

457 Deferred Compensation Plan



**457 DEFERRED COMPENSATION PROGRAM
W/SELF-DIRECTED BROKERAGE
January 1, 2007**

This Plan document is provided to the Employer as a convenience and, as a legal document, should be reviewed by Employer's counsel.

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ARTICLE I:

PURPOSE

Effective as of the Effective Date shown in the Adoption Agreement, the Employer hereby adopts a deferred compensation plan for the benefit of its eligible employees and independent contractors who perform services for the Employer. The purpose of the plan is to provide a vehicle for participants to save for retirement on a pre-tax basis and direct the investment of the amounts so saved.

This Plan is intended to be an eligible deferred compensation plan within the meaning of Section 457(b) of the Internal Revenue Code of 1986, as amended (the "Code"), and has been amended and restated for the Economic Growth and Tax Relief Reconciliation Act of 2001.

ARTICLE II:

DEFINITIONS

For purposes of the Plan, the following terms, when used with an initial capital letter, shall have the meanings set forth below unless a different meaning plainly is required by the context.

"Account" means the amount of money or other property set aside for the Participant as evidenced by the last balance posted to the Account. The Third Party Service Provider may establish and maintain separate subaccounts for each such individual. "Account" shall refer to the aggregate of all separate subaccounts or to individual, separate subaccounts, as may be appropriate in context.

"Adoption Agreement" means the document executed by each Employer adopting this Plan and together with this document, constitutes the Plan.

"Basic Pension Plan" means a defined benefit pension plan or money purchase pension plan sponsored by the Employer.

"Beneficiary" means the person(s) designated in accordance with Section 6.03 of the Plan to receive any death benefits that may be payable under the Plan upon the death of a Participant.

"Code" means the Internal Revenue Code of 1986, as amended, and any succeeding federal tax provisions.

"Compensation" means all payments made by the Employer to the Participant as remuneration for services rendered including wages, salaries, and fees but not including amounts included in income for tax purposes but not actually paid to the Participant. Compensation shall not

include amounts deferred under this Plan. Compensation shall be limited to the amount specified in accordance with Code § 401(a)(17) (\$200,000 in 2002).

“Contributions” mean the contributions made by and on behalf of the Participants, as permitted under the Plan.

“Effective Date” means the date specified by the Employer in the Adoption Agreement.

“Eligible Employee” means any person (including an elected or appointed official) who receives Compensation from the Employer for which services are rendered. An Eligible Employee may include an Independent Contractor, if so permitted in the sole discretion of the Employer.

“Eligible Retirement Plan” means a plan which is a defined contribution plan or deferred compensation plan, the terms of which permit the acceptance of rollover distributions and which is either (a) an individual retirement account described in Code § 408(a), (b) an individual retirement annuity described in Code § 408(b) (other than an endowment contract), (c) a qualified trust described in Code § 401(a) and exempt from taxation under Code § 501(a), (d) an annuity plan described in Code § 403(a), (e) an annuity contract described in Code § 403(b) and (f) an eligible plan under Code § 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision which agrees to separately account for amounts transferred into such plan from this Plan. Additionally, this definition shall apply in the case of a spouse or former spouse who is the alternate payee under a qualified domestic relations order.

“Eligible Rollover Distribution” means any distribution on or after January 1, 1993 to an Eligible Employee of all or any portion of the balance to his credit in a qualified trust (including any distribution to a Participant of all or any portion of his Account); provided an Eligible Employee’s “Eligible Rollover Distribution” shall not include (a) any distribution which is one of a series of substantially equal periodic payments made not less frequently than annually, (i) for the life of the employee and his beneficiary, or (ii) for a specified period of 10 years or more, (b) any distribution to the extent such distribution is required under Code § 401(a)(9), and (c) the portion of any distribution that is not includable in gross income of the employee. Effective after December 31, 2001, the portion of a distribution shall not fail to be an eligible rollover distribution because it consists of after tax employee contributions that are not includable in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in Code § 408(a) or (b) or to a qualified defined contribution plan described in Code § 401(a) or 403(a) that agrees to separately account for amounts so transferred, including separately accounting for after tax employee contributions. Therefore, § 457(b) Plans cannot accept after-tax employee contributions that are not includable in income as Eligible Rollover Distributions.

“Employee” means a common law employee of the Employer.

“Employer” means the state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision that adopts the Plan by executing an Adoption Agreement.

“Includable Compensation” means a Participant’s Compensation as that term is defined by Code Section 415(c)(3).

“Independent Contractor” means any person receiving Compensation or fees from the Employer for which services are rendered pursuant to one or more written or oral contracts, if such person is not an Employee.

“Investment Fund or Funds” means those investment vehicles or options identified and made available by the Third Party Service Provider from time to time.

“Normal Retirement Age” means the date specified by the Employer, but in no event may be earlier than the earliest of age sixty-five (65) or the age at which the Participant has the right to retire under the Employer’s Basic Pension Plan (if any) without the consent of the Employer and to receive immediate retirement benefits without actuarial or similar reduction because of retirement before a later specified age, and in no event may be later than age 70-1/2. If the Employer has no Basic Pension Plan, the Normal Retirement Age shall be 65. The Normal Retirement Age may be the age designated by the Participant within the ages described above. The Employer may designate a Normal Retirement Age for qualified police or firefighters that is earlier than the ages described above, but no earlier than age 40 and no later than age 70-1/2. In addition, all eligible section 457(b) Plans sponsored by the Employer must provide the same Normal Retirement Age for the Participant.

“Participant” means an Eligible Employee who participates in the Plan by signing a Participation Agreement. “Participant” shall include active Participants and former Participants who have an Account under the Plan.

“Participation Agreement” means the election form signed by the Eligible Employee, electing to defer Compensation under the Plan.

“Plan Administrator” means Employer, or the individuals designated by the Employer under the separate services agreement to provide directions to the Third Party Service Provider as provided in Code § 414(g).

“Plan” means the 457 Deferred Compensation Plan as contained herein and all amendments thereto. The Plan is intended to be an eligible deferred compensation plan, described under Code § 457(b).

“Plan Year” means the 12-month period beginning on January 1st of each year and ending on the following December 31st.

“Rollover Contributions” means the amounts contributed to the Plan (and received and accepted by the Trustee) as “rollover” contributions as defined in Code § 402 as Eligible Rollover Distribution. An amount shall be treated as a Rollover Contribution only to the extent that its acceptance by the Trustee is permitted under the Code (including the regulations and rulings promulgated thereunder).

“Terminate” or “Termination of Employment” means an Eligible Employee’s permanent termination of employment with the Employer within the meaning of Code § 402(d)(4)(A)(iii) which

may result from retirement, death, disability, voluntary or involuntary termination, unauthorized absence, or by failure to return to active employment with the Employer by the date on which an authorized leave of absence expires. An Independent Contractor shall be considered Terminated only if at least twelve (12) months have expired since the date on which the last contract between the Independent Contractor and the Employer expired and the Independent Contractor has performed no service for the Employer during such twelve (12) month period, whether as an Independent Contractor or as an Employee.

“Third Party Service Provider” means Association County Commissioners of Georgia or its designee.

“Trust Fund” means the total amount of cash and other property held by the Trustee (or its nominee) at any time under the Trust Agreement with the Trustee.

