with the Employer's election in its Adoption Agreement. If the Plan measures Subsequent Eligibility Computation Periods on a Plan Year basis, an Employee who receives credit for the required

number of Hours of Service during the Initial Eligibility Computation Period and also during the first applicable Plan Year receives credit for two Years of Service under Article II.

(1) Definition of Eligibility Computation Period. An Eligibility Computation Period is a 12-consecutive month period.

(2) Definition of Initial Eligibility Computation Period. The "Initial Eligibility Computation Period" is the Employee's Anniversary Year which begins on the Employee's Employment Commencement Date.

(3) Definition of Anniversary Year. An Employee's "Anniversary Year" is the 12-consecutive month period beginning on the Employee's Employment Commencement Date or on anniversaries thereof.

(4) Definitions of Employment Commencement Date/Re-Employment Commencement Date. An Employee's Employment Commencement Date is the date on which the Employee first performs an Hour of Service for the Employer. An Employee's Re-Employment Commencement Date is the date on which the Employee first performs an Hour of Service for the Employer after the Employer re-employs the Employee.

(5) Definition of Subsequent Eligibility Computation Period. A Subsequent Eligibility Computation Period is any Eligibility Computation Period after the Initial Eligibility Computation Period, as the Employer elects in its Adoption Agreement.

(D) Entry Date. The Employer in its Adoption Agreement elects the Entry Date(s) and elects whether such Entry Date(s) are retroactive, coincident with or next following an Employee's satisfaction of the Plan's eligibility conditions. The Employer may elect to apply different Entry Dates to different Contribution Types.

(1) Definition of Entry Date. The Entry Date is the date upon which an Eligible Employee who has satisfied the Plan's eligibility requirements commences participation in the Plan, provided the Employer employs the Employee on such Date.

(2) Maximum delay in participation. An Entry Date may not result in an Eligible Employee who has satisfied the Plan's eligibility conditions being held out of Plan participation longer than six months, or if earlier, the first day of the next Plan Year, following completion of the maximum eligibility requirements.

(E) Alternative Service Conditions. The Employer in its Adoption Agreement may elect to impose for eligibility a condition of less than one Year of Service or of more than one Year of Service, but not exceeding two Years of Service. If the Employer elects an alternative Service condition to one Year of Service or two Years of Service, the Employer must elect in its Adoption Agreement the Hour of Service and other requirement(s), if any, after the Employee completes one Hour of Service. Under any alternative Service condition election, the Plan may not require an Employee to complete more than one Year of Service (1,000 Hours of Service in 12-consecutive months) or two Years of Service if applicable.

(1) Vesting requirement. If the Employer elects to impose more than a one Year of Service eligibility condition, the Plan Administrator must apply 100% vesting on any Employer Contributions (and the resulting Accounts) subject to that eligibility condition.

(2) One Year of Service maximum for specified Contributions. The Plan may not require more than one Year of Service for eligibility for an Eligible Employee to receive Safe Harbor Contributions.

(F) Equivalency or Elapsed Time. If the Employer in its Adoption Agreement elects to apply the Equivalency Method or the Elapsed

Time Method in applying the Plan's eligibility Service condition, the Plan Administrator will credit Service in accordance with Sections 1.40(A)(2) and (3).

2.03 BREAK IN SERVICE – PARTICIPATION. The Plan Administrator will apply this Section 2.03 if any Break in Service rule applies under the Plan. The Break in Service rules do not apply to Elective Deferrals.

(A) Definition of Break in Service. For purposes of this Article II, an Employee incurs a Break in Service if during any applicable Eligibility Computation Period he/she does not complete more than 500 Hours of Service with the Employer. The Eligibility Computation Period under this Section 2.03(A) is the same as the Eligibility Computation Period the Plan uses to measure a Year of Service under Section 2.02. If the Plan applies the Elapsed Time Method of crediting Service under Section 1.40(A)(3), a Participant incurs a "Break in Service" if the Participant has a Period of Severance of at least 12 consecutive months.

(B) Two Year Eligibility. If the Employer under the Adoption Agreement elects a two Years of Service eligibility condition, an Employee who incurs a one year Break in Service prior to completing two Years of Service: (1) is a new Employee, on the date he/she first performs an Hour of Service for the Employer after the Break in Service; (2) the Plan disregards the Employee's Service prior to the Break in Service; and (3) the Employee establishes a new Employment Commencement Date for purposes of the Initial Eligibility Computation Period under Section 2.02(C).

(C) USERRA. An Employee who has completed Qualified Military Service and who the Employer has rehired under USERRA, does not incur a Break in Service under the Plan by reason of the period of such Qualified Military Service.

(D) One Year Hold-Out Rule and Rule of Parity – Participation. For purposes of Plan participation, the Plan does not apply the "one-year hold-out rule" under Code §410(a)(5)(C) or the "rule of parity" under Code §410(a)(5)(D), unless the Employer in an Addendum specifies that one or both of these rules apply.

2.04 PARTICIPATION UPON RE-EMPLOYMENT. The provisions of Paragraphs (A), (B), and (C) of this Section 2.04 apply to Employer Contributions. An Employee who incurs a Separation from Service will enter or re-enter the Plan as a Participant for purposes of Elective Deferrals on his/her Re-employment Commencement Date (provided he/she is not an Excluded Employee).

(A) Rehired Participant/Immediate Re-Entry. A Participant who incurs a Separation from Service will re-enter the Plan as a Participant on the date of his/her Re-Employment Commencement Date (provided he/she is not an Excluded Employee), subject to any Break in Service rule, if applicable, under Section 2.03.

(B) Rehired Eligible Employee Who Had Satisfied Eligibility. An Eligible Employee who satisfies the Plan's eligibility conditions, but who incurs a Separation from Service prior to becoming a Participant, subject to any Break in Service rule, if applicable, under Section 2.03, will become a Participant on the later of: (1) the Entry Date on which he/she would have entered the Plan had he/she not incurred a Separation from Service; or (2) his/her Re-Employment Commencement Date.

(C) Rehired Eligible Employee Who Had Not Satisfied Eligibility. An Eligible Employee who incurs a Separation from Service prior to satisfying the Plan's eligibility conditions, becomes a Participant in accordance with the Employer's Adoption Agreement elections. The Plan Administrator, for purposes of applying any shift in the Eligibility Computation Period, takes into account the Employee's prior Service and the Employee is not treated as a new hire.

2.05 CHANGE IN EMPLOYMENT STATUS. The Plan Administrator will apply this Section 2.05 if the Employer in its Adoption Agreement elected to exclude any Employees as Excluded Employees.

(A) Participant Becomes an Excluded Employee. If a Participant has not incurred a Separation from Service but becomes an Excluded Employee, during the period of exclusion the Excluded Employee: (i) will not share in the allocation of any Employer Contributions or Participant forfeitures, based on Compensation paid to the Excluded Employee during the period of exclusion; (ii) may not make Employee Contributions or Rollover Contributions; and (iii) may not make Elective Deferrals as to Compensation paid to the Excluded Employee during the period of exclusion.

(1) Vesting, accrual, Break in Service and Earnings. A Participant who becomes an Excluded Employee under this Section 2.05(A) continues: (a) to receive Service credit for vesting under Article V for each included vesting Year of Service; (b) to receive Service credit for applying any allocation conditions under Section 3.06 as to Employer Contributions accruing for any non-excluded period; (c) to receive Service credit in applying the Break in Service rules; and (d) to share fully in Earnings under Article VII.

(2) Resumption of Eligible Employee status. If a Participant who becomes an Excluded Employee subsequently resumes status as an Eligible Employee, the Participant will participate in the Plan immediately upon resuming eligible status, subject to the Break in Service rules, if applicable, under Section 2.03.

(B) Excluded Employee Becomes Eligible. If an Excluded Employee who is not a Participant becomes an Eligible Employee, (1) he/she will participate immediately in the Elective Deferral portion of the Plan; and (2) he/she will participate immediately in the Employer Contribution portion of the Plan if he/she has satisfied the Plan's eligibility conditions and would have been a Participant had he/she not been an Excluded Employee during his/her period of Service. An Excluded Employee receives Service credit for eligibility, for allocation conditions under Section 3.06 (but the Plan disregards Compensation paid while excluded) and for vesting under Article V for each included vesting Year of Service, notwithstanding the Employee's Excluded Employee status.

ARTICLE III
PLAN CONTRIBUTIONS AND FORFEITURES

3.01 CONTRIBUTION TYPES. The Employer in its Adoption Agreement will elect the Contribution Type(s) and any formulas, allocation methods, conditions and limitations applicable thereto, except where the Plan expressly reserves discretion to the Employer or to the Plan Administrator.

(A) Application of Limits. The Employer will not make a contribution to a Funding Vehicle for any Plan Year to the extent the contribution would exceed any Article IV limit or other Plan limit.

(B) Compensation for Allocations/Limit. The Plan will allocate all Employer Contributions and Elective Deferrals based on the definition of Compensation the Employer elects in its Adoption Agreement for a particular Contribution Type. Except for a Plan maintained by a Church, the Plan Administrator in allocating such contributions must limit each Participant's Compensation to the amount described in Section 1.12(F).

(C) Allocation Conditions. The Plan Administrator will allocate Employer Contributions only to those Participants who satisfy the Plan's allocation conditions under Section 3.06, if any, for the Contribution Type being allocated.

(D) Time of Payment of Contribution. The Employer may pay Employer Contributions for any Plan Year in one or more installments without interest. Unless otherwise required by applicable contract or Applicable Law, the Employer may make an Employer Contribution to the Plan or a particular Plan Year at such time(s) as the Employer in its sole discretion determines. If the Employer makes a contribution for a particular Plan Year after the close of that Plan Year, the Employer will designate the Plan Year for which the Employer is making the Employer Contribution. The Plan will allocate the contribution accordingly.

(E) Return of Employer Contribution. The Employer contributes to the Plan on the condition its contribution is not due to a mistake of fact.

(1) Request for contribution return/timing. The Vendor, upon written request from the Employer, must return to the Employer the amount of the Employer Contribution made by the Employer by mistake of fact. The Vendor will not return any portion of the Employer Contribution under the provisions of this Section 3.01(E) more than one year after the Employer made the contribution by mistake of fact.

(2) Earnings. The Vendor will not increase the amount of the Employer Contribution returnable under this Section 3.01(E) for any Earnings attributable to the contribution, but the Vendor will decrease the Employer Contribution returnable for any losses attributable to the Contribution.

(3) Evidence. The Vendor may require the Employer to furnish the Vendor whatever evidence the Vendor deems necessary to enable the Vendor to confirm the amount the Employer has requested be returned is properly returnable under Applicable Law.

(F) Frozen Plans. The Employer in its Adoption Agreement (or in an Employer resolution) may elect to treat the Plan as a Frozen Plan. Under a Frozen Plan, the Employer and the Participants will not make any contributions to the Plan. A Frozen Plan remains subject to all exclusion and reporting requirements except as Applicable Law otherwise provides other than those related to required funding and the Plan provisions continue in effect until the Employer terminates

the Plan. An Eligible Employee will not become a Participant in a Frozen Plan after the date the Plan becomes a Frozen Plan.

3.02 ELECTIVE DEFERRALS. A Participant's Elective Deferrals will be made pursuant to a Salary Reduction Agreement unless the Employer elects in its Adoption Agreement to apply the Automatic Deferral provision under Section 3.02(B).

(A) Limitations. Except as described below regarding Catch-Up Deferrals, the Employer in its Adoption Agreement must elect the Plan limitations, if any, which apply to Elective Deferrals (or separately to Pre-Tax Deferrals or to Roth Deferrals, if applicable). Such Plan limitations are in addition to those mandatory limitations imposed under Article IV and under Applicable Law. In applying any such additional Plan limitation, the Plan Administrator will take into account the Compensation for Elective Deferral purposes the Employer elects in the Adoption Agreement. The Plan in the Salary Reduction Agreement form or in a Salary Reduction Agreement policy may specify limits and conditions applicable to Salary Reduction Agreements, consistent with Applicable Law. See Section 3.04(C)(2) regarding limits on Elective Deferrals under a safe harbor plan. Solely for purposes of establishing a Plan limit on Elective Deferrals under Section 3.02(E) relating to Catch-Up Deferrals, the Plan Administrator may establish or change a Plan limit on Elective Deferrals from time to time by providing notice to the Participants as is consistent with Applicable Law. Any such limit change made during a Plan Year applies only prospectively.

(B) Automatic Deferrals. The Employer in its Adoption Agreement may elect to apply the Automatic Deferral provisions of this Section 3.02(B).

(1) Definition of Automatic Deferral. An Automatic Deferral is an Elective Deferral that results from the operation of this Section 3.02(B). Under the Automatic Deferral, the Employer automatically will reduce by the Automatic Deferral Amount the Compensation of each Participant whose Elective Deferrals (without regard to whether such Elective Deferrals are Pre-Tax Deferrals or are Roth Deferrals) for the period affected by the Automatic Deferral are not at least equal to the Automatic Deferral Amount. The Plan Administrator will not apply the Automatic Deferral to those Participants: (a) whose Elective Deferrals are in amount equal to or greater than the Automatic Deferral Amount; or (b) who timely make a Contrary Election under Section 3.02(B)(4).

(2) Definition of Automatic Deferral Amount/Increases. The Automatic Deferral Amount is the amount of Automatic Deferral which the Employer elects in its Adoption Agreement. The Employer in its Adoption Agreement may elect to apply a scheduled increase to the Automatic Deferral Amount. If a Participant has elected to defer an amount which is less than the Automatic Deferral Amount the Employer has elected in its Adoption Agreement, the Automatic Deferral Amount under this Section 3.02(B) includes only the incremental amount necessary to increase the Participant's Elective Deferral to equal the Automatic Deferral Amount, including any scheduled increases thereto.

(3) Employees or Participants subject to Automatic Deferral. If the Employer elects to apply the Automatic Deferral, the Employer in its Adoption Agreement will elect which Participants or Employees are affected by the Automatic Deferral on the Effective Date thereof and which Participants, if any, are not subject to the Automatic Deferral.

(4) Definition of Contrary Election. A Contrary Election is a Participant's election made after the Effective Date of the Automatic Deferral not to defer any Compensation or to defer an amount which is more or less than the Automatic Deferral Amount.

(5) Effective Date of Contrary Election. A Participant's Contrary Election generally is effective as of the first payroll period which follows the Participant's Contrary Election. However, a Participant may make a Contrary Election which is effective: (a) for the first payroll period in which he/she becomes a Participant if the Participant makes a Contrary Election within a reasonable period following the Participant's Entry Date and before the Compensation to which the Election applies becomes currently available; or (b) for the first payroll period following the Effective Date of the Automatic Deferral, if the Participant makes a Contrary Election not later than the Effective Date of the Automatic Deferral. A Participant who makes a Contrary Election is not thereafter subject to the Automatic Deferral or to any scheduled increases thereto, even if the Participant later revokes or modifies the Contrary Election. A Participant's Contrary Election continues in effect until the Participant subsequently changes his/her Salary Reduction Agreement.

(6) Automatic Deferral election notice. If the Employer in its Adoption Agreement elects the Automatic Deferral, the Plan Administrator must provide a notice (consistent with Applicable Law) to each Eligible Employee which explains the effect of the Automatic Deferral and a Participant's right to make a Contrary Election, including the procedure and timing applicable to the Contrary Election. The Plan Administrator must provide the notice to an Eligible Employee a reasonable period prior to that Employee's commencement of participation in the Plan subject to the Automatic Deferral. The Plan Administrator also must provide Participants with the effective opportunity to make a Contrary Election at least once during each Plan Year.

(7) Treatment of Automatic Deferrals/Roth or Pre-Tax. The Plan Administrator will treat Automatic Deferrals as Elective Deferrals for all purposes under the Plan, including application of limitations and distributions. Automatic Deferrals are Pre-Tax Deferrals unless the election notice under Section 3.02(B)(6) specifically designates that Automatic Deferrals, or a portion thereof, are Roth Deferrals.

(C) Eligible Automatic Contribution Arrangement ("EACA"). If the Employer maintains a Plan with Automatic Deferral provisions as an Eligible Automatic Contribution Arrangement ("EACA"), the Employer in its Adoption Agreement may elect to apply the permissible withdrawal provisions of Section 6.01(D)(7). A Plan is a EACA as defined in Code §414(w) if the Plan satisfies: (1) the uniformity requirements under Section 3.02(C)(1); (2) the notice requirements under Section 3.02(C)(2); and (3) to the extent required by Applicable Law, the default investment requirements under Section 3.02(C)(3).

(1) Uniformity. The Plan satisfies the uniformity requirement if the plan provides an Automatic Deferral Amount that is a uniform percentage of Compensation. However, the Plan does not violate the uniform Automatic Deferral Amount merely because:

(a) Years of participation. The Automatic Deferral Amount varies based on the number of Plan Years the Employee has participated in the Plan while the Plan has applied Automatic Deferral provisions;

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

(c) Applying statutory limits. The Plan limits the Automatic Deferral Amount so as not to exceed the limits of Code §§401(a)(17), 402(g) (determined without regard to Qualified

Organization Catch-Up Deferrals or Age 50 Catch-Up Deferrals), or 415; or

(d) No deferrals during hardship suspension. The Plan does not apply the Automatic Deferral Amount during the period of suspension, under Section 6.07(B)(1), of Participant's right to make Elective Deferrals to the Plan following a hardship distribution.

(2) EACA notice. The Plan satisfies the notice requirement if the Plan Administrator annually provides a EACA notice to each Participant a reasonable period prior to each Plan Year the Employer maintains the Plan as a EACA ("EACA Plan Year").

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

(b) Mid-year notice/new Participant or Plan. If: (a) an Employee becomes eligible to make Elective Deferrals in the Plan during a EACA Plan Year but after the Plan Administrator has provided the annual EACA notice for that Plan Year; or (b) the Employer adopts mid-year a new Plan as a EACA, the Plan Administrator must provide the EACA notice no later than the date the Employee becomes eligible to make Elective Deferrals.

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

(3) Default investment. The Plan satisfies the default investment requirement, if the Plan Administrator, invests the Automatic Deferrals in accordance with ERISA §404(c)(5) and DOL Reg. §2550.404c-5. This Section 3.02(C)(3) does not apply if the Plan is not an ERISA Plan.

(D) Qualified Organization Catch-Up. The Employer in its Adoption Agreement may elect to permit a Participant who qualifies to make a Qualified Organization Catch-Up Deferral under this Section 3.02(D).

(1) Definition of Qualified Organization Catch-Up Deferral. For any calendar year in which an Employee has completed at least 15 Years of Service with the Qualified Organization, the Elective Deferral Limit will increase by the lesser of (1) $3,000; (2) $15,000 reduced by all the Employee's Elective Deferrals for prior Taxable Years by reason of the increased limitation under this Section 3.02(D); (3) or the excess of $5,000 multiplied by the number of Years of Service of the Employee with the Employer, over the Employee's deferral contributions made for prior Taxable Years pursuant to Code §§401(k), 408(k)(6), 408(p) or 403(b).

(2) Definition of Qualified Organization. For purposes of this Section 3.02(D), a "Qualified Organization" means an educational organization, hospital, home health service agency, health and welfare service agency, or a Church-Related Organization. The following definitions apply in determining a qualified organization: (a) An "educational organization" means an educational organization described in Code §170(b)(1)(A)(ii); (b) A "home health service agency" means an organization described in Code §501(c)(3) which is exempt from tax under Code §501(a) and which the Secretary of Health, Education, and Welfare has determined is a home health agency (as defined in Section 1861(o)) of the Social Security Act; and (c) a health and welfare service agency means either an organization whose primary activity is to provide medical care services under Code §213(d) or a Code §501(c)(3) organization whose primary activity is the prevention of cruelty to individuals or to animals, or which provides substantial personal services to the needy as part of its primary activity.

(3) Definition of Years of Service. For purposes of this Section 3.02(D), a "Year of Service" means each full year during which the individual is a full-time Employee of the Employer, plus fractional credit for each part for the year during which the Employee is either full-time for part of the year or is part-time, determined in accordance with Treas. Reg. §1.403(b)-4(e).

(4) Application of Annual Additions Limit. A Qualified Organization Catch-Up Deferral is subject to the Annual Additions Limit in Section 4.04(B).

(5) Application of both Catch-Ups. A Participant, subject to applicable limits, may contribute both a Qualified Organization Catch-Up Deferral and an Age 50 Catch-Up Deferral. The Plan Administrator will treat any amounts so contributed first as a Qualified Organization Catch-Up Deferral.

(E) Age 50 Catch-Up Deferrals. The Employer in its Adoption Agreement may elect to permit Catch-Up Eligible Participants to make Age 50 Catch-Up Deferrals to the Plan under this Section 3.02(E).

(1) Definition of Catch-Up Eligible Participant. A Catch-Up Eligible Participant is a Participant who is eligible to make Elective Deferrals and who has attained age 50 or who will attain age 50 before the end of the Taxable Year in which he/she will make a Catch-Up Deferral. A Participant who dies or who incurs a Separation from Service before actually attaining age 50 in such Taxable Year is a Catch-Up Eligible Participant.

(2) Definition of Age 50 Catch-Up Deferral. An Age 50 Catch-up Deferral is an Elective Deferral by a Catch-up Eligible Participant and which exceeds: (a) a Plan limit on Elective Deferrals under Section 3.02(A); (b) the Annual Additions Limit under Section 4.04(B); or (c) the Elective Deferral Limit under Section 4.08(A).

(3) Limit on Age 50 Catch-Up Deferrals. A Participant's Age 50 Catch-Up Deferrals for a Taxable Year: (i) may not exceed $5,000; and (ii) when added to the Participant's other Elective Deferrals, may not exceed 100% of the Participant's Compensation for the Taxable Year.

(4) Adjustment after 2006. After the 2006 Taxable Year, the Secretary of the Treasury will adjust the Age 50 Catch-Up Deferral dollar limit in multiples of $500 under Code §414(v)(2)(C).

(5) Treatment of Age 50 Catch-Up Deferrals. Age 50 Catch-Up Deferrals are not: (a) subject to the Annual Additions Limit under Section 4.04(B); or (b) subject to the Elective Deferral Limit under Section 4.08(A).

(6) Universal availability. If the Employer permits Age 50 Catch-Up Deferrals to its Plan, the right of all Catch-Up Eligible Participants to make Age 50 Catch-Up Deferrals must satisfy the universal availability requirement. If the Employer maintains more than one applicable plan, and any of the applicable plans permit Age 50 Catch-Up Deferrals, then any Catch-up Eligible Participant in any such plans must be permitted to have the same effective opportunity to make the same dollar amount of Age 50 Catch-Up Deferrals. The Plan will apply and interpret the Age 50 Catch-Up Deferral requirements consistent with the applicable regulations.

(F) Roth Deferrals. Effective for Taxable Years beginning in 2006, the Employer in its Adoption Agreement may elect to permit Roth Deferrals. The Employer must also elect to permit Pre-Tax Deferrals if the Employer elects to permit Roth Deferrals. The Plan Administrator will administer Roth Deferrals in accordance with this Section 3.02(F).

(1) Treatment of Roth Deferrals. The Plan Administrator will treat Roth Deferrals as Elective Deferrals for all purposes of the Plan,

except where the Plan or Applicable Law indicate otherwise.

(2) Separate accounting. The Plan will establish a Roth Deferral Account for each Participant who makes any Roth Deferrals and Earnings thereon in accordance with Section 7.04(A)(1). The Plan will establish a Pre-Tax Account for each Participant who makes any Pre-Tax Deferrals in accordance with Section 7.04(A)(1). The Plan will credit only Roth Deferrals and Earnings thereon (allocated on a reasonable and consistent basis) to a Participant's Roth Deferral Account. The Vendor will be responsible only for contributions made under the Vendor's Funding Vehicle.

(3) No re-classification. An Elective Deferral contributed to the Plan either as a Pre-Tax Deferral or as a Roth Deferral may not be re-classified as the other type of Elective Deferral.

3.03 MATCHING CONTRIBUTIONS. If the Employer elects in its Adoption Agreement to provide for Matching Contributions, the Plan Administrator will apply the provisions of this Section 3.03.

(A) Matching Formula: Type, Rate/Amount, Limitations and Time Period. The Employer in its Adoption Agreement must elect the type(s) of Matching Contributions (Fixed or Discretionary Matching Contributions), and as applicable, the Matching Contribution rate(s)/amount(s), the limit(s) on Elective Deferrals and/or Employee Contributions subject to match, the limit(s) on the amount of Matching Contributions, and the time period the Plan Administrator will apply in the computation of any Matching Contributions. If the Employer in its Adoption Agreement elects to apply any limit on Matching Contributions based on pay periods or on any other time period which is less than the Plan Year, the Plan Administrator will determine the limits in accordance with the time period specified and will not take into account any other Compensation not within the applicable time period, even in the case of a Participant who becomes eligible for the match mid-Plan Year and regardless of the Employer's election as to Participating Compensation. Except as described in Section 3.04 regarding the safe harbor 403(b) Plan, the time period that the Employer elects for computing its Matching Contributions does not require that the Employer actually contribute the Matching Contribution at any particular time. As to Matching Contribution timing and the ACP test, see Section 4.08(B)(5)(c)(iii).

(1) Fixed Match. The Employer in its Adoption Agreement may elect to make a Fixed Matching Contribution to the Plan under one or more formulas.

(a) Allocation. The Employer may contribute on a Participant's behalf under a Fixed Matching Contribution formula only to the extent that the Participant makes Elective Deferrals and/or Employee Contributions which are subject to the formula and if the Participant satisfies the allocation conditions for Fixed Matching Contributions, if any, the Employer elects in its Adoption Agreement.

(2) Discretionary Match. The Employer in its Adoption Agreement may elect to make a Discretionary Matching Contribution to the Plan.

(a) Allocation. To the extent the Employer makes Discretionary Matching Contributions, the Plan Administrator will allocate the Discretionary Matching Contributions to the Account of each Participant entitled to the match under the Employer's discretionary matching allocation formula and who satisfies the allocation conditions for Discretionary Matching Contributions, if any, the Employer elects in its Adoption Agreement. The Employer under a Discretionary Matching Contribution retains discretion over the amount of its Matching Contributions, and, except as the

Employer otherwise elects in its Adoption Agreement, the Employer also retains discretion over the matching formula and any limits that apply to the formula.

(B) Matching Catch-Up Deferrals. The Employer in its Adoption Agreement must elect whether or not to match any Catch-Up Deferrals if the Plan permits Catch-Up Deferrals. The Employer's election to match Catch-Up Deferrals will apply to all Matching Contributions or will specify the Fixed Matching Contributions or Discretionary Matching Contributions which apply to the Catch-Up Deferrals. Regardless of the Employer's Adoption Agreement election, in a safe harbor 403(b) Plan which will satisfy the ACP test safe harbor under Section 3.04(G) (or which satisfies the ADP test safe harbor using any Safe Harbor Contribution other than a Safe Harbor Nonelective Contribution under Section 3.04(E)(2)), the Employer will apply the Basic Matching Contribution, Enhanced Matching Contribution and Additional Matching Contribution to Catch-Up Deferrals.

(C) Targeting Limitations. Matching Contributions are subject to the targeting limitations in Section 4.08(C).

3.04 SAFE HARBOR CONTRIBUTIONS. The Employer in its Adoption Agreement may elect to apply to its Plan the safe harbor provisions of this Section 3.04, including the safe harbor provisions for a Qualified Automatic Contribution Arrangement ("QACA") described in Section 3.04(J). If the Employer has elected to make Safe Harbor Contributions, then the Employer has elected to apply the provisions of this Section 3.04 and to make use of the ACP safe harbor described in Section 3.04(G).

(A) Prior Election and Notice/12 Month Plan Year. Except as otherwise provided in this Plan or in accordance with Applicable Law, an Employer: (i) prior to the Plan Year, must elect the safe harbor plan provisions of this Section 3.04; (ii) prior to the beginning of the Plan Year to which the safe harbor provisions apply, must satisfy the applicable notice requirements; and (iii) must apply the safe harbor provisions for the entire 12 month safe harbor Plan Year.

(1) Short Plan Year. An Employer's Plan may be a safe harbor plan in a short Plan Year: (a) as provided in Section 3.04(I)(3), relating to the initial safe harbor Plan Year; (b) if the Employer creates a short Plan Year by changing its Plan Year, provided that the Employer maintains the Plan as a safe harbor Plan in the Plan Years both before and after the short Plan Year as described in Treas. Reg. §1.401(k)-3(e)(3); or (c) if the short Plan Year is the result of the Employer's termination of the Plan under Section 3.04(I)(4).

(B) Effect/Remaining Terms. The provisions of this Section 3.04 apply to an electing Employer notwithstanding any contrary provision of the Plan and all other remaining Plan terms continue to apply to the Employer's safe harbor plan.

(C) Compensation for Allocation. In allocating Safe Harbor Contributions and for Elective Deferral allocation under this Section 3.04, the following provisions apply:

(1) Nonelective and matching allocation. Except in the case of a plan maintained by a Church, for purposes of allocating the Employer's Safe Harbor Contribution and Additional Matching Contribution, if any, Compensation is limited as described in Section 1.12(F) and Employer must elect under its Adoption Agreement a nondiscriminatory definition of Compensation as described in Section 1.12(G). Notwithstanding the foregoing, the Employer in its Adoption Agreement may not elect to limit NHCE Compensation to a specified dollar amount. The requirement to use a nondiscriminatory definition of Compensation does not apply to a plan maintained by a governmental organization.

(2) Deferral allocation. An Employer in its Adoption Agreement may elect to limit the type or amount of Compensation from which a Participant may make an Elective Deferral to any reasonable definition. The Employer also may elect to limit the amount of a Participant's Elective Deferrals to a whole percentage of Compensation or to a whole dollar amount, provided each Eligible NHCE Participant may make Elective Deferrals in an amount sufficient to receive the maximum Matching Contribution, if any, available under the Plan and may defer any lesser amount (subject to any percentage or dollar minimum). However, a Participant may not make Elective Deferrals in the event that the Participant is suspended from doing so under Section 6.07(B)(1), relating to hardship distributions or to the extent that the allocation would exceed a Participant's Annual Additions Limit in Section 4.04(B) or the Maximum Deferral Limit in Section 4.08(A). If the Plan permits Roth Deferrals in addition to Pre-Tax Deferrals, Elective Deferrals for purposes of Section 3.04 includes both Roth Deferrals and Pre-Tax Deferrals.

