

# Grayson County

401(a) Defined Contribution Plan





Dear Kelly Cassell,

Thank you for selecting Nationwide as your administrative service provider for Grayson County 401(a) Plan. Your Plan was successfully established on July 1, 2021.

**Plan details**

Plan name: County of Grayson TX 401a Plan

Account number:

**What to expect**

The Plan number indicated above is for reporting and identification purposes. An associate will be reaching out to you shortly to discuss and demonstrate our electronic payroll detail submission process. In addition, we have attached an electronic payment form, which will provide options for sending your contributions to Nationwide.

**NOTE:** Please include this number on all payroll details sent to Nationwide so we may process your contributions in a timely manner.

**We're here to help**

If you have any questions or need additional information, you can contact your Nationwide Retirement Specialist, or contact our service center at 877-496-1630. Our specialists are available Monday through Friday, 8 a.m. to 8 p.m. Eastern time.

Sincerely,

Nationwide Service Center

Retirement Specialists are Registered Representatives of Nationwide Investment Svcs. Corporation, Member FINRA. Nationwide Mutual Insurance Company and Affiliated Companies, Home Office: Columbus, OH 43215-2220.

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NRE-0945AO (02/19)

**Nationwide Financial Services, Inc.**  
**Governmental Defined Contribution Volume Submitter Plan**

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**ARTICLE I  
DEFINITIONS**

As used in this Plan, the following words and phrases shall have the meanings set forth herein unless a different meaning is clearly required by the context:

**1.1 "Account"** means any separate notational account established and maintained by the Administrator for each Participant under the Plan. To the extent applicable, a Participant may have any (or all) of the following notational Accounts:

- (a) "Combined Account" means the account representing the Participant's total interest under the Plan resulting from Employer contributions. In addition, Forfeitures are part of the Combined Account to the extent they are reallocated.
- (b) "Mandatory Contribution Account" means the account established hereunder to which mandatory Employee contributions made pursuant to Section 4.8 are allocated, to the extent such contributions are not picked-up by the Employer pursuant to Code §414(h). A Participant's Mandatory Contribution Account shall be fully Vested at all times.
- (c) "Rollover Account" means the account established hereunder to which amounts transferred from a qualified plan or individual retirement account in accordance with Section 4.6 are allocated.
- (d) "Transfer Account" means the account established hereunder to which amounts transferred to this Plan from a direct plan-to-plan transfer in accordance with Section 4.7 are allocated.
- (e) "Voluntary Contribution Account" means the account established hereunder to which after-tax voluntary Employee contributions made pursuant to Section 4.9 are allocated.

**1.2 "Administrator"** means the Employer unless another person or entity has been designated by the Employer pursuant to Section 2.2 to administer the Plan on behalf of the Employer.

**1.3 "Adoption Agreement"** means the separate agreement which is executed by the Employer and sets forth the elective provisions of this Plan and Trust as specified by the Employer.

**1.4 "Affiliated Employer"** means any entity required to be aggregated with the Employer pursuant to Code §414.

**1.5 "Alternate Payee"** means an alternate payee pursuant to a qualified domestic relations order that meets the requirements of Code §414(p).

**1.6 "Anniversary Date"** means the last day of the Plan Year.

**1.7 "Annuity Starting Date"** means, with respect to any Participant, the first day of the first period for which an amount is paid as an annuity, or, in the case of a benefit not payable in the form of an annuity, the first day on which all events have occurred which entitles the Participant to such benefit.

**1.8 "Beneficiary"** means the person (or entity) to whom all or a portion of a deceased Participant's interest in the Plan is payable, subject to the restrictions of Sections 6.2 and 6.6.

**1.9 "Code"** means the Internal Revenue Code of 1986, as it may be amended from time to time.

**1.10 "Compensation"** means, with respect to any Participant, the amount determined in accordance with the following provisions, except as otherwise provided in the Adoption Agreement.

- (a) **Base definition.** One of the following, as elected in the Adoption Agreement:
  - (1) Information required to be reported under Code §§6041, 6051 and 6052 (Wages, tips and other compensation as reported on Form W-2). Compensation means wages, within the meaning of Code §3401(a), and all other payments of compensation to an Employee by the Employer (in the course of the Employer's trade or business) for which the Employer is required to furnish the Employee a written statement under Code §§6041(d), 6051(a)(3) and 6052. Compensation must be determined without regard to any rules under Code §3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code §3401(a)(2)).
  - (2) Code §3401(a) Wages. Compensation means an Employee's wages within the meaning of Code §3401(a) for the purposes of income tax withholding at the source but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code §3401(a)(2)).

(3) 415 safe harbor compensation. Compensation means wages, salaries, for Plan Years beginning after December 31, 2008, Military Differential Pay, and fees for professional services and other amounts received (without regard to whether or not an amount is paid in cash) for personal services actually rendered in the course of employment with the Employer maintaining the Plan to the extent that the amounts are includible in gross income (including, but not limited to, commissions paid salespersons, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips, bonuses, fringe benefits, and reimbursements, or other expense allowances under a nonaccountable plan (as described in Regulation §1.62-2(c))), and excluding the following:

- (i) 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 excludable from the Employee's gross income, or any distributions from a plan of deferred compensation;
- (ii) Amounts realized from the exercise of a nonqualified stock option, or when restricted stock (or property) held by the Employee either becomes freely transferable or is no longer subject to a substantial risk of forfeiture;
- (iii) Amounts realized from the sale, exchange or other disposition of stock acquired under a qualified stock option; and
- (iv) Other amounts which receive special tax benefits, or contributions made by the Employer (whether or not under a salary deferral agreement) towards the purchase of an annuity contract described in Code §403(b) (whether or not the contributions are actually excludable from the gross income of the Employee).

(b) **Paid during "determination period."** Compensation shall include only that Compensation which is actually paid to the Participant during the "determination period". Except as otherwise provided in this Plan, the "determination period" is the period elected by the Employer in the Adoption Agreement. If the Employer makes no election, the "determination period" shall be the Plan Year.

(c) **Inclusion of deferrals.** Notwithstanding the above, unless otherwise elected in the Adoption Agreement, Compensation shall include all of the following types of elective contributions and all of the following types of deferred compensation:

(1) Elective contributions that are made by the Employer on behalf of a Participant that are not includible in gross income under Code §§125, 132(f)(4), 402(e)(3), 402(h)(1)(B), 402(k) and 403(b). If specified in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections), amounts under Code §125 shall be deemed to include any amounts not available to a Participant in cash in lieu of group health coverage because the Participant is unable to certify that he or she has other health coverage. An amount will be treated as an amount under Code §125 pursuant to the preceding sentence only if the Employer does not request or collect information regarding the Participant's other health coverage as part of the enrollment process for the health plan.

(2) Compensation deferred under an eligible deferred compensation plan within the meaning of Code §457(b).

(3) Employee contributions described in Code §414(h)(2) that are picked-up by the employing unit and thus are treated as Employer contributions.

(d) **Post-severance compensation – Code §415 Regulations.** The Administrator shall adjust Compensation, for Plan Years beginning on or after July 1, 2007 (or such other date as the Employer specifies in the Compensation Section of the Adoption Agreement), for amounts that would otherwise be included in the definition of Compensation but are paid by the later of 2 1/2 months after a Participant's severance from employment with the Employer or the end of the Plan Year that includes the date of the Participant's severance from employment with the Employer, in accordance with the following, as elected in the Compensation Section of the Adoption Agreement. The preceding time period, however, does not apply with respect to payments described in Subsections (4) and (5) below. Any other payment of compensation paid after severance of employment that is not described in the following types of compensation is not considered Compensation, even if payment is made within the time period specified above.

(1) **Regular pay.** Compensation shall include regular pay after severance of employment (to the extent otherwise included in the definition of Compensation) if:

- (i) The payment is regular compensation for services during the Participant's regular working hours, or compensation for services outside the Participant's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments; and
- (ii) The payment would have been paid to the Participant prior to a severance from employment if the Participant had continued in employment with the Employer.

(2) **Leave cash-outs.** Compensation shall include leave cash-outs if those amounts would have been included in the definition of Compensation if they were paid prior to the Participant's severance from employment with the Employer, and the amounts are for unused accrued bona fide sick, vacation, or other leave, but only if the Participant would have been able to use the leave if employment had continued.

(3) **Deferred compensation.** Compensation shall include deferred compensation if those amounts would have been included in the definition of Compensation if they were paid prior to the Participant's severance from employment with the Employer, and the amounts are received pursuant to a nonqualified unfunded deferred compensation plan, but only if the payment would have been paid if the Participant had continued in employment with the Employer and only to the extent the payment is includible in the Participant's gross income.

(4) **Military Differential Pay.** Compensation shall include payments to an individual who does not currently perform services for the Employer by reason of qualified military service (as that term is used in Code §414(u)(1)) to the extent those payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the Employer rather than entering qualified military service.

(5) **Disability pay.** Compensation shall include compensation paid to a Participant who is permanently and totally disabled, as defined in Code §22(e)(3), provided, as elected by the Employer in the Compensation Section of the Adoption Agreement, salary continuation applies to all Participants who are permanently and totally disabled.

(e) **Dollar limitation.** Compensation in excess of \$200,000 shall be disregarded for all. Such amount shall be adjusted by the Commissioner for increases in the cost-of-living in accordance with Code §401(a)(17)(B). The cost-of-living adjustment in effect for a calendar year applies to any "determination period" beginning with or within such calendar year. If a "determination period" consists of fewer than twelve (12) months, the \$200,000 annual Compensation limit will be multiplied by a fraction, the numerator of which is the number of months in the "determination period," and the denominator of which is twelve (12). In applying any Plan limitation on the amount of matching contributions, where such limits are expressed as a percentage of Compensation, the Administrator may apply the Compensation limit under this Section annually, even if the matching contribution formula is applied on any time interval which is less than the full Plan Year or the Administrator may pro rate the Compensation limit.

In the case of an "eligible Participant," the dollar limitation under Code §401(a)(17) shall not apply to the extent the amount under the Plan would be reduced below the amount which was allowed to be taken into account under the Plan as in effect on July 1, 1993. For purposes of this provision, an "eligible Participant" is an individual who first became a Participant before the first Plan Year beginning after the earlier of (i) the Plan Year in which the Plan was amended to reflect Code §401(a)(17), or (ii) December 31, 1995.

(f) **Non-eligible Employee.** If, in the Adoption Agreement, the Employer elects to exclude a class of Employees from the Plan, then Compensation for any Employee who becomes eligible or ceases to be eligible to participate during a "determination period" shall only include Compensation while the Employee is an Eligible Employee.

(g) **Amendment.** If, in connection with the adoption of any amendment, the definition of Compensation has been modified, then, except as otherwise provided herein, for Plan Years prior to the Plan Year which includes the adoption date of such amendment, Compensation means compensation determined pursuant to the terms of the Plan then in effect.

**1.11 "Contract" or "Policy"** means any life insurance policy, retirement income policy, or annuity contract (group or individual) issued by the Insurer. In the event of any conflict between the terms of this Plan and the terms of any contract purchased hereunder, the Plan provisions shall control.

**1.12 "Custodian"** means a person or entity that has custody of all or any portion of the Plan assets.

**1.13 "Directed Trustee"** means a Trustee who, with respect to the investment of Plan assets, is subject to the direction of the Administrator, the Employer, a properly appointed Investment Manager, or Plan Participant. To the extent the Trustee is a Directed Trustee, the Trustee does not have any discretionary authority with respect to the investment of Plan assets. In addition, the Trustee is not responsible for the propriety of any directed investment made pursuant to this Section and shall not be required to consult or advise the Employer regarding the investment quality of any directed investment held under the Plan.

**1.14 "Discretionary Trustee"** means a Trustee who has the authority and discretion to invest, manage or control any portion of the Plan assets.

**1.15 "Early Retirement Date"** means the date specified in the Adoption Agreement on which a Participant has satisfied the requirements specified in the Adoption Agreement (Early Retirement Age). If elected in the Adoption Agreement, a Participant shall become fully Vested upon satisfying such requirements if the Participant is still employed at the Early Retirement Age.

A Participant who severs from employment after satisfying any service requirement but before satisfying the age requirement for Early Retirement Age and who thereafter reaches the age requirement contained herein shall be entitled to receive benefits under this Plan

(other than any accelerated vesting and allocations of Employer contributions) as though the requirements for Early Retirement Age had been satisfied.

**1.16 "Effective Date"** means the date this Plan, including any restatement or amendment of this Plan, is effective. Where the Plan is restated or amended, a reference to Effective Date is the effective date of the restatement or amendment, except where the context indicates a reference to an earlier Effective Date. If any provision of this Plan is retroactively effective, the provisions of this Plan generally control. However, if the provision of this Plan is different from the provision of the Employer's prior plan document and, after the retroactive Effective Date of this Plan, the Employer operated in compliance with the provisions of the prior plan, then the provision of such prior plan is incorporated into this Plan for purposes of determining whether the Employer operated the Plan in compliance with its terms, provided operation in compliance with the terms of the prior plan do not violate any qualification requirements under the Code, Regulations, or other IRS guidance.

The Employer may designate special effective dates for individual provisions under the Plan where provided in the Adoption Agreement or under Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections). If one or more qualified retirement plans have been merged into this Plan, the provisions of the merging plan(s) will remain in full force and effect until the effective date of the plan merger(s).

**1.17 "Eligible Employee"** means any Eligible Employee as elected in the Adoption Agreement and as provided herein. An individual shall not be an Eligible Employee if such individual is not reported on the payroll records of the Employer as a common law employee. In particular, it is expressly intended that individuals not treated as common law employees by the Employer on its payroll records and out-sourced workers, are not Eligible Employees and are excluded from Plan participation even if a court or administrative agency determines that such individuals are common law employees and not independent contractors. Furthermore, Employees of an Affiliated Employer will not be treated as Eligible Employees prior to the date the Affiliated Employer adopts the Plan as a Participating Employer.

If, in the Adoption Agreement, the Employer elects to exclude union employees, then Employees whose employment is governed by a collective bargaining agreement between the Employer and "employee representatives" under which retirement benefits were the subject of good faith bargaining, shall not be eligible to participate in this Plan to the extent of employment covered by such agreement, unless the agreement provides for coverage in the Plan (see Section 4.1(d)). For this purpose, the term "employee representatives" does not include any organization more than half of whose members are employees who are owners, officers, or executives of the Employer. If a Participant performs services both as a collectively bargained Employee and as a non-collectively bargained Employee, then the Participant's Hours of Service in each respective category are treated separately.

If, in the Adoption Agreement, the Employer elects to exclude nonresident aliens, then Employees who are nonresident aliens (within the meaning of Code §7701(b)(1)(B)) who received no earned income (within the meaning of Code §911(d)(2)) from the Employer which constitutes income from sources within the United States (within the meaning of Code §861(a)(3)) shall not be eligible to participate in this Plan. In addition, this paragraph shall also apply to exclude from participation in the Plan an Employee who is a nonresident alien (within the meaning of Code §7701(b)(1)(B)) but who receives earned income (within the meaning of Code §911(d)(2)) from the Employer that constitutes income from sources within the United States (within the meaning of Code §861(a)(3)), if all of the Employee's earned income from the Employer from sources within the United States is exempt from United States income tax under an applicable income tax convention. The preceding sentence will apply only if all Employees described in the preceding sentence are excluded from the Plan.

If, in the Adoption Agreement, the Employer elects to exclude Part-Time/Temporary/Seasonal Employees, then notwithstanding any such exclusion, if any such excluded Employee actually completes or completed a Year of Service, then such Employee will cease to be within this particular excluded class.

**1.18 "Employee"** means any person who is employed by the Employer. The term "Employee" shall also include any person who is an employee of an Affiliated Employer and any Leased Employee deemed to be an Employee as provided in Code §414(n) or (o).

**1.19 "Employer"** means the governmental entity specified in the Adoption Agreement, any successor which shall maintain this Plan and any predecessor which has maintained this Plan. In addition, unless the context means otherwise, the term "Employer" shall include any Participating Employer which shall adopt this Plan. This plan may only be adopted by a state or local governmental entity, or agency thereof, including an Indian tribal government, and may not be adopted by any other entity, including a federal government and any agency or instrumentality thereof.

**1.20 "Fiscal Year"** means the Employer's accounting year.

**1.21 "Forfeiture"** means that portion of a Participant's Account that is not Vested and is disposed of in accordance with the provisions of the Plan.

A Forfeiture will occur on the earlier of:

- (a) The last day of the Plan Year in which a Participant incurs five (5) consecutive 1-Year Breaks in Service, or
- (b) The distribution of the entire Vested portion of the Participant's Account of a Participant who has severed employment with the Employer. For purposes of this provision, if the Participant has a Vested benefit of zero, then such Participant shall be deemed to

have received a distribution of such Vested benefit as of the year in which the severance of employment occurs. For this purpose, a Participant's Vested benefit shall not include: (i) qualified voluntary employee contributions within the meaning of Code §72(o)(5)(B), and (ii) the Participant's Rollover Account.

Regardless of the preceding, if a Participant is eligible to share in the allocation of Forfeitures in the year in which the Forfeiture would otherwise occur, then the Forfeiture will not occur until the end of the first Plan Year for which the Participant is not eligible to share in the allocation of Forfeitures. Furthermore, the term "Forfeiture" shall also include amounts deemed to be Forfeitures pursuant to any other provision of this Plan.

**1.22 "Former Employee"** means an individual who has severed employment with the Employer or an Affiliated Employer.

**1.23 "415 Compensation"** means, with respect to any Participant, such Participant's (a) Wages, tips and other compensation on Form W-2, (b) Code §3401(a) wages or (c) 415 safe harbor compensation as elected in the Adoption Agreement for purposes of Compensation (and as defined in Subsections 1.18(a)(1)-3 respectively). 415 Compensation shall be based on the full Limitation Year regardless of when participation in the Plan commences. Furthermore, regardless of any election made in the Adoption Agreement, 415 Compensation shall include any elective deferral (as defined in Code §§402(e)(3), 402(k) and 402(h)(1)(B)) and any amount which is contributed or deferred by the Employer at the election of the Participant and which is not includible in the gross income of the Participant by reason of Code §§125, 457, and 132(f)(4). In addition, for years beginning after December 31, 2008 Military Differential Pay is treated as 415 Compensation.

(a) **Deemed 125 compensation.** If elected in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections), amounts under Code §125 shall be deemed to include any amounts not available to a Participant in cash in lieu of group health coverage because the Participant is unable to certify that he or she has other health coverage. An amount will be treated as an amount under Code §125 pursuant to the preceding sentence only if the Employer does not request or collect information regarding the Participant's other health coverage as part of the enrollment process for the health plan.

(b) **Post-severance compensation.** The Administrator shall adjust 415 Compensation, for Limitation Years beginning on or after July 1, 2007, or such earlier date as the Employer specifies in the Compensation Section of the Adoption Agreement, for amounts that would otherwise be included in the definition of 415 Compensation but are paid by the later of 2 1/2 months after a Participant's severance from employment with the Employer or the end of the Limitation Year that includes the date of the Participant's severance from employment with the Employer, in accordance with the following, as elected in the Compensation Section of the Adoption Agreement. The preceding time period, however, does not apply with respect to payments described in Subsections (4) and (5) below. Any other payment of compensation paid after severance of employment that is not described in the following types of compensation is not considered 415 Compensation, even if payment is made within the time period specified above.

(1) **Regular pay.** 415 Compensation shall include regular pay after severance of employment (to the extent otherwise included in the definition of 415 Compensation) if:

- (i) The payment is regular compensation for services during the Participant's regular working hours, or compensation for services outside the Participant's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments; and
- (ii) The payment would have been paid to the Participant prior to a severance from employment if the Participant had continued in employment with the Employer.

(2) **Leave cash-outs.** 415 Compensation shall include leave cash-outs if those amounts would have been included in the definition of 415 Compensation if they were paid prior to the Participant's severance from employment with the Employer, and the amounts are for unused accrued bona fide sick, vacation, or other leave, but only if the Participant would have been able to use the leave if employment had continued.

(3) **Deferred compensation.** 415 Compensation shall include deferred compensation if those amounts would have been included in the definition of 415 Compensation if they were paid prior to the Participant's severance from employment with the Employer, and the amounts are received pursuant to a nonqualified unfunded deferred compensation plan, but only if the payment would have been paid if the Participant had continued in employment with the Employer and only to the extent the payment is includible in the Participant's gross income.

(4) **Military Differential Pay.** 415 Compensation shall include payments to an individual who does not currently perform services for the Employer by reason of qualified military service (as that term is used in Code §414(u)(1)) to the extent those payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the Employer rather than entering qualified military service.

(5) **Disability pay.** 415 Compensation shall include compensation paid to a Participant who is permanently and totally disabled, as defined in Code §22(e)(3), provided, as elected by the Employer in the Compensation Section of the Adoption Agreement, salary continuation applies to all Participants who are permanently and totally disabled for a fixed or determinable

period, or the Participant was not a highly compensated employee (within the meaning of Code §414(q)) immediately before becoming disabled.

(c) **Inclusion of certain nonqualified deferred compensation amounts.** If this is a PPA restatement and prior to the restatement Compensation included all items includible in compensation under Regulation §1.415(c)-2(b) (Regulation §1.415-2(d)(2) under the Regulations in effect for Limitation Years beginning prior to July 1, 2007) then 415 Compensation for Limitation Years prior to the adoption of this restatement shall include amounts that are includible in the gross income of a Participant under the rules of Code §409A or Code §457(f)(1)(A) or because the amounts are constructively received by the Participant. For Plan Years beginning on and after the Plan Year in which this restatement is adopted, the Plan does not provide for a definition of 415 Compensation including all items in Regulation §1.415(c)-2(b).

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

(e) **Dollar limitation.** 415 Compensation will be limited to the same dollar limitations set forth in Section 1.10(e) adjusted in such manner as permitted under Code §415(d).

(f) **Amendment.** Except as otherwise provided herein, if, in connection with the adoption of any amendment, the definition of 415 Compensation has been modified, then for Plan Years prior to the Plan Year which includes the adoption date of such amendment, 415 Compensation means compensation determined pursuant to the terms of the Plan then in effect.

**1.24 "Hour of Service"** means (a) each hour for which an Employee is directly or indirectly compensated or entitled to Compensation by the Employer for the performance of duties during the applicable computation period (these hours will be credited to the Employee for the computation period in which the duties are performed); (b) each hour for which an Employee is directly or indirectly compensated or entitled to Compensation by the Employer (irrespective of whether the employment relationship has terminated) for reasons other than performance of duties (such as vacation, holidays, sickness, incapacity (including disability), jury duty, lay-off, military duty or leave of absence) during the applicable computation period; (c) each hour for which back pay is awarded or agreed to by the Employer without regard to mitigation of damages (these hours will be credited to the Employee for the computation period or periods to which the award or agreement pertains rather than the computation period in which the award, agreement or payment is made). The same Hours of Service shall not be credited both under (a) or (b), as the case may be, and under (c).

Notwithstanding (b) above, (1) no more than 501 Hours of Service will be credited to an Employee on account of any single continuous period during which the Employee performs no duties (whether or not such period occurs in a single computation period); (2) an hour for which an Employee is directly or indirectly paid, or entitled to payment, on account of a period during which no duties are performed is not required to be credited to the Employee if such payment is made or due under a plan maintained solely for the purpose of complying with applicable workers' compensation, or unemployment compensation or disability insurance laws; and (3) Hours of Service are not required to be credited for a payment which solely reimburses an Employee for medical or medically related expenses incurred by the Employee. Furthermore, for purposes of (b) above, a payment shall be deemed to be made by or due from the Employer regardless of whether such payment is made by or due from the Employer directly, or indirectly through, among others, a trust fund, or insurer, to which the Employer contributes or pays premiums and regardless of whether contributions made or due to the trust fund, insurer, or other entity are for the benefit of particular Employees or are on behalf of a group of Employees in the aggregate.

Hours of Service will be credited for employment with all Affiliated Employers and for any individual considered to be a Leased Employee pursuant to Code §414(n) or 414(o) and the Regulations thereunder.

Hours of Service will be determined using the actual hours method unless one of the methods below is elected in the Adoption Agreement. If the **actual hours** method is used to determine Hours of Service, an Employee is credited with the actual Hours of Service the Employee completes with the Employer or the number of Hours of Service for which the Employee is paid (or entitled to payment).

If the **days worked** method is elected, an Employee will be credited with ten (10) Hours of Service if under the Plan such Employee would be credited with at least one (1) Hour of Service during the day.

If the **weeks worked** method is elected, an Employee will be credited with forty-five (45) Hours of Service if under the Plan such Employee would be credited with at least one (1) Hour of Service during the week.

If the **semi-monthly payroll periods worked** method is elected, an Employee will be credited with ninety-five (95) Hours of Service if under the Plan such Employee would be credited with at least one (1) Hour of Service during the semi-monthly payroll period.

If the **months worked** method is elected, an Employee will be credited with one hundred ninety (190) Hours of Service if under the Plan such Employee would be credited with at least one (1) Hour of Service during the month.



If the **bi-weekly payroll periods worked** method is elected, an Employee will be credited with ninety (90) Hours of Service if under the Plan such Employee would be credited with at least one (1) Hour of Service during the bi-weekly payroll period.

**1.25 "Insurer"** means any legal reserve insurance company which has issued or shall issue one or more Contracts or Policies under the Plan.

**1.26 "Investment Manager"** means a person or entity which renders investment advice for a fee or other compensation, direct or indirect, with respect to any monies or property of the Plan and which is appointed in accordance with Section 2.1(b).

**1.27 "Late Retirement Date"** means the date of, or the first day of the month or the Anniversary Date coinciding with or next following, whichever corresponds to the election in the Adoption Agreement for the Normal Retirement Date, a Participant's actual retirement after having reached the Normal Retirement Date.

**1.28 "Leased Employee"** means any person (other than an Employee of the recipient Employer) who, pursuant to an agreement between the recipient Employer and any other person or entity ("leasing organization"), has performed services for the recipient (or for the recipient and related persons determined in accordance with Code §414(n)(6)) on a substantially full time basis for a period of at least one year, and such services are performed under primary direction or control by the recipient Employer. Contributions or benefits provided a Leased Employee by the leasing organization which are attributable to services performed for the recipient Employer shall be treated as provided by the recipient Employer. Furthermore, Compensation for a Leased Employee shall only include compensation from the leasing organization that is attributable to services performed for the recipient Employer.

A Leased Employee shall not be considered an employee of the recipient Employer if: (a) such employee is covered by a money purchase pension plan providing: (1) a non-integrated employer contribution rate of at least ten percent (10%) of compensation, as defined in Code §415(c)(3), (2) immediate participation, and (3) full and immediate vesting; and (b) leased employees do not constitute more than twenty percent (20%) of the recipient Employer's nonhighly compensated workforce.

**1.29 "Limitation Year"** means the "determination period" used to determine Compensation. However, the Employer may elect a different Limitation Year in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections). All qualified plans maintained by the Employer must use the same Limitation Year. Furthermore, unless there is a change to a new Limitation Year, the Limitation Year will be a twelve (12) consecutive month period. In the case of an initial Limitation Year, the Limitation Year will be the twelve (12) consecutive month period ending on the last day of the period specified in the Adoption Agreement. If the Limitation Year is amended to a different twelve (12) consecutive month period, the new "Limitation Year" must begin on a date within the "Limitation Year" in which the amendment is made. For Limitation Years beginning on and after July 1, 2007, the Limitation Year may only be changed by a Plan amendment. Furthermore, if the Plan is terminated effective as of a date other than the last day of the Plan's Limitation Year, then the Plan is treated as if the Plan had been amended to change its Limitation Year.

**1.30 "Military Differential Pay"** means, for any Plan or Limitation Year beginning after June 30, 2007, any differential wage payments made to an individual that represents an amount which, when added to the individual's military pay, approximates the amount of Compensation that was paid to the individual while working for the Employer. Notwithstanding the preceding sentence, for Compensation "determination periods" beginning after December 31, 2008, an individual receiving a differential wage payment, as defined by Code §3401(h)(2), is treated as an Employee of the Employer making the payment.

**1.31 "Nonelective Contribution"** means the Employer's contributions to the Plan.

**1.32 "Normal Retirement Age"** means the age elected in the Adoption Agreement at which time a Participant's Account shall be nonforfeitable (if the Participant is employed by the Employer on or after that date). For money purchase pension plans, if the employer enforces a mandatory retirement age, then the Normal Retirement Age is the lesser of that mandatory age or the age specified in the Adoption Agreement.