“Trustee(s)” means The Charles Schwab Trust Company or any other entity designated by the Employer or Third Party Service Provider to hold the Plan assets in trust.

“Trust(s)” or “Trust Agreement” means the separate agreement between the Employer and the Trustee governing the creation of the Trust Fund.

“Valuation Date” means each business day or such other date as specified and communicated by the Trustee.

ARTICLE III:

CONTRIBUTIONS

3.01 **Participant Contributions.**

(a) **Deferral Contributions.**

The Employer shall contribute to the Plan, on behalf of each Eligible Employee for each calendar month for which such Eligible Employee has a Participation Agreement in effect, a contribution in an amount equal to the amount by which such Eligible Employee has elected to have his Compensation deferred for such period pursuant to his Participation Agreement. The amount of the Contribution shall be determined in increments of one percent of such Participant’s Compensation or in a flat dollar amount for each payroll period. The Participant may elect to defer his Compensation for each payroll period by a minimum percentage of 1% or a minimum flat dollar amount of \$20.00. In addition, the Maximum Deferral Limitation in Article VI shall apply. A Participant may defer accumulated sick pay, accumulated vacation pay and back pay, if permitted by the Employer, and if (i) an election to defer such amounts is made before the beginning of the calendar month in which such amounts would be paid or made available to the Participant and (ii) the Participant is an employee of the Employer in that month. If a Participant retires or terminates employment during a month, he may make an election to defer such amounts after the beginning of the

calendar month if (i) the election is made before that date such amounts are otherwise payable and (ii) the amounts are payable before the Participant's termination of employment or retirement.

(b) Contributions Which Exceed Maximum Deferral Limitation.

To the extent that the amount of a Participant's Contributions made for a calendar year pursuant to Participation Agreement would exceed the Maximum Deferral Limitation if such Contributions were continued, those Contributions shall be discontinued and any Contributions in excess of the Maximum Deferral Amount shall be returned to the Participant with allocable net income as soon as practical after the Plan discovers the excess. Such excess amounts are treated as taxable Compensation to the Participant for the calendar year in which such amounts were deferred.

(c) Deferral Elections.

Each Participant, who desires a Contribution to be made on his behalf, shall make a deferral election under the Participation Agreement. Such deferral shall provide for the reduction of his Compensation for each calendar month while he is a Participant employed by such Employer. The Third Party Service Provider shall prescribe the form of all deferral elections. Subject to any modifications the Employer deems necessary, the following terms shall apply to deferral elections:

(i) Effective Date. A Participant's initial deferral election with the Employer shall be effective no earlier than the first payroll received in the first month following the date on which the Plan Administrator receives the Participation Agreement; provided however, to the extent administratively feasible, a new Eligible Employee's initial deferral election may be effective for the calendar month in which the Participant first becomes an Eligible Employee if the Participation Agreement is entered into on or before the first day on which the Participant is employed by the Employer.

(ii) Term. Each Participant's deferral election with the Employer shall remain in effect in accordance with its original terms until the earlier of (A) the date the Participant ceases to be an Eligible Employee, (B) the date the Participant revokes such deferral election pursuant to the terms of subsection (d) hereof, or (C) the date the deferral election is modified pursuant to the terms of subsections (e) or (f) hereof.

(d) Revocation.

A Participant's deferral election with the Employer shall terminate upon his ceasing to be an Eligible Employee. In addition, a Participant may revoke his Participation Agreement by delivering a written or electronically transmitted notice of revocation to the Plan Administrator, and such revocation shall be effective as soon as practicable after the date on which it is received. A Participant who revokes a Participation Agreement may make a new deferral election, which will be effective no earlier than the first payroll period of the first month following the date the new deferral election is received by the Plan Administrator.

(e) Modification by Participant.

Effective no earlier than the first payroll period of the first month following the date a new deferral election is received by the Plan Administrator, a Participant may modify his existing deferral election to increase or decrease his salary deferral by making a new deferral election before that payroll period.

(f) Modification by Plan Administrator.

Notwithstanding anything herein to the contrary, the Plan Administrator may modify any deferral election of any Participant at any time by decreasing any future Contributions to the extent necessary to comply with the Maximum Deferral Limitation.

3.02 Employer Contributions.

The Employer may contribute to the Plan on behalf of Eligible Employees in an amount that is in the sole discretion of the Employer. Provided, however, all such Employer Contributions shall be 100% vested and shall apply toward the Maximum Deferral Limitation in Article IV.

3.03 Rollover Contributions.

An Active Participant may request that he be permitted to contribute, or cause to be contributed, to the Trust Fund a Rollover Contribution which is received by such Participant or to which such Participant is entitled. Such request shall contain information concerning the type of property constituting the Rollover Contribution and a written statement that the property constitutes a Rollover Contribution.

Subject to the terms of the Plan and the Code (including regulations and rulings promulgated thereunder), the Third Party Service Provider, in its sole discretion, shall determine whether or not a Rollover Contribution shall be accepted. In the event the Third Party Service Provider permits Participant to make a Rollover Contribution, the amount of the Rollover Contribution shall be transferred to the Trustee and allocated as soon as administratively feasible to a Rollover Account for the Active Participant. Unless the Third Party Service Provider permits otherwise, all Rollover Contributions shall be made in cash.

3.04 Plan-to-Plan Transfers.

(a) In-Service Transfers Among 457(b) Plans of Same Employer

Participants may directly transfer amounts deferred under this Plan to and from this Plan, to and from another governmental eligible deferred compensation plan (as defined in § 457(b) of the Code), if the following conditions are met:

- (i) the transfer is from or to a plan of the same Employer;
- (ii) both plan documents provide for such transfers;
- (iii) the Participant or Beneficiary will have an amount deferred immediately after the transfer at least equal to the amount deferred immediately before the transfer; and
- (iv) the Participant or Beneficiary is not eligible to make additional annual deferrals in the receiving plan unless he or she is performing services for the Employer maintaining the receiving plan.

(b) Post-Severance Transfers Among 457(b) Plans

Participants may directly transfer amounts deferred under this Plan to and from this Plan, to and from another government eligible deferred compensation plan, if the following conditions are met:

- (i) both plans provide for such transfers;
- (ii) the Participant or Beneficiary will have an amount deferred immediately after the transfer at least equal to the amount deferred immediately before the transfer; and
- (iii) the Participant has had a severance from employment with the Employer transferring the amounts and is performing services for the Employer maintaining the receiving plan.

(c) Transfer of all Plan Assets Among 457(b) Plans

Participants may directly transfer amounts deferred under this Plan to and from this Plan, to and from another governmental eligible plan, if the following conditions are met:

- (i) both plans are maintained by Employers in the same State;
- (ii) all assets held by the transferor plan are transferred;
- (iii) both plan documents provide for such transfers;
- (iv) the Participant or Beneficiary will have an amount deferred immediately after the transfer at least equal to the amount deferred immediately before the transfer; and
- (v) the Participant or Beneficiary is not eligible to make additional annual deferrals in the receiving plan unless he or she is performing services for the Employer maintaining the receiving plan.

(d) Transfers for Purchase of Past Service

Participants may directly transfer amounts deferred under this Plan to a qualified governmental defined benefit plan (as defined under Code Section 414(d)) for the purpose of purchasing permissive past service credit (as defined under Code Section 415(n)(3)(A)) under the defined benefit plan or for a repayment of contributions under Code Section 415(k)(3), if the following conditions are met:

- (i) the defined benefit plan is sponsored by the same Employer; and
- (ii) both plans provide for such transfer.