(D) "Early" (Split) Eligibility Plans. The Employer in its Adoption Agreement may elect to limit Safe Harbor Contributions to the Participants who have attained age 21 and who have satisfied the one Year of Service under Article II. In doing so, if the Employer has elected "Participating Compensation" for allocating Nonelective Contributions or Matching Contributions, as appropriate, the Plan Administrator, in allocating the Safe Harbor Contribution for the Plan Year in which a Participant's Cross-Over Date occurs, will count Compensation only on and following the Cross-Over Date. See Section 4.05(C).

(E) Safe Harbor Contributions. An Employer, which elects under this Section 3.04(E) to apply the safe harbor provisions, must satisfy the ADP test safe harbor contribution requirement by making a Safe Harbor Contribution to the Plan. Except as otherwise provided in this Section 3.04, the Employer must make its Safe Harbor Contributions (and any Additional Matching Contributions which will satisfy the ACP test safe harbor) no later than twelve months after the end of the Plan Year to which such contributions are allocated. The Employer in its Adoption Agreement may elect to apply forfeitures toward satisfaction of the Employer's required Safe Harbor Contribution.

(1) Definition of Safe Harbor Contribution. A Safe Harbor Contribution is: (a) a Safe Harbor Nonelective Contribution; (b) a Basic Matching Contribution or a QACA Matching Contribution, as applicable; or (c) an Enhanced Matching Contribution.

(2) Definition of Safe Harbor Nonelective Contribution. A Safe Harbor Nonelective Contribution is a Fixed Nonelective Contribution in an amount the Employer elects in its Adoption Agreement, which must equal at least 3% of each Participant's Compensation.

(3) Definition of Basic Matching Contribution. A Basic Matching Contribution is a Fixed Matching Contribution equal to 100% of a Participant's Elective Deferrals which do not exceed 3% of Compensation, plus 50% of Elective Deferrals which exceed 3%, but do not exceed 5% of Compensation.

(4) Definition of QACA Matching Contribution. A QACA Matching Contribution is a Fixed Matching Contribution equal to 100% of a Participant's Elective Deferrals which do not exceed 1% of Compensation, plus 50% of Elective Deferrals which exceed 1%, but do not exceed 6% of Compensation. A QACA Matching Contribution is a Safe Harbor Contribution only if the plan is a QACA under Section 3.04(J).

(5) Definition of Enhanced Matching Contribution. An Enhanced Matching Contribution is a Fixed Matching Contribution made in accordance with any formula the Employer elects in its Adoption Agreement under which: (a) at any rate of Elective

Deferrals, a Participant receives a Matching Contribution which is at least equal to the match the Participant would receive under the Basic Matching Contribution formula or (if the plan is a QACA under Section 3.04(J)) QACA Matching Contribution formula, as applicable; and (b) the rate of match does not increase as the rate of Elective Deferrals increases.

(6) No greater HCE match rate. Under a Basic Matching Contribution or an Enhanced Matching Contribution, an HCE may not receive a greater rate of match at any level of Elective Deferrals than any NHCE.

(7) Time period for computing/contributing safe harbor match. The Employer in its Adoption Agreement must elect the applicable time period for computing the Employer's Basic Matching Contributions, QACA Matching Contributions or Enhanced Matching Contributions. If the Employer fails to so elect, the Employer is deemed to have elected to compute its Safe Harbor Matching Contribution based on the Plan Year. If the Employer elects to compute its Safe Harbor Matching Contribution based on a time period which is less than the Plan Year, the Employer must contribute the Safe Harbor Matching Contributions to the Plan no later than the end of the Plan Year quarter which follows the Plan Year quarter in which the Elective Deferral that gave rise to the Safe Harbor Matching Contribution was made. If the time period for computing the Safe Harbor Matching Contribution is the Plan Year, the Employer must contribute the Safe Harbor Matching Contribution to the Plan no later than twelve months after the end of the Plan Year to which the Safe Harbor Contribution is allocated.

(8) No allocation conditions. The Plan Administrator must allocate the Employer's Safe Harbor Contribution without regard to the Section 3.06 allocation conditions, if any.

(9) Election to limit allocation to NHCEs. The Employer in its Adoption Agreement must elect whether to limit the allocation of Safe Harbor Contributions only to NHCEs.

(10) 100% Vesting/distribution restrictions. A Participant's Account Balance attributable to Safe Harbor Contributions is subject to the distribution restrictions described in Section 6.01(E). A Participant's Account Balance attributable to Safe Harbor Contributions at all times is 100% Vested, unless the Plan is a QACA. If the Plan is a QACA, a Participant's Account Balance attributable to Safe Harbor Contributions is 100% Vested after the Participant has completed 2 Years of Service, unless the Employer in its Adoption Agreement elects a more rapid Vesting Schedule.

(11) Application to other allocations/testing. Except as the Employer otherwise indicates in an Addendum and as described below as to permitted disparity, any Safe Harbor Nonelective Contributions will be applied toward (offset) any other allocation to a Participant of a non-safe harbor Nonelective Contribution. An Employer electing to apply the general nondiscrimination test under Section 4.05(C) may include Safe Harbor Nonelective Contributions in applying the general test. An Employer which has elected in its Adoption Agreement to apply permitted disparity in allocating the Employer's Nonelective Contributions made in addition to Safe Harbor Nonelective Contributions may not include within the permitted disparity formula allocation, any of the Employer's Safe Harbor Nonelective Contributions.

(F) Additional Matching Contributions. The Employer in its Adoption Agreement may elect to make Additional Matching Contributions to its safe harbor Plan under this Section 3.04(F).

(1) Definition of Additional Matching Contributions. Additional Matching Contributions are Fixed or Discretionary Matching Contributions an Employer makes to its safe harbor Plan and which are in addition to

those Safe Harbor Contributions the Employer makes to satisfy the ADP test safe harbor under Section 3.04(E).

(2) Vesting, allocation conditions and distributions. The Employer must elect in its Adoption Agreement the vesting schedule and distribution provisions applicable to the Employer's Additional Matching Contributions. Any allocation conditions the Employer otherwise elects in its Adoption Agreement do not apply to Additional Matching Contributions.

(3) Time period for computing/contributing safe harbor match. The Employer in its Adoption Agreement must elect the applicable time period for computing the Employer's Additional Matching Contributions. If the Employer fails to so elect, the Employer is deemed to have elected to compute its Additional Matching Contribution based on the Plan Year. If the Employer elects to apply the ACP test safe harbor and elects to compute its Additional Matching Contribution based on a time period which is less than the Plan Year, the Employer must contribute the Safe Harbor Matching Contributions to the Plan no later than the end of the Plan Year quarter which follows the Plan Year quarter in which the Elective Deferral that gave rise to the Additional Matching Contribution was made. If the Employer elects the Plan Year as the time period for computing the Additional Matching Contribution, the Employer must contribute the Additional Matching Contribution to the Plan no later than twelve months after the end of the Plan Year to which the Additional Contribution is allocated.

(G) ACP test safe harbor. If the Employer has elected to make Safe Harbor Contributions, then the Plan will apply the amount limitations under this Section 3.04(G) in order to comply with the ACP test safe harbor as described in this Section 3.04(G).

(1) Amount limitations. Under the ACP test safe harbor: (a) the Employer may not make Matching Contributions as to a Participant's Elective Deferrals which exceed 6% of the Participant's Plan Year Compensation; (b) the amount of any Discretionary Additional Matching Contribution allocated to any Participant may not exceed 4% of the Participant's Plan Year Compensation; (c) the rate of Matching Contributions may not increase as the rate of Elective Deferrals increases; and (d) an HCE may not receive a rate of match greater than any NHCE, subject to application of Section 3.06 allocation conditions, if any.

(2) No partial ACP test safe harbor. If the Employer's Plan has more than one Matching Contribution formula, each Matching Contribution must satisfy the ACP test safe harbor or the Employer must test all of its Matching Contributions together under Section 4.08(B) (ACP test) unless the Plan is otherwise exempt under Section 4.05(D).

(3) Employee Contributions. If the Employer in its Adoption Agreement has elected to permit Employee Contributions under the Plan: (a) any Employee Contributions do not satisfy the ACP test safe harbor and the Plan Administrator must test the Employee Contributions under Section 4.08(B) (ACP test) using Current Year Testing unless the Plan is otherwise exempt under Section 4.05(D); and (b) if the Employer in its Adoption Agreement elects to match the Employee Contributions, the Plan Administrator in applying the 6% amount limit in Section 3.04(G)(1) must aggregate a Participant's Elective Deferrals and Employee Contributions which are subject to the 6% limit.

(H) Safe Harbor Notice. The Plan Administrator annually must provide a safe harbor notice to each Participant a reasonable period prior to each Plan Year for which the Employer in its Adoption Agreement has elected to apply the safe harbor provisions.

(1) Deemed reasonable notice/new Participant. The Plan Administrator is deemed to provide timely notice if the Plan

Administrator provides the safe harbor notice at least 30 days and not more than 90 days prior to the beginning of the safe harbor Plan Year.

(2) Mid-year notice/new Participant or Plan. If: (a) an Employee becomes eligible to participate in the Plan during a safe harbor Plan Year but after the Plan Administrator has provided the annual safe harbor notice for that Plan Year; or (b) the Employer adopts mid-year a new safe harbor Plan, the Plan Administrator must provide the safe harbor notice no later than the Employee's Entry Date.

(3) Timing of initial QACA notice. If the safe harbor Plan is a QACA, the Employer must provide the notice sufficiently early that an Employee has a reasonable period after receiving the notice and before the first Automatic Deferral to make a Contrary Election.

(4) Content. The safe harbor notice must provide comprehensive information regarding the Participants' rights and obligations under the Plan and must be written in a manner calculated to be understood by the average Participant.

(5) Election following notice. A Participant may make or modify a Salary Reduction Agreement under the Employer's safe harbor 403(b) Plan for 30 days following receipt of the safe harbor notice, or if greater, for the period the Plan Administrator specifies in the Salary Reduction Agreement.

(6) Notice failure. If the Plan Administrator for any Plan Year fails to give a timely safe harbor notice or gives a notice which does not satisfy the safe harbor notice content requirements, the Plan is not a safe harbor plan for that Year and the Plan Administrator will test the Plan Year Matching Contributions, if any, under Section 4.08(B), unless the plan is otherwise exempt from the ACP test under Section 4.05(D). In such event, notwithstanding the Plan's failure to attain safe harbor status, any Adoption Agreement elections related to the safe harbor contributions continue to apply unless and until the Employer amends the Plan, Notwithstanding the foregoing, if the Employer corrects the safe harbor notice failure under Section 7.08, the Plan is a safe harbor plan for the applicable Plan Year.

(I) Mid-year changes in safe harbor status.

(1) Late election of Safe Harbor Nonelective. The Employer may amend its 403(b) Plan during any Plan Year to become a safe harbor plan under this Section 3.04(I)(1) for that Plan Year, provided: (i) the Plan then is using Current Year Testing; (ii) the Employer amends the Plan to add the safe harbor provisions not later than 30 days prior to the end of the Plan Year and to apply the safe harbor provisions for the entire Plan Year; (iii) the Employer elects to satisfy the safe harbor contribution requirement using the Safe Harbor Nonelective Contribution; and (iv) the Plan Administrator provides a notice to Participants prior to the beginning of the Plan Year for which the safe harbor amendment may become effective, that the Employer later may amend the Plan to a safe harbor plan for that Plan Year using the Safe Harbor Nonelective Contribution and if the Employer so amends the Plan, the Plan Administrator will provide a supplemental notice to Participants at least 30 days prior to the end of that Plan Year informing Participants of the amendment. The Plan Administrator then timely must provide any supplemental notice required under this Section 3.04(I)(1). Except as otherwise specified, the Participant notices described in this Section 3.04(I)(1) also must satisfy the requirements applicable to safe harbor notices under Section 3.04(H).

(2) Exiting safe harbor matching. The Employer may amend its safe harbor 403(b) Plan during a Plan Year to reduce or eliminate prospectively, any Basic Matching Contribution, any Enhanced Matching Contribution or any Additional Matching Contribution, or may reduce or eliminate prospectively all of such contributions provided: (a) the Plan

Administrator provides a notice to the Participants which explains the effect of the amendment, specifies the amendment's effective date and informs Participants they will have a reasonable opportunity to modify their Salary Reduction Agreements, and if applicable, Employee Contributions; (b) Participants have a reasonable opportunity and period prior to the effective date of the amendment to modify their Salary Reduction Agreements, and if applicable, Employee Contributions; and (c) the amendment is not effective earlier than the later of: (i) 30 days after the Plan Administrator gives notice of the amendment; or (ii) the date the Employer adopts the amendment. An Employer which amends its safe harbor Plan to eliminate or reduce the any Matching Contribution under this Section 3.04(I)(2), effective during the Plan Year, must continue to apply all of the safe harbor requirements of this Section 3.04 until the amendment becomes effective and also must apply for the entire Plan Year, using Current Year Testing, the nondiscrimination test under Section 4.08(B) (ACP test) unless the plan is otherwise exempt from the ACP test under Section 4.05(D).

(3) New Plan/new Employer. An Employer (including a new Employer) may establish a new safe harbor Plan which is not a Successor Plan, provided; (a) the Plan Year is at least 3 months long; (b) the Plan Administrator provides the safe harbor notice described in Section 3.04(H) a reasonable time prior to and not later than the effective date of the Plan; and (c) the Plan commencing on the Effective Date of the Plan satisfies all of the safe harbor requirements of this Section 3.04. If the Employer is new, the Plan Year may less than 3 months provided the Plan is in effect as soon after the Employer is established as it is administratively feasible for the Employer to establish the Plan.

(4) Plan termination. An Employer may terminate its safe harbor plan mid-Plan Year in accordance with Article IX and this Section 3.04(I)(4).

(a) Acquisition/disposition or substantial business hardship. If the Employer terminates its safe harbor Plan resulting in a short Plan Year, and the termination is on account of an acquisition or disposition transaction described in Code §410(b)(6)(C), or if termination is on account the Employer's substantial business hardship, within the meaning of Code §412(d), the Plan remains a safe harbor Plan provided that the Employer satisfies this Section 3.04 through the effective date of the Plan termination.

(b) Other termination. If the Employer terminates its safe harbor Plan for any reason other than as described in Section 3.04(I)(4)(a), and the termination results in a short Plan Year, the Employer must conduct the termination under the provisions of Section 3.04(I)(2), except that the Employer need not provide Participants with the right to change their Salary Reduction Agreements.

(J) QACA Provisions. A safe harbor Plan is a QACA if the Plan applies the Automatic Deferral provisions of Section 3.02, as modified in this Section 3.04(J) regarding: (1) the Participants subject to the QACA, as described in Section 3.04(J)(1); (2) the Automatic Deferral Amount, as described in Section 3.04(J)(2); and (3) the uniformity requirement, as described in Section 3.04(J)(3).

(1) Participants subject to the QACA. The QACA will apply the Automatic Deferral Amount to each Participant eligible to make Elective Deferrals who does not make a Contrary Election (as defined in Section 3.02(B)(4)), unless the Employer in its Adoption Agreement elects not to apply the Automatic Deferral Amount to any Employee eligible to make Elective Deferrals immediately prior to the effective date of the QACA and who on the

effective date had in effect a Salary Reduction Election (that remains in effect).

(2) QACA Automatic Deferral Amount. Except as provided in Section 3.04(J)(3), the Plan must apply to all Participants subject to the QACA as described in Section 3.04(J)(1), a uniform Automatic Deferral Amount, as a percentage of each Participant's Compensation, that the Employer elects in its Adoption Agreement, which does not exceed 10%, and which is at least the following minimum amount:

(a) Initial period. 3% for the period that begins when the Employee first participates in the QACA and ends on the last day of the following Plan Year;

(b) Third Plan Year. 4% for the third Plan Year of the Employee's participation in the QACA;

(c) Fourth Plan Year. 5% for the fourth Plan Year of the Employee's participation in the QACA; and

(d) Fifth and later Plan Years. 6% for the fifth Plan Year of the Employee's participation in the QACA and for each subsequent Plan Year.

(3) Uniformity requirements. A QACA does not fail to apply a uniform Automatic Deferral Amount merely because:

(a) Years of participation. The Automatic Deferral Amount varies based on the number of Plan Years the Employee has participated in the Plan while the Plan has been a QACA;

(b) No reduction from prior default percentage. The QACA does not reduce an Automatic Deferral Amount that, immediately prior to the effective date of the QACA was higher (for any Participant) than the QACA Automatic Deferral Amount;

(c) Applying statutory limits. The Plan limits the Automatic Deferral Amount so as not to exceed the limits of Code §§401(a)(17) (see Section 1.12(F)), 402(g) (determined without regard to Qualified Organization Catch-Up Deferrals or Age 50 Catch-Up Deferrals) (see Section 4.08(A)) or 415 (see Sections 4.01 to 4.04); or

(d) No deferrals during hardship suspension. The Plan does not apply the Automatic Deferral Amount during the period of suspension, under Section 6.07(B)(1), of a Participant's right to make Elective Deferrals to the Plan following a hardship distribution.

3.05 NONELECTIVE/EMPLOYER CONTRIBUTIONS. If the Plan provides for Nonelective Contributions or other Employer Contributions, the Plan Administrator will apply the provisions of this Section 3.05.

(A) Amount and Type. The Employer in its Adoption Agreement must elect the type and amount of Nonelective Contributions or other Employer Contributions.

(1) Discretionary Nonelective Contribution. The Employer in its Adoption Agreement may elect to make Discretionary Nonelective Contributions in such amounts as the Employer in its sole discretion may determine from time to time.

(2) Fixed Nonelective Contributions. The Employer in its Adoption Agreement may elect to make Fixed Nonelective Contributions as a fixed dollar amount or pursuant to any other formula the Employer elects in its Adoption Agreement. The Employer must specify the time interval to which any fixed contribution formula will apply.

(3) Related and Participating Employers. If any Related and Participating Employers contribute Nonelective Contributions or other Employer Contributions to the Plan, the

Employer in its Adoption Agreement must elect: (a) whether each Participating Employer will be subject to the same or different Nonelective/Employer Contribution formulas under Section 3.05(A) and allocation methods under Section 3.05(B) than the Signatory Employer; and (b) whether, under Section 3.05(B), the Plan Administrator will allocate Nonelective/Employer Contributions only to Participants directly employed by the contributing Employer or to all Participants regardless of which Employer contributes or how much any Employer contributes. The allocation of Nonelective/Employer Contributions under this Section 3.05(A)(4) also applies to the allocation of any forfeiture attributable to Nonelective/Employer Contributions and which the Plan allocates to Participants.

(4) One-time Irrevocable Elections and Mandatory Employee Contributions. Contributions made pursuant to a one-time irrevocable election and Mandatory Employee Contributions are Nonelective Employer Contributions. See Sections 1.22(F) and (G).

(B) Method of Allocation. The Employer in its Adoption Agreement must specify the method of allocating Employer Contributions to the Funding Vehicle. The Plan Administrator will apply this Section 3.05(B) by including in the allocation only those Participants who have satisfied the Plan's allocation conditions under Section 3.06, if any, applicable to the Employer Contribution. The Plan Administrator, in allocating a contribution under any allocation formula which is based in whole or in part on Compensation, will take into account Compensation under Section 1.12 as the Employer elects in its Adoption Agreement and only will take into account the Compensation of the Participants entitled to an allocation. In addition, if the Employer has elected in its Adoption Agreement to define allocation Compensation over a time period which is less than a full Plan Year, the Plan Administrator will apply the allocation methods in this Section 3.05(B) based on Participant Compensation within the relevant time period.

(1) Pro rata allocation formula. The Employer in its Adoption Agreement may elect a pro rata allocation formula. Under a pro rata allocation formula, the Plan Administrator will allocate the Employer Contributions for a Plan Year in the same ratio that each Participant's Compensation for the Plan Year bears to the total Compensation of all Participants for the Plan Year.

(2) Permitted disparity allocation formula. The Employer in its Adoption Agreement may elect a two-tiered permitted disparity formula, providing allocations described below.

(a) Two-tiered.

(i) Tier one. Under the first tier, the Plan Administrator will allocate the Employer Contributions for a Plan Year in the same ratio that each Participant's Compensation plus Excess Compensation (as the Employer defines that term in its Adoption Agreement) for the Plan Year bears to the total Compensation plus Excess Compensation of all Participants for the Plan Year. The allocation under this first tier, as a percentage of each Participant's Compensation plus Excess Compensation, must not exceed the applicable percentage (5.7%, 5.4% or 4.3%) listed under Section 3.05(B)(2)(b).

(ii) Tier two. Under the second tier, the Plan Administrator will allocate any remaining Employer Contributions for a Plan Year in the same ratio that each Participant's Compensation for the Plan Year bears to the total Compensation of all Participants for the Plan Year.

(b) Maximum disparity table. For purposes of the permitted disparity allocation formulas under this Section 3.05(B)(2), the applicable percentage is:

Integration level % of taxable wage base	Applicable % for 2-tiered formula
100%	5.7%
More than 80% but less than 100%	5.4%
More than 20% (but not less than $10,001) and not more than 80%	4.3%
20% (or $10,000, if greater) or less	5.7%

(c) Overall permitted disparity limits.

(i) Annual overall permitted disparity limit. Notwithstanding Sections 3.05(B)(2)(a) and (b), for any Plan Year the Plan benefits any Participant who benefits under another qualified plan or under a simplified employee pension plan (as defined in Code §408(k)) maintained by the Employer that provides for permitted disparity (or imputes disparity), the Plan Administrator will allocate Employer Contributions to the Account of each Participant in the same ratio that each Participant's Compensation bears to the total Compensation of all Participants for the Plan Year.

(ii) Cumulative permitted disparity limit. Effective for Plan Years beginning after December 31, 1994, the cumulative permitted disparity limit for a Participant is 35 total cumulative permitted disparity years. "Total cumulative permitted disparity years" means the number of years credited to the Participant for allocation or accrual purposes under the Plan, any other qualified plan or simplified employee pension plan (whether or not terminated) ever maintained by the Employer. For purposes of determining the Participant's cumulative permitted disparity limit, the Plan Administrator will treat all years ending in the same calendar year as the same year. If the Participant has not benefited under a Defined Benefit Plan or under a Target Benefit Plan of the Employer for any year beginning after December 31, 1993, the Participant does not have a cumulative permitted disparity limit.

For purposes of this Section 3.05(B)(2)(c), a Participant "benefits" under a plan for any Plan Year during which the Participant receives, or is deemed to receive, a contribution allocation.

(d) Pro-ration of integration level. In the event that the Plan Year is less than 12 months and the Plan Administrator will allocate the Employer Contribution based on Compensation for the short Plan Year, the Plan Administrator will pro rate the integration level based on the number of months in the short Plan Year. The Plan Administrator will not pro rate the integration level in the case of: (i) a Participant who participates in the Plan for less than the entire 12 month Plan Year and whose allocation is based on Participating Compensation; (ii) a new Plan established mid-Plan Year, but with an Effective Date which is as of the beginning of the Plan Year; or (iii) a terminating Plan which bases allocations on Compensation through the effective date of the termination, but where the Plan Year continues for the balance of the full 12 month Plan Year.

(3) Incorporation of fixed formula. The Employer in its Adoption Agreement may elect to allocate Employer Contributions in accordance with the Plan's contribution formula. The Plan Administrator will allocate the Employer's contributions for a Plan Year in accordance with the fixed contribution formula the Employer has elected under Section 3.05(A)(2).

(4) Related Employer. The Plan Administrator will allocate Related Employer Contributions to the Participants employed by that contributing Related Employer or to all Participants without regard to the source of contribution, as the Employer elects in its Adoption Agreement.

(C) QNEC. The provisions of this Section 3.05(C) apply to QNEC contributions.

(1) Operational QNEC. The Employer, to facilitate the Plan Administrator's correction of a test failure under Section 4.08(B), also may make QNECs to the Plan ("Operational QNEC"), irrespective of whether the Employer in its Adoption Agreement has elected to provide for any Nonelective Contributions. The Plan Administrator, in its discretion, will allocate the Operational QNEC, but will limit the QNEC allocation of any Operational QNEC under this Section 3.05(C) to some or all NHCE Participants who are eligible to receive Matching Contributions ("ACP Participants"). See Section 4.09(A). The Plan Administrator under this Section 3.05(C) operationally must elect whether to allocate an Operational QNEC to NHCE Participants: (a) pro rata in relation to Compensation; (b) in the same dollar amount without regard to Compensation (flat dollar); (c) under the reverse allocation method; or (d) under any other method; provided, that any QNEC allocation is subject to the limitations of Section 3.05(C)(4). Under this Section 3.05(C), the Plan Administrator may allocate an Operational QNEC to any NHCE Participants who are eligible to receive allocations of Matching Contributions even if such Participants have not satisfied any eligibility conditions under Article II applicable to Nonelective Contributions (including QNECs) or have not satisfied any allocation conditions under Section 3.06 applicable to Nonelective Contributions (or to QNECs).

(2) Reverse QNEC allocation. Under the reverse QNEC allocation method, the Plan Administrator (subject to Section 3.06 if applicable), will allocate a QNEC first to the NHCE Participant(s) with the lowest Compensation for the Plan Year in an amount not exceeding the Annual Additions Limit for each Participant, with any remaining amounts allocated to the next highest paid NHCE Participant(s) not exceeding his/her Annual Additions Limit and continuing in this manner until the Plan Administrator has fully allocated the QNEC.

(3) Separate accounting. The Plan Administrator will establish a separate QNEC Account for each Participant who receives an allocation of QNECs in accordance with Section 7.04(A)(1).

(4) Anti-conditioning and targeting. The Employer in its Adoption Agreement and the Plan Administrator in operation may not condition the allocation of any QNEC under this Section 3.05(C), on whether a Participant has made Elective Deferrals. The allocation of QNECs also is subject to the targeting limitations of Section 4.08(C). The Employer will not make an Operational QNEC in an amount which exceeds the targeting limitations.

3.06 ALLOCATION CONDITIONS. The Employer in its Adoption Agreement will elect the allocation conditions, if any, which the Plan Administrator will apply in allocating Employer Contributions (except for those contributions described below) and in allocating forfeitures allocated as an Employer Contribution under the Plan.

(A) Contributions Not Subject to Allocation Conditions. The Employer may not elect to impose any allocation conditions on: (1) Elective Deferrals; (2) Safe Harbor Contributions; (3) Additional Matching Contributions; (4) Employee Contributions; or (5) Rollover Contributions. The Plan Administrator also may elect not to apply to any Operational QNECs made under Section 3.05(C), any allocation conditions otherwise applicable to QNECs or to Nonelective Contributions (including QNECs).

(B) Conditions. The Employer in its Adoption Agreement may elect to impose allocation conditions based on Hours of Service or employment at a specified time or both in accordance with this Section 3.06(B). The

Employer may elect to impose different allocation conditions to different Employer Contribution Types under the Plan. A Participant does not accrue an Employer Contribution or forfeiture allocated as an Employer Contribution with respect to a Plan Year or other applicable period until the Participant satisfies the allocation conditions for that Employer Contribution Type.

(1) Hours of Service requirement. The Plan Administrator will not allocate any portion of an Employer Contribution for a Plan Year to any Participant's Account if the Participant does not complete the applicable minimum Hours of Service or consecutive calendar days of employment under the Elapsed Time Method requirement the Employer specifies in its Adoption Agreement for the relevant period.

(a) 1,000 HOS in Plan Year/other HOS requirement. The Employer in its Adoption Agreement may elect to require a Participant to complete: (i) 1,000 Hours of Service during the Plan Year; (ii) a specified number of Hours of Service during the Plan Year which is less than 1,000 Hours of Service; or (iii) a specified number of Hours of Service within the time period the Employer elects in it Adoption Agreement, but not exceeding 1,000 Hours of Service in a Plan Year.

(b) 501 HOS/terminees. The Employer in its Adoption Agreement must elect whether to require a Participant to complete during a Plan Year 501 Hours of Service or to be employed for at least 91 consecutive calendar days under the Elapsed Time Method, to share in the allocation of Employer Contributions for that Plan Year where the Participant is not employed by the Employer on the last day of that Plan Year, including the Plan Year in which the Employer terminates the Plan.

(c) Short Plan Year or allocation period. This Section 3.06(B)(1)(c) applies to any Plan Year or to any other allocation time period under the Adoption Agreement which is less than 12 months, where in either case, the Employer creates a short allocation period on account of a Plan amendment, the termination of the Plan or the adoption of the Plan with an initial short Plan Year. In the case of any short allocation period, the Plan Administrator will prorate any Hour of Service requirement based on the number of days in the short allocation period divided by the number of days in the normal allocation period, using 365 days in the case of Plan Year allocation period. The Employer in an Addendum may elect not to prorate Hours of Service in any short allocation period or to apply an alternative proration method.

(2) Last day requirement. The Employer must specify in its Adoption Agreement whether the Participant will share in the allocation of Employer Contributions for that Plan Year if the Participant is not employed by the Employer on the last day of the Plan Year or other specified date. If the Plan provides a fixed contribution formula, the Plan conditions Employer Contribution allocations on a Participant's employment with the Employer on the last day of the Plan Year for the Plan Year in which the Employer terminates or freezes the Plan, even if the Employer in its Adoption Agreement did not elect the "last day of the Plan Year" allocation condition.

(C) Time Period. The Employer in its Adoption Agreement will elect the time period to which the Plan Administrator will apply any allocation condition. The Employer may elect to apply the same time period to all Contribution Types or to elect a different time period based on Contribution Type.

(D) Death, Disability or Normal Retirement Age. The Employer in its Adoption Agreement will elect whether any elected allocation condition applies or is waived for a Plan Year if a Participant incurs a Separation from Service during the Plan Year on account of the Participant's death, Disability or attainment of Normal Retirement Age in the current Plan Year

or on account of the Participant's Disability or attainment of Normal Retirement Age in a prior Plan Year. The Employer's election may be based on Contribution Type or may apply to all Contribution Types.

(E) No Other Conditions. In allocating Employer Contributions under the Plan, the Plan Administrator will not apply any other allocation conditions except those the Employer elects in its Adoption Agreement or otherwise as the Plan may require.

(F) Suspension of Allocation Conditions. The suspension provisions of this Section 3.06(F) do not apply unless the Employer elects to apply them. If Section 3.06(F) applies and the Plan in any Plan Year fails to satisfy coverage under the Ratio Percentage Test, the Plan suspends for that Plan Year any Plan allocation conditions in accordance with this Section 3.06(F).

(1) Definition of Ratio Percentage Test. A Plan satisfies coverage under the Ratio Percentage Test if the Plan's Benefiting Ratio of the Includible NHCEs is at least 70% of the Benefiting Ratio of the Includible HCEs.