**1.33 "Normal Retirement Date"** means the date elected in the Adoption Agreement.

**1.34 "1-Year Break in Service"** means, if the Hour of Service method is used, the applicable computation period that is used to determine a Year of Service during which an Employee or Former Employee has not completed more than 500 Hours of Service. However, if the Employer selected, in the Service Crediting Method Section of the Adoption Agreement, to define a Year of Service as less than 1,000 Hours of Service, then the 500 Hours of Service in this definition of 1-Year Break in Service shall be proportionately reduced. Further, solely for the purpose of determining whether an Employee has incurred a 1-Year Break in Service, Hours of Service shall be recognized for "authorized leaves of absence" and "maternity and paternity leaves of absence." For this purpose, Hours of Service shall be credited for the computation period in which the absence from work begins, only if credit therefore is necessary to prevent the Employee from incurring a 1-Year Break in Service, or, in any other case, in the immediately following computation period. The Hours of Service credited for a "maternity or paternity leave of absence" shall be those which would normally have been credited but for such absence, or, in any case in which the Administrator is unable to determine such hours normally credited, eight (8) Hours of Service per day. The total Hours of Service required to be credited for a "maternity or paternity leave of absence" shall not exceed the number of Hours of Service needed to prevent the Employee from incurring a 1-Year Break in Service.

"Authorized leave of absence" means an unpaid, temporary cessation from active employment with the Employer pursuant to an established policy, whether occasioned by illness, military service, or any other reason.

A "maternity or paternity leave of absence" means an absence from work for any period by reason of the Employee's pregnancy, birth of the Employee's child, placement of a child with the Employee in connection with the adoption of such child, or any absence for the purpose of caring for such child for a period immediately following such birth or placement.

If the elapsed time method is elected in the Service Crediting Method Section of the Adoption Agreement, then a "1-Year Break in Service" means a twelve (12) consecutive month period beginning on the severance from service date or any anniversary thereof and ending on the next succeeding anniversary of such date; provided, however, that the Employee or Former Employee does not perform an Hour of Service for the Employer during such twelve (12) consecutive month period.

**1.35 "Participant"** means any Employee or Former Employee who has satisfied the requirements of Sections 3.1 and 3.2 and entered the Plan and is eligible to accrue benefits under the Plan. In addition, the term "Participant" also includes any individual who was a Participant (as defined in the preceding sentence) and who must continue to be taken into account under a particular provision of the Plan (e.g., because the individual has an Account balance in the Plan).

**1.36 "Participant Directed Account"** means that portion of a Participant's interest in the Plan with respect to which the Participant has directed the investment in accordance with the Participant Direction Procedures.

**1.37 "Participant Direction Procedures"** means such instructions, guidelines or policies, the terms of which are incorporated herein, as shall be established pursuant to Section 4.10 and observed by the Administrator and applied and provided to Participants who have Participant Directed Accounts.

**1.38 "Participating Employer"** means an Employer which, with the consent of the "lead Employer" adopts the Plan pursuant to Section 10.1 or Article XI. In addition, unless the context means otherwise, the term "Employer" shall include any Participating Employer which shall adopt this Plan.

**1.39 "Period of Service"** means the aggregate of all periods of service commencing with an Employee's first day of employment or reemployment with the Employer or an Affiliated Employer and ending on the first day of a Period of Severance, or for benefit accrual purposes, ending on the severance from service date. The first day of employment or reemployment is the first day the Employee performs an Hour of Service. An Employee who incurs a Period of Severance of twelve (12) months or less will also receive service-spanning credit by treating any such period as a Period of Service for purposes of eligibility and vesting (but not benefit accrual). For purposes of benefit accrual, a Participant's whole year Periods of Service is equal to the sum of all full and partial periods of service, whether or not such service is continuous or contiguous, expressed in the number of whole years represented by such sum. For this purpose, fractional periods of a year will be expressed in terms of days.

Periods of Service with any Affiliated Employer shall be recognized. Furthermore, Periods of Service with any predecessor employer that maintained this Plan shall be recognized. Periods of Service with any other predecessor employer shall be recognized as elected in the Adoption Agreement.

In determining Periods of Service for purposes of vesting under the Plan, Periods of Service will be excluded as elected in the Adoption Agreement and as specified in Section 3.5.

In the event the method of crediting service is amended from the Hour of Service method to the elapsed time method, an Employee will receive credit for a Period of Service consisting of:

- (a) A number of years equal to the number of Years of Service credited to the Employee before the computation period during which the amendment occurs; and
- (b) The greater of (1) the Periods of Service that would be credited to the Employee under the elapsed time method for service during the entire computation period in which the transfer occurs or (2) the service taken into account under the Hour of Service method as of the date of the amendment.

In addition, the Employee will receive credit for service subsequent to the amendment commencing on the day after the last day of the computation period in which the transfer occurs.

**1.40 "Period of Severance"** means a continuous period of time during which an Employee is not employed by the Employer. Such period begins on the date the Employee retires, quits or is discharged, or if earlier, the twelve (12) month anniversary of the date on which the Employee was otherwise first absent from service.

In the case of an individual who is absent from work for "maternity or paternity" reasons, the twelve (12) consecutive month period beginning on the first anniversary of the first day of such absence shall not constitute a one year Period of Severance. For purposes of this paragraph, an absence from work for "maternity or paternity" reasons means an absence (a) by reason of the pregnancy of the individual, (b) by reason of the birth of a child of the individual, (c) by reason of the placement of a child with the individual in connection with the

adoption of such child by such individual, or (d) for purposes of caring for such child for a period beginning immediately following such birth or placement.

**1.41 "Plan"** means this instrument (hereinafter referred to as Nationwide Financial Services, Inc. Governmental Defined Contribution Plan Basic Plan Document #09) and the Adoption Agreement as adopted by the Employer, including all amendments thereto and any appendix which is specifically permitted pursuant to the terms of the Plan.

**1.42 "Plan Year"** means the Plan's accounting year as specified in the Adoption Agreement. Unless there is a Short Plan Year, the Plan Year will be a twelve-consecutive month period.

**1.43 "Qualified Convertible Hours"** means the amount of sick and vacation pay plan hours eligible to be converted into Employer contributions.

**1.44 "Regulation"** means the Income Tax Regulations as promulgated by the Secretary of the Treasury or a delegate of the Secretary of the Treasury, and as amended from time to time.

**1.45 "Retirement Date"** means the date as of which a Participant retires for reasons other than Total and Permanent Disability, regardless of whether such retirement occurs on a Participant's Normal Retirement Date, Early Retirement Date or Late Retirement Date (see Section 6.1).

**1.46 "Short Plan Year"** means, if specified in the Adoption Agreement or as the result of an amendment, a Plan Year of less than a twelve (12) month period. If there is a Short Plan Year, the following rules shall apply in the administration of this Plan. In determining whether an Employee has completed a Year of Service (or Period of Service if the elapsed time method is used) for benefit accrual purposes in the Short Plan Year, the number of the Hours of Service (or months of service if the elapsed time method is used) required shall be proportionately reduced based on the number of days (or months) in the Short Plan Year.

**1.47 "Spouse"** means, a spouse as determined under federal tax law. In addition, with respect to benefits or rights not mandated by law, Spouse also includes a spouse as elected in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections).

**1.48 "Terminated Participant"** means a person who has been a Participant, but whose employment has been terminated with the Employer (including an Affiliated Employer) or applicable Participating Employer, other than by death, Total and Permanent Disability or retirement.

**1.49 "Total and Permanent Disability"** means, unless otherwise specified in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections), the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve (12) months. The disability of a Participant shall be determined by a licensed physician. However, if the condition constitutes total disability under the federal Social Security Acts, the Administrator may rely upon such determination that the Participant is Totally and Permanently Disabled for the purposes of this Plan. The determination shall be applied uniformly to all Participants.

**1.50 "Trustee"** means any person or entity that is named in the Adoption Agreement or has otherwise agreed to serve as Trustee, or any successors thereto. In addition, unless the context means, or the Plan provides, otherwise, the term "Trustee" shall mean the Insurer if the Plan is fully insured.

**1.51 "Trust Fund"** means, if the Plan is funded with a trust, the assets of the Plan and Trust as the same shall exist from time to time.

**1.52 "Valuation Date"** means the date or dates specified in the Adoption Agreement. Regardless of any election to the contrary, for purposes of the determination and allocation of earnings and losses, the Valuation Date shall include the Anniversary Date and may include any other date or dates deemed necessary or appropriate by the Administrator for the valuation of Participants' Accounts during the Plan Year, which may include any day that the Trustee (or Insurer), any transfer agent appointed by the Trustee (or Insurer) or the Employer, or any stock exchange used by such agent, are open for business.

**1.53 "Vested"** means the nonforfeitable portion of any Account maintained on behalf of a Participant.

**1.54 "Year of Service"** means the computation period of twelve (12) consecutive months, herein set forth, and during which an Employee has completed at least 1,000 Hours of Service (unless a different number of Hours of Service is specified in the Adoption Agreement).

For purposes of eligibility for participation, the initial computation period shall begin with the date on which the Employee first performs an Hour of Service (employment commencement date). Unless otherwise elected in the Service Crediting Method Section of the Adoption Agreement, the succeeding computation periods shall begin on the anniversary of the Employee's employment commencement date. However, unless otherwise elected in the Adoption Agreement, if one (1) Year of Service or less is required as a condition of eligibility, then the computation period after the initial computation period shall shift to the current Plan Year which includes the

anniversary of the date on which the Employee first performed an Hour of Service, and subsequent computation periods shall be the Plan Year. If there is a shift to the Plan Year, an Employee who is credited with the number of Hours of Service to be credited with a Year of Service in both the initial eligibility computation period and the first Plan Year which commences prior to the first anniversary of the Employee's initial eligibility computation period will be credited with two (2) Years of Service for purposes of eligibility to participate.

If two (2) (or more) Years of Service are required as a condition of eligibility, a Participant will only have completed two (2) (or more) Years of Service for eligibility purposes upon completing two (2) or more consecutive Years of Service without an intervening 1-Year Break in Service.

For vesting purposes, and all other purposes not specifically addressed in this Section, the computation period shall be the period elected in the Service Crediting Method Section of the Adoption Agreement. If no election is made in the Service Crediting Method Section of the Adoption Agreement, then the computation period shall be the Plan Year.

In determining Years of Service for purposes of vesting under the Plan, Years of Service will be excluded as elected in the Adoption Agreement and as specified in Section 3.5.

Years of Service and 1-Year Breaks in Service for eligibility purposes will be measured on the same eligibility computation period. Years of Service and 1-Year Breaks in Service for vesting purposes will be measured on the same vesting computation period.

Years of Service with any Affiliated Employer shall be recognized. Furthermore, Years of Service with any predecessor employer that maintained this Plan shall be recognized. Years of Service with any other employer shall be recognized as elected in the Adoption Agreement.

In the event the method of crediting service is amended from the elapsed time method to the Hour of Service method, an Employee will receive credit for Years of Service equal to:

- (a) The number of Years of Service equal to the number of 1-year Periods of Service credited to the Employee as of the date of the amendment; and
- (b) In the computation period which includes the date of the amendment, a number of Hours of Service (using the Hours of Service equivalency method, if any, elected in the Adoption Agreement) to any fractional part of a year credited to the Employee under this Section as of the date of the amendment.

## ARTICLE II ADMINISTRATION

### 2.1 POWERS AND RESPONSIBILITIES OF THE EMPLOYER

(a) **Appointment of Trustee (or Insurer) and Administrator.** In addition to the general powers and responsibilities otherwise provided for in this Plan, the Employer shall be empowered to appoint and remove one or more Trustees (or Insurers) and Administrators from time to time as it deems necessary for the proper administration of the Plan to ensure that the Plan is being operated for the exclusive benefit of the Participants and their Beneficiaries in accordance with the terms of the Plan and the Code. The Employer may appoint counsel, specialists, advisers, agents (including any nonfiduciary agent) and other persons as the Employer deems necessary or desirable in connection with the exercise of its fiduciary duties under this Plan. The Employer may compensate such agents or advisers from the assets of the Plan as fiduciary expenses (but not including any business (settlor) expenses of the Employer), to the extent not paid by the Employer.

(b) **Appointment of Investment Manager.** The Employer may appoint, at its option, one or more Investment Managers, investment advisers, or other agents to provide investment direction to the Trustee (or Insurer) with respect to any or all of the Plan assets. Such appointment shall be given by the Employer in writing in a form acceptable to the Trustee (or Insurer) and shall specifically identify the Plan assets with respect to which the Investment Manager or other agent shall have the authority to direct the investment.

### 2.2 DESIGNATION OF ADMINISTRATIVE AUTHORITY

The Employer may appoint one or more Administrators. If the Employer does not appoint an Administrator, the Employer will be the Administrator. Any person, including, but not limited to, the Employees of the Employer, shall be eligible to serve as an Administrator. Any person so appointed shall signify acceptance by filing written acceptance with the Employer. An Administrator may resign by delivering a written resignation to the Employer or be removed by the Employer by delivery of written notice of removal, to take effect at a date specified therein, or upon delivery to the Administrator if no date is specified. Upon the resignation or removal of an Administrator, the Employer may designate in writing a successor to this position.

## 2.3 ALLOCATION AND DELEGATION OF RESPONSIBILITIES

If more than one person is appointed as Administrator, then the responsibilities of each Administrator may be specified by the Employer and accepted in writing by each Administrator. If no such delegation is made by the Employer, then the Administrators may allocate the responsibilities among themselves, in which event the Administrators shall notify the Employer and the Trustee (or Insurer) in writing of such action and specify the responsibilities of each Administrator. The Trustee (or Insurer) thereafter shall accept and rely upon any documents executed by the appropriate Administrator until such time as the Employer or the Administrators file with the Trustee (or Insurer) a written revocation of such designation.

## 2.4 POWERS AND DUTIES OF THE ADMINISTRATOR

The primary responsibility of the Administrator is to administer the Plan for the exclusive benefit of the Participants and their Beneficiaries, subject to the specific terms of the Plan. The Administrator shall administer the Plan in accordance with its terms and shall have the power and discretion to construe the terms of the Plan and determine all questions arising in connection with the administration, interpretation, and application of the Plan. Benefits under this Plan will be paid only if the Administrator decides in its discretion that the applicant is entitled to them. Any such determination by the Administrator shall be conclusive and binding upon all persons. The Administrator may establish procedures, correct any defect, supply any information, or reconcile any inconsistency in such manner and to such extent as shall be deemed necessary or advisable to carry out the purpose of the Plan; provided, however, that any procedure, discretionary act, interpretation or construction shall be done based upon uniform principles consistently applied and shall be consistent with the intent that the Plan continue to be deemed a qualified plan under the terms of Code §401(a). The Administrator shall have all powers necessary or appropriate to accomplish its duties under this Plan.

The Administrator shall be charged with the duties of the general administration of the Plan and the powers necessary to carry out such duties as set forth under the terms of the Plan, including, but not limited to, the following:

- (a) the discretion to determine all questions relating to the eligibility of an Employee to participate or remain a Participant hereunder and to receive benefits under the Plan;
- (b) the authority to review and settle all claims against the Plan, including claims where the settlement amount cannot be calculated or is not calculated in accordance with the Plan's benefit formula. This authority specifically permits the Administrator to settle disputed claims for benefits and any other disputed claims made against the Plan;
- (c) to compute, certify, and direct agents of the Plan respect to the amount and the kind of benefits to which any Participant shall be entitled hereunder;
- (d) to authorize and direct the Trustee (or Insurer) with respect to all discretionary or otherwise directed disbursements from the Trust Fund;
- (e) to maintain all necessary records for the administration of the Plan;
- (f) to interpret the provisions of the Plan and to make and publish such rules for regulation of the Plan that are consistent with the terms hereof;
- (g) to determine the size and type of any Contract to be purchased from any Insurer, and to designate the Insurer from which such Contract shall be purchased;
- (h) to compute and certify to the Employer and to the Trustee (or Insurer) from time to time the sums of money necessary or desirable to be contributed to the Plan;
- (i) to consult with the Employer and agents of the Plan regarding the short and long-term liquidity needs of the Plan;
- (j) to assist Participants regarding their rights, benefits, or elections available under the Plan; and
- (k) to determine the validity of, and take appropriate action with respect to, any "qualified domestic relations order" received by it.

## 2.5 RECORDS AND REPORTS

The Administrator shall keep a record of all actions taken and shall keep all other books of account, records, and other data that may be necessary for proper administration of the Plan and shall be responsible for supplying all information and reports to the Internal Revenue Service, Participants, Beneficiaries and others as required by applicable law.

## 2.6 APPOINTMENT OF ADVISERS

The Administrator may appoint counsel, specialists, advisers, agents (including nonfiduciary agents such as third party administrative services providers and recordkeepers) and other persons as the Administrator deems necessary or desirable in connection

with the administration of this Plan, including but not limited to agents and advisers to assist with the administration and management of the Plan, and thereby to provide, among such other duties as the Administrator may appoint, assistance with maintaining Plan records and the providing of investment information to the Plan's investment fiduciaries and, if applicable, to Plan Participants.

## **2.7 INFORMATION FROM EMPLOYER**

The Employer shall supply full and timely information to the Administrator on all pertinent facts as the Administrator may require in order to perform its functions hereunder and the Administrator shall advise appropriate agents of the Plan of such of the foregoing facts as may be pertinent to the agent's duties to the Plan. The Administrator may rely upon such information as is supplied by the Employer and shall have no duty or responsibility to verify such information.

## **2.8 PAYMENT OF EXPENSES**

All reasonable expenses of administration may be paid out of the Plan assets unless paid by the Employer. Such expenses shall include any expenses incident to the functioning of the Administrator, or any person or persons retained or appointed by any named fiduciary incident to the exercise of their duties under the Plan, including, but not limited to, fees of accountants, counsel, Investment Managers, agents (including nonfiduciary agents such as third party administrative services providers and recordkeepers) appointed for the purpose of assisting the Administrator or Trustee (or Insurer) in carrying out the instructions of Participants as to the directed investment of their Accounts (if permitted) and other specialists and their agents and other costs of administering the Plan. In addition, unless specifically prohibited under statute, regulation or other guidance of general applicability, the Administrator may charge to the Account of an individual Participant a reasonable charge to offset the cost of making a distribution to the Participant, Beneficiary, or Alternate Payee. If liquid assets of the Plan are insufficient to cover the fees of the Trustee (or Insurer) or the Administrator, then Plan assets shall be liquidated to the extent necessary for such fees. In the event any part of the Plan assets becomes subject to tax, all taxes incurred will be paid from the Plan assets. Until paid, the expenses shall constitute a liability of the Trust Fund.

## **2.9 MAJORITY ACTIONS**

Except where there has been an allocation and delegation of administrative authority pursuant to Section 2.3, if there is more than one Administrator, then they shall act by a majority of their number, but may authorize one or more of them to sign all papers on their behalf.

## **2.10 CLAIMS PROCEDURES**

Any person who believes that he or she is entitled to a benefit under the Plan shall file with the Administrator a written notice of claim for such benefit within 45 days of such right accruing or shall forever waive entitlement to such benefit. Within 120 days after its receipt of such written notice of claim, the Administrator shall either grant or deny such claim provided, however, any delay on the part of the Administrator in arriving at a decision shall not adversely affect benefits payable under a granted claim. The Administrator may, however, implement alternative claims procedures in lieu of those provided in this Plan. The implementation of such procedures shall not be considered a Plan amendment that affects an Employer's reliance on this volume submitter plan.

The Administrator and all persons determining or reviewing claims have full discretion to determine benefit claims under the Plan. Any interpretation, determination or other action of such persons shall be subject to review only if it is arbitrary or capricious or otherwise an abuse of discretion. Any review of a final decision or action of the persons reviewing a claim shall be based only on such evidence presented to or considered by such persons at the time they made the decision that is the subject of review.

# **ARTICLE III ELIGIBILITY**

## **3.1 CONDITIONS OF ELIGIBILITY**

An Eligible Employee shall be eligible to participate hereunder on the date such Employee has satisfied the conditions of eligibility, if any, elected in the Adoption Agreement.

## **3.2 EFFECTIVE DATE OF PARTICIPATION**

(a) **General rule.** An Eligible Employee who has satisfied the conditions of eligibility pursuant to Section 3.1 shall become a Participant effective as of the date elected in the Adoption Agreement. Regardless of any election in the Adoption Agreement to the contrary, an Eligible Employee who has satisfied the maximum age (26) and service requirements (one (1) Year (or Period) of Service (or more than one (1) year if full and immediate vesting)) and who is otherwise entitled to participate, will become a Participant no later than the earlier of (1) six (6) months after such requirements are satisfied, or (2) the first day of the first Plan Year after such requirements are satisfied, unless the Employee separates from service before such participation date.

(b) **Rehired Employee.** If an Eligible Employee is not employed on the date determined pursuant to (a) above, but is reemployed before a 1-Year Break in Service has occurred, then such Eligible Employee shall become a Participant on the date of reemployment or, if later, the date that the Employee would have otherwise entered the Plan had the Employee not terminated

employment. If such Employee incurs a 1-Year Break in Service, then eligibility will be determined under the 1-Year Break in Service rules set forth in Section 3.5.

(c) **Recognition of predecessor service.** Unless specifically provided otherwise in the Adoption Agreement, an Eligible Employee who satisfies the Plan's eligibility requirement conditions by reason of recognition of service with a predecessor employer will become a Participant as of the day the Plan credits service with a predecessor employer or, if later, the date the Employee would have otherwise entered the Plan had the service with the predecessor employer been service with the Employer.

(d) **Noneligible to eligible class.** If an Employee, who has satisfied the Plan's eligibility requirements and would otherwise have become a Participant, shall go from a classification of a noneligible Employee to an Eligible Employee, such Employee shall become a Participant on the date such Employee becomes an Eligible Employee or, if later, the date that the Employee would have otherwise entered the Plan had the Employee always been an Eligible Employee.

(e) **Eligible to noneligible class.** If an Employee, who has satisfied the Plan's eligibility requirements and would otherwise become a Participant, shall go from a classification of an Eligible Employee to a noneligible class of Employees, such Employee shall become a Participant in the Plan on the date such Employee again becomes an Eligible Employee, or, if later, the date that the Employee would have otherwise entered the Plan had the Employee always been an Eligible Employee. However, if such Employee incurs a 1-Year Break in Service, eligibility will be determined under the 1-Year Break in Service rules set forth in Section 3.5.

### 3.3 DETERMINATION OF ELIGIBILITY

The Administrator shall determine the eligibility of each Employee for participation in the Plan based upon information furnished by the Employer. Such determination shall be conclusive and binding upon all persons, as long as the same is made pursuant to the Plan.

### 3.4 TERMINATION OF ELIGIBILITY

In the event a Participant shall go from a classification of an Eligible Employee to an ineligible Employee, such Participant shall continue to vest in the Plan for each Year of Service (or Period of Service, if the elapsed time method is used) completed while an ineligible Employee, until such time as the Participant's Account is forfeited or distributed pursuant to the terms of the Plan. Additionally, the Participant's interest in the Plan shall continue to share in the earnings of the Trust Fund in the same manner as Participants.

### 3.5 REHIRED EMPLOYEES AND 1-YEAR BREAKS IN SERVICE

(a) **Rehired Participant/immediate re-entry.** If any Former Employee who had been a Participant is reemployed by the Employer, then the Employee shall become a Participant as of the reemployment date, unless the Employee is not an Eligible Employee, the Employee does not satisfy the eligibility conditions taking into account prior service to the extent such prior service is not disregarded pursuant to Section 3.5(d) below. If such prior service is disregarded, then the rehired Eligible Employee shall be treated as a new hire.

(b) **Rehired Eligible Employee who satisfied eligibility.** If any Eligible Employee had satisfied the Plan's eligibility requirements but, due to a severance of employment, did not become a Participant, then such Eligible Employee shall become a Participant as of the later of (1) the entry date on which he or she would have entered the Plan had there been no severance of employment, or (2) the date of his or her re-employment. Notwithstanding the preceding, if the rehired Eligible Employee's prior service is disregarded pursuant to Section 3.5(d) below, then the rehired Eligible Employee shall be treated as a new hire.

(c) **Rehired Eligible Employee who had not satisfied eligibility.** If any Eligible Employee who had not satisfied the Plan's eligibility requirements is rehired after severance from employment, then such Eligible Employee shall become a Participant in the Plan in accordance with the eligibility requirements set forth in the Adoption Agreement and the Plan. However, in applying any shift in an eligibility computation period, the Eligible Employee is not treated as a new hire unless prior service is disregarded in accordance with Section 3.5(d) below.

(d) **Reemployed after five (5) 1-Year Breaks in Service ("rule of parity" provisions).** If the Employer elects in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections) to apply the "rule of parity" provisions, then if any Employee is reemployed after five (5) 1-Year Breaks in Service has occurred, Years of Service (or Periods of Service if the elapsed time method is being used) shall include Years of Service (or Periods of Service if the elapsed time method is being used) prior to the 5-Year Break in Service subject to the rules set forth below. The Employer may elect in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections) to make the provisions of this paragraph applicable for purposes of eligibility and/or vesting.

(1) In the case of a Former Employee who under the Plan does not have a nonforfeitable right to any interest in the Plan resulting from Employer contributions, Years of Service (or Periods of Service) before a period of 1-Year Breaks in Service will not be taken into account if the number of consecutive 1-Year Breaks in Service equals or exceeds the greater of (i) five (5) or (ii) the aggregate number of pre-break Years of Service (or Periods of Service). Such aggregate number of Years of Service (or Periods of Service) will not include any Years of Service (or Periods of Service) disregarded under the preceding sentence by reason of prior 1-Year Breaks in Service;

(2) A Former Employee who has not had Years of Service (or Periods of Service) before a 1-Year Break in Service disregarded pursuant to (1) above, shall participate in the Plan as of the date of reemployment, or if later, as of the date the Former Employee would otherwise enter the Plan pursuant to Sections 3.1 and 3.2 taking into account all service not disregarded.

(e) **Vesting after five (5) 1-Year Breaks in Service.** If a Participant incurs five (5) consecutive 1-Year Breaks in Service, the Vested portion of such Participant's Account attributable to pre-break service shall not be increased as a result of post-break service. In such case, separate accounts will be maintained as follows:

(1) one account for nonforfeitable benefits attributable to pre-break service; and

(2) one account representing the Participant's Employer-derived Account balance in the Plan attributable to post-break service.

(f) **Waiver of allocation or contribution conditions.** If the Employer elects in the Adoption Agreement to waive allocations or contributions due to retirement (early or normal retirement), then a Participant shall only be entitled to one such waiver. Accordingly, if a Participant retires and allocation or contribution conditions are waived, then the Plan will not waive the allocation or contribution conditions if the Participant is rehired and then retires again.

### 3.6 OMISSION OF ELIGIBLE EMPLOYEE; INCLUSION OF INELIGIBLE EMPLOYEE

If, in any Plan Year, any Employee who should be included as a Participant in the Plan is erroneously omitted and discovery of such omission is not made until after a contribution by the Employer for the year has been made and allocated, or any person who should not have been included as a Participant in the Plan is erroneously included, then the Employer may take corrective actions consistent with, the IRS Employee Plans Compliance Resolution System (i.e., Rev. Proc. 2013-12 or any subsequent guidance).

## ARTICLE IV CONTRIBUTION AND ALLOCATION

### 4.1 FORMULA FOR DETERMINING EMPLOYER'S CONTRIBUTION

(a) **For a Money Purchase Plan.** All contributions made by the Employer will be made in cash. For each Plan Year, the Employer will contribute to the Plan the following:

(1) The amount of any mandatory Employee contributions and after-tax voluntary Employee contributions made by Participants; plus

(2) On behalf of each Participant eligible to share in allocations, for each year of such Participant's participation in this Plan, the Employer will contribute the amount specified in the Adoption Agreement; plus

(3) If elected in the Adoption Agreement, a matching contribution equal to the amount specified in the Adoption Agreement of each Participant eligible to share in the allocations of the matching contribution, which amount shall be deemed an Employer matching contribution.

(b) **For a 401(a) Plan.** For each Plan Year, the Employer will (or may with respect to any discretionary contributions) contribute to the Plan:

(1) The amount of any mandatory Employee contributions and after-tax voluntary Employee contributions; plus

(2) If elected in the Adoption Agreement, a matching contribution equal to the amount specified in the Adoption Agreement of each Participant eligible to share in the allocations of the matching contribution, which amount shall be deemed an Employer matching contribution; plus

(3) If elected in the Adoption Agreement, an Employer contribution equal to a specified contribution or a discretionary amount determined each year by the Employer.

(c) **Frozen Plans.** The Employer may designate that the Plan is a frozen Plan at the Contribution Types Section of the Adoption Agreement. As a frozen Plan, the Employer will not make any Employer contributions with respect to Compensation earned after the date the Plan is frozen. In addition, once a Plan is frozen, no additional Employees shall become Participants.

