

**THE CARROLL COUNTY MARYLAND  
RETIREMENT SAVINGS AND INVESTMENT PLAN**

Edition: September 2009

## TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I DEFINITIONS .....	1-1
ARTICLE II ELIGIBILITY AND PARTICIPATION .....	2-1
2.1 Eligibility .....	2-1
2.2 Rehired Participants .....	2-1
2.3 Change of Employment Category .....	2-1
ARTICLE III HOURS AND YEARS OF SERVICE .....	3-1
3.1 Credit for Years of Service .....	3-1
3.2 Leaves of Absence .....	3-1
3.3 Credit for Hours of Service .....	3-1
3.4 Service for Other Governmental Employers .....	3-1
ARTICLE IV CONTRIBUTIONS .....	4-1
4.1 Pre-Tax Employee Contributions and Roth Employee Contributions .....	4-1
4.2 Basic Contributions .....	4-2
4.3 Matching Contributions .....	4-3
4.4 Erroneous Contributions .....	4-4
4.5 Other Employee Contributions .....	4-5
4.6 Contributions and Benefits for Reemployed Veterans .....	4-5
ARTICLE V LIMITATIONS ON CONTRIBUTIONS AND ALLOCATIONS .....	5-1
5.1 Contributions Are Subject to Limitations .....	5-1
5.2 The Dollar Limit .....	5-1
5.3 Reserved .....	5-2
5.4 Reserved .....	5-2
5.5 Aggregate Limit .....	5-2
5.6 Reserved .....	5-2
5.7 Maximum Annual Additions .....	5-3
5.8 Section 415 Definitions .....	5-3
5.9 No Participation in Other Qualified Plans .....	5-7
5.10 Participation in Other Defined Contribution Plans .....	5-7
5.11 Apportionment Between Plans .....	5-8

	<u>Page</u>
5.12 Excess Amounts .....	5-8
5.13 Defined Benefit and Defined Contribution Plan .....	5-8
 ARTICLE VI INVESTMENT FUNDS AND DIRECTION OF INVESTMENT .....	 6-1
6.1 Permitting Direction of Investments.....	6-1
6.2 Investment Funds.....	6-1
6.3 Direction of Investment.....	6-1
6.4 Change of Direction of Investment .....	6-2
6.5 Transfer of Funds Between Investment Options.....	6-2
6.6 Valuation of Investment Funds .....	6-2
 ARTICLE VII ACCOUNTS .....	 7-1
7.1 Establishment of Accounts .....	7-1
7.2 Crediting Accounts .....	7-1
7.3 Valuation of Assets .....	7-1
 ARTICLE VIII TERMINATION OF EMPLOYMENT .....	 8-1
8.1 Right to Benefit Upon Termination of Employment .....	8-1
8.2 Distribution .....	8-1
8.3 Use of Forfeitures .....	8-2
 ARTICLE IX RETIREMENT BENEFITS.....	 9-1
9.1 Normal Retirement .....	9-1
9.2 Early Retirement.....	9-1
9.3 Late Retirement.....	9-1
9.4 Disability Retirement.....	9-1
9.5 Application for Benefits .....	9-2
 ARTICLE X DEATH BENEFITS.....	 10-1
10.1 Death of a Participant .....	10-1
10.2 Death of a Retired or Terminated Participant Prior to Commencement of Benefits .....	10-1
10.3 Death of a Retired or Terminated Participant After Commencement of Benefits.....	10-1
10.4 No Beneficiary Designation.....	10-1
10.5 Designation of Beneficiary.....	10-2
10.6 Administrator to Notify Trustees.....	10-2
10.7 Incomplete Disposition .....	10-2
10.8 Ambiguity of Beneficiary Designation.....	10-2

10.9	Distribution to Non-Spouse Beneficiaries.....	10-3
ARTICLE XI DISTRIBUTIONS.....		11-1
11.1	Time of Distribution.....	11-1
11.2	Optional Methods of Distribution.....	11-1
11.3	Distribution of Small Amounts.....	11-2
11.4	Administering Distribution of Accounts .....	11-2
11.5	Value of Optional Methods of Payment.....	11-2
11.6	Revaluation of Undistributed Amounts .....	11-2
11.7	Special Distribution Requirements .....	11-2
11.8	Responsibility of Trustees Regarding Distributions .....	11-10
11.9	Eligible Rollover Distributions.....	11-10
11.10	Loans to Participants [Reserved].....	11-11
11.11	Hardship Withdrawals .....	11-12
11.12	In-Service Distributions.....	11-14
ARTICLE XII ADMINISTRATION.....		12-1
12.1	Administrative Authority .....	12-1
12.2	Employer Administration.....	12-1
12.3	Retirement Plan Committee .....	12-3
12.4	Mutual Exclusion of Responsibility .....	12-4
12.5	Uniformity of Discretionary Acts .....	12-4
12.6	Fiduciary Standards.....	12-4
12.7	Litigation.....	12-5
12.8	Payment of Administration Expenses .....	12-5
12.9	Claims for Benefits .....	12-5
ARTICLE XIII PROHIBITION AGAINST ALIENATION .....		13-1
13.1	Definitions .....	13-1
13.2	General Prohibition on Alienation .....	13-1
13.3	Arrangements Not Considered Alienation .....	13-1
13.4	Right to Benefits by Alternate Payee .....	13-2
13.5	Notification of Parties and Determination Whether Qualified .....	13-2
13.6	Interim Procedures.....	13-2
13.7	Investment of Segregated Account .....	13-3
13.8	Review Procedures .....	13-3
13.9	Status of Alternate Payee .....	13-3

	<u>Page</u>
ARTICLE XIV ROLLOVERS AND TRANSFERS INVOLVING OTHER QUALIFIED RETIREMENT PLANS .....	14-1
14.1 Rollovers From Other Tax Qualified Plans .....	14-1
14.2 Transfer To Another Qualified Retirement Plan .....	14-2
ARTICLE XV AMENDMENT AND TERMINATION .....	15-1
15.1 Power to Amend and Terminate Plan.....	15-1
15.2 Termination of Plan .....	15-1
15.3 Partial Termination of Plan or Complete Discontinuance of Contributions .....	15-1
ARTICLE XVI MISCELLANEOUS .....	16-1
16.1 Insolvency.....	16-1
16.2 No Employment, Legal or Equitable Right Created .....	16-1
16.3 Prohibition on Reversions .....	16-1
16.4 Gender.....	16-1
16.5 Applicable Law.....	16-1
16.6 Compliance With Internal Revenue Code.....	16-2

**CARROLL COUNTY MARYLAND**  
**RETIREMENT SAVINGS AND INVESTMENT PLAN**

THIS PLAN is adopted by Carroll County Maryland, a body corporate and politic of the State of Maryland (hereinafter called the "Employer");

**RECITALS**

The Employer adopted a retirement plan in the form of a "T. Rowe Price 401(k) Prototype Plan" for its employees on June 18, 1985; and

The Employer amended and restated the Plan effective July 1, 1989 to comply with the Tax Reform Act of 1986; and

The Employer has subsequently amended and restated the Plan several times since its adoption; and

The Employer now wishes to further amend and restate the Plan; and

The Employer has duly authorized the amendment and restatement of this Plan and the execution hereof; and

The Employer intends that this Plan continue to qualify under Sections 401(a), 401(k), and 501(a) of the Code, as amended:

**AGREEMENTS**

NOW, THEREFORE, it is hereby declared as follows:

**ARTICLE I**  
**DEFINITIONS**

The following terms shall have the following meanings whenever used in this instrument:

**Accounts:** "Pre-Tax Employee Accounts," "Matching Contribution Accounts," "After-Tax Accounts," "Rollover Accounts," "Basic Contribution Accounts," "Roth Employee Accounts," "Roth Investment Return Accounts," and "Roth Rollover Accounts" established under Article VII.

**Active Participant:** A Participant during any period in which he is employed by the Employer.

**Administrator:** The person or persons, corporation or partnership designated as Administrator under Article XII.

**Beneficiary:** Any person, other than an Alternate Payee as defined in Section 13.1, who receives or is designated to receive payment of any benefit under the terms of this Plan because of the participation of another person in this Plan.

**Code:** The Internal Revenue Code of 1986, as amended from time to time.

**Compensation:** The base salary paid to an Employee during a Plan Year by the Employer for services rendered, determined without regard to:

(a) overtime, bonuses, longevity payments, and other remuneration paid to an Employee in addition to base salary;

(b) elective contributions that are made by the Employer on behalf of its Employees that are not includible in the Employees' gross income under Sections 125, 132(f), 402(e)(3), 402(h) and 403(b) of the Code; and

(c) reimbursements or other expense allowances, cash or non-cash fringe benefits, moving expenses, deferred compensation or welfare benefits, even if such amounts are includible in gross income.

However, the maximum Compensation of any Employee that can be considered for any purpose under this Plan is \$150,000 plus any adjustments for increases in the cost of living as prescribed by the Secretary of the Treasury pursuant to Section 401(a)(17) of the Code. Notwithstanding the foregoing, the annual Compensation of each Participant

taken into account in determining allocations for any Plan Year beginning after December 31, 2001, shall not exceed \$200,000, as adjusted for cost-of-living increases in accordance with Section 401(a)(17)(B) of the Code. Annual compensation means compensation during the Plan Year or such other consecutive 12-month period over which Compensation is otherwise determined under the Plan (the determination period). The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year.

In accordance with Section 1.415(c)-2(e)(3) of the Treasury Regulations, Compensation includes (a) amounts that would have been paid in the absence of a severance from employment and is regular pay for services (such as regular wages, overtime or shift differential), commissions, bonuses, or other similar compensation; and (b) amounts that are payment for accrued bona fide sick, vacation, or other leave that could have been used if employment continued provided such payments are made by the later of: 2 ½ months after severance from employment or the last day of the Plan Year that includes the date of the severance from employment.

**Covered Employee:** An Employee during any period that he is employed by the Employer. In no event, however, shall any Employee be a "Covered Employee" during any period that he is:

(a) covered by a collective bargaining agreement: (i) which does not by its terms provide that such an individual is eligible for participation in this Plan and, (ii) which included good faith bargaining on the subject of retirement benefits as part of the negotiations between the Employer and employee representatives,

(b) employed by the Employer on a contractual, seasonal or temporary basis (as defined under the Carroll County Personnel Ordinance), other than an individual classified as a "grant contingent" employee whose continued employment with the County is contingent upon the renewal of federal or state grant funding of the position,

(c) a Leased Employee,

(d) an officer or Employee who is an active member of the Maryland State Retirement System or the Maryland State Judge's Retirement System, or

(e) an Employee who is not employed on at least a half-time basis, as defined under the Carroll County Personnel Ordinance in effect from time to time.

**Date of Hire:** The date on which a Covered Employee commences employment and works at least one hour for the Employer. In the case of a rehired employee,

the "Date of Hire" is the first date following the Covered Employee's most recent termination of employment on which he works at least one hour for the Employer.

**Early Retirement Date:** The Plan does not provide for early retirement benefits.

**Effective Date:** Except as otherwise provided herein, the Effective Date of this amendment and restatement is July 1, 2006.

**Employee:** Any common-law employee of the Employer and any individual who is a Leased Employee. The word "Employee" shall not include any person who renders service to the Employer solely as a director or independent contractor.

**Employer:** The County Commissioners of Carroll County Maryland, the Carroll County Sheriff, the Carroll County Office of the State's Attorney's Office and the Carroll County Circuit Court

**Former Participant:** A Participant who has terminated Service and is not employed by the Employer as an Employee.

**Fund:** The Fund maintained pursuant to this Plan in order to provide for the payment of the benefits specified in the Plan, comprising a trust fund held by the Trustees.

**Hour of Service:** Each hour for which an individual, in his capacity as a Covered Employee, is directly or indirectly paid, or entitled to payment, for the performance of duties for the Employer (to be credited for the period in which the duties were performed), plus (except as otherwise set forth in Section 3.3) each hour during which the Covered Employee is on a Leave of Absence, plus each additional hour, not otherwise credited, for which back pay, without regard to mitigation of damages, has been awarded or agreed to by the Employer (to be credited for the period for which the award or agreement pertains).

**Leased Employee:** An individual who is an employee of an organization which has entered into an employee leasing arrangement with the Employer and who is required to be treated as an employee of the Employer for certain employee benefits law purposes under Section 414(n) of the Code and its accompanying regulations.

**Leave of Absence:** An authorized absence from active Service by reason of:

(a) suspension, furlough or temporary layoff for a period not exceeding 24 months, provided the Covered Employee resumes Service on or before the end of such period;

(b) other than for periods not in excess of 26 consecutive weeks for which the Covered Employee receives Compensation from the Employer on account of short term disability, temporary disability for a period not exceeding 24 months, provided the Covered Employee resumes Service on or before the end of such period;

(c) subject to Section 4.6, service in any of the armed forces of the United States, provided the Covered Employee resumes Service within 90 days after discharge, or such longer period of time during which the Covered Employee's re-employment rights are protected by law; or

(d) any other absence not exceeding 24 months expressly approved by the Employer, provided the Covered Employee resumes Service on or before the end of such period.