(2) Definition of Benefiting Ratio. The Benefiting Ratio of the Includible NHCEs is the number of Benefiting Participants who are NHCEs divided by the number of the Includible NHCEs. The Benefiting Ratio of the HCEs is the number of Benefiting Participants who are HCEs divided by the number of Includible HCEs.

(3) Definition of Includible Employees. The Includible Employees are all Employees other than: (a) those Employees excluded from participating in the Plan for the entire Plan Year by reason of the collective bargaining unit or the nonresident alien exclusions under Code §410(b) or by reason of the age and service requirements of Article II; and (b) those Employees who incur a Separation from Service during the Plan Year and for the Plan Year fail to complete more than 500 Hours of Service or at least 91 consecutive calendar days under the Elapsed Time Method and who as a result of failing to satisfy such conditions are not Benefiting Participants for that Plan Year.

(4) Methodology. If this Section 3.06(F) applies for a Plan Year, the Plan Administrator will suspend the allocation conditions for the Includible NHCEs who are included in the coverage test and who are Participants in the Plan (or component part of the Plan) but who are not benefiting thereunder (within the meaning of Treas. Reg. §1.410(b)-3), such that enough additional NHCEs are benefiting under the Plan (or component part of the Plan) to pass coverage under the ratio percentage test. The ordering of suspension of allocation conditions is in the following priority tiers and if more than one NHCE in any priority tier satisfies the conditions for suspension (but all are not needed to benefit to pass coverage), the Plan Administrator will apply the suspension beginning first with the NHCE(s) in that suspension tier with the lowest Compensation during the Plan Year:

(a) Last day. Those NHCE(s) employed by the Employer on the last day of the Plan Year, without regard to the number of Hours of Service in the Plan Year. If necessary to pass coverage, the Plan Administrator then will apply Section 3.06(F)(4)(a).

(b) Latest Separation. Those NHCE(s) who have the latest Separation from Service date during the Plan Year, without regard to the number of Hours of Service in the Plan Year. If necessary to pass coverage, the Plan Administrator then will apply Section 3.06(F)(4)(b).

(c) Most Hours of Service (more than 500). Those NHCE(s) with the greatest number of Hours of Service during the Plan Year but who have more than 500 Hours of Service.

(5) Separate Application to Nonelective and Matching. If applicable under the Plan, the

Employer in its Adoption Agreement will elect whether to apply this Section 3.06(F): (a) to both Nonelective Contributions and to Matching Contributions if both components fail the ratio percentage test; (b) only to Nonelective Contributions if this component fails the ratio percentage test; or (c) only to Matching Contributions if this component fails the ratio percentage test.

(G) Conditions Apply to Re-Hired Employees. If a Participant incurs a Separation from Service and subsequently is re-hired and resumes participation in the same Plan Year as the Separation from Service or in any subsequent Plan Year, the allocation conditions under this Section 3.06, if any, continue to apply to the re-hired Employee/Participant in the Plan Year in which he/she is re-hired, unless the Employer indicates otherwise in an Addendum.

3.07 FORFEITURE ALLOCATION. The amount of a Participant's Account forfeited under the Plan is a Participant forfeiture. The Plan Administrator, subject to Section 3.07 as applicable, will allocate Participant forfeitures at the time and in the manner the Employer specifies in its Adoption Agreement.

(A) Allocation Method. The Employer in its Adoption Agreement must specify the method the Plan Administrator will apply to allocate forfeitures.

(1) Forfeiture source. The Employer in its Adoption Agreement may elect a different allocation method based on the forfeiture source (from Nonelective Contributions or from Matching Contributions) or may elect to apply the same allocation method to all forfeitures.

(a) Attributable to Matching. A Participant's forfeiture is attributable to Matching Contributions if the forfeiture is: (i) from the non-Vested portion of a Matching Contribution Account forfeited in accordance with Section 5.07 or, if applicable, Section 7.07; (ii) from a non-Vested Excess Aggregate Contribution (including Allocable Income) forfeited in correcting for nondiscrimination failures under Section 4.08(B); or (iii) an Associated Matching Contribution, which includes any Vested or non-Vested Matching Contribution (including Allocable Income) made as to Elective Deferrals or Employee Contributions the Plan distributes under Section 4.01(D) (Excess Amount), Section 4.08(A) (Excess Deferrals) or Section 4.08(B) (ACP test). An Employee forfeits an Associated Matching Contribution unless the Matching Contribution is a Vested Excess Aggregate Contribution distributed in accordance with Section 4.08(B) (ACP test). A forfeiture under this Section 3.07(A)(1)(a) occurs in the Plan Year following the Testing Year (unless the Employer in an addendum elects that the forfeiture occurs in the Testing Year) and the forfeiture is allocated in the Plan Year described in Section 3.07(B).

(2) Application of "reduce" option/excess forfeitures. If the Employer elects to allocate forfeitures to reduce Nonelective or Matching Contributions and the allocable forfeitures for the Plan Year exceed the amount of the applicable contribution for that Plan Year to which the Plan Administrator would apply the forfeitures (or there are no contributions under the Plan), the Plan Administrator will allocate the remaining forfeitures in the forfeiture allocation Plan Year. In such event, the Plan Administrator will allocate the remaining forfeitures as an additional Discretionary Nonelective Contribution or as a Discretionary Matching Contribution for that Plan Year. The Plan Administrator will allocate such forfeitures in the Plan Year in which the forfeitures occur, or will allocate the forfeitures in the next following Plan Year, as the Employer elects in its Adoption Agreement. See Section 5.07(A) as to when a forfeiture occurs.

(3) Plan expenses. If the Employer in its Adoption Agreement elects to apply forfeitures to the payment of Plan expenses under Section 7.04(C), the Employer must elect a secondary

allocation method so that if the forfeitures exceed the Plan's expenses, the Plan Administrator will apply any remaining forfeitures under the secondary method the Employer has elected in its Adoption Agreement.

(4) No allocation to Elective Deferral Accounts. The Plan Administrator will not allocate forfeitures to any Participant's Elective Deferral Account, including his/her Roth Deferral Account.

(B) Timing (forfeiture allocation Plan Year). The Employer in its Adoption Agreement must elect as to forfeitures occurring in a Plan Year, whether the Plan Administrator will allocate the forfeitures in the same Plan Year in which the forfeitures occur or will allocate the forfeitures in the Plan Year which next follows the Plan Year in which the forfeitures occur. See Sections 3.07(A)(1) and 5.07 as to when a forfeiture occurs.

(C) Administration of Account Pending/Incurring Forfeiture. The Plan Administrator will continue to hold the undistributed, non-Vested portion of the Account of a Participant who has separated from Service solely for his/her benefit until a forfeiture occurs at the time specified in Section 5.07 or if applicable, until the time specified in Section 7.07.

(D) Participant Does Not Share in Own Forfeiture. A Participant will not share in the allocation of a forfeiture of any portion of his/her Account, even if the Participant otherwise is entitled to an allocation of Employer Contributions and forfeitures in the forfeiture allocation Plan Year described in Section 3.07(B). If the forfeiting Participant is entitled to an allocation of Employer Contributions and forfeitures in the forfeiture allocation Plan Year, the Plan Administrator only will allocate to the Participant a share of the allocable forfeitures attributable to other forfeiting Participants.

(E) Plan Merger. In the event that the Employer merges another plan into this Plan, and does not fully vest upon merger the participant accounts in the merging plan, the Plan Administrator will allocate any post-merger forfeitures attributable to the merging plan in accordance with the Employer's elections in its Adoption Agreement. The Employer in an Addendum may elect to limit any such forfeiture allocation which is allocated as Nonelective Contributions or as Matching Contributions, only to those Participants who were also participants in the merged plan, but in the absence of such an election, all Participants who have satisfied any applicable allocation conditions under Section 3.06 will share in the forfeiture allocation.

3.08 ROLLOVER CONTRIBUTIONS. The Plan will apply this Section 3.08 in administering Rollover Contributions to the Plan, if any.

(A) Policy Regarding Rollover Acceptance. The Plan, operationally and on a nondiscriminatory basis, may elect to permit or not to permit Rollover Contributions to this Plan or may elect to limit an Eligible Employee's right or a Participant's right to make a Rollover Contribution. The Plan also may adopt, amend or terminate any policy regarding the Plan's acceptance of Rollover Contributions. Notwithstanding Section 3.08, the Vendor may impose additional restrictions on the acceptance of rollover contributions.

(1) Rollover documentation. If the Plan permits Rollover Contributions, any Participant (or as applicable, any Eligible Employee), after filing the prescribed form may make a Rollover Contribution to a Funding Vehicle. Before accepting a Rollover Contribution, the Plan may require a Participant (or Eligible Employee) to furnish satisfactory evidence the proposed transfer is in fact a "rollover contribution" which the Code permits an employee to make to a qualified plan.

(2) Declination. The Plan, in its sole discretion, may decline to accept a Rollover Contribution of property which could: (a) generate unrelated business taxable income; (b) create difficulty or undue expense in storage, safekeeping or valuation; or (c) create other practical problems for the Plan.

(B) Limited Testing. A Rollover Contribution is not an Annual Addition under Section 4.04(A) and is not subject to nondiscrimination testing except as a "right or feature."

(C) Pre-Participation Rollovers. If an Eligible Employee makes a Rollover Contribution to a Funding Vehicle prior to satisfying the Plan's eligibility conditions or prior to reaching his/her Entry Date, the Plan must treat the Employee as a limited Participant. A limited Participant does not share in the Plan's allocation of Employer Contributions nor Participant forfeitures and may not make Elective Deferrals until he/she actually becomes a Participant in the Plan. If a limited Participant has a Separation from Service prior to becoming a Participant in the Plan, the Vendor will distribute his/her Rollover Contributions Account to him/her in accordance with Section 6.01(D).

(D) May Include Employee Contributions and Roth Deferrals. A Rollover Contribution may include Employee Contributions and Roth Deferrals made to another plan, as adjusted for Earnings. In the case of Employee Contributions: (1) such amounts must be directly rolled over into this Plan from another plan; and (2) the Plan must account separately for the Rollover Contribution, including the Employee Contribution and the Earnings thereon. In the case of Roth Deferrals: (1) such amounts must be directly rolled over into this Plan from another plan which is qualified under Code §401(a) or from a 403(b) plan; (2) the Plan must account separately for the Rollover Contribution, including the Roth Deferrals and the Earnings thereon; and (3) as to rollovers which occur on or after April 30, 2007, this Plan must be a 403(b) Plan which permits Roth Deferrals.

3.09 USERRA CONTRIBUTIONS.

(A) Application. This Section 3.09 applies to an Employee who: (1) has completed Qualified Military Service under USERRA; (2) the Employer has rehired under USERRA; and (3) is a Participant entitled to make-up contributions under Code §414(u).

(B) Employer Contributions. The Employer will make-up any Employer Contribution the Employer would have made and which the Plan Administrator would have allocated to the Participant's Account had the Participant remained employed by the Employer during the period of Qualified Military Service.

(C) Compensation. For purposes of this Section 3.09, the Plan Administrator will determine an effected Participant's Compensation as follows. A Participant during his/her period of Qualified Military Service is deemed to receive Compensation equal to that which the Participant would have received had he/she remained employed by the Employer, based on the Participant's rate of pay that would have been in effect for the Participant during the period of Qualified Military Service. If the Compensation during such period would have been uncertain, the Plan Administrator will use the Participant's actual average Compensation for the 12 month period immediately preceding the period of Qualified Military Service, or if less, for the period of employment.

(D) Elective Deferrals/Employee Contributions. If the Plan provided for Elective Deferrals or for Employee Contributions during a Participant's period of Qualified Military Service, the Plan Administrator must allow a Participant under this Section 3.09(D) to make-up such Elective Deferrals or Employee Contributions to his/her Account. The Participant may make up the maximum amount of Elective Deferrals or Employee Contributions

which he/she under the Plan terms would have been able to contribute during the period of Qualified Military Service (less any such amounts the Participant actually contributed during such period) and the Participant must be permitted to contribute any lesser amount as the Plan would have permitted. The Participant must make up any contribution under this Section 3.09(D) commencing on his/her Re-Employment Commencement Date and not later than 5 years following reemployment (or if less, a period equal to 3 times the length of the Participant's Qualified Military Service triggering such make-up contribution).

(E) Matching Contributions. The Employer will make-up any Matching Contribution that the Employer would have made and which the Plan Administrator would have allocated to the Participant's Account during the period of Qualified Military Service, but based on any make–up Elective Deferrals or make-up Employee Contributions that the Participant makes under Section 3.09(D).

(F) Limitations/Testing. Any contribution made under this Section 3.09 does not cause the Plan to violate and is not subject to testing under: (1) nondiscrimination requirements including under Code 401(a)(4), the ACP test or the safe harbor rules; or (2) coverage under Code 410(b). Contributions under this Section 3.09 are Annual Additions and are tested under Section 4.08(A) (Deferral Limit) in the year to which such contributions are allocated, but not in the year in which such contributions are made.

(G) No Earnings. A Participant receiving any make-up contribution under this Section 3.09 is not entitled to an allocation of any Earnings on any such contribution prior to the time that the Employer actually makes the contribution (or timely deposits the Participant's own make-up Elective Deferrals or Employee Contributions) to the Plan.

(H) No Forfeitures. A Participant receiving any make-up allocation under this Section 3.09 is not entitled to an allocation of any forfeitures occurring under Section 5.07 during the Participant's period of Qualified Military Service.

(I) Allocation Conditions. For purposes of applying any Plan allocation conditions under Section 3.06, the Plan will treat any period of Qualified Military Service as Service.

(J) Other Rules. The Plan in applying this Section 3.09 will apply DOL Reg. §1002.259-267, and any other Applicable Law addressing the application of USERRA to the Plan.

3.10 EMPLOYEE CONTRIBUTIONS. An Employer must elect in its Adoption Agreement whether to permit Employee Contributions. If the Employer elects to permit Employee Contributions, the Employer also must specify in its Adoption Agreement any limitations which apply to Employee Contributions. If the Employer permits Employee Contributions, the Plan Administrator operationally will determine if a Participant will make Employee Contributions through payroll deduction or by other means. Employee Contributions must satisfy the nondiscrimination requirements of Section 4.08(B) (ACP test), unless the Plan is exempt under Section 4.05(D).

ARTICLE IV
LIMITATIONS AND TESTING

4.01 ANNUAL ADDITIONS LIMIT.

(A) Limitation. The amount of Annual Additions which the Plan Administrator may allocate under this Plan to a Participant's Account for a Limitation Year may not exceed the Annual Additions Limit.

(B) Actions to Prevent Excess Annual Additions. If the Annual Additions the Plan Administrator otherwise would allocate under the Plan to a Participant's Account for the Limitation Year would exceed the Annual Additions Limit, the Plan Administrator will not allocate the Excess Amount, but instead will take any reasonable, uniform and nondiscriminatory action the Plan Administrator determines necessary to avoid allocation of an Excess Amount. Such actions include, but are not limited to, those described in this Section 4.01. The Plan Administrator may apply this Section 4.01 in a manner which maximizes the allocation to a Participant of Employer Contributions (exclusive of the Participant's Elective Deferrals). Notwithstanding any contrary Plan provision, the Plan Administrator, for the Limitation Year, may: (1) suspend or limit a Participant's additional Employee Contributions or Elective Deferrals; (2) notify the Employer to reduce the Employer's future Plan contribution(s) as necessary to avoid allocation to a Participant of an Excess Amount; or (3) suspend or limit the allocation to a Participant of any Employer Contribution previously made to the Plan (exclusive of Elective Deferrals) or of any Participant forfeiture. If an allocation of Employer Contributions previously made (excluding a Participant's Elective Deferrals) or of Participant forfeitures would result in an Excess Amount to a Participant's Account, the Plan Administrator will allocate the Excess Amount to the remaining Participants who are eligible for an allocation of Employer contributions for the Plan Year in which the Limitation Year ends. The Plan Administrator will make this allocation in accordance with the Plan's allocation method as if the Participant whose Account otherwise would receive the Excess Amount, is not eligible for an allocation of Employer Contributions. If the Plan Administrator allocates to a Participant an Excess Amount, Plan Administrator must dispose of the Excess Amount in accordance with Section 4.01(D).

(C) Estimated and Actual Compensation. Prior to the determination of the Participant's actual Compensation for a Limitation Year, the Plan Administrator may determine the Annual Additions Limit on the basis of the Participant's estimated annual Compensation for such Limitation Year. The Plan Administrator must make this determination on a reasonable and uniform basis for all Participants similarly situated. The Plan Administrator must reduce the allocation of any Employer Contributions (including any allocation of forfeitures) based on estimated annual Compensation by any Excess Amounts carried over from prior Limitation Years. As soon as is administratively feasible after the end of the Limitation Year, the Plan Administrator will determine the Annual Additions Limit for the Limitation Year on the basis of the Participant's actual Compensation for such Limitation Year.

(D) Disposition of Allocated Excess Amount. If a Participant receives an allocation of an Excess Amount for a Limitation Year, the Plan Administrator will dispose of such Excess Amount in accordance with this Section 4.01(D).

(1) Employee Contributions. The Plan Administrator first will distribute to the Participant any Employee Contributions (adjusted for Earnings) to the extent necessary to reduce or eliminate the Excess Amount.

(2) Elective Deferrals. If, after the application of Section 4.01(D)(1), an Excess Amount still exists, the Plan Administrator will distribute to the Participant any Elective Deferrals (adjusted for Earnings) and will forfeit any Matching Contributions associated with the distributed Elective Deferrals, to the extent necessary to reduce or eliminate the Excess Amount. If a Participant who will receive a distribution of an Excess Amount has, in the Plan Year for which the corrective distribution is made, contributed both Pre-Tax Deferrals and Roth Deferrals, the Plan Administrator operationally will determine the source(s) from which it will direct the Vendor to make the corrective distribution. The Plan Administrator also may permit the affected Participants to elect the source(s) from which the corrective distribution will be made. However, the amount of a corrective distribution of an Excess Amount to any Participant from the Pre-Tax Deferral or Roth Deferral sources under this Section 4.01(D)(2) may not exceed the amount of the Participant's Pre-Tax Deferrals or Roth Deferrals for the correction year. The Plan will treat any such Elective Deferrals distributed to a Participant as coming first from the Participant's Qualified Organization Catch-Up Deferrals under Section 3.02(D).

(3) EPCRS. If, after the application of Sections 4.01(D)(1) and (2), an Excess Amount still exists, the Plan Administrator will apply any method available under EPCRS for correcting Code §415 errors.

(4) Excess Amount remains/Participant still covered. If, after the application of Sections 4.01(D)(1), (2), and (3), an Excess Amount still exists, the Plan Administrator then will hold the Excess Amount in a Separate Account. The Excess Amount held in the separate account is includible in the Participant's gross income (to the extent vested) for the taxable year in which the Employer Contributions exceed the Annual Additions Limit. If the Excess Amount is held in an Annuity Contract, the Contract is considered a Code §403(c) Contract. If the Excess Amount is held in a Custodial Account, the Excess Amount is considered transferred to a separate account to which Code §83 applies. If the Excess Amount is held in an RIA, the Excess Amount is considered a Code §402(b) trust. Earnings on an Excess Amount held in a Separate Account will be taxable consistent with the applicable rules described above. The Plan may distribute an Excess Amount held in a separate account irrespective of the distribution restrictions.

(5) Other action. The Plan Administrator under this Section 4.01(D) also may utilize any other correction method authorized under Applicable Law.

4.02 ANNUAL ADDITIONS LIMIT – OTHER 415 AGGREGATED PLANS.

(A) Application of this Section. This Section 4.02 applies only to Participants who, in addition to this Plan, participate in one or more Code §415 Aggregated Plans.

(1) Definition of Code §415 Aggregated Plans. Code §415 Aggregated Plans means 403(b) plans maintained by the Employer and which provide an Annual Addition during the Limitation Year.

(B) Combined Plans Limitation. The amount of Annual Additions which the Plan Administrator may allocate under this Plan to a Participant's Account for a Limitation Year may not exceed the Combined Plans Limitation.

(1) Definition of Combined Plans Limitation. The Combined Plans Limitation is the Annual Additions Limit, reduced by the sum of any Annual Additions allocated to the Participant's accounts for the same Limitation Year under the Code §415 Aggregated Plans.

(2) Prevention. If the amount the Employer otherwise would allocate to the Participant's Account under this Plan would cause the Annual Additions for the Limitation Year to

exceed this Section 4.02(B) Combined Plans Limitation, the Employer will reduce the amount of its allocation to that Participant's Account in the manner described in Section 4.01, so the Annual Additions under all of the Code §415 Aggregated Plans for the Limitation Year will equal the Annual Additions Limit.

(3) Correction. If the Plan Administrator allocates to a Participant an amount attributed to this Plan under Section 4.02(D) which exceeds the Combined Plans Limitation, the Plan Administrator must dispose of the Excess Amount in accordance with Section 4.02(E).

(C) Estimated and Actual Compensation. Prior to the determination of the Participant's actual Compensation for the Limitation Year, the Plan Administrator may determine the Combined Plans Limitation on the basis of the Participant's estimated annual Compensation for such Limitation Year. The Plan Administrator will make this determination on a reasonable and uniform basis for all Participants similarly situated. The Plan Administrator must reduce the allocation of any Employer Contribution (including the allocation of Participant forfeitures) based on estimated annual Compensation by any Excess Amounts carried over from prior years. As soon as is administratively feasible after the end of the Limitation Year, the Plan Administrator will determine the Combined Plans Limitation on the basis of the Participant's actual Compensation for such Limitation Year.

(D) Ordering Rules. If a Participant's Annual Additions under this Plan and the Code §415 Aggregated Plans result in an Excess Amount, such Excess Amount will consist of the Amounts last allocated. If the Plan Administrator allocates an Excess Amount to a Participant on an allocation date of this Plan which coincides with an allocation date of another plan, unless the Employer specifies otherwise in an Addendum, the Excess Amount attributed to this Plan will equal the product of:

(1) the total Excess Amount allocated as of such date, multiplied by

(2) the ratio of (a) the Annual Additions allocated to the Participant as of such date for the Limitation Year under the Plan to (b) the total Annual Additions allocated to the Participant as of such date for the Limitation Year under this Plan and the Code §415 Aggregated Plans.

(E) Disposition of Allocated Excess Amount Attributable to Plan. The Plan Administrator will dispose of any allocated Excess Amounts described in and attributed to this Plan under Section 4.02(D) as provided in Section 4.01(D).

4.03 CONTROLLED EMPLOYER/QUALIFIED DEFINED CONTRIBUTION PLAN.

(A) Application of this Section. If a Participant in a 403(b) Plan also is in control of another employer, the 403(b) Plan is a defined contribution plan maintained both by the controlled employer and by the Participant. In applying the Annual Additions Limit, the Participant must aggregate the 403(b) Plan contributions with all other contributions he/she receives under any qualified defined contribution plan the controlled employer maintains.

(B) Control. For purposes of applying the Annual Additions Limit under Section 4.03(A), the Plan Administrator determines control under Code §§414(b) or 414(c), as modified by Code §415(h), in accordance with the rules of Treas. Reg. §1.415(f)-1(f).

4.04 DEFINITIONS: SECTIONS 4.01-4.03. For purposes of Sections 4.01 through 4.03:

(A) Annual Additions. Annual Additions means the sum of the following amounts allocated to a Participant's Account for a Limitation Year: (1) Employer Contributions; (2) forfeitures; (3) Employee Contributions; (4)

Elective Deferrals (including Qualified Organization Catch-Up Deferrals); (5) amounts allocated after March 31, 1984, to an individual medical account (as defined in Code §415(l)(2)) included as part of a pension or annuity plan maintained by the Employer; (6) contributions paid or accrued after December 31, 1985, for taxable years ending after December 31, 1985, attributable to post-retirement medical benefits allocated to the separate account of a key-employee (as defined in Code §419A(d)(3)) under a welfare benefit fund (as defined in Code §419(e)) maintained by the Employer; and (7) corrected Excess Aggregate Contributions. Excess Deferrals which the Plan Administrator corrects by distribution by April 15 of the following calendar year are not Annual Additions. Age 50 Catch-Up Deferrals are not Annual Additions.

(B) Annual Additions Limit. Annual Additions Limit means the lesser of: (i) $40,000 (or, if greater, the $40,000 amount as adjusted under Code §415(d)), or (ii) 100% of the Participant's Compensation for the Limitation Year. If there is a short Limitation Year because of a change in Limitation Year or because of a midyear Plan termination, the Plan Administrator will multiply the $40,000 (or adjusted) limitation by the following fraction:

$$\frac{\text{Number of months (or fractional parts thereof) in the short Limitation Year}}{12}$$

The 100% Compensation limitation in clause (ii) above does not apply to any contribution for medical benefits within the meaning of Code §401(h) or Code §419A(f)(2) which otherwise is an Annual Addition.

(1) Single plan treatment of 403(b) Plans. For purposes of applying the Annual Additions Limit, the Plan Administrator must treat all 403(b) Plans (whether or not terminated) maintained by the Employer as a single plan.

(2) Church plan. For a Participant who is an Employee of a Church or a convention or association of churches, including an organization described in Code §414(e)(3)(B)(ii), the Annual Additions limit is not less than $10,000 regardless of the Participant's Includible Compensation in the Limitation Year. With respect to any Participant, the total amount of Annual Additions that, but for this Section 4.04(B)(2), would be in excess of the Annual Additions Limit cannot exceed $40,000. Thus, the aggregate of Annual Additions for all Limitation Years that would exceed the Annual Additions Limit but for this rule is limited to $40,000.

(C) Compensation. Compensation means Includible Compensation and includes Deemed Includible Compensation and Post-Severance Compensation. Compensation includes Elective Deferrals, irrespective of whether the Employer has elected in its Adoption Agreement to include these amounts as Compensation under Section 1.12. No Compensation exclusions the Employer has elected in its Adoption Agreement apply for determining Includible Compensation.

(D) Employer. Employer means the Employer and any Related Employer. Solely for purposes of applying the Annual Additions Limit, the Plan Administrator will determine Related Employer status by modifying Code §§414(b) and (c) in accordance with Code §415(h), as provided in Treas. Reg. §1.415(a)-1(f)(1).

(E) Excess Amount. Excess Amount means the excess of the Participant's Annual Additions for the Limitation Year over the Annual Additions Limit.

(F) Limitation Year. Limitation Year means the period the Employer elects in its Adoption Agreement. If the Employer amends the Limitation Year to a different 12-consecutive month period, the new Limitation Year must begin on a date within the Limitation Year for

which the Employer makes the amendment, creating a short Limitation Year.

4.05 ANNUAL TESTING. If the Plan is subject to the nondiscrimination requirements, the Plan Administrator may elect to test for coverage and nondiscrimination by applying, as applicable, annual testing elections under this Section 4.05.

(A) Changes and Uniformity. In applying any testing election, the Plan Administrator may elect to apply or not to apply such election in any Testing Year, consistent with this Section 4.05. However, the Plan Administrator will apply the testing elections in effect within a Testing Year uniformly to all similarly situated Participants.

(B) Plan Specific Elections. The Employer in its Adoption Agreement must elect for the Plan Administrator to apply the following annual testing elections: (1) nondiscrimination testing under the ACP test; (2) no nondiscrimination testing as a safe harbor plan; (3) the top-paid group election under Code §414(q)(1)(B)(ii); (4) the calendar year data election; (5) Current or Prior Year Testing; (6) the first plan year election in Section 4.08(B)(5)(d)(iv); and (7) any other testing election which the IRS in the future specifies in written guidance as being subject to a requirement of the Employer making a Plan (versus an operational) election.

(C) Operational Elections. The Plan Administrator operationally may apply any testing election available under Applicable Law, other than those "plan specific elections" described in 4.05(B), including but not limited to: (1) the "otherwise excludible employees" ("OEE") rule under Code §410(b); (2) the "early participation" ("EP") rule under Code §401(m); (3) the application of any Code §414(s) nondiscriminatory definition of compensation for testing, regardless of the Plan's allocation or Annual Additions Limit definitions of Compensation; (4) application of the general non-discrimination test; (5) application of the "compensation ratio test"; (6) application of imputed permitted disparity; (7) application of restructuring; (8) application of the average benefit test under Code §410(b)(2), except as limited under Section 3.06(F); (9) application of permissive aggregation under Code §410(b)(6)(B); and (10) application of the "coverage transition rule" under Code §410(b).

(1) Application of otherwise excludible employees and early participation rules. In applying the OEE and EP rules in clauses (i) and (ii) of Section 4.05(C) above, the Plan Administrator will apply the following provisions.

(a) Definitions of Otherwise Excludible Employees and Includible Employees. For purposes of this Section 4.05(C), an Otherwise Excludible Employee means a Participant who has not reached the Cross-Over Date. For purposes of this Section 4.05(C), an Includible Employee means a Participant who has reached the Cross-Over Date.

(b) Satisfaction of coverage. To apply the OEE or EP rules for nondiscrimination testing, the Plan must satisfy coverage as to the disaggregated plans under Code §410(b)(4)(B).

(c) Definition of Cross-Over Date. The Cross-Over Date under the OEE rule means when an Employee changes status from the disaggregated plan benefiting the Otherwise Excludible Employees to the disaggregated "plan" benefiting the Includible Employees. The Cross-Over Date has the same meaning under the EP rule except it is limited only to NHCEs. Under the EP rule, all HCE Participants remain subject to nondiscrimination testing.

(d) Determination of Cross-Over Date. The Plan Administrator may elect to determine the Cross-Over Date for an Employee by applying any date which is not later than the maximum permissible entry date under Code §410(a)(4).

(e) Amounts in testing in Cross-Over Plan Year. For purposes of the OEE rule, the Plan Administrator will count the total Plan Year Elective Deferrals, Matching Contributions and Compensation in the Includible Employees plan test for the Employees who become Includible Employees during such Plan Year. For purposes of applying the EP rule, the Plan Administrator will count the Elective Deferrals, Matching Contributions and Compensation in the single test for the Includible Employees, but only such of these items as are attributable to the period on and following the Cross-Over Date.

(f) Application of other conventions. Notwithstanding Sections 4.05(C)(1)(c), (d) and (e): (i) the Plan Administrator operationally may apply Applicable Law; (ii) the Plan Administrator under a Restated Plan operationally may apply the Plan terms commencing in the Plan Year beginning after the Employer executes the Restated Plan in lieu of applying the Plan terms retroactive to the Plan's restated Effective Date; and (iii) the Plan Administrator operationally may apply any other reasonable conventions, uniformly applied within a Plan Year, provided that any such convention is not inconsistent with Applicable Law.