(d) **Union Employees.** Regardless of any provision in this Plan to the contrary, Employees whose employment is governed by a collective bargaining agreement between the Employer and "employee representatives" under which retirement benefits were the subject of good faith bargaining shall be eligible to participate in this Plan to the extent of employment covered by such agreement provided the agreement provides for coverage in the Plan. The benefits, including but not limited to, contributions, allocations and



vesting, under this Plan shall be those set forth in the collective bargaining agreement, which is hereby incorporated by reference and attached as an addendum to the Adoption Agreement. For this purpose, the term "employee representatives" does not include any organization more than half of whose members are employees who are owners, officers, or executives of the Employer. If a Participant performs services both as a collectively bargained Employee and as a non-collectively bargained Employee, then the Participant's Hours of Service and Compensation in each respective category are treated separately for purposes of the Plan.

(d) **Social Security Replacement Plan.** The Employer may elect under the Adoption Agreement to indicate its intention to qualify this Plan as a Social Security Replacement Plan under Code §3121(b)(7)(F). If the Employer makes the election to qualify the Plan as a Social Security Replacement Plan, the Plan will allocate a minimum contribution amount (Employer and Employee Contributions) of seven and one-half percent (7.5%) of Compensation. The Plan will consider each Participant a member of a retirement system that provides benefits comparable to the benefits he or she would have received under Social Security. In the case of part-time, seasonal and temporary Employees, the benefit will be nonforfeitable.

#### 4.2 TIME OF PAYMENT OF EMPLOYER'S CONTRIBUTION

Unless otherwise provided by contract or law, the Employer may make its contribution to the Plan for a particular Plan Year at such time as the Employer, in its sole discretion, determines. If the Employer makes a contribution for a particular Plan Year after the close of that Plan Year, the Employer will designate to the Administrator the Plan Year for which the Employer is making its contribution.

#### 4.3 ALLOCATION OF CONTRIBUTION, FORFEITURES AND EARNINGS

(a) **Separate accounting.** The Administrator shall establish and maintain an Account in the name of each Participant to which the Administrator shall credit as of each Anniversary Date, or other Valuation Date, all amounts allocated to each such Participant as set forth herein.

(b) **Allocation of contributions.** The Employer shall provide the Administrator with all information required by the Administrator to make a proper allocation of the Employer's contribution, if any, for each Plan Year. Within a reasonable period of time after the date of receipt by the Administrator of such information, the Administrator shall allocate any contributions as follows:

(1) **Money Purchase Pension Plan.** For a Money Purchase Plan:

(i) The Employer's contribution shall be allocated to each Participant's Account in the manner set forth in Section 4.1 herein and as specified in the Adoption Agreement.

(ii) Notwithstanding the preceding provisions, a Participant shall only be eligible to share in the allocations of the Employer's contribution for the year if the Participant is an Eligible Employee at any time during the year and the conditions set forth in the Adoption Agreement are satisfied.

(2) **401(a) Plan.** For a 401(a) Plan (which is a profit sharing plan within the meaning of Code §401(a)):

(i) The Employer's contribution shall be allocated to each Participant's Account in accordance with the allocation method below that corresponds to the elections in the Adoption Agreement. The Employer shall provide the Administrator with all information required by the Administrator to make a proper allocation of the Employer's contribution for each Plan Year. Within a reasonable period of time after the date of receipt by the Administrator of such information, the allocation shall be made in accordance with the provisions below.

(ii) Notwithstanding the preceding provision, a Participant shall only be eligible to share in the allocations of the Employer's contribution for the year if the Participant is an Eligible Employee at any time during the year and the conditions set forth in the Adoption Agreement are satisfied.

(c) **Gains or losses.** Except as otherwise elected in the Adoption Agreement or as provided in Section 4.10 with respect to Participant Directed Accounts, as of each Valuation Date, before allocation of any Employer contributions and Forfeitures, any earnings or losses (net appreciation or net depreciation) of the Trust Fund (exclusive of assets segregated for distribution) shall be allocated in the same proportion that each Participant's nonsegregated accounts bear to the total of all Participants' nonsegregated accounts as of such date. Unless otherwise specified in the Adoption Agreement, the nonsegregated account will be reduced by any distributions made prior to the Valuation Date.

(d) **Contracts.** Participants' Accounts shall be debited for any insurance or annuity premiums paid, if any, and credited with any dividends or interest received on Contracts.

(e) **Forfeitures.** Forfeitures must be disposed of no later than the last day of the Plan Year following the Plan Year in which the Forfeiture occurs. The Employer must direct the Administrator to use Forfeitures to satisfy any contribution that may be required pursuant to Section 6.10 or to pay any Plan expenses. With respect to a Money Purchase Plan, any remaining Forfeitures will be disposed of in accordance with the elections in the Adoption Agreement. With respect to all other plans, the Employer must direct

the Administrator to use any remaining Forfeitures in accordance with any combination of the following methods, including a different method based on the source of such Forfeitures. Forfeitures may be:

- (1) Added to any Employer discretionary contribution and allocated in the same manner
- (2) Used to reduce any Employer contribution
- (3) Added to any Employer matching contribution and allocated as an additional matching contribution
- (4) Allocated to all Participants in the same proportion that each Participant's Compensation for the Plan Year bears to the Compensation of all Participants for such year

If Forfeitures are allocated to Participants (rather than used to reduce Employer contributions) then the Employer must also direct the Administrator as to which Participants are eligible to share in such allocation. The maximum allocation conditions the Employer may require are that Participants complete one (1) Year of Service (or Period of Service) and be employed on the last day of the Plan Year in order to share in the allocation of Forfeitures for such Plan Year.

(f) **Delay in processing transactions.** Notwithstanding anything in this Section to the contrary, all information necessary to properly reflect a given transaction may not be available until after the date specified herein for processing such transaction, in which case the transaction will be reflected when such information is received and processed. Subject to express limits that may be imposed under the Code, the processing of any contribution, distribution or other transaction may be delayed for any legitimate business reason (including, but not limited to, failure of systems or computer programs, failure of the means of the transmission of data, force majeure, the failure of a service provider to timely receive values or prices, and correction for errors or omissions or the errors or omissions of any service provider). The processing date of a transaction will be binding for all purposes of the Plan.

#### 4.4 MAXIMUM ANNUAL ADDITIONS

(a) **Calculation of "annual additions."**

(1) If a Participant does not participate in, and has never participated in another qualified plan maintained by the "employer," or a welfare benefit fund (as defined in Code §419(e)) maintained by the "employer," or an individual medical benefit account (as defined in Code §415(l)(2)) maintained by the "employer," or a simplified employee pension (as defined in Code §408(k)) maintained by the "employer" which provides "annual additions," the amount of "annual additions" which may be credited to the Participant's Accounts for any Limitation Year shall 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 so that the "annual additions" for the Limitation Year will equal the "maximum permissible amount," and any amount in excess of the "maximum permissible amount" which would have been allocated to such Participant may be allocated to other Participants.

(2) Prior to determining the Participant's actual 415 Compensation for the Limitation Year, the "employer" may determine the "maximum permissible amount" for a Participant on the basis of a reasonable estimation of the Participant's 415 Compensation for the Limitation Year, uniformly determined for all Participants similarly situated.

(3) As soon as is administratively feasible after the end of the Limitation Year the "maximum permissible amount" for such Limitation Year shall be determined on the basis of the Participant's actual 415 Compensation for such Limitation Year.

(b) **"Annual additions" if a Participant is in more than one plan.**

(1) Except as provided in Subsection (c) below, this Subsection applies if, in addition to this Plan, a Participant is covered under another "employer" maintained qualified defined contribution plan, welfare benefit fund (as defined in Code §419(e)), individual medical benefit account (as defined in Code §415(l)(2)), or simplified employee pension (as defined in Code §408(k)), which provides "annual additions," during any Limitation Year. The "annual additions" which may be credited to a Participant's Accounts under this Plan for any such Limitation Year shall not exceed the "maximum permissible amount" reduced by the "annual additions" credited to a Participant's Accounts under the other plans and welfare benefit funds, individual medical benefit accounts, and simplified employee pensions for the same Limitation Year. 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 Accounts 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 welfare benefit funds for the Limitation Year will equal the "maximum permissible amount," and any amount in excess of the "maximum permissible amount" which would have been allocated to such Participant may be allocated to other Participants. If the "annual additions" with respect to the Participant under such other defined contribution plans, welfare benefit funds, individual medical benefit accounts and simplified employee pensions in the aggregate are equal to or greater than the

"maximum permissible amount," no amount will be contributed or allocated to the Participant's Account under this Plan for the Limitation Year.

(2) Prior to determining the Participant's actual 415 Compensation for the Limitation Year, the "employer" may determine the "maximum permissible amount" for a Participant on the basis of a reasonable estimation of the Participant's 415 Compensation for the Limitation Year, uniformly determined for all Participants similarly situated.

(3) As soon as is administratively feasible after the end of the Limitation Year, the "maximum permissible amount" for the Limitation Year will be determined on the basis of the Participant's actual 415 Compensation for the Limitation Year.

(4) If, pursuant to Section 4.4(b)(2), a Participant's "annual additions" under this Plan and such other plans would result in an "excess amount" for a Limitation Year, the "excess amount" will be deemed to consist of the "annual additions" last allocated, except that "annual additions" attributable to a simplified employee pension will be deemed to have been allocated first, followed by "annual additions" to a welfare benefit fund or individual medical benefit account, and then by "annual additions" to a plan subject to Code §412, regardless of the actual allocation date.

(5) If an "excess amount" was allocated to a Participant on an allocation date of this Plan which coincides with an allocation date of another plan, the "excess amount" attributed to this Plan will be the product of:

- (i) the total "excess amount" allocated as of such date, times
- (ii) the ratio of (A) the "annual additions" allocated to the Participant for the Limitation Year as of such date under this Plan to (B) the total "annual additions" allocated to the Participant for the Limitation Year as of such date under this and all the other qualified defined contribution plans.

(c) **Coverage under another plan.** If the Participant is covered under another qualified defined contribution plan maintained by the "employer," "annual additions" which may be credited to the Participant's Accounts under this Plan for any Limitation Year will be limited in accordance with Section 4.4(b), unless the "employer" provides other limitations in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections).

(d) **Time when "annual additions" credited.** An "annual addition" is credited to the Account of a Participant for a particular Limitation Year if it is allocated to the Participant's Account under the Plan as of any date within that Limitation Year. However, an amount is not deemed allocated as of any date within a Limitation Year if such allocation is dependent upon participation in the Plan as of any date subsequent to such date.

For purposes of this subparagraph, "employer" contributions are treated as credited to a Participant's Account for a particular Limitation Year only if the contributions are actually made to the Plan no later than the 15th day of the tenth calendar month following the end of the calendar year or Fiscal Year (as applicable, depending on the basis on which the Employer keeps its books) with or within which the particular Limitation Year ends.

(e) **Definitions.** For purposes of this Section, the following terms shall be defined as follows:

(1) **"Annual additions"** means the sum credited to a Participant's Accounts for any Limitation Year of (a) "employer" contributions, (b) Employee contributions (except as provided below), (c) Forfeitures, (d) amounts allocated to an individual medical benefit account, as defined in Code §415(l)(2), which is part of a pension or annuity plan maintained by the "employer," (e) amounts derived from contributions paid or accrued which are attributable to post-retirement medical benefits allocated to the separate account of a key employee (as defined in Code §419A(d)(3)) under a welfare benefit fund (as defined in Code §419(e)) maintained by the "employer" and (f) allocations under a simplified employee pension. Except, however, the Compensation percentage limitation referred to in paragraph (e)(5)(ii) below shall not apply to: (1) any contribution for medical benefits (within the meaning of Code §419A(f)(2)) after separation from service which is otherwise treated as an "annual addition," or (2) any amount otherwise treated as an "annual addition" under Code §415(l)(1).

(i) **Restorative payments.** "Annual additions" for purposes of Code §415 and this Section shall not include restorative payments. A restorative payment is a payment made to restore losses to a Plan resulting from actions by a fiduciary for which there is reasonable risk of liability for breach of a fiduciary duty under applicable federal or state law, where Participants who are similarly situated are treated similarly with respect to the payments. Generally, payments are restorative payments only if the payments are made in order to restore some or all of the Plan's losses due to an action (or a failure to act) that creates a reasonable risk of liability for such a breach of fiduciary duty (other than a breach of fiduciary duty arising from failure to remit contributions to the Plan). Payments made to the Plan to make up for losses due merely to market fluctuations and other payments that are not made on account of a reasonable risk of liability for breach of a fiduciary duty are not restorative payments and generally constitute contributions that are considered "annual additions."

(ii) **Other amounts.** "Annual additions" for purposes of Code §415 and this Section shall not include: (A) The direct transfer of a benefit or employee contributions from a qualified plan to this Plan; (B) Rollover contributions (as described

in Code §§401(a)(31), 402(c)(1), 403(a)(4), 403(b)(8), 408(d)(3), and 457(e)(16)); (C) Repayments of loans made to a Participant from the Plan; and (D) Repayments of amounts described in Code §411(a)(7)(B) (in accordance with Code §411(a)(7)(C)) and Code §411(a)(3)(D) or repayment of contributions to a governmental plan (as defined in Code §414(d)) as described in Code §415(k)(3), as well as Employer restorations of benefits that are required pursuant to such repayments.

- (2) **"Defined contribution dollar limitation"** means \$40,000 as adjusted under Code §415(d).
- (3) **"Employer"** means, for purposes of this Section, the Employer that adopts this Plan and all Affiliated Employers.
- (4) **"Excess amount"** means the excess of the Participant's "annual additions" for the Limitation Year over the "maximum permissible amount."
- (5) **"Maximum permissible amount"** means, except to the extent permitted under this Plan and Code §414(v), the maximum "annual addition" that may be contributed or allocated to a Participant's Accounts under the Plan for any Limitation Year, which shall not exceed the lesser of:
  - (i) the "defined contribution dollar limitation," or
  - (ii) one hundred percent (100%) of the Participant's 415 Compensation for the Limitation Year.

The 415 Compensation Limitation referred to in (ii) shall not apply to any contribution for medical benefits after separation from service (within the meaning of Code §§401(h) or 419A(f)(2)) which is otherwise treated as an "annual addition."

If a short Limitation Year is created because of an amendment changing the Limitation Year to a different twelve (12) consecutive month period, the "maximum permissible amount" will not exceed the "defined contribution dollar limitation" multiplied by a fraction, the numerator of which is the number of months in the short Limitation Year and the denominator of which is twelve (12).

(f) **Special rules.**

(1) **Aggregation of plans.** For purposes of applying the limitations of Code §415, all defined contribution plans (without regard to whether a plan has been terminated) ever maintained by the "employer" (or a "predecessor employer") under which the Participant receives "annual additions" are treated as one defined contribution plan. For purposes of this Section:

- (i) A former "employer" is a "predecessor employer" with respect to a participant in a plan maintained by an "employer" if the "employer" maintains a plan under which the participant had accrued a benefit while performing services for the former "employer", but only if that benefit is provided under the plan maintained by the "employer". For this purpose, the "formerly affiliated plan" rules in Regulation §1.415(f)-1(b)(2) apply as if the "employer" and "predecessor employer" constituted a single employer under the rules described in Regulation §1.415(a)-1(f)(1) and (2) immediately prior to the "cessation of affiliation" (and as if they constituted two, unrelated employers under the rules described in Regulation §1.415(a)-1(f)(1) and (2) immediately after the "cessation of affiliation") and "cessation of affiliation" was the event that gives rise to the "predecessor employer" relationship, such as a transfer of benefits or plan sponsorship.
- (ii) With respect to an "employer" of a Participant, a former entity that antedates the "employer" is a "predecessor employer" with respect to the Participant if, under the facts and circumstances, the "employer" constitutes a continuation of all or a portion of the trade or business of the former entity.

(2) **Break-up of an affiliated employer or an affiliated service group.** For purposes of aggregating plans for Code §415, a "formerly affiliated plan" of an "employer" is taken into account for purposes of applying the Code §415 limitations to the "employer," but the "formerly affiliated plan" is treated as if it had terminated immediately prior to the "cessation of affiliation." For purposes of this paragraph, a "formerly affiliated plan" of an "employer" is a plan that, immediately prior to the "cessation of affiliation," was actually maintained by one or more of the entities that constitute the "employer" (as determined under the employer affiliation rules described in Regulation §1.415(a)-1(f)(1) and (2)), and immediately after the "cessation of affiliation," is not actually maintained by any of the entities that constitute the "employer" (as determined under the employer affiliation rules described in Regulation §1.415(a)-1(f)(1) and (2)). For purposes of this paragraph, a "cessation of affiliation" means the event that causes an entity to no longer be aggregated with one or more other entities as a single "employer" under the employer affiliation rules described in Regulation §1.415(a)-1(f)(1) and (2) (such as the sale of a subsidiary outside a controlled group), or that causes a plan to not actually be maintained by any of the entities that constitute the "employer" under the employer affiliation rules of Regulation §1.415(a)-1(f)(1) and (2) (such as a transfer of plan sponsorship outside of a controlled group).

(3) **Mid-year aggregation.** Two or more defined contribution plans that are not required to be aggregated pursuant to Code §415(f) and the Regulations thereunder as of the first day of a Limitation Year do not fail to satisfy the requirements of Code §415 with respect to a Participant for the Limitation Year merely because they are aggregated later in that Limitation Year, provided that no "annual additions" are credited to the Participant's Account after the date on which the plans are required to be aggregated.

#### 4.5 ADJUSTMENT FOR EXCESS ANNUAL ADDITIONS

Notwithstanding any provision of the Plan to the contrary, if the "annual additions" (as defined in Section 4.4) are exceeded for any Participant, then the Plan may only correct such excess in accordance with the Employee Plans Compliance Resolution System (EPCRS) as set forth in Revenue Procedure 2013-12 or any superseding guidance.

#### 4.6 ROLLOVERS

(a) **Acceptance of "rollovers" into the Plan.** If elected in the Adoption Agreement and with the consent of the Administrator, the Plan may accept a "rollover," provided the "rollover" will not jeopardize the tax-exempt status of the Plan or create adverse tax consequences for the Employer. The amounts rolled over shall be separately accounted for in a "Participant's Rollover Account." A Participant's Rollover Account shall be fully Vested at all times and shall not be subject to Forfeiture for any reason. For purposes of this Section, the term Participant shall include any Eligible Employee who is not yet a Participant, if, pursuant to the Adoption Agreement, "rollovers" are permitted to be accepted from Eligible Employees. In addition, for purposes of this Section the term Participant shall also include Former Employees if the Employer and Administrator consent to accept "rollovers" of distributions made to Former Employees from any plan of the Employer.

(b) **Treatment of "rollovers" under the Plan.** Amounts in a Participant's Rollover Account shall be held by the Trustee (or Insurer) pursuant to the provisions of this Plan and may not be withdrawn by, or distributed to the Participant, in whole or in part, except as elected in the Adoption Agreement and Subsection (c) below. The Trustee (or Insurer) shall have no duty or responsibility to inquire as to the propriety of the amount, value or type of assets transferred, nor to conduct any due diligence with respect to such assets; provided, however, that such assets are otherwise eligible to be held by the Trustee (or Insurer) under the terms of this Plan.

(c) **Distribution of "rollovers."** At such time as the conditions set forth in the Adoption Agreement have been satisfied, the Administrator, at the election of the Participant, shall direct the distribution of up to the entire amount credited to the Rollover Account maintained on behalf of such Participant. Any distribution of amounts held in a Participant's Rollover Account shall be made in a manner which is consistent with and satisfies the provisions of Sections 6.5 and 6.6. Furthermore, unless otherwise elected in the Adoption Agreement, such amounts shall be considered to be part of a Participant's benefit in determining whether an involuntary cash-out of benefits may be made without Participant consent.

(d) **"Rollovers" maintained in a separate account.** The Administrator may direct that "rollovers" made after a Valuation Date be segregated into a separate account for each Participant until such time as the allocations pursuant to this Plan have been made, at which time they may remain segregated, invested as part of the general Trust Fund or, if elected in the Adoption Agreement, directed by the Participant.

(e) **Limits on accepting "rollovers."** Prior to accepting any "rollovers" to which this Section applies, the Administrator may require the Employee to establish (by providing opinion of counsel or otherwise) that the amounts to be rolled over to this Plan meet the requirements of this Section. The Employer may instruct the Administrator, operationally, to limit the source of "rollover" contributions that may be accepted by the Plan.

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

(1) A "rollover" means: (i) amounts transferred to this Plan directly from another "eligible retirement plan;" (ii) distributions received by an Employee from other "eligible retirement plans" which are eligible for tax-free rollover to an "eligible retirement plan" and which are transferred by the Employee to this Plan within sixty (60) days following receipt thereof; and (iii) any other amounts which are eligible to be rolled over to this Plan pursuant to the Code or any other federally enacted legislation.

(2) An "eligible retirement plan" means an individual retirement account described in Code §408(a), an individual retirement annuity described in Code §408(b) (other than an endowment contract), a qualified trust (an employees' trust described in Code §401(a) which is exempt from tax under Code §501(a)), an annuity plan described in Code §403(a), an eligible deferred compensation plan described in Code §457(b) which is maintained by an eligible employer described in Code §457(e)(1)(A), and an annuity contract described in Code §403(b).

#### 4.7 PLAN-TO-PLAN TRANSFERS FROM QUALIFIED PLANS

(a) **Transfers into this Plan.** With the consent of the Administrator, amounts may be transferred (within the meaning of Code §414(l)) to this Plan from other tax qualified plans under Code §401(a), provided the plan from which such funds are transferred permits the transfer to be made and the transfer will not jeopardize the tax-exempt status of the Plan or Trust or create

adverse tax consequences for the Employer. Prior to accepting any transfers to which this Section applies, the Administrator may require an opinion of counsel that the amounts to be transferred meet the requirements of this Section. The amounts transferred shall be set up in a separate account herein referred to as a "Participant's Transfer Account." Furthermore, for vesting purposes, the Participant's Transfer Account shall be treated as a separate "Participant's Account."

(b) **Accounting of transfers.** Amounts in a Participant's Transfer Account shall be held by the Trustee (or Insurer) pursuant to the provisions of this Plan and may not be withdrawn by, or distributed to the Participant, in whole or in part, except as elected in the Adoption Agreement and Subsection (d) below, provided the restrictions of Subsection (c) below and Section 6.16 are satisfied. The Trustee (or Insurer) shall have no duty or responsibility to inquire as to the propriety of the amount, value or type of assets transferred, nor to conduct any due diligence with respect to such assets; provided, however, that such assets are otherwise eligible to be held by the Trustee (or Insurer) under the terms of this Plan. Notwithstanding anything in this Section to the contrary, transferred amounts are not required to be separately accounted for and may be combined with the corresponding Account maintained in this Plan provided all rights, benefits and features and other attributes are identical with respect to each account, or are identical after the combination.

(c) **Distribution of plan-to-plan transfer amounts.** At Normal Retirement Date, or such other date when the Participant or the Participant's Beneficiary shall be entitled to receive benefits, the Participant's Transfer Account shall be used to provide additional benefits to the Participant or the Participant's Beneficiary. Any distribution of amounts held in a Participant's Transfer Account shall be made in a manner which is consistent with and satisfies the provisions of Sections 6.5 and 6.6. Furthermore, such amounts shall be considered to be part of a Participant's benefit in determining whether an involuntary cash-out of benefits may be made without Participant consent.

(d) **Segregation.** The Administrator may direct that Employee transfers made after a Valuation Date be segregated into a separate account for each Participant until such time as the allocations pursuant to this Plan have been made, at which time they may remain segregated, invested as part of the general Trust Fund or, if elected in the Adoption Agreement, directed by the Participant.

#### 4.8 MANDATORY EMPLOYEE CONTRIBUTIONS

(a) **Mandatory Employee contributions.** An Employer may elect in the Adoption Agreement to provide for mandatory Employee contribution. If the Employer elects to provide for such contributions, each Participant, as a condition of employment, will make a mandatory Employee contribution in the amount elected in the Adoption Agreement. Alternatively, the Employer may elect to provide a range of mandatory Employee contribution percentages from which the Participant may choose to contribute. Under this option, the Employee, as a condition of employment, must make an irrevocable election to contribute a percentage of his or her Compensation no later than his or her effective date of participation. During the period of the Participant's participation in the Plan, the Participant may not revoke the election and receive cash in lieu of the contribution, nor may the Participant change the amount of the mandatory Employee contribution. Amounts attributable to mandatory Employee contributions shall be fully Vested.

(b) **Employer pick-up contribution.** If elected in the Adoption Agreement, the Employer will "pick-up" the mandatory Employee contribution and will pay the mandatory Employee contribution to the Plan as an Employer contribution. This provision is effective only after the Employer provides for the treatment of the Employee contributions as described in this paragraph, through a person authorized to take such action, and evidenced in writing by minutes of a meeting, resolution, ordinance, or other formal action by the Employer, which will effectuate the "pick-up" provision. Furthermore, as of the date of the "pick-up," Participants are not permitted to opt-out of the "pick-up" or to receive the mandatory Employee contributions directly instead of having them paid to the Plan. Mandatory Employee contributions that are "picked-up" by the Employer are excludible from the Employee's gross income.

#### 4.9 AFTER-TAX VOLUNTARY EMPLOYEE CONTRIBUTIONS

(a) **After-tax voluntary Employee contributions.** If elected in the Adoption Agreement, each Participant may, in accordance with procedures established by the Administrator, elect to make after-tax voluntary Employee contributions to this Plan. Such contributions must generally be paid to the Trustee (or Insurer) within a reasonable period of time after being received by the Employer. An after-tax voluntary Employee contribution is any contribution made to the Plan by or on behalf of a Participant that is included in the Participant's gross income in the year in which made and that is separately accounted for under the Plan.

(b) **Full vesting.** The balance in each Participant's Voluntary Contribution Account shall be fully Vested at all times and shall not be subject to Forfeiture for any reason.

(c) **Distribution at any time.** A Participant may elect at any time to withdraw after-tax voluntary Employee contributions from such Participant's Voluntary Contribution Account and the actual earnings thereon in a manner which is consistent with and satisfies the provisions of Section 6.5. If the Administrator maintains sub-accounts with respect to after-tax voluntary Employee contributions (and earnings thereon) which were made on or before a specified date, a Participant shall be permitted to designate which sub-account shall be the source for the withdrawal. Forfeitures of Employer contributions shall not occur solely as a result of an Employee's withdrawal of after-tax voluntary Employee contributions.

In the event a Participant has received a hardship distribution under the safe harbor hardship provisions of the Code §401(k) Regulations from any plan maintained by the Employer, then the Participant shall be barred from making any after-tax voluntary

Employee contributions for a period of six (6) months after receipt of the hardship distribution. Any prior elections to make after-tax voluntary Employee contributions will become void upon the receipt of the hardship distribution that triggers the suspension period of this paragraph.

(d) **Used to provide benefits.** At Normal Retirement Date, or such other date when the Participant or the Participant's Beneficiary is entitled to receive benefits, the Participant's Voluntary Contribution Account shall be used to provide additional benefits to the Participant or the Participant's Beneficiary.

#### 4.10 PARTICIPANT DIRECTED INVESTMENTS

(a) **Directed investment options allowed.** If permitted under Participant Direction Procedures, all Participants may direct the Trustee (or Insurer) as to the investment of all or a portion of their individual Account balances as set forth in such procedures. Participants may direct the Trustee (or Insurer), in writing (or in such other form which is acceptable to the Trustee (or Insurer)), to invest their accounts in specific assets, specific funds or other investments permitted under the Plan and the Participant Direction Procedures. That portion of the Account of any Participant that is subject to investment direction of such Participant will be considered a Participant Directed Account.

(b) **Establishment of Participant Direction Procedures.** The Administrator will establish Participant Direction Procedures, to be applied in a uniform manner, setting forth the permissible investment options under this Section, how often changes between investments may be made, and any other limitations and provisions that the Administrator may impose on a Participant's right to direct investments.

(c) **Administrative discretion.** The Administrator may, in its discretion, include or exclude by amendment or other action from the Participant Direction Procedures such instructions, guidelines or policies as it deems necessary or appropriate to ensure proper administration of the Plan, and may interpret the same accordingly.

(d) **Allocation of gains or losses.** As of each Valuation Date, all Participant Directed Accounts shall be charged or credited with the net earnings, gains, losses and expenses as well as any appreciation or depreciation in the market value using publicly listed fair market values when available or appropriate as follows:

- (1) to the extent the assets in a Participant Directed Account are accounted for as pooled assets or investments, the allocation of earnings, gains and losses of each Participant's Account shall be based upon the total amount of funds so invested in a manner proportionate to the Participant's share of such pooled investment; and
- (2) to the extent the assets in a Participant Directed Account are accounted for as segregated assets, the allocation of earnings, gains on and losses from such assets shall be made on a separate and distinct basis.