Such transfers may be made before the Participant has a Termination of Employment.

- (e) The Third Party Service Provider shall develop such procedures, and may require such information from a Participant desiring to make such a transfer, as it deems necessary or desirable to determine that the proposed transfer will meet the requirements of the Code. Transferred amounts shall not be subject to the Maximum Deferral Limitation. However, all amounts contributed to all eligible § 457(b) plans in one Plan Year shall be aggregated for purposes of the Maximum Deferral Limitation.

3.05 Timing of Contribution.

The Employer shall pay to the Trustee all Contributions as soon as possible following each payroll period and in no event later than the time prescribed by law.

3.06 Reemployed Veterans.

(a) Contributions.

To the extent and in the manner required under the Uniformed Services Employment and Reemployment Rights Act of 1994 (“USERRA”), a Participant who is absent from employment for service in the uniformed services and returns to employment with the Employer shall be permitted to make additional Contributions to the Plan with respect to such period of uniformed service. The Participant shall elect the amount of such additional Contributions; provided however, such amounts may not exceed the Maximum Deferral Limitation the Participant would have been permitted to make under the Plan if he had continued to be employed by the Employer during such period. The Participant shall designate the Plan Year(s) to which Contributions made-up by such Participant relate. Such Contributions may be made during the period beginning on the date of the reemployment of such Participant, and must be made by the end of the period that is the lesser of (i) the product of three (3) times the period of qualified military service, or (ii) five years following the date of such reemployment. In the event any Contributions are made pursuant to this Section, the Participant shall not be entitled to retroactive earnings on such contributions.

In addition, the Employer shall make any Contributions required to be made under USERRA on behalf of such Participant for the period of absence, based on the contribution rates in effect for the Plan Year(s) in which the Participant was in qualified military service.

(b) Compensation.

Any Participant who returns to employment with the Employer following a period of qualified military service shall, for purposes of this Section, be treated as receiving Compensation equal to the Compensation the Participant would have received during such period if the Participant were not in qualified military service, based on the rate of pay the Participant would have received but for the absence; provided, however if the Compensation the Participant would have received during such period is not reasonably certain, Compensation for this purpose shall equal the Participant’s average Compensation during the 12 months immediately preceding the qualified military service (or, if shorter, the period of employment immediately preceding the qualified military service).

(c) Maximum Amounts.

Any additional Contributions made pursuant to this Section 3.05 are not subject to the Maximum Deferral Limitation described in Article IV for the year in which they are made, but are subject to the Maximum Deferral Limitation for the year to which they are attributable.

3.07 Form of Contributions.

All contributions shall be made under the Plan in the form of cash or cash equivalents.

ARTICLE IV:

ALLOCATIONS TO PARTICIPANTS' ACCOUNTS

4.01 Individual Accounts.

To the extent appropriate, the Third Party Service Provider shall establish and maintain an Account on behalf of each Participant or Beneficiary. The Account shall be credited with Contributions allocated to such Account and generally shall be credited with earnings and losses on investments derived from the assets of such Accounts. Each Account of a Participant or Beneficiary shall be maintained until the value thereof has been distributed to or on behalf of such person.

4.02 Allocations.

The Accounts of Participants, former Participants and Beneficiaries shall be adjusted, subject to the provisions of Section 4.03 of the Plan, in accordance with the following:

(a) Contributions.

As of each payroll period for which the Contributions are made, such Contributions shall be allocated and credited directly to each Participants' Account.

(b) Income.

As of each Valuation Date, any earnings or losses (net appreciation or net depreciation) shall be allocated to each Participant's Account. Each segregated Account maintained on behalf of a Participant shall be credited or charged with its separate earnings and losses.

4.03 Maximum Deferral Limitation.

(a) Normal Limitation.

Effective January 1, 2002, and except as provided in (b) and (c) below, the maximum amount of Compensation that may be deferred by a Participant in any taxable year (excluding rollovers) shall not exceed the lesser of (i) \$11,000 (adjusted for the calendar year to reflect changes in the amount in accordance with Code § 457(e)(15)) or (ii) 100% of the Participant's Includable Compensation or such other limitation required under § 457(b)(2) of the Code.

(b) 457 Catch Up Limitation.

(i) For one (1) or more of the Participant's last three (3) taxable years ending before the Participant attains Normal Retirement Age, the maximum amount that can be deferred and which is excludable from income shall be the greater of the amount determined under this Section 4.03(b) or the amount under Plan Section 403(c). For purposes of this Section 4.03(b), the maximum amount is the lesser of:

(A) twice the dollar amount specified in Section 4.03(a)(i) for that year, or

(B) the Underutilized Limitation. For purposes of this section, the Underutilized Limitation is the amount determined in 4.03(a) above, for

the taxable year, plus the amount determined in 4.03(a) above (or under Section 457(b)(2) for any year before January 1, 2002) for any Prior Taxable Year, less the amount of Compensation actually deferred under the Plan for each of the Prior Taxable Years, disregarding any contribution made in Prior Years under the Age 50 Catch Up described in Section 4.03(c) of the Plan. For purposes of determining the Underutilized Limitation in Plan Years beginning before January 1, 2002, any limitations on maximum amounts deferred that applied in those years continue to apply in those Prior Years, as do certain special rules described in Prop. Reg. §1.457-4(c)(3)(iv) and §1.457-5, or such other Proposed or Final Regulations as promulgated by the IRS.

- (ii) A Prior Taxable Year shall be taken into account for purposes of Section 4.03(b)(i)(B) of the Plan only if:
 - (A) it began after December 31, 1978,
 - (B) the Participant was eligible to participate in the Plan during the taxable year and
 - (C) Compensation deferred (if any) under the Plan during the taxable year was subject to a Normal Limitation established under Section 4.03(a) of the Plan above (or under Section 457(b)(2) for any year before January 1, 2002).

A Participant is considered eligible to participate for this purpose if he or she was an Eligible Employee for any part of that taxable year. A Prior Taxable Year does not include a taxable year in which the Participant was not eligible to participate in a § 457(b) plan sponsored by the Employer, or in which no § 457(b) plan was offered by the Employer.

- (iii) One-Time Election. The Participant may not utilize the provisions of Section 4.03(b) more than once under this Plan whether or not the maximum amount is utilized for all three (3) taxable years, and whether or not the Participant rejoins the Plan or participates in another eligible § 457(b) plan of the Employer after retirement.

(c) Age 50 Catch Up Provision.

Effective January 1, 2002, and subject to Section 4.03(b) of the Plan, all Employees who are eligible to make elective deferrals under this Plan and who have attained age 50 before the end of the Plan Year, may be eligible to make catch-up Contributions in accordance with § 414(v) of the Code for each such Plan Year equal to the applicable dollar amount specified under Code Section 414(v). Such catch-up Contributions shall not be taken into account for purposes of § 457(e)(15), § 415, or § 457(b)(3)(B)(ii) (relating to the Underutilized Limitation) of the Code.

(d) Other Plans.