(g) Allocations not affected by testing. The Plan Administrator's election to apply the OEE or EP rules for testing does not control the Plan allocations, or the Compensation used for Plan allocations. The Plan Administrator will determine Plan allocations and Compensation for Plan allocations based on the Employer's Adoption Agreement elections.

(D) Governmental and Church Plans Exempt. With the exception of the Compensation Limitation (Section 1.12(F)) and Universal Availability of Elective Deferrals under Section 2.01(A), the nondiscrimination (including the ACP test) and coverage requirements do not apply to a governmental 403(b) Plan. Nondiscrimination and coverage requirements do not apply to church plan described in Code §403(b)(12).

4.06 AMENDMENT TO PASS TESTING. In the event that the Plan fails to satisfy the coverage or the nondiscrimination requirements in any Plan Year, the Employer may elect to amend the Plan consistent with the regulations to correct the failure. The Employer may make such an amendment in any form or manner as the Employer deems reasonable, but consistent with Section 9.02(A).

4.07 APPLICATION OF COMPENSATION LIMIT. The Plan Administrator in performing any nondiscrimination testing under this Article IV will limit each Participant's Compensation to the amount described in Section 1.12(F), unless this Plan is a church plan described in Code §403(b)(12).

4.08 LIMIT ON ELECTIVE DEFERRALS/TESTING MATCHING CONTRIBUTIONS.

(A) Annual Elective Deferral Limitation. A Participant's Elective Deferrals for a Taxable Year may not exceed the Elective Deferral Limit.

(1) Definition of Elective Deferral Limit. The Elective Deferral Limit is the Code §402(g) limitation on each Participant's Elective Deferrals for each Taxable Year.

(2) Definition of Excess Deferral. A Participant's Excess Deferral is the amount of Elective Deferrals for a Taxable Year which exceeds the Elective Deferral Limit.

(3) Elective Deferral Limit amount. The Elective Deferral Limit is $15,000, subject to Catch-Up Deferrals under Sections 3.02(C) and (D) and COLA adjustments under Section 4.08(A)(4).

(4) COLA after 2006. After the 2006 Taxable Year, the Elective Deferral Limit is adjusted for cost-of-living to the extent provided under Code §415(d).

(5) Suspension after reaching limit. If the Employer determines a Participant's Elective Deferrals to the Plan for a Taxable Year would exceed the Elective Deferral Limit, the Employer will suspend the Participant's Salary Reduction Agreement, or Automatic Deferrals under Section 3.02(B), if any, until the following January 1 and will pay to the Participant in cash the portion of the Elective Deferrals which would result in the Participant's Elective Deferrals for the Taxable Year exceeding the Elective Deferral Limit.

(6) Correction. If the Plan Administrator determines a Participant's Elective Deferrals already contributed to the Plan for a Taxable Year exceed the Elective Deferral Limit, the Plan will distribute the Excess Deferrals as adjusted for Allocable Income, no later than April 15 of the following Taxable Year or by any later date permitted under Applicable Law.

(7) 415 interaction. If the Plan distributes the Excess Deferrals by the April 15 deadline under Section 4.08(A)(6), the Excess Deferrals are not an Annual Addition under Section 4.04, and the Plan may make the distribution irrespective of any other provision under this Plan or under the Code. Elective Deferrals distributed to a Participant as an Excess Amount in accordance with Sections 4.01 through 4.03 are not taken into account in determining the Participant's Elective Deferral Limit.

(8) More than one plan. If a Participant participates in another plan subject to the Code §402(g) limitation under which he/she makes elective deferrals, such as a 403(b) plan, a SARSEP, a SIMPLE IRA, or a 401(k) plan, (irrespective of whether the Employer maintains the other plan), the Participant may provide to the Plan a written claim for Excess Deferrals made to the Plan for a Taxable Year. The Participant must submit the claim no later than the March 1 following the close of the particular Taxable Year and the claim must specify the amount of the Participant's Elective Deferrals under this Plan which are Excess Deferrals. The Plan may require the Participant to provide reasonable evidence of the existence of and the amount of the Participant's Excess Deferrals. If the Plan Administrator receives a timely claim which it approves, the Plan Administrator will direct a Vendor to distribute the Excess Deferrals (as adjusted for Allocable Income under Section 4.09(A)(1)) from the Participant's Account in this Plan, in accordance with this Section 4.08(A).

(9) Roth and Pre-Tax Deferrals. If a Participant who will receive a distribution of Excess Deferrals, in the Taxable Year for which the corrective distribution is made, has contributed both Pre-Tax Deferrals and Roth Deferrals, the Plan Administrator operationally will determine the Elective Deferral Account source(s) from which it will direct the Vendor to make the corrective distribution. The Plan Administrator also may permit the affected Participant to elect the source(s) from which the Vendor will make the corrective distribution. However, the amount of a corrective distribution of Excess Deferrals to any Participant from the Pre-Tax Deferral or Roth Deferral sources under this Section 4.08(A)(9) may not exceed the amount of the Participant's Pre-Tax Deferrals or Roth Deferrals for the correction Taxable Year.

(B) Actual Contribution Percentage (ACP) Test. If the Plan is subject to nondiscrimination testing (see Section 4.05(D)) and the Employer in its Adoption Agreement has not elected to make Safe Harbor Contributions, a Participant's Aggregate Contributions may not exceed the ACP Limit. If the Plan is subject to nondiscrimination testing and the Employer in its Adoption Agreement has elected to make Safe Harbor Contributions and has elected to permit Employee Contributions, then a Participant's Aggregate Contributions

(determined without regard to Matching Contributions) may not exceed the ACP Limit.

(1) Definition of ACP Limit. The ACP Limit is the maximum dollar amount of Aggregate Contributions that each HCE may receive or may make under the Plan such that the Plan passes the ACP test.

(2) Definition of Aggregate Contributions. Except as otherwise provided in Section 6.08(B) above, "Aggregate Contributions" are Matching Contributions and Employee Contributions. Aggregate Contributions also include any QNECs the Plan Administrator includes in the ACP test.

(3) Definition of Excess Aggregate Contributions. Excess Aggregate Contributions are the amount of Aggregate Contributions allocated on behalf of the HCEs which cause the Plan to fail the ACP test.

(4) ACP test. For each Plan Year, Aggregate Contributions satisfy the ACP test if they satisfy either of the following tests:

(a) 1.25 test. The ACP for the HCE Group does not exceed 1.25 times the ACP of the NHCE Group; or

(b) 2 percent test. The ACP for the HCE Group does not exceed the ACP for the NHCE Group by more than two percentage points and the ACP for the HCE Group is not more than twice the ACP for the NHCE Group.

(5) Calculation of ACP. The ACP for either group is the average of the separate ACRs calculated for each ACP Participant who is a member of that group. The Plan Administrator will include in the ACP test as a zero an ACP Participant who (i) is eligible to make Employee Contributions but who does not do so; or (ii) is eligible to make Elective Deferrals and to receive an allocation of any Matching Contributions based on Elective Deferrals but who does not make any Elective Deferrals for the Testing Year.

(a) Definition of ACR (actual contribution ratio). An ACP Participant's ACR for a Plan Year is the ratio of the ACP Participant's Aggregate Contributions for the Plan Year to the ACP Participant's Compensation for the Plan Year.

(b) Definitions. See Sections 4.09(A), (F), and (G) for the definitions of ACP Participant, HCE Group, and NHCE Group.

(c) QNECs and Elective Deferrals. The Plan Administrator operationally may include in the ACP test QNECs. The Plan Administrator may use QNECs in the ACP test provided such amounts are not impermissibly targeted under Section 4.08(C). As described in Section 3.05(C), the Plan Administrator operationally may designate any Nonelective Contribution as a QNEC.

(d) Current/prior year testing.

(i) Election. In determining whether the Plan satisfies the ACP test, the Plan Administrator will use Current Year Testing or Prior Year Testing as the Employer elects in its Adoption Agreement. Any such election applies for such Testing Years as the Employer elects (and retroactively as the Employer elects in the case of a Restated Plan).

(ii) Permissible changes. The Employer under Section 4.05(B) may amend its Adoption Agreement to change from Prior Year Testing to Current Year Testing at any time, subject to Applicable Law. The Employer may amend its Adoption Agreement to change from Current Year Testing to Prior Year Testing only: (A) if the Plan has used Current Year Testing in at least the 5 immediately preceding Plan Years (or if the Plan has not been in existence for 5 Plan Years, the number of Plan Years the Plan has been in existence); (B) the Plan is the result of aggregation of 2 or more

plans and each of the aggregated plans used Current Year Testing for the period described in clause (A); or (C) a transaction occurs to which the coverage transition rule under Code §410(b)(6)(C) applies and as a result, the Employer maintains a plan using Prior Year Testing and a plan using Current Year Testing. Under clause (C), the Employer may make an amendment to change to Prior Year Testing at any time during the coverage transition period.

(iii)Employee Contribution, Matching Contribution and QNEC deadline/limitation if Prior Year Testing. The Plan Administrator includes Employee Contributions in the ACP test in the Testing Year in which the Employer withholds the Employee Contributions from the Participant's pay, provided such contributions are contributed to the Plan The Plan Administrator may include Matching Contributions and QNECs in determining the HCE or NHCE ACP only if the Employer makes such contribution to the Plan within 12 months following the end of the Plan Year to which the Plan Administrator will allocate the Matching Contribution, or QNEC Under Prior Year Testing, to count the QNEC in the ACP test, the Employer must contribute a QNEC by the end of the Testing Year.

(iv)First Plan Year under Prior Year Testing. For the first Plan Year the Plan permits Matching Contributions or Employee Contributions, if the Plan is not a Successor Plan and is using Prior Year Testing, the prior year ACP for the NHCE Group is equal to 3% unless the Employer, in an Addendum, elects to use the actual ACP for the NHCE Group in the first Plan Year. If the Plan continues to use Prior Year Testing in the second Plan Year, the Plan Administrator must use the actual first Plan Year ACP for the NHCE Group in the ACP test for the second Plan Year.

(v) Plan coverage changes under Prior Year Testing. If the Employer's Plan is using Prior Year Testing and the Plan experiences a plan coverage change, the Plan Administrator will make any adjustments as Applicable Law may require to the NHCEs' ACP for the prior year.

(6) Special aggregation rule for HCEs. To determine the contribution percentage of any HCE, the Plan Administrator must take into account any Aggregate Contributions allocated to the HCE under any other arrangement 403(b) plan or qualified plan maintained by the Employer. If the plans have different plan years, the Plan Administrator will determine the combined Aggregate Contributions on the basis of the Plan Years ending in the same calendar year. If the plans have different years, all Aggregate Contributions made during the Plan Year will be aggregated. Notwithstanding the foregoing, the Plan Administrator will not apply the aggregation rule of this Section 4.08(B)(6) to plans which may not be aggregated.

(7) Aggregation of certain 401(m) arrangements. If the Employer treats two or more plans subject to Code §401(m) as a single plan for coverage or nondiscrimination purposes, the Employer must combine the plans under such plans to determine whether the plans satisfy the ACP test. This aggregation rule applies to the ACP determination for all eligible employees, irrespective of whether an eligible employee is an HCE or an NHCE. An Employer may not aggregate: (a) plans with different plan years; (b) a safe harbor plan with a non-safe harbor plan; (c) plans which use different testing methods (current versus prior); or (d) any other plans which must be disaggregated. If the Employer aggregating plans subject to 401(m) under this Section 4.08(B)(7) is using Prior Year Testing, the Plan Administrator must adjust the NHCE Group ACP for the prior year as provided in Section 4.08(B)(5)(c)(v).

(8) Distribution of Excess Aggregate Contributions. The Plan Administrator will determine Excess Aggregate Contributions after determining Excess Deferrals under Section 4.08(A). If the Plan Administrator determines the Plan fails to satisfy the ACP test for a Plan

Year, the Vendor, as directed by the Plan Administrator, by the end of the Plan Year which follows the Testing Year, must distribute the Vested Excess Aggregate Contributions, as adjusted for Allocable Income.

(a) Calculation of total Excess Aggregate Contributions. The Plan Administrator will determine the total amount of the Excess Aggregate Contributions by starting with the HCE(s) who has the greatest ACR, reducing his/her ACR (but not below the next highest ACR), then, if necessary, reducing the ACR of the HCE(s) at the next highest ACR level, including the ACR of the HCE(s) whose ACR the Plan Administrator already has reduced (but not below the next highest ACR), and continuing in this manner until the ACP for the HCE Group satisfies the ACP test. All reductions under this Section 4.08(C)(8)(a) are to the ACR only and do not result in any actual distributions.

(b) Apportionment and distribution of Excess Aggregate Contributions. After the Plan Administrator has determined the total Excess Aggregate Contribution amount, the Vendor, as directed by the Plan Administrator, then will distribute (to the extent Vested) to each HCE his/her respective share of the Excess Aggregate Contributions. The Plan Administrator will determine each HCE's share of Excess Aggregate Contributions by starting with the HCE(s) who has the highest dollar amount of Aggregate Contributions, reducing the amount of his/her Aggregate Contributions (but not below the next highest dollar amount of the Aggregate Contributions), then, if necessary, reducing the amount of Aggregate Contributions of the HCE(s) at the next highest dollar amount of Aggregate Contributions, including the Aggregate Contributions of the HCE(s) whose Aggregate Contributions the Plan Administrator already has reduced (but not below the next highest dollar amount of Aggregate Contributions), and continuing in this manner until the Vendor has distributed all Excess Aggregate Contributions.

(9) Allocable Income/Testing Year and Gap Period. A corrective distribution under Section 4.08(B)(8) must include Allocable Income. For Plan Years beginning after the 2007 Plan Year, the Plan Administrator only will distribute Allocable Income for the Testing Year and will not distribute any Gap Period Allocable Income, unless the Employer in an Addendum provides otherwise.

(10) Ordering of Excess Aggregate Contributions. The Plan Administrator will treat an HCE's allocable share of Excess Aggregate Contributions in the following priority: (a) first as attributable to his/her Employee Contributions, if any; (b) secondly, Matching Contributions included in the ACP test; and (c) then to QNECs used in the ACP test.

(11) Vesting. If an HCE has Excess Aggregate Contributions and he/she is not 100% Vested in his/her Matching Contribution Account, the Plan Administrator will distribute only the Vested portion and will forfeit the non-Vested portion. The Vested portion of the HCE's Excess Aggregate Contributions attributable to Employer Matching Contributions is the total amount of such Excess Aggregate Contributions (as adjusted for allocable income) multiplied by his/her Vested percentage (determined as of the last day of the Plan Year for which the Employer made the Matching Contribution).

(12) Treatment as Annual Addition. Distributed Excess Aggregate Contributions are Annual Additions under Sections 4.01-4.04 in the Limitation Year in which such amounts were allocated.

(C) QNEC Targeting Restrictions. The targeting restrictions in this Section 4.08(C) apply to Matching Contributions the Employer has elected in its Adoption Agreement and to such QNECs as the Plan Administrator operationally may designate.

(1) QNEC Targeting Rules. The Plan Administrator may include in the ACP test only such amounts of any QNEC as are not impermissibly targeted. A QNEC is impermissibly targeted if the QNEC amount allocated to any NHCE exceeds the greater of: (a) 5% of Compensation; or (b) 2 times the Plan's Representative Contribution Rate.

(a) Definition of Representative Contribution Rate. The Plan's ACP Representative Contribution Rate is the lowest ACP Contribution Rate of any NHCE in a group consisting of: (i) any one-half of the Eligible NHCEs for the Plan Year; or if it would result in a greater Representative Contribution Rate (ii) all of the Eligible NHCEs who are employed by the Employer on the last day of the Plan Year.

(b) Definition of Contribution Rate. The Contribution Rate of an Eligible NHCE for the ACP test is the sum of the Eligible NHCE's Matching Contributions and QNECs used in the ACP test, divided by the NHCE's Compensation.

(2) Matching Contribution targeting rules. The Plan Administrator may include in the ACP test only such Matching Contribution amounts as are not impermissibly targeted. A Matching Contribution is impermissibly targeted if the Matching Contribution amount allocated to any NHCE exceeds the greatest of: (a) 5% of Compensation; (b) the amount of the NHCE's Elective Deferrals; or (c) the product of 2 times the Plan's Representative Matching Rate and the NHCE's Elective Deferrals for the Plan Year.

(a) Definition of Representative Matching Rate. The Plan's Representative Matching Rate is the lowest Matching Rate for any eligible NHCE in a group consisting of: (i) any one-half of the Eligible NHCEs who make Elective Deferrals for the Plan Year; or if it would result in a greater Representative Matching Rate, (ii) all of the Eligible NHCEs who make Elective Deferrals for the Plan Year and who are employed by the Employer on the last day of the Plan Year.

(b) Definition of Matching Rate. The Matching Rate for an NHCE is the NHCE's Matching Contributions divided by his/her Elective Deferrals; provided that if the Matching Rate is not the same for all levels of Elective Deferrals, the Plan Administrator will determine each NHCE's Matching Rate by assuming an Elective Deferral equal to 6% of Compensation.

(3) Accrued Fixed Contributions. The Employer must contribute any accrued fixed contribution, even if any or all of such contribution is impermissibly targeted.

4.09 DEFINITIONS: SECTIONS 4.05-4.08. For purposes of Sections 4.05 through 4.08:

(A) ACP Participant. ACP Participant means an Eligible Employee who has satisfied the eligibility requirements under Article II and the allocation conditions under Section 3.06 applicable to Matching Contributions such that the Participant would be entitled to a Matching Contribution allocable to the Testing Year if he/she makes an Elective Deferral and/or an Employee Contribution. An ACP Participant also includes an Eligible Employee who has satisfied the eligibility requirements under Article II applicable to Employee Contributions and who has the right at any time during the Testing Year to make Employee Contributions. An Employee who is not eligible to make Employee Contributions and who fails to satisfy an allocation condition applicable to Matching Contributions is not an ACP Participant. An Employee with zero Compensation is not an ACP Participant. An Employee can be an ACP Participant irrespective of whether the Employee makes Elective Deferrals or Employee Contributions.

(B) Allocable Income. Allocable Income means as follows:

(1) Excess Deferrals. For purposes of making a distribution of Excess Deferrals pursuant to Section 4.08(A), Allocable Income means Earnings allocable to the Excess Deferrals for the Taxable Year (but not beyond the Taxable Year unless required under Applicable Law) in which the Participant made the Excess Deferral, determined in a manner which is uniform, nondiscriminatory and reasonably reflective of the manner used by the Plan Administrator to allocate income to Participants' Accounts.

(2) Excess Aggregate Contributions. For purposes of making a distribution of Excess Aggregate Contributions under Section 4.08(B), allocable Income means Earnings allocable to such amounts.

(3) Uniform Method. To calculate such Allocable Income for the Testing Year, the Plan Administrator will use: (i) a uniform and nondiscriminatory method which reasonably reflects the manner used by the Plan Administrator to allocate income to Participants' Accounts; or (ii) the "alternative method," under Applicable Law.

(4) Gap Period. To calculate Gap Period Allocable Income, the Plan Administrator may use either of the Section 4.09(B)(3) methods, or may apply the "safe harbor method," under Applicable Law. Under a reasonable method (under clause (i) of Section 4.09(B)(3)), the Plan Administrator may determine the Allocable Income as of a date which is no more than 7 days prior to the date of the corrective distribution. For Plan Years beginning after the 2008 Plan Year, the Plan Administrator will not calculate and distribute Gap Period Income unless the Employer provides otherwise in an Addendum.

(C) Compensation. Compensation means, except as otherwise provided in this Article IV, Compensation as defined for nondiscrimination purposes in Section 1.12(G).

(D) Current Year Testing. Current Year Testing means for purposes of the ACP test described in Section 4.08(B), the use of data from the Testing Year in determining the ACP for the NHCE Group.

(**E) Gap Period.** Gap Period means the period commencing on the first day of the next Plan Year following the Testing Year and ending on the date the Plan Administrator distributes Excess Aggregate Contributions for the Testing Year. As to Excess Deferrals, Gap Period means the period commencing on the first day of the next Taxable Year following the Taxable Year in which the Participant made the Excess Deferrals and ending on the date the Plan Administrator distributes the Excess Deferrals.

(F) HCE Group. HCE Group means the group of ACP Participants who are HCEs for the Plan Year.

(G) NHCE Group. NHCE Group means the group ACP Participants who are NHCEs for the Plan Year.

(H) Prior Year Testing. Prior Year Testing means for purposes of the ACP test described in Section 4.08(B), the use of data from the Plan Year immediately prior to the Testing Year in determining the ACP for the Nonhighly Compensated Group.

(I) Testing Year. Testing Year means the Plan Year for which the Plan Administrator is performing coverage or nondiscrimination testing including the ACP test.

ARTICLE V
VESTING

5.01 NORMAL RETIREMENT AGE. The Employer in its Adoption Agreement must specify the Plan's Normal Retirement Age. If the Employer fails to specify the Plan's Normal Retirement Age in its Adoption Agreement, the Employer is deemed to have elected age 65 as the Plan's Normal Retirement Age. A Participant's Account Balance derived from Employer Contributions is 100% Vested upon and after his/her attaining Normal Retirement Age if the Participant is employed by the Employer on that date.

5.02 PARTICIPANT DEATH OR DISABILITY. The Employer must elect in its Adoption Agreement whether a Participant's Account Balance derived from Employer Contributions is 100% Vested if the Participant's Severance from Employment is a result of his/her death or his/her Disability.

5.03 VESTING SCHEDULE.

(A) General. Except as provided in Sections 5.01 and 5.02, for each Year of Service as described in Section 5.05, a Participant's Vested percentage of his/her Account Balance derived from Nonelective Contributions and Matching Contributions equals the percentage under the appropriate vesting schedule the Employer has elected in its Adoption Agreement.

(1) Election of different schedules. Unless the Employer in its Adoption Agreement elects otherwise, the vesting schedule for Nonelective Contributions will be the same vesting schedule as for Matching Contributions.

(B) Vesting Schedules.

(1) In General. Employer Contributions will vest in accordance with the Employer's Adoption Agreement election. The Employer may elect to provide immediate 100% vesting, "3-year cliff," "6-year graded," or a modified vesting schedule. For purposes of the Employer's elections under its Adoption Agreement, "6-year graded," or "3-year cliff" means an Employee's Vested percentage, based on each included Year of Service, under the following applicable schedule:

6-year graded	**3-year cliff**
0-1 year / 0%	0-2 years / 0%
2 years / 20%	3 years / 100%
3 years / 40%	
4 years / 60%	
5 years / 80%	
6 years / 100%	

(2) QACAs. See Section 3.04(E)(10) regarding the vesting of QACA Safe Harbor Contributions.

(C) "Grossed-Up" Vesting Formula. If the Vendor makes a distribution (other than a Cash-Out Distribution described in Section 5.04) to a Participant from an Account which is not fully Vested, and the Participant has not incurred a Forfeiture Break in Service, the provisions of this Section 5.03(C) apply to the Participant's Account Balance.

(1) Separate Account/formula. The Plan Administrator will establish a separate account for the Participant's Account Balance at the time of the distribution. At any relevant time following the distribution, the Plan Administrator will determine the Participant's Vested Account Balance in such separate account derived from Employer Contributions in accordance with the following formula: P(AB + D) - D. To apply this formula, "P" is the Participant's current vesting percentage at the relevant time, "AB" is the Participant's Employer-derived Account Balance at the relevant time and "D" is the amount of the earlier distribution. If, under a Restated Plan, the

Plan has made distribution to a partially-Vested Participant prior to its restated Effective Date and is unable to apply the cash-out provisions of Section 5.04 to that prior distribution, this special vesting formula also applies to that Participant's remaining Account Balance.

(2) Alternative formula. The Employer, in an Addendum, may elect to modify this formula to read as follows: P(AB + (R x D)) - (R x D). For purposes of this alternative formula, "R" is the ratio of "AB" to the Participant's Employer-derived Account Balance immediately following the earlier distribution.

(3) Application to Nonelective/Matching. If necessary, the Plan Administrator will determine the Participant's Vested Account Balance for the Participant's Matching Contributions and the Participant's Employer Nonelective Contributions separately.

(D) Special Vesting Elections. The Employer in its Adoption Agreement may elect other specified vesting provisions which are consistent with Code §411 and Applicable Law.

(E) Fully Vested Amounts. A Participant has a 100% Vested in all Accounts which are attributable to Elective Deferrals, Employee Contributions, QNECs, Safe Harbor Contributions (other than QACA Safe Harbor Contributions described in Section 3.04(E)(10)), and Rollover Contributions.

(F) Mergers/Transfers. A merger or transfer of assets from another 403(b) Plan to this Plan does not result, solely by reason of the merger or transfer, in 100% vesting of the merged or transferred assets. The Plan Administrator operationally and on a uniform and nondiscriminatory basis will determine in the case of a merger or other transfer to the Plan whether: (1) to vest immediately all transferred assets; (2) to vest the transferred assets in accordance with the Plan's vesting schedule applicable to the contribution type being transferred but subject to the requirements Section 5.08; or (3) to vest the transferred assets in accordance with the transferor plan's vesting schedule(s) applicable to the contribution types being transferred, as such schedules existed on the date of the transfer. The Employer may elect to record such information in its Adoption Agreement as a special Vesting Election.

5.04 IMMEDIATE FORFEITURE UPON CASH-OUT/POSSIBLE RESTORATION.

(A) Effect of Cash-Out Distribution. If, pursuant to Article VI, a partially-Vested Participant receives a Cash-Out Distribution before he/she incurs a Forfeiture Break in Service, the Participant will incur an immediate forfeiture of the non-Vested portion of his/her Account Balance.

(1) Definition of Cash-Out Distribution. For purposes of this Article V, a Cash-Out Distribution is a distribution to the Participant or a direct rollover for the Participant (whether involuntary or with required consent as described in Article VI), of his/her entire Vested Account Balance (including Elective Deferrals) due to the Participant's Severance from Employment.

(2) Allocation in Cash-Out Year. If a partially-Vested Participant's Account is entitled to an allocation of Employer Contributions or Participant forfeitures for the Plan Year in which he/she otherwise would incur a forfeiture by reason of a Cash-Out Distribution, the Plan Administrator will make the additional allocation of Employer Contributions and forfeitures without regard to whether the Participant previously received a Cash-Out Distribution; provided, that the Plan Administrator, in accordance with Section 3.07(D), will not allocate to such Participant any of his/her own forfeiture resulting from the Cash-Out Distribution. A partially-Vested Participant is a Participant whose Vested percentage determined under Section 5.03 is more than 0% but is less than 100%.

(B) Forfeiture Restoration and Conditions for Restoration. A partially-Vested Participant re-employed by the Employer after receiving a Cash-Out Distribution of the Vested percentage of his/her Account Balance may repay to the Funding Vehicle the entire amount of the Cash-Out Distribution (including Elective Deferrals) without any adjustment for Earnings, unless the Participant no longer has a right to restoration under this Section 5.04(B).

(1) Restoration. If a re-employed Participant repays his/her Cash-Out Distribution, the Plan Administrator, subject to the conditions of this Section 5.04(B), must restore the Participant's Account Balance to the same dollar amount as the dollar amount of his/her Account Balance on the Accounting Date, or other Valuation Date, immediately preceding the date of the Cash-Out Distribution, unadjusted for any Earnings occurring subsequent to that Accounting Date (and prior to the Participant's repayment or the Employer's restoration), or other Valuation Date.

(2) Source of repayment. A re-employed Participant may make repayment from any source, including an IRA rollover, permissible under Applicable Law.

(3) No restoration. The Plan Administrator will not restore a re-employed Participant's Account Balance under this Section 5.04(B) if:

(a) 5 Years. 5 years have elapsed since the Participant's first re-employment date with the Employer following the Cash-Out Distribution;

(b) Not employed. The Participant is not in the Employer's Service on the date the Participant repays his/her Cash-Out Distribution;

(c) Not ERISA Plan. The Plan is not an ERISA Plan on the date of the Cash-Out Distribution; or

(d) Forfeiture Break. The Participant has incurred a Forfeiture Break in Service. This condition also applies if the Participant makes repayment within the Plan Year in which he/she incurs the Forfeiture Break in Service and that Forfeiture Break in Service would result in a complete forfeiture of the amount the Plan Administrator otherwise would restore.

(4) Restoration timing. If none of the conditions in Section 5.04(B)(3) preventing restoration of the Participant's Account Balance applies, the Plan Administrator will restore the Participant's Account Balance as of the Plan Year Accounting Date coincident with or immediately following the repayment.

(5) Source of restoration. To restore the Participant's Account Balance, the Plan Administrator, to the extent necessary, will allocate to the Participant's Account:

(a) Forfeitures. First, from the amount, if any, of Participant forfeitures the Plan Administrator otherwise would allocate in that Plan Year under Section 3.07;

(b) Earnings. Second, from the amount, if any, of the Earnings for the Plan Year, except to the extent Earnings are allocable to specific individual Accounts under Section 7.04(A)(2)(b); and

(c) Employer Contribution. Third, from the amount of a discretionary Employer Contribution for the Plan Year.

In an Addendum, the Employer may eliminate as a source of restoration any of the amounts described in clauses (a), (b) and (c) or may change the order of priority of these amounts.

(6) Multiple restorations. If, for a particular Plan Year, the Plan Administrator must restore the Account Balance of more than one re-employed Participant, the Plan Administrator will make the restoration

allocations from the amounts described in Section 5.04(B)(5), clauses (a), (b) and (c) to each such Participant's Account in the same proportion that a Participant's restored amount for the Plan Year bears to the restored amount for the Plan Year of all re-employed Participants.

(7) Employer must make-up shortfall. To the extent the amounts described in Section 5.04(B)(5) are insufficient to enable the Plan Administrator to make the required restoration, the Employer must contribute, without regard to any requirement or condition of Article III, the additional amount necessary to enable the Plan Administrator to make the required restoration.

(8) Not an Annual Addition. A cash-out restoration allocation is not an Annual Addition under Article IV.

(C) Deemed Cash-Out of 0% Vested Participant. Except as the Employer may provide in an Addendum, the deemed cash-out rule of this Section 5.04(C) applies to any 0% Vested Participant. A Participant is not 0% Vested if the Participant has any existing Account Balance at the time that the Plan Administrator applies the deemed cash-out rule, in an individual Account, or attributable to Elective Deferrals, Safe Harbor Contributions, or QNECs. A Participant is 0% Vested if the Participant is eligible to make or to receive any of the foregoing contributions, but has not made or received such contributions.