(e) **Plan will follow investment directions.** Investment directions will be processed as soon as administratively practicable after proper investment directions are received from the Participant. No guarantee is made by the Plan, Employer, Administrator or Trustee (or Insurer) that investment directions will be processed on a daily basis, and no guarantee is made in any respect regarding the processing time of an investment direction. Notwithstanding any other provision of the Plan, the Employer, Administrator or Discretionary Trustee (or Insurer) reserves the right to not value an investment option on any given Valuation Date for any reason deemed appropriate by the Employer, Administrator or Discretionary Trustee (or Insurer). Furthermore, the processing of any investment transaction may be delayed for any legitimate business reason (including, but not limited to, failure of systems or computer programs, failure of the means of the transmission of data, the failure of a service provider to timely receive values or prices, and correction for errors or omissions or the errors or omissions of any service provider) or force majeure. The processing date of a transaction will be binding for all purposes of the Plan and considered the applicable Valuation Date for an investment transaction.

(f) **Other documents required by directed investments.** Any information regarding investments available under the Plan, to the extent not required to be described in the Participant Direction Procedures, may be provided to Participants in one or more documents (or in any other form, including, but not limited to, electronic media) which are separate from the Participant Direction Procedures and are not thereby incorporated by reference into this Plan.

#### 4.11 QUALIFIED MILITARY SERVICE

(a) **USERRA.** Notwithstanding any provisions of this Plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Code §414(u). Furthermore, loan repayments may be suspended under this Plan as permitted under Code §414(u)(4).

(b) **Benefit accrual.** If the Employer elects in the Adoption Agreement to apply this Subsection, then effective as of the date specified in the Adoption Agreement but no earlier than the first day of the 2007 Plan Year, for benefit accrual purposes, the Plan treats an individual who becomes Totally and Permanently disabled while performing "qualified military service" (as defined in Code §414(u)) with respect to the Employer as if the individual had resumed employment in accordance with the individual's reemployment rights under Uniformed Services Employment and Reemployment Rights Act of 1994, as amended (USERRA), on

the day preceding Total and Permanent Disability and terminated employment on the actual date of death or Total and Permanent Disability.

The Plan will determine the amount of after-tax voluntary Employee contributions of an individual treated as reemployed under this Section for purposes of applying paragraph Code §414(u)(8)(C) on the basis of the individual's average actual after-tax voluntary Employee contributions for the lesser of: (1) the 12-month period of service with the Employer immediately prior to "qualified military service" (as defined in Code §414(u)); or (2) the actual length of continuous service with the Employer.

(c) **Death benefits.** In the case of a death occurring on or after January 1, 2007, if a Participant dies while performing "qualified military service" (as defined in Code §414(u)), the Participant's Beneficiary is entitled to any additional benefits (other than benefit accruals relating to the period of "qualified military service" but including vesting credit for such period and any other ancillary life insurance or other survivor benefits) provided under the Plan as if the Participant had resumed employment and then terminated employment on account of death. Moreover, the Plan will credit the Participant's "qualified military service" as service for vesting purposes, as though the Participant had resumed employment under Uniformed Services Employment and Reemployment Rights Act of 1994, as amended (USERRA) immediately prior to the Participant's death.

## ARTICLE V VALUATIONS

### 5.1 VALUATION OF THE TRUST FUND

The Administrator shall direct the Trustee (or Insurer), as of each Valuation Date, to determine the net worth of the assets comprising the Trust Fund as it exists on the Valuation Date. In determining such net worth, the Trustee (or Insurer) shall value the assets comprising the Trust Fund at their fair market value as of the Valuation Date and may deduct all expenses for which the Trustee (or Insurer) has not yet been paid by the Employer or the Trust Fund. The Trustee (or Insurer), when determining the net worth of the assets, may update the value of any shares held in a Participant Directed Account by reference to the number of shares held on behalf of the Participant, priced at the market value as of the Valuation Date.

### 5.2 METHOD OF VALUATION

In determining the fair market value of securities held in the Trust Fund which are listed on a registered stock exchange, the Administrator shall direct the Trustee (or Insurer) to value the same at the prices they were last traded on such exchange preceding the close of business on the Valuation Date. If such securities were not traded on the Valuation Date, or if the exchange on which they are traded was not open for business on the Valuation Date, then the securities shall be valued at the prices at which they were last traded prior to the Valuation Date. Any unlisted security held in the Trust Fund shall be valued at its bid price next preceding the close of business on the Valuation Date, which bid price shall be obtained from a registered broker or an investment banker. In determining the fair market value of assets other than securities for which trading or bid prices can be obtained, the Trustee, the Administrator (if the Trustee is a directed Trustee), or Insurer may appraise such assets itself (assuming it has the appropriate expertise), or in its discretion, employ one or more appraisers for that purpose and rely on the values established by such appraiser or appraisers.

## ARTICLE VI DETERMINATION AND DISTRIBUTION OF BENEFITS

### 6.1 DETERMINATION OF BENEFITS UPON RETIREMENT

Every Participant may terminate employment with the Employer and retire for purposes hereof on the Participant's Normal Retirement Date or Early Retirement Date. However, a Participant may postpone the severance of employment with the Employer to a later date, in which event the participation of such Participant in the Plan, including the right to receive allocations pursuant to Section 4.3, shall continue until such Participant's Retirement Date. Upon a Participant's Retirement Date, or if elected in the Adoption Agreement, the attainment of Normal Retirement Date without severance of employment with the Employer (subject to Section 6.11), or as soon thereafter as is practicable, the Administrator shall direct the distribution, at the election of the Participant, of the Participant's entire Vested interest in the Plan in accordance with Section 6.5.

### 6.2 DETERMINATION OF BENEFITS UPON DEATH

(a) **100% vesting on death.** Upon the death of a Participant before the Participant's Retirement Date or other severance of employment, all amounts credited to such Participant's Combined Account shall, if elected in the Adoption Agreement, become fully Vested. The Administrator shall direct, in accordance with the provisions of Sections 6.6 and 6.7, the distribution of the deceased Participant's Vested accounts to the Participant's Beneficiary.

(b) **Distribution upon death.** Upon the death of a Participant, the Administrator shall direct, in accordance with the provisions of Sections 6.6 and 6.7, the distribution of any remaining Vested amounts credited to the accounts of such deceased Participant to such Participant's Beneficiary.



(c) **Determination of death benefit by Administrator.** The Administrator may require such proper proof of death and such evidence of the right of any person to receive payment of the value of the account of a deceased Participant as the Administrator may deem desirable. The Administrator's determination of death and of the right of any person to receive payment shall be conclusive.

(d) **Beneficiary designation.** Each Participant must designate a Beneficiary on a form and in such manner as provided by the Administrator.

(e) **Beneficiary if no Beneficiary elected by Participant.** In the event no valid designation of Beneficiary exists, or if the Beneficiary with respect to a portion of a Participant's death benefit is not alive at the time of the Participant's death and no contingent Beneficiary has been designated, then such portion of the death benefit will be paid in the following order of priority, unless the Employer specifies a different order of priority in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections), to:

- (1) The Participant's surviving Spouse;
- (2) The Participant's issue, per stirpes;
- (3) The Participant's surviving parents, in equal shares; or
- (4) The Participant's estate.

If the Beneficiary does not predecease the Participant, but dies prior to distribution of the death benefit, the death benefit will be paid to the Beneficiary's "designated Beneficiary" (or if there is no "designated Beneficiary," to the Beneficiary's estate). For purposes of these provisions, and with respect to any Beneficiary designations, adopted children shall be treated as children.

(f) **Divorce revokes spousal Beneficiary designation.** Notwithstanding anything in this Section to the contrary, unless otherwise elected in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections), if a Participant has designated the Spouse as a Beneficiary, then a divorce decree that relates to such Spouse shall revoke the Participant's designation of the Spouse as a Beneficiary unless the decree or a "qualified domestic relations order" (within the meaning of Code §414(p)) provides otherwise or a subsequent Beneficiary designation is made.

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

(h) **Slayer statute.** The Administrator may apply slayer statutes, or similar rules which prohibit inheritance by a person who murders someone from whom he or she stands to inherit, under applicable state laws.

(i) **Insured death benefit.** If the Plan provides an insured death benefit and a Participant dies before any insurance coverage to which the Participant is entitled under the Plan is effected, the death benefit from such insurance coverage shall be limited to the premium which was or otherwise would have been used for such purpose.

(j) **Plan terms control.** In the event of any conflict between the terms of this Plan and the terms of any Contract issued hereunder, the Plan provisions shall control.

### 6.3 DETERMINATION OF BENEFITS IN EVENT OF DISABILITY

In the event of a Participant's Total and Permanent Disability prior to the Participant's Retirement Date or other severance of employment, all amounts credited to such Participant's Combined Account shall, if elected in the Adoption Agreement, become fully Vested. In the event of a Participant's Total and Permanent Disability, the Participant's entire Vested interest in the Plan will be distributable and may be distributed in accordance with the provisions of Sections 6.5 and 6.7.

### 6.4 DETERMINATION OF BENEFITS UPON TERMINATION

(a) **Payment on severance of employment.** If a Participant's employment with the Employer and any Affiliated Employer is severed for any reason other than death, Total and Permanent Disability, or attainment of the Participant's Retirement Date, then such Participant shall be entitled to such benefits as are provided herein.

Distribution of the funds due to a Terminated Participant shall be made on the occurrence of an event which would result in the distribution had the Terminated Participant remained in the employ of the Employer (upon the Participant's death, Total and Permanent Disability, Early or Normal Retirement). However, at the election of the Participant, the Administrator shall direct that the entire Vested portion of the Terminated Participant's Combined Account be payable to such Terminated Participant provided the

conditions, if any, set forth in the Adoption Agreement have been satisfied. Any distribution under this paragraph shall be made in a manner which is consistent with and satisfies the provisions of Section 6.5.

Regardless of whether distributions in kind are permitted, in the event the amount of the Vested portion of the Terminated Participant's Combined Account equals or exceeds the fair market value of any insurance Contracts, the Trustee (or Insurer), when so directed by the Administrator and agreed to by the Terminated Participant, shall assign, transfer, and set over to such Terminated Participant all Contracts on such Terminated Participant's life in such form or with such endorsements, so that the settlement options and forms of payment are consistent with the provisions of Section 6.5. In the event that the Terminated Participant's Vested portion does not at least equal the fair market value of the Contracts, if any, the Terminated Participant may pay over to the Trustee (or Insurer) the sum needed to make the distribution equal to the value of the Contracts being assigned or transferred, or the Trustee (or Insurer), pursuant to the Participant's election, may borrow the cash value of the Contracts from the Insurer so that the value of the Contracts is equal to the Vested portion of the Terminated Participant's Combined Account and then assign the Contracts to the Terminated Participant.

Notwithstanding the above, unless otherwise elected in the Adoption Agreement, if the value of a Terminated Participant's Vested benefit derived from Employer and Employee contributions does not exceed \$5,000 (or such lower amount as elected in the Adoption Agreement), the Administrator shall direct that the entire Vested benefit be paid to such Participant in a single lump-sum as soon as practical without regard to the consent of the Participant, provided the conditions, if any, set forth in the Adoption Agreement have been satisfied. A Participant's Vested benefit shall not include (1) qualified voluntary employee contributions within the meaning of Code §72(o)(5)(B) and (2) if selected in the Conditions for Distributions Upon Severance of Employment Section of the Adoption Agreement, the Participant's Rollover Account. If a mandatory distribution is made pursuant to this paragraph and such distribution is greater than \$1,000 and the Participant does not elect to have such distribution paid directly to an "eligible retirement plan" specified by the Participant in a "direct rollover" in accordance with Section 6.14 or to receive the distribution directly, then the Administrator shall transfer such amount to an individual retirement account described in Code §408(a) or an individual retirement annuity described in Code §408(b) designated by the Administrator. However, if the Participant elects to receive or make a "direct rollover" of such amount, then the Administrator shall direct the Trustee (or Insurer) to cause the entire Vested benefit to be paid to such Participant in a single lump sum, or make a "direct rollover" pursuant to Section 6.14, provided the conditions, if any, set forth in the Adoption Agreement have been satisfied. The Administrator may establish a procedure as to whether a Participant who fails to make an affirmative election with respect to a mandatory distribution of \$1,000 or less is treated as having made or not made a "direct rollover" election. For purposes of determining whether the \$1,000 threshold set forth in this paragraph is met, the mandatory distribution includes amounts in a Participant's Rollover Account. For purposes of determining whether the \$5,000 threshold in this paragraph is met, a Participant's Rollover Account is taken into account unless otherwise elected in the Adoption Agreement.

(b) **Vesting schedule.** The Vested portion of any Participant's Account shall be a percentage of such Participant's Account determined on the basis of the Participant's number of Years of Service (or Periods of Service if the elapsed time method is elected) according to the vesting schedule specified in the Adoption Agreement. However, a Participant's entire interest in the Plan shall be non-forfeitable upon the Participant's Normal Retirement Age (if the Participant is employed by the Employer on or after such date). In addition, Employee contributions (voluntary and mandatory) and contributions for sick leave/vacation leave conversions shall be fully Vested.

## 6.5 DISTRIBUTION OF BENEFITS

(a) **Forms of distributions.** The Administrator, pursuant to the election of the Participant, shall direct the distribution to a Participant or Beneficiary any amount to which the Participant or Beneficiary is entitled under the Plan in one or more of the following methods which are permitted pursuant to the Adoption Agreement.

- (1) One lump-sum payment in cash or in property, provided that if a distribution of property is permitted, it shall be limited to property that is specifically allocated and identifiable with respect to such Participant.
- (2) Partial withdrawals.
- (3) Payments over a period certain in monthly, quarterly, semi-annual, or annual cash installments. The period over which such payment is to be made shall not extend beyond the earlier of the Participant's life expectancy (or the joint life expectancy of the Participant and the Participant's designated Beneficiary). Once payments have begun, a Participant may elect to accelerate the payments (reduce the term and increase payments).
- (4) Purchase of or providing an annuity. However, such annuity may not be in any form that will provide for payments over a period extending beyond either the life of the Participant (or the lives of the Participant and the Participant's designated Beneficiary) or the life expectancy of the Participant (or the life expectancy of the Participant and the Participant's designated Beneficiary).

(b) **Consent to distributions.** Benefits may not be paid without a Participant's consent if the value of the Participant's Accounts exceed the dollar threshold specified in the Adoption Agreement. If the value of the Participant's Accounts does not exceed such threshold, then the Administrator will distribute such benefit in a lump-sum. For purposes of this Subsection, the Participant's

Accounts shall not include, if selected in the Conditions for Distributions Upon Severance of Employment Section of the Adoption Agreement, the Participant's Rollover Account.

(c) **Required minimum distributions (Code §401(a)(9)).** Notwithstanding any provision in the Plan to the contrary, the distribution of a Participant's benefits, whether under the Plan or through the purchase of an annuity Contract, shall be made in accordance with the requirements of Section 6.8.

(d) **Annuity Contracts.** All annuity Contracts under this Plan shall be non-transferable when distributed. Furthermore, the terms of any annuity Contract purchased and distributed to a Participant or Spouse shall comply with all of the requirements of this Plan.

(e) **TEFRA 242(b)(2) election.** The provisions of this Section shall not apply to distributions made in accordance with Plan Section 6.8(a)(4).

## 6.6 DISTRIBUTION OF BENEFITS UPON DEATH

(a) **Consent.** If the value of the death benefit derived from Employer and Employee contributions does not exceed \$5,000, the Administrator shall direct the distribution of such amount to the Participant's Beneficiary in a single lump-sum as soon as practicable. If the value exceeds \$5,000, an immediate distribution of the entire amount may be made to the Beneficiary, provided such Beneficiary consents to the distribution.

(b) **Forms of distribution.** Death benefits may be paid to a Participant's Beneficiary in one of the following optional forms of benefits subject to the rules specified in Section 6.8 and the elections made in the Adoption Agreement. Such optional forms of distributions may be elected by the Participant. However, if no optional form of distribution was elected by the Participant prior to death, then the Participant's Beneficiary may elect the form of distribution.

(1) One lump-sum payment in cash or in property that is allocated to the Accounts of the Participant at the time of the distribution.

(2) Partial withdrawals.

(3) Payment in monthly, quarterly, semi-annual, or annual cash installments over a period to be determined by the Participant or the Participant's Beneficiary. In order to provide such installment payments, the Administrator may (A) segregate the aggregate amount thereof in a separate, federally insured savings account, certificate of deposit in a bank or savings and loan association, money market certificate or other liquid short-term security or (B) purchase a nontransferable annuity Contract for a term certain (with no life contingencies) providing for such payment. After periodic installments commence, the Beneficiary shall have the right to reduce the period over which such periodic installments shall be made, and the cash amount of such periodic installments shall be adjusted accordingly.

(4) In the form of an annuity over the life expectancy of the Beneficiary.

(c) **Required minimum distributions (Code §401(a)(9)).** Notwithstanding any provision in the Plan to the contrary, distributions upon the death of a Participant shall comply with the requirements of Section 6.8.

(d) **Payment to a child.** For purposes of this Section, any amount paid to a child of the Participant will be treated as if it had been paid to the surviving Spouse if the amount becomes payable to the surviving Spouse when the child reaches the age of majority.

(e) **Voluntary Contribution Account.** In the event that less than one hundred percent (100%) of a Participant's interest in the Plan is distributed to such Participant's Spouse, the portion of the distribution attributable to the Participant's Voluntary Contribution Account shall be in the same proportion that the Participant's Voluntary Contribution Account bears to the Participant's total interest in the Plan.

(f) **TEFRA 242(b)(2) election.** The provisions of this Section shall not apply to distributions made in accordance with Section 6.8(a)(4).

## 6.7 TIME OF DISTRIBUTION

Except as limited by Section 6.8, whenever a distribution is to be made, or a series of payments are to commence, the distribution or series of payments may be made or begun as soon as practicable. Notwithstanding anything in the Plan to the contrary, unless a Participant otherwise elects, payments of benefits under the Plan will be begun not later than the later of the sixtieth (60th) day after the close of the Plan Year in which the latest of the following events occurs: (a) the date on which the Participant attains the earlier of age 65 or the Normal Retirement Age specified herein; (b) the tenth (10th) anniversary of the year in which the Participant commenced participation in the Plan; or (c) the date the Participant terminates service with the Employer. The failure of a Participant to request a distribution shall be deemed to be an election to defer the commencement of payment of any benefit until the time otherwise permitted under the Plan.

## 6.8 REQUIRED MINIMUM DISTRIBUTIONS

### (a) General rules

- (1) **Effective Date.** Subject to the good faith interpretation standard, the requirements of this Section shall apply to any distribution of a Participant's interest in the Plan and will take precedence over any inconsistent provisions of this Plan.
- (2) **Requirements of Treasury Regulations incorporated.** All distributions required under this Section will be determined and made in accordance with the Regulations under Code §401(a)(9) and the minimum distribution incidental benefit requirement of Code §401(a)(9)(G).
- (3) **Limits on distribution periods.** As of the first "distribution calendar year," distributions to a Participant may only be made in accordance with the selections made in the Form of Distributions Section of the Adoption Agreement. If such distributions are not made in a single-sum, then they may only be made over one of the following periods: (i) the life of the Participant, (ii) the joint lives of the Participant and a "designated Beneficiary," (iii) a period certain not extending beyond the "life expectancy" of the Participant, or (iv) a period certain not extending beyond the joint life and last survivor expectancy of the Participant and a "designated Beneficiary."
- (4) **TEFRA Section 242(b)(2) elections.**
  - (i) Notwithstanding the other provisions of this Section, other than the Spouse's right of consent afforded under the Plan, distributions may be made on behalf of any Participant, including a five percent (5%) owner, who has made a designation in accordance with Section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and in accordance with all of the following requirements (regardless of when such distribution commences):
    - (A) The distribution by the Plan is one which would not have disqualified such Plan under Code §401(a)(9) as in effect prior to amendment by the Deficit Reduction Act of 1984.
    - (B) The distribution is in accordance with a method of distribution designated by the Participant whose interest in the Plan is being distributed or, if the Participant is deceased, by a Beneficiary of such Participant.
    - (C) Such designation was in writing, was signed by the Participant or the Beneficiary, and was made before January 1, 1984.
    - (D) The Participant had accrued a benefit under the Plan as of December 31, 1983.
    - (E) The method of distribution designated by the Participant or the Beneficiary specifies the time at which distribution will commence, the period over which distributions will be made, and in the case of any distribution upon the Participant's death, the Beneficiaries of the Participant listed in order of priority.
  - (ii) A distribution upon death will not be covered by the transitional rule of this Subsection unless the information in the designation contains the required information described above with respect to the distributions to be made upon the death of the Participant.
  - (iii) For any distribution which commences before January 1, 1984, but continues after December 31, 1983, the Participant, or the Beneficiary, to whom such distribution is being made, will be presumed to have designated the method of distribution under which the distribution is being made if the method of distribution was specified in writing and the distribution satisfies the requirements in (i)(A) and (i)(E) of this Subsection.
  - (iv) If a designation is revoked, any subsequent distribution must satisfy the requirements of Code §401(a)(9) and the Regulations thereunder. If a designation is revoked subsequent to the date distributions are required to begin, the Plan must distribute by the end of the calendar year following the calendar year in which the revocation occurs the total amount not yet distributed which would have been required to have been distributed to satisfy Code §401(a)(9) and the Regulations thereunder, but for the Section 242(b)(2) election. For calendar years beginning after December 31, 1988, such distributions must meet the minimum distribution incidental benefit requirements. Any changes in the designation will be considered to be a revocation of the designation. However, the mere substitution or addition of another Beneficiary (one not named in the designation) under the designation will not be considered to be a revocation of the designation, so long as such substitution or addition does not alter the period over which distributions are to be made under the designation, directly or indirectly (for example, by altering the relevant measuring life).
  - (v) In the case in which an amount is transferred or rolled over from one plan to another plan, the rules in Regulation §1.401(a)(9)-8, Q&A-14 and Q&A-15, shall apply.
- (5) **Good faith interpretation standard.** In applying any provision of this section, the Plan will apply a reasonable good faith interpretation of Code §401(a)(9).

(b) **Time and manner of distribution**

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

(2) **Death of Participant before distributions begin.** If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows as elected in the Distributions Upon Death Section of the Adoption Agreement (or if no election is made, then the Beneficiary may elect either the lifetime method or the five-year method):

(i) **Lifetime method (Spouse).** If the Participant's surviving Spouse is the Participant's sole "designated Beneficiary," then, except as otherwise provided herein, 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) **Lifetime method (non-Spouse).** If the Participant's surviving Spouse is not the Participant's sole "designated Beneficiary," then, except as provided in Section 6.8(b)(3) below, distributions to the "designated Beneficiary" will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.

(iii) **Five-year method.** If there is no "designated Beneficiary" as of September 30 of the year following the year of the Participant's death or if otherwise elected pursuant to the Adoption Agreement with respect to a "designated Beneficiary," 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) **Death of Spouse.** If the Participant's surviving Spouse is the Participant's sole "designated Beneficiary" and the surviving Spouse dies after the Participant but before distributions to the surviving Spouse begin, this Section 6.8(b)(2), other than Section 6.8(b)(2)(i), will apply as if the surviving Spouse were the Participant.

For purposes of this Section 6.8(b)(2) and Section 6.8(b)(3), unless Section 6.8(b)(2)(iv) applies, distributions are considered to begin on the Participant's "required beginning date." If Section 6.8(b)(2)(iv) applies, distributions are considered to begin on the date distributions are required to begin to the surviving Spouse under Section 6.8(b)(2)(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 6.8(b)(2)(i)), the date distributions are considered to begin is the date distributions actually commence.

(3) **Forms of distribution.** Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the "required beginning date," as of the first "distribution calendar year" distributions will be made in accordance with Sections 6.8(c) and 6.8(d) and only in a form of distribution provided in Section 6.5 or 6.6, as applicable. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Code §401(a)(9) and the Regulations thereunder.

(c) **Required minimum distributions during Participant's lifetime**

(1) **Amount of required minimum distribution for each "distribution calendar year."** During the Participant's lifetime, the minimum amount that will be distributed for each "distribution calendar year" is the lesser of the following, as elected in the Form of Distributions Section of the Adoption Agreement:

(i) the quotient obtained by dividing the "Participant's account balance" by the distribution period in the Uniform Lifetime Table set forth in Regulation §1.401(a)(9)-9, 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 Regulation §1.401(a)(9)-9, using the Participant's and Spouse's attained ages as of the Participant's and Spouse's birthdays in the "distribution calendar year."

(2) **Lifetime required minimum distributions continue through year of Participant's death.** Required minimum distributions will be determined under this Section 6.8(c) beginning with the first "distribution calendar year" and up to and including the "distribution calendar year" that includes the Participant's date of death.

(d) **Required minimum distributions after Participant's death**

(1) **Death on or after date distributions begin.**

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

(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 death, reduced by one for each subsequent year.

(2) **Death before date distributions begin.**

(i) **Participant survived by "designated Beneficiary."** Except as provided in Section 6.8(b)(3), 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 6.8(d)(1).

(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 6.8(b)(2)(i), this Section 6.8(d)(2) will apply as if the surviving Spouse were the Participant.

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

(1) "Designated Beneficiary" means the individual who is designated as the Beneficiary under the Plan and is the "designated Beneficiary" under Code §401(a)(9) and Regulation §1.401(a)(9)-4.

(2) "Distribution calendar year" means a calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first "distribution calendar year" is the calendar year immediately preceding the calendar year which contains the Participant's "required beginning date." For distributions beginning after the Participant's death, the first "distribution calendar year" is the calendar year in which distributions are required to begin under Section 6.8(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."

(3) "Life expectancy" means the life expectancy as computed by use of the Single Life Table in Regulation §1.401(a)(9)-9.

(4) "Participant's account balance" means the Participant's 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. For this purpose, the Administrator may exclude contributions that are allocated to the account balance as of dates in the valuation calendar year after the Valuation Date, but that are not actually made during the valuation calendar year. The account balance for the valuation calendar year includes any amounts rolled over or transferred to the Plan either in the valuation calendar year or in the "distribution calendar year" if distributed or transferred in the valuation calendar year.

(5) "Required beginning date" means, except as otherwise elected in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections), with respect to any Participant, April 1 of the calendar year following the later of the calendar year in which the Participant attains age 70 1/2 or the calendar year in which the Participant retires.

(f) **Waiver of 2009 required distributions**

(1) **Suspension of RMDs unless otherwise elected by Participant.** This paragraph does not apply if the Employer elected options a., b., or c. at the WRERA – RMD Waivers for 2009 Section of the Adoption Agreement. Notwithstanding the provisions of the Plan relating to required minimum distributions under Code §401(a)(9), a Participant or Beneficiary who would have been required to receive required minimum distributions for 2009 but for the enactment of Code §401(a)(9)(H) ("2009 RMDs"), and who would have satisfied that requirement by receiving distributions that are (i) equal to the "2009 RMDs" or (ii) one or more payments in a series of substantially equal distributions (that include the "2009 RMDs") made at least annually and expected to last for the life (or "life expectancy") of the Participant, the joint lives (or joint "life expectancy") of the Participant and the Participant's "designated Beneficiary," or for a period of at least 10 years ("Extended 2009 RMDs"), did not receive those distributions for 2009 unless the Participant or Beneficiary chooses to receive such distributions. Participants and Beneficiaries described in the preceding sentence were given the opportunity to elect to receive the distributions described in the preceding sentence.

(2) **Continuation of RMDs unless otherwise elected by Participant.** This paragraph applies if the Employer elected option b. at the WRERA – RMD Waivers for 2009 Section of the Adoption Agreement. Notwithstanding the provisions of the Plan relating to required minimum distributions under Code §401(a)(9), a Participant or Beneficiary who would have been required to receive required minimum distributions for 2009 but for the enactment of Code §401(a)(9)(H) ("2009 RMDs"), and who would have satisfied that requirement by receiving distributions that are (i) equal to the "2009 RMDs" or (ii) one or more payments in a series of substantially equal distributions (that include the "2009 RMDs") made at least annually and expected to last for the life (or "life expectancy") of the Participant, the joint lives (or joint "life expectancy") of the Participant and the Participant's "designated Beneficiary," or for a period of at least 10 years ("Extended 2009 RMDs"), did not receive those distributions for 2009 unless the Participant or Beneficiary choose not to receive such distributions. Participants and Beneficiaries described in the preceding sentence were given the opportunity to elect to stop receiving the distributions described in the preceding sentence.

(3) **Direct rollovers.** Notwithstanding the provisions of the Plan relating to required minimum distributions under Code §401(a)(9), and solely for purposes of applying the direct rollover provisions of the Plan, certain additional distributions in 2009, as elected by the Employer in the WRERA – RMD Waivers for 2009 Section of the Adoption Agreement, were treated as eligible rollover distributions. If no election was made by the Employer in the Adoption Agreement, then a direct rollover was offered only for distributions that would have been eligible rollover distributions without regard to Code §401(a)(9)(H).