In applying the Maximum Deferral Limitation of Section 4.03(a) or (b) of the Plan, for Plan Years beginning after December 31, 2001, amounts excluded from the Participant's income under Code Section 403(b), 402(e)(3), 402(h)(1)(B) or (k) or amounts with respect to which a deduction is allowed under Code § 501(c)(18) shall not be treated as amounts deferred under Section 4.03(a), (b) and (c) of the Plan. In applying Code § 402(g)(8)(A)(iii) or 403(b)(2)(A)(ii), an amount deferred under this Plan for any year of service shall not be taken into account as if described in Code § 402(g)(3)(C) or 403(b)(2)(A)(ii). For Plan Years beginning before January 1, 2002, and for purposes of determining the Underutilized Limitation for taxable years prior to January 1, 2002, coordination of such amounts will apply.

4.04 Rollover Amount From Other Plans.

- (a) Participants shall be eligible to transfer an Eligible Rollover Distribution to the Plan upon a decision by the Third Party Service Provider to begin accepting Eligible Rollover Distributions. Any procedures approved by the Third Party Service Provider shall provide that such a transfer may be made only if the following conditions are met:
- (i) the amount is received directly from an Eligible Retirement Plan or the transfer occurs on or before the 60th day following the Eligible Employee's receipt of the distribution from the Eligible Retirement Plan; and
 - (ii) the amount transferred is equal to any portion of the distribution the Eligible Employee received from the Eligible Retirement Plan, subject to the maximum rollover provisions of Code § 402(c)(2).
- (b) The Third Party Service Provider shall develop such procedures, and may require such information from an Eligible Employee desiring to make such a transfer, as it deems necessary or desirable to determine that the proposed transfer will meet the requirements of this Section. Upon approval by the Third Party Service Provider, the amount transferred shall be deposited in the Plan and shall be credited to a Rollover Account. Such Rollover Accounts shall be one hundred percent (100%) vested and shall share in earnings and losses (net appreciation or net depreciation). Upon Termination of Employment, the total amount of the Employee's Rollover Account shall be distributed in accordance with Article V.

4.05 Notice to Participants of Account Balances.

At least once each calendar quarter, the Plan Administrator shall cause a written statement of a Participant's Account balance to be distributed to the Participant.

4.06 Good Faith Valuation Binding.

In determining the value of the Accounts, the Plan Administrator shall exercise its best judgment and all such determinations of value (in the absence of bad faith) shall be binding upon all Participants and Beneficiaries.

4.07 Errors and Omissions in Accounts.

If an error or omission is discovered in the Account of a Participant or Beneficiary, the Plan Administrator shall provide for appropriate, equitable adjustments and direct the Third Party Service Provider to make such adjustments as soon as practical.

ARTICLE V:

RETIREMENT/TERMINATION BENEFITS

5.01 Retirement/Termination.

If a Participant retires or Terminates his employment with the Employer, he is entitled to receive one hundred percent (100%) of his Account credited as of his date of distribution. An Employee is considered Terminated from employment with the Employer if he is separated from service within the meaning of Code § 402(e), on account of death or retirement. An Independent Contractor is considered Terminated from employment with the Employer upon expiration of all contracts for services with the Employer, if the expiration constitutes a good faith and complete termination of the contractual relationship and the conditions specified in the definition of Termination of Employment of the Plan are met.

5.02 Benefit Payments.

(a) Application for Benefits.

Before payment of any benefit hereunder, the Employer shall require that the Participant or Beneficiary, as the case may be, make an application for such benefit and submit the application to the Plan Administrator in such form as the Third Party Service Provider shall prescribe.

(b) Effect of Payment.

Any payment made in accordance with the provisions of the Plan to a Participant or Beneficiary, or to his legal representative, shall, to the extent of the method of computation as well as the amount thereof, constitute full satisfaction of claims hereunder against the Third Party Service Provider and the Employer, either of whom may require such Participant, Beneficiary or legal representative, as a condition precedent to such payment, to execute a receipt and release therefore.

(c) Assets Distributed.

Any distribution to a Participant or his Beneficiary shall be made in the form of cash. Cash distributions shall be paid directly from the Trust Fund.

5.03 Normal Payment Forms.

Except as otherwise provided herein, a benefit described in this Article V shall be paid as selected by the Participant from the following options:

(a) Life Annuity.

A monthly benefit payable during the Participant's lifetime, with payments to cease with the payment due on the first day of the month in which the

Participant's death occurs. Such payments shall be made through an annuity contract purchased with the Participant's Account and distributed to him, and the amount of such payments shall be equal to the amount that can be provided through such an annuity contract;

(b) Joint and Survivor Annuity (50%, 75% or 100%).

A monthly benefit which shall be payable during the Participant's lifetime, with 50%, 75% or 100% (at the Participant's election) of the Participant's monthly benefit amount continuing after his death to the person designated (or deemed designated) as his joint annuitant if such joint annuitant survives him, for such joint annuitant's remaining lifetime. Payments shall cease with the payment due on the first day of the month in which occurs the later of the Participant's death or his joint annuitant's death. Such payments shall be made through an annuity contract purchased with the Participant's Account and distributed to him, and the amount of such payments shall be provided through such an annuity contract. If a Participant dies after his benefit payments to him have begun, the remaining portion of his distributable benefit shall be distributed to his joint annuitant at least as rapidly as under the method of distribution in effect at the time of the Participant's death, such that the requirements of Code § 401(a)(9) shall be satisfied;

(c) Single-Sum Payment.

A single-sum payment of the Participant's Account balance; or

(d) Installment Payments.

(i) Certain periodic cash installments paid monthly, quarterly, semiannually or annually over a designated period of years offered by the Third Party Service Provider and as selected by the Participant.

(ii) Special Rules for Installment Payments.

If a Participant elects for his benefit to be paid in installment payments over a term certain as provided in subsection (d) hereof, the following rules shall apply:

(A) The maximum length thereof shall be the joint life expectancy of such Participant and his designated Beneficiary. The initial value of the obligation for the installment payments shall be equal to the amount of the Participant's Account balance on the day payments are scheduled to commence. Notwithstanding anything herein to the contrary, distributions from the Plan must satisfy the requirements of Code § 401(a)(9)(G), including the incidental benefit rules as described in Treasury Regulation § 1.401(a)(9)-2.

(B) Notwithstanding anything herein to the contrary, a Participant whose distribution of benefits from the Plan is in the form of installment payments may elect, at any time before his entire benefit has been distributed, to receive the remainder of his Account balance in the form of a single sum payment. The Participant may also elect to

change the installment method previously selected, to the extent permitted by the Third Party Service Provider.

- (C) If a Participant dies after payment of his benefits from the Plan has begun but before his entire benefit has been distributed, the remaining amount of the Account balance shall be distributed to the Participant's designated Beneficiary; provided, his Beneficiary may elect to receive the remainder of the deceased Participant's Account in the form of a single sum payment.
- (D) A Participant who has elected to receive his benefit in the form of installment payments, shall continue to have the right to direct the investment of that portion of his Account which has not yet been distributed.