(1) If not entitled to allocation. If a 0% Vested Participant's Account is not entitled to an allocation of Employer Contributions for the Plan Year in which the Participant has a Severance from Employment, the Plan Administrator will apply the deemed cash-out rule as if the 0% Vested Participant received a Cash-Out Distribution on the date of the Participant's Severance from Employment.

(2) If entitled to allocation. If a 0% Vested Participant's Account is entitled to an allocation of Employer contributions or Participant forfeitures for the Plan Year in which the Participant has a Severance from Employment, the Plan Administrator will apply the deemed cash-out rule as if the 0% Vested Participant received a Cash-Out Distribution on the first day of the first Plan Year beginning after his/her Severance from Employment.

(3) Timing of "deemed repayment." For purposes of applying the restoration provisions of this Section 5.04, if the Plan is an ERISA Plan the Plan Administrator will treat a re-employed 0% Vested Participant as repaying his/her cash-out "distribution" on the date of the Participant's re-employment with the Employer.

(D) Accounting for Cash-Out Repayment.

(1) Pending restoration. As soon as is administratively practicable, the Plan Administrator will credit to the Participant's Account the Cash-Out Distribution amount a Participant has repaid to the Plan. Pending the restoration of the Participant's Account Balance, the Plan Administrator under Section 7.04(A)(2)(c) may direct the Vendor to place the Participant's Cash-Out Distribution repayment in a Segregated Account.

(2) Accounting by contribution source. Restoration of the Participant's Account Balance includes restoration of all Protected Benefits with respect to that restored Account Balance, in accordance with applicable Treasury regulations. For this purpose, the Plan Administrator will account for a Participant's restored balance by treating the Account as consisting of the same contribution types and amounts as existed on the date of the Cash-Out Distribution. The Employer in an Addendum may provide, consistent with Applicable Law, for an alternative accounting for a restored Account.

(3) Return if failed repayment. Unless the cash-out repayment qualifies as a Participant Rollover Contribution, the Plan Administrator

will direct the Vendor to repay to the Participant as soon as is administratively practicable, the full amount of the Participant's Cash-Out Distribution repayment if the Plan Administrator determines any of the conditions of Section 5.04(B)(3) prevents restoration as of the applicable Accounting Date, notwithstanding the Participant's repayment.

5.05 YEAR OF SERVICE – VESTING. For purposes of this Article V, the following definitions and operational rules apply:

(A) Definition of Year of Service. A Year of Service, for purposes of determining a Participant's vesting under Section 5.03, means a Vesting Computation Period during which an Employee completes the number of Hours of Service (not exceeding 1,000) the Employer specifies in its Adoption Agreement, without regard to whether the Employer continues to employ the Employee during the entire Vesting Computation Period.

(B) Definition of Vesting Computation Period. A Vesting Computation Period is a 12-consecutive month period the Employer elects in its Adoption Agreement.

(C) Counting Years of Service. For purposes of a Participant's Vesting in the Plan, the Plan counts all of an Employee's Years of Service except:

(1) Forfeiture Break in Service; Cash-Out. For the sole purpose of determining a Participant's Vested percentage of his/her Account Balance derived from Employer Contributions which accrued for his/her benefit prior to a Forfeiture Break in Service or receipt of a Cash-Out Distribution, the Plan disregards any Year of Service after the Participant first incurs a Forfeiture Break in Service or receives a Cash-out Distribution (except where the Plan Administrator restores the Participant's Account under Section 5.04(B)).

(2) Other exclusions. Consistent with Code §411(a)(4), any Year of Service the Employer elects to exclude under its Adoption Agreement, including service during any period for which the Employer did not maintain the Plan or a predecessor plan. For this purpose, a predecessor plan is a qualified plan or a 403(b) plan subject to ERISA which is maintained by the Employer and is terminated within the 5-year period immediately preceding or following the establishment of this Plan.

(D) Elapsed Time. If the Employer in its Adoption Agreement elects to apply the Elapsed Time Method in applying the Plan's vesting schedule, the Plan Administrator will credit service in accordance with Section 1.40(A)(3).

5.06 BREAK IN SERVICE AND FORFEITURE BREAK IN SERVICE – VESTING. For purposes of this Article V, the following definitions and operational rules apply:

(A) Definition of Break in Service. A Participant incurs a Break in Service if during any Vesting Computation Period he/she does not complete more than 500 Hours of Service. If the Plan applies the Elapsed Time Method of crediting Service, a Participant incurs a Break in Service if the Participant has a Period of Severance of at least 12 consecutive months. If, pursuant to Section 5.05, the Plan does not require more than 500 Hours of Service to receive credit for a Year of Service, a Participant incurs a Break in Service in a Vesting Computation Period in which he/she fails to complete a Year of Service.

(B) Definition of Forfeiture Break in Service. A Participant incurs a Forfeiture Break in Service when he/she incurs 5 consecutive Breaks in Service.

(C) Rule of Parity - Vesting. The Employer in its Adoption Agreement may elect to apply the "rule of parity" under Code §411(a)(6)(D) for purposes of determining vesting Years of

Service. Under the rule of parity, the Plan Administrator excludes a Participant's Years of Service before a Break in Service if: (1) the number of the Participant's consecutive Breaks in Service equals or exceeds 5; and (2) the Participant is 0% Vested in his/her Account Balance at the time he/she has the Breaks in Service. A Participant is not 0% Vested if the Participant has any existing Account Balance, at the time that the Plan Administrator applies the rule of parity, attributable to Elective Deferrals, Safe Harbor Contributions, or QNECs. A Participant is not 0% Vested if at the time that the Plan Administrator applies the rule of parity: (i) the Participant has any existing Account Balance attributable to Elective Deferrals; or (ii) the Participant has any Vesting in accordance with the Vesting schedule applicable to any Employer Contribution, even if the Participant has a zero balance in that Account.

(D) One-Year Holdout Rule - Vesting. The one-year holdout Break in Service rule under Code §411(a)(6)(B) will not apply to this Article V unless the Employer provides otherwise in an Addendum. If the one-year holdout Break in Service rule applies, an Employee who has a one-year Break in Service will not be credited for vesting purposes with any Years of Service earned before such one-year Break in Service, until the Employee has completed a Year of Service after the one-year Break in Service.

5.07 FORFEITURE OCCURS.

(A) Timing. A Participant's forfeiture of his/her non-Vested Account Balance derived from Employer Contributions occurs under the Plan on the earlier of:

(1) Forfeiture Break. The last day of the Vesting Computation Period in which the Participant first incurs a Forfeiture Break in Service; or

(2) Cash-Out. The date the Participant receives a Cash-Out Distribution.

(B) Vesting Schedule/Lost Participants. The Plan Administrator determines the percentage of a Participant's Account Balance forfeiture, if any, under this Section 5.07 solely by reference to the vesting schedule the Employer elected in its Adoption Agreement. A Participant does not forfeit any portion of his/her Account Balance for any other reason or cause except as expressly provided by this Section 5.07 or as provided under Section 7.07.

5.08 AMENDMENT TO VESTING SCHEDULE. The Employer under Section 9.02 may amend the Plan's vesting schedule(s) under Section 5.03 at any time, subject to this Section 5.08. For purposes of this Section 5.08, an amendment to the vesting schedule includes any Plan amendment which directly or indirectly affects the computation of the Vested percentage of a Participant's Account Balance. This Section 5.08 will not apply if this Plan is not an ERISA Plan.

(A) No Reduction. The Plan Administrator will not apply the amended vesting schedule to reduce any Participant's existing Vested percentage (determined on the later of the date the Employer adopts the amendment, or the date the amendment becomes effective) in the Participant's existing and future Account Balance attributable to Employer contributions, to a percentage less than the Vested percentage computed under the Plan without regard to the amendment.

(B) Hour of Service Required. Unless the amendment explicitly provides otherwise, an amended vesting schedule will apply to a Participant only if the Participant receives credit for at least one Hour of Service after the new vesting schedule becomes effective.

(C) Election. If the Employer amends the Plan's vesting schedule, each Participant having completed at least 3 Years of Service (as described in Section 5.05) with the Employer prior to the expiration of the election period

described below, may elect irrevocably to have the Plan Administrator determine the Vested percentage of his/her Account Balance without regard to the amendment.

(1) Notice of amendment. The Plan Administrator will forward an appropriate notice of any amendment to the vesting schedule to each affected Participant, together with the appropriate form upon which the Participant may make an election to remain under the pre-amendment vesting schedule and notice of the time within which the Participant must make an election to remain under the pre-amendment vesting schedule.

(2) Election timing. The Participant must file his/her election with the Plan Administrator within 60 days of the latest of: (a) the Employer's adoption of the amendment; (b) the effective date of the amendment; or (c) the Participant's receipt of a notice of the amendment.

(3) No election if no adverse effect. The election described in this Section 5.08(C) does not apply to a Participant if the amended vesting schedule provides for vesting at least as rapid at any time as the vesting schedule in effect prior to the amendment.

ARTICLE VI
DISTRIBUTIONS

6.01 TIMING OF DISTRIBUTION. Except as otherwise provided in Section 6.01(A), if the Participant is entitled to a distribution, the Vendor will commence distribution of a Participant's Vested Account Balance in accordance with this Article VI after the Participant's request on a form prescribed by the Plan. The Vendor may make Plan distributions on any administratively practicable date during the Plan Year, consistent with the Employer's elections in its Adoption Agreement, or in the Funding Vehicle Documentation.

(A) Individual Accounts. This Section 6.01(A) applies to any individual Funding Vehicles the Plan maintains or if the Employer maintains its Plan on the Elective Deferral-only ("Short Form") Adoption Agreement. Subject to the applicable provisions of this Section 6.01(A), Sections 6.02, and 6.04 through 6.10 and the provisions of the Funding Vehicle Documentation, each Participant will elect the time of payment of his Account. Such distributions will not otherwise be subject to this Section 6.01 or to Section 6.03. Upon Participant request, the Vendor will provide a benefit notice explaining the optional forms of benefit available under the Funding Vehicle. If an Annuity Contract issued after December 31, 2008 does not set forth distributable events relating to distribution of Accounts other than Elective Deferrals, Rollover Contributions, Employee Contributions and earnings thereon, in accordance with Treas. Reg. §1.403(b)-6(b), then those Accounts (Accounts under the Annuity Contract other than Elective Deferrals, Employee Contributions, and Rollover Contributions) will be distributable upon any of the events described in Section 6.01(E)(1) with regard to Restricted Balances.

(B) Entitlement to distribution. A Participant is entitled to a distribution after Severance of Employment at the time specified in the Adoption Agreement, or, if earlier and the Plan is an ERISA Plan, on the 60th day after the latest of the close of the Plan Year in which (1) the Participant attains the earlier of age 65 or Normal Retirement Age, (2) the Participant incurs a Separation from Service, or (3) the 10th anniversary of the date the Participant entered the Plan. The Plan will make distributions following the Participant's death in accordance with Section 6.01(C). A Participant is entitled to a distribution prior to Severance of Employment under the rules of Section 6.01(D) in accordance with the Employer's elections in the Adoption Agreement. However, the Plan will not make a distribution which would violate Section 6.01(E). A Participant may not receive a distribution by reason of Severance from Employment, or continue any installment distribution based on a prior Severance from Employment, if, prior to the time the Vendor actually makes the distribution, the Participant returns to employment with the Employer.

(C) Distribution upon Death. In the event of the Participant's death (whether death occurs before or after Severance from Employment), the Plan Administrator will direct the Vendor, in accordance with this Section 6.01(C) and subject to Section 6.02(C), to distribute to the Participant's Beneficiary the Participant's Vested Account Balance remaining in the Funding Vehicle at the time of the Participant's death.

(1) Immediate commencement. The Plan Administrator, subject to the requirements of Sections 6.02 and 6.04 or to a Beneficiary's written election, must direct the Vendor to distribute or commence distribution of the deceased Participant's Vested Account Balance, as soon as administratively practicable following the date on which the Plan Administrator receives notification of, or otherwise confirms, the Participant's death.

(2) Single payment. If the Participant's Vested Account Balance does not exceed $5,000, the Vendor will distribute the balance without regard to Section 6.04. The distribution will be made in a lump sum (which will be a Cash-Out Distribution if the Participant's Account Balance is not 100% Vested on death)

unless the Plan's distribution form provides otherwise. If the Participant's Vested Account Balance exceeds $5,000, the Vendor will distribute the balance subject to Sections 6.02(C), 6.03 and 6.04.

(3) Surviving spouse as Beneficiary. If the Participant's death benefit is payable in full to the Participant's surviving spouse, the surviving spouse may elect distribution at any time and in any form (except a joint and survivor annuity) the Plan would permit a Participant to elect upon Severance from Employment.

(4) Participant election. The Participant, on a form prescribed by the Plan, may (subject to the requirements of Sections 6.02, 6.03 and 6.04) elect the payment method or the payment term or both, which will apply to any Beneficiary, including his/her surviving spouse. The Participant's election may limit any Beneficiary's right to increase or to reduce the frequency or the amount of any payments. Any payment term elected by the Participant must not exceed the payment term the Code otherwise would permit the Beneficiary to elect upon the Participant's death.

(D) In-Service Distribution. The Employer in its Adoption Agreement must elect the distribution election rights, if any, a Participant has prior to his/her Severance from Employment ("in-service distribution").

(1) Vesting/other conditions. If a Participant receives an in-service distribution as to a partially-Vested Account, and the Participant has not incurred a Forfeiture Break in Service, the Plan Administrator will apply the vesting provisions of Section 5.03(C). The Employer in its Adoption Agreement may elect to limit any in-service distribution only to Participants who are 100% vested or to apply other conditions.

(2) Participant election. A Participant must make any permitted in-service distribution election under this Section 6.01(D) in writing and on a form prescribed by the Plan which specifies the percentage or dollar amount of the distribution and the Participant's Plan Account to which the election applies.

(3) Frequency, timing and form. If the Plan permits in-service distributions, a Participant only may elect to receive one in-service distribution per Plan Year under this Section 6.01(D) unless the election form prescribed by the Plan provides for more frequent distributions. The Vendor, as directed by the Plan Administrator and subject to Section 6.04, will distribute the amount(s), as soon as administratively practicable after the Participant files his/her in-service distribution election with the Plan. The Vendor will distribute the Participant's remaining Account Balance in accordance with the other provisions of this Article VI.

(4) Hardship. See Section 6.07 regarding requirements for distributions based on hardship.

(5) Rollover Contributions; Employee Contributions. A Participant may elect to receive an in-service distribution of his/her Accounts attributable to Rollover Contributions and Employee Contributions subject to Sections 6.01(D)(2) and (3), except as the Employer provides otherwise in an Addendum. Distribution of a Rollover Contribution or Employee Contribution is subject to Section 6.04 if Section 6.04 otherwise applies to the Participant.

(6) Distribution events for RIAs and for non-Elective Deferral Accounts in Annuity Contracts. The Employer in its Adoption Agreement may elect to permit an in-service distribution of RIAs or of a non-Elective Deferral Account in an Annuity Contract upon a Participant's attainment of a stated age, after a fixed number of years, or based on some other specified event. Such amounts are not Restricted Balances unless such amounts are QNEC

Accounts or Safe Harbor Contribution Accounts.

(7) EACA permissible withdrawal. If the Employer maintains the Plan as a EACA as defined under Section 3.02(C) and the Employer elects in its Adoption Agreement to apply the permissible withdrawal provisions of this Section 6.01(D)(7), a Participant who has Automatic Deferrals under the EACA may elect to withdraw all the Automatic Deferrals (and allocable earnings) under the provisions of this Section 6.01(D)(7). However, if the Employer elects in its Adoption Agreement to limit the group of Participants who are eligible for the permissible withdrawal, only a Participant who is a member of that eligible group may make the election to withdraw.

(a) Amount. If a Participant elects a permissible distribution under this Section 6.01(D)(7), the Plan must make a distribution equal to the amount (and only the amount) of the Automatic Deferrals made under the EACA (adjusted for allocable gains and losses to the date of the distribution).

(b) Timing. The Participant may make an election to withdraw the Automatic Deferrals under the EACA no later than 90 days after the date of the first Automatic Deferral under the EACA. For this purpose, the date of the first Automatic Deferral is the date that the Compensation subject to the Automatic Deferral otherwise would have been includible in the Participant's gross income. The effective date of the election must not be later than the last day of the payroll period that begins after the date the Participant makes the election to withdraw the Automatic Deferrals.

(c) Fees. The Plan Administrator may reduce the permissive distribution amount by any generally applicable fees. However, the Plan may not charge a different fee for distribution under this Section 6.01(D)(7) than applies to other distributions. However, to the extent the EACA is subject to the default investment rules of Section 3.02(C)(7), the Plan will not charge a fee for a permissible withdrawal if the fee would violate DOL Reg. §2550.404c-5.

(E) 403(b) Distribution Restrictions.

(1) Limitation. A Participant may not receive a distribution of the Participant's Restricted Balances except in the event of: (a) the Participant's death, Disability, Severance of Employment or attainment of age 59 1/2; (b) except with regard to Employer Contributions under a Custodial Account, QNECs and Safe Harbor Contributions (other than QACA Safe Harbor Contributions), hardship in accordance with Section 6.07; (c) Plan termination, as provided for in Section 9.04, or (d) corrective distributions under Article IV or otherwise permitted by Applicable Law. This limitation will be applied in conformance with Treas. Reg. §§1.403(b)-6(c) and (d).

(2) Definition of "Restricted Balances." A Participant's Restricted Balances are the Participant's Elective Deferral Account under an Annuity Contract, all Accounts under a Custodial Account (or transferred from a Custodial Account), QNEC Account and Safe Harbor Contributions Account. Restricted balances do not include (a) any Employer Contribution Accounts under a Retirement Income Account which were not transferred from a Custodial Account; (b) Employer Contribution Accounts in an Annuity Contract which were not transferred from a Custodial Account; or (c) any Accounts consisting of Employee Contributions or Rollover Contributions and earnings thereon.

(F) Mandatory Distributions. The Employer in its Adoption Agreement may elect to have the Plan make Mandatory Distributions. A Mandatory Distribution is a Plan-required distribution to or for a Participant without the Participant's consent upon Severance from Employment, other than a distribution based on the Participant's death or on account of plan

termination. A Mandatory Distribution may not exceed the amount (not exceeding $5,000) the Employer elects in its Adoption Agreement. In applying the elected Mandatory Distribution amount, the Plan Administrator will include or exclude a Participant's Rollover Contributions Account as the Employer elects in its Adoption Agreement. A Mandatory Distribution does not include the remaining balance of any installment distribution which has already commenced. The Vendor will distribute a Participant's Mandatory Distribution in a lump sum within 12 months after the Participant's Severance from Employment unless the Employer by an Addendum selects a different time. The provisions of this Section 6.01(F) do not impair the Participant's right to receive a distribution of the Participant's Vested Account Balance under other Plan provisions prior to receipt of the Mandatory Distribution. If the Vendor Documentation provides for Mandatory Distributions, those provisions shall apply to Funding Vehicles held by the Vendor as though elected by the Employer in its Adoption Agreement. See Section 6.08 regarding direct rollovers and automatic rollovers.

6.02 REQUIRED MINIMUM DISTRIBUTIONS.

(A) Lifetime RMDs.

(1) RBD. The Vendor will distribute or commence distribution to the Participant of the Participant's entire Vested Account Balance no later than the Participant's RBD.

(2) Amount of RMD for each DCY. During the Participant's lifetime, the RMD that will be distributed for each DCY is the lesser of:

(a) ULT amount. The quotient obtained by dividing the Participant's RMD Account Balance by the distribution period in the ULT, using the Participant's age as of the Participant's birthday in the DCY; or

(b) SLT/younger spouse. If the Participant's sole Designated Beneficiary for the DCY is the Participant's spouse who is more than 10 years younger than the Participant, the quotient obtained by dividing the Participant's RMD Account Balance by the number in the JLT using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the DCY.

(3) Lifetime RMDs continue through year of Participant's death. RMDs will be determined under this Section 6.02(A) beginning with the first DCY and up to and including the DCY that includes the Participant's date of death or until the Participant's Vested Account Balance is completely distributed.

(B) Death RMDs.

(1) Death of Participant before DCD. If the Participant dies before the DCD, the Vendor will distribute or commence distribution to the Designated Beneficiary of the Participant's Vested Accrued Benefit no later than as follows:

(a) Spouse sole Designated Beneficiary. Except as otherwise provided in Section 6.02(B)(1)(e), if the Participant's surviving spouse is the Participant's sole Designated Beneficiary, then distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70 1/2, if later.

(i) Death of spouse. If the Participant's surviving spouse is the Participant's sole Designated Beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse are required to begin, then this Section 6.02(B)(1) (other than Section 6.02(B)(1)(a)) will apply as if the surviving spouse were the Participant.

(b) Other Designated Beneficiary. Except as otherwise provided in Section 6.02(B)(1)(e), if the Participant's surviving spouse is not the Participant's sole Designated Beneficiary, then distributions to the Designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.

(c) No Designated Beneficiary/5 year rule. If there is no Designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(d) Participant survived by Designated Beneficiary. If there is a Designated Beneficiary, the RMD for each DCY after the year of the Participant's death is the quotient obtained by dividing the Participant's RMD Account Balance by the remaining Life Expectancy of the Participant's Designated Beneficiary, determined as provided in Section 6.02(B)(2)(a).

(e) Election of 5 year or life expectancy. Unless the Employer provides otherwise in an Addendum, or an individual Funding Vehicle provides otherwise, Participants or Beneficiaries may elect on an individual basis to apply the 5-year rule of Section 6.02(B)(1)(c) in lieu of the Life Expectancy rule in Section 6.02(B)(1)(d) applies to distributions after the death of a Participant who has a Designated Beneficiary. The election must be made no later than the earlier of September 30 of the calendar year in which distribution would be required to begin under Section 6.02(B)(1), or by September 30 of the calendar year which contains the fifth anniversary of the Participant's (or, if applicable, surviving spouse's) death. If neither the Participant nor Beneficiary makes an election to apply the 5 year rule, the Life Expectancy rule applies. An individual Funding Vehicle or the Employer in an Addendum under this Section 6.02(B)(1)(e) also may limit RMDs to all Designated Beneficiaries to the 5 year rule.

(2) Death on or after DCD. This Section 6.02(B)(2) applies if the Participant dies on or after his/her DCD.

(a) Participant survived by Designated Beneficiary. If there is a Designated Beneficiary, the RMD for each DCY after the year of the Participant's death is the quotient obtained by dividing the Participant's RMD Account Balance by the longer of the Participant's remaining Life Expectancy or the Designated Beneficiary's remaining Life Expectancy, determined as follows:

(i) Participant's life expectancy. 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) Spouse as sole Designated Beneficiary. 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 DCY after the year of the Participant's death using the surviving spouse's age as of the spouse's birthday in that year. For DCYs 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)Non-Spouse Designated Beneficiary. If the Participant's surviving spouse is not the Participant's sole Designated Beneficiary, the Designated Beneficiary's remaining Life Expectancy is calculated using the age of the Beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.

(b) No Designated Beneficiary. If there is no Designated Beneficiary as of September 30 of the year after the year of the Participant's death, the RMD for each DCY 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.

(C) Forms of Distribution. Unless the Participant's Vested Account Balance is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the RBD, as of the first DCY distributions will be made in accordance with Sections 6.02(A) and (B). If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Code §401(a)(9) and the applicable Treasury regulations. Nothing in this Section 6.02 gives any Participant or any Beneficiary the right to receive any form of distribution which is not specified in the Adoption Agreement or the Participant's Funding Vehicle. If the Adoption Agreement or Funding Vehicle limits distributions to lump sum payments, then the Plan will distribute the Participant's entire Vested Account Balance in the form of a lump sum on or before the Participant's RBD, or if applicable, at the time determined in Section 6.02(B). Nothing in this Section 6.02(C) will prohibit a Retirement Income Account from making distributions in the form of an annuity in compliance with Treas. Reg. §1.403(b)-6(e)(5).

(D) Operating Rules.

(1) Precedence. The requirements of this Section 6.02 will take precedence over any inconsistent provisions of the Plan.

(2) Requirements of Treasury Regulations Incorporated. All distributions required under this Section 6.02 will be determined and made in accordance with the Treasury regulations under Code §401(a)(9). All distributions and benefits under the plan are subject to the incidental benefit requirement of Treas. Reg. §1.403(b)-6(g).

(3) IRA Treatment. The RMD rules applicable to individual retirement accounts generally apply to the Plan, except that (a) the provisions of Section 6.02(E)(7) determine a Participant's RBD, (b) a surviving spouse sole beneficiary may not treat the deceased Participant's Account as his/her own individual retirement account, and (c) the provisions of the last sentence of Section 6.02(C) apply to Retirement Income Accounts.

(4) Aggregated Distribution. A Participant may total the RMDs of all 403(b) accounts of the Participant (regardless of the employer) and take the distribution from any one or more of such accounts. A Participant may aggregate under this provision only those accounts the Participant holds as an employee or former employee. A Beneficiary may aggregate accounts the Beneficiary holds as Beneficiary of the same decedent, but not with accounts the Beneficiary holds as an employee or as a beneficiary of another decedent. The Plan will apply these rules in conformance with Treas. Reg. §1.403(b)-6(e)(7).

(E) Definitions. The following definitions apply to this Section 6.02.

(1) Designated Beneficiary. A "Designated Beneficiary" means an individual who is a Beneficiary under Section 7.05 and who is a designated beneficiary under Code §401(a)(9) of the Internal Revenue Code and Treas. Reg. §1.401(a)(9)-4, Q&As-4 and -5.

(2) DCY. A DCY is a distribution calendar year for which an RMD is required. For RMDs beginning before the Participant's death, the first DCY is the calendar year immediately preceding the calendar year which contains the

Participant's RBD. For RMDs beginning after the Participant's death, the first DCY is the calendar year in which distributions are required to begin under Section 6.02(B)(2). The RMD for the Participant's first DCY will be made on or before the Participant's RBD. The RMD for other DCYs, including the RMD for the DCY in which the Participant's RBD occurs, will be made on or before December 31 of that DCY.

(3) DCD. A DCD is a distribution commencement date and generally means the Participant's RBD. However, if Section 6.02(B)(1)(a)(i) applies, the DCD is the date distributions are required to begin to the surviving spouse under Section 6.02(B)(1)(a). If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the otherwise applicable DCD, then the DCD is the date distributions actually commence.

(4) JLT. The JLT is the Joint and Last Survivor Table set forth in Treas. Reg. §1.401(a)(9)-9, Q&A-3.

(5) Life Expectancy. Life Expectancy refers to life expectancy as computed under the SLT.

(6) Participant's RMD Account Balance. A Participant's RMD Account Balance is the account balance as of the last valuation date in the VCY increased by the amount of any contributions made and allocated or forfeitures allocated to the account balance as of dates in the VCY after the valuation date and decreased by distributions made in the VCY after the valuation date. The account balance for the VCY includes any amounts rolled over or transferred to the Plan either in the VCY or in the DCY if distributed or transferred in the VCY.

(7) RBD. A Participant's RBD is his/her required beginning date determined as follows:

(a) More than 5% owner. A Participant's RBD is the April 1 following the close of the calendar year in which the Participant attains age 70 1/2 if the Participant is a more than 5% owner (as defined in Code §416(i)(B)) as to the Plan Year ending in that calendar year. If a Participant is a more than 5% owner at the close of the relevant calendar year, the Participant may not discontinue RMDs notwithstanding the Participant's subsequent change in ownership status.

(b) Other Participants. If the Participant is not a more than 5% owner, his/her RBD is the April 1 following the close of the calendar year in which the Participant incurs a Separation from Service or, if later, the April 1 following the close of the calendar year in which the Participant attains age 70 1/2.

(c) Addendum as to RBD. The Employer in an Addendum or an individual Funding Vehicle may specify that the Plan Administrator continue to apply (indefinitely or to a specified date) the RBD definition in effect prior to 1997 ("pre-SBJPA RBD"), or may require distribution earlier than the RBD. A Participant's pre-SBJPA RBD (if applicable) is April 1 following the close of the calendar year in which the Participant attains age 70 1/2.

(8) RMD. An RMD is the required minimum distribution the Plan must make to a Participant or Beneficiary for a DCY. The Plan Administrator determines an RMD without regard to vesting, but in accordance with Treas. Reg. §1.401(a)(9)-5, the Plan only will distribute an RMD to the extent that the amount distributed is Vested.

(9) SLT. The SLT is the Single Life Table set forth in Treas. Reg. §1.401(a)(9)-9, Q&A-1.

(10) ULT. The ULT is the Uniform Lifetime Table set forth in Treas. Reg. §1.401(a)(9)-9, Q&A-2.

(11) VCY. A VCY is a valuation calendar year, which is the calendar year immediately preceding a DCY.

(F) Pre-1987 Account Balances. If the Plan Administrator separately accounts for a Participant's pre-1987 Account, the required minimum distribution rules do not apply to the pre-1987 Account. Earnings after December 31, 1986 are not part of the pre-1987 Account. The pre-1987 Account will be subject to the distribution rules in effect as of July 27, 1987, interpreting Treas. Reg. §1.401-1(b)(1)(i), and in compliance with Treas. Reg. §1.403(b)-6(e)(6).

6.03 METHOD OF DISTRIBUTION. Subject to any contrary requirements imposed by Sections 6.01 (including 6.01(D) regarding in-service distributions), 6.02 or 6.04, a Participant or a Beneficiary may elect distribution under one, or any combination, of the following methods: (i) by payment in a lump sum; (ii) by payment in monthly, quarterly or annual installments over a fixed reasonable period of time, not exceeding the life expectancy of the Participant, or the joint life and last survivor expectancy of the Participant and his/her designated Beneficiary; or (iii) by distribution of an annuity contract that the Vendor provides or purchases with the Participant's Vested Account Balance. If the Plan elects or is required to provide an annuity, the annuity must be a Nontransferable Annuity and otherwise must comply with the Plan terms. This Section 6.03 does not apply to the extent provided in Section 6.01(A).

(A) Modification. The Employer in its Adoption Agreement may elect to modify the methods of payment available under this Section 6.03. If the Employer's Plan is a Restated Plan, the Employer in its Adoption Agreement and in accordance with Treas. Reg. §1.411(d)-4, may elect to eliminate from the prior Plan certain Protected Benefits. If the Plan is not an ERISA Plan, the Employer may eliminate Protected Benefits without regard to Treas. Reg. §1.411(d)-4.

(B) No Election if $5,000 or Less. The distribution options permitted under this Section 6.03 are available only if the Participant's Vested Account Balance exceeds $5,000.