**6.9 DISTRIBUTION FOR MINOR OR INCOMPETENT INDIVIDUAL**

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

**6.10 LOCATION OF PARTICIPANT OR BENEFICIARY UNKNOWN**

In the event that all, or any portion, of the distribution payable to a Participant or Beneficiary hereunder shall, at the later of the Participant's attainment of age 62 or Normal Retirement Age, remain unpaid solely by reason of the inability of the Administrator to ascertain the whereabouts of such Participant or Beneficiary, the amount so distributable may, in the sole discretion of the Administrator, either be treated as a Forfeiture or be paid directly to an individual retirement account described in Code §408(a) or an individual retirement annuity described in Code §408(b). In addition, if the Plan provides for mandatory distributions and the amount to be distributed to a Participant or Beneficiary does not exceed \$1,000, then the amount distributable may, in the sole discretion of the Administrator, either be treated as a Forfeiture, or be paid directly to an individual retirement account described in Code §408(a) or an individual retirement annuity described in Code §408(b) at the time it is determined that the whereabouts of the Participant or the Participant's Beneficiary cannot be ascertained. In the event a Participant or Beneficiary is located subsequent to the Forfeiture, such benefit shall be restored, first

from Forfeitures, if any, and then from an additional Employer contribution if necessary. Upon Plan termination, the portion of the distributable amount that is an "eligible rollover distribution" as defined in Section 6.14(b)(1) may be paid directly to an individual retirement account described in Code §408(a) or an individual retirement annuity described in Code §408(b). However, regardless of the preceding, a benefit that is lost by reason of escheat under applicable state law is not treated as a Forfeiture for purposes of this Section nor as an impermissible forfeiture under the Code.

## 6.11 IN-SERVICE DISTRIBUTION

If elected in the Adoption Agreement, at such time as the conditions set forth in the Adoption Agreement have been satisfied, then the Administrator, at the election of a Participant who has not severed employment with the Employer, shall direct the distribution of up to the entire Vested amount then credited to the Accounts as elected in the Adoption Agreement maintained on behalf of such Participant. For purposes of this Section, a Participant shall include an Employee who has an Account balance in the Plan. In the event that the Administrator makes such a distribution, the Participant shall continue to be eligible to participate in the Plan on the same basis as any other Employee. Any distribution made pursuant to this Section shall be made in a manner consistent with Section 6.5. Furthermore, if an in-service distribution is permitted from more than one account type, the Administrator may determine any ordering of a Participant's in-service distribution from such accounts.

## 6.12 ADVANCE DISTRIBUTION FOR HARDSHIP

(a) **Hardship events.** For 401(a) Plans, if elected in the Adoption Agreement, the Administrator, at the election of the Participant, shall direct the distribution to any Participant in any one Plan Year up to the lesser of 100% of the Vested interest of the Accounts selected in the Adoption Agreement, valued as of the last Valuation Date or the amount necessary to satisfy the immediate and heavy financial need of the Participant. For purposes of this Section, a Participant shall include an Employee who has an Account balance in the Plan. Any distribution made pursuant to this Section shall be deemed to be made as of the first day of the Plan Year or, if later, the Valuation Date immediately preceding the date of distribution, and the Account from which the distribution is made shall be reduced accordingly. Withdrawal under this Section shall be authorized only if the distribution is for an immediate and heavy financial need. The Administrator will determine whether there is an immediate and heavy financial need based on the facts and circumstances. An immediate and heavy financial need includes, but is not limited to, a distribution for one of the following:

- (1) Expenses for (or necessary to obtain) medical care (as defined in Code §213(d));
- (2) Costs directly related to the purchase (excluding mortgage payments) of a principal residence for the Participant;
- (3) Payments for burial or funeral expenses for the Participant's deceased parent, Spouse, children or dependents (as defined in Code §152, and without regard to Code §152(d)(1)(B));
- (4) Payment of tuition, related educational fees, and room and board expenses, for up to the next twelve (12) months of post-secondary education for the Participant, the Participant's Spouse, children, or dependents (as defined in Code §152, and without regard to Code §§152(b)(1), (b)(2), and (d)(1)(B));
- (5) Payments necessary to prevent the eviction of the Participant from the Participant's principal residence or foreclosure on the mortgage on that residence; or
- (6) Expenses for the repair of damage to the Participant's principal residence that would qualify for the casualty deduction under Code §165 (determined without regard to whether the loss exceeds 10% of adjusted gross income).

(b) **Beneficiary-based distribution.** If elected in the Adoption Agreement, then effective as of the date specified in the Adoption Agreement, but no earlier than August 17, 2006, a Participant's hardship event includes an immediate and heavy financial need of the Participant's "primary Beneficiary under the Plan," that would constitute a hardship event if it occurred with respect to the Participant's Spouse or dependent as defined under Code §152 (such hardship events being limited to educational expenses, funeral expenses and certain medical expenses). For purposes of this Section, a Participant's "primary Beneficiary under the Plan" is an individual who is named as a Beneficiary under the Plan (by the Participant or pursuant to Section 6.2(d)) and has an unconditional right to all or a portion of the Participant's Account balance under the Plan upon the Participant's death.

(c) **Other limits and conditions.** If elected in the Adoption Agreement, no distribution shall be made pursuant to this Section from the Participant's Account until such Account has become fully Vested. Furthermore, if a hardship distribution is permitted from more than one Account, the Administrator may determine any ordering of a Participant's hardship distribution from such Accounts.

(d) **Distribution rules apply.** Any distribution made pursuant to this Section shall be made in a manner which is consistent with and satisfies the provisions of Section 6.5.



### 6.13 QUALIFIED DOMESTIC RELATIONS ORDER DISTRIBUTION

All benefits provided to a Participant in this Plan shall be subject to the rights afforded to any Alternate Payee under a "qualified domestic relations order." Furthermore, unless otherwise elected in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections) a distribution to an Alternate Payee shall be permitted if such distribution is authorized by a "qualified domestic relations order," even if the affected Participant has not reached the "earliest retirement age." For the purposes of this Section, "qualified domestic relations order" and "earliest retirement age" shall have the meanings set forth under Code §414(p). For purposes of this Section, however, a distribution that is made pursuant to a domestic relations order which meets the requirements of Code §414(p)(1)(A)(i) will be treated as being made pursuant to a "qualified domestic relations order."

Effective as of April 6, 2007, a domestic relations order that otherwise satisfies the requirements for a "qualified domestic relations order" will not fail to be a "qualified domestic relations order": (i) solely because the order is issued after, or revises, another domestic relations order or "qualified domestic relations order"; or (ii) solely because of the time at which the order is issued, including issuance after the Annuity Starting Date or after the Participant's death.

### 6.14 DIRECT ROLLOVERS

(a) **Right to direct rollover.** 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 Administrator, to have an "eligible rollover distribution" paid directly to an "eligible retirement plan" specified by the "distributee" in a "direct rollover." However, if less than the entire amount of the "eligible rollover distribution" is being paid directly to an "eligible retirement plan," then the Administrator may require that the amount paid directly to such plan be at least \$500.

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

(1) **Eligible rollover distribution.** An "eligible rollover distribution" means any distribution described in Code §402(c)(4) and generally includes 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 (10) years or more; any distribution to the extent such distribution is required under Code §401(a)(9); any hardship distribution; the portion of any other distribution(s) that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities); and any other distribution reasonably expected to total less than \$200 during a year. For purposes of the \$200 rule, a distribution from a designated Roth account and a distribution from other accounts under the Plan may be treated as made under separate plans. In addition, Section 6.8(f)(2) applies with respect to distributions made in 2009.

Notwithstanding the above, a portion of a distribution shall not fail to be an "eligible rollover distribution" merely because the portion consists of after-tax voluntary Employee contributions which are not includible in gross income. However, such portion may be transferred only to:

- (i) a traditional individual retirement account or annuity described in Code §408(a) or (b) (a "traditional IRA")
- (ii) for taxable years beginning after December 31, 2006, a Roth individual account or annuity described in Code §408A (a "Roth IRA"), or
- (iii) a qualified defined contribution plan or an annuity contract described in Code §401(a) or Code §403(b), respectively, that agrees to separately account for amounts so transferred (and earnings thereon), including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

(2) **Eligible retirement plan.** An "eligible retirement plan" is a "traditional IRA," for distributions made after December 31, 2007, a "Roth IRA," a qualified trust (an employees' trust) described in Code §401(a) which is exempt from tax under Code §501(a), an annuity plan described in Code §403(a), an eligible plan under Code §457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision and which agrees to separately account for amounts transferred into such plan from this Plan, and an annuity contract described in Code §403(b), that accepts the "distributee's" "eligible rollover distribution." 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 an Alternate Payee. If any portion of an "eligible rollover distribution" is attributable to payments or distributions from a designated Roth account, an "eligible retirement plan" with respect to such portion shall include only another designated Roth account of the individual from whose account the payments or distributions were made, or a Roth IRA of such individual. In the case of a "distributee" who is a non-Spouse designated Beneficiary, (i) the "direct rollover" may be made only to a traditional or Roth individual retirement account or an annuity described in Code §408(b) ("IRA") that is established on behalf of the designated non-Spouse Beneficiary and that will be treated as an inherited IRA pursuant to the provisions of Code §402(c)(11), and (ii) the

determination of any required minimum distribution required under Code §401(a)(9) that is ineligible for rollover shall be made in accordance with IRS Notice 2007-7, Q&A 17 and 18.

(3) **Distributee.** A "distributee" includes an Employee or Former Employee. In addition, the Employee's or Former Employee's surviving Spouse and the Employee's or Former Employee's Spouse or former Spouse who is the Alternate Payee, are "distributees" with regard to the interest of the Spouse or former Spouse.

(4) **Direct rollover.** A "direct rollover" is a payment by the Plan to the "eligible retirement plan" specified by the "distributee."

(c) **Participant notice.** A Participant entitled to an "eligible rollover distribution" must receive a written explanation of the right to a "direct rollover," the tax consequences of not making a "direct rollover," and, if applicable, any available special income tax elections. The notice must be provided no less than thirty (30) days and no more than one-hundred eighty (180) (ninety (90) for Plan Years beginning before January 1, 2007) days before the Annuity Starting Date. The "direct rollover" notice must be provided to all Participants, unless the total amount the Participant will receive as a distribution during the calendar year is expected to be less than \$200.

(d) **Non-Spouse Beneficiary rollover right.** For distributions after December 31, 2009, and unless otherwise elected in the Adoption Agreement, for distributions after December 31, 2006, a non-Spouse Beneficiary who is a "designated Beneficiary" under Code §401(a)(9)(E) and the Regulations thereunder, by a direct trustee-to-trustee transfer ("direct rollover"), may roll over all or any portion an "eligible rollover distribution" to an IRA the Beneficiary establishes for purposes of receiving the distribution.

(1) **Certain requirements not applicable.** Any distribution made prior to January 1, 2010 is not subject to the "direct rollover" requirements of Code §401(a)(31) (including Code §401(a)(31)(B), the notice requirements of Code §402(f) or the mandatory withholding requirements of Code §3405(c)).

(2) **Trust Beneficiary.** If the Participant's named Beneficiary is a trust, the Plan may make a direct rollover to an IRA on behalf of the trust, provided the trust satisfies the requirements to be a "designated Beneficiary."

#### 6.15 RESTRICTIONS ON DISTRIBUTION OF ASSETS TRANSFERRED FROM A MONEY PURCHASE PLAN

Notwithstanding any provision of this Plan to the contrary, to the extent that any optional form of benefit under this Plan permits a distribution prior to the Employee's retirement, death, Total and Permanent Disability, or severance from employment, and prior to Plan termination, the optional form of benefit is not available with respect to benefits attributable to assets (including the post-transfer earnings thereon) and liabilities that are transferred, within the meaning of Code §414(l), to this Plan from a money purchase pension plan qualified under Code §401(a) (other than any portion of those assets and liabilities attributable to after-tax voluntary Employee contributions or to a direct or indirect rollover contribution). Notwithstanding anything in the Plan to the contrary, effective with respect to Plan Years beginning after June 30, 2008, a Participant may not obtain an in-service distribution with respect to such transferred amounts prior to the earlier of the Participant's Normal Retirement Age or attainment of age 62.

#### 6.16 CORRECTIVE DISTRIBUTIONS

Nothing in this Article shall preclude the Administrator from making a distribution to a Participant, to the extent such distribution is made to correct a qualification defect in accordance with the corrective procedures under the IRS' Employee Plans Compliance Resolution System or any other voluntary compliance programs established by the IRS.

#### 6.17 HEART ACT

(a) **Death benefits.** In the case of a death occurring on or after January 1, 2007, if a Participant dies while performing qualified military service (as defined in Code §414(u)), the Participant's Beneficiary is entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the Plan as if the Participant had resumed employment and then terminated employment on account of death. Moreover, the Plan will credit the Participant's qualified military service as service for vesting purposes, as though the Participant had resumed employment under Uniformed Services Employment and Reemployment Rights Act of 1994, as amended (USERRA) immediately prior to the Participant's death.

(b) **Military Differential Pay.** For years beginning after December 31, 2008: (1) an individual receiving Military Differential Pay is treated as an Employee of the Employer making the payment; (2) the Military Differential Pay is treated as 415 Compensation (and Compensation unless otherwise elected in the Adoption Agreement); and (3) the Plan is not treated as failing to meet the requirements of any provision described in Code §414(u)(1)(C) (or corresponding Plan provisions) by reason of any contribution or benefit which is based on the Military Differential Pay. The Administrator operationally may determine, for purposes of the provisions described in Code §414(u)(1)(C), whether to take into account any matching contributions, attributable to Military Differential Pay.

(c) **Deemed Severance.** Notwithstanding Subsection (b)(1) above, if elected in the Adoption Agreement, a Participant performs service in the uniformed services (as defined in Code §414(u)(12)(B)) on active duty for a period of more than 30 days, the

Participant will be deemed to have a severance from employment solely for purposes of eligibility for distribution of amounts not attributable to Employer contributions to a money purchase pension plan. However, the Plan will not distribute such a Participant's Account on account of this deemed severance unless the Participant specifically elects to receive a benefit distribution hereunder.

#### 6.18 SERVICE CREDIT

The Administrator, upon Participant request, may direct the transfer of all or a portion of the Participant's Account to a governmental defined benefit plan (as defined in Code §414(d)) in which he or she participates for the purchase of permissive service credit (as defined in Code §415(n)(3)(A)).

### ARTICLE VII TRUSTEE AND CUSTODIAN

#### 7.1 BASIC RESPONSIBILITIES OF THE TRUSTEE

(a) **Application of Article.** The provisions of this Article, other than Section 7.6, shall not apply to this Plan if a separate trust agreement is being used. Furthermore, the provisions of this Article, other than Sections 7.5 and 7.6, shall not apply if the Plan is fully insured. If the Employer has appointed two or more Trustees to hold Plan assets, then each Trustee shall be the Trustee only with respect to those Plan assets specifically deposited by the Employer in the Trust Fund for which such Trustee is the trustee. References in the Plan to the responsibilities, power or duties of the Trustee and any other provisions in the Plan relating to the Trustee shall be interpreted as applying to each Trustee only with respect to the assets of the Trust Fund for which such Trustee is the Trustee. Each Trustee shall have no responsibility for, or liability with respect to, any of the Plan assets other than the assets for which it serves as Trustee.

(b) **No Duty to collect contributions.** The Trustee is accountable to the Employer for the funds contributed to the Plan by the Employer, but the Trustee does not have any duty to see that the contributions received comply or are deposited in accordance with the provisions of the Plan.

(c) **Reliance on Administrator's directions.** The Trustee will credit and distribute the Trust Fund as directed by the Administrator. The Trustee is not obligated to inquire as to whether any payee or distributee is entitled to any payment or whether the distribution is proper or within the terms of the Plan, or whether the manner of making any payment or distribution is proper. The Trustee is accountable only to the Administrator for any payment or distribution made by it in good faith on the order or direction of the Administrator.

(d) **Directions by others.** In the event that the Trustee shall be directed by a Participant (pursuant to the Participant Direction Procedures if the Plan permits Participant directed investments), the Employer, or an Investment Manager or other agent appointed by the Employer with respect to the investment of any or all Plan assets, the Trustee shall have no liability with respect to the investment of such assets, but shall be responsible only to execute such investment instructions as so directed.

(1) The Trustee shall be entitled to rely fully on the written (or other form acceptable to the Administrator and the Trustee, including but not limited to, voice recorded) instructions of a Participant (pursuant to the Participant Direction Procedures), the Employer, or any fiduciary or nonfiduciary agent of the Employer, in the discharge of such duties, and shall not be liable for any loss or other liability resulting from such direction (or lack of direction) of the investment of any part of the Plan assets.

(2) The Trustee may delegate the duty of executing such instructions to any nonfiduciary agent, which may be an affiliate of the Trustee or any Plan representative.

(3) The Trustee may refuse to comply with any direction from the Participant in the event the Trustee, in its sole and absolute discretion, deems such direction improper by virtue of applicable law. The Trustee shall not be responsible or liable for any loss or expense that may result from the Trustee's refusal or failure to comply with any direction from the Participant.

(4) Any costs and expenses related to compliance with the Participant's directions shall be borne by the Participant's Directed Account, unless paid by the Employer.

(5) Notwithstanding anything herein above to the contrary, the Trustee shall not invest any portion of a Participant's Directed Account in "collectibles" within the meaning of Code §408(m).

(e) **Records.** The Trustee will maintain records of receipts and disbursements and furnish to the Employer and/or Administrator for each Plan Year a written annual report pursuant to Section 7.9.

(f) **Employment of bank or trust company.** The Trustee may employ a bank or trust company pursuant to the terms of its usual and customary bank agency agreement, under which the duties of such bank or trust company shall be of a custodial, clerical and record-keeping nature.

(g) **Payment of expenses.** The Trustee may employ and pay from the Trust Fund reasonable compensation to agents, attorneys, accountants and other persons to advise the Trustee as in its opinion may be necessary. The Trustee may delegate to any agent, attorney, accountant or other person selected by it any non-Trustee power or duty vested in it by the Plan, and the Trustee may act or refrain from acting on the advice or opinion of any such person.

## 7.2 INVESTMENT POWERS AND DUTIES OF DISCRETIONARY TRUSTEE

(a) **Discretionary authority.** This Section applies if the Employer, in the Adoption Agreement or as otherwise agreed upon by the Employer and the Trustee, designates the Trustee to administer all or a portion of the trust as a Discretionary Trustee. If so designated, then the Trustee has the discretion and authority to invest, manage, and control those Plan assets except, however, with respect to those assets which are subject to the investment direction of a Participant (if Participant directed investments are permitted), or an Investment Manager, the Administrator, or other agent appointed by the Employer. The exercise of any investment discretion hereunder shall be consistent with the "funding policy and method" determined by the Employer.

(b) **Duties.** The Trustee shall, except as otherwise provided in this Plan, invest and reinvest the Trust Fund to keep the Trust Fund invested without distinction between principal and income and in such securities or property, real or personal, wherever situated, as the Trustee shall deem advisable, including, but not limited to, common or preferred stocks, open-end or closed-end mutual funds, bonds and other evidences of indebtedness or ownership, and real estate or any interest therein. The Trustee shall at all times in making investments of the Trust Fund consider, among other factors, the short and long-term financial needs of the Plan on the basis of information furnished by the Employer. In making such investments, the Trustee shall not be restricted to securities or other property of the character expressly authorized by the applicable law for trust investments; however, the Trustee shall give due regard to any limitations imposed by the Code so that at all times this Plan may qualify as a qualified Plan and Trust. The Trustee shall discharge its duties with respect to the Plan solely in the interest of the Participants and Beneficiaries and with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

(c) **Powers.** The Trustee, in addition to all powers and authorities under common law, statutory authority and other provisions of this Plan, shall have the following powers and authorities to be exercised in the Trustee's sole discretion:

- (1) To purchase, or subscribe for, any securities or other property and to retain the same. In conjunction with the purchase of securities, margin accounts may be opened and maintained;
- (2) To sell, exchange, convey, transfer, grant options to purchase, or otherwise dispose of any securities or other property held by the Trustee, by private contract or at public auction. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity, expediency, or propriety of any such sale or other disposition, with or without advertisement;
- (3) To vote upon any stocks, bonds, or other securities; to give general or special proxies or powers of attorney with or without power of substitution; to exercise any conversion privileges, subscription rights or other options, and to make any payments incidental thereto; to oppose, or to consent to, or otherwise participate in, corporate reorganizations or other changes affecting corporate securities, and to delegate discretionary powers, and to pay any assessments or charges in connection therewith; and generally to exercise any of the powers of an owner with respect to stocks, bonds, securities, or other property;
- (4) To cause any securities or other property to be registered in the Trustee's own name, or in the name of a nominee or in a street name provided such securities or other property are held on behalf of the Plan by (i) a bank or trust company, (ii) a broker or dealer registered under the Securities Exchange Act of 1934, or a nominee of such broker or dealer, or (iii) a clearing agency as defined in Section 3(a)(23) of the Securities Exchange Act of 1934;
- (5) To invest in a common, collective, or pooled trust fund (the provisions of which are incorporated herein by reference) maintained by any Trustee (or any affiliate of such Trustee) hereunder pursuant to Revenue Ruling 81-100 (as modified by Rev. Rul. 2011-1 or any subsequent guidance), all or such part of the Trust Fund as the Trustee may deem advisable, and the part of the Trust Fund so transferred shall be subject to all the terms and provisions of the common, collective, or pooled trust fund which contemplate the commingling for investment purposes of such trust assets with trust assets of other trusts. The name of the trust fund may be specified in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections). The Trustee may withdraw from such common, collective, or pooled trust fund all or such part of the Trust Fund as the Trustee may deem advisable;
- (6) To borrow or raise money for the purposes of the Plan in such amount, and upon such terms and conditions, as the Trustee shall deem advisable; and for any sum so borrowed, to issue a promissory note as Trustee, and to secure the repayment thereof by pledging all, or any part, of the Trust Fund; and no person lending money to the Trustee shall be bound to see to the application of the money lent or to inquire into the validity, expediency, or propriety of any borrowing;
- (7) To accept and retain for such time as it may deem advisable any securities or other property received or acquired by it as Trustee hereunder, whether or not such securities or other property would normally be purchased as investments hereunder;

- (8) To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;
- (9) To settle, compromise, or submit to arbitration (provided such arbitration does not apply to qualification issues nor to Participants or Beneficiaries) any claims, debts, or damages due or owing to or from the Plan, to commence or defend suits or legal or administrative proceedings, and to represent the Plan in all suits and legal and administrative proceedings;
- (10) To employ suitable agents and counsel and to pay their reasonable expenses and compensation, and such agents or counsel may or may not be an agent or counsel for the Employer;
- (11) To apply for and procure from the Insurer as an investment of the Trust Fund any annuity or other Contracts (on the life of any Participant, or in the case of a 401(a) Plan, on the life of any person in whom a Participant has an insurable interest, or on the joint lives of a Participant and any person in whom the Participant has an insurable interest) as the Administrator shall deem proper; to exercise, at any time or from time to time, whatever rights and privileges may be granted under such annuity, or other Contracts; to collect, receive, and settle for the proceeds of all such annuity, or other Contracts as and when entitled to do so under the provisions thereof;
- (12) To invest funds of the Trust in time deposits or savings accounts bearing a reasonable rate of interest or in cash or cash balances without liability for interest thereon, including the specific authority to invest in any type of deposit of the Trustee (or of a financial institution related to the Trustee);
- (13) To invest in Treasury Bills and other forms of United States government obligations;
- (14) To sell, purchase and acquire put or call options if the options are traded on and purchased through a national securities exchange registered under the Securities Exchange Act of 1934, as amended, or, if the options are not traded on a national securities exchange, are guaranteed by a member firm of the New York Stock Exchange regardless of whether such options are covered;
- (15) To deposit monies in federally insured savings accounts or certificates of deposit in banks or savings and loan associations including the specific authority to make deposit into any savings accounts or certificates of deposit of the Trustee (or a financial institution related to the Trustee);
- (16) To pool all or any of the Trust Fund, from time to time, with assets belonging to any other qualified employee pension benefit trust created by the Employer or any Affiliated Employer, and to commingle such assets and make joint or common investments and carry joint accounts on behalf of this Plan and Trust and such other trust or trusts, allocating undivided shares or interests in such investments or accounts or any pooled assets of the two or more trusts in accordance with their respective interests; and
- (17) To do all such acts and exercise all such rights and privileges, although not specifically mentioned herein, as the Trustee may deem necessary to carry out the purposes of the Plan.
- (d) **Appointment of Investment Manager or others.** The Trustee may appoint, at its option, an Investment Manager, investment adviser, or other agent to provide direction to the Trustee with respect to the investment of any or all of the Plan assets. Such appointment shall be in writing and shall specifically identify the Plan assets with respect to which the Investment Manager or other agent shall have the authority to direct the investment.

### 7.3 INVESTMENT POWERS AND DUTIES OF NONDISCRETIONARY TRUSTEE

(a) **No discretionary powers.** This Section applies if the Employer, in the Adoption Agreement or as otherwise agreed upon by the Employer and the Trustee, designates the Trustee to administer all or a portion of the trust as a nondiscretionary Trustee. If so designated, then the Trustee shall have no discretionary authority to invest, manage, or control those Plan assets, but must act solely as a Directed Trustee of those Plan assets. A nondiscretionary Trustee, as Directed Trustee of the Plan funds it holds, is authorized and empowered, by way of limitation, with the powers, rights and duties set forth herein, each of which the nondiscretionary Trustee exercises solely as Directed Trustee in accordance with the direction of the party which has the authority to manage and control the investment of the Plan assets. If no directions are provided to the Trustee, the Employer will provide necessary direction. Furthermore, the Employer and the nondiscretionary Trustee may, in writing, limit the powers of the nondiscretionary Trustee to any combination of powers listed within this Section. The party which has the authority to manage and control the investment of the Plan assets shall discharge its duties with respect to the Plan solely in the interest of the Participants and Beneficiaries and with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

(b) **Powers.** The Trustee, in addition to all powers and authorities under common law, statutory authority and other provisions of this Plan, shall have the following powers and authorities:

- (1) To invest the assets, without distinction between principal and income, in securities or property, real or personal, wherever situated, including, but not limited to, common or preferred stocks, open-end or closed-end mutual funds, bonds and other evidences of indebtedness or ownership, and real estate or any interest therein. In making such investments, the Trustee shall not be restricted to securities or other property of the character expressly authorized by the applicable law for trust investments; however, the Trustee shall give due regard to any limitations imposed by the Code so that at all times this Plan may qualify as a qualified Plan and Trust;
- (2) To purchase, or subscribe for, any securities or other property and to retain the same. In conjunction with the purchase of securities, margin accounts may be opened and maintained;
- (3) To sell, exchange, convey, transfer, grant options to purchase, or otherwise dispose of any securities or other property held by the Trustee, by private contract or at public auction. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity, expediency, or propriety of any such sale or other disposition, with or without advertisement;
- (4) At the direction of the party which has the authority or discretion, to vote upon any stocks, bonds, or other securities; to give general or special proxies or powers of attorney with or without power of substitution; to exercise any conversion privileges, subscription rights or other options, and to make any payments incidental thereto; to oppose, or to consent to, or otherwise participate in, corporate reorganizations or other changes affecting corporate securities, and to delegate powers, and pay any assessments or charges in connection therewith; and generally to exercise any of the powers of an owner with respect to stocks, bonds, securities, or other property;
- (5) To cause any securities or other property to be registered in the Trustee's own name, or in the name of a nominee or in a street name provided such securities or other property are held on behalf of the Plan by (i) a bank or trust company, (ii) a broker or dealer registered under the Securities Exchange Act of 1934, or a nominee of such broker or dealer, or (iii) a clearing agency as defined in Section 3(a)(23) of the Securities Exchange Act of 1934;
- (6) To invest in a common, collective, or pooled trust fund (the provisions of which are incorporated herein by reference) maintained by any Trustee (or any affiliate of such Trustee) hereunder pursuant to Revenue Ruling 81-100 (as modified by Rev. Rul. 2011-1 or any subsequent guidance), all or such part of the Trust Fund as the party which has the authority to manage and control the investment of the assets shall deem advisable, and the part of the Trust Fund so transferred shall be subject to all the terms and provisions of the common, collective, or pooled trust fund which contemplate the commingling for investment purposes of such trust assets with trust assets of other trusts. The name of the trust fund may be specified in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections);
- (7) To borrow or raise money for the purposes of the Plan in such amount, and upon such terms and conditions, as the Trustee shall deem advisable; and for any sum so borrowed, to issue a promissory note as Trustee, and to secure the repayment thereof by pledging all, or any part, of the Trust Fund; and no person lending money to the Trustee shall be bound to see to the application of the money lent or to inquire into the validity, expediency, or propriety of any borrowing;
- (8) To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;
- (9) To settle, compromise, or submit to arbitration (provided such arbitration does not apply to qualification issues nor to Participants or Beneficiaries) any claims, debts, or damages due or owing to or from the Plan, to commence or defend suits or legal or administrative proceedings, and to represent the Plan in all suits and legal and administrative proceedings;
- (10) To employ suitable agents and counsel and to pay their reasonable expenses and compensation, and such agent or counsel may or may not be an agent or counsel for the Employer;
- (11) To apply for and procure from the Insurer as an investment of the Trust Fund any annuity or other Contracts (on the life of any Participant, or in the case of a 401(a) Plan, on the life of any person in whom a Participant has an insurable interest, or on the joint lives of a Participant and any person in whom the Participant has an insurable interest) as the Administrator shall deem proper; to exercise, at the direction of the person with the authority to do so, whatever rights and privileges may be granted under such annuity or other Contracts; to collect, receive, and settle for the proceeds of all such annuity or other Contracts as and when entitled to do so under the provisions thereof;
- (12) To invest funds of the Trust in time deposits or savings accounts bearing a reasonable rate of interest or in cash or cash balances without liability for interest thereon, including the specific authority to invest in any type of deposit of the Trustee (or of a financial institution related to the Trustee);
- (13) To invest in Treasury Bills and other forms of United States government obligations;

(14) To sell, purchase and acquire put or call options if the options are traded on and purchased through a national securities exchange registered under the Securities Exchange Act of 1934, as amended, or, if the options are not traded on a national securities exchange, are guaranteed by a member firm of the New York Stock Exchange regardless of whether such options are covered;

(15) To deposit monies in federally insured savings accounts or certificates of deposit in banks or savings and loan associations including the specific authority to make deposit into any savings accounts or certificates of deposit of the Trustee (or a financial institution related to the Trustee); and

(16) To pool all or any of the Trust Fund, from time to time, with assets belonging to any other qualified employee pension benefit trust created by the Employer or any Affiliated Employer, and to commingle such assets and make joint or common investments and carry joint accounts on behalf of this Plan and such other trust or trusts, allocating undivided shares or interests in such investments or accounts or any pooled assets of the two or more trusts in accordance with their respective interests.