**Normal Retirement Date:** The first day of the month during which a Participant attains age 65.

**Participant:** Any person who becomes a Participant in this Plan in accordance with Article II. A person shall be deemed a Former Participant when he retires, dies, or otherwise terminates Service. A Participant shall be deemed an Active Participant during any period he is employed by the Employer.

**Permanent and Total Disability:** Any disability which prevents a Participant from engaging in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or can be expected to last for a continuous period of at least 12 months, as determined by a physician or by other appropriate medical evidence.

**Plan:** This instrument as originally executed and as it may be amended from time to time.

**Plan Year:** The 12 month period ending on June 30 in each calendar year.

**Prior Plan:** The Carroll County Maryland Retirement Savings and Investment Plan as in effect on the day before the Effective Date.

**Rollover Account:** An account established pursuant to Article XIV to hold certain amounts distributed from other qualified retirement plans and subsequently rolled over to the Plan by a Participant.

**Service:** Employment with the Employer as Covered Employee, including periods for which the Covered Employee receives Compensation from the Employer on account of short term disability, provided such period does not exceed 26 consecutive weeks .

**Taxable Year:** The annual accounting period of the Employer ending on June 30 of each year.

**Trustee or Trustees:** Capital Bank & Trust Company or such successor and/or additional trustees as may be named from time to time.

**Valuation Date:** The last business day of the Plan Year and the last business day of each other calendar quarter, and any other date as of which the Trustees may make additional valuations of the Fund at the request of the Administrator.

**Vested Interest:** A Participant's Vested Interest equals:

- (a) the amounts credited to his Basic Contribution, Employee, Rollover and After-Tax Accounts, plus
- (b) the amount credited to his Matching Contribution Account multiplied by his Vested Percentage.

**Vested Percentage:** The Vested Percentage of a Participant who terminates employment prior to July 1, 2001 is determined on the basis of a Participant's number of Years of Service in accordance with the following table:

<u>Years of Service</u>	<u>Vesting Percentage</u>
Less than 2 years	0%
2 but less than 3 years	25%
3 but less than 4 years	50%
4 but less than 5 years	75%
5 or more years	100%

The Vested Percentage of Participant who terminates employment on or after July 1, 2001 is determined on the basis of a Participant's number of Years of Service in accordance with the following table:

<u>Years of Service</u>	<u>Vesting Percentage</u>
-------------------------	---------------------------

Less than 2 years	0%
2 or more years	100%

However, an Active Participant shall have a Vested Percentage of 100% upon his death, disability or the attainment of his Normal Retirement Date and during all periods thereafter.

**Year of Service:** A Year of Service for vesting purposes and for purposes of determining the amount of a Participant's Matching Contribution shall mean a period of twelve months, which are not required to be consecutive, starting from the Covered Employee's Date of Hire or date of rehire, and annual anniversaries of either date, except as otherwise provided in Article III.

**ARTICLE II**  
**ELIGIBILITY AND PARTICIPATION**

**2.1 Eligibility.** Any Covered Employee who was a Participant in the Prior Plan as of the Effective Date shall continue as a Participant in this Plan. Any other Employee who is or becomes a Covered Employee on or after the Effective Date and prior to July 1, 2001 shall become a Participant as of the first day of the first payroll period beginning after the completion of six months of Service. Any individual who is a Covered Employee on or after July 1, 2001 shall become a Participant in the Plan with respect to the ability to make salary deferral contributions in accordance with Section 4.1 of the Plan as of the first day of the first payroll period beginning on or after July 1, 2001 or his or her Date of Hire, if later. Any individual who is a Covered Employee on or after July 1, 2001 shall become a Participant in the Plan with respect to receipt of an allocation of the Basic Contribution pursuant to Section 4.2 of the Plan and receipt of an allocation of a Matching Contribution pursuant to Section 4.3 of the Plan as of the first pay date following the completion of six months of Service.

**2.2 Rehired Participants.** In the event that the Employer reemploys a Former Employee, he shall become a Participant in this Plan on the applicable date and for the purposes described below:

(a) In the event that the Employer reemploys a Former Employee, he shall become a Participant in the Plan with respect to the ability to make salary deferral contributions in accordance with Section 4.1 of the Plan as of the first day of the first payroll period beginning on or after his date of rehire.

(b) In the event the Employer reemploys a Former Employee, he shall become a Participant in the Plan with respect to receipt of an allocation of a Basic Contribution pursuant to Section 4.2 of the Plan and receipt of an allocation of a Matching Contribution pursuant to Section 4.3 of the Plan as of the first pay date following the completion of six months of service, excluding the Service completed prior to the Employee's termination of employment.

**2.3 Change of Employment Category:** During any period in which a Participant is an Employee of the County, but ceases to be a Covered Employee, he will continue his Plan participation, but shall not accrue credit for Years of Service for purposes of vesting, and shall not receive any allocation of contributions based upon Compensation earned during such period.

**ARTICLE III**  
**HOURS AND YEARS OF SERVICE**

**3.1 Credit for Years of Service.** Except as otherwise provided in Article II, a Participant will receive credit for all Years of Service, including, in the event of a rehired Employee, Service completed prior to a termination of Service.

**3.2 Leaves of Absence.** An Employee shall not be deemed to have terminated Service if his employment is interrupted by a temporary absence from active Service by reason of a Leave of Absence. If any Participant on Leave of Absence fails to answer an inquiry by the Employer as to the status of the Leave of Absence, or if the Employer is not notified of the death or disability of such Participant, and the Employer has no actual knowledge of it, the Employer may determine that the Leave of Absence had or has expired.

**3.3 Credit for Hours of Service.** To the extent required for any purpose under the Plan, Hours of Service will be credited based upon the relevant payroll records maintained by the Employer. However, any Covered Employee for whom records of actual hours worked are not maintained shall be deemed to have worked, and will receive credit for, eight Hours of Service for any day on which he would be credited with any Hours of Service if his hours had been directly recorded.

**3.4 Service for Other Governmental Employers.** No credit for Years of Service will be provided under this Plan for service with another governmental employer, as such term is defined in Section 414(d) of the Code.

**ARTICLE IV**  
**CONTRIBUTIONS**

**4.1 Pre-Tax Employee Contributions and Roth Employee Contributions.**

(a) Election. Pursuant to uniform rules and procedures prescribed by the Administrator, an Active Participant who has met the eligibility requirements set forth in Section 2.1 may elect in writing that a stated portion of his unpaid Compensation for a Plan Year be paid by the Employer to the Trustees hereunder and be treated as a Pre-Tax Employee Contribution or a Roth Employee Contribution, or a combination of the two, by the Employer, so long as such portion is within the limitations set forth in Article V. A Participant must complete and execute an employee election form in order to make a valid election. A Participant's election to have a stated portion of his unpaid Compensation treated as a Roth Employee Contribution shall take effect no earlier than the first pay date occurring after December 31, 2006. Subject to the foregoing, any such election shall become effective as soon as administratively practical following the Participant's completion and execution of the election form and shall be conditioned upon:

(i) his right to defer the imposition of Federal income tax on such deferred compensation until a subsequent distribution of the amount under this Plan; and

(ii) the Employer's right to deduct the amount for federal income tax purposes before taking into account any other contributions made by the Employer under this Article and after taking into account any contributions made by the Employer under any other profit sharing, pension and stock bonus plans maintained by the Employer which meet the requirements of Section 401(a) of the Code.

(b) Amount of Employee Contributions. A Participant may elect to have the Employer make contributions on his behalf to this Plan in an amount equal to a stated portion of his Compensation from the Employer for a Plan Year by means of an election described in Section 4.1(a). A Participant may direct the Employer to make such contributions to the Plan in a stated whole percentage of his Compensation for a Plan Year. The portion designated by a Participant pursuant to this Article will continue in effect until changed or revoked, despite any changes in the amount of the Participant's Compensation.

(c) Revoking and Amending Elections. Any election made pursuant to this Section will be deemed a continuing election and will remain in effect unless revoked or amended by the Participant in writing. A Participant may revoke or amend his election by filing appropriate written notice with the Administrator at least 10 days before the pay date on which the discontinuance is to be effective.

(d) Payment to Trustee. All amounts paid by the Employer to the Trustees pursuant to Section 4.1(a) above shall be paid over to the Trustees in cash within 15 days following the Participant's reduction in Compensation.

(e) Accounts Established. Any amounts contributed by the Employer pursuant to a Participant's election under Section 4.1(a) will be held by the Trustees as a part of the Fund created under this Plan, will be specifically allocated to the Participant's Pre-Tax Employee Account or Roth Employee Account for the benefit of the Participant, and will be invested and reinvested, valued and administered in accordance with the terms of this Plan. Any amounts credited to a Participant's Pre-Tax Employee Account and Roth Employee Account will be fully vested and nonforfeitable at all times.

**4.2 Basic Contributions.** For each of its Taxable Years ending after the Effective Date, the Employer shall make a contribution in cash, in addition to its contributions described in Sections 4.1 and 4.3. Any such contribution will be allocated among the Basic Contribution Accounts of the Participants eligible to receive allocations as provided in Section 2.1.

Effective for Plan Years ending prior to July 1, 1997, the Employer's basic contribution shall be allocated to the Basic Contribution Account of each eligible Participant in an amount equal to 2% multiplied by: (a) the Participant's Compensation for the Plan Year, or, (b) if the Participant has not been a Participant in the Plan for the entire Plan Year, the Compensation earned by the Participant during the period during which he was an Active Participant for purposes of eligibility to receive an allocation of the Basic Contribution.

Effective for Plan Years beginning on and after July 1, 1997, the Employer's basic contribution shall be allocated to the Basic Contribution Account of each eligible Participant as of each calendar quarter in an amount equal to 4% multiplied by the Participant's Compensation paid during such calendar quarter, excluding Compensation paid to the Participant during the period before he became an Active Participant for purposes of eligibility to receive an allocation pursuant to this Section 4.2.

Participants eligible to receive allocations of basic contributions described in this Section are those Participants who are Active Participants on the last day of the Plan Year, or calendar quarter, as the case may be. Effective for Plan Years beginning on and after July 1, 1997, Participants eligible to receive allocations of basic contributions described in this Section are those Participants who are Active Participants on the last day of the calendar quarter, and who have met the eligibility requirements for purposes of eligibility to receive an allocation pursuant to this Section 4.2 set forth in Section 2.1 and those Participants who died or retired due to a Permanent and Total Disability during the calendar quarter.

The Employer shall make the contributions specified in this Section in cash to the Trustee within 30 days or, if later, as soon as it is administratively feasible, following the close of the fiscal year or calendar quarter, as the case may be, for which the contributions are being made.

Effective for Plan Years beginning on and after July 1, 2003, the Employer's basic contribution shall be allocated to the Basic Contribution Account of each eligible Participant, other than an "MSRS Participant" (as defined below) as of each calendar quarter in an amount equal to 3% multiplied by the Participant's Compensation paid during such calendar quarter, excluding Compensation paid to the Participant during the period before he became an Active Participant for purposes of eligibility to receive an allocation pursuant to this Section 4.2.

Effective for Plan Years beginning on and after July 1, 2003, the Employer's basic contribution shall be allocated to the Basic Contribution Account of each eligible Participant who is also an "MSRS Participant" as of each calendar quarter in an amount equal to 2% multiplied by the Participant's Compensation paid during such calendar quarter, excluding Compensation paid to the Participant during the period before he became an Active Participant for purposes of eligibility to receive an allocation pursuant to this Section 4.2.

For purposes of this Section 4.2, an "MSRS Participant" is an Employee: (1) whose Date of Hire occurred prior to January 1, 1980, (2) who was employed by the County on July 1, 2003, (3) who elected between January 1, 1985 and December 31, 1985 to transfer participation from the Employees' Retirement System of the State of Maryland to the Employees' Pension System of the State of Maryland and (4) has not terminated Service with the County and been rehired by the County at any time after January 1, 1980.

Notwithstanding any Plan provision to the contrary, effective for payroll periods beginning on and after October 1, 2009, the Employer's basic contributions shall not be allocated to the Basic Contribution Account of a Participant who is a participant in the Carroll County Pension Plan, the Carroll County Certified Law Officers Plan or the Maryland State Alternate Contributory Pension System, established pursuant to Title 23 of the State Personnel and Pensions Article of the Annotated Code of Maryland.

**4.3 Matching Contributions.** As of the last day of each calendar quarter, the Employer shall make matching contributions to this Plan on behalf of each eligible Participant. Effective for all pay periods ending after July 1, 2003, a matching contribution made on behalf of a Participant other than an "MSRS Participant" (as defined below) shall be in an amount equal to 75% of the contributions made on behalf of the Participant for that calendar quarter pursuant to Section 4.1. However, effective for all pay periods ending after

July 1, 2003, the Employer shall not make a matching contribution on pre-tax contributions made on behalf of the Participant in excess of 4% of the Participant's Compensation for that quarter.