5.04 Time of Payment.

- (a) Except as provided below, benefits payable to a Participant under this Section shall be distributed, or shall commence to be distributed, as soon as administratively feasible after the date the benefits are requested by the Participant following such Participant's Termination of Employment for any reason other than death.
- (b) Notwithstanding the foregoing, in the event that the value of the Participant's benefit exceeds \$5,000 (disregarding rollovers) at the time of benefit commencement, benefits shall not be distributed to such Participant at the time set forth in subsection (a) hereof without the Participant's written election, on a form prepared by the Third Party Service Provider. In order for such Participant's election to be valid, his employment must actually Terminate, his election must be filed with the Plan Administrator within the 90-day period beginning on the date of termination, and the Plan Administrator (no later than 30 days and no earlier than 90 days before his distribution) must have presented him with a notice informing him of his right to defer his distribution. If the Participant does not consent in writing to the distribution of his benefit at such time, his benefit shall be distributed as soon as practicable after he files an election with the Plan Administrator requesting such payment. If a Participant fails to file an election specifying the time of payment, his benefit shall be distributed as soon as administratively feasible after he terminates employment, but in no event later than the 60th day after the end of the Plan Year in which he terminates. Effective on and after January 1, 2006, in the event of a mandatory distribution greater than \$1,000, if a Participant does not elect to have such distribution paid directly to an eligible retirement plan specified by the Participant in a direct rollover or to receive the distribution directly in accordance with the terms of the Plan, then the Third Party Service Provider shall distribute such distribution in a direct rollover to an individual retirement plan designated by the Third Party Service Provider.
- (c) Notwithstanding anything in the Plan to the contrary, in no event shall payment of a Participant's benefit be made later than the later of April 1 following the calendar year (i) in which the Participant attains age 70-1/2, or (ii) in which the Participant

- (d) **Time and Manner of Distribution.** The provisions of Section 5.04 (d), (e), (f), and (g), will apply for purposes of determining required minimum distributions for calendar years beginning with the 2003 calendar year. The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's Required Beginning Date. If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:
- (i) If the Participant's Surviving Spouse is the Participant's sole 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 dies, or by December 31 of the calendar year in which the Participant would have attained age 70 1/2, if later.
 - (ii) If the Participant's Surviving Spouse is not the Participant's sole Beneficiary, distributions to the Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant dies.
 - (iii) If there is no 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.
 - (iv) If the Participant's Surviving Spouse is the Participant's sole Beneficiary and the Surviving Spouse dies after the Participant but before distributions to the Surviving Spouse begin, then section (d)(ii), (iii), or (iv) of the section will apply as if the Surviving Spouse were the Participant.

For purposes of this Section 5.04(d) and Section 5.04(f), unless Section 5.04(d)(iv), applies, distributions are considered to begin on the Participant's Required Beginning Date. If Section 5.04(d)(iv) applies, distributions are considered to begin on the date distributions are required to begin to the Surviving Spouse under Section 5.04(d)(i).

- (e) **Required Minimum Distributions During Participant's Lifetime.** During the Participant's lifetime, the minimum amount that will be distributed for each distribution calendar year is the lesser of:
- (i) the quotient obtained by dividing the Participant's account balance by the distribution period in the Uniform Lifetime Table set forth in

- (ii) if the Participant's sole Beneficiary for the distribution calendar year is the Participant's Spouse, the quotient obtained by dividing the Participant's account balance by the number in the Joint and Last Survivor Table set forth in section 1.401(a)(9)-9 of the Treasury regulations, using the Participant's and Spouse's attained ages as of the Participant's and Spouse's birthdays in the distribution calendar year.

Required minimum distributions will be determined under this section beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the Participant's date of death.

(f) Required Minimum Distributions After Participant's Death.

- (i) Death On or After Date Distributions Begin with no Beneficiary. If the Participant dies on or after the date distributions begin and there is no Beneficiary as of September 30 of the year after the year of the Participant's death, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the Participant's remaining life expectancy calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.
- (ii) Death On or After Date Distributions Begin with a Beneficiary. If the Participant dies on or after the date distributions begin and there is a Beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the longer of the remaining life expectancy of the Participant or the remaining life expectancy of the Participant's Beneficiary, determined as follows:
 - (A) The Participant's remaining life expectancy is calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.
 - (B) If the Participant's Surviving Spouse is the Participant's sole Beneficiary, the remaining life expectancy of the Surviving Spouse is calculated for each distribution calendar year after the year of the Participant's death using the Surviving Spouse's age as of the Spouse's birthday in that year. For distribution calendar years after the year of the Surviving Spouse's death, the remaining life expectancy of the Surviving Spouse is calculated using the age of the Surviving Spouse as of the Spouse's birthday in the calendar year of the

(C) If the Participant's Surviving Spouse is not the Participant's sole Beneficiary, the 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.

(iii) Death Before Date Distributions Begin.

(A) If the Participant dies before the date distributions begin and there is a Beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the remaining life expectancy of the Participant's Beneficiary, determined as provided in Section 5.04(f)(i).

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

(C) If the Participant dies before the date distributions begin, the Participant's Surviving Spouse is the Participant's sole Beneficiary, and the Surviving Spouse dies before distributions are required to begin to the Surviving Spouse under section 5.04(d)(i), this section 5.04(f)(ii) will apply as if the Surviving Spouse were the Participant.

(g) Definitions

(i) Designated Beneficiary. The individual who is designated as the Beneficiary under section 7.04 of the Plan and is the Beneficiary under section 401(a)(9) of the Internal Revenue Code and section 1.401(a)(9)-1, Q&A-4, of the Treasury regulations.

(ii) Distribution calendar year. A calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's Required Beginning Date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin under section 5.04(d). The Required Minimum Distribution for the Participant's first

- (iii) Life expectancy. Life expectancy as computed by use of the Single Life Table in section 1.401(a)(9)-9 of the Treasury regulations.
- (iv) Participant's account balance. The account balance as of the last valuation date in the calendar year immediately preceding the distribution calendar year (valuation calendar year) increased by the amount of any contributions made and allocated or forfeitures allocated to the account balance as of dates in the valuation calendar year after the valuation date and decreased by distributions made in the valuation calendar year after the valuation date. The account balance for the valuation calendar year includes any amounts rolled over or transferred to the plan either in the valuation calendar year or in the distribution calendar year if distributed or transferred in the valuation calendar year.
- (v) Required Beginning Date. The date specified in section 5.04(d) of the Plan.

5.05 Distributions for Unforeseeable Emergencies.

(a) Parameters of Distributions.

A Participant or Beneficiary may make, on account of an unforeseeable emergency, a distribution from his Account; provided, a Participant may not withdraw less than \$500 (or if less, 100% of his Account balance). For purposes of this subsection, an unforeseeable emergency is defined as a severe financial hardship as described below. A distribution based on a severe financial hardship cannot exceed the amount necessary to meet the emergency and not reasonably available from other resources of the Participant. The Plan Administrator shall make its determination as to whether a Participant has suffered an unforeseeable emergency and whether it is necessary to use a distribution from the Plan to satisfy that emergency on the basis of all relevant facts and circumstances.

(b) Severe Financial Hardship.

For purposes of the Plan, a severe financial hardship to the Participant or a Beneficiary exists if the distribution results from (i) a sudden and unexpected illness or accident of the Participant, his spouse or dependents or his Beneficiary, (ii) the loss of the Participant's or Beneficiary's property due to a casualty, or (iii) other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the Participant or Beneficiary. Examples of what are not considered to be a severe financial hardship, except in extraordinary circumstances,

include the purchase of a home, or the payment of tuition and related educational fees and expenses for post-secondary education for the Participant's dependents.