(c) The Trustee shall have no responsibility to enforce the collection from the Employer of any contribution to the Plan or determine the correctness of the amount or timing any contribution. The Employer is responsible for transmitting contributions to the Trustee at such times and in such manner as is mutually agreed upon by the Employer and the Trustee and as required by the Plan and applicable law.

#### 7.4 POWERS AND DUTIES OF CUSTODIAN

The Employer may appoint a Custodian of the Plan assets. A Custodian has the same powers, rights and duties as a nondiscretionary Trustee. Any reference in the Plan to a Trustee also is a reference to a Custodian unless the context of the Plan indicates otherwise. A limitation of the Trustee's liability by Plan provision also acts as a limitation of the Custodian's liability. The Custodian will be protected from any liability with respect to actions taken pursuant to the direction of the Trustee, Administrator, the Employer, an Investment Manager, a fiduciary or other third party with authority to provide direction to the Custodian. The resignation or removal of the Custodian shall be made in accordance with Section 7.11 as though the Custodian were a Trustee.

#### 7.5 LIFE INSURANCE

(a) **Permitted insurance.** The Trustee (or Insurer), in accordance with operational procedures of the Administrator, shall ratably apply for, own, and pay all premiums on Contracts on the lives of the Participants or, in the case of a 401(a) Plan, on the life of a member of the Participant's family or on the joint lives of a Participant and a member of the Participant's family. Furthermore, if a Contract is purchased on the joint lives of the Participant and another person and such other person predeceases the Participant, then the Contract may not be maintained under this Plan. Any initial or additional Contract purchased on behalf of a Participant shall have a face amount of not less than \$1,000, an amount set forth in the Administrator's procedures, or the limitation of the Insurer, whichever is greater. If a life insurance Contract is to be purchased for a Participant, then the aggregate premium for ordinary life insurance for each Participant must be less than 50% of the aggregate contributions and Forfeitures allocated to the Participant's Combined Account. For purposes of this limitation, ordinary life insurance Contracts are Contracts with both non-decreasing death benefits and non-increasing premiums. If term insurance or universal life insurance is purchased, then the aggregate premium must be 25% or less of the aggregate contributions and Forfeitures allocated to the Participant's Combined Account. If both term insurance and ordinary life insurance are purchased, then the premium for term insurance plus one-half of the premium for ordinary life insurance may not in the aggregate exceed 25% of the aggregate Employer contributions and Forfeitures allocated to the Participant's Combined Account. Notwithstanding the preceding, the limitations imposed herein with respect to the purchase of life insurance shall not apply, in the case of a 401(a) Plan, to the portion of the Participant's Account that has accumulated for at least two (2) Plan Years or to the entire Participant's Account if the Participant has been a Participant in the Plan for at least five (5) years. In addition, amounts transferred to this Plan in accordance with Section 4.6(f)(1)(ii) or (iii) and a Participant's Voluntary Contribution Account may be used to purchase Contracts without limitation. Thus, amounts that are not subject to the limitations contained herein may be used to purchase life insurance on any person in whom a Participant has an insurable interest or on the joint lives of a Participant and any person in whom the Participant has an insurable interest, and without regard to the amount of premiums paid to purchase any life insurance hereunder.

(b) **Contract conversion at retirement.** The Trustee (or Insurer) must distribute any Contracts to the Participant or convert the entire value of the Contracts at or before retirement into cash or provide for a periodic income so that no portion of such value may be used to continue life insurance protection beyond the date on which benefits commence.

(c) **Limitations on purchase.** No life insurance Contracts shall be required to be obtained on an individual's life if, for any reason (other than the nonpayment of premiums) the Insurer will not issue a Contract on such individual's life.

(d) **Proceeds payable to plan.** The Trustee (or Insurer) will be the owner of any life insurance Contract purchased under the terms of this Plan. The Contract must provide that the proceeds will be payable to the Trustee (or Insurer); however, the Trustee (or Insurer) shall be required to pay over all proceeds of the Contract to the Participant's "designated Beneficiary" in accordance with the distribution provisions of Article VI. A Participant's Spouse will be the "designated Beneficiary" pursuant to Section 6.2, unless

a qualified election has been made in accordance with Sections 6.5 and 6.6 of the Plan, if applicable. Under no circumstances shall the Trust retain any part of the proceeds that are in excess of the cash surrender value immediately prior to death. However, the Trustee (or Insurer) shall not pay the proceeds in a method that would violate the requirements of the Retirement Equity Act of 1984, as stated in Article VI of the Plan, or Code §401(a)(9) and the Regulations thereunder. In the event of any conflict between the terms of this Plan and the terms of any insurance Contract purchased hereunder, the Plan provisions shall control.

(e) **No responsibility for act of Insurer.** The Employer, the Administrator and the Trustee shall not be responsible for the validity of the provisions under a Contract issued hereunder or for the failure or refusal by the Insurer to provide benefits under such Contract. The Employer, Administrator and the Trustee are also not responsible for any action or failure to act by the Insurer or any other person which results in the delay of a payment under the Contract or which renders the Contract invalid or unenforceable in whole or in part.

## 7.6 LOANS TO PARTICIPANTS

(a) **Permitted Loans.** The Trustee (or the Administrator if the Trustee is a nondiscretionary Trustee or if loans are treated as Participant directed investments) may, in the Trustee's (or, if applicable, the Administrator's) sole discretion, make loans to Participants. If loans are permitted, then the following shall apply: (1) loans shall be made available to all Participants on a reasonably equivalent basis; (2) loans shall bear a reasonable rate of interest; (3) loans shall be adequately secured; and (4) loans shall provide for periodic repayment over a reasonable period of time. Furthermore, no Participant loan shall exceed the Participant's Vested interest in the Plan. For purposes of this Section, the term Participant shall include any Eligible Employee who is not yet a Participant, if, pursuant to the Adoption Agreement, "rollovers" are permitted to be accepted from Eligible Employees.

(b) **Prohibited assignment or pledge.** An assignment or pledge of any portion of a Participant's interest in the Plan and a loan, pledge, or assignment with respect to any insurance Contract purchased under the Plan, shall be treated as a loan under this Section.

(c) **Loan program.** The Administrator shall be authorized to establish a Participant loan program to provide for loans under the Plan. In order for the Administrator to implement such loan program, a separate written document forming a part of this Plan must be adopted, which document shall specifically include, but need not be limited to, the following:

- (1) the identity of the person or positions authorized to administer the Participant loan program;
- (2) a procedure for applying for loans;
- (3) the basis on which loans will be approved or denied;
- (4) limitations, if any, on the types and amounts of loans offered;
- (5) the procedure under the program for determining a reasonable rate of interest;
- (6) the types of collateral which may secure a Participant loan; and
- (7) the events constituting default and the steps that will be taken to preserve Plan assets in the event such default.

(d) **Loan default.** Notwithstanding anything in this Plan to the contrary, if a Participant or Beneficiary defaults on a loan made pursuant to this Section that is secured by the Participant's interest in the Plan, then a Participant's interest may be offset by the amount subject to the security to the extent there is a distributable event permitted by the Code or Regulations.

(e) **Loans subject to Plan terms.** Notwithstanding anything in this Section to the contrary, if this is an amendment and restatement of an existing Plan, any loans made prior to the date this amendment and restatement is adopted shall be subject to the terms of the Plan in effect at the time such loan was made.

## 7.7 ALLOCATION AND DELEGATION OF RESPONSIBILITIES

If there is more than one Trustee, then the responsibilities of each Trustee may be specified by the Employer and accepted in writing by each Trustee. If no such delegation is made by the Employer, then the Trustees may allocate the responsibilities among themselves, in which event the Trustees shall notify the Employer and the Administrator in writing of such action and specify the responsibilities of each Trustee. Except where there has been an allocation and delegation of powers, if there shall be more than one Trustee, they shall act by a majority of their number, but may authorize one or more of them to sign papers on their behalf.

## 7.8 TRUSTEE'S COMPENSATION AND EXPENSES AND TAXES

The Trustee shall be paid such reasonable compensation as set forth in the Trustee's fee schedule (if the Trustee has such a schedule) or as agreed upon in writing by the Employer and the Trustee. However, an individual serving as Trustee who already receives full-time compensation from the Employer shall not receive compensation from this Plan. In addition, the Trustee shall be reimbursed for any reasonable expenses, including reasonable counsel fees incurred by it as Trustee. Such compensation and expenses shall be paid from



the Trust Fund unless paid or advanced by the Employer. All taxes of any kind whatsoever that may be levied or assessed under existing or future laws upon, or in respect of, the Trust Fund or the income thereof, shall be paid from the Trust Fund.

## 7.9 ANNUAL REPORT OF THE TRUSTEE

(a) **Annual report.** Within a reasonable period of time after the later of the Anniversary Date or receipt of the Employer's contribution for each Plan Year, the Trustee, or its agent, shall furnish to the Employer and Administrator a written statement of account with respect to the Plan Year for which such contribution was made setting forth:

- (1) the net income, or loss, of the Trust Fund;
- (2) the gains, or losses, realized by the Trust Fund upon sales or other disposition of the assets;
- (3) the increase, or decrease, in the value of the Trust Fund;
- (4) all payments and distributions made from the Trust Fund; and
- (5) such further information as the Trustee and/or Administrator deems appropriate.

(b) **Employer approval of report.** The Employer, promptly upon its receipt of each such statement of account, shall acknowledge receipt thereof in writing and advise the Trustee and/or Administrator of its approval or disapproval thereof. Failure by the Employer to disapprove any such statement of account within thirty (30) days after its receipt thereof shall be deemed an approval thereof. The approval by the Employer of any statement of account shall be binding on the Employer and the Trustee as to all matters contained in the statement to the same extent as if the account of the Trustee had been settled by judgment or decree in an action for a judicial settlement of its account in a court of competent jurisdiction in which the Trustee, the Employer and all persons having or claiming an interest in the Plan were parties. However, nothing contained in this Section shall deprive the Trustee of its right to have its accounts judicially settled if the Trustee so desires.

## 7.10 RESIGNATION, REMOVAL AND SUCCESSION OF TRUSTEE

(a) **Trustee resignation.** Unless otherwise agreed to by both the Trustee and the Employer, a Trustee may resign at any time by delivering to the Employer, at least thirty (30) days before its effective date, a written notice of resignation.

(b) **Trustee removal.** Unless otherwise agreed to by both the Trustee and the Employer, the Employer may remove a Trustee at any time by delivering to the Trustee, at least thirty (30) days before its effective date, a written notice of such Trustee's removal.

(c) **Appointment of successor.** Upon the death, resignation, incapacity, or removal of any Trustee, a successor may be appointed by the Employer; and such successor, upon accepting such appointment in writing and delivering same to the Employer, shall, without further act, become vested with all the powers and responsibilities of the predecessor as if such successor had been originally named as a Trustee herein. Until such a successor is appointed, any remaining Trustee or Trustees shall have full authority to act under the terms of the Plan.

(d) **Appointment of successor prior to removal of predecessor.** The Employer may designate one or more successors prior to the death, resignation, incapacity, or removal of a Trustee. In the event a successor is so designated by the Employer and accepts such designation, the successor shall, without further act, become vested with all the powers and responsibilities of the predecessor as if such successor had been originally named as Trustee herein immediately upon the death, resignation, incapacity, or removal of the predecessor.

(e) **Trustee's statement upon cessation of being Trustee.** Whenever any Trustee hereunder ceases to serve as such, the Trustee shall furnish to the Employer and Administrator a written statement of account with respect to the portion of the Plan Year during which the individual or entity served as Trustee. This statement shall be either (i) included as part of the annual statement of account for the Plan Year required under Section 7.9 or (ii) set forth in a special statement. Any such special statement of account should be rendered to the Employer no later than the due date of the annual statement of account for the Plan Year. The procedures set forth in Section 7.9 for the approval by the Employer of annual statements of account shall apply to any special statement of account rendered hereunder and approval by the Employer of any such special statement in the manner provided in Section 7.9 shall have the same effect upon the statement as the Employer's approval of an annual statement of account. No successor to the Trustee shall have any duty or responsibility to investigate the acts or transactions of any predecessor who has rendered all statements of account required by Section 7.9 and this subparagraph.

## 7.11 TRANSFER OF INTEREST

Notwithstanding any other provision contained in this Plan, the Trustee at the direction of the Administrator shall transfer the interest, if any, of a Participant to another trust forming part of a pension, profit sharing, or stock bonus plan that meets the requirements of Code §401(a), provided that the trust to which such transfers are made permits the transfer to be made and further provided that the terms of the transferee plan properly allocates the funds in each account to a transferee account that preserves all the required features and

restrictions applicable to such account under this Plan. However, the transfer of amounts from this Plan to a nonqualified foreign trust is treated as a distribution and the transfer of assets and liabilities from this Plan to a plan that satisfies Section 1165 of the Puerto Rico Code is also treated as distribution from the transferor plan.

## 7.12 TRUSTEE INDEMNIFICATION

To the extent permitted by the Code, the Employer agrees to indemnify and hold harmless the Trustee against any and all claims, losses, damages, expenses and liabilities the Trustee may incur in the exercise and performance of the Trustee's powers and duties hereunder, unless the same are determined to be due to gross negligence or willful misconduct.

## ARTICLE VIII AMENDMENT, TERMINATION AND MERGERS

### 8.1 AMENDMENT

(a) **General rule on Employer amendment.** The Employer shall have the right at any time to amend this Plan subject to the limitations of this Section. However, any amendment that affects the rights, duties or responsibilities of the Trustee (or Insurer) or Administrator may only be made with the Trustee's (or Insurer's) or Administrator's written consent. Any such amendment shall become effective as provided therein upon its execution. The Trustee (or Insurer) shall not be required to execute any such amendment unless the amendment affects the duties of the Trustee (or Insurer) hereunder.

(b) **Permissible amendments.** The Employer may (1) change the choice of options in the Adoption Agreement, (2) add any appendix to the Adoption Agreement that is specifically permitted pursuant to the terms of the Plan (e.g., Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections)); (3) amend administrative trust or custodial provisions, (4) add certain sample or model amendments published by the Internal Revenue Service or other required good-faith amendments which specifically provide that their adoption will not cause the Plan to be treated as an individually designed plan, and (5) add or change provisions permitted under the Plan and/or specify or change the effective date of a provision as permitted under the Plan.

(c) **Volume submitter practitioner amendments.** The Employer (and every Participating Employer) expressly delegates authority to the volume submitter practitioner, the right to amend the Plan by submitting a copy of the amendment to each Employer (and Participating Employer) who has adopted this plan, after first having received a ruling or favorable determination from the Internal Revenue Service that the volume submitter Plan as amended qualifies under Code §401(a) (unless a ruling or determination is not required by the IRS).

(d) **Impermissible amendments.** No amendment to the Plan shall be effective if it authorizes or permits any part of the Trust Fund (other than such part as is required to pay taxes and administration expenses) to be used for or diverted to any purpose other than for the exclusive benefit of the Participants or their Beneficiaries or estates; or causes any reduction in the amount credited to the account of any Participant; or causes or permits any portion of the Trust Fund to revert to or become property of the Employer.

### 8.2 TERMINATION

(a) **Termination of Plan.** The Employer shall have the right at any time to terminate the Plan by delivering to the Trustee (or Insurer) and Administrator written notice of such termination. Upon any full or partial termination or upon the complete discontinuance of the Employer's Contributions to the Plan (in the case of a Profit Sharing Plan), all amounts credited to the affected Participants' Combined Accounts shall become 100% Vested and shall not thereafter be subject to Forfeiture.

(b) **Distribution of assets.** Upon the full termination of the Plan, the Employer shall direct the distribution of the assets to Participants in a manner that is consistent with and satisfies the provisions of Section 6.5. Distributions to a Participant shall be made in cash (or in property if permitted in the Adoption Agreement) or through the purchase of irrevocable nontransferable deferred commitments from the Insurer.

### 8.3 MERGER, CONSOLIDATION OR TRANSFER OF ASSETS

This Plan may be merged or consolidated with, or its assets and/or liabilities may be transferred to any other plan only if the benefits which would be received by a Participant of this Plan, in the event of a termination of the plan immediately after such transfer, merger or consolidation, are at least equal to the benefits the Participant would have received if the Plan had terminated immediately before the transfer, merger or consolidation.

**ARTICLE IX  
MISCELLANEOUS**

**9.1 EMPLOYER ADOPTIONS**

(a) **Method of adoption.** Any organization may become the Employer hereunder by executing the Adoption Agreement in a form satisfactory to the Trustee (or Insurer), and it shall provide such additional information as the Trustee (or Insurer) may require. The consent of the Trustee (or Insurer) to act as such shall be signified by its execution of the Adoption Agreement or a separate agreement (including, if elected in the Adoption Agreement, a separate trust agreement).

(b) **Separate affiliation.** Except as otherwise provided in this Plan, the affiliation of the Employer and the participation of its Participants shall be separate and apart from that of any other employer and its participants hereunder.

**9.2 PARTICIPANT'S RIGHTS**

This Plan shall not be deemed to constitute a contract between the Employer and any Participant or to be a consideration or an inducement for the employment of any Participant or Employee. Nothing contained in this Plan shall be deemed to give any Participant or Employee the right to be retained in the service of the Employer or to interfere with the right of the Employer to discharge any Participant or Employee at any time regardless of the effect which such discharge shall have upon the Employee as a Participant of this Plan.

**9.3 ALIENATION**

(a) **General rule.** Subject to the exceptions provided below and as otherwise permitted by the Code, no benefit which shall be payable to any person (including a Participant or the Participant's Beneficiary) shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or charge, and any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, or charge the same shall be void; and no such benefit shall in any manner be liable for, or subject to, the debts, contracts, liabilities, engagements, or torts of any such person, nor shall it be subject to attachment or legal process for or against such person, and the same shall not be recognized except to such extent as may be required by law.

(b) **Exception for loans.** Subsection (a) shall not apply to the extent a Participant or Beneficiary is indebted to the Plan by reason of a loan made pursuant to Section 7.6. At the time a distribution is to be made to or for a Participant's or Beneficiary's benefit, such portion of the amount to be distributed as shall equal such indebtedness shall be paid to the Plan, to apply against or discharge such indebtedness. Prior to making a payment, however, the Participant or Beneficiary must be given notice by the Administrator that such indebtedness is to be so paid in whole or part from the Participant's interest in the Plan. If the Participant or Beneficiary does not agree that the indebtedness is a valid claim against the Participant's interest in the Plan, the Participant or Beneficiary shall be entitled to a review of the validity of the claim in accordance with procedures provided in Section 2.10.

(c) **Exception for QDRO.** Subsection (a) shall not apply to a "qualified domestic relations order" defined in Code §414(p), and those other domestic relations orders permitted to be so treated by the Administrator under the provisions of the Retirement Equity Act of 1984.

**9.4 PLAN COMMUNICATIONS, INTERPRETATION AND CONSTRUCTION**

(a) **Applicable law.** This Plan and Trust shall be construed and enforced according to the Code, and the laws of the state or commonwealth in which the Employer's (or if there is a corporate Trustee, the Trustee's, or if the Plan is fully insured, the Insurer's) principal office is located (unless otherwise designated in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections), other than its laws respecting choice of law, to the extent not pre-empted by federal law.

(b) **Administrator's discretion.** The Administrator has total and complete discretion to interpret and construe the Plan and to determine all questions arising in the administration, interpretation and application of the Plan. Any determination the Administrator makes under the Plan is final and binding upon any affected person. The Administrator must exercise all of its Plan powers and discretion, and perform all of its duties in a uniform manner.

(c) **Communications.** All Participant or Beneficiary notices, designations, elections, consents or waivers must be made in a form the Administrator (or, as applicable, the Trustee or Insurer) specifies or otherwise approves. Any person entitled to notice under the Plan may waive the notice or shorten the notice period unless such actions are contrary to applicable law.

(d) **Evidence.** Anyone, including the Employer, required to give data, statements or other information relevant under the terms of the Plan ("evidence") may do so by certificate, affidavit, document or other form which the person to act in reliance may consider pertinent, reliable and genuine, and to have been signed, made or presented by the proper party or parties. The Administrator, Trustee and Insurer are protected fully in acting and relying upon any evidence described under the immediately preceding sentence.

(e) **Plan terms binding.** The Plan is binding upon all parties, including but not limited to, the Employer, Trustee, Insurer, Administrator, Participants and Beneficiaries.

(f) **Parties to litigation.** Except as otherwise provided by applicable law, a Participant or a Beneficiary is not a necessary party or required to receive notice of process in any court proceeding involving the Plan, the Trust or any fiduciary. Any final judgment (not subject to further appeal) entered in any such proceeding will be binding upon all parties, including the Employer, the Administrator, Trustee, Insurer, Participants and Beneficiaries.

(g) **Fiduciaries not insurers.** The Trustee, Administrator and the Employer in no way guarantee the Plan assets from loss or depreciation. The Employer does not guarantee the payment of any money which may be or becomes due to any person from the Plan. The liability of the Employer, the Administrator and the Trustee to make any distribution from the Trust at any time and all times is limited to the then available assets of the Trust.

(h) **Construction/severability.** The Plan, the Adoption Agreement, the Trust and all other documents to which they refer, will be interpreted consistent with and to preserve tax qualification of the Plan under Code §401(a) and tax exemption of the Trust under Code §501(a) and also consistent with other applicable law. To the extent permissible under applicable law, any provision which a court (or other entity with binding authority to interpret the Plan) determines to be inconsistent with such construction and interpretation, is deemed severed and is of no force or effect, and the remaining Plan terms will remain in full force and effect.

(i) **Uniformity.** All provisions of this Plan shall be interpreted and applied in a uniform manner.

(j) **Headings.** The headings and subheadings of this Plan have been inserted for convenience of reference and are to be ignored in any construction of the provisions hereof.

## 9.5 GENDER, NUMBER AND TENSE

Wherever any words are used herein in the masculine, feminine or neuter gender, they shall be construed as though they were also used in another gender in all cases where they would so apply; whenever any words are used herein in the singular or plural form, they shall be construed as though they were also used in the other form in all cases where they would so apply; and whenever any words are used herein in the past or present tense, they shall be construed as though they were also used in the other form in all cases where they would so apply.

## 9.6 LEGAL ACTION

In the event any claim, suit, or proceeding is brought regarding the Trust and/or Plan established hereunder to which the Trustee (or Insurer), the Employer or the Administrator may be a party, and such claim, suit, or proceeding is resolved in favor of the Trustee (or Insurer), the Employer or the Administrator, they shall be entitled to be reimbursed from the Trust Fund for any and all costs, attorney's fees, and other expenses pertaining thereto incurred by them for which they shall have become liable.

## 9.7 PROHIBITION AGAINST DIVERSION OF FUNDS

(a) **General rule.** Except as provided below and otherwise specifically permitted by law, it shall be impossible by operation of the Plan or of the Trust, by termination of either, by power of revocation or amendment, by the happening of any contingency, by collateral arrangement or by any other means, for any part of the corpus or income of any Trust Fund maintained pursuant to the Plan or any funds contributed thereto to be used for, or diverted to, purposes other than the exclusive benefit of Participants or their Beneficiaries.

(b) **Mistake of fact.** In the event the Employer shall make a contribution under a mistake of fact, the Employer may demand repayment of such contribution at any time within one (1) year following the time of payment and the Trustee (or Insurer) shall return such amount to the Employer within the one (1) year period. Earnings of the Plan attributable to the contributions may not be returned to the Employer but any losses attributable thereto must reduce the amount so returned.

## 9.8 EMPLOYER'S AND TRUSTEE'S PROTECTIVE CLAUSE

The Employer, Administrator and Trustee, and their successors, shall not be responsible for the validity of any Contract issued hereunder or for the failure on the part of the Insurer to make payments provided by any such Contract, or for the action of any person which may delay payment or render a Contract null and void or unenforceable in whole or in part.

## 9.9 INSURER'S PROTECTIVE CLAUSE

Except as otherwise agreed upon in writing between the Employer and the Insurer, an Insurer which issues any Contracts hereunder shall not have any responsibility for the validity of this Plan or for the tax or legal aspects of this Plan. The Insurer shall be protected and held harmless in acting in accordance with any written direction of the Administrator or Trustee, and shall have no duty to see to the application of any funds paid to the Trustee, nor be required to question any actions directed by the Administrator or Trustee. Regardless of any provision of this Plan, the Insurer shall not be required to take or permit any action or allow any benefit or privilege contrary to the terms of any Contract which it issues hereunder, or the rules of the Insurer.

## **9.10 RECEIPT AND RELEASE FOR PAYMENTS**

Any payment to any Participant, the Participant's legal representative, Beneficiary, or to any guardian or committee appointed for such Participant or Beneficiary in accordance with the provisions of this Plan, shall, to the extent thereof, be in full satisfaction of all claims hereunder against the Trustee (or Insurer) and the Employer.

## **9.11 ACTION BY THE EMPLOYER**

Whenever the Employer under the terms of the Plan is permitted or required to do or perform any act or matter or thing, it shall be done and performed by a person duly authorized by its legally constituted authority.

## **9.12 APPROVAL BY INTERNAL REVENUE SERVICE**

Notwithstanding anything herein to the contrary, if, pursuant to an application for qualification is made by the time prescribed by law or such later date as the Secretary of Treasury may prescribe, the Commissioner of the Internal Revenue Service or the Commissioner's delegate should determine that the Plan does not initially qualify as a tax-exempt plan under Code §§401 and 501, and such determination is not contested, or if contested, is finally upheld, then if the Plan is a new plan, it shall be void ab initio and all amounts contributed to the Plan, by the Employer, less expenses paid, shall be returned within one (1) year and the Plan shall terminate, and the Trustee (or Insurer) shall be discharged from all further obligations. If the disqualification relates to a Plan amendment, then the Plan shall operate as if it had not been amended. If the Employer's Plan fails to attain or retain qualification, such Plan will no longer participate in this volume submitter plan and will be considered an individually designed plan.

## **9.13 PAYMENT OF BENEFITS**

Except as otherwise provided in the Plan, benefits under this Plan shall be paid, subject to Sections 6.11 and 6.12, only upon death, Total and Permanent Disability, normal or early retirement, severance of employment, or termination of the Plan.

## **9.14 ELECTRONIC MEDIA**

The Administrator may use any electronic medium to give or receive any Plan notice, communicate any Plan policy, conduct any written Plan communication, satisfy any Plan filing or other compliance requirement and conduct any other Plan transaction to the extent permissible under applicable law. A Participant or a Participant's Spouse, to the extent authorized by the Administrator, may use any electronic medium to make or provide any Beneficiary designation, election, notice, consent or waiver under the Plan, to the extent permissible under applicable law. Any reference in this Plan to a "form," a "notice," an "election," a "consent," a "waiver," a "designation," a "policy" or to any other Plan-related communication includes an electronic version thereof as permitted under applicable law. Notwithstanding the foregoing, any Participant or Beneficiary notices and consent that are required pursuant to the Code must satisfy Regulation §1.401(a)-21.