Effective for all pay periods ending after July 1, 2003, a matching contribution made on behalf of an "MSRS Participant" shall be in an amount equal to 100% of the contributions made on behalf of the Participant for that calendar quarter pursuant to Section 4.1. However, effective for all pay periods ending after July 1, 2003, the Employer shall not make a matching contribution on pre-tax contributions made on behalf of the Participant in excess of 6% of the Participant's Compensation for that quarter.

For purposes of this Section 4.3, an "MSRS Participant" is an Employee: (1) whose Date of Hire occurred prior to January 1, 1980, (2) who was employed by the County on July 1, 2003, (3) who elected between January 1, 1985 and December 31, 1985 to transfer participation from the Maryland State Employees' Retirement Plan to the Maryland State Employees' Pension Plan and (4) has not terminated Service with the County and been rehired by the County at any time after January 1, 1980.

Participants eligible to receive the matching contributions pursuant to this Section are those Participants who are employed on the last day of the calendar quarter.

However, no matching contributions will be made with respect to any contribution made by the Employer pursuant to Section 4.1 due to a Participant's election thereunder to the extent the contribution pursuant to Section 4.1 is in excess of the dollar limit described in Section 5.2.

The Employer shall make the contributions specified in this Section in cash to the Trustee no later than 30 days following the close of the calendar quarter for which the contributions are being made.

Notwithstanding any Plan provision to the contrary, effective for payroll periods beginning on and after October 1, 2009, the Employer's matching contributions shall not be allocated to the Matching Contribution Account of a Participant who is a participant in the Carroll County Pension Plan, the Carroll County Certified Law Officers Plan or the Maryland State Alternate Contributory Pension System, established pursuant to Title 23 of the State Personnel and Pensions Article of the Annotated Code of Maryland.

**4.4 Erroneous Contributions.** Upon the Employer's written request, the Trustees must return erroneous contributions to the Employer to the extent required by the provisions of Section 16.3.

**4.5 Other Employee Contributions.** The Trustees will not accept deductible or nondeductible, after-tax employee contributions for Plan Years beginning on or after July 1, 1996.

**4.6 Contributions and Benefits for Reemployed Veterans.** Notwithstanding anything contained in this Plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the Code.

**ARTICLE V**  
**LIMITATIONS ON CONTRIBUTIONS AND ALLOCATIONS**

**5.1 Contributions Are Subject to Limitations.** The amount and allocation of contributions and the allocation of forfeitures under this Plan are subject to several limitations. Those limitations are as follows:

(a) Pre-Tax Employee Contributions and Roth Employee Contributions made to the Plan pursuant to a Participant's deferral election under Section 4.1 of the Plan are subject to the individual deferral limit described in Section 5.2;

(b) All contributions made pursuant to Article IV of the Plan shall, in the aggregate, be subject to the limitations set forth in Section 5.5; and

(c) The allocation of all of the foregoing contributions and the allocation of all forfeitures shall, in the aggregate, be subject to the limitation on Annual Additions set forth in Section 5.7. In the event the limitations set forth in Section 5.7 shall be or are exceeded, the Administrator may take action to reduce future contributions, including contributions made pursuant to Section 4.1, as appropriate.

**5.2 The Dollar Limit.** The amount of the Employer's contribution pursuant to Section 4.1 with respect to a Participant's taxable year made pursuant to a Participant's deferral election plus similar amounts contributed on a similar basis by any other employer (whether or not related to the Employer) required by law to be aggregated with such contributions under this Plan shall not exceed \$15,000 or such other limit as shall be provided in Section 402 of the Code. Notwithstanding anything contained herein to the contrary, no Participant who receives a hardship distribution pursuant to Section 11.11 shall be permitted to make a deferral election under Section 4.1(a) or pre-tax contributions to any other plan maintained by the Employer during the 6 month period immediately following such Participant's receipt of a hardship distribution as more particularly described in Section 11.11(e). In the event that the contributions under Section 4.1 for a Participant's taxable year exceed this limit, the excess deferrals together with any earnings allocable to the excess deferrals will be refunded to the Participant by the April 15<sup>th</sup> following the end of that taxable year. The Participant shall designate the portion of any such refund to be debited from the Participant's Roth Employee Account and the Participant's Pre-Tax Employee Account. If no such designation is received from the Participant, the amount of any such refund shall be debited first to the Participant's Roth Employee Account, then to the Participant's Pre-Tax Employee Account, to the extent required to satisfy this Section 5.2.

If the Administrator receives notice from a Participant by the March 1 following the end of a Participant's taxable year for which the contributions on behalf of the Participant

under Section 4.1, together with similar contributions under plans of other employers, have exceeded the limit set forth in Section 402 of the Code, the Administrator must cause the amount of excess contributions specified by the Participant together with any earnings allocable to these excess contributions to be refunded to the Participant by the April 15<sup>th</sup> following the receipt of the notice. The Participant shall designate the portion of any such refund to be debited from the Participant's Roth Employee Account and the Participant's Pre-Tax Employee Account. If no such designation is received from the Participant, the amount of any such refund shall be debited first to the Participant's Roth Employee Account, then to the Participant's Pre-Tax Employee Account.

In the event the limitations in this Section 5.2, or under any provision of the Internal Revenue Code, will be exceeded, the Administrator may take action to reduce future contributions made pursuant to Section 4.1, as appropriate.

Notwithstanding the foregoing, no Participant shall be permitted to have elective deferrals made under this Plan, or any other qualified plan maintained by the Employer during any taxable year, in excess of the dollar limitation contained in Section 402(g) of the Code in effect for such taxable year, except to the extent permitted under Section 414(v) of the Code, if applicable.

All Participants who are eligible to make elective deferrals under this Plan and who have attained age 50 before the close of any Plan Year beginning after December 31, 2001 shall be eligible to make catch-up contributions in accordance with, and subject to the limitations of Section 414 (v) of the Code. Such catch-up contributions shall not be taken into account for purposes of the provisions of the Plan implementing the required limitations of Section 402(g) and 415 of the Code. The Plan shall not be treated as failing to satisfy the provisions of the Plan implementing the requirements of Section 401(k)(3), 401(k)(11), 401(k)(12), 401(b), or 416 of the Code, as applicable, by reason of the making of such catch-up contributions. A Participant electing to make catch-up contributions shall designate whether such contributions are Pre-Tax Employee Contributions or Roth Employee Contributions.

**5.3 Reserved.**

**5.4 Reserved.**

**5.5 Aggregate Limit.** In no event shall the amount of all contributions by the Employer under Article IV exceed the maximum amount allowable under Section 404(a)(3) of the Code or any statute of similar import.

**5.6 Reserved.**

**5.7 Maximum Annual Additions.** Notwithstanding anything contained in this Plan to the contrary, in no event shall a Participant's Annual Additions be greater than the Maximum Permissible Amount determined in accordance with Section 415 of the Code and regulations thereunder, taking into account Section 1106 of the Tax Reform Act of 1986 and Section 235(g) of the Tax Equity and Fiscal Responsibility Act of 1982.

**5.8 Section 415 Definitions.** For purposes of this Article V, the following definitions apply:

**Annual Additions:** The sum of the following amounts allocated on behalf of a Participant for a Limitation Year:

(a) all Employer contributions (including any compensation reduction contributions under any other profit sharing plan maintained by the Employer with a qualified cash or deferred feature under Section 401(k) of the Code, including in each case any excess contribution (as defined in Section 401(k)(8)(B) of the Code or excess deferrals (as defined in Section 402(g) of the Code), regardless of whether such amounts are distributed or forfeited;

(b) all after-tax contributions under any other qualified plan maintained by the Employer, including in each case any excess contributions (as defined in Section 401(m)(6)(B) of the Code); and

(c) all forfeitures under any qualified plan maintained by the Employer.

For this purpose, any Excess Amount applied under Section 5.9 to reduce Employer contributions will be considered Annual Additions for such Limitation Year.

Amounts allocated after March 31, 1984, to an individual medical account (as defined in Section 415(l)(2) of the Code) which is part of a pension or annuity plan maintained by the Employer are treated as Annual Additions to a defined contribution plan. Also, amounts derived from contributions paid or accrued after December 31, 1985, in taxable years ending after such date, which are attributable to post-retirement medical benefits allocated to the separate account of a key employee (as defined in Section 419A(d)(3) of the Code) under a welfare benefit fund (as defined in Section 419(e)) maintained by the Employer are treated as Annual Additions to a defined contribution plan.

**Defined Benefit Fraction:** For any year, a fraction:

(a) the numerator of which is the sum of the Participant's Projected Annual Benefits under all the defined benefit plans (whether or not terminated) maintained by the Employer, and

(b) the denominator of which is the lesser of (A) 1.25 multiplied by the dollar limitation in effect for the Limitation Year under Section 415(b) of the Code as adjusted by Section 415(d) of the Code, or (B) 1.4 multiplied by the Highest Average Compensation including any adjustments under Section 415(b) of the Code.

Notwithstanding the above, if the Participant was a participant as of the first day of the first Limitation Year beginning after December 31, 1986 in one or more defined benefit plans maintained by the Employer which were in existence on May 6, 1986, the denominator of the Defined Benefit Fraction will not be less than 1.25 multiplied by the sum of the annual benefits under such plans which the Participant had accrued as of the close of the last Limitation Year beginning before January 1, 1987, disregarding any changes in the terms and conditions of such a plan after May 5, 1986. The preceding sentence applies only if the defined benefit plans individually and in the aggregate satisfied the requirements of Section 415 of the Code for all Limitation Years beginning before January 1, 1987.

**Defined Contribution Fraction:** For any year, a fraction:

(a) the numerator of which is the sum of the Annual Additions to the Participant's accounts under all the defined contribution plans (whether or not terminated) maintained by the Employer for the current and all prior Limitation Years (including the Annual Additions attributable to the Participant's nondeductible employee contributions to all defined benefit plans, whether or not terminated, maintained by the Employer, and the Annual Additions attributable to all welfare benefit funds as defined in Section 419(e) of the Code and individual medical accounts, as defined in Code Section 415(1)(2), maintained by the Employer), and

(b) the denominator of which is the sum of the maximum aggregate amounts for the current and all prior Limitation Years of Service with the Employer (regardless of whether a defined contribution plan was maintained by the Employer). The maximum aggregate amount in any Limitation Year is the lesser of: (A) 1.25 multiplied by the dollar limitation in effect under Section 415(c)(1)(A) of the Code, or (B) 35% of the Participant's 415 Compensation for such year.

If the Employee was a participant as of the end of the first day of the first Limitation Year beginning after December 31, 1986 in one or more defined contribution plans maintained by the Employer which were in existence on May 6, 1986, the numerator of the Defined Contribution Fraction will be adjusted if the sum of the Defined Contribution

Fraction and the Defined Benefit Fraction would otherwise exceed 1.0 under the terms of this Plan. Under the adjustment, an amount equal to the product of (i) the excess of the sum of the fractions over 1.0, times (ii) the denominator of the Defined Contribution Fraction, will be permanently subtracted from the numerator of the Defined Contribution Fraction. The adjustment is calculated using the fractions as they would be computed as of the end of the last Limitation Year beginning before January 1, 1987, and disregarding any changes in the terms and conditions of the plan made after May 5, 1986, but using the Section 415 limitation applicable to the first Limitation Year beginning on or after January 1, 1987. The Annual Addition for any Limitation Year beginning before January 1, 1987 will not be recomputed to treat all employee contributions as Annual Additions.

**Excess Amount:** The excess of the Participant's Annual Additions for the Limitation Year over the Maximum Permissible Amount.

**415 Compensation:** A Participant's earned income, wages, salaries, and fees for professional services and other amounts received for personal services actually rendered in the course of employment with the Employer maintaining the Plan for a Limitation Year (including, but not limited to, commissions paid salesman, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips and bonuses) actually paid or includible in gross income during such year and including, for plan years beginning after December 31, 1997, elective deferrals (within the meaning of Section 402(g) of the Code) to a cash or deferred arrangement, plus any amount contributed or deferred at the election of the Participant to a plan described in Section 125, 132(f), 401(k) or 457 of the Code. In accordance with Section 1.415(c)-2(e)(3) of the Treasury Regulations, Compensation includes (a) amounts that would have been paid in the absence of a severance from employment and is regular pay for services (such as regular wages, overtime or shift differential), commissions, bonuses, or other similar compensation; and (b) amounts that are payment for accrued bona fide sick, vacation, or other leave that could have been used if employment continued provided such payments are made by the later of: 2 ½ months after severance from employment or the last day of the Plan Year that includes the date of the severance from employment,, but excluding the following:

(c) Employer contributions to a plan of deferred compensation which are not includible in the Employee's gross income for the taxable year in which contributed, or Employer contributions under a simplified employee pension plan to the extent such contributions are deductible by the Employee, or any distributions from a plan of deferred compensation;

(d) other amounts which received special tax benefits, or contributions made by the Employer (whether or not under a salary reduction agreement) towards the purchase of

an annuity described in Section 403(b) of the Code (whether or not the amounts are actually excludable from the gross income of the Employee).

For purposes of applying the limitations of this Article, 415 Compensation for a Limitation Year is the compensation actually paid or includible in gross income during such year.