(c) Necessary to Satisfy Need.

A distribution will be considered as necessary to satisfy a severe financial hardship only if the emergency cannot be relieved (i) through reimbursement or compensation by insurance or otherwise, (ii) by liquidation of the Participant's assets, to the extent the liquidation of such assets would not itself cause severe financial hardship or (iii) by ceasing all deferrals under this Plan.

(d) Source of Distribution Amounts.

If the assets of the Participant's Account are invested in more than one Investment Fund, the distribution amount shall be charged pro rata against each Investment Fund.

(e) Form of Distribution Amount.

The amount of a distribution pursuant to this Section shall be paid to a Participant in a single sum cash payment as soon as administratively practicable after the Third Party Service Provider receives the Employer's authorization to make the distribution.

(f) A Participant's Deferral Contribution shall be suspended for a period of six (6) months upon receipt of a distribution pursuant to this Section. Upon completion of the six (6) month suspension period, the Participant may make a new Deferral Contribution election.

5.06 Voluntary In-Service Distribution.

A Participant who has not Terminated employment with the Employer may receive a distribution of the total amount payable to the Participant under the Plan if the following requirements are met: (i) the total amount payable to the Participant under the Plan does not exceed \$5,000 (disregarding rollovers) (or the dollar limit under § 411(a)(11) of the Code, if greater); (ii) the Participant has not previously received an in-service distribution of the total amount payable to the Participant under the Plan; (iii) no amount has been deferred under the Plan with respect to the Participant during the two-year period ending on the date of the in-service distribution; and (iv) the Participant elects to receive the distribution.

5.07 Qualified Domestic Relations Order.

The Plan does not recognize qualified domestic relations orders (as defined in Code § 414(p)) Nonalienation of Benefits.

5.08 Nonalienation of Benefits.

Except with respect to federal income tax withholding, benefits payable under this Plan shall not be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, charge, garnishment, execution, or levy of any kind, either voluntary or involuntary, including any such liability which is for alimony or other payments for the support of a spouse or former spouse or for any other relative of the Employee, prior to actually being received by the person entitled to the benefit under the terms of the Plan; and any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, charge or otherwise dispose of any right to benefits payable hereunder, shall be void.

5.09 Unclaimed Benefits.

In the event a Participant becomes entitled to benefits under the Plan other than death benefits and the Plan Administrator is unable to locate such Participant (after sending a letter, return receipt requested, to the Participant's last known address, and after such further diligent efforts as the Plan Administrator in its sole discretion deems appropriate) within one year from the date upon which he becomes so entitled, the Plan Administrator shall direct that such benefits be paid to the person(s) who have been designated as the Participant's Beneficiary or, if none, who have been designated as the Beneficiary in accordance with Section 6.03; and, provided further, if the distribution is payable upon termination of the Plan, the Plan Administrator shall not be required to wait until the end of such 1-year period.

If neither the Participant nor his Beneficiary can be located and all of them fail to claim such benefits by the end of the fifth Plan Year following the Plan year in which such Participant becomes entitled to such benefits, then the full Account of the Participant shall be deemed abandoned and forfeited provided, in the event such Participant or Beneficiary is located or makes a claim subsequent to the allocation of the abandoned Account but prior to the expiration of the time within which any such person's claim to the Account would expire under appropriate state law, then the amount of the abandoned Account (unadjusted for any investment gains or losses from the time of abandonment) shall be restored (from abandoned Accounts, Trust earnings or Contributions made by the Employer) to such Participant or Beneficiary, as appropriate; and, provided further, the Plan Administrator, in its sole discretion, may delay the deemed date of abandonment of any such Account for a period longer than the prescribed five Plan Years if it believes that it is in the best interest of the Plan to do so.

5.10 Maintenance of Account.

Upon the entitlement of a Participant or his Beneficiary to benefits under the Plan, the amount from which benefits are payable, may be retained in the Trust Fund as such Participant's Account. Any such Account shall benefit proportionately from any earnings of the Trust Fund and any appreciation in the value of its assets and shall suffer the detriment of any losses or depreciation in the value of the Trust assets. The Account balance shall be distributed to the Participant or his Beneficiary at such time and in such manner as provided in the Plan.

5.11 Request for Benefit.

(a) Procedure.

Request for benefits under the Plan shall be approved by the Plan Administrator or its designee.

(b) Review Procedure.

Any Participant or Beneficiary who has been denied a benefit, or his duly authorized representative, shall be entitled, upon request to the Plan Administrator, to appeal the denial of his claim. To do so, the claimant must obtain a form from the Plan Administrator on which to request further consideration of his position. The claimant, or his duly authorized representative, may review pertinent documents related to the Plan and in the Employer's or the Plan Administrator's possession in order to prepare the appeal. The form containing the request for review, together with a written statement of the claimant's position, must be filed with the Plan

Administrator no later than 60 days after receipt of the written notification of denial of a claim. The Plan Administrator's decision shall be made within 120 days following the filing of the request for review and shall be communicated in writing to the claimant. If unfavorable, the notice of decision shall explain the reason or reasons for denial and indicate the provisions of the Plan or other documents used to arrive at the decision.

5.12 Explanation of Certain Rollover Distributions.

Within a reasonable period of time [as defined for purposes of Code § 402(f)] before making an Eligible Rollover Distribution from the Plan to a Participant or Beneficiary, the Plan Administrator shall provide such Participant or Beneficiary with a written explanation of: (a) the provisions under which the distributee may have the distribution directly transferred to another Eligible Retirement Plan, (b) the provisions which require the withholding of tax on the distribution if it is not directly transferred to another Eligible Retirement Plan, (c) the provisions under which the distribution will not be subject to tax if transferred to an Eligible Retirement Plan within 60 days after the date on which the distributee receives the distribution, and (d) such other terms and provisions as may be required under Code § 402(f) and the regulations promulgated thereunder.

ARTICLE VI:

DEATH BENEFITS

6.01 Death.

If the Termination of employment of a Participant is caused by his death, or if a former Participant dies before he receives a distribution of his Account, his death benefit shall be equal to one hundred percent (100%) of his Account credited as of his date of death and the Beneficiary is entitled to receive the entire amount in his Account as provided below. The Plan Administrator may require such proper proof of death and such evidence of the right of any person to receive payment of the value of the Account of a deceased Participant as the Plan Administrator may deem desirable. The Plan Administrator's determination of death and of the right of any person to receive payment shall be conclusive.

Payment of benefits due under this Section shall be made in accordance with the provisions of this Article VI.

6.02 Payment of Survivor Benefits.

(a) Payments to Spouse.

If the Participant's Spouse is his Beneficiary and is eligible to receive a death benefit under Section 6.01 of the Plan, payment of such benefit shall be made as soon as practical following the Participant's date of death.

(b) Incidental Death Benefits.

If the Participant dies after benefit payments from his Account have begun but before it has been entirely paid, the amounts must be paid in accordance with Code Section

401(a)(9) and must be distributed at least as rapidly as under the method of distribution selected by the Participant as of his date of death.

(c) Minimum Distribution.

If the full value of the Participant's Account balance is \$5,000 or less (disregarding rollovers) as of his date of death, the death benefit shall be paid to the Beneficiary in one lump sum as soon as practical following the death of the Participant.