## **9.15 PLAN CORRECTION**

The Administrator in conjunction with the Employer may undertake such correction of Plan errors as the Administrator deems necessary, including correction to preserve tax qualification of the Plan under Code §401(a) or to correct a fiduciary breach under state or local law. Without limiting the Administrator's authority under the prior sentence, the Administrator, as it determines to be reasonable and appropriate, may undertake correction of Plan document, operational, demographic and Employer eligibility failures under a method described in the Plan or under the IRS Employee Plans Compliance Resolution System ("EPCRS") or any successor program to EPCRS. Furthermore, the Employer may make corrective contributions pursuant to this Section regardless of whether the Plan otherwise permits such contribution source. In addition, the Plan is authorized to recover benefits from Participants or Beneficiaries that have been improperly distributed.

## **9.16 NONTRUSTEED PLANS**

If the Plan is funded solely with Contracts, then notwithstanding Sections 9.7 and 9.12, no Contract will be purchased under the Plan unless such Contract or a separate definite written agreement between the Employer and the Insurer provides that no value under Contracts providing benefits under the Plan or credits determined by the Insurer (on account of dividends, earnings, or other experience rating credits, or surrender or cancellation credits) with respect to such Contracts may be paid or returned to the Employer or diverted to or used for other than the exclusive benefit of the Participants or their Beneficiaries. However, any contribution made by the Employer because of a mistake of fact must be returned to the Employer within one year of the contribution.

If this Plan is funded by individual Contracts that provide a Participant's benefit under the Plan, such individual Contracts shall constitute the Participant's Account balance. If this Plan is funded by group Contracts, under the group annuity or group insurance Contract, premiums or other consideration received by the Insurer must be allocated to Participants' Accounts under the Plan.

**ARTICLE X  
PARTICIPATING EMPLOYERS**

**10.1 ELECTION TO BECOME A PARTICIPATING EMPLOYER**

Notwithstanding anything herein to the contrary, with the consent of the Employer and Trustee (or Insurer), any Employer may adopt the Employer's Plan and all of the provisions hereof, and participate herein and be known as a Participating Employer, by a properly executed document evidencing said intent and will of such Participating Employer (a participation agreement). In the event a Participating Employer is not an Affiliated Employer, then the provisions of Article XII shall apply rather than the provision of this Article XI.

**10.2 REQUIREMENTS OF PARTICIPATING EMPLOYERS**

(a) **Permissible variations of participation agreement.** The participation agreement must identify the Participating Employer and the covered Employees and provide for the Participating Employer's signature. In addition, in the participation agreement, the Employer shall specify which elections, if any, the Participating Employer can modify, and any restrictions on the modifications. Any such modification shall apply only to the Employees of that Participating Employer. The Participating Employer shall make any such modification by selecting the appropriate option on its participation agreement to the Employer's Adoption Agreement. To the extent that the participation agreement does not permit modification of an election, any attempt by a Participating Employer to modify the election shall have no effect on the Plan and the Participating Employer is bound by the Plan terms as selected by the Employer. If a Participating Employer does not make any permissible participation agreement election modifications, then with regard to any election, the Participating Employer is bound by the Adoption Agreement terms as completed by the "lead Employer."

(b) **Holding and investing assets.** The Trustee (or Insurer) may, but shall not be required to, commingle, hold and invest as one Trust Fund all contributions made by Participating Employers, as well as all increments thereof. However, the assets of the Plan shall, on an ongoing basis, be available to pay benefits to all Participants and Beneficiaries under the Plan without regard to the Employer or Participating Employer who contributed such assets.

(c) **Payment of expenses.** Unless the Employer otherwise directs, any expenses of the Plan which are to be paid by the Employer or borne by the Trust Fund shall be paid by each Participating Employer in the same proportion that the total amount standing to the credit of all Participants employed by such Employer bears to the total standing to the credit of all Participants.

**10.3 DESIGNATION OF AGENT**

Each Participating Employer shall be deemed to be a part of this Plan; provided, however, that with respect to all of its relations with the Trustee (or Insurer) and Administrator for purposes of this Plan, each Participating Employer shall be deemed to have designated irrevocably the Employer as its agent. Unless the context of the Plan clearly indicates otherwise, the word "Employer" shall be deemed to include each Participating Employer as related to its adoption of the Plan.

**10.4 EMPLOYEE TRANSFERS**

In the event an Employee is transferred between Participating Employers, accumulated service and eligibility shall be carried with the Employee involved. No such transfer shall effect a severance of employment hereunder, and the Participating Employer to which the Employee is transferred shall thereupon become obligated hereunder with respect to such Employee in the same manner as was the Participating Employer from whom the Employee was transferred.

**10.5 PARTICIPATING EMPLOYER'S CONTRIBUTION AND FORFEITURES**

Any contribution and/or Forfeiture subject to allocation during each Plan Year shall be determined and allocated separately by each Participating Employer, and shall be allocated only among the Participants eligible to share in the contribution and Forfeiture allocation of the Employer or Participating Employer making the contribution or by which the forfeiting Participant was employed.

On the basis of the information furnished by the Administrator, the Trustee (or Insurer) shall keep separate books and records concerning the affairs of each Participating Employer hereunder and as to the accounts and credits of the Employees of each Participating Employer. The Trustee (or Insurer) may, but need not, register Contracts so as to evidence that a particular Participating Employer is the interested Employer hereunder, but in the event of an Employee transfer from one Participating Employer to another, the employing Employer shall immediately notify the Trustee (or Insurer) thereof.

**10.6 AMENDMENT**

Any Participating Employer hereby authorizes the Employer to make amendments on its behalf, unless otherwise agreed among all affected parties. If a Participating Employer is not an Affiliated Employer, then amendment of this Plan by the Employer at any time when there shall be a Participating Employer shall, unless otherwise agreed to by the affected parties, only be by the written action of each and every Participating Employer and with the consent of the Trustee (or Insurer) where such consent is necessary in accordance with the terms of this Plan.

## 10.7 DISCONTINUANCE OF PARTICIPATION

Any Participating Employer that is an Affiliated Employer shall be permitted to discontinue or revoke its participation in the Plan at any time. At the time of any such discontinuance or revocation, satisfactory evidence thereof and of any applicable conditions imposed shall be delivered to the Trustee (or Insurer). The Trustee (or Insurer) shall thereafter transfer, deliver and assign Contracts and other Trust Fund assets allocable to the Participants of such Participating Employer to such new trustee (or insurer) or custodian as shall have been designated by such Participating Employer, in the event that it has established a separate qualified retirement plan for its employees. If no successor is designated, the Trustee (or Insurer) shall retain such assets for the Employees of said Participating Employer pursuant to the provisions of Article VII hereof. In no such event shall any part of the corpus or income of the Trust Fund as it relates to such Participating Employer be used for or diverted to purposes other than for the exclusive benefit of the Employees of such Participating Employer.

## 10.8 ADMINISTRATOR'S AUTHORITY

The Administrator shall have authority to make any and all necessary rules or regulations, binding upon all Participating Employers and all Participants, to effectuate the purpose of this Article.

# ARTICLE XI MULTIPLE EMPLOYER PROVISIONS

## 11.1 ELECTION AND OVERRIDING EFFECT

If a Participating Employer that is not an Affiliated Employer adopts this Plan, then the provisions of this Article XI shall apply to each Participating Employer as of the Effective Date specified in its participation agreement and supersede any contrary provisions in the basic Plan document or the Adoption Agreement. If this Article XI applies, then the Plan shall be a multiple employer plan as described in Code §413(c). In this case, the Employer and each Participating Employer acknowledge that the Plan is a multiple employer plan subject to the rules of Code §413(c) and the Regulations thereunder, which are hereby incorporated by reference, and specific annual reporting requirements.

## 11.2 DEFINITIONS

The following definitions shall apply to this Article XI and shall supersede any conflicting definitions in the Plan:

- (a) **Employee.** "Employee" means any common law employee, Leased Employee or other person the Code treats as an employee of a Participating Employer for purposes of the Participating Employer's qualified plan. Either the Adoption Agreement or a participation agreement to the Adoption Agreement may designate any Employee, or class of Employees, as not eligible to participate in the Plan.
- (b) **Lead Employer.** "Lead Employer" means the signatory Employer to the Adoption Agreement execution page, and does not include any Affiliated Employer or Participating Employer. The "lead Employer" has the same meaning as the Employer for purposes of making Plan amendments and other purposes regardless of whether the "lead Employer" is also a Participating Employer under this Article XI.

## 11.3 PARTICIPATING EMPLOYER ELECTIONS

The participation agreement must identify the Participating Employer and the covered Employees and provide for the Participating Employer's signature. In addition, in the participation agreement, the "lead Employer" shall specify which elections, if any, the Participating Employer can modify, and any restrictions on the modifications. Any such modification shall apply only to the employees of that Participating Employer. The Participating Employer shall make any such modification by selecting the appropriate option on its participation agreement to the "lead Employer's" Adoption Agreement. To the extent that the Adoption Agreement does not permit modification of an election, any attempt by a Participating Employer to modify the election shall have no effect on the Plan and the Participating Employer is bound by the Plan terms as selected by the "lead Employer." If a Participating Employer does not make any permissible participation agreement election modifications, then with regard to any election, the Participating Employer is bound by the Adoption Agreement terms as completed by the "lead Employer."

## 11.4 TESTING

The Administrator shall apply the Code §415 limitation in Section 4.4 for the Plan as a whole.

## 11.5 COMPENSATION

- (a) **Separate determination.** A Participant's Compensation shall be determined separately for each Participating Employer for purposes of allocations under Article IV.
- (b) **Joint status.** For all Plan purposes, including but not limited to determining the Code §415 limits in Section 4.4, Compensation includes all Compensation paid by or for any Participating Employer.

## 11.6 SERVICE

An Employee's service includes all Hours of Service and Years of Service with any and all Participating Employers. An Employee who terminates employment with one Participating Employer and immediately commences employment with another Participating Employer has not separated from service or had a severance from employment.

## 11.7 COOPERATION AND INDEMNIFICATION

(a) **Cooperation.** Each Participating Employer agrees to timely provide all information the Administrator deems necessary to insure the Plan is operated in accordance with the requirements of the Code and will cooperate fully with the "lead Employer," the Plan, the Plan fiduciaries and other proper representatives in maintaining the qualified status of the Plan. Such cooperation will include payment of such amounts into the Plan, to be allocated to employees of the Participating Employer, which are reasonably required to maintain the tax-qualified status of the Plan.

(b) **Indemnity.** Each Participating Employer will indemnify and hold harmless the Administrator, the "lead Employer" and its subsidiaries; officers, directors, shareholders, employees, and agents of the "lead Employer"; the Plan; the Trustees, Participants and Beneficiaries of the Plan, as well as their respective successors and assigns, against any cause of action, loss, liability, damage, cost, or expense of any nature whatsoever (including, but not limited to, attorney's fees and costs, whether or not suit is brought, as well as IRS plan disqualifications, other sanctions or compliance fees and penalties) arising out of or relating to the Participating Employer's noncompliance with any of the Plan's terms or requirements; any intentional or negligent act or omission the Participating Employer commits with regard to the Plan; and any omission or provision of incorrect information with regard to the Plan which causes the Plan to fail to satisfy the requirements of a tax-qualified plan.

## 11.8 INVOLUNTARY TERMINATION

Unless the "lead Employer" provides otherwise in an addendum hereto, the "lead Employer" shall have the power to terminate the participation of any Participating Employer (hereafter "Terminated Employer") in this Plan. If and when the "lead Employer" wishes to exercise this power, the following shall occur:

(a) **Notice.** The "lead Employer" shall give the "Terminated Employer" a notice of the "lead Employer's" intent to terminate the "Terminated Employer's" status as a Participating Employer of the Plan. The "lead Employer" will provide such notice not less than thirty (30) days prior to the date of termination unless the "lead Employer" determines that the interest of Plan Participants requires earlier termination.

(b) **Spin-off.** The "lead Employer" shall establish a new defined contribution plan, using the provisions of this Plan with any modifications contained in the "Terminated Employer's" participation agreement, as a guide to establish a new defined contribution plan (the "spin-off plan"). The "lead Employer" will direct the Trustee to transfer (in accordance with the rules of Code §414(l) and the provisions of Section 8.3) the Accounts of the Employees of the "Terminated Employer" to the "spin-off plan." The "Terminated Employer" shall be the Employer, Administrator, and sponsor of the "spin-off plan." The Trustee of the "spin-off plan" shall be the person or entity designated by the "Terminated Employer." However, the "lead Employer" shall have the option to designate an appropriate financial institution as Trustee instead if necessary to protect the interest of the Participants. The "lead Employer" shall have the authority to charge the "Terminated Employer" or the Accounts of the Employees of the "Terminated Employer" a reasonable fee to pay the expenses of establishing the "spin-off plan."

(c) **Alternatives.** The "Terminated Employer," in lieu of creation of the "spin-off plan" under (b) above, has the option to elect a transfer alternative in accordance with this Subsection (c).

(1) **Election.** To exercise the option described in this Subsection, the "Terminated Employer" must inform the "lead Employer" of its choice, and must supply any reasonably required documentation as soon as practical. If the "lead Employer" has not received notice of a "Terminated Employer's" exercise of this option within ten (10) days prior to the stated date of termination, the "lead Employer" can choose to disregard the exercise and proceed with the Spin-off.

(2) **Transfer.** If the "Terminated Employer" selects this option, the Administrator shall transfer (in accordance with the rules of Code §414(l) and the provisions of Section 8.3) the Accounts of the Employees of the "Terminated Employer" to a qualified plan the "Terminated Employer" maintains. To exercise this option, the "Terminated Employer" must deliver to the "lead Employer" or Administrator in writing the name and other relevant information of the transferee plan and must provide such assurances that the Administrator shall reasonably require to demonstrate that the transferee plan is a qualified plan.



(d) **Participants.** The Employees of the "Terminated Employer" shall cease to be eligible to accrue additional benefits under the Plan with respect to Compensation paid by the "Terminated Employer," effective as of the date of termination. To the extent that these Employees have accrued but unpaid contributions as of the date of termination, the "Terminated Employer" shall pay such amounts to the Plan or the "spin-off plan" no later than thirty (30) days after the date of termination, unless the "Terminated Employer" effectively selects the Transfer option under Subsection (c)(2) above.

(e) **Consent.** By its signature on the participation agreement, the "Terminated Employer" specifically consents to the provisions of this Article and agrees to perform its responsibilities with regard to the "spin-off plan," if necessary.

## 11.9 VOLUNTARY TERMINATION

A Participating Employer (hereafter "withdrawing employer") may voluntarily withdraw from participation in this Plan at any time. If and when a "withdrawing employer" wishes to withdraw, the following shall occur:

(a) **Notice.** The "withdrawing employer" shall inform the "lead Employer" and the Administrator of its intention to withdraw from the Plan. The "withdrawing employer" must give the notice not less than thirty (30) days prior to the effective date of its withdrawal.

(b) **Procedure.** The "withdrawing employer" and the "lead Employer" shall agree upon procedures for the orderly withdrawal of the "withdrawing employer" from the plan. Such procedures may include any of the optional spin-off or transfer options described in Section 11.8.

(c) **Costs.** The "withdrawing employer" shall bear all reasonable costs associated with withdrawal and transfer under this Section.

(d) **Participants.** The Employees of the "withdrawing employer" shall cease to be eligible to accrue additional benefits under the Plan as to Compensation paid by the "withdrawing employer," effective as of the effective date of withdrawal. To the extent that such Employees have accrued but unpaid contributions as of the effective date of withdrawal, the "withdrawing employer" shall contribute such amounts to the Plan or the "spin-off plan" promptly after the effective date of withdrawal, unless the accounts are transferred to a qualified plan the "withdrawing employer" maintains.

**Governmental Money Purchase Plan**

**ADOPTION AGREEMENT FOR  
NATIONWIDE FINANCIAL SERVICES, INC.  
GOVERNMENTAL VOLUME SUBMITTER MONEY PURCHASE PLAN**

**CAUTION:** Failure to properly fill out this Adoption Agreement may result in disqualification of the Plan.

**EMPLOYER INFORMATION**

(An amendment to the Adoption Agreement is not needed solely to reflect a change in this Employer Information Section.)

## 1. EMPLOYER'S NAME, ADDRESS, TELEPHONE NUMBER, TIN AND FISCAL YEAR

Name: Grayson County, TX

Address: 100 West Houston Street, Suite G2

Street

Sherman

City

Texas

State

75090

Zip

Telephone: (903) 813-5214

Taxpayer Identification Number (TIN): 75-6000969

Employer's Fiscal Year ends: September 30

## 2. TYPE OF GOVERNMENTAL ENTITY. This Plan may only be adopted a state or local governmental entity, or agency thereof, including an Indian tribal government and may not be adopted by any other entity, including a federal government and any agency or instrumentality thereof.

- a. ☐ State government or state agency
- b. ☒ County or county agency
- c. ☐ Municipality or municipal agency
- d. ☐ Indian tribal government (see Note below)
- e. ☐ Other: \_\_\_\_\_

NOTE: An Indian tribal government may only adopt this Plan if such entity is defined under Code §7701(a)(40), is a subdivision of an Indian tribal government as determined in accordance with Code §7871(d), or is an agency or instrumentality of either, and all of the Participants under this Plan employed by such entity substantially perform services as an Employee in essential governmental functions and not in the performance of commercial activities (whether or not an essential government function).

## 3. PARTICIPATING EMPLOYERS (Plan Section 1.38). Will any other Employers adopt this Plan as Participating Employers?

- a. ☒ No
- b. ☐ Yes

**PLAN INFORMATION**

(An amendment to the Adoption Agreement is not needed solely to reflect a change in the information in Questions 9. through 10.)

## 4. PLAN NAME:

County of Grayson TX 401(a) Plan

## 5. PLAN STATUS

- a. ☒ New Plan
  - b. ☐ Amendment and restatement of existing Plan
- PPA RESTATEMENT** (leave blank if not applicable)

- 1. ☐ This is an amendment and restatement to bring a plan into compliance with the Pension Protection Act of 2006 ("PPA") and other legislative and regulatory changes (i.e., the 6-year pre-approved plan restatement).

## 6. EFFECTIVE DATE (Plan Section 1.16) (complete a. if new plan; complete a. AND b. if an amendment and restatement)

**Initial Effective Date of Plan**

- a. April 1, 2021 (enter month day, year) (hereinafter called the "Effective Date" unless 6.b. is entered below)

**Restatement Effective Date.** If this is an amendment and restatement, the effective date of the restatement (hereinafter called the "Effective Date") is:

- b. \_\_\_\_\_ (enter month day, year; may enter a restatement date that is the first day of the current Plan Year. Plan contains appropriate retroactive effective dates with respect to provisions for appropriate laws.)

**Governmental Money Purchase Plan**

7. PLAN YEAR (Plan Section 1.42) means, except as otherwise provided in d. below:

- a. ☒ the calendar year  
 b. ☐ the twelve-month period ending on \_\_\_\_\_ (e.g., June 30th)

SHORT PLAN YEAR (Plan Section 1.46). This is a Short Plan Year (if the effective date of participation is based on a Plan Year, then coordinate with Question 14):

- c. ☐ N/A  
 d. ☒ beginning on April 1, 2021 (enter month day, year; e.g., July 1, 2013)  
 and ending on December 31, 2021 (enter month day, year).

8. VALUATION DATE (Plan Section 1.52) means:

- a. ☒ every day that the Trustee (or Insurer), any transfer agent appointed by the Trustee (or Insurer) or the Employer, and any stock exchange used by such agent are open for business (daily valuation)  
 b. ☐ the last day of each Plan Year  
 c. ☐ the last day of each Plan Year quarter  
 d. ☐ other (specify day or days): \_\_\_\_\_ (must be at least once each Plan Year)

**NOTE:** The Plan always permits interim valuations.

9. TRUSTEE(S) OR INSURER(S) (Plan Sections 1.25 and 1.50):

- a. ☒ **Insurer.** This Plan is funded exclusively with Contracts and the name of the Insurer(s) is:

(1) Nationwide Life Insurance Company (2) \_\_\_\_\_ (if more than 2, add names to signature page).

- b. ☐ **Individual Trustee(s).** Individual Trustee(s) who serve as Trustee(s) over assets not subject to control by a corporate Trustee. (add additional Trustees as necessary)

Name(s)

Title(s)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Address and telephone number

1. ☐ Use Employer address and telephone number  
 2. ☐ Use address and telephone number below:

Address:

\_\_\_\_\_

Street

\_\_\_\_\_

City

\_\_\_\_\_

State

\_\_\_\_\_

Zip

Telephone:

\_\_\_\_\_

- c. ☐ **Corporate Trustee(s)** (add additional Trustees as necessary)

Name:

\_\_\_\_\_

Address:

\_\_\_\_\_

Street

\_\_\_\_\_

City

\_\_\_\_\_

State

\_\_\_\_\_

Zip

Telephone:

\_\_\_\_\_

**Directed/Discretionary Trustee.** Unless otherwise specified below, if there is a corporate Trustee, it will serve as a Directed (nondiscretionary) Trustee (Plan Section 1.21) and if there is an individual Trustee, he or she will serve as a Discretionary Trustee (Plan Section 1.22) over all Plan assets (select all that apply; leave blank if defaults apply)

- d. ☐ Directed Trustee exceptions (leave blank if no exceptions):

Directed Trustee over specified Plan assets (select all that apply; leave blank if none apply)

1. ☐ The corporate Trustee will serve as Directed Trustee over the following assets: \_\_\_\_\_

**Governmental Money Purchase Plan**

2. ☐ The individual Trustee(s) will serve as Directed Trustee over the following assets: \_\_\_\_\_  
Individual Trustee will serve as Directed Trustee (may not be selected with d.1. or d.2.)
3. ☐ over all Plan assets
- e. ☐ Discretionary Trustee exceptions (leave blank if no exceptions):  
Discretionary Trustee over specified Plan assets (select all that apply; leave blank if none apply)
1. ☐ The individual Trustee(s) will serve as Discretionary Trustee over the following assets: \_\_\_\_\_
2. ☐ The corporate Trustee will serve as Discretionary Trustee over the following assets: \_\_\_\_\_  
Corporate Trustee will serve as Discretionary Trustee (may not be selected with e.1. or e.2.)
3. ☐ over all Plan assets

**Separate trust.** Will a separate trust agreement that is approved by the IRS for use with this Plan be used?

- f. ☐ No  
g. ☐ Yes

**NOTE:** If Yes is selected, an executed copy of the trust agreement between the Trustee and the Employer must be attached to this Plan. The Plan and trust agreement will be read and construed together. The responsibilities, rights and powers of the Trustee will be those specified in the trust agreement.

10. **ADMINISTRATOR'S NAME, ADDRESS AND TELEPHONE NUMBER**

(If none is named, the Employer will be the Administrator (Plan Section 1.2).)

- a. ☒ Employer (use Employer address and telephone number)  
b. ☐ Other:

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
Street  
\_\_\_\_\_  
City State Zip  
\_\_\_\_\_  
Telephone: \_\_\_\_\_

11. **CONTRIBUTION TYPES**

The selections made below must correspond with the selections made under the Contributions and Allocations Section of this Adoption Agreement.

**FROZEN PLAN OR CONTRIBUTIONS HAVE BEEN SUSPENDED (Plan Section 4.1(c)) (optional)**

- a. ☐ This is a frozen Plan (i.e., all contributions cease) (if this is a temporary suspension, select a.2):
1. ☐ All contributions ceased as of, or prior to, the effective date of this amendment and restatement and the prior Plan provisions are not reflected in this Adoption Agreement (may enter effective date at 3. below and/or select contributions at b. - f. (optional), skip questions 12-18 and 22-29)
2. ☐ All contributions ceased or were suspended and the prior Plan provisions are reflected in this Adoption Agreement (must enter effective date at 3. below and select contributions at b. - f.)

**Effective date**

3. ☐ as of \_\_\_\_\_ (effective date is optional unless a.2. has been selected above or this is the amendment or restatement to freeze the Plan).

**CONTRIBUTIONS**

The Plan permits the following contributions (select one or more):

- b. ☐ **Employer contributions other than matching** (Questions 24-25)
1. ☐ This Plan qualifies as a Social Security Replacement Plan (Question 24.c. must be selected)
- c. ☒ **Employer matching contributions** (Questions 26-28)
- d. ☐ **Mandatory Employee contributions** (Question 31)
- e. ☐ **After-tax voluntary Employee contributions** (Question 32)
- f. ☒ **Rollover contributions** (Question 39)

**ELIGIBILITY REQUIREMENTS**

12. **ELIGIBLE EMPLOYEES (Plan Section 1.17)** means all Employees (including Leased Employees) EXCEPT those Employees who are excluded below or elsewhere in the Plan:

- a. ☐ **No excluded Employees.** There are no additional excluded Employees under the Plan (skip to Question 13).
- b. ☒ **Exclusions.** The following Employees are not Eligible Employees for Plan purposes (select one or more):
1. ☐ Union Employees (as defined in Plan Section 1.17)
2. ☐ Nonresident aliens (as defined in Plan Section 1.17)
3. ☒ Leased Employees (Plan Section 1.28)

4. ☒ Part-time/temporary/seasonal Employees. A part-time, temporary or seasonal Employee is an Employee whose regularly scheduled service is less than 780 Hours of Service in the relevant eligibility computation period (as defined in Plan Section 1.54). However, if any such excluded Employee actually completes a Year of Service, then such Employee will no longer be part of this excluded class.
5. ☐ Other: \_\_\_\_\_ (must be definitely determinable under Regulations §1.401-1(b). Exclusions may be employment title specific but may not be by individual name nor result in only a finite group of individuals (e.g., excluding anyone hired after 12/31/12.)

13. **CONDITIONS OF ELIGIBILITY (Plan Section 3.1)**

- a. ☐ **No age or service required.** No age or service required for all Contribution Types (skip to Question 14).
- b. ☒ **Eligibility.** An Eligible Employee will be eligible to participate in the Plan upon satisfaction of the following (complete c. and d., select e. and f. if applicable):

**Eligibility Requirements**

- c. ☒ **Age Requirement**
  1. ☒ No age requirement
  2. ☐ Age 20 1/2
  3. ☐ Age 21
  4. ☐ Age \_\_\_\_\_ (may not exceed 26)
- d. ☒ **Service Requirement**
  1. ☐ No service requirement
  2. ☐ \_\_\_\_\_ (not to exceed 60) months of service (elapsed time)
  3. ☐ 1 Year of Service
  4. ☒ 4 (not to exceed 5) Years of Service
  5. ☐ \_\_\_\_\_ consecutive month period from the Eligible Employee's employment commencement date and during which at least \_\_\_\_\_ Hours of Service are completed.
  6. ☐ \_\_\_\_\_ consecutive months of employment from the Eligible Employee's employment commencement date.
  7. ☐ Other: \_\_\_\_\_ (e.g., date on which 1,000 Hours of Service is completed within the computation period) (must satisfy the Notes below)

**NOTE:** If c.4. or d.7. is selected, the condition must be an age or service requirement that is definitely determinable and may not exceed age 26 and may not exceed 5 Years of Service.

**NOTE:** Year of Service means Period of Service if elapsed time method is chosen.

**Waiver of conditions.** The service and/or age requirements specified above will be waived in accordance with the following (leave blank if there are no waivers of conditions):

- e. ☐ If employed on \_\_\_\_\_ the following requirements, and the entry date requirement, will be waived. The waiver applies to any Eligible Employee unless 3. selected below. Such Employees will enter the Plan as of such date (select 1. and/or 2. AND 3. if applicable):
  1. ☐ service requirement (may let part-time Eligible Employees into the Plan)
  2. ☐ age requirement
  3. ☐ waiver is for: \_\_\_\_\_

**Amendment or restatement to change eligibility requirements**

- f. ☐ This amendment or restatement (or a prior amendment and restatement) modified the eligibility requirements and the prior eligibility conditions continue to apply to the Eligible Employees specified below. If this option is NOT selected, then all Eligible Employees must satisfy the eligibility conditions set forth above.
  1. ☐ The eligibility conditions above only apply to Eligible Employees who were not Participants as of the effective date of the modification.
  2. ☐ The eligibility conditions above only apply to individuals who were hired on or after the effective date of the modification.