Notwithstanding the preceding provisions of this subsection, 415 Compensation for a Participant who is permanently and totally disabled (as defined in Section 22(e)(3) of the Code) is the compensation such Participant would have received for the Limitation Year if the Participant had been paid at the rate of compensation paid immediately before becoming permanently and totally disabled; such imputed compensation for the disabled Participant may be taken into account only if the Participant is not a highly compensated employee (as defined in Section 414(q) of the Code,) and if contributions made on behalf of such Participant are nonforfeitable when made.

**Highest Average Compensation:** The average 415 Compensation for the three consecutive Years of Service with the Employer that produce the highest average.

**Limitation Year:** Through June 30, 1997, the twelve month period ending on June 30 in each calendar year. There shall be a short limitation year from July 1, 1997 through December 31, 1997. Thereafter, the limitation year shall be the calendar year.

**Maximum Permissible Amount:** With respect to any Participant for a Limitation Year, an amount that shall not exceed the lesser of (i) the defined contribution plan dollar limitation in effect under Section 415(c)(1) of the Code at the beginning of the Limitation Year or, if greater, 25% of the defined benefit plan dollar limitation in effect under Section 415(b)(1) of the Code at the beginning of the Limitation Year, or (ii) 25% of the Participant's 415 Compensation for the Limitation Year. The 415 Compensation limitation referred to in (ii) above will not apply to any contribution for medical benefits (within the meaning of Code Section 401(h) or 419A(f)(2)) which is otherwise treated as an Annual Addition under Section 415(l)(1) or 419A(d)(2) of the Code. If a short Limitation Year is created because of an amendment changing the Limitation Year to a different 12-consecutive month period, the Maximum Permissible Amount for the short Limitation Year will not exceed the amount set forth in clause (i) of the preceding sentence multiplied by a fraction, the numerator of which is the number of months in the short Limitation Year and the denominator of which is 12.

Effective for limitation years beginning after December 31, 2001, and except to the extent permitted under Section 5.2 of the Plan and Section 414(v) of the Code, if applicable,

the Annual Additions that may be contributed or allocated to a Participant's Accounts under the Plan for a Limitation Year shall not exceed the lesser of:

- (1) \$40,000, as adjusted for increases in the cost of living under Section 415(d) of the Code, or
- (2) 100% of the Participant's Compensation for such Limitation Year. The compensation limit referred to in (b) shall not apply to any contribution for medical benefits after separation from service (within the meaning of Section 401(h) or Section 419A(f)(2) of the Code) which is otherwise treated as an Annual Addition.

**Projected Annual Benefit:** The annual retirement benefit in a qualified defined benefit plan (adjusted to an actuarially equivalent straight life annuity if such benefit is expressed in a form other than a straight life annuity or qualified joint and survivor annuity) to which the Participant would be entitled under the terms of the plan assuming his employment continues until normal retirement age under the plan (or current age, if later) and his 415 Compensation for the current Limitation Year and all other relevant factors used to determine benefits under the plan will remain constant for all future Limitation Years.

**5.9 No Participation in Other Qualified Plans.** If the Participant does not participate in, and has never participated in another qualified plan or a welfare benefit fund (as defined in Section 419(e) of the Code), maintained by the Employer, or an individual medical account, as defined in Section 415(l)(2) of the Code, maintained by the Employer which provides an Annual Addition, the amount of Annual Additions which may be allocated under this Plan on a Participant's behalf for a Limitation Year may not exceed the lesser of the Maximum Permissible Amount or any other limitation contained in this Plan. If the Employer contribution that would otherwise be contributed or allocated to the Participant's Accounts would cause the Annual Additions for the Limitation Year to exceed the Maximum Permissible Amount, the amount contributed or allocated will be reduced under Section 5.11 so that the Annual Additions for the Limitation Year will equal the Maximum Permissible Amount.

**5.10 Participation in Other Defined Contribution Plans.** If, in addition to this Plan, the Participant is a participant in any other qualified defined contribution plan or a welfare benefit fund (as defined in Section 419(e) of the Code) maintained by the Employer, or an individual medical account, as defined in Section 415(1)(2) of the Code, maintained by the Employer which provides an Annual Addition, during any Limitation Year, the amount of Annual Additions which may be credited under this Plan on a Participant's behalf for a Limitation Year may not exceed the Maximum Permissible Amount, reduced by the sum of any Annual Additions allocated to the Participant's accounts for the same Limitation Year under such other defined contribution plans and welfare benefit funds. If the Annual

Additions with respect to the Participant under other defined contribution plans and welfare benefit funds maintained by the Employer are less than the Maximum Permissible Amount and the Employer contribution that would otherwise be contributed or allocated to the Participant's account under this Plan would cause the Annual Additions for the Limitation Year to exceed this limitation, the amount contributed or allocated will be reduced so that the Annual Additions under all such plans and funds for the Limitation Year will equal the Maximum Permissible Amount.

**5.11 Apportionment Between Plans.** If, in the application of Section 5.10, a Participant's Annual Additions under this Plan and another plan or plans would result in an Excess Amount for a Limitation Year, the Excess Amount will be deemed to consist of:

- (a) first elective contributions made under Section 4.1;
- (b) second, matching contributions made under Section 4.3;
- (c) third, basic contributions made under Section 4.2; and
- (d) fourth, Employer contributions made under any other qualified plan.

Any Excess Amounts attributed to this Plan will be disposed of as provided in Section 5.12.

**5.12 Excess Amounts.** If there is an Excess Amount with respect to a Participant for a Limitation Year, the County shall participate in any programs sponsored by the Department of the Treasury to correct the Excess Amounts in the manner prescribed in such programs. Excess Amounts may not be distributed to Participants or Former Participants.

**5.13 Defined Benefit and Defined Contribution Plan.** If the Employer maintains, or at any time maintained, a qualified defined benefit plan covering any Participant in the Plan, the sum of the Participant's Defined Benefit Fraction and Defined Contribution Fraction must not exceed 1.0 in any Limitation Year beginning prior to January 1, 2000. The Annual Additions which may be credited to the Participant's Account under this Plan for any Limitation Year will be limited in accordance with the provisions of the defined benefit plan pertaining to Section 415(e) of the Code.

**ARTICLE VI**  
**INVESTMENT FUNDS AND DIRECTION OF INVESTMENT**

**6.1 Permitting Direction of Investments.** The Employer may permit Participants, Former Participants and Beneficiaries to direct the investment of their Accounts under the Plan in any approved investment funds, whether limited or unlimited, designated by the Employer, from time to time, subject to the limitations set forth below. Any decision of the Employer under this Section shall apply to all Participants, Former Participants and Beneficiaries in a uniform and nondiscriminatory manner. If the Employer permits Participants, Former Participants and Beneficiaries to direct the investment of certain of their accounts, the Employer shall so notify the Participants.

**6.2 Investment Funds.** The investment funds which may be selected by the Employer may include, but not be limited to, the following:

- (a) money market funds;
- (b) mutual funds;
- (c) equity funds;
- (d) fixed income funds;
- (e) any pooled investment fund established by a bank;
- (f) any insurance company's general account; and
- (g) any special account established and maintained by any insurance company.

The Employer shall have the sole discretion to determine the number and nature of investment funds to be maintained under the Plan and may change or eliminate the funds from time to time.

**6.3 Direction of Investment.** A Participant, Former Participant or Beneficiary, by an approved form of direction to the Trustees, shall direct the investment of amounts contributed on his behalf in the pooled investment funds and/or mutual funds and/or group annuity contracts described in Section 6.2 and in such other funds as the Employer establishes, so long as his investment selections are made according to the rules established by the Administrator from time to time in its sole discretion. Any rules established by the Administrator under this Section shall apply to all Participants, Former Participants and Beneficiaries in a uniform and nondiscriminatory manner. If a Participant, Former

Participant or Beneficiary does not direct the investment of amounts credited to his accounts, the amounts will be invested, in a uniform, non-discriminatory manner, in a fixed income fund, money market fund or a stable value fund.

**6.4 Change of Direction of Investment.** All directions as to the investment of accounts by Participants, Former Participants and Beneficiaries shall be considered continuing directions until they are changed. A Participant, Former Participant or Beneficiary may change his direction of investment in accordance with uniform non-discriminatory rules established by the Administrator from time to time.

**6.5 Transfer of Funds Between Investment Options.** A Participant, Former Participant or Beneficiary may transfer amounts from one investment fund to another in accordance with uniform non-discriminatory rules established by the Administrator from time to time.

**6.6 Valuation of Investment Funds.** Any investment fund established pursuant to this Article shall be valued and adjusted according to the procedures set forth in Article VII as a separate Fund. It is intended that this Section will operate to adjust each investment fund to reflect all income attributable to each fund and changes in the value of each fund's assets as of any Valuation Date.

**ARTICLE VII**  
**ACCOUNTS**

**7.1 Establishment of Accounts.** When Covered Employee becomes a Participant, the Administrator must notify the Trustees and provide the Trustees with any information about the Participant that the Trustees request. When notified by the Administrator that a Covered Employee has become a Participant, the Trustees will establish a Basic Contribution Account in the name of each new Participant who is eligible for the contribution. If a Participant elects to make employee contributions under Section 4.1, the Trustees will establish a Pre-Tax Employee Account and/or a Roth Employee Account and a Matching Contribution Account on his behalf. If a Participant elects to make Roth Employee Contributions, pursuant to Section 4.1, the Trustees will establish a Roth Investment Return Account on his behalf. If a Participant receives a distribution of funds from another tax-qualified plan and rolls over the funds into this Plan or elects a direct transfer of funds from another tax-qualified plan to this Plan pursuant to Article XIV, the Trustees will establish a Rollover Account for him. If a Participant directs that amounts constituting Roth Employee Contributions be transferred directly from another employer's tax-qualified plan, the Trustees will establish a Roth Rollover Account for the Participant and credit the investment return on the transferred amounts to a Roth Investment Return Account established for the Participant. If a Participant had previously made after-tax contributions to the Plan, the Employer shall continue to maintain an After-Tax Account for his benefit.

**7.2 Crediting Accounts.** Accounts shall be credited with contributions in the amounts specified in Article IV, shall be credited or debited with the income, gains or losses of the Fund pursuant to this Article, and shall be debited with the amount of any withdrawals or distributions made from such accounts pursuant to Articles VIII, IX or X. All credits and debits to the Accounts of Participants shall be made as of the dates specified in the appropriate Sections of this Plan.

**7.3 Valuation of Assets.** As soon as practicable after each Valuation Date, the Trustees shall evaluate all assets of the Fund as of that date. The Trustees shall use the fair market values of securities or other assets in making this determination.

If accounts have not been segregated for investment purposes, the net earnings or losses of the Trust (including capital gains and losses, whether or not realized) since the preceding Valuation Date, or as of an interim evaluation, if requested by the Administrator, shall be allocated among the Accounts of all Participants in accordance with the ratio which the Accounts of each Participant, determined as provided herein, bears to the aggregate of all such Accounts so determined. For purposes of this Section, the Accounts of each Participant will consist of the balance of the respective Accounts as of the preceding

Valuation Date or as of an interim evaluation if requested by the Administrator, credited or debited as provided in Section 7.2. It is intended that this paragraph will operate to distribute all income of the Fund and changes in the value of the Fund's assets among all such accounts in the Fund, as the case may be.

If accounts have been segregated for investment purposes, the Trustees shall proceed as described in the immediately preceding paragraph but on an investment fund by investment fund basis. It is intended that this paragraph will operate to distribute among all accounts invested in a particular investment fund, all income of that investment fund allocable to the Fund and all changes in the value of the Fund's assets, as the case may be. The adjustments in the amounts credited to such accounts shall be considered to be made as of that Valuation Date.

If the assets of the Plan are invested with an institutional trustee, an investment manager, or other professional money manager, which maintains a procedure for allocating investment earnings and losses to accounts utilizing the fair market value of assets, the Trustees may direct that such method be used in lieu of the procedures described above.

**ARTICLE VIII**  
**TERMINATION OF EMPLOYMENT**

**8.1 Right to Benefit Upon Termination of Employment.** A Former Participant who terminates Service for any reason other than death, disability or retirement will be entitled to receive a distribution of his Vested Interest in accordance with this Article.

**8.2 Distribution.** The Vested Interest of a terminated Former Participant will be distributed to him in accordance with the rules and procedures set forth in Article XI. Distribution will be made or will begin to be made as of the dates set forth below:

(a) subject to Section 11.3, if the value of his Vested Interest is \$3,500 or less, (\$1,000 with respect to distributions made after March 27, 2005), the distribution will be made within an administratively reasonable period after the Valuation Date following his termination of service for the County as an Employee; or

(b) if the value of his Vested Interest is greater than \$3,500 (\$1,000 with respect to distributions made after March 27, 2005), the distribution will be made within an administratively reasonable period following the close of the Plan Year in which his Normal Retirement Date occurs, but not later than 90 days following the close of that Plan Year, or as of an earlier date which the Former Participant selects provided the earlier date is not earlier than an administratively reasonable period after the Valuation Date following termination of service for the County as an Employee.