(C) Installments/Segregation and Acceleration. To facilitate installment payments under this Article VI, the Plan Administrator under Section 7.04(A)(2)(c) may direct the Vendor to segregate all or any part of the Participant's Account Balance in a segregated investment Account. Under an installment distribution, the Participant or the Beneficiary, at any time, may elect to accelerate the payment of all, or any portion, of the Participant's unpaid Vested Account Balance.

(D) Account Types/Sourcing Elections. If a Participant who will receive a partial distribution of his/her Plan Account has both a Roth Deferral Account (or some other Account with tax basis) and one or more pre-tax Accounts including a Pre-Tax Deferral Account, the Plan operationally will determine the Account source(s) from which the Vendor will make the distribution and will determine whether such amounts distributed consist of the Account contributions or of Account Earnings or both, unless such determinations are contrary to Applicable Law. The Plan also may permit the affected Participant to elect the Account source(s) and composition (contributions or Earnings) of the Participant's distribution unless such elections are contrary to Applicable Law. This Section 6.03(D) as to election of Account sources from among multiple sources does not apply to the extent that a Participant is eligible under the Plan terms to receive a distribution only from one specific Account source.

(E) Funding Vehicle Elections. With regard to Accounts held in a given Funding Vehicle, the Participant will have any distribution form options available under that Funding Vehicle.

6.04 ANNUITY DISTRIBUTIONS TO PARTICIPANTS AND TO SURVIVING SPOUSES.

(A) Qualified Joint and Survivor Annuity (QJSA). The Vendor will distribute a married or unmarried Participant's Vested Account Balance in the form of a QJSA, unless the Participant, and spouse if the Participant is married, waive the QJSA in accordance with this Section 6.04(A) or unless Section 6.04(G) applies.

(1) Definition of QJSA if married. If, as of the Annuity Starting Date, the Participant is married (even if the Participant has not been married throughout the one year period ending on the annuity starting date), a QJSA is an immediate annuity which is purchasable with the Participant's Vested Account Balance and which provides a life annuity for the Participant and a survivor annuity payable for the remaining life of the Participant's surviving spouse equal to 50% of the amount of the annuity payable during the life of the Participant.

(2) Definition of QJSA if not married. If, as of the Annuity Starting Date, the Participant is not married, a QJSA is an immediate life annuity for the Participant which is purchasable with the Participant's Vested Account Balance.

(3) Modification of QJSA benefit. An individual Funding Vehicle or the Employer in an Addendum may specify a different percentage (more than 50% but not exceeding 100%) for the survivor annuity.

(4) Definitions of life/survivor annuity. A life annuity means an annuity payable to the Participant in equal installments for the life of the Participant that terminates upon the Participant's death. A survivor annuity means an annuity payable to the Participant's surviving spouse in equal installments for the life of the surviving spouse that terminates upon the death of the surviving spouse.

(5) QJSA notice/timing. At least 30 days and not more than 180 days before the Participant's Annuity Starting Date, the Plan must provide the Participant a written explanation of the terms and conditions of the QJSA, the Participant's right to make, and the effect of, an election to waive the QJSA benefit, the rights of the Participant's spouse regarding the waiver election and the Participant's right to make, and the effect of, a revocation of a waiver election.

(6) Waiver frequency and timing. The Plan does not limit the number of times the Participant may revoke a waiver of the QJSA or make a new waiver during the election period. The Participant (and his/her spouse, if the Participant is married), may revoke an election to receive a particular form of benefit at any time until the Annuity Starting Date.

(7) Married Participant waiver. A married Participant's QJSA waiver election is not valid unless: (a) the Participant's spouse (to whom the survivor annuity is payable under the QJSA), after the Participant has received the QJSA notice, has consented in writing to the waiver election, the spouse's consent acknowledges the effect of the election, and a notary public or the Plan Administrator (or his/her representative) witnesses the spouse's consent; (b) the spouse consents to the alternative form of payment designated by the Participant or to any change in that designated form of payment; and (c) unless the spouse is the Participant's sole primary Beneficiary, the spouse consents to the Participant's Beneficiary designation or to any change in the Participant's Beneficiary designation.

(a) Effect of spousal consent/blanket waiver. The spouse's consent to a waiver of the QJSA is irrevocable, unless the Participant revokes the waiver election. The spouse may execute a blanket consent to the Participant's future payment form election or Beneficiary designation, if the spouse acknowledges the

right to limit his/her consent to a specific designation but, in writing, waives that right.

(b) Spousal consent not required. The Plan will accept as valid a waiver election which does not satisfy the spousal consent requirements if the Plan Administrator establishes: (i) the Participant does not have a spouse, (ii) the spouse cannot be located, (iii) the Participant is legally separated or has been abandoned (within the meaning of applicable state law) and the Participant has a court order to that effect, or (iv) other circumstances exist under which Applicable Law excuses the spousal consent requirement. If the Participant's spouse is legally incompetent to give consent, the spouse's legal guardian (even if the guardian is the Participant) may give consent.

(B) Qualified Preretirement Survivor Annuity (QPSA). If a married Participant dies prior to his/her Annuity Starting Date, the Plan Administrator will direct the Vendor to distribute a portion of the Participant's Vested Account Balance to the Participant's surviving spouse in the form of a QPSA, unless the Participant has a valid waiver election in effect or unless the Participant and his/her spouse were not married throughout the one year period ending on the date of the Participant's death.

(1) Definition of QPSA. A QPSA is an annuity which is purchasable with 50% of the Participant's Vested Account Balance (determined as of the date of the Participant's death) and which is payable for the life of the Participant's surviving spouse.

(2) Modification of QPSA. An individual Funding Vehicle or the Employer in an Addendum may elect not to apply the one year of marriage requirement above or may specify a different percentage (more than 50% but not exceeding 100%) for the QPSA.

(3) Ordering rule. The value of the QPSA is attributable to Employer Contributions, to Pre-Tax Deferrals, and to Roth Deferrals in the same proportion as the Participant's Vested Account Balance is attributable to those contributions.

(4) Disposition of remaining balance. The portion of the Participant's Vested Account Balance not payable as a QPSA is payable to the Participant's Beneficiary, in accordance with the remaining provisions of this Article VI.

(5) Surviving spouse elections. If the Participant's Vested Account Balance which the Vendor would apply to purchase the QPSA exceeds $5,000, the Participant's surviving spouse may elect to have the Vendor commence payment of the QPSA at any time following the date of the Participant's death, but not later than Section 6.02 requires, and may elect any of the forms of payment described in Section 6.03, in lieu of the QPSA. In the absence of an election by the surviving spouse, the Plan Administrator must direct the Vendor to distribute the QPSA on the earliest administratively practicable date following the close of the Plan Year in which the latest of the following events occurs: (a) the Participant's death; (b) the date the Plan Administrator receives notification of or otherwise confirms the Participant's death; (c) the date the Participant would have attained Normal Retirement Age; or (d) the date the Participant would have attained age 62.

(6) QPSA notice/timing. The Plan must provide a written explanation of the QPSA to each married Participant within the following period which 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 the Participant attains age 34; (b) a reasonable period after an Employee becomes a Participant; (c) a reasonable period after Section 6.04 of the Plan becomes applicable to the Participant; or (d) a reasonable period after the Plan no longer satisfies the requirements for a fully subsidized benefit. A "reasonable period" described in clauses (b), (c) and (d) is the period beginning one year before and ending one year after the

applicable event. If the Participant separates from Service before attaining age 35, clauses (a), (b), (c) and (d) do not apply and the Plan must provide the QPSA notice within the period beginning one year before and ending one year after the Separation from Service. The QPSA notice must describe, in a manner consistent with Treasury regulations, the terms and conditions of the QPSA and of the waiver of the QPSA, comparable to the QJSA notice required under Section 6.04(A)(5).

(7) Waiver frequency and timing. The Plan does not limit the number of times the Participant may revoke a waiver of the QPSA or make a new waiver during the election period. The election period for waiver of the QPSA ends on the date of the Participant's death. A Participant's QPSA waiver election is not valid unless the Participant makes the waiver election after the Participant has received the QPSA notice and no earlier than the first day of the Plan Year in which he/she attains age 35. However, if the Participant incurs a Separation from Service prior to the first day of the Plan Year in which he/she attains age 35, the Plan Administrator will accept a waiver election as to the Participant's Account Balance attributable to his/her Service prior to his/her Separation from Service. In addition, if a Participant who has not incurred a Separation from Service makes a valid waiver election, except for the age 35 Plan Year timing requirement above, the Plan Administrator will accept that election as valid, but only until the first day of the Plan Year in which the Participant attains age 35.

(8) Spousal consent to waiver. A Participant's QPSA waiver is not valid unless the Participant's spouse (to whom the QPSA is payable) satisfies or is excused from the consent requirements as described in Section 6.04(A)(7)(b), except the spouse need not consent to the form of benefit payable to the designated Beneficiary. The spouse's consent to the waiver of the QPSA is irrevocable, unless the Participant revokes the waiver election. The spouse also may execute a blanket consent as described in Section 6.04(A)(7)(a).

(C) Effect of Waiver. If the Participant has in effect a valid waiver election regarding the QJSA or the QPSA, the Vendor will distribute the Participant's Vested Account Balance in accordance with Sections 6.01, 6.02 and 6.03.

(D) Loan Offset. The Plan will reduce the Participant's Vested Account Balance by any security interest (pursuant to any offset rights authorized by Section 6.06) held by the Plan by reason of a Participant loan, to determine the value of the Participant's Vested Account Balance distributable in the form of a QJSA or QPSA, provided the loan satisfied the spousal consent requirement described in Section 7.06(D).

(E) Effect of QDRO. For purposes of applying this Article VI, a former spouse (in lieu of the Participant's current spouse) is the Participant's spouse or surviving spouse to the extent provided under a QDRO described in Section 6.05. The provisions of this Section 6.04 apply separately to the portion of the Participant's Vested Account Balance subject to a QDRO and to the portion of the Participant's Vested Account Balance not subject to the QDRO.

(F) Vested Account Balance Not Exceeding $5,000. The Vendor must distribute in a lump sum, a Participant's Vested Account Balance which the Vendor otherwise under Section 6.04 would apply to provide a QJSA or QPSA benefit, where the Participant's Vested Account Balance does not exceed $5,000.

(G) Joint and Survivor Exception. If the Plan is not an ERISA Plan, Section 6.04 does not apply unless the Employer in its Adoption Agreement or an Addendum thereto elects to apply Section 6.04 to all Participants. If the Plan is an ERISA Plan, then the preceding provisions of Section 6.04 will apply only to Participants who are not Exempt Participants unless the Employer, in its Adoption Agreement or an

Addendum thereto, specifies that the preceding provisions of Section 6.04 apply to all Participants.

(1) Definition of Exempt Participants. All Participants are Exempt Participants except the following Participants to whom Section 6.04 must be applied if the Plan is an ERISA Plan: (a) a Participant as respects whom the Plan is a direct or indirect transferee from a plan subject to the ERISA §205 requirements and the Plan received the Transfer after December 31, 1984, unless the Transfer is an Elective Transfer described in Section 9.05(E); or (b) a Participant who elects a life annuity distribution (if applicable).

(2) Transfers. If a Participant receives a transfer under Section 6.04(G)(1), clause (a) above, the Plan Administrator may elect to apply Section 6.04 only to the Participant's transferred balance and not to the Participant's remaining Account Balance provided that the Plan Administrator accounts properly for such balances.

(3) Distribution to Exempt Participant. The Plan Administrator must direct the Vendor to distribute the Exempt Participant's Vested Account Balance in accordance with Sections 6.01, 6.02 and 6.03.

(4) Exempt Participant Beneficiary designation. See Section 7.05(A)(3) as to requirements relating to a married Exempt Participant's Beneficiary designation.

6.05 DISTRIBUTIONS UNDER A QDRO. Not- withstanding any other provision of this Plan, the Vendor, in accordance with the direction of the Plan Administrator, must comply with the provisions of a QDRO, as defined in Code §414(p)(1)(A), which is issued with respect to the Plan.

(A) Distribution at any Time. This Plan specifically permits distribution to an alternate payee under a QDRO at any time, irrespective of whether the Participant has attained his/her earliest retirement age (as defined under Code §414(p)(4)(B)) under the Plan. However, a distribution to an alternate payee prior to the Participant's attainment of earliest retirement age is available only if: (1) the QDRO specifies distribution at that time or permits an agreement between the Plan and the alternate payee to authorize an earlier distribution; and (2) if the present value of the alternate payee's benefits under the Plan exceeds $5,000, and the QDRO requires the alternate payee's consent to any distribution occurring prior to the Participant's attainment of earliest retirement age, the alternate payee gives such consent.

(B) Plan Terms Otherwise Apply. Except as to timing of distribution commencement under Section 6.05(A), nothing in this Section 6.05 gives a Participant or an alternate payee a right to receive a type or form of distribution, to receive any option or to increase benefits in a manner that the Plan does not permit.

(C) QDRO Procedures. The Plan Administrator must establish reasonable procedures to determine the qualified status of a domestic relations order (as defined under Code §414(p)(1)(B)).

(1) Notices and order status. Upon receiving a domestic relations order, the Plan Administrator promptly will notify the Participant and any alternate payee named in the order, in writing, of the receipt of the order and the Plan's procedures for determining the qualified status of the order. Within a reasonable period of time after receiving the domestic relations order, the Plan Administrator must determine the qualified status of the order and must notify the Participant and each alternate payee, in writing, of the Plan Administrator's determination. The Plan Administrator must provide notice under this Section 6.05(C)(1) by mailing to the individual's address specified in the domestic relations order, or in a manner consistent with DOL regulations.

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

(3) Segregated Account. To the extent it is not inconsistent with the provisions of the QDRO, the Plan Administrator under Section 7.04(A)(2)(c) may direct the Vendor to segregate the QDRO amount in a segregated investment account. The Vendor will make any payments or distributions required under this Section 6.05 by separate benefit checks or other separate distribution to the alternate payee(s).

(4) Safe Harbor Exemption. See Section 7.01(I) regarding delegation of authority if the Employer intends for the Plan to qualify under the ERISA Safe Harbor Exemption.

6.06 DEFAULTED LOAN – TIMING OF OFFSET. If a Participant or a Beneficiary defaults on a Plan loan, the Plan will determine the timing of the reduction (offset) of the Participant's Vested Account Balance in accordance with this Section 6.06 and the Plan's loan policy.

(A) Offset if Distributable Event. If, under the loan policy a loan default also is a distributable event under the Plan, the Vendor, at the time of the loan default, will offset the Participant's Vested Account Balance by the lesser of the amount in default (including accrued interest) or the Plan's security interest in that Vested Account Balance.

(B) Restricted Accounts. To the extent the loan is attributable to the Participant's Restricted Balances, the Vendor will not offset the Participant's Vested Account Balance prior to the earlier of the date the Participant incurs a Severance from Employment or the date the Participant attains age 59 1/2. Consistent with its loan policy, the Plan also may offset a Participant's defaulted loan upon Plan termination, provided the Participant's Account Balance is distributable upon Plan termination.

6.07 HARDSHIP DISTRIBUTIONS. Hardship distributions are permitted under the Plan to the extent permitted by the Adoption Agreement. However, in no event will a hardship distribution be available under a Funding Vehicle which does not provide for hardship distributions. Any hardship distribution will comply with the standards in Section 6.07(A) and comply with the operational rules in Section 6.07(B). Section 6.07(C) contains definitions which apply to hardship distributions.

(A) Standards. All hardship distributions must comply with Treas. Reg. §1.401(k)-1(d)(3). Unless otherwise provided in a Funding Vehicle, hardship distributions will conform to the safe harbor need and safe harbor necessity rules.

(B) Operational rules.

(1) Deferral suspension. To the extent a hardship distribution to a Participant must comply with the safe harbor necessity rules, the Participant will not be able to make Elective Deferrals or Employee Contributions under the

Plan during the 6-month period beginning on the date the Participant receives the hardship distribution.

(2) Information sharing. The Employer and the Vendors will exchange information to the extent necessary to implement hardship provisions. If a hardship distribution to a Participant conforms to the safe harbor necessity rules, the Vendor will notify the Employer of the distribution so the Employer can implement the restriction in Section 6.07(B)(1). If the hardship distribution does not comply with the safe harbor necessity rules (because it complies with Treas. Reg. §1.401(k)-1(d)(3)(iii)(B)), the party responsible for approving the distribution must obtain information from the Employer and other Vendors to determine the amount of any plan loans and rollover accounts that are available to the Participant under the Plan to satisfy the financial need.

(3) Beneficiary hardship distribution. A hardship distribution on account of a hardship need of the Participant's beneficiary is available as permitted in the hardship distribution election form.

(C) Definitions.

(1) Safe harbor need. A distribution conforms to the safe harbor need rules if it is for a purpose described in Treas. Reg. §1.401(k)-1(d)(3)(iii)(B), as modified by Q&A 5 of Notice 2007-7 (relating to beneficiary hardship distributions) or other Applicable Law.

(2) Safe harbor necessity. A distribution conforms to the safe harbor necessity rules if the amount of the distribution does not exceed the amount of the Participant's immediate and heavy financial need and the distribution otherwise complies with Treas. Reg. §1.401(k)-1(d)(3)(iv)(E).

(D) Ordering. If the Plan permits a hardship distribution from more than one Account type, the Plan (or the Participant in a form that the Plan provides for this purpose) may determine any ordering of a Participant's hardship distribution from the hardship distribution eligible Accounts, including ordering as between the Participant's Pre-Tax Deferral Account and Roth Deferral Account, if any, provided that any ordering is consistent with any restriction on hardship distributions under this Section 6.07.

6.08 DIRECT ROLLOVER OF ELIGIBLE ROLLOVER DISTRIBUTIONS.

(A) Election. A Participant (including for this purpose, a former Employee) may elect, at the time and in the manner prescribed by the Vendor, to have any portion of his/her Eligible Rollover Distribution from the Plan paid directly to an Eligible Retirement Plan specified by the Participant in a Direct Rollover. For purposes of this Section 6.08, a Participant includes as to their respective interests: (1) a Participant's surviving spouse, (2) the Participant's spouse or former spouse who is an alternate payee under a QDRO, or (3) any other Beneficiary of a deceased Participant who is a Designated Beneficiary under Section 6.02(E)(1).

(B) Rollover and Withholding Notice. At least 30 days and not more than 180 days prior to the distribution of an Eligible Rollover Distribution, the Plan must provide a written notice (including a summary notice as permitted under applicable Treasury regulations) explaining to the distributee the rollover option, the applicability of mandatory 20% federal withholding to any amount not directly rolled over, and the recipient's right to roll over within 60 days after the date of receipt of the distribution ("rollover notice"). A recipient of an Eligible Rollover Distribution (whether he/she elects a Direct Rollover or elects to receive the distribution), also may elect to receive distribution at any administratively practicable time which is earlier than 30 days (but more than 7 days if Section 6.04 applies) following receipt of the rollover notice. The provisions of

this Sections 6.08(B) do not apply to distributions to a Beneficiary described in Section 6.08(A)(3), except to the extent required by Applicable Guidance.

(C) Default Rollover. The Vendor, in the case of a Participant who does not respond timely to the rollover notice, may make a Direct Rollover of the Participant's Account (as described in any DOL guidance) in lieu of distributing the Participant's Account.

(D) Automatic Rollover. In the event of a Mandatory Distribution described in Section 6.01(F) greater than $1,000 to a Participant, if the Participant does not elect to have such distribution paid directly to an Eligible Retirement Plan the Participant specifies in a Direct Rollover or to receive the distribution directly, then the Vendor will pay the distribution in a Direct Rollover to an Individual Retirement Plan. In applying this Section 6.08(D), the Vendor will aggregate a Participant's Roth Deferral and Pre-Tax Deferral Accounts if each Account Balance exceeds $200. If either the Roth Deferral Account or the Pre-Tax Deferral Account is less than $200, the Vendor will apply this Section 6.08(D) only to other Account and will not aggregate the Account Balance under $200 with the other Account Balance.

(1) Determination of Mandatory Distribution amount.

(a) Rollovers count. The Vendor, in determining whether a Mandatory Distribution is greater than $1,000 for purposes of this Section 6.08(D), will include the portion of the Participant's distribution attributable to any Rollover Contribution, regardless of the Employer's Adoption Agreement election to include or exclude Rollover Contributions in defining a Mandatory Distribution.

(b) Roth and Pre-Tax Deferrals. In determining the Mandatory Distribution amount to which to apply this Section 6.08(D), the Vendor will aggregate a Participant's Roth Deferral and Pre-Tax Deferral Accounts if each Account Balance exceeds $200. If either the Roth Deferral Account or the Pre-Tax Deferral Account is less than $200, the Vendor will apply this Section 6.08(D) only to the other Account and will not aggregate the Account Balance under $200 with the other Account Balance.

(2) Beneficiaries, alternate payees and termination. The automatic rollover provisions of this Section 6.08(D) do not apply to payees described in Section 6.08(A)(1), (2), or (3) or to distributions to a Participant upon Plan termination.

(E) Limitation on Roth Rollovers. If a Participant wishes to transfer his/her Roth Deferral Account by a 60-day rollover, the Participant may roll over only the taxable portion of the distribution to a Roth account in a 401(k) plan or a 403(b) plan. However, a Participant may use the 60-day rule to roll over the entire Roth Deferral Account to a Roth IRA.

(F) Definitions. The following definitions apply to this Section 6.08:

(1) Direct Rollover. A Direct Rollover is a payment by the Plan to the Eligible Retirement Plan the distributee specifies in his/her Direct Rollover election or in the case of an automatic rollover, to the individual retirement plan that the Plan designates.

(2) Eligible Retirement Plan. An Eligible Retirement Plan is an individual retirement plan, an annuity plan described in Code §403(a), a qualified trust described in Code §401(a), an arrangement described in Code §403(b), or an eligible deferred compensation plan described in Code §457(b) sponsored by a governmental employer which accepts the Participant's or alternate payee's Eligible Rollover Distribution. However, with regard to a Participant's Roth Deferral Account, an Eligible Retirement Plan is a Roth IRA described in Code §408A, a Roth

account in a 401(k) plan which permits Roth deferrals or a Roth account in a 403(b) plan which permits Roth deferrals. In the case of a Beneficiary described in Section 6.08(A)(3), an Eligible Retirement Plan is limited to an individual retirement plan that has been established on behalf of the Beneficiary as an inherited IRA (within the meaning of Code §408(d)(3)(C) of the Code.

(3) Eligible Rollover Distribution. An Eligible Rollover Distribution is any distribution of all or any portion of the Participant's Vested Account Balance, except: (a) any distribution which is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Participant or the joint lives (or joint life expectancies) of the Participant and the Participant's designated beneficiary, or for a specified period of ten years or more; (b) any RMD under Section 6.02; (c) the portion of any distribution which is not includible in gross income (except for Roth Deferral Accounts and Employee Contributions); (d) any hardship distribution; and (e) any distribution which otherwise would be an Eligible Rollover Distribution, but where the total distributions to the Participant during that calendar year are reasonably expected to be less than $200. For purposes of clause (e), a Participant's Roth Deferral Account is deemed to constitute a separate plan that is subject to a separate $200 limit.

(4) Individual Retirement Plan. An Individual Retirement Plan is an individual retirement plan described in Code §408(a) or an individual retirement annuity described in Code §408(b).

6.09 REPLACEMENT OF $5,000 AMOUNT. An individual Funding Vehicle or the Employer in an Addendum may specify that as to any or all places in the Plan, including in Article VI or in Section 9.04(D) where a $5,000 amount appears, a lesser amount will apply. This specification will apply regardless of the election the Employer makes in its Adoption Agreement as to the amount of a Mandatory Distribution.

6.10 SEVERANCE FROM EMPLOYMENT. For purposes of Article VI, Severance from Employment or Separation from Service occurs on any date on which an Employee ceases to be an Employee of an Eligible Employer, even though the Employee may continue to be employed either (A) by another entity that is a Related Employer if that other entity is not an entity that can be an Eligible Employer or (B) in a capacity that is not employment with an Eligible Employer. However, an employee has not suffered a Severance from Employment if the employee transfers from one Code §501(c)(3) organization to another §501(c)(3) organization that is a Related Employer or if an employee transfers from one public school to another public school of the same State employer. An Employee does not have a Severance from Employment if, in connection with a change of employment, the Employee's new employer maintains the Plan with respect to the Employee. For example, a new employer maintains a plan with respect to an Employee by continuing or assuming sponsorship of the plan or by accepting a transfer of plan assets and liabilities with respect to the Employee.

ARTICLE VII
ADMINISTRATIVE PROVISIONS

7.01 EMPLOYER ADMINISTRATIVE PROVISIONS.

(A) Information to Plan Administrator. The Employer must supply current information to the Plan Administrator, including the name, date of birth, date of employment, Compensation, leaves of absence, Years of Service and date of Separation from Service of each Employee who is, or who will be eligible to become, a Participant under the Plan, together with any other information which the Plan Administrator considers necessary to administer properly the Plan. The Plan Administrator will supply to the Vendors the information necessary for the administration of their Funding Vehicles and for overall Plan coordination. The Employer's records as to the current information the Employer furnishes to the Plan Administrator are conclusive as to all persons.

(B) Plan Contributions. The Employer is solely responsible to determine the proper amount of any Employer Contributions it makes to the Plan and for the timely deposit to the Funding Vehicle of the Employer Contributions and Elective Deferrals.

(C) Employer Action. The Employer must take any action under the Plan in accordance with applicable Plan provisions and with proper authority such that the action is valid under Applicable Law and is binding upon the Employer.

(D) No Responsibility for Others. Except as required under ERISA, the Employer has no responsibility or obligation under the Plan to Employees, Participants or Beneficiaries for any act (unless the Employer also serves in such capacities) required of the Plan Administrator, a Vendor, or any other service provider to the Plan.

(E) Indemnity of Certain Fiduciaries. The Employer will indemnify, defend and hold harmless the Plan Administrator from and against any and all loss resulting from liability to which the Plan Administrator may be subjected by reason of any act or omission (except willful misconduct or gross negligence) in its official capacities in the administration of this Plan, including attorneys' fees and all other expenses reasonably incurred in the Plan Administrator's defense, in case the Employer fails to provide such defense. If the Plan is an ERISA Plan, the indemnification provisions of this Section 7.01(E) do not relieve the Plan Administrator from any liability the Plan Administrator may have under ERISA for breach of a fiduciary duty. Furthermore, the Plan Administrator and the Employer may execute a written agreement further delineating the indemnification agreement of this Section 7.01(E), provided the agreement is consistent with and does not violate Applicable Law. The indemnification provisions of this Section 7.01(E) do not extend to any Vendor (including where the Vendor under Section 1.51 is serving as the Plan Administrator), third party administrator, or other Plan service provider unless so provided in a written agreement (including Funding Vehicle Documentation) executed by such persons and the Employer.

(F) Settlor Expenses. If this is an ERISA Plan, the Employer will pay all reasonable Plan expenses that the Plan Administrator under Section 7.04(C) determines are "settlor expenses" under ERISA.

(G) Named Fiduciary. If the Plan is an ERISA Plan, the Named Fiduciary of the Plan is the president of a corporate Employer or (regardless of the entity type) such person who has similar responsibilities, unless the Employer designates in writing another person or persons to serve as Named Fiduciary. The Named Fiduciary has

sole responsibility for the management and control of the Plan.

(H) Information Sharing Agreement. If the Employer permits a Participant to transfer all or a portion of his/her Funding Vehicle to another Funding Vehicle not provided under the Plan, or a Vendor ceases to be eligible to receive Contributions hereunder, the Employer and the Vendor must enter into an information sharing agreement under which the Employer and the Vendor agree to provide information necessary for the resulting Funding Vehicle to comply with Code §403(b) requirements and other tax rules relating to the Plan. This information will include: (i) information as to whether the Participant's employment with the Employer is continuing, and when the Participant has had a Severance from Employment (for purposes of the distribution restrictions in Article VI); (ii) information regarding hardship distributions under Section 6.07; (iii) the amount of any plan loan that is outstanding to the Participant in order for a Vendor to determine whether an additional plan loan would be a deemed distribution under Code §72(p) (see Section 7.06(G)); (iv) other information that may be needed to comply with federal or state reporting or withholding requirements.

(I) ERISA Safe Harbor Exemption. If the Employer intends for the Plan to qualify under the ERISA Safe Harbor Exemption, the Employer will not make any discretionary determinations (e.g., loans, hardship withdrawals, domestic relations orders and distributions) under the Plan that are inconsistent with the ERISA Safe Harbor Exemption. Instead, the Plan allocates those responsibilities to the Vendor or a third party selected by the Vendor. If any Plan provision directs the Employer or Employer acting as Plan Administrator to make a discretionary determination inconsistent with the ERISA Safe Harbor Exemption, the discretionary determination will be made by the Vendor or the third party. This paragraph supersedes any contrary provisions in the Plan or Funding Vehicle Documentation.

7.02 PLAN ADMINISTRATOR.

(A) Compensation and Expenses. The Plan Administrator (and any individuals serving as Plan Administrator) will serve without compensation for services as such (unless the Plan Administrator is not the Employer or an Employee), but the Employer or the Plan will pay all reasonable expenses of the Plan Administrator, in accordance with Section 7.04(C)(2).

(B) Resignation and Removal. If one or more persons other than the Employer are serving as Plan Administrator, such person(s) will serve until they resign by written notice to the Employer or until the Employer removes them by written notice. In case of a vacancy in the position of Plan Administrator, the Employer will exercise any and all of the powers, authority, duties and discretion conferred upon the Plan Administrator pending the filling of the vacancy, subject to the limitations of Section 7.01(I).

(C) General Powers and Duties. Subject to the limitations of Section 7.01(I), and to the extent not formally or informally delegated to a Vendor, the Plan Administrator has the following general powers and duties which are in addition to those the Plan otherwise accords to the Plan Administrator:

(1) Eligibility/benefit determination. To determine the rights of eligibility of an Employee to participate in the Plan, all factual questions that arise in the course of administering the Plan, the value of a Participant's Account Balance (based on the value of the Funding Vehicle assets, as determined by the Vendor) and the Vested percentage of each Participant's Account Balance.

(2) Rules/policies. To adopt rules of procedure and regulations or policies the Plan Administrator considers reasonable or necessary for the proper and efficient administration of the Plan, provided the rules are not inconsistent with the terms of the Plan, the Code, ERISA or other Applicable Law. The Plan Administrator may, but is not required to reduce such rules, regulations or policies to writing, unless otherwise required under Applicable Law. The Plan Administrator at any time may amend or terminate prospectively any Plan policy without the requirement of a formal Plan amendment. The Plan Administrator also may create and modify from time to time an Adoption Agreement Administrative Checklist which is not part of the Plan, but which is for the purpose of tracking certain plan operational features and to facilitate proper administration of the Plan.