(d) Rollover.

The Participant's spouse may request the death benefit be paid in a Rollover distribution to an Individual Retirement Account or other Eligible Rollover Plan.

6.03 Beneficiary Designation.

In accordance with the terms of this Section, Participants shall designate and from time to time may redesignate their Beneficiary or Beneficiaries in such form and manner as the Plan Administrator may determine. If a Participant dies without designating a Beneficiary; or the Beneficiary designated by a Participant cannot be located within one year after the date benefits are to commence to such person; then, in any of such events, the Beneficiary of such Participant with respect to any benefits that remain payable under the Plan shall be the Participant's surviving spouse, if any, and if not, then the estate of the Participant.

6.04 Distribution for Minor Beneficiary.

In the event a distribution is to be made to a minor, then the Employer may, in the Employer's sole discretion, direct that such distribution be paid to the legal guardian, or if none, to a parent of such Beneficiary or a responsible adult with whom the Beneficiary maintains his residence, or to the custodian for such Beneficiary under the Uniform Gift to Minors Act or similar statute, if such is permitted by the laws of the State in which said Beneficiary resides. Such a distribution to the legal guardian or parent of a minor Beneficiary shall fully discharge the Employer and Plan Administrator from further liability on account thereof.

ARTICLE VII:

TRUST FUND OR CUSTODIAL ACCOUNT

7.01 Establishment of Trust Fund or Custodial Account

All Contributions are to be paid over to the Trustee to be held in the Trust Fund and invested in accordance with the terms of the Plan and the separate Trust Agreement which is incorporated herein and made a part hereof.

7.02 Investment Funds.

(a) Named Investment Funds.

The Third Party Service Provider shall select and make available the array of Investment Funds for the investment of Contributions and Accounts. The Investment

Funds in such array may be selected, modified or eliminated from time to time without necessity of amendment to the Plan.

(b) Reinvestment of Cash Earnings.

Any investment earnings received in the form of cash with respect to any Investment Fund (in excess of the amounts necessary to pay Plan or Trust expenses) shall be reinvested in such Investment Fund.

(c) Self Directed Brokerage Accounts

Investment Funds may include but are not limited to self directed brokerage accounts. The Employer shall determine the extent to which Participants may utilize such self directed brokerage accounts by making certain elections under its Adoption Agreement.

7.03 Participant Direction of Investments.

Each Participant or Beneficiary generally may direct the manner in which his Accounts shall be invested in and among the Investment Funds; provided such investment directions shall be made in accordance with the following terms:

(a) Investment of Account.

As of each day, Contributions, plus earnings (or losses) thereon, will be transferred to the Investment Funds in the proportion designated by such Participant pursuant to his most recent election, as described below. If the Participant does not make an investment election, his contributions shall be allocated to the investment fund determined by the Employer as the default fund.

In addition, each Participant (or Beneficiary) may elect the percentage of his Account that will be invested in each Investment Fund. Each such election shall remain in effect until changed by such Participant or Beneficiary. In the event an individual fails to make an election for his Accounts pursuant to the terms of this subsection or if an investment election is incomplete or insufficient in some manner, the Accounts will continue to be invested in the same manner provided under the terms of the most recent election affecting such Accounts.

(b) Conditions Applicable to Elections.

Allocations of investments in the various Investment Funds, as described in subsection (a) hereof, shall be made in whole percentages as directed by the Participant or Beneficiary. The Plan Administrator shall adopt and revise procedures to be followed in making such investment elections. Such procedures may include, but are not limited to, the format of the election forms, the deadline for filing elections and the effective date of such elections; provided, elections must be permitted at least once every three months. Any procedures proscribed by the separate service agreement between the Employer and the Third Party Service Provider that are inconsistent with this Section shall supersede such provisions of this Section without the necessity of a Plan amendment.

7.04 Expenses.

To the extent permitted by law, all expenses for administration of the Plan may be paid from the Trust; provided however, the Employer may pay some or all expenses in the administration of the Plan outside of the Plan, if it chooses not to pay them out of the Trust.

7.05 Voting and Tender Offer Rights with Respect to Investment Funds.

Only if, to the extent and in the manner, permitted by the Trust and/or any documents establishing or controlling any of the Investment Funds, shall Participants and Beneficiaries be given the opportunity to vote and tender their interests in each such Investment Funds. Otherwise, such interests shall be voted and/or tendered by the Employer or other fiduciary that controls such Investment Fund, as may be provided in the controlling documents.

ARTICLE VIII:

ADMINISTRATION

8.01 Plan Administrator - Powers and Responsibility.

The Plan Administrator shall be responsible for the administration of the Plan hereunder, with all powers necessary to enable it properly to carry out its duties as set forth in the Plan and the Trust Agreement. The Plan Administrator shall have the following duties and responsibilities which may be delegated by the Employer to the Third Party Service Provider in a separate service agreement:

- (a) to construe the Plan and to determine all questions that shall arise thereunder;
- (b) to select the Third Party Service Provider and Trustee, provided however, that by adopting this Plan, the Plan Administrator is deemed to have selected ACCG as the Third Party Service Provider and Charles Schwab Trust Company as the Trustee;
- (c) to decide all questions relating to the eligibility of individuals to participate in the Plan;
- (d) to determine the benefits of the Plan to which any Participant or Beneficiary may be entitled, including eligibility for withdrawals due to unforeseen emergencies;
- (e) to maintain and retain records relating to Participants and Beneficiaries;
- (f) to prepare and furnish to Participants all information required under state or federal law or provisions of the Plan to be furnished to them;
- (g) to prepare and furnish to the Third Party Service Provider and/or Trustee sufficient employee data and the amount of Contributions received from all sources so that the Third Party Service Provider and/or Trustee may maintain separate accounts for Participants and Beneficiaries and make required payments of benefits;

- (h) to prepare and file or publish with all other appropriate government officials all reports and other information required under law to be so filed or published;
- (i) to provide directions to the Third Party Service Provider or the Trustee with respect to methods of benefit payment and all other matters where called for in the Plan or requested by the Trustee;
- (j) to engage assistants and professional advisers;
- (k) to arrange for fiduciary bonding, if necessary;
- (l) to provide procedures for determination of requests for benefits; and
- (m) to delegate any or all of these responsibilities.

8.02 Records.

Any notice, direction, order, request, certification or instruction to the Third Party Service Provider or the Trustee shall be in writing and shall be signed by the Plan Administrator. The Third Party Service Provider, Trustee and every other person shall be entitled to rely conclusively upon any and all such notices, directions, orders, requests, certifications and instructions received from the Plan Administrator and reasonably believed to be properly executed, and shall act in accordance therewith.

8.03 Reporting and Disclosure.

The Plan Administrator shall keep all individual and group records relating to Participants and Beneficiaries and all other records necessary for the proper operation of the Plan. Such records shall be made available to each Participant and Beneficiary for examination during normal business hours except that a Participant or Beneficiary shall examine only such records as pertain exclusively to the examining Participant or Beneficiary and the Plan and Trust Agreement. The Plan Administrator shall prepare and shall file as required by law or regulation all reports, forms, documents and other items required by the Code and every other relevant statute, each as amended, and all regulations thereunder. This provision shall not be construed as imposing upon the Plan Administrator the responsibility or authority for the preparation, preservation, publication or filing of any document required to be prepared, preserved or filed by the Trustee to whom such responsibilities are delegated by law or by the Plan.