(c) if a terminated Former Participant's Vested Percentage is 100%, his Accounts shall thereafter be held, administered and distributed in accordance with Article XI. If his Vested Percentage is less than 100%, his Matching Contribution Account shall continue to be administered as such and shall be revalued periodically in accordance with the provisions of Article XI until the Participant, or his Beneficiary, has received a distribution of the Former Participant's entire Vested Interest.

Upon the distribution of the Former Participant's entire Vested Interest, an amount equal to the non-vested portion of his Matching Contribution Account will be forfeited as of that date and will be debited to his Matching Contribution Account.

If the terminated Former Participant is rehired by the Employer before he receives a distribution of his Vested Interest, his Accounts will be restored upon the date he again becomes a Participant pursuant to Section 2.2.

**8.3 Use of Forfeitures.** The amounts forfeited pursuant to Section 8.2 will be used to pay the expenses incurred in the administration and operation of the Plan pursuant to Section 12.8.

**ARTICLE IX**  
**RETIREMENT BENEFITS**

**9.1 Normal Retirement.** The Accounts of a Participant who has attained his Normal Retirement Date are fully vested and nonforfeitable. A Participant who retires on his Normal Retirement Date will be entitled to receive an amount equal to the sum of the amounts credited to Accounts held for his benefit as of the date the funds are distributed. Unless a Participant elects to defer his distribution pursuant to Section 11.1, the amounts will be distributed or will commence to be distributed as soon as administratively reasonable after his date of retirement but not later than 90 days after the end of the Plan Year which includes the date of his retirement. Distribution shall be made according to the provisions of Article XI.

**9.2 Early Retirement.** The Plan does not provide for early retirement benefits.

**9.3 Late Retirement.** If a Participant remains in Service beyond his Normal Retirement Date, his retirement shall be deemed to have occurred on the date of his termination of employment with the Employer for any reason other than death. Upon late retirement, the Participant will be entitled to receive an amount equal to the sum of the amounts credited to Accounts held for his benefit as of the date the funds are distributed. Unless a Participant elects to defer his distribution pursuant to Section 11.1, these amounts will be distributed or will commence to be distributed as soon as administratively reasonable after the date of his late retirement, but not later than 90 days after the end of the Plan Year which includes the date of his late retirement. Distribution will be made in accordance with the provisions of Article XI.

**9.4 Disability Retirement.** Upon receipt from a Participant or a person authorized by him or acting on his behalf of a request that distributions be made on account of the Participant's disability, or upon its own initiative, the Administrator will determine the extent of the Participant's disability and may, to assist it in making the determination, cause appropriate medical diagnoses and tests to be made at the expense of the Employer. If the Administrator determines that the Participant has a Permanent and Total Disability, the Participant's date of disability retirement shall be the earlier of the date on which his application for distributions under this Section was filed with the Administrator or the date on which the Administrator determined him to be disabled, and he will be deemed to be a Former Participant on that date.

The Accounts of an Active Participant who has sustained a Permanent and Total Disability are fully vested and nonforfeitable. A disabled Participant shall be entitled to receive the amounts credited to all Accounts held for his benefit, as of the date the funds are distributed. Unless a Participant elects to defer his distribution pursuant to Section 11.1,

such amounts will be distributed or will commence to be distributed within an administratively reasonable period after the date of his disability retirement but not later than 60 days after the end of the Plan Year which includes the date of his disability retirement. Distribution shall be made according to the provisions of Article XI.

**9.5 Application for Benefits.** Each Participant who is eligible for benefits under this Article shall apply therefor on a form given to him for that purpose by the Administrator; provided, however, that the foregoing requirement will not apply in any case where a Participant is unable to make the application for physical, mental or other reasons satisfactory to the Administrator. Upon finding that a Participant satisfies the eligibility requirements for benefits under this Article, the Administrator must promptly notify the Trustees of his eligibility and of the method of distribution selected in accordance with Article XI.

**ARTICLE X**  
**DEATH BENEFITS**

**10.1 Death of a Participant.** The Accounts of a Participant who dies prior to his termination of Service are fully vested and nonforfeitable and his Beneficiary shall be entitled to receive a distribution in an amount equal to the amount credited to the Accounts held for his benefit as of the date the funds are distributed. This amount will be distributed or will commence to be distributed within an administratively reasonable period after the Participant's date of death, unless the Beneficiary elects to defer distribution pursuant to Section 11.1, in which event this amount will be distributed or will commence to be distributed within the time prescribed by Section 11.7. Distribution will be made according to the provisions of Section 10.4 and Article XI.

**10.2 Death of a Retired or Terminated Participant Prior to Commencement of Benefits.** If a retired or terminated Participant dies before distribution has been made or begun to be made to him, his Beneficiary shall be entitled to receive a distribution in an amount equal to his Vested Interest as of the date the funds are distributed. The Vested Percentage of a Former Participant does not increase due to his death. This amount will be distributed or will begin to be distributed within the time prescribed by Section 11.7, unless the Beneficiary selects an earlier date of distribution; provided, however, that the earlier date shall not be earlier than an administratively reasonable period after the Participant's date of death. Distribution will be made according to the provisions of Section 10.4 and Article XI.

**10.3 Death of a Retired or Terminated Participant After Commencement of Benefits.** If a retired or terminated Participant dies after the date of distribution or the commencement of distribution to him, no benefits shall be payable to his Beneficiary except to the extent provided for by the method under which the retired or terminated Participant was receiving distributions under Article XI.

**10.4 No Beneficiary Designation.** Unless an unmarried Participant or Former Participant has designated a Beneficiary under Section 10.5, his Beneficiary shall be deemed to be the person or persons in the first of the following classes in which there are any survivors of the Participant:

- (a) his spouse at the time of his death,
- (b) his children,
- (c) his parents,

- (d) his grandchildren, and
- (e) the executor or administrator of his estate.

**10.5 Designation of Beneficiary.** In lieu of having the amounts distributable under this Article distributed to a Beneficiary determined under Section 10.4, an unmarried Participant or Former Participant may sign a document designating a Beneficiary or Beneficiaries to receive these amounts. If the Participant is married, any designation will be effective only if the spouse of the Participant is the sole primary beneficiary or consents to the designation of another Beneficiary. The spouse's consent shall be in writing with the signature of the spouse notarized or witnessed by a representative of the Administrator. Notwithstanding any provision to the contrary, the consent of the spouse shall not be necessary if it is established to the satisfaction of the Administrator that the signature of the spouse cannot be obtained either because the spouse cannot be located or because of such other circumstances as the Secretary of the Treasury may prescribe by lawful regulations. Any consent given by a spouse pursuant to this Section shall be effective only with respect to that spouse and shall not be effective with respect to any other spouse of the Participant.

**10.6 Administrator to Notify Trustees.** Upon the death of a Participant or a Former Participant, the Administrator shall immediately advise the Trustees of the identity of the Participant's Beneficiary or Beneficiaries. The Trustees shall be completely protected in making distributions to any person or persons in accordance with the instructions of the Administrator.

**10.7 Incomplete Disposition.** If a Participant or Former Participant dies at a time when he has on file with the Administrator a designation which does not dispose of all of the amounts distributable under this Plan upon his death, then the amounts distributable on behalf of this Participant or Former Participant, the disposition of which was not determined by the deceased Participant's or Former Participant's designation, shall be distributed to a Beneficiary determined under the provisions of Sections 10.4 or 10.5, as the case may be.

**10.8 Ambiguity of Beneficiary Designation.** The Administrator shall resolve any ambiguity in a Participant's Beneficiary designation. The interpretation of the Administrator with respect to any Beneficiary designation shall be binding and conclusive on all parties. No person who claims to be a Beneficiary (and no other person) shall have a right to question any action of the Administrator which, in the judgment of the Administrator fulfills the intent of the Participant who filed the designation. Subject to Section 10.5, the Administrator may direct a Participant to clarify his designation and if necessary execute a new designation containing the clarification.

**10.9 Distributions to Non-Spouse Beneficiaries.** Notwithstanding any provision of the Plan to the contrary that would otherwise limit the options of the Beneficiary of a deceased Participant who is not a Distributee (within the meaning of Section 11.9) the Administrator shall, upon the request of such a Beneficiary, transfer a lump sum distribution to the trustee of an individual retirement account established under Section 408 of the Internal Revenue Code in accordance with the provisions of Section 402(c)(11).

## ARTICLE XI DISTRIBUTIONS

**11.1 Time of Distribution.** Distributions will normally begin as of the dates specified in Articles VIII, IX or X. However, if a Participant retires or dies, the Participant or his Beneficiary may elect in writing, subject to Section 11.7, to defer any distribution until a date not later than the date prescribed by Section 11.7. Any Participant who has not terminated Service, who has attained age 70-1/2 and who was receiving distributions pursuant to Section 11.7 (or its comparable provision) as in effect prior to the Effective Date may elect to cease receiving distributions until the Participant's Required Beginning Date, as defined in Section 11.7. In addition, in the event of the entry of a Qualified Domestic Relations Order pursuant to Article XIII, the Administrator may make an immediate payment of benefits in the Lump Sum Form or Eligible Rollover Distribution Form, as described in Section 11.2, to an Alternate Payee, subject to the provisions of Article XIII hereof, provided that the Alternate Payee so elects and an appropriate election form is filed with the Administrator, together with such other documents as the Administrator may require in order to make a distribution prior to the Participant's "earliest retirement age" within the meaning of Code Section 414(p)(4).

**11.2 Optional Methods of Distribution.** A Participant, a Former Participant, or a Beneficiary may elect to receive amounts distributable under Articles VIII, IX or X in accordance with the following:

Form 1. Lump Sum Form. A Participant who receives payment of his retirement benefits under the Lump Sum Form will receive a single lump sum payment upon the date his retirement benefits would otherwise have begun under this Plan.

Form 2. Installment Form. A Participant who receives payment of his retirement benefits under the Installment Form, may elect to receive his benefits in monthly, quarterly, semiannual or annual installments for a specified number of years which will not exceed the life expectancy of the Participant and his Beneficiary. The Installment Form is not available to any Participant who terminates Service after June 30, 1997.

Form 3. Eligible Rollover Form. A Participant who elects the Eligible Rollover Form will direct the transfer of his Accounts in accordance with Section 11.9.

To elect one of the optional methods of distribution, a Participant, Former Participant or Beneficiary must notify the Administrator of the election in writing before the date his benefits become distributable under Article VIII, IX or X.

Distributions made pursuant to Section 11.2 shall be subject to the provisions of that Section.

**11.3 Distribution of Small Amounts.** Notwithstanding any contrary provision of this Plan, in the event that the Vested Interest of a retired, terminated or deceased Former Participant has a value less than or equal to \$3,500 (\$1,000 with respect to distributions after March 27, 2005), the Administrator will direct the Trustees to make an immediate distribution of the Former Participant's Vested Interest without the consent of the Former Participant or his Beneficiary. Any such lump sum payment will be in full settlement of the Former Participant's or Beneficiary's rights under this Plan. The Employer elects to include amounts credited to the Former Participant's Rollover Account in determining the value of the Former Participant's Vested Interest for purposes of this Section 11.3. This election pertaining to the inclusion of the Former Participant's Rollover Account shall apply with respect to distributions made after December 31, 2001.

**11.4 Administering Distribution of Accounts.** The Administrator will notify the Trustees immediately of the Participant's, Former Participant's or Beneficiary's election, and the Trustees will make all distributions as provided by the selected method of distribution.

**11.5 Value of Optional Methods of Payment.** The lump sum value of the amounts payable to a Participant or Former Participant (whose Beneficiary is someone other than his spouse) pursuant to any method of distribution, computed as of the commencement date of distribution, must not be less than 50% of the value of the amounts distributable on his behalf under this Plan.

**11.6 Revaluation of Undistributed Amounts.** As long as any amounts remain credited to a Participant's or Former Participant's Accounts, the Trustees shall continue to maintain the Accounts and the Accounts shall be periodically revalued in accordance with the provisions of Article VII.

**11.7 Special Distribution Requirements.** All distributions shall be determined and made in accordance with regulations issued pursuant to Section 401(a)(9) of the Code, which are specifically incorporated herein by reference, including the minimum distribution incidental benefit requirement of Proposed Treasury Regulation Section 1.401(a)(9)-2.

(a) **Special Definitions.** For purposes of this Section, the following definitions shall apply:

**Applicable Life Expectancy:** The Life Expectancy (or joint and last survivor expectancy) calculated using the attained age of the Participant or Beneficiary as of the Participant's or Beneficiary's birthday in the applicable calendar year, reduced by one for

each calendar year which has elapsed since the date Life Expectancy was first calculated. If Life Expectancy is being recalculated, the Applicable Life Expectancy shall be the Life Expectancy as so recalculated. The applicable calendar year shall be the first Distribution Calendar Year, and if Life Expectancy is being recalculated, each succeeding Distribution Calendar Year.

**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 that 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 in accordance with Section 11.7.

**Life Expectancy:** Life expectancy and joint and last survivor expectancy are computed by use of the expected return multiples in Tables V and VI of Treasury Regulation Section 1.72-9. Unless otherwise elected by the Participant (or spouse, as applicable), by the time distributions are required to begin, Life Expectancies shall be recalculated annually. Such election not to recalculate shall be irrevocable as to the Participant (or spouse) once distribution begins and shall apply to all subsequent years. The Life Expectancy of a nonspouse Beneficiary may not be recalculated.