(3) Construction/enforcement. To construe and enforce the terms of the Plan and the rules and regulations and policies the Plan Administrator adopts, including discretion to interpret the basic plan document, the Adoption Agreement and any document related to the Plan's operation.

(4) Distribution/valuation. To direct the Vendor regarding the crediting and distribution of a Funding Vehicle and to establish additional Valuation Dates and direct the Vendor to conduct interim valuations as of such Valuation Dates.

(5) Claims. To review and render decisions regarding a claim for (or denial of a claim for) a benefit under the Plan.

(6) Information to Employer. To furnish the Employer with information which the Employer may require for tax or other purposes.

(7) Service providers. To engage the service of agents whom the Plan Administrator may deem advisable to assist it with the performance of its duties.

(8) Investment Manager. If the Plan Administrator is the Named Fiduciary, to engage the services of an Investment Manager or Managers (as defined in ERISA §3(38)), each of whom will have full power and authority to manage, acquire or dispose (or direct the Vendor with respect to acquisition or disposition) of any Plan asset under such Manager's control.

(9) Funding. The Plan Administrator will review, not less often than annually, all pertinent Employee information and Plan data in order to establish the funding policy of the Plan and to determine the appropriate methods of carrying out the Plan's objectives. The Plan Administrator must communicate periodically, as it deems appropriate, to the Vendor and to any Plan Investment Manager the Plan's short-term and long-term financial needs for the coordination of the Plan's investment policy with Plan financial requirements.

(10) Records. To maintain Plan records and records of the Plan Administrator's activities as necessary or appropriate for the proper administration of the Plan.

(11) Tax returns and other filings. To file with DOL or IRS as may be required, the Plan's informational tax return and to make such other filings as the Plan Administrator deems necessary or appropriate.

(12) Notices and disclosures. To give and to make to Participants and to other parties all Plan related notices and disclosures required under Applicable Law.

(13) Overpayment. To seek return from a Participant or Beneficiary of any distributed amount which exceeds the distributable Vested Account Balance (or exceeds the amount which otherwise should have been distributed) and to allocate any recovered overpayment in accordance with the Plan terms.

(14) Catch-all. To make any other determinations and undertake any other actions the Plan Administrator in its discretion believes are necessary or appropriate for the administration of the Plan (except to the extent that the Employer provides express contrary direction) and to otherwise administer the Plan in accordance with the Plan terms and Applicable Law.

(D) 403(b) Plan Salary Deferrals. The Plan Administrator may adopt such policies regarding Elective Deferrals as it deems necessary or appropriate to administer the Plan. The Plan Administrator also will prescribe a Salary Reduction Agreement form for use by Participants. However, a Vendor may prescribe forms or policies necessary or appropriate to administering Elective Deferrals to the Vendor's Funding Vehicle.

(E) Limitations on Plan Administrator Responsibility.

(1) Acts of others. Except as required under ERISA, the Plan Administrator has no responsibility or obligation under the Plan to Participants or Beneficiaries for any act (unless the Plan Administrator also serves in such capacities) required of the Employer, the Vendor, or any other service provider to the Plan.

(2) Plan contributions. The Plan Administrator is not responsible to collect any required Plan contribution or to determine the correctness or deductibility of any Employer contribution.

(3) Reliance on information. The Plan Administrator and the Vendors in administering the Plan are entitled to, but are not required to rely upon, information which a Participant, Beneficiary, Vendor, the Employer, a Plan service provider or representatives thereof provide.

7.03 DIRECTION OF INVESTMENT.

(A) Employer direction of Investment. The Employer has the right to direct the Vendor with respect to the investment and re-investment of assets comprising the Funding Vehicle unless an Investment Manager or the Participants are directing the Vendor.

(B) Participant Direction of Investment. The Participant generally has the responsibility to invest his/her Plan Account unless the Plan Administrator or the Participant appoint an Investment Manager to invest the Plan Account. The Plan Administrator may impose reasonable and nondiscriminatory administrative conditions on the Participants' ability to direct their Account investments. For purposes of this Section 7.03(B), a Participant includes a Beneficiary where the Beneficiary has succeeded to the Participant's Account and where the Plan Administrator's policy affords the Beneficiary the same (or different) self-direction rights as a Participant.

(1) Vendor authorization and procedures. The Vendor only will accept direction from each Participant (or from the Participant's properly appointed independent investment adviser or financial planner) in the form or in the manner that the Plan provides or otherwise approves for this purpose. The Vendor may establish procedures relating to Participant direction of investment under this Section 7.03(B) as are not inconsistent with the Plan Administrator's policy regarding Participant direction, including procedures or conditions for electronic transfers or for changes in investments by Participants or by their appointed independent advisers or planners.

(2) ERISA §404(c). No Plan fiduciary (including the Employer and Vendor) is liable for any loss or for any breach resulting from a Participant's direction of the investment of any part of his/her directed Account to the extent the Participant's exercise of his/her right to direct

the investment of his/her Account satisfies the requirements of ERISA §404(c).

(3) Participant loans. As part of the loan policy the Plan establishes under Section 7.06, the Plan under Section 7.06(E) may treat a Plan loan made to a Participant as a Participant direction of investment.

(4) Investment services programs. The Plan may permit Participants to appoint an Investment Manager or Managers, which may be a Vendor or an affiliate thereof, to render investment allocation services, investment advice or management services (collectively, an "investment services program") to the appointing Participants, provided that any such appointment and the operation of any such investment services program are not in violation of Applicable Law.

(C) Direction Consistent with Plan. To constitute a proper direction, any direction of investment given to a Vendor under the Plan must be in accordance with the Plan terms and must not be contrary to Applicable Law.

7.04 ACCOUNT ADMINISTRATION, VALUATION AND EXPENSES.

(A) Maintenance of Accounts. The Plan Administrator will maintain, or direct the Vendors to maintain, a separate Account, or multiple Accounts, in the name of each Participant to reflect the Participant's Account Balance under the Plan. The Plan Administrator will make its allocations of Earnings or request the Vendors to make its allocations, to the Accounts of the Participants as necessary to maintain proper Plan records: (a) in accordance with the contribution source under Section 7.04(A)(1); (b) in accordance with Section 3.06 allocation conditions; (c) consistent with the Plan Administrator's establishment of investment account types under Section 7.04(A)(2); and (d) consistent with the Employer's Adoption Agreement elections as to method of allocation of Earnings under Section 7.04(B)(4).

(1) By contribution source. The Plan, as necessary for the proper administration of the Plan, will establish Plan Accounts for each Participant to reflect his/her Accounts attributable to the following contribution sources and the Earnings attributable thereto: Pre-Tax Deferrals, Roth Deferrals, Employee Contributions, Matching Contributions, Nonelective Contributions, QNECs and Safe Harbor Contributions, Rollover Contributions (including Roth and pre-tax amounts), and Transfers.

(2) By investment account type. The Plan, as necessary for the proper administration of the Plan, will establish separate Accounts for each Participant to reflect his/her investment account types as described below:

(a) Group Account. A group Account is an Account which for investment purposes is not a segregated Account or an individual Account. A group Account includes a group Funding Vehicle. If any or all Plan investment Accounts are grouped, each Participant's Account has an undivided interest in the assets comprising the group Account. In a group Account, the value of each Participant's Account Balance consists of that proportion of the net worth (at fair market value) of the Funding Vehicle which the net credit balance in his/her Account (exclusive of the cash value of incidental benefit insurance contracts) bears to the total net credit balance in the Accounts (exclusive of the cash value of the incidental benefit insurance contracts) of all Participants plus the cash surrender value of any incidental benefit insurance contracts held by the Vendor on the Participant's life. As of each Valuation Date, the Plan Administrator must reduce a Participant Accounts for any forfeiture arising from Section 5.07 after the Plan Administrator has made all other allocations, changes or adjustments to the Account for the valuation

period. In a group Account, the Vendor titles the Funding Vehicle in the name of the Plan.

(b) Individual Accounts. An individual Account is an Account that is established and maintained for a Participant to invest in one or more Funding Vehicles in which other Participants do not have any interest. The assets in the individual Account are subject to any limitations imposed by ERISA or other Applicable Law. A Participant may have one or more individual Accounts in addition to group or segregated Accounts. An individual Account is credited and charged with the Earnings under Section 7.04(B)(4)(d). As of each Valuation Date, the Plan Administrator must reduce an individual Account for any forfeiture arising from Section 5.07 after the Plan Administrator has made all other allocations, changes or adjustments to the Account for the valuation period. In an individual Account, the Vendor titles the Funding Vehicle in the name of the Participant. The Plan Administrator may prohibit investment of funds in individual Accounts to the extent that those funds are not 100% Vested.

(c) Segregated Accounts. A segregated Account is an Account the Plan Administrator establishes and maintains or directs the Vendor to establish and maintain for a Participant: (i) as the result of a cash-out repayment under Section 5.04; (ii) to facilitate installment payments under Section 6.03; (iii) to hold a QDRO amount under Section 6.05; (iv) to prevent a distortion of Plan Earnings allocations; or (v) for such other purposes as the Plan Administrator may direct. A segregated Account receives all income it earns and bears all expense or loss it incurs. The Vendor will invest the assets of a segregated Account consistent with the purpose for which the Vendor established the Account. As of each valuation date, the Plan Administrator must reduce a segregated Account for any forfeiture arising under Section 5.07 after the Plan Administrator has made all other allocations, changes or adjustments to the Account for the valuation period.

(3) Value of Account/distributions. The value of a Participant's Account is equal to the sum of all contributions, Earnings and other additions credited to the Account, less all distributions (including distributions to Beneficiaries and to alternate payees and also including disbursement of Plan loan proceeds), expenses and other charges against the Account as of a Valuation Date or other relevant date. For purposes of a distribution under the Plan, the value of a Participant's Account Balance is its value as of the Valuation Date immediately preceding the date of the distribution.

(4) Account statements. As soon as practicable after the Accounting Date of each Plan Year and any other date that ERISA requires, the Plan will deliver within any time prescribed by ERISA, to each Participant (and to each Beneficiary) a statement reflecting the amount of his/her Account Balance in the Plan as of that date and such other information ERISA requires be furnished the Participant or the Beneficiary. No Participant, except the Plan Administrator, has the right to inspect the records reflecting the Account of any other Participant. If the Plan is not an ERISA Plan, the Vendor will provide statements in accordance with its normal procedures.

(B) Allocation of Earnings. This Section 7.04(B) applies solely to the allocation of Earnings of the Funding Vehicle. Any references in this Section 7.04(B) to the Plan Administrator include a Vendor. The Plan Administrator will allocate Employer Contributions and Participant forfeitures, if any, in accordance with Article III.

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

(2) Definition of Valuation Date. A Valuation Date under this Plan is each: (a) Accounting Date; (b) Valuation Date the Employer elects in its Adoption Agreement; or (c) Valuation Date established under Section 7.02(C)(4). The Employer in its Adoption Agreement or the Plan Administrator may elect alternative Valuation Dates for the different Contribution Types which the Plan Administrator maintains under the Plan. A Vendor may establish more frequent valuations (including daily valuations) of Investment Vehicles the Vendor provides.

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

(4) Allocation methods. The Plan Administrator will allocate Earnings to the Participant Accounts in accordance with the daily valuation method, balance forward method, weighted average method, individual account method, or other method the Employer elects under its Adoption Agreement. The Employer in its Adoption Agreement may elect alternative methods under which the Plan Administrator will allocate the Earnings to the different contribution source Accounts or investment Account types which the Plan Administrator maintains under the Plan.

(a) Daily valuation method. With regard to Funding Vehicles subject to daily valuation, the Plan Administrator will allocate Earnings on each day of the Plan Year for which Plan assets are valued on an established market and the Vendor is conducting business.

(b) Balance forward method. If the Employer in its Adoption Agreement elects to apply the balance forward method, the Plan Administrator first will adjust the Participant Accounts, as those Accounts stood at the beginning of the current Valuation Period, by reducing the Accounts for any forfeitures arising under the Plan, for amounts charged during the Valuation Period to the Accounts in accordance with Section 7.04(C)(2)(b) (relating to distributions and to loan disbursement payments). The Plan Administrator then, subject to the restoration allocation requirements of the Plan, will allocate Earnings pro rata to the adjusted Participant Accounts, since the last Valuation Date.

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

(d) Individual Account method. If the Employer in its Adoption Agreement elects to apply the individual Account method: (i) each Participant's individual Account is credited and charged with the Earnings such Account generates; (ii) the Employer's election, if any, in its Adoption Agreement of another method for the allocation of Earnings will not apply to the individual Account; and (iii) the individual Account will be valued at least annually.

(C) Plan Expenses. The Plan Administrator consistent with ERISA and Applicable Law must determine whether a particular Plan expense is a settlor expense which the Employer must pay.

(1) Employer election as to non-settlor expenses. The Employer will direct the Plan Administrator as to whether the Employer will pay any or all non-settlor reasonable Plan

expenses or whether the Plan must bear the expense.

(2) Allocation of Plan expense. As to any and all non-settlor reasonable Plan expenses, including Vendor fees, which the Employer determines that the Plan will pay, the Plan Administrator has discretion: (i) to determine the method of allocating reasonable Plan expenses that are charged to the Plan as a whole; (ii) to determine which reasonable Plan expenses the Plan will charge to an individual Participant's Account; and (iii) to adopt an expense policy regarding the foregoing. The Plan Administrator must exercise its discretion under this Section 7.04(C)(2) in a reasonable, uniform and nondiscriminatory manner. The Plan Administrator will direct the Vendor to pay from the Funding Vehicle or to charge to the overall Plan or to particular Participant Accounts the expenses under this Section 7.04(C)(2) in accordance with the Plan Administrator's election of expense charging method or policy.

(a) Charge to overall Plan. If the Plan Administrator charges a Plan expense to the Accounts of all Participants, the Plan Administrator may allocate the Plan expense either pro rata in relation to the total balance in each Account on the date the expense is allocated (or as of the most recent Valuation Date) or per capita (an equal amount) to each Participant's Account.

(b) Charge to individual Participant Accounts. The Plan Administrator, except as prohibited by Applicable Law, may charge a Participant's Account for any reasonable Plan expenses directly related to that Account, including, but not limited to the following categories of fees or expenses: distribution, loan, QDRO, "lost Participant" search, account maintenance, brokerage accounts, expedited check deliver, investment management (including registered investment advisors' fees) and benefit calculations. The Plan Administrator may charge a Participant's Account for the reasonable expenses incurred in connection with the maintenance of or a distribution from that Account even if the charging of such expenses would result in the elimination of the Participant's Account or in the Participant's not receiving an actual distribution. However, if the actual Account expenses exceed the Participant's Account Balance, the Plan Administrator will not charge the Participant outside of the Plan for such excess expenses.

(c) Participant's direct payment of investment expenses. The Plan Administrator may permit Participants to pay directly to the service provider, outside the Plan, Plan expenses such as investment management fees, provided such expenses: (i) would be properly payable either by the Employer or the Plan and are not "settlor" expenses payable exclusively by the Employer; (ii) are not paid in fact by the Employer or by the Plan; and (iii) are not intrinsic to the value of the Plan assets as described in Rev. Rul. 86-142 or in any successor ruling. This Section 7.04(C)(2)(c) does not permit a Participant to reimburse the Plan for expenses the Plan previously has paid. To the extent a Participant does not pay an expense the Participant may pay according to this Section 7.04(C)(2)(c), the Plan Administrator will charge the expense under Sections 7.04(C)(2)(a) or 7.04(C)(2)(b) in accordance with the Plan Administrator's expense policy.

(d) Charges to former Employee-Participants. The Plan Administrator may charge reasonable Plan expenses to the Accounts of former Employee-Participants, even if the Plan Administrator does not charge Plan expenses to the Accounts of current Employee-Participants. The Plan Administrator may charge the Accounts of former Employee-Participants by applying one of the Section 7.04(C)(2)(a) or (b) methods.

(e) ERISA compliance. This Section 7.04(C) does not authorize the Plan to charge a Participant for information that ERISA requires

the Plan to furnish free of charge upon the Participant's request. In addition, the Plan Administrator as ERISA or other Applicable Law may require, must disclose the nature of any Plan expenses and the manner of charging of any Plan expenses to the Plan or to particular Participant Accounts and must apply its expense policy in a manner which is consistent with ERISA and other Applicable Law.

7.05 PARTICIPANT ADMINISTRATIVE PROVISIONS.

(A) Beneficiary Designation. A Participant from time to time may designate, in writing, any person(s) (including a trust or other entity), contingently or successively, to whom the Vendor will pay all or any portion of the Participant's Vested Account Balance (including any life insurance proceeds payable to the Participant's Account) in the event of death. A Participant also may designate the form and method of distribution of his/her Account to the Beneficiary. The Plan will prescribe the form for the Participant's written designation of Beneficiary and, upon the Participant's filing the form with the Plan the form effectively revokes all designations filed with the Plan prior to that date by the same Participant. This Section 7.05(A) also applies to the interest of a deceased Beneficiary or a deceased alternate payee where the Beneficiary or alternate payee has designated a Beneficiary. Delivery of a Beneficiary Designation to a Vendor affects only distributions from the Funding Vehicle(s) that Vendor provides. In the event of a conflict between a beneficiary designation provided to the Plan Administrator and a beneficiary designation provided to a Vendor, the Vendor's designation will control the distribution of the Vendor's Funding Vehicles.

(1) Automatic revocation of spousal designation. A divorce decree, or a decree of legal separation, revokes the prior Participant's designation, if any, of his/her spouse or former spouse as his/her Beneficiary under the Plan unless: (a) the decree or a QDRO provides otherwise; or (b) the Employer provides otherwise in an Addendum. This Section 7.05(A)(1) applies solely to a Participant whose divorce or legal separation becomes effective on or after the date the Employer executes this Plan unless the Plan is a Restated Plan and the prior Plan contained a provision to the same effect.

(2) Coordination with QJSA/QPSA requirements. If Section 6.04 applies to the Participant, this Section 7.05 does not impose any special spousal consent requirements on the Participant's Beneficiary designation unless the Participant waives the QJSA or QPSA benefit. If the Participant waives the QJSA or QPSA benefit without spousal consent to the Participant's Beneficiary designation: (a) any waiver of the QJSA or of the QPSA is not valid; and (b) if the Participant dies prior to his/her Annuity Starting Date, the Participant's Beneficiary designation will apply only to the portion of the death benefit which is not payable as a QPSA. Regarding clause (b), if the Participant's surviving spouse is a primary Beneficiary under the Participant's Beneficiary designation, the Vendor will satisfy the spouse's interest in the Participant's death benefit first from the portion which is payable as a QPSA.

(3) Joint and survivor exception. This Section 7.05(A)(3) applies if the Plan is an ERISA Plan but the Employer has elected to apply the exception to the joint and survivor annuity requirements under Section 6.04(G). The Beneficiary designation of a married Exempt Participant, as described in Section 6.04(G), is not valid unless the Participant's spouse consents (in a manner described in Section 6.04(A)(7)) to the Beneficiary designation. The spousal consent requirement in this Section 7.05(A)(3) does not apply if the Participant's spouse is the Participant's sole primary Beneficiary.

(B) Default Beneficiary. If: (i) a Participant fails to name a Beneficiary in accordance with Section 7.05(A); or (ii) the Beneficiary (and all contingent or successive Beneficiaries) whom

the Participant designates predecease the Participant, are invalid for any reason, or disclaim the Participant's Vested Account Balance and the disclaimers have been accepted as valid under Applicable Law, then the Vendor (subject to any contrary provision in an Addendum under Section 7.05(C) or any contrary provision in Funding Vehicle Documentation) will distribute the Participant's Vested Account Balance in accordance with Section 6.03 in the following order of priority to:

(1) Spouse. The Participant's surviving spouse (without regard to the one-year marriage rule of Sections 6.04(B) and 7.05(A)(3)); and if no surviving spouse to

(2) Descendants. The Participant's descendents (including adopted children), in equal shares by right of representation (one share for each surviving child and one share for each child who predeceases the Participant with living descendents); and if none to

(3) Parents. The Participant's surviving parents, in equal shares; and if none to

(4) Estate. The Participant's estate.

(C) Administration of Default Provision. The Employer in an Addendum under Section 7.05(B) may specify a different list or ordering of the list of default beneficiaries; provided however, that if the Plan is an ERISA Plan that is subject to Section 6.04(G), and the Plan includes Exempt Participants, as to such exempt Participants, the Employer may not specify a different default Beneficiary list or order unless the Participant's surviving spouse will be the sole primary Beneficiary. The Employer in an Addendum may define the term "spouse" under Section 7.05(B)(1) provided such Addendum is consistent with Applicable Law. In the absence of such an Addendum, the Plan Administrator will interpret and apply the term "spouse" in a manner which is consistent with Applicable Law.

(D) Death of Beneficiary. If the Beneficiary survives the Participant, but dies prior to distribution of the Participant's entire Vested Account Balance, the Vendor will distribute the remaining Vested Account Balance to the Beneficiary's estate unless: (1) the Participant's Beneficiary designation provides otherwise; (2) the Beneficiary has properly designated a beneficiary; or (3) the Employer provides otherwise in an Addendum. A Beneficiary only may designate a beneficiary for the Participant's Account Balance remaining at the Beneficiary's death, if the Participant has not previously designated a successive contingent beneficiary and the Beneficiary's designation otherwise complies with the Plan terms.

(E) Simultaneous Death of Participant and Beneficiary. If a Participant and his/her Beneficiary should die simultaneously, or under circumstances that render it difficult or impossible to determine who predeceased the other, then unless the Participant's Beneficiary designation otherwise specifies, the Plan will presume conclusively that the Beneficiary predeceased the Participant.

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

(G) Assignment or Alienation. Except as provided in Code §414(p) relating to QDROs, Plan Loans (Section 7.06) and in ERISA §206(d) relating to certain voluntary, revocable assignments, judgments and settlements, neither a Participant nor a Beneficiary may anticipate, assign or alienate (either at law or in equity) any benefit provided under the Plan, and the Vendor will not recognize any such anticipation, assignment or alienation. Except as provided in other Applicable Law, a benefit under the Plan is not subject to attachment, garnishment, levy, execution or other legal or equitable process.

(H) Information Available. Any Participant or Beneficiary without charge may examine the Plan description, copy of the latest annual report, any bargaining agreement, this Plan, and any contract or any other instrument which relates to the establishment or administration of the Plan. The Plan Administrator will maintain all of the items listed in this Section 7.05(H) in its office, or in such other place or places as it may designate from time to time in order to comply with the regulations issued under ERISA, for examination during reasonable business hours. Upon the written request of a Participant or a Beneficiary, the Plan Administrator must furnish the Participant or Beneficiary with a copy of any item listed in this Section 7.05(H). The Plan Administrator may impose a reasonable copying charge upon the requesting person. This Section 7.05(H) does not apply if the Plan is not an ERISA Plan.

(I) Claims Procedure for Denial of Benefits. A Participant or a Beneficiary may file with the Plan Administrator a written claim for benefits, if the Participant or the Beneficiary disputes the Plan Administrator's determination regarding the Participant's or Beneficiary's Plan benefit. However, the Plan will distribute only such Plan benefits to Participants or Beneficiaries as the Plan Administrator in its discretion determines a Participant or Beneficiary is entitled to receive. The Plan Administrator will maintain a separate written document as part of (or which accompanies) the Plan's summary plan description explaining the Plan's claims procedure. This Section 7.05(I) specifically incorporates the written claims procedure as from time to time published by the Plan Administrator as a part of the Plan. If the Plan Administrator pursuant to the Plan's written claims procedure makes a final written determination denying a Participant's or Beneficiary's benefit claim, the Participant or Beneficiary to preserve the claim must file an action with respect to the denied claim not later than 180 days following the date of the Plan Administrator's final determination.

(J) Inability to Determine Beneficiary. In the event that the Plan Administrator is unable to determine the identity of a Participant's Beneficiary under circumstances of competing claims or otherwise, the Plan may file an interpleader action seeking an order of the court as to the determination of the Beneficiary. The Plan Administrator, the Vendor and other Plan fiduciaries may act in reliance upon any proper order issued under this Section 7.05(J) in maintaining, distributing or otherwise disposing of a Participant's Account under the Plan terms, to any Beneficiary specified in the court's order.

7.06 PLAN LOANS.

(A) Loan Policy. Subject to the terms of the Funding Vehicle Documentation, the Plan Administrator may establish, amend or terminate, a policy for making Plan loans (including collateralized loans made by an Annuity Provider under the Annuity Contract), if any, to Participants and to Beneficiaries. If the Plan Administrator adopts a loan policy, the loan policy must be nondiscriminatory and must be in writing. The policy must include: (i) the identity of the person or positions authorized to administer the Participant loan program; (ii) the procedure for applying for a loan; (iii) the criteria for approving or denying a loan; (iv) the limitations, if any, on the types and amounts of loans available; (v) the procedure for determining a reasonable rate of interest; (vi) the types of collateral which may secure the

loan; and (vii) the events constituting default and the steps the Plan will take to preserve Plan assets in the event of default. A loan policy the Plan Administrator adopts under this Section 7.06 is part of the Plan, except that the Plan Administrator may amend or terminate the policy without regard to Section 9.02.

(B) Requirements for Plan Loans. The Vendor may make a Plan loan to a Participant or to a Beneficiary in accordance with the loan policy and the Funding Vehicle Documentation, provided: (1) the loan policy satisfies the requirements of this Section 7.06; (2) loans are available to all Participants and Beneficiaries on a reasonably equivalent basis and are not available in a greater amount for HCEs than for NHCEs; (3) any loan is adequately secured; (4) the loan bears a reasonable rate of interest; (5) the loan provides for repayment within a specified time (except that the loan policy may suspend loan payments pursuant to Code §414(u)(4) or otherwise in accordance with Applicable Law); (6) the default provisions of the note permit offset of the Participant's Vested Account Balance only at the time when the Participant has a distributable event under the Plan, but without regard to whether the Participant consents to distribution as otherwise may be required under Section 6.01(A)(2); (7) the amount of the loan does not exceed (at the time the Plan extends the loan) the present value of the Participant's Vested Account Balance in the Vendor's Funding Vehicle; and (8) the loan otherwise conforms to the exemption provided by ERISA §408(b)(1). The Vendor may impose additional restrictions on loans, provided such terms are consistent with the Code and ERISA (if applicable). If the Plan is not an ERISA Plan, the Vendor may make the loan without regard to requirements (2), (3), or (8) so long as the loan has repayment safeguards to which a prudent lender would adhere.

(C) Default as Distributable Event. The loan policy may provide a Participant's loan default is a distributable event with respect to the defaulted amount, irrespective of whether the Participant otherwise has incurred a distributable event at the time of default, except as to amounts which the Participant used to secure his/her loan and which remain subject to distribution restrictions under Section 6.01(E) which may not be distributed in-service at the time of default.

(D) QJSA Requirements. If the QJSA requirements of Section 6.04 apply to the Participant, the Participant may not pledge any portion of his/her Account Balance that is subject to such requirements as security for a loan unless, within the 90 day period ending on the date the pledge becomes effective, the Participant's spouse, if any, consents (in a manner described in Section 6.04 other than the requirement relating to the consent of a subsequent spouse) to the security or, by separate consent, to an increase in the amount of security.

(E) Treatment of Loan as Participant-Directed. The Plan Administrator, to the extent provided in a written loan policy and consistent with Section 7.03(B), will treat a Plan loan made to a Participant as a Participant-directed investment, even if the Plan otherwise does not permit a Participant to direct his/her Account investments. Where a loan is treated as a directed investment, the borrowing Participant's Account alone shares in any interest paid on the loan, and the Account alone bears any expense or loss it incurs in connection with the loan. The Vendor may retain any principal or interest paid on the borrowing Participant's loan in a segregated Account (as described in Section 7.04(A)(2)(c)) on behalf of the borrowing Participant until the Vendor deems it appropriate to add the loan payments to the Participant's Account under the Plan.

(F) ERISA Safe Harbor Exemption. If the Employer intends for the Plan to qualify under the Safe Harbor Exemption, the determination of (1) whether Plan loans are available and (2) the terms under which Participants may obtain

loans is made by reference to the Funding Vehicle Documentation.

(G) Coordination. To minimize the instances in which Participants have taxable income as a result of loans from the Plan, the Plan Administrator will take such steps as may be appropriate to coordinate the limitations on loans set forth in Code §72(p), including the collection of information from Vendors, and transmission of information requested by any Vendor, concerning the outstanding balance of any loans made to a Participant under the Plan or any other plan of the Employer. The Administrator will also take such steps as may be appropriate to collect information from Vendors, and transmit information to any Vendor, concerning any failure by a Participant to repay timely any loans made to a Participant under the Plan or any other plan of the Employer. The Vendors will cooperate with the Plan Administrator in providing information needed under this Section 7.06(G).

7.07 LOST PARTICIPANTS. If the Plan is unable to locate any Participant or Beneficiary whose Account becomes distributable under the Plan (a "lost Participant"), the Plan Administrator will apply the provisions of this Section 7.07 consistent with Applicable Law. The provisions of this Section 7.07 no longer apply if the Plan, prior to taking action to dispose of the lost Participant's Account under Section 7.07(A)(2) or 7.07(B)(2), receives a distribution election from the Participant.

(A) Ongoing Plan. The provisions of this Section 7.07(A) apply if the Plan is ongoing.

(1) Attempt to Locate. The Plan must conduct a reasonable and diligent search for the Participant, using one or more of the search methods described in Section 7.07(C).

(2) Failure to locate/disposition of Account. If a lost Participant remains un-located after 6 months following the date the Plan first attempts to locate the lost Participant using any of the search methods described in Section 7.07(C), the Plan may forfeit the lost Participant's Account, provided the Account is not subject to the Automatic Rollover rules of Section 6.08(D), unless forfeiture is contrary to Applicable Law. If the Plan forfeits the lost Participant's Account, the forfeiture occurs at the end of the above-described 6-month period and the Plan will allocate the forfeiture in accordance with Section 3.07. The Plan under this Section 7.07(A)(2) will forfeit the entire Account of the lost Participant, including Elective Deferrals and Employee Contributions.