8.04 Construction of the Plan.

The Employer shall take such steps as are considered necessary and appropriate to remedy any inequity that results from incorrect information received or communicated in good faith or as the consequence of an administrative error. The Employer shall interpret the Plan and shall determine the questions arising in the administration, interpretation and application of the Plan. The Employer shall endeavor to act, whether by general rules or by particular decisions, so as not to discriminate in favor of or against any person and so as to treat all persons in similar circumstances uniformly. The Employer shall correct any defect, reconcile any inconsistency or supply any omission with respect to the Plan.

8.05 Assistants and Advisers.

(a) Delegation.

The Employer and the Plan Administrator shall have the right to delegate any of its responsibilities hereunder and to hire such professional assistants, advisors and consultants as it, in its sole discretion, deems necessary or advisable. To the extent that the costs for such assistants and advisers are not paid by the Employer, they shall be paid from the Trust Fund as an expense of the Trust Fund.

(b) Funding Policy and Investments.

The Employer shall delegate its responsibilities for establishing and carrying out a funding policy and selecting investment funds to the Third Party Service Provider.

(c) Reliance.

The Employer shall be entitled to rely upon all certificates and reports made by an accountant, attorney or other professional adviser selected pursuant to this Section and shall be fully protected in respect to any action taken or suffered by them in good faith in reliance upon the advice or opinion of any such accountant, attorney or other professional adviser, and any action so taken or suffered shall be conclusive upon each of them and upon all other persons interested in the Plan.

8.06 Direction of Trustee.

The Third Party Service Provider shall provide the Trustee with general investment policy guidelines and will provide directions to assist the Trustee with investments made in compliance with, and pursuant to, the terms of the Plan.

ARTICLE IX:

ALLOCATION OF AUTHORITY AND RESPONSIBILITIES

9.01 General Responsibilities.

The Employer is a fiduciary with respect to the Plan and has the following authority and responsibilities:

- (a) to appoint the Plan Administrator and to monitor its performance;
- (b) to communicate such information to the Trustee and the Third Party Service Provider as each needs for the proper performance of its duties;
- (c) to provide channels and mechanisms through which the Third Party Service Provider and the Trustee can communicate with Participants and Beneficiaries;
- (d) to delegate responsibilities to officers, employees or to other individuals, all of whom shall serve at the pleasure of the Employer; and
- (e) to perform such duties as are imposed by law or by regulation.

In the event any of the areas of authority and responsibilities of the Employer overlap with that of any other Plan fiduciary, the Employer shall coordinate with such other

fiduciaries the execution of such authority and responsibilities; provided, the decision of the Employer with respect to such authority and responsibilities ultimately shall be controlling.

9.02 Third Party Service Provider.

The Third Party Service Provider shall have the authority and responsibilities as delegated under the separate service agreement and as provided herein. With respect to said authority and responsibilities, the Third Party Service Provider shall not be a fiduciary, and as such, shall have no authority or responsibilities other than as granted by the Employer pursuant to a written agreement or as imposed as a matter of law.

9.03 Trustee.

To the extent provided in the Trust Agreement, the Trustee shall be a fiduciary with respect to investment of Trust Fund assets and shall have the powers and duties set forth in the Trust Agreement.

9.04 Limitations on Obligations of Fiduciaries.

No fiduciary shall have authority or responsibility to deal with matters other than as delegated to it under the Plan, under the Trust Agreement, other written agreement or by operation of law. A fiduciary shall not in any event be liable for breach of fiduciary responsibility or obligation by another fiduciary if the responsibility or authority for the act or omission deemed to be a breach was not within the scope of such fiduciary's authority or delegated responsibility.

9.05 Delegation.

Fiduciaries shall have the power to delegate specific fiduciary responsibilities (other than Trustee responsibilities). Such delegations may be to officers or Employees or to other persons, all of whom shall serve at the pleasure of the fiduciary making such delegation and, if full-time Employees of the Employer, without compensation. Any such person may resign by delivering a written resignation to the delegating fiduciary. Vacancies created by any reason may be filled by the appropriate fiduciary or the assigned responsibilities may be reabsorbed or redelegated by the fiduciary.

9.06 Multiple Fiduciary Roles.

Any person may hold more than one position of fiduciary responsibility and shall be liable for each such responsibility separately.

ARTICLE X:

MISCELLANEOUS

10.01 No Guarantee of Employment.

Nothing contained in this Plan shall be construed as a contract for services between the Employer and any Participant, or as a right of any Participant to be continued in the employment of the Employer or employed as an Independent Contractor, or as a limitation of the right of the Employer to discharge any of its Employees or Independent Contractors with or without cause.

10.02 Rights to Assets.

No Participant or Beneficiary shall have any right to, or interest in, any assets of the Plan upon termination of his employment or otherwise, except as provided from time to time under this Plan, and then only to the extent of the benefits payable under the Plan to such Participant or Beneficiary. All payments of benefits as provided for in this Plan shall be made solely out of the assets of the Plan and none of the fiduciaries shall be liable therefor in any manner.

10.03 Nonforfeitability of Benefits.

Subject only to the specific provisions of this Plan, nothing shall be deemed to divest a Participant of his right to the benefit to which he becomes entitled in accordance with the provisions of this Plan. No Participant or Beneficiary shall have the right to commute, sell, assign, pledge, transfer or otherwise convey or encumber his benefits hereunder, except pursuant to a federal or State tax lien.

10.04 Governing Law.

The Plan shall be governed by the federal law to the extent applicable and by laws of the State of Georgia.

10.05 Construction.

The masculine gender, where appearing in the Plan, shall be deemed to include the feminine gender, unless the context clearly indicates to the contrary. The words “hereof,” “herein,” “hereunder” and other similar compounds of the word “here” shall mean and refer to the entire Plan and not to any particular provision or Section. Article and Section headings are included for convenience of reference and are not intended to add to, or subtract from, the terms of the Plan.

10.06 Action by the Employer.

Whenever the Employer under the terms of the Plan is permitted or required to do or perform any act or matter, it shall be done and performed by a duly authorized individual or governing body.

10.07 Uniformity.

All provisions of the Plan shall be interpreted and applied in a uniform and nondiscriminatory manner.

ARTICLE XI:

AMENDMENT, TERMINATION AND ADOPTION

11.01 Amendment.

The provisions of the Plan may be amended at any time and from time to time by written amendment approved by the Employer; provided:

- (a) No amendment shall increase the duties or liabilities of the Trustee or the Third Party Service Provider without the consent of such party;

- (b) No amendment shall impair the contract rights of any Employee; and
- (c) No amendment shall be made which would divert any of the assets of the Trust Fund to any purpose other than the exclusive benefit of Participants and Beneficiaries.

11.02 Termination.

The Employer expects the Plan to be continued indefinitely, but it reserves the right to terminate the Plan at any time by action of the appropriate governing authority. If the Employer decides to terminate the Plan, each Participant with an Account under the Plan on such date shall receive his benefits as provided in Article V. The amount of cash and other property distributable to each such individual shall be determined as of the date of distribution. In the case of a termination distribution as provided herein, the Employer may direct the Trustee to take any action dealing with unclaimed benefits, except that it shall not be necessary to hold funds for any period of time.