**Participant's Benefit:** The Participant's Benefit is:

(i) Subject to (ii) below, the balance of the Participant's Accounts as of the Valuation Calendar Year, increased by the amount of any contributions or forfeitures allocated to the Accounts during the Valuation Calendar Year and decreased by distributions made in the Valuation Calendar Year after the Valuation Date.

(ii) For purposes of (i) above, if any portion of the minimum distribution for the first Distribution Calendar Year is made in the second Distribution Calendar Year on or before the Required Beginning Date, the amount of such distribution shall be treated as if it had been made in the first Distribution Calendar Year.

**Required Beginning Date:** The later of: (i) the first day of April of the calendar year following the calendar year in which the Participant attains age 70-1/2, or (ii) the date of the Participant's termination of Service.

**Valuation Calendar Year:** The calendar year immediately preceding the Distribution Calendar Year.

(b) Limits on Distribution Periods. As of the first Distribution Calendar Year, payments (if not made in the form of a lump sum distribution) may be made only over one of the following periods:

(i) A period certain not extending beyond the Participant's Life Expectancy; or

(ii) A period certain not extending beyond the joint and last survivor expectancy of the Participant and a Beneficiary.

(c) Determination of Amount to be Distributed Each Year. If the Participant's Benefit is to be distributed in other than a lump sum, the following minimum distribution rules shall apply on or after the Required Beginning Date:

(i) If a Participant's Benefit is to be distributed over a period not extending beyond the Life Expectancy of the Participant or the joint life and last survivor expectancy of the Participant and the Participant's Beneficiary, the amount required to be distributed for each calendar year, beginning with distributions for the first Distribution Calendar Year must equal at least the quotient obtained by dividing the amount of Participant's Accounts by the Applicable Life Expectancy.

(ii) The amount to be distributed each year, beginning with distributions for the first Distribution Calendar Year shall not be less than the quotient obtained by dividing the Participant's Benefit by the lesser of (A) the Applicable Life Expectancy or (B) if the Participant's spouse is not the designated Beneficiary, the applicable divisor determined from the table set forth in Q&A-4 of Proposed Treasury Regulation Section 1.401(a)(9)-2.

(iii) The minimum distribution required for the Participant's first Distribution Calendar Year must be made on or before the Participant's Required Beginning Date. The minimum distribution for the other Distribution Calendar Years, including the minimum distribution for the Distribution Calendar Year in which the Participant's Required Beginning Date occurs, must be made on or before December 31 of that Distribution Calendar Year.

(d) Death of Participant Before Distributions Commence. If a Participant dies before distribution of his Accounts has commenced, the Participant's Benefit must be distributed in full by December 31 of the calendar year containing the fifth anniversary of the Participant's death, unless:

(i) If the payments begin not later than December 31 of the calendar year following the calendar year of the death of the Participant, the payments may be paid over a period not exceeding the Life Expectancy of the designated Beneficiary, or

(ii) If the Participant's surviving spouse is the Beneficiary, payments may be made over a period not extending beyond the surviving spouse's life expectancy if the payments begin by the later of:

(A) December 31 of the calendar year immediately following the calendar year in which the Participant died, or

(B) December 31 of the calendar year in which the Participant would have attained age 70-1/2.

(iii) If the Participant's surviving spouse dies before distribution to the spouse has begun, distributions to the Beneficiary of the surviving spouse must be made in full by December 31 of the calendar year containing the fifth anniversary of the surviving spouse's death or, must begin not later than December 31 of the calendar year following the calendar year of the death of the surviving spouse if paid over a period not exceeding the Life Expectancy of the surviving spouse's designated Beneficiary.

(e) Death of Participant After Distributions Commence. If the Participant dies after the payments have begun subsequent to the Required Beginning Date but before the entire Participant's Benefit has been distributed, the remaining portion of such Benefit must be distributed at least as rapidly as under the method of distribution in effect at the date of the Participant's death.

(i) In the case of a distribution which begins before the Participant's death and which is being paid out over a period not exceeding the joint and last survivor expectancy of the Participant and a designated Beneficiary, the designated Beneficiary whose life expectancy was being used to determine the period must be the beneficiary of the remaining portion.

(ii) If the life expectancy of the Participant or the Participant's surviving spouse is being recalculated each year, the entire balance must be distributed before December 31 of the calendar year immediately following the calendar year of the death of the survivor of the Participant and the spouse.

(f) With respect to distributions under the Plan made for calendar years beginning on or after January 1, 2001, the Plan will apply the minimum distribution requirements of Section 401(a)(9) of the Code in accordance with the Treasury Regulations

under Section 401(a)(9) of the Code that were proposed on January 17, 2001, notwithstanding any provision of the Plan to the contrary. This amendment shall continue in effect until the end of the last calendar year beginning before the effective date of final regulations promulgated under Section 401(a)(9) of the Code, or such other date as may be specified in guidance published by the Internal Revenue Service.

(g) Minimum Distribution Requirements Effective No Earlier Than December 31, 2002.

(i) General.

(A) Effective Date. The provisions of this Section 11.7(g) will apply for purposes of determining required minimum distributions for calendar years beginning with the 2003 calendar year, or as of such later date as may be determined by the Secretary of the Treasury.

(B) Precedence. The requirements of this Section 11.7(g) will take precedence over any inconsistent provisions of the Plan.

(C) Requirements of Treasury Regulations Incorporated. All distributions under this Section 11.7 will be determined and made in accordance with the Treasury regulations under Section 401(a)(9) of the Code.

(ii) Time and Manner of Distribution.

(A) Required Beginning Date. The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's required beginning date.

(B) Death of Participant Before Distributions Begin. If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

I. 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.

II. If the Participant's surviving spouse is not the Participant's sole designated Beneficiary, then, except as provided in the adoption

agreement, distributions to the designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.

III. 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.

IV. If the Participant's surviving spouse is the Participant's sole designated Beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this Section 11.7(g)(ii)(B), other than Section 11.7(g)(ii)(B)(I), will apply as if the surviving spouse were the Participant.

For purposes of this Section 11.7(g)(ii)(B) and Section 11.7(g)(iv), unless Section 11.7(g)(ii)(B)(IV) applies, distributions are considered to begin on the Participant's required beginning date. If Section 11.7(g)(ii)(B)(IV) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under Section 11.7(g)(ii)(B)(I). If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's required beginning date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under Section 11.7(g)(ii)(B)(I)), the date distributions are considered to begin is the date distributions actually commence.

(C) Forms of Distributions. Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with Section (iii) and (iv) of this Section 11.7(g). If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Section 401(a)(9) of the Code and the Treasury regulations.

(iii) Required Minimum Distributions During Participant's Lifetime.

(A) Amount of Required Minimum Distribution for Each Distribution Calendar Year. During the Participant's lifetime, the minimum amount that will be distributed for each distribution calendar year is the lesser of:

I. The quotient obtained by dividing the Participant's account balance by the distribution period in the Uniform Lifetime Table set

forth in Section 1.401(a)(9)-9 of the Treasury regulations, using the Participant's age as of the Participant's birthday in the distribution calendar year; or

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

(B) Lifetime Required Minimum Distributions Continue Through Year of Participant's Death. Required minimum distributions will be determined under this Section (iii) beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the Participant's date of death.

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

(A) Death On or After Date Distributions Begin.

I. Participant's Survived by Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is a designated Beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the longer of the remaining life expectancy of the Participant or the remaining life expectancy of the Participant's designated Beneficiary, determined as follows:

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 designated Beneficiary, the remaining life expectancy of the surviving spouse is calculated for each distribution calendar year after the year of the Participant's death using the surviving spouse's age as of the spouse's birthday in that year. For distribution calendar years after the year of the surviving spouse's death, the remaining life expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.

c. 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.

II. No Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is no designated Beneficiary as of September 30 of the year after the year of the Participant's death, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the Participant's remaining life expectancy calculated using the age of the Participant in the year of the death, reduced by one for each subsequent year.

(B) Death Before Date Distributions Begin.

I. Participant Survived by Designated Beneficiary. If the Participant dies before the date distributions begin and there is a designated Beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the remaining life expectancy of the Participant's designated Beneficiary, determined as provided in Section 11.7(g)(iv)(A).

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

III. Death of Surviving Spouse Before Distributions to Surviving Spouse Are Required to Begin. If the Participant dies before the date distributions begin, the Participant's surviving spouse is the Participant's sole designated Beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under Section 11.7(g)(ii)(B)(I), this Section 11.7(g)(iv)(B) will apply as if the surviving spouse were the Participant.

(v) Definitions.

(A) Designated Beneficiary. The individual who is designated as the Beneficiary under Section 10.4 of the Plan and is the designated

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.

(B) 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 11.7(g)(ii)(B). The required minimum distribution for the Participant's first distribution calendar year will be made on or before the Participant's required beginning date. The required minimum distribution for other distribution calendar years, including the required minimum distribution for the distribution calendar year in which the Participant's required beginning date occurs, will be made on or before December 31 of that distribution calendar year.

(C) Life expectancy. Life expectancy as computed by the use of the Single Life Table in Section 1.401(a)(9)-9 of the Treasury regulations.

(D) 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 the 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 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.

(E) Required beginning date. The date specified in Section 11.7(a) of the Plan.

**11.8 Responsibility of Trustees Regarding Distributions.** Upon notification by the Administrator as to the eligibility of and method of distribution applicable to a Participant, Former Participant or Beneficiary, the Trustees shall make payments directly from the Fund.

**11.9 Eligible Rollover Distributions.** Notwithstanding any provision of the plan to the contrary that would otherwise limit a Distributee's election under this Section, a Distributee may elect, at the time and in the manner prescribed by the Plan Administrator, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover.

For purposes of this Section 11.9, the following definitions will apply:

**Eligible Rollover Distribution:** An Eligible Rollover Distribution is any distribution of all or any portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or joint life expectancies) of the Distributee and the Distributee's designated Beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Code; the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities); and the portion of any hardship withdrawal as defined pursuant to Section 401(a)(31) of the Code attributable to a Participant's elective contributions under Treasury Regulation Section 1.401(k)-1(d)(2)(ii).

**Eligible Retirement Plan:** An Eligible Retirement Plan is an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, an annuity plan described in Section 403(a) of the Code, a qualified trust described in Section 401(a) of the Code, that accepts the Distributee's Eligible Rollover Distribution. An Eligible Retirement Plan shall also mean an annuity contract described in Section 403(b) of the Code and an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred from this Plan. With respect to distributions made after December 31, 2007, an Eligible Retirement Plan shall also mean a Roth IRA as defined in Section 408A of the Code. The definition of "Eligible Retirement Plan" shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code.

**Distributee:** A Distributee includes a Participant or Former Participant. In addition, the Participant's or Former Participant's surviving spouse and the Participant's or Former Participant's spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the Code, are Distributees with regard to the interest of the spouse or former spouse.

**Direct rollover:** A Direct Rollover is a payment by the Plan to the Eligible Retirement Plan specified by the Distributee.

**11.10 Loans to Participants.** [Reserved]

### **11.11 Hardship Withdrawals.**

(a) Hardship Application. In case of hardship, a Participant (or Former Participant) may apply to the Administrator for withdrawal of all or a portion of his Rollover Accounts and that portion of his Pre-Tax Employee Account and Roth Employee Account available for a hardship distribution pursuant to Section 11.11(d).

(b) Hardship Defined. As used in this Section, the term "hardship" means an immediate and heavy financial need which the Participant is unable to eliminate from other resources which are reasonably available to him. A distribution is deemed to be on account of an immediate and heavy financial need of the Participant if the distribution is for:

(i) expenses for medical care, as defined in Section 213(d) of the Code, previously incurred or to be incurred in the future by the Participant or his dependents;

(ii) costs directly related to the purchase of the principal residence of the Participant (excluding mortgage payments);

(iii) payment of tuition and related educational fees for the next 12 months of post-secondary education for the Participant, or the Participant's spouse, children or dependents; or

(iv) payments necessary to prevent the eviction of the Participant from the Participant's principal residence or foreclosure on the mortgage on that residence; or

(v) payments for funeral, memorial, burial or cremation and other directly related expenses arising out of the death of the Participant's spouse, child, stepchild, sibling, parent, parent-in-law, grandparent, grandparent-in-law, a person residing with the Participant at the time of the person's death, or a dependent of the Participant.

Approval of hardship distributions shall be made on the basis of all facts and circumstances and in a uniform and nondiscriminatory manner.

(c) Dependent Defined. As used in this Section, the term "dependent" means: a Participant's spouse not legally separated from the Participant; an unmarried, natural or legally adopted child of the Participant or his spouse, provided the child is a dependent of the Participant as defined in Section 152 of the Code; and a parent of the Participant or of the spouse of the Participant, provided such parent is a dependent of the Participant as defined in Section 152 of the Code.