(3) Subsequent restoration of forfeiture. If a lost Participant whose Account was forfeited thereafter at any time but before the Plan has been terminated makes a claim for his/her forfeited Account, the Plan will restore the forfeited Account to the same dollar amount as the amount forfeited, unadjusted for Earnings occurring subsequent to the forfeiture. The Plan will make the restoration in the Plan Year in which the lost Participant makes the claim, first from the amount, if any, of Participant forfeitures the Plan otherwise would allocate for the Plan Year, and then from the amount or additional amount the Employer contributes to the Plan for the Plan Year. The Employer in an Addendum may provide that the Plan will use group Funding Vehicle net income or gain for the Plan Year, if any, as a source of the restoration, or may modify the order of priority of the sources of restoration described in the previous sentence. The Plan will distribute the restored Account to the lost Participant not later than 60 days after the close of the Plan Year in which the Plan restores the forfeited Account.

(B) Terminating plan. The provisions of this Section 7.07(B) apply if the Plan is terminating.

(1) Attempt to locate. The Plan, to attempt to locate a lost Participant when the Plan is terminating, must conduct a reasonable and diligent search for the Participant, using all four search methods described in clauses (1) through (4) of Section 7.07(C). In addition, the Plan

Administrator may use a search method described in clause (5) of Section 7.07(C).

(2) Failure to locate/disposition of Account. If a lost Participant remains un-located after a reasonable period the Plan Administrator will distribute the Participant's Account under Sections 7.07(B)(2)(a), (b) or (c) as applicable.

(a) No Annuity Contract/no other 403(b) Plan. If the terminating Plan does not provide an Annuity Contract as an investment option and the Employer does not maintain another 403(b) Plan, the Plan Administrator will distribute the lost Participant's Account in an Automatic Rollover to an individual retirement plan under Section 6.08(D), unless the Plan determines it is impracticable to complete an Automatic Rollover or is unable to locate an individual retirement plan provider willing to accept the rollover distribution. In such event, the Plan may: (i) distribute the Participant's Account to an interest-bearing insured bank account the Plan establishes in the Participant's name; or (ii) distribute the Participant's Account to the unclaimed property fund of the state of the Participant's last known address.

(b) Plan provides Annuity Contract/no other 403(b) Plan. If the terminating Plan provides for an Annuity Contract as an investment option annuity option and the Employer does not maintain another 403(b) Plan, the Plan Administrator will distribute an Annuity Contract payable to the lost Participant for delivery to the Participant's last known address reflected in the Plan's records.

(c) Employer maintains another 403(b) Plan. If the Employer maintains another 403(b) Plan, the Plan Administrator may (in lieu of taking the actions described in Sections 7.07(B)(a) or (b)) transfer the lost Participant's Account to the other 403(b) Plan.

(C) Search methods. The search methods described in this Section 7.07 are: (1) provide a distribution notice to the lost Participant at the Participant's last known address by certified or registered mail; (2) check with other employee benefit plans of the Employer that may have more up-to-date information regarding the Participant's whereabouts; (3) identify and contact the Participant's designated Beneficiary; (4) use the IRS letter forwarding program under Rev. Proc. 94-22 or the Social Security Administration search program; and (5) use a commercial locator service, credit reporting agencies, the internet or other search method. Regarding search methods (2) and (3) above, if the Plan encounters privacy concerns, the Plan may request that the Employer or other plan fiduciary (under (2)), or the designated Beneficiary (under (3)), contact the Participant or forward a letter requesting that the Participant contact the Plan.

(D) Uniformity. The Plan will apply Section 7.07 in a reasonable, uniform and nondiscriminatory manner, but in determining a specific course of action as to a particular Account, reasonably may take into account differing circumstances such as the amount of a lost Participant's Account, the expense in attempting to locate a lost Participant, the Plan's ability to establish and the expense of establishing a rollover IRA, and other factors.

(E) Expenses of search. The Plan, in accordance with Section 7.04(C)(2)(b), may charge to the Account of a Participant the reasonable expenses incurred under this Section 7.07 and which are associated with the Participant's Account, without regard to whether or when the Plan actually locates or makes a distribution to the Participant.

(F) Alternative Disposition. The Plan under Sections 7.07(A) or (B) operationally may dispose of a lost Participant's Account in any reasonable manner which is not inconsistent with Applicable Law. The Plan Administrator or a Vendor may adopt a policy under this Section

7.07 as it deems reasonable or appropriate to administer the Accounts of lost Participants, provided that: (1) the terms of any such policy must be uniform and nondiscriminatory; (2) the Plan must administer the policy in a uniform and nondiscriminatory manner; and (3) the policy must not be inconsistent with Applicable Law. To the extent a Vendor adopts a policy, that policy will apply to Funding Vehicles of this Plan which the Vendor administers, and the terms and administration of the Policy must be uniform and nondiscriminatory among such Funding Vehicles. The Plan also may administer lost Participant Accounts consistent with Applicable Law which is contrary to any provision of Section 7.07, unless such Applicable Law requires a Plan amendment, in which case the Employer within any required deadline will amend the Plan to comply.

7.08 PLAN CORRECTION. The Plan Administrator in conjunction with the Employer may undertake such correction of Plan failures as the Plan Administrator deems necessary, including correction to preserve tax qualification of the Plan under Code §403(b) or to correct a fiduciary breach under ERISA or to unwind (correct) a prohibited transaction under ERISA. Without limiting the Plan Administrator's authority under the prior sentence, the Plan Administrator, as it determines to be reasonable and appropriate, may undertake or assist the Employer in undertaking correction of Plan document, operational, demographic and employer eligibility failures under a method described in the Plan or under the Employee Plans Compliance Resolution System ("EPCRS") or any successor program to EPCRS. The Plan Administrator, as it determines to be reasonable and appropriate, also may undertake or assist the appropriate fiduciary or Plan official in undertaking correction of a fiduciary breach, including correction under the Voluntary Fiduciary Correction Program ("VFCP") or any successor program to VFCP. The Plan Administrator may correct an operational failure by distributing from the Plan Elective Deferrals, including Earnings, and the Plan Administrator may forfeit any Matching Contributions, including Earnings, attributable to the distributed Elective Deferrals or any other Matching Contribution which a Participant has not otherwise accrued.

7.09 PLAN COMMUNICATIONS, INTERPRETATION AND CONSTRUCTION.

(A) Plan Administrator's Nondiscriminatory Discretion/Administration. The Plan Administrator has total and complete discretion to interpret and construe the Plan and to determine all questions arising in the administration, interpretation and application of the Plan. Any determination the Plan Administrator makes under the Plan is final and binding upon any affected person. The Plan Administrator must exercise all of its Plan powers and discretion, and perform all of its duties in a uniform and nondiscriminatory manner.

(B) Written Communications. All Plan notices and all Participant or Beneficiary notices, designations, elections, consents or waivers must be in writing (which under Section 7.09(C) may include an electronic communication) and made in a form the Plan specifies or otherwise approves. Any person entitled to notice under the Plan may waive the notice or shorten the notice period unless such actions are contrary to Applicable Law.

(C) Use of Electronic Media. The Plan using any electronic medium may give or receive any Plan notice, communicate any Plan policy, conduct any written Plan communication, satisfy any Plan filing or other compliance requirement and conduct any other Plan transaction to the extent permissible under Applicable Law. A Participant, a Participant's spouse, or a Beneficiary, may use any electronic medium to provide any Beneficiary designation, election, notice, consent or waiver under the Plan, to the extent permissible under Applicable Law. Any reference in this Plan to a "form," a

"notice," an "election," a "consent," a "waiver," a "designation," a "policy" or to any other Plan-related communication includes an electronic version thereof as permitted under Applicable Law.

(D) Evidence. Anyone, including the Employer, required to give data, statements or other information relevant under the terms of the Plan ("evidence") may do so by certificate, affidavit, document or other form which the person to act in reliance may consider pertinent, reliable and genuine, and to have been signed, made or presented by the proper party or parties. The Plan Administrator and the Vendors are protected fully in acting and relying upon any evidence described under the immediately preceding sentence.

(E) Plan Terms Binding. The Plan is binding upon the Employer, Plan Administrator, Vendors (and all other service providers to the Plan), upon Participants, Beneficiaries and all other persons entitled to benefits, and upon the successors and assigns of the foregoing persons. As to a Vendor, see Section 8.01(B).

(F) Employment Not Guaranteed. Nothing contained in this Plan, or any modification or any amendment to the Plan, or in the creation of any Account, or with respect to the payment of any benefit, gives any Employee, Participant or any Beneficiary any right to employment or to continued employment by the Employer, or any legal or equitable right against the Employer, the Plan Administrator or any employee or agent thereof, except as expressly provided by the Plan or Applicable Law.

(G) Word Usage. Words used in the masculine also apply to the feminine where applicable, and wherever the context of the Plan dictates, the plural includes the singular and the singular includes the plural. Titles of Plan and Adoption Agreement sections are for reference only.

(H) State Law. The law of the state of the Employer's principal place of business will determine all questions arising with respect to the provisions of the Plan, except to the extent superseded by Applicable Law. The Employer in an Addendum, and subject to Applicable Law, may elect to apply the law of another state.

(I) Parties to Litigation. Except as otherwise provided by Applicable Law, a Participant or a Beneficiary is not a necessary party or required to receive notice of process in any court proceeding involving the Plan, a Funding Vehicle or any fiduciary of the Plan. Any final judgment entered in any such proceeding will be binding upon the Employer, the Plan Administrator, affected Vendors, Participants and Beneficiaries and upon their successors and assigns.

(J) Fiduciaries Not Insurers. The Plan Administrator and the Employer in no way guarantee the Funding Vehicles from loss or depreciation. The Employer does not guarantee the payment of any money which may be or becomes due to any person from a Funding Vehicle. The liability of the Employer, the Plan Administrator and a Vendor to make any payment from the Funding Vehicle at any time and all times is limited to the then available assets of the Account.

(K) Construction/Severability. The Plan, the Adoption Agreement, the Funding Vehicles and all other documents to which they refer, will be interpreted consistent with and to preserve tax qualification of the Plan under Code §403(b) and also consistent with ERISA (if applicable) and other Applicable Law. To the extent permissible under Applicable Law, any provision which a court (or other entity with binding authority to interpret the Plan) determines to be inconsistent with such construction and interpretation, is deemed severed and is of no force or effect, and the remaining Plan terms will remain in full force and effect.

ARTICLE VIII
PLAN FUNDING

8.01 FUNDING VEHICLES/INCORPORATION OF TERMS.

(A) Alternative Funding Vehicles. The Employer in its Adoption Agreement will elect whether the Plan will be funded by means of one or more Custodial Accounts, Annuity Contracts or an RIA. The Employer also will specify in the Adoption Agreement or on a separate form the Annuity Contracts and Custodial Accounts available under the Plan.

(1) Multiple vehicles. The Plan may provide more than one Funding Vehicle within the single Plan.

(2) Selection of specific funding. The Employer in its sole discretion will designate from time to time the specific Funding Vehicles which are available as Plan investments. The Employer may change such designation at any time.

(3) Nonforfeitability. A Funding Vehicle must be nonforfeitable under Code §403(b)(1)(C), except as otherwise provided herein (such as the vesting provisions of Article V).

(4) Group trust. As permitted under Applicable Law, trust assets under an RIA or trust assets under a Custodial Account may invest in a group trust with assets held by tax qualified plans or individual retirement plans. For this purpose, a trust includes a Custodial Account which is treated as a trust under Code §401(f). Notwithstanding any contrary provision in the Plan, the Plan Administrator may transfer, unless restricted in writing by the Custodian, Plan assets to a group trust that is operated or maintained exclusively for the commingling and collective investment of monies provided that the funds in the group trust consist exclusively of trust assets held under plans qualified under Code §403(b), Code §401(a), individual retirement accounts that are exempt under Code §408(e), and eligible governmental plans under Code §457(b). For this purpose, a trust includes a custodial account that is treated as a trust under Code §401(f). For purposes of valuation, the value of the interest maintained by the Plan in such group trust will be the fair market value of the portion of the group trust held for the Plan, determined in accordance with generally recognized valuation procedures. This authorization applies solely to a group trust fund exempt from taxation under Code §501(a) and the trust agreement of which satisfies the requirements of Revenue Ruling 81-100 (as modified and clarified by Revenue Ruling 2004-67), or any successor thereto. The provisions of the group trust fund agreement, as amended from time to time, are by this reference incorporated within this Plan, subject to the limitations contained herein. The provisions of the group trust fund will govern any investment of Plan assets in that fund.

(B) Incorporation of Terms. The Plan under this Section 8.01(B) incorporates the provisions of the Funding Vehicle Documentation, recordkeeping agreements between the Employer or Plan Administrator and a Vendor, and any other written documents the Employer designates as part of the Plan by reference as part of the Plan. The incorporated provisions will set forth and will govern the Vendor's appointment, powers, duties, fees, termination and all other material terms of the Vendor's engagement to provide services to the Plan and to its Participants and Beneficiaries. To the extent that any of these incorporated provisions conflict with the remaining Plan terms, the incorporated provisions will prevail to the extent such provisions are consistent with Applicable Law, unless the Employer provides otherwise in an Addendum.

8.02 CONTRIBUTION TIMING.

(A) General. The Employer will make its contributions to the Funding Vehicle within a period that is not longer than is reasonable for the proper administration of the Plan and otherwise within the time limit permitted under Applicable Law.

(B) Elective Deferrals. The Employer will transmit Elective Deferrals to a Funding Vehicle within a reasonable period of time following the date the Employer withholds the Elective Deferrals from the Participant's Compensation. However, if the Plan is an ERISA Plan, the Employer must transmit the Elective Deferrals within a time period that is consistent with the ERISA requirements.

8.03 ANNUITY CONTRACT.

(A) Defined. An Annuity Contract is defined in Section 1.06, subject to the additional rules of this Section 8.03.

(1) Transition Rule. An Annuity Contract issued under a State maintained Plan established on or before May 17, 1982, need not comply with the requirement that the contract issuer be qualified to issue annuities in a State.

(B) Prohibition on Life Insurance and Other Insurance. An Annuity Contract may not consist of a life insurance contract under Code §7702, an endowment contract, a health or accident insurance contract, nor a property, casualty, or liability insurance contract. This limitation does not apply to a contract issued before September 24, 2007.

8.04 CUSTODIAL ACCOUNT.

(A) Defined. A Custodial Account is defined in Section 1.14, as established under a Custodial Agreement, subject to the additional rules of this Section 8.04.

(B) Limitation on Investment Assets/Other Limitations. All assets held in the Custodial Account must be invested in stock of one or more regulated investment companies as defined in Code §851(a).

8.05 RETIREMENT INCOME ACCOUNT (RIA).

(A) Defined. A Retirement Income Account is defined in Section 1.58 subject to the additional rules of this Section 8.05.

(B) Investment Assets Not Limited. The investment of an RIA is not limited to mutual funds or to annuity contracts.

(1) Common funds devoted to church purposes. An RIA may be commingled in a common fund with amounts devoted exclusively to church purposes. Except as permitted under Applicable Law, no assets of the Employer other than the RIA assets may be combined with Custodial Account assets or any other assets permitted to be combined under Section 8.01(A)(4).

(C) Life Annuity Distribution Limited. An RIA may distribute benefits in a form that includes a life annuity only if: (1) the amount of the distribution form has an actuarial present value, at the annuity starting date, equal to the Participant's or Beneficiary's accumulated benefit, based on reasonable actuarial assumptions, including regarding interest and mortality; and (2) the Employer guarantees benefits in the event that a payment is due that exceeds the Participant's or Beneficiary's accumulated benefit.

(D) Trust or Custodial Account Exempt. A trust, including a Custodial Account treated as a trust under Code §401(f), that includes no assets other than RIA assets is treated as exempt under Code §501(a).

8.06 VALUATION. The Vendor will value the assets of the Funding Vehicle on each Valuation Date provided under a Funding Vehicle unless modified under Section 7.04(B)(2) and otherwise in accordance with Section 7.02(C)(4).

ARTICLE IX
EXCLUSIVE BENEFIT, AMENDMENT, TERMINATION

9.01 EXCLUSIVE BENEFIT.

(A) No Reversion/Diversion. Except as provided under Section 3.01(E), the Employer does not have any beneficial interest in any asset of a Funding Vehicle and no part of any asset in a Funding Vehicle may ever revert to or be repaid to the Employer, either directly or indirectly; nor, prior to the satisfaction of all liabilities with respect to the Participants and their Beneficiaries under the Plan, may any part of the corpus or income of the Funding Vehicle, or any asset of the Funding Vehicle, be (at any time) used for, or diverted to, purposes other than the exclusive benefit of the Participants or their Beneficiaries and for defraying reasonable expenses of administering the Plan.

9.02 AMENDMENT BY EMPLOYER.

(A) Permitted Amendments. The Employer, consistent with this Section 9.02 and other applicable Plan provisions, has the right, at any time to amend the Plan as follows:

(1) Adoption Agreement/Addenda. To restate or amend the elective provisions of the Adoption Agreement (changing an existing election or making a new election) in any manner the Employer deems necessary or advisable and to add any permitted Addenda as an Adoption Agreement amendment;

(2) Code §415. To add in an Addendum overriding language to satisfy Code §415 because of the required aggregation of multiple plans; and

(3) Interim Amendments. To make such good faith amendments as the Employer considers necessary to keep the Plan in compliance with Applicable Law.

(B) Amendment Formalities.

(1) Writing. The Employer must make all Plan amendments in writing. Each amendment must specify the amendment execution date and, if different from its execution date, must specify the date as of which the amendment is either retroactively or prospectively effective.

(2) Restatement. An Employer may amend its Plan by means of a complete restatement of its Adoption Agreement. To restate its Plan, the Employer must complete, and the Employer must execute and date, a new Adoption Agreement or a replacement plan document.

(3) Amendment (without restatement). An Employer may amend its Plan without completion of a new Adoption Agreement by either: (a) completion and substitution of one or more Adoption Agreement pages including a new Adoption Agreement Execution Page executed and dated by the Employer; or (b) other written instrument amending the Adoption Agreement executed and dated by the Employer.

(4) Operational discretion and policy not an amendment. A Plan amendment does not include the Plan Administrator's exercise of any operational discretion the Plan accords to the Administrator, including but not limited to, the Plan Administrator's adoption, modification or termination of any policy, rule or regulation in accordance with the Plan or any change to the Adoption Agreement Administrative Checklist. This provision does not grant any discretionary authority to the Plan Administrator which would be inconsistent with the provisions of Section 7.01(I).

(5) Signatory Employer authority. If the Plan has Participating Employers, only the Signatory Employer need execute any Plan amendment under this Section 9.02. See Section 1.27.

(C) Impermissible Amendment/Protected Benefits.

(1) Exclusive benefit/no reversion. The Employer may not amend the Plan to permit any of a Funding Vehicle (other than as required to pay taxes and reasonable administrative expenses) to be used for or diverted to purposes other than for the exclusive benefit of the Participants and Beneficiaries. An amendment may not cause any portion of the Funding Vehicle to revert to the Employer or to become the Employer's property.

(2) Alteration of Plan Administrator or Vendor duties. The Employer may not amend the Plan in any manner which affects the powers duties or responsibilities of the Plan Administrator, or of a Vendor without the written consent of the affected party.

(3) No cut-backs. An amendment (including the adoption of this Plan as a restatement of an existing plan) may not decrease a Participant's Account Balance. If the Plan is an ERISA Plan, except as provided under Applicable Law, an amendment may not reduce or eliminate Protected Benefits determined immediately prior to the adoption date (or, if later, the Effective Date) of the amendment. An amendment reduces or eliminates Protected Benefits if the amendment has the effect of eliminating an optional form of benefit except as provided under Applicable Law. An amendment does not impermissibly eliminate a Protected Benefit relating to the form of distribution if after the amendment a Participant may receive a single sum payment at the same time or times as the form of distribution eliminated by the amendment and such payment is based on the same or a greater portion of the Participant's Account as the eliminated form of distribution.

(4) Disregard of amendment/tracking Protected Benefits. The Plan Administrator must disregard an amendment to the extent application of the amendment would fail to satisfy this Section 9.02(C). The Plan Administrator, in an Addendum, may maintain a list of Protected Benefits it must retain.

9.03 FROZEN PLAN.

(A) Employer Action to Freeze. The Employer subject to Section 9.02(C) and by proper Employer action has the right, at any time, to suspend or discontinue all contributions under the Plan and thereafter to continue to maintain the Plan as a Frozen Plan (subject to such suspension or discontinuance) until the Employer terminates the Plan. During any period while the Plan is frozen, the Plan Administrator will continue to: (1) allocate forfeitures, if any, in accordance with Section 3.07, irrespective of when the forfeitures occur under Section 5.07; and (2) operate the Plan in accordance with its terms other than those related to the making and allocation of additional (new) contributions.

(B) Not a Termination. A resolution or an amendment to discontinue all future contributions, but otherwise to continue maintenance of this Plan, is not a Plan termination for purposes of Section 9.04.

9.04 PLAN TERMINATION.

(A) Employer Action to Terminate. The Employer subject to Section 9.02(C) and by proper Employer action has the right, at any time, to terminate this Plan. The Plan will terminate upon the first to occur of the following:

(1) Specified date. The Effective Date of termination specified by proper Employer action; or

(2) Employer no longer exists. The Effective Date of dissolution or merger of the Employer, unless a successor makes provision to continue the Plan, in which event the successor must substitute itself as the Employer under this Plan.

(B) QTA Action to Terminate Abandoned Plan.

(1) Definition of a Qualified Termination Administrator (QTA). A QTA is an entity which: (a) is a Vendor which is eligible to sponsor an individual retirement account or an individual retirement annuity; and (b) holds the assets of the abandoned Plan.

(2) QTA procedure. A QTA, after making reasonable efforts to contact the Employer, may make a determination that the Employer has abandoned the Plan and give notice thereof to the DOL. The QTA then may: (i) update Plan records; (ii) calculate benefits; (iii) allocate assets and expenses; (iv) report to DOL any delinquent contributions; (v) engage service providers and pay reasonable Plan expenses; (vi) provide required notice to Participants and Beneficiaries regarding the Plan termination; (vii) distribute Plan benefits; (viii) file the Form 5500 terminal report and give notice to DOL of completion of the termination; and (ix) take all other reasonable and necessary actions to wind-up and terminate the Plan. A QTA will undertake all actions under this Section 9.04(B) in accordance with Applicable Law. The QTA then may complete distributions from the Plan, file the necessary reports and terminate the Plan. If the Plan is not an ERISA Plan, the QTA may terminate the Plan using a procedure analogous to that outlined herein.

(C) Vesting. Upon either full or partial termination of the Plan, an affected Participant's right to his/her Account Balance is 100% Vested, irrespective of the Vested percentage which otherwise would apply under Article V.

(D) General Procedure upon Termination. Upon termination of the Plan, the distribution provisions of Article VI remain operative, with the following exceptions:

(1) If no consent required. If the Participant's Vested Account Balance does not exceed $5,000 (or exceeds $5,000 but the Participant has attained the later of age 62 or Normal Retirement Age) or if the Plan is not an ERISA Plan, the Vendor may distribute the Participant's Vested Account Balance to him/her in lump sum as soon as administratively practicable after the Plan terminates.

(2) If consent required. If the present value of the Participant's Vested Account Balance exceeds $5,000, the Participant has not attained the later of age 62 or Normal Retirement Age, and the Plan is an ERISA Plan, the Participant or the Beneficiary may elect to have the Vendor commence distribution of his/her Vested Account Balance in a lump sum as soon as administratively practicable after the Plan terminates. If a Participant with consent rights under this Section 9.04(D)(2) does not elect an immediate lump sum distribution with spousal consent if required, the Vendor will purchase a deferred Annuity Contract for each Participant which protects the Participant's distribution rights under the Plan.

(3) Lower dollar amount. As provided in Section 6.09, the Employer may provide for a lower dollar threshold than $5,000 under this Section 9.04(D).

(4) Plan Termination Distribution. For purposes of the Plan termination requirements, the Plan may treat the delivery of a fully paid annuity contract (or individual custodial account) as a distribution.

(E) Joint and Survivor Exception. If the Plan is subject to Section 6.04(G), in lieu of applying Section 9.04(D) and the distribution provisions of Article VI, the Vendor will distribute each Participant's Vested Account Balance, in lump sum, as soon as administratively practicable after the termination of the Plan, irrespective of the amount of the Participant's Vested Account Balance, the Participant's age and whether the Participant consents to the distribution.

(1) Limitations. This Section 9.04(E) does not apply if: (a) the Plan is an ERISA Plan and the Plan at termination provides an annuity option which is a Protected Benefit and which the Employer may not eliminate by Plan amendment; or (b) as of the period between the Plan termination date and the final distribution of assets, the Employer maintains any other 403(b) Plan. If clause (b) applies, the Plan Administrator to facilitate Plan termination may direct the Vendor to transfer the Account of any non-consenting Participant to the other 403(b) Plan.

(2) Addendum override. The Employer, in an Addendum, may elect not to apply this Section 9.04(E) and to conduct the Plan termination in accordance with Section 9.04(D).

(F) 403(b) Plan Distribution Restrictions. If the Plan, as the result of a Transfer holds Restricted Balances under Section 6.01(E), a Participant's Restricted Balances are distributable on account of Plan termination, as described in this Section 9.04, only if: (i) the Employer (including any Related Employer, determined as of the Effective Date of Plan termination) does not maintain an Alternative 403(b) Plan and the Plan distributes the Participant's entire Vested Account Balance in a lump sum; or (ii) the Participant otherwise is entitled under the Plan to a distribution of his/her Vested Account Balance.

(1) Definition of Alternative 403(b) Plan. An Alternative 403(b) Plan is another 403(b) Plan to which the Employer makes contributions during the period beginning on the date of Plan termination and ending 12 months after distribution of all assets from the terminating Plan. However, a plan is not an Alternative 403(b) Plan if less than 2% of the Employees eligible to participate in the terminating Plan as of the termination date are eligible to participate (beginning 12 months prior to and ending 12 months after the Plan's termination Effective Date and distribution of all of the assets of the terminated Plan) in the potential Alternative 403(b) Plan.

(G) Continuing Funding Vehicle Documentation. A Vendor's Funding Vehicle Documentation will continue in effect until the Vendor has distributed all of the benefits under the Funding Vehicle. On each Valuation Date, the Plan will credit any part of a Participant's Account Balance retained in the Funding Vehicle with its share of Earnings.

(H) Lost Participants. The Vendor will distribute the Accounts of lost Participants in a terminating Plan in accordance with the Plan Administrator's direction under Section 7.07(B) or as the Funding Vehicle Documentation may provide.

9.05 MERGER/DIRECT TRANSFER.

(A) Authority. The Vendor possesses the specific authority to enter into merger agreements or direct transfer of assets agreements with the Vendor or Vendors of another 403(b) Plan, including an elective transfer, and to accept the direct transfer of plan assets, or to transfer plan assets, as a party to any such agreement.

(B) Regulatory Requirements.

(1) Contract exchange within same plan. A Participant (or Beneficiary) may exchange one 403(b) Funding Vehicle for another, if the exchange satisfies the following conditions: (1) the Plan provides for the exchange; (2) the Participant's accumulated benefit immediately after the exchange at least equals the Participant's Accrued Benefit immediately before the exchange; and (3) to the extent the exchanged Funding Vehicle is subject to 403(b) Distribution Restrictions, the other Funding Vehicle imposes distribution restrictions no less stringent than those imposed by the exchanged Funding Vehicle.

(2) Plan-to-plan transfer. A plan-to-plan transfer is permissible, if the transfer satisfies the following conditions: (1) the Participant (or Beneficiary) subject to the transfer is an Employee of the Employer providing the receiving plan; (2) the transferor plan provides for transfers; (3) the receiving plan provides for the receipt of transfers; (4) the Participant's accumulated benefit after the transfer at least equals the Participant's Accrued Benefit before the transfer; (5) to the extent the transferred Funding Vehicle is subject to 403(b) Distribution Restrictions, the receiving plan imposes distribution restrictions no less stringent than those imposed on the transferor plan; and (6) if the transfer does not constitute a complete transfer of the Participant's interest in the transferor plan, the transferee plan treats the amount transferred as a continuation of a pro rata portion of the Participant's interest in the transferor plan (*e.g.*, a pro rata interest in any Employee Contributions).

(3) Contract exchange to Vendor which is not part of the Plan. A Participant (or Beneficiary) may exchange one 403(b) Funding Vehicle for a Funding Vehicle not provided under the Plan, if the exchange satisfies the following conditions: (1) the Plan permits such exchanges; (2) the Participant's accumulated benefit immediately after the exchange at least equals the Participant's accumulated benefit immediately before the exchange; (3) to the extent the exchanged Funding Vehicle is subject to 403(b) Distribution Restrictions, the other Funding Vehicle imposes distribution restrictions no less stringent than those imposed by the exchanged Funding Vehicle; and (4) the Employer and the Vendor enter into an information sharing agreement. The information sharing agreement will provide the following information: (1) information necessary to satisfy the Code §403(b) requirements, including employment status, participation in other 403(b) plans or qualified plans; and (2) information necessary for the other Funding Vehicle to satisfy other tax requirements.

(C) Administration of Transferred Amount. The Vendor will hold, administer and distribute the transferred assets as a part of the Funding Vehicle and the Vendor must maintain a separate Account for the benefit of the Employee on whose behalf the Vendor accepted the transfer in order to reflect the value of the transferred assets and as necessary to preserve Protected Benefits.

(D) Pre-Participation Transfers. The Vendor may accept a direct Transfer of plan assets on behalf of an Employee prior to the date the Employee satisfies the Plan's eligibility conditions or prior to reaching the Entry Date. If the Vendor accepts such a direct transfer of plan assets, the Plan Administrator and the Vendor must treat the Employee as a limited Participant as described in Section 3.08(C).

(E) Elective Transfer/Protected Benefits. The Plan ("transferee plan") will not fail to satisfy the requirements of Section 9.05 because the Plan does not provide some or all of the forms of distribution (including the timing of distribution forms) previously available under another 403(b) Plan ("transferor plan") to the extent that: (1) the transferee plan receives a direct transfer of the participant's account balance under the transferor plan, or the transferee plan results from a merger or other transaction that has the effect of a direct transfer, including consolidations of benefits attributable to different employers within a multiple employer plan; (2) the terms of both plans authorize the transfer; (3) the transfer occurs following a Participant's voluntary election made after the Participant has received a notice describing the consequences of making the election; and (4) the transferee plan permits the Participant to receive a distribution of his/her account balance in the form of a single sum distribution.

(F) Transfers to Purchase Service Credit. The Plan Administrator upon Participant request may instruct the Vendor to transfer an amount from the Participant's 403(b) Plan Account to a

governmental defined benefit plan in which he/she participates for: (1) the purchase of permissive service (as defined in Code §415(n)(3)(A)) under such plan; or (2) the repayment of a cash-out distribution (as defined in Code §415(k)(3)).