(d) Hardship Distribution. If the Administrator, in its sole discretion, determines that hardship exists or is imminent, it may permit withdrawal of a portion of the Participant's Pre-Tax Employee Account, Roth Employee Account and/or Rollover Account in a lump sum payment, provided, however, that no investment earnings allocated after December 31, 1988 and attributable to a Participant's contributions made pursuant to Section 4.1 shall be available for a hardship distribution hereunder. Amounts withdrawn by a Participant under this Section shall be debited to his Accounts as they are paid. The amount of any withdrawal must not exceed the amount which the Administrator determines is reasonably necessary to prevent or relieve the hardship.

(e) Limitation on Employee Contributions Following Hardship Withdrawals. Notwithstanding anything to the contrary in this Section 11.11, no distribution shall be made pursuant to this Section unless the Administrator, based upon the Participant's representations and such other facts as are known to the Administrator, determines that the Plan and all other plans maintained by the Employer provide that the Participant's employee contributions pursuant to Section 4.1 will be suspended for a period not less than 6 months after receipt of the hardship distribution. Notwithstanding the foregoing, a Participant who receives a distribution of elective deferrals in calendar year 2001 on account of hardship shall be prohibited from making elective deferrals and employee contributions under this and all other plans of the Employer for 6 months after receipt of the distribution.

(f) Administration of Withdrawals. Neither the application for nor the payment of any hardship withdrawal in accordance with this Section shall have the effect of terminating a Participant's participation in the Plan. The Administrator may prescribe the use of such forms, conduct such investigation, and require the making of such representations and warranties, as it deems desirable to carry out the purpose of this hardship withdrawal provision.

(g) Non-Alienation. If a Participant or Beneficiary attempts to use his interest in the Plan as security for any type of obligation or to alienate, dispose of or in any manner encumber his interest or if a third party attempts to attach, levy upon or in any manner convert the use or enjoyment of any interest of a Participant, the right to withdraw any portion of his interest under this Section will automatically terminate.

(h) Lifetime Limit on Hardship Withdrawals. The application for all or a portion of a hardship withdrawal shall be denied if the withdrawal being requested by the Participant or Former Participant, when added to the hardship withdrawals received since July 1, 2003, will equal or exceed \$20,000. Notwithstanding the foregoing, withdrawals on account of hardships described in Section 11.11 (b)(i) (expenses for medical care) shall not count toward the \$20,000 limitation.

### 11.12 In-Service Distributions.

(a) After-Tax Accounts. A Participant may elect to receive an in-service distribution of his After-Tax Account by filing a written application with the Administrator. The request for a withdrawal must provide for a withdrawal of the full amount credited to the After-Tax Account as of the date the funds are distributed. Distribution will be made according to the provisions of this Article.

(b) Age 65. If a Participant remains in Service beyond the date he attains age 65, he may elect to receive an in-service distribution of his Accounts. If such a Participant so elects, he will be entitled to receive an amount equal to value of his Accounts as of the date of distribution. An in-service distribution of a Participant's Accounts will be made within an administratively reasonable time after written notice of a request for a distribution is provided to the Administrator. Distribution will be made according to the provisions of this Article and shall be made:

- (i) no more frequently than twice during one Plan Year, and
- (ii) shall be in an amount equal to no less than the lesser of:
  - (A) \$1,000, or
  - (B) the value of the Participant's Accounts, or
  - (C) the amount of the minimum distribution required to be made to the Participant during the calendar year as determined in accordance with Section 11.7 of the Plan with respect to a Participant who made an election to continue receiving minimum distributions from the Plan pursuant to Section 401(a)(9) of the Code and Section 11.1 of the Plan.

**ARTICLE XII**  
**ADMINISTRATION**

**12.1 Administrative Authority.** Except as otherwise specifically provided herein, the Employer shall have the sole responsibility for and the sole control of the operation and administration of the Plan, and shall have the power and authority to take all action and to make all decisions and interpretations which may be necessary or appropriate in order to administer and operate the Plan, including, without limiting the generality of the foregoing, the power, duty and responsibility to:

(a) resolve and determine all disputes or questions arising under the Plan, including the power to determine the rights of Employees, Participants, Former Participants and Beneficiaries, and their respective benefits, and to remedy any ambiguities, inconsistencies or omissions in the Plan;

(b) adopt such rules of procedure and regulations as in its opinion may be necessary for the proper and efficient administration of the Plan and as are consistent with the Plan;

(c) implement the Plan in accordance with its terms and such rules and regulations;

(d) direct the Trustees with respect to the eligibility of any Employee as a Participant and the crediting and distribution of the Trust, which are to be made only upon the basis of instructions from the Employer pursuant to the terms of the Plan; and

(e) establish and carry out a funding policy and method consistent with the objectives of the Plan and applicable law, pursuant to which the Employer shall determine the Plan's liquidity and financial needs and communicate them to the Trustees (or other fiduciaries who are charged with determining investment policy).

**12.2 Employer Administration.** The Plan shall be operated and administered on behalf of the Employer by the Administrator. The Administrator shall be governed by the following:

(a) In the absence of any designation to the contrary pursuant to Section 12.3, and subject to the power to delegate pursuant to this Section, the Administrator shall be the Employer. Except as the Employer shall otherwise expressly determine, the Administrator shall have full authority to act for the Employer before all persons in any matter directly pertaining to the Plan, including the exercise of any power or discretion otherwise granted

to the Employer pursuant to the terms of the Plan, other than the power to amend or terminate the Plan, to determine Employer contributions, to exercise authority to direct the Trustees, to affect the employer-employee relationship between the Employer and any Employee, and to retain and/or discharge the Trustees, all of which powers are reserved to the Employer unless expressly granted to the Administrator. Fiduciary duties, powers and responsibilities (other than those reserved to the Trustees, with respect to management or control of Fund assets) may be allocated among the fiduciaries (if there be more than one) to whom such duties, powers and responsibilities have been delegated, so long as such allocation is pursuant to action of the Employer or by written agreement executed by the involved fiduciaries and approved by the Employer, in which case, except as otherwise may be required by applicable law, no such fiduciary shall have any liability, with respect to any duties, powers or responsibilities not allocated to him, for the acts or omissions of any other fiduciary. Any person may serve in more than one fiduciary capacity under the Plan, including those of Administrator and Trustee.

(b) The Administrator may appoint any persons or firms, or otherwise act to secure specialized advice or assistance, as it deems necessary or desirable in connection with the administration and operation of the Plan; the Administrator shall be entitled to rely conclusively upon, and shall be fully protected in any action or omission taken by it in good faith reliance upon, the advice or opinion of such firms or persons. The Administrator shall have the power and authority to delegate from time to time by written instrument all or any part of its duties, powers or responsibilities under the Plan, both ministerial and discretionary, as it deems appropriate, to any person, and in the same manner to revoke any such delegation of duties, powers or responsibilities. Any action of such person in the exercise of such delegated duties, powers or responsibilities shall have the same force and effect for all purposes hereunder as if such action had been taken by the Administrator. Further, the Administrator may authorize one or more persons to execute any certificate or document on behalf of the Administrator, in which event any person notified by the Administrator of such authorization shall be entitled to accept and conclusively rely upon any such certificate or document executed by such person as representing action by the Administrator until such third person shall have been notified of the revocation of such authority. The Administrator shall not be liable for any act or omission of any person to whom the Administrator's duties, powers or responsibilities have been delegated, nor shall any person to whom any duties, powers or responsibilities have been delegated have any liabilities with respect to any duties, powers or responsibilities not delegated to him, except to the extent required by applicable law.

(c) All representatives of the Employer, and/or members of the Retirement Plan Committee if one be appointed, must use ordinary care and diligence in the performance of their duties pertaining to the Plan, but, except to the extent required by applicable law, no such individual shall incur any liability: (i) by virtue of any contract, agreement, bond or

other instrument made or executed by him or on his behalf in his official capacity with respect to the Plan, (ii) for any act or failure to act, or any mistake or judgment made, in his official capacity with respect to the Plan, unless resulting from his gross negligence or willful misconduct, or (iii) for the neglect, omission or wrongdoing of any other person involved with the Plan. The Employer shall indemnify and hold harmless each such individual from the effects and consequences of his acts, omissions and conduct in his official capacity with respect to the Plan, except to the extent that such effects and consequences shall result from his own willful misconduct or gross negligence. If any matter arises as to which an individual is entitled to indemnity hereunder, the indemnitee shall give the Employer prompt written notice thereof. The Employer, at its own expense, shall then take charge of the disposition of the asserted liability, including compromise or the conduct of litigation. The indemnitee may, at his own expense, retain his own counsel and share in the conduct of any such litigation, but the failure to do so shall not adversely affect his right to indemnity.

(d) The Plan may purchase, as an expense of the Plan, liability insurance for the Plan and/or for its fiduciaries to cover liability or losses occurring by reason of an act or omission of a fiduciary, provided such insurance contract permits recourse by the insurer against the fiduciary in the case of breach of fiduciary obligation by such fiduciary. Any fiduciary may purchase, from and for his own account, insurance to protect himself in the event of a breach of fiduciary duty and the Employer may also purchase insurance to cover the potential liability of one or more persons who serve in a fiduciary capacity with regard to the Plan.

(e) Nothing in the Plan shall be construed so as to prevent any fiduciary from: (i) receiving any benefit to which he may be entitled as a Participant or Beneficiary, or (ii) receiving any reasonable compensation for services rendered, or for the reimbursement of expenses properly incurred in the performance of his duties under the Plan (except that no person so serving who receives compensation as an Employee shall receive compensation from the Plan, except for reimbursement of expenses properly incurred), or (iii) serving as a fiduciary in addition to being an officer, employee, agent, or other representative of the Employer or any related entity.

**12.3 Retirement Plan Committee.** The Employer shall have the right to designate and appoint a committee, to be known as the Retirement Plan Committee, as Administrator. Except to the extent that the Employer has retained any power or authority, or allocated duties and responsibilities to another administrator or other fiduciary, said Committee shall have full power and authority to administer and operate the Plan in accordance with its terms and, in acting pursuant thereto, shall have full power and authority to deal with all persons in any matter directly connected with the Plan, including, but not limited to, the Trustees, other fiduciaries, insurance companies, investment advisors, other advisors and

specialists, Participants, Beneficiaries and their representatives, in accordance with the following provisions:

(a) The Committee shall consist of one or more individuals designated by the Employer. Subject to his right to resign at any time, each member of the Committee shall serve (without compensation, unless otherwise determined by the Employer) at the pleasure of the Employer, and the Employer may appoint, and may revoke the appointment of, additional members to serve with the Committee as may be determined to be necessary or desirable from time to time. Each member of the Committee, by accepting his appointment to the Committee, shall thereby be deemed to have accepted all of the duties and responsibilities of such appointment, and to have agreed to the faithful performance of his duties thereunder.

(b) The Committee shall adopt such formal organization and method of operation as it shall deem desirable for the conduct of its affairs. The Committee shall act as a body, and the individual members of the Committee shall have no powers and duties as such, except as provided herein; the Committee shall act by vote of a majority of its members at the time in office, either at a meeting or in writing without a meeting.

(c) Except as set forth in Section 12.9, the determination of the Committee on any matter pertaining to the Plan within the powers and discretion granted to it shall be final and conclusive on the Employer, the Trustees, all Participants and Beneficiaries and all those persons dealing in any way or capacity with the Plan.

**12.4 Mutual Exclusion of Responsibility.** Neither the Trustees nor the Employer shall be obliged to inquire into or be responsible for any act or failure to act, or the authority therefor, on the part of the other.

**12.5 Uniformity of Discretionary Acts.** Whenever in the administration or operation of the Plan discretionary actions by the Employer, the Administrator or the Trustees are required or permitted, such action shall be consistently and uniformly applied to all persons similarly situated, and no such action shall be taken which shall discriminate in favor of "highly compensated employees" as defined in Section 5.3.

**12.6 Fiduciary Standards.** The Administrator, Trustees and all other persons in any fiduciary capacity with respect to the Plan shall discharge their duties with respect to the Plan:

(a) solely in the interest of the Participants and Beneficiaries and for the exclusive purposes of providing benefits to Participants and their Beneficiaries and defraying reasonable expenses of administering and operating the Plan,

(b) with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims,

(c) with respect to fiduciaries charged with management and control over Trust assets by diversifying the investments of the Trust so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so, and

(d) in accordance with the documents and instruments governing the Plan to the extent consistent with the provisions of applicable law.

The provisions of this Section are set forth solely to reflect the relevant provisions of applicable law, and shall not create any obligations or standards in addition to or in substitution of those set forth in applicable law.

**12.7 Litigation.** In any action or judicial proceeding affecting the Plan and/or the Trust, it shall be necessary to join as parties only the Trustees and the Employer. Except as may be otherwise required by law, no Participant or Beneficiary shall be entitled to any notice or service of process, and any final judgment entered in such action shall be binding on all persons interested in, or claiming under, the Plan.

**12.8 Payment of Administration Expenses.** Expenses incurred in the administration and operation of the Plan shall be paid by the Trustees out of the Fund unless the Employer, in its discretion, elects to pay them.

**12.9 Claims for Benefits.** Any claim for benefits under this Plan by a Participant or Beneficiary shall be made in accordance with procedures adopted by the Administrator.

**ARTICLE XIII**  
**PROHIBITION AGAINST ALIENATION**

**13.1 Definitions.** Unless the context otherwise indicates, the following terms shall have the following meanings whenever used in this Article:

**Alternate Payee:** Any spouse, former spouse, child or other dependent of a Participant who is recognized by a domestic relations order as having a right to receive all, or a portion of, the Accounts attributable to such Participant.

**Domestic Relations Order:** With respect to any Participant, any judgment, decree or order (including approval of a property settlement agreement) which both

(a) relates to the provision of child support, alimony payments or marital property rights to a spouse, former spouse, child or other dependent of the Participant; and

(b) is made pursuant to a State domestic relations law (including a community property law).

**Qualified Domestic Relations Order:** A Domestic Relations Order which satisfies the requirements of Section 414(p)(1)(A) of the Code.

**13.2 General Prohibition on Alienation.** Except as provided in Sections 13.3 and 13.4, neither any property nor any interest in any property held for the benefit of any Participant, Former Participant, or Beneficiary shall be alienated, disposed of or in any manner encumbered, voluntarily, involuntarily or by operation of law, while in the possession or control of the Trustees except by an act of the Trustees or the Participant, Former Participant or Beneficiary specifically authorized hereunder. Any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, charge or otherwise dispose of any rights to benefits payable hereunder shall be void.

**13.3 Arrangements Not Considered Alienation.** Section 13.2 shall not be deemed to prohibit or preclude the Trustees or Administrator from honoring:

(a) the enforcement of a federal tax levy made pursuant to Section 6331 of the Code,

(b) the collection by the government of the United States on a judgment resulting from an unpaid tax assessment,

(c) any arrangement for the withholding of federal, state or local taxes from distributions,

(d) any arrangements for the recovery by the Plan of overpayments of distributions previously made to a Participant, Former Participant or Beneficiary,

(e) any arrangements for the transfer of the Accounts of a Participant to another plan pursuant to Section 14.2, and

(f) any arrangement for the direct deposit of distribution payments to an account established by the Participant or Beneficiary in a banking institution, provided the arrangement is not part of an arrangement constituting an assignment or alienation.

(g) in the event a judgment or settlement is entered into on or after August 5, 1997, against a Participant for certain Participant crimes involving violations of the Employee Retirement Income Security Act of 1974, any arrangement to offset any such judgment or settlement against the Participant's benefits under the Plan.

**13.4 Right to Benefits by Alternate Payee.** Section 13.2 shall not be deemed to prohibit the creation, assignment or recognition of a right to any benefit under the Plan payable in respect of a Participant to an Alternate Payee pursuant to a Qualified Domestic Relations Order.

**13.5 Notification of Parties and Determination Whether Qualified.** In the event the Plan is served with a Domestic Relations Order, the Administrator must promptly notify the concerned Participant and any concerned Alternate Payee of the receipt of the Domestic Relations Order and the Plan's procedures for determining whether a Domestic Relations Order is a Qualified Domestic Relations Order. Within a reasonable time after receipt of the Domestic Relations Order, the Administrator shall determine whether the Domestic Relations Order is a Qualified Domestic Relations Order and must notify the Participant and any concerned Alternate Payee of its determination.

**13.6 Interim Procedures.** During any period in which the issue of whether a Domestic Relations Order is a Qualified Domestic Relations Order is being determined (whether by the Administrator, a court of competent jurisdiction or otherwise), the Administrator will credit to a new separate account under the Plan, as of the Valuation Date following receipt of the Domestic Relations Order, the amounts which would have been credited to the segregated account of an Alternate Payee if the order had been determined to be a qualified Domestic Relations Order, and will debit the appropriate Accounts of the Participant with respect to whom the Domestic Relations Order was issued for these amounts. If, within 18 months after the Plan is served with the Domestic Relations Order,

the Domestic Relations Order (or a modification thereof) is determined to be a Qualified Domestic Relations Order, the Administrator shall hold and dispose of the amounts credited to the segregated account established with respect to the Domestic Relations Order as provided by the Qualified Domestic Relations Order. If within 18 months after the Plan is served with a Domestic Relations Order, it is determined that the Domestic Relations Order is not a Qualified Domestic Relations Order or the issue is not resolved, the Administrator must transfer the amounts credited to the segregated account to the appropriate Accounts maintained for the benefit of the person who would have been entitled to these amounts as though the Plan had never been served with such Domestic Relations Order. Any determination that a Domestic Relations Order is a Qualified Domestic Relations Order which is made after the end of the 18 month period after the Plan was served with the Domestic Relations Order shall be applied prospectively only.

**13.7 Investment of Segregated Account.** The amounts credited to any new segregated account which has been created under Section 13.6 above after the Plan is served with a Domestic Relations Order shall be invested as the Administrator directs until the Administrator determines whether the Domestic Relations Order is a Qualified Domestic Relations Order.

**13.8 Review Procedures.** Any Participant or Alternate Payee who is affected by a Domestic Relations Order served upon the Plan may request a review by the Administrator of its determination with respect to the qualification or lack of qualification of the Domestic Relations Order upon written notice to the Administrator. Any such review by the Administrator shall be subject to the rules and procedures set forth in Article XII.

**13.9 Status of Alternate Payee.** Any Alternate Payee who is entitled to receive amounts from the Plan pursuant to a Qualified Domestic Relations Order shall have the rights specified in the Qualified Domestic Relations Order.

**ARTICLE XIV**  
**ROLLOVERS AND TRANSFERS INVOLVING OTHER**  
**QUALIFIED RETIREMENT PLANS**

**14.1 Rollovers From Other Tax Qualified Plans.** In the event that:

(a) any Covered Employee of the Employer was, prior to his becoming a Covered Employee of the Employer, a participant under another qualified retirement plan which met the requirements of Section 401(a) of the Code; and

(b) either:

(i) the custodian or trustee of the assets of an individual retirement account established under Section 408 of the Code to hold the assets distributed to the participant from the plan; or

(ii) the Covered Employee who holds cash assets distributed to him during the preceding 60 days from a plan described in (a) above or from an individual retirement account described in paragraph (i) above; shall agree to transfer the assets to the Trustees hereunder; and

(c) the assets to be so transferred shall not be made available to the Covered Employee in the course of the transfer except to the extent permitted by paragraph (b)(ii) above; and

(d) the assets to be so transferred do not include contributions that would be Roth Employee Contributions pursuant to this Plan; and

(e) Administrator consents to the transfer;

then the Trustees shall accept such transferred assets and hold and administer them pursuant to the terms and provisions of this Plan and this Article.

Upon the receipt of these assets, the Trustees will appropriately credit the amount to a Rollover Account established for the Covered Employee on whose behalf the assets were transferred. Notwithstanding the July 1, 1996 effective date of this Plan, as amended and restated, this Section 14.1 shall be effective as of July 1, 1993.

The Plan will also accept Participant rollover contributions and/or direct rollovers of distributions from the following types of plans:

(e) A qualified plan described in Section 401(a) or 403(a) of the Code, excluding after-tax employee contributions.

(f) An annuity contract described in Section 403(b) of the Code, excluding after-tax employee contributions,

(g) An eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state.

The Plan will not accept a Participant rollover contribution of the portion of a distribution from an individual retirement account or annuity described in Section 408(a) or 408(b) of the Code, except as described in subsection 14.1(b) above.

The Plan's acceptance of a rollover contribution shall be subject to such documentation as the Administrator may reasonably require.

**14.2 Transfer To Another Qualified Retirement Plan.** In the event that:

(a) any Participant terminates Service and subsequently becomes a participant under the qualified retirement plan of another employer, which plan satisfies the requirements of Section 401 of the Code;

(b) the Former Participant has amounts credited to an account held for him under the Plan which have not been distributed but which are distributable to him;

(c) either, the custodian or trustee of the assets of the other plan may apply to the Trustees for transfer to it of assets held pursuant to this Plan representing the Former Participant's Accounts, or the other plan provides for the receipt of assets transferred to it from other qualified retirement plans;

(d) the assets to be transferred must not be made available to the Participant in the course of the transfer except to the extent permitted by Section 402(c) of the Code; and

(e) the Administrator consents to the transfer;

then the Trustees agree to transfer to the applying trustee an amount equal to the Participant's Vested Interest on the date of transfer.

**ARTICLE XV**  
**AMENDMENT AND TERMINATION**

**15.1 Power to Amend and Terminate Plan.** This Plan may be modified, altered, amended, changed or terminated by action of the Employer, but no rights of Participants, Former Participants or Beneficiaries receiving benefits under this Plan and no other vested rights under this Plan may in any way be modified unless such a modification is necessary to establish or to continue the qualified status of this Plan under Section 401 of the Code. This Plan may be modified and amended retroactively, if necessary. After any amendment is adopted, a copy must be furnished to the Trustees.

**15.2 Termination of Plan.** Upon termination of this Plan, all assets of the Fund held on behalf of Participants after deduction therefrom of any accrued expenses and fees of the Trustees and any expenses and fees relating to the termination incurred or to be incurred by the Trustees, shall be allocated among the then existing Accounts of Participants. Each Account shall be allocated that portion of assets of the Fund which bears the same relationship to the total of the assets as the amount then standing credited to his Account bears to the total amounts then standing credited to all Accounts of all Participants. All amounts allocated to the Accounts of Participants at the time of termination of this Plan will be fully vested and nonforfeitable. The amounts thus allocated shall be forthwith distributed to the Participant for whose benefit the Accounts were established if he is living on the date of termination, or if he shall have died before distribution, to his designated Beneficiary, or in the event that his designation of Beneficiary shall not provide for complete distribution of such amounts or no designation of beneficiary shall be on file with the Trustees, in accordance with the provisions of Section 10.4.

**15.3 Partial Termination of Plan or Complete Discontinuance of Contributions.** Upon the partial termination of this Plan or upon complete discontinuance of contributions to this Plan by the Employer, all amounts allocated at the time of such partial termination or complete discontinuance to the Accounts of Participants affected by the partial termination or complete discontinuance shall be fully vested and nonforfeitable. However, after any partial termination or complete discontinuance of contributions, the Trustees shall continue to administer this Plan in the manner in which this Plan was administered before the partial termination and a Participant will only be entitled to receive benefits upon the occurrence of an event which under the terms of this Plan would entitle him to receive the benefits. For purposes of this Section, no event shall be a "partial termination" unless: (i) the Employer has so designated the event in writing delivered to the Trustees; or (ii) the event has been finally and expressly determined to be a partial termination within the meaning of Section 411(d) of the Code, as amended, in an administrative or judicial proceeding to which both the Employer and the Commissioner of Internal Revenue or his delegate were parties.

**ARTICLE XVI**  
**MISCELLANEOUS**

**16.1 Insolvency.** If the Employer at any time is judicially declared bankrupt or insolvent, or in the event of its dissolution, merger or consolidation without any provisions being made for the continuation of this Plan, the Plan shall terminate and the Trustees shall make distributions as provided in Section 15.2.

**16.2 No Employment, Legal or Equitable Right Created.** Neither anything contained herein, nor any contribution made hereunder, nor any other acts done in pursuance of this Plan, shall be construed as entitling any Participant to be continued in the employ of the Employer for any period of time nor as obliging the Employer to keep any Participant in its employ for any period of time, nor shall any Employee nor anyone else have any rights whatsoever, legal or equitable, against the Employer or the Trustees as a result of this Plan except those expressly granted to him hereunder.

**16.3 Prohibition on Reversions.** Notwithstanding Section 8.3 of this Plan, no contribution or payment by the Employer to the Trustees, nor any income of the Fund, shall in any event revert or be credited to or be used for the benefit of the Employer, and all such contributions, payments and income shall be used solely and exclusively for the benefit of the Participants and their Beneficiaries under this Plan, except that the Trustees shall return to the Employer upon written request of the Employer:

(a) any contributions made by the Employer by a mistake of fact, provided the contributions are returned to the Employer within one year after the date the contributions were made;

(b) any contributions made for Plan Years during which this Plan does not initially qualify under Section 401(a) of the Code, provided the contributions are returned to the Employer within one year after the date of denial of qualification; and

(c) any contributions, to the extent that their deduction is disallowed under Section 404 of the Code, provided that such disallowed contributions are returned to the Employer within one year after the disallowance of the deduction.

**16.4 Gender.** Whenever any pronoun is used herein, it shall be construed to include the masculine pronoun, the feminine pronoun or the neuter pronoun as appropriate.

**16.5 Applicable Law.** This Plan shall be construed under and in accordance with the law of the State of Maryland, exclusive of its conflict of laws provisions, to the extent not preempted by federal law.

**16.6 Compliance With Internal Revenue Code.** If the Internal Revenue Service determines that this Plan does not qualify under Section 401(a) of the Code, as amended, or any statute of similar import, or fails or refuses to issue a favorable determination letter with respect thereto, this Plan may be modified and amended retroactively, if necessary, to secure exemption under Section 401(a) of said Code. The provisions of the Prior Plan shall control in effect until this Plan is deemed to qualify.