14. **EFFECTIVE DATE OF PARTICIPATION (ENTRY DATE) (Plan Section 3.2)**

An Eligible Employee who has satisfied the eligibility requirements will become a Participant in the Plan as of the:

- a. ☒ date such requirements are met
- b. ☐ first day of the month coinciding with or next following the date on which such requirements are met
- c. ☐ first day of the Plan Year quarter coinciding with or next following the date on which such requirements are met
- d. ☐ earlier of the first day of the Plan Year or the first day of the seventh month of the Plan Year coinciding with or next following the date on which such requirements are met
- e. ☐ first day of the Plan Year coinciding with or next following the date on which such requirements are met (Eligibility must be six months of service (or 1 1/2 Years (or Periods) of Service if 100% immediate vesting is selected) or less and age must be 20 1/2 or less.)
- f. ☐ first day of the Plan Year in which such requirements are met
- g. ☐ first day of the Plan Year in which such requirements are met, if such requirements are met in the first 6 months of the Plan Year, or as of the first day of the next succeeding Plan Year if such requirements are met in the last 6 months of the Plan Year.
- h. ☐ other: \_\_\_\_\_ (must be definitely determinable)

**Governmental Money Purchase Plan****SERVICE**

## 15. RECOGNITION OF SERVICE WITH OTHER EMPLOYERS (Plan Sections 1.39 and 1.54)

- a. ☒ No service with other employers is recognized except as otherwise required by law (e.g., the Plan already provides for the recognition of service with Employers who have adopted this Plan as well as service with Affiliated Employers and predecessor Employers who maintained this Plan; skip to Question 16).
- b. ☐ Prior service with the designated employers is recognized as follows (answer c. and select one or more of c.1. - 3.; select d. - f. as applicable) (if more than 3 employers, attach an addendum to the Adoption Agreement or complete option h. under Section B of Appendix A):

Other Employer	Eligibility	Vesting	Contribution Allocation
c. <input type="checkbox"/> Employer name: _____	1. <input type="checkbox"/>	2. <input type="checkbox"/>	3. <input type="checkbox"/>
d. <input type="checkbox"/> Employer name: _____	1. <input type="checkbox"/>	2. <input type="checkbox"/>	3. <input type="checkbox"/>
e. <input type="checkbox"/> Employer name: _____	1. <input type="checkbox"/>	2. <input type="checkbox"/>	3. <input type="checkbox"/>

**Limitations**

- f. ☐ The following provisions or limitations apply with respect to the recognition of prior service: \_\_\_\_\_  
(e.g., credit service with X only on/following 1/1/13)

**NOTE:** If the other Employer(s) maintained this qualified Plan, then Years (and/or Periods) of Service with such Employer(s) must be recognized pursuant to Plan Sections 1.39 and 1.54 regardless of any selections above.

## 16. SERVICE CREDITING METHOD (Plan Sections 1.39 and 1.54)

**NOTE:** If no selections are made in this Section, then the provisions set forth in the definition of Year of Service in Plan Section 1.54 will apply, including the following defaults:

1. A Year of Service means completion of at least 1,000 Hours of Service during the applicable computation period.
  2. Hours of Service (Plan Section 1.24) will be based on actual Hours of Service.
  3. For eligibility purposes, the computation period will be as defined in Plan Section 1.54 (i.e., shift to the Plan Year if the eligibility condition is one (1) Year of Service or less).
  4. For vesting and allocation purposes, the computation period will be the Plan Year.
- a. ☐ **Elapsed time method.** (Period of Service applies instead of Year of Service) Instead of Hours of Service, elapsed time will be used for:
1. ☐ all purposes (skip to Question 17)
  2. ☐ the following purposes (select one or more):
    - a. ☐ eligibility to participate
    - b. ☐ vesting
    - c. ☐ sharing in allocations or contributions
- b. ☐ **Alternative definitions for the Hours of Service method.** Instead of the defaults, the following alternatives will apply for the Hours of Service method (select one or more):
1. ☐ **Eligibility computation period.** Instead of shifting to the Plan Year, the eligibility computation period after the initial eligibility computation period will be based on each anniversary of the date the Employee first completes an Hour of Service
  2. ☐ **Vesting computation period.** Instead of the Plan Year, the vesting computation period will be the date an Employee first performs an Hour of Service and each anniversary thereof.
  3. ☐ **Equivalency method.** Instead of using actual Hours of Service, an equivalency method will be used to determine Hours of Service for:
    - a. ☐ all purposes
    - b. ☐ the following purposes (select one or more):
      1. ☐ eligibility to participate
      2. ☐ vesting
      3. ☐ sharing in allocations or contributions

Such method will apply to:

    - c. ☐ all Employees
    - d. ☐ Employees for whom records of actual Hours of Service are not maintained or available (e.g., salaried Employees)
    - e. ☐ other: \_\_\_\_\_ (e.g., per-diem Employees only)

**Governmental Money Purchase Plan**

Hours of Service will be determined on the basis of:

- f. ☐ days worked (10 hours per day)
- g. ☐ weeks worked (45 hours per week)
- h. ☐ semi-monthly payroll periods worked (95 hours per semi-monthly pay period)
- i. ☐ months worked (190 hours per month)
- j. ☐ bi-weekly payroll periods worked (90 hours per bi-weekly pay period)
- k. ☐ other: \_\_\_\_\_ (e.g., option f. is used for per-diem Employees and option g. is used for on-call Employees).

4. ☐ **Number of Hours of Service required.** Instead of 1,000 Hours of Service, Year of Service means the applicable computation period during which an Employee has completed at least \_\_\_\_\_ (not to exceed 1,000) Hours of Service for:
- a. ☐ all purposes
  - b. ☐ the following purposes (select one or more):
    - 1. ☐ eligibility to participate
    - 2. ☐ vesting
    - 3. ☐ sharing in allocations or contributions

**VESTING**17. **VESTING OF PARTICIPANT'S INTEREST – EMPLOYER CONTRIBUTIONS (Plan Section 6.4(b))**

- a. ☐ N/A (no Employer contributions; skip to Question 19)
- b. ☒ The vesting provisions selected below apply. Section B of Appendix A can be used to specify any exceptions to the provisions below.

**NOTE:** The Plan provides that contributions for converted sick leave and/or vacation leave are fully Vested.

**Vesting for Employer contributions other than matching contributions**

- c. ☒ N/A (no Employer contributions (other than matching contributions); skip to f.)
- d. ☐ 100% vesting. Participants are 100% Vested in Employer contributions (other than matching contributions) upon entering Plan.
- e. ☐ The following vesting schedule, based on a Participant's Years of Service (or Periods of Service if the elapsed time method is selected), applies to Employer contributions (other than matching contributions):
  - 1. ☐ 6 Year Graded: 0-1 year-0%; 2 years-20%; 3 years-40%; 4 years-60%; 5 years-80%; 6 years-100%
  - 2. ☐ 4 Year Graded: 1 year-25%; 2 years-50%; 3 years-75%; 4 years-100%
  - 3. ☐ 5 Year Graded: 1 year-20%; 2 years-40%; 3 years-60%; 4 years-80%; 5 years-100%
  - 4. ☐ Cliff: 100% vesting after \_\_\_\_\_ (not to exceed 15) years
  - 5. ☐ Other graded vesting schedule (must provide for full vesting no later than 15 years of service; add additional lines as necessary)

Years (or Periods) of Service	Percentage
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %

**Vesting for Employer matching contributions**

- f. ☐ N/A (no Employer matching contributions)
- g. ☐ The schedule above will also apply to Employer matching contributions.
- h. ☒ 100% vesting. Participants are 100% Vested in Employer matching contributions upon entering Plan.
- i. ☐ The following vesting schedule, based on a Participant's Years of Service (or Periods of Service if the elapsed time method is selected), applies to Employer matching contributions:
  - 1. ☐ 6 Year Graded: 0-1 year-0%; 2 years-20%; 3 years-40%; 4 years-60%; 5 years-80%; 6 years-100%
  - 2. ☐ 4 Year Graded: 1 year-25%; 2 years-50%; 3 years-75%; 4 years-100%
  - 3. ☐ 5 Year Graded: 1 year-20%; 2 years-40%; 3 years-60%; 4 years-80%; 5 years-100%
  - 4. ☐ Cliff: 100% vesting after \_\_\_\_\_ (not to exceed 15) years
  - 5. ☐ Other graded vesting schedule (must provide for full vesting no later than 15 years of service; add additional lines as necessary)

**Governmental Money Purchase Plan**

Years (or Periods) of Service	Percentage
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %

18. **VESTING OPTIONS**

**Excluded vesting service.** The following Years of Service will be disregarded for vesting purposes (select all that apply; leave blank if none apply):

- a. ☐ Service prior to the initial Effective Date of the Plan or a predecessor plan (as defined in Regulations §1.411(a)-5(b)(3))
- b. ☐ Service prior to the computation period in which an Employee has attained age \_\_\_\_\_.
- c. ☐ Service during a period for which an Employee did not make mandatory Employee contributions.

**Vesting for death, Total And Permanent Disability and Early Retirement Date.** Regardless of the vesting schedule, a Participant will become fully Vested upon (select all that apply; leave blank if none apply):

- d. ☐ Death
- e. ☐ Total and Permanent Disability
- f. ☐ Early Retirement Date

**RETIREMENT AGES**19. **NORMAL RETIREMENT AGE ("NRA")** (Plan Section 1.32) means:

- a. ☒ **Specific age.** The date a Participant attains age 65 (may not exceed 65)
- b. ☐ **Age/participation.** The later of the date a Participant attains age \_\_\_\_\_ (may not exceed 65) or the \_\_\_\_\_ (may not exceed 10th) anniversary of the first day of the Plan Year in which participation in the Plan commenced

**NOTE:** Effective for Plan Years beginning on or after the later of (1) January 1, 2015, or (2) the close of the first regular legislative session of the legislative body with the authority to amend the plan that begins on or after the date that is three months after the final regulations are published in the Federal Register, Normal Retirement Age of less than age 62 must meet Regulation §1.401(a)-1(b)(2).

**Qualified police or firefighters.** Normal Retirement Age for qualified public safety employees (as defined in Code §72(t)(1)) (leave blank if not applicable)

- c. ☐ Age \_\_\_\_\_ (may not be less than 50)

20. **NORMAL RETIREMENT DATE** (Plan Section 1.33) means, with respect to any Participant, the:

- a. ☒ date on which the Participant attains "NRA"
- b. ☐ first day of the month coinciding with or next following the Participant's "NRA"
- c. ☐ first day of the month nearest the Participant's "NRA"
- d. ☐ Anniversary Date coinciding with or next following the Participant's "NRA"
- e. ☐ Anniversary Date nearest the Participant's "NRA"
- f. ☐ Other: \_\_\_\_\_ (e.g., first day of the month following the Participant's "NRA").

21. **EARLY RETIREMENT DATE** (Plan Section 1.15)

- a. ☒ N/A (no early retirement provision provided)
- b. ☐ Early Retirement Date means the:
  - 1. ☐ date on which a Participant satisfies the early retirement requirements
  - 2. ☐ first day of the month coinciding with or next following the date on which a Participant satisfies the early retirement requirements
  - 3. ☐ Anniversary Date coinciding with or next following the date on which a Participant satisfies the early retirement requirements

**Early retirement requirements**

- 4. ☐ Participant attains age \_\_\_\_\_  
**AND, completes....** (leave blank if not applicable)
  - a. ☐ at least \_\_\_\_\_ Years (or Periods) of Service for vesting purposes
  - b. ☐ at least \_\_\_\_\_ Years (or Periods) of Service for eligibility purposes
- c. ☐ Early Retirement Date means: \_\_\_\_\_ (must be definitely determinable)



**Governmental Money Purchase Plan****COMPENSATION**

22. COMPENSATION with respect to any Participant is defined as follows (Plan Sections 1.10 and 1.23).

**Base definition**

- a. ☒ Wages, tips and other compensation on Form W-2
- b. ☐ Code §3401(a) wages (wages for withholding purposes)
- c. ☐ 415 safe harbor compensation

**NOTE:** Plan Section 1.23(c) provides that the base definition of Compensation includes deferrals that are not included in income due to Code §§401(k), 125, 132(f)(4), 403(b), 402(h)(1)(B)(SEP), 414(h)(2), & 457(b).

**Determination period.** Compensation will be based on the following "determination period" (this will also be the Limitation Year unless otherwise elected at option f. under Section B of Appendix A):

- d. ☒ the Plan Year
- e. ☐ the Fiscal Year coinciding with or ending within the Plan Year
- f. ☐ the calendar year coinciding with or ending within the Plan Year

**Adjustments to Compensation** (for Plan Section 1.10). Compensation will be adjusted by:

- g. ☒ **No adjustments** (skip to i. below)

- h. ☐ **Adjustments.** Compensation will be adjusted by (select all that apply):

- 1. ☐ excluding salary reductions (401(k), 125, 132(f)(4), 403(b), SEP, 414(h)(2) pickup, & 457(b))
- 2. ☐ excluding reimbursements or other expense allowances, fringe benefits (cash or non-cash), moving expenses, deferred compensation (other than deferrals specified in 1. above) and welfare benefits.
- 3. ☐ excluding Compensation paid during the "determination period" while not a Participant in the Plan.
- 4. ☐ excluding Military Differential Pay
- 5. ☐ excluding overtime
- 6. ☐ excluding bonuses
- 7. ☐ other: \_\_\_\_\_ (e.g., describe Compensation from the elections available above or a combination thereof as to a Participant group (e.g., no exclusions as to Division A Employees and exclude bonuses as to Division B Employees); and/or describe another exclusion (e.g., exclude shift differential pay)).

**Military Differential Pay Special Effective Date** (leave blank if not applicable)

- i. ☐ If this is a PPA restatement and the provisions above regarding Military Differential Pay (included unless h.4. is selected) have a later effective date than Plan Years beginning after December 31, 2008, then enter the date such provisions were first effective: \_\_\_\_\_ (may not be earlier than January 1, 2009; for Plan Years beginning prior to January 1, 2009, Military Differential Pay is treated in accordance with the post-severance Compensation provisions in the following Question).

23. POST-SEVERANCE COMPENSATION (415 REGULATIONS)

The following optional provision of the 415 Regulations will apply to Limitation Years beginning on or after July 1, 2007 unless otherwise elected below:

**415 Compensation (post-severance compensation adjustments)** (select all that apply at a.; leave blank if none apply)

**NOTE:** Unless otherwise elected under a. below, the following defaults apply: 415 Compensation will **include** (to the extent provided in Plan Section 1.23), post-severance regular pay, leave cash-outs and payments from nonqualified unfunded deferred compensation plans.

- a. ☐ The defaults listed above apply except for the following (select one or more):
  - 1. ☐ Leave cash-outs will be **excluded**
  - 2. ☐ Nonqualified unfunded deferred compensation will be **excluded**
  - 3. ☐ Military Differential Pay will be **included** (Plan automatically includes for Limitation Years beginning after December 31, 2008)
  - 4. ☐ Disability continuation payments will be **included**

**Plan Compensation (post-severance compensation adjustments)**

- b. ☒ **Defaults apply.** Compensation will **include** (to the extent provided in Plan Section 1.10 and to the extent such amounts would be included in Compensation if paid prior to severance of employment) post-severance regular pay, leave cash-outs, and payments from nonqualified unfunded deferred compensation plans.

- c. ☐ **Exclude all post-severance compensation.** Exclude all post-severance compensation for allocation purposes.

- d. ☐ **Post-severance adjustments.** The defaults listed at b. apply except for the following (select one or more):

- 1. ☐ Exclude all post-severance compensation
- 2. ☐ Regular pay will be **excluded**
- 3. ☐ Leave cash-outs will be **excluded**
- 4. ☐ Nonqualified unfunded deferred compensation will be **excluded**
- 5. ☐ Military Differential Pay will be **included**
- 6. ☐ Disability continuation payments will be **included**

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**NOTE:** The above treatment of Military Differential Pay only applies to Plan Years beginning prior to January 1, 2009. For Plan Years beginning after such date, Military Differential Pay is not considered post-severance compensation and the provisions of Question 22 apply.

**Post-severance compensation special effective date** (leave blank if not applicable)

- e. ☐ If this is a PPA restatement and the post-severance compensation adjustments above for 415 Compensation or Plan Compensation applied other than the first day of the Plan Year beginning on or after July 1, 2007, then enter the date such provisions were first effective: \_\_\_\_\_

**CONTRIBUTIONS AND ALLOCATIONS**

24. **EMPLOYER CONTRIBUTIONS (OTHER THAN MATCHING CONTRIBUTIONS)** (Plan Section 4.1(a)(2)) (skip to Question 26 if Employer contributions are NOT selected at Question 11.b.)

**CONTRIBUTION FORMULA** (select one or more of the following contribution formulas:)

- a. ☐ **Fixed contribution** equal to (only select one):
1. ☐ \_\_\_\_\_% of each Participant's Compensation for each:
    - a. ☐ Plan Year
    - b. ☐ calendar quarter
    - c. ☐ month
    - d. ☐ pay period
    - e. ☐ week
  2. ☐ \$\_\_\_\_\_ per Participant.
  3. ☐ \$\_\_\_\_\_ per Hour of Service worked while an Eligible Employee
    - a. ☐ up to \_\_\_\_\_ hours (leave blank if no limit)
  4. ☐ other: \_\_\_\_\_ (the formula described must satisfy the definitely determinable requirement under Regulations §1.401-1(b)).
- b. ☐ **Sick leave/vacation leave conversion.** The Employer will contribute an amount equal to an Employee's current hourly rate of pay multiplied by the Participant's number of unused accumulated sick leave and/or vacation days (as selected below). Only unpaid sick and vacation leave for which the Employee has no right to receive in cash may be included. In no event will the Employer's contribution for the Plan Year exceed the maximum contribution permitted under Code §415(c).

The following may be converted under the Plan: (select one or both):

1. ☐ Sick leave
2. ☐ Vacation leave

**Eligible Employees.** Only the following Participants shall receive the Employer contribution for sick leave and/or vacation leave (select 3. and/or 4; leave blank if no limitations provided, however, that this Plan may not be used to only provide benefits for terminated Employees)

3. ☐ **Former Employees.** All Employees terminating service with the Employer during the Plan Year and who have satisfied the eligibility requirements based on the terms of the Employer's accumulated benefits plans checked below (select all that apply; leave blank if no exclusions):
    - a. ☐ The Former Employee must be at least age \_\_\_\_\_ (e.g., 55)
    - b. ☐ The value of the sick and/or vacation leave must be at least \$\_\_\_\_\_ (e.g., \$2,000)
    - c. ☐ A contribution will only be made if the total hours is over \_\_\_\_\_ (e.g., 10) hours
    - d. ☐ A contribution will not be made for hours in excess of \_\_\_\_\_ (e.g., 40) hours
  4. ☐ **Active Employees.** Active Employees who have not terminated service during the Plan Year and who meet the following requirements (select all that apply; leave blank if no exclusions):
    - a. ☐ The Employee must be at least age \_\_\_\_\_ (e.g., 55)
    - b. ☐ The value of the sick and/or vacation leave must be at least \$\_\_\_\_\_ (e.g., \$2,000)
    - c. ☐ A contribution will only be made if the total hours is over \_\_\_\_\_ (e.g., 10) hours
    - d. ☐ A contribution will not be made for hours in excess of \_\_\_\_\_ (e.g., 40) hours
  - c. ☐ **Social Security Replacement Plan.** An amount equal to 7.5% of the Participant's Compensation for the entire Plan Year, reduced by Employee and Employer contributions to this Plan actually contributed to the Participant's Account during such Plan Year. (may only be selected if Question 11.b.1. has also been selected)
- Include only part-time, seasonal and temporary Employees** (leave blank if not applicable)
1. ☐ Regardless of any other provision in this to the contrary, the contribution above will only be made for part-time, seasonal, or temporary Employees who are not otherwise covered by another qualifying public retirement system as defined for purposes of Regulation §31.3121(b)(7)-2.

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25. ALLOCATION CONDITIONS (Plan Section 4.3). If 24.a. is selected above, indicate requirements to share in allocations of Employer contributions (select a. OR b. and all that apply at c. - e.)

a. ☐ **No conditions.** All Participants share in the allocations regardless of service completed during the Plan Year or employment status on the last day of the Plan Year (skip to Question 26).

b. ☐ **Allocation conditions apply** (select one of 1. - 5. AND one of 6. - 9. below)

**Conditions for Participants NOT employed on the last day of the Plan Year**

1. ☐ A Participant must complete at least \_\_\_\_\_ (not to exceed 1,000) Hours of Service (or \_\_\_\_\_ (not to exceed 12) months of service if the elapsed time method is selected).
2. ☐ A Participant must complete a Year of Service (or Period of Service if the elapsed time method is selected).
3. ☐ Participants will NOT share in the allocations, regardless of service.
4. ☐ Participants will share in the allocations, regardless of service.
5. ☐ Other: \_\_\_\_\_ (must be definitely determinable, not subject to Employer discretion and may not require more than one Year of Service (or Period of Service if the elapsed time method is selected)).

**Conditions for Participants employed on the last day of the Plan Year**

6. ☐ No service requirement.
7. ☐ A Participant must complete a Year of Service (or Period of Service if the elapsed time method is selected).
8. ☐ A Participant must complete at least \_\_\_\_\_ (not to exceed 1,000) Hours of Service during the Plan Year.
9. ☐ Other: \_\_\_\_\_ (must be definitely determinable, not subject to Employer discretion and may not require more than one Year of Service (or Period of Service if the elapsed time method is selected)).

**Waiver of conditions for Participants NOT employed on the last day of the Plan Year.** If b.1., 2., 3., or 5. is selected, Participants who are not employed on the last day of the Plan Year in which one of the following events occur will be eligible to share in the allocations regardless of the above conditions (select all that apply; leave blank if none apply):

- c. ☐ Death
- d. ☐ Total and Permanent Disability
- e. ☐ Termination of employment on or after Normal Retirement Age
  1. ☐ or Early Retirement Date

26. EMPLOYER MATCHING CONTRIBUTIONS (Plan Section 4.1(a)(3)). (skip to Question 29 if matching contributions are NOT selected at Question 11.c.) The Employer will make the following matching contributions:

A. **Elective deferrals taken into account.** For purposes of applying the matching contribution provisions below, elective deferrals include elective deferral (pre-tax and Roth) contributions to the following Employer plan(s) (insert name of Plan(s) to which the elective deferral contributions being matched will be made):

a. ☒ **457 plan(s).** Enter Plan name: County of Grayson 457(b) Deferred Compensation Plan

b. ☐ **403(b) plan(s).** Enter Plan name: \_\_\_\_\_

**NOTE:** If selected at Question 32, after-tax voluntary Employee contributions are also considered elective deferrals for purposes of matching contributions.

B. **Matching Formula.** (select one)

c. ☐ **Fixed - uniform rate/amount.** The Employer will make matching contributions equal to \_\_\_\_\_% (e.g., 50) of the Participant's elective deferrals

1. ☐ that do not exceed \_\_\_\_\_% of a Participant's Compensation (leave blank if no limit)

d. ☐ **Fixed - tiered.** The Employer will make matching contributions equal to a uniform percentage of each tier of each Participant's elective deferrals, determined as follows:

**NOTE:** Fill in only percentages or dollar amounts, but not both. If percentages are used, each tier represents the amount of the Participant's applicable contributions that equals the specified percentage of the Participant's Compensation (add additional tiers if necessary):

Tiers of Contributions (indicate \$ or %)	Matching Percentage
First _____	_____ %
Next _____	_____ %
Next _____	_____ %
Next _____	_____ %

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- e. ☐ **Fixed - Years of Service.** The Employer will make matching contributions equal to a uniform percentage of each Participant's elective deferrals based on the Participant's Years of Service (or Periods of Service if the elapsed time method is selected), determined as follows (add additional tiers if necessary):

Years (or Periods) of Service	Matching Percentage
_____	_____ %
_____	_____ %
_____	_____ %

For purposes of the above matching contribution formula, a Year (or Period) of Service means a Year (or Period) of Service for:

1. ☐ vesting purposes
  2. ☐ eligibility purposes
- f. ☒ Other: For Participants hired on or before October 1, 2013, the Employer will make a matching contribution equal to 225% of the Participant's Salary Deferral up to 3% of Compensation. For Participants hired after October 1, 2013, the Employer will make a matching contribution equal to 100% of the Participant's Salary Deferral up to 3% of Compensation (the formula described must satisfy the definitely determinable requirement under Regulations §1.401-1(b))

## 27. MATCHING CONTRIBUTION PROVISIONS

- A. **Maximum matching contribution.** The total matching contribution made on behalf of any Participant for any Plan Year will not exceed:
- a. ☒ N/A (no Plan specific limit on the amount of matching contribution)
  - b. ☐ \$\_\_\_\_\_.
  - c. ☐ \_\_\_\_\_% of Compensation.
- B. **Period of determination.** The matching contribution formula will be applied on the following basis (and elective deferrals and any Compensation or dollar limitation used in determining the matching contribution will be based on the applicable period):
- d. ☐ the Plan Year
  - e. ☒ each payroll period
  - f. ☐ each month
  - g. ☐ each Plan Year quarter
  - h. ☐ each payroll unit (e.g., hour)

## 28. ALLOCATION CONDITIONS FOR MATCHING CONTRIBUTIONS (Plan Section 4.3). Select a. OR b. and all that apply of c. - h.

- a. ☒ **No conditions.** All Participants share in the allocations regardless of service completed during the Plan Year or employment status on the last day of the Plan Year (skip to Question 29).
- b. ☐ **Allocation conditions apply** (select one of 1. -5. AND one of 6. - 9. below)
- Conditions for Participants NOT employed on the last day of the Plan Year.**
1. ☐ A Participant must complete at least \_\_\_\_\_ (not to exceed 1,000) Hours of Service (or \_\_\_\_\_ (not to exceed 12) months of service if the elapsed time method is selected).
  2. ☐ A Participant must complete a Year of Service (or Period of Service if the elapsed time method is selected).
  3. ☐ Participants will NOT share in the allocations, regardless of service.
  4. ☐ Participants will share in the allocations, regardless of service.
  5. ☐ Other: \_\_\_\_\_ (must be definitely determinable, not subject to Employer discretion and may not require more than one Year of Service (or Period of Service if the elapsed time method is selected)).

### **Conditions for Participants employed on the last day of the Plan Year**

6. ☐ No service requirement.
7. ☐ A Participant must complete a Year of Service (or Period of Service if the elapsed time method is selected).
8. ☐ A Participant must complete at least \_\_\_\_\_ (not to exceed 1,000) Hours of Service during the Plan Year.
9. ☐ Other: \_\_\_\_\_ (must be definitely determinable, not subject to Employer discretion and may not require more than one Year of Service (or Period of Service if the elapsed time method is selected)).

**Waiver of conditions for Participants NOT employed on the last day of the Plan Year.** If b.1., 2., 3., or 5. is selected, Participants who are not employed on the last day of the Plan Year in which one of the following events occur will be eligible to share in the allocations regardless of the above conditions (select all that apply; leave blank if none apply):

- c. ☐ Death
- d. ☐ Total and Permanent Disability
- e. ☐ Termination of employment on or after Normal Retirement Age
  1. ☐ or Early Retirement Date

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**Conditions based on period other than Plan Year.** The allocation conditions above will be applied based on the Plan Year unless otherwise selected below. If selected, the above provisions will be applied by substituting the term Plan Year with the specified period (e.g., if Plan Year quarter is selected below and the allocation condition is 250 Hours of Service per quarter, enter 250 hours (not 1000) at b.8. above).

- f. ☐ The Plan Year quarter.  
 g. ☐ Payroll period.  
 h. ☐ Other: \_\_\_\_\_ (must be definitely determinable and not subject to Employer discretion and may not be longer than a twelve month period).

29. **FORFEITURES (Plan Sections 1.21 and 4.3(e))**

Forfeitures of Employer contributions other than matching contributions will be:

- a. ☐ added to the Employer contribution and allocated in the same manner  
 b. ☒ used to reduce any Employer contribution  
 c. ☐ allocated to all Participants eligible to share in the allocations of Employer contributions or Forfeitures in the same proportion that each Participant's Compensation for the Plan Year bears to the Compensation of all Participants for such year  
 d. ☐ other: \_\_\_\_\_ (describe the treatment of Forfeitures in a manner that is definitely determinable and not subject to Employer discretion; e.g., Forfeitures attributable to transferred balances from Plan X are allocated as additional discretionary contributions only to former Plan X Participants)

Forfeitures of Employer matching contributions will be:

- e. ☐ N/A. Same as above or no Employer matching contributions.  
 f. ☒ used to reduce the Employer matching contribution.  
 g. ☐ used to reduce any Employer contribution.  
 h. ☐ other: \_\_\_\_\_ (describe the treatment of Forfeitures in a manner that is definitely determinable and not subject to Employer discretion; e.g., Forfeitures attributable to transferred balances from Plan X are allocated as additional discretionary contributions only to former Plan X Participants)

30. **ALLOCATION OF EARNINGS (Plan Section 4.3(c))**

Allocation of earnings with respect to amounts which are not subject to Participant investment direction and which are contributed to the Plan after the previous Valuation Date will be determined:

- a. ☒ N/A. (all assets in the Plan are subject to Participant investment direction)  
 b. ☐ by using a weighted average based on the amount of time that has passed between the date a contribution or distribution is made and the prior Valuation Date  
 c. ☐ by treating one-half of all such contributions as being a part of the Participant's nonsegregated Account balance as of the previous Valuation Date  
 d. ☐ by using the method specified in Plan Section 4.3(c) (balance forward method)  
 e. ☐ other: \_\_\_\_\_ (must be a definite predetermined formula)

31. **MANDATORY EMPLOYEE CONTRIBUTIONS (Plan Section 4.8) (skip if mandatory Employee contributions NOT selected at Question 11.d.)**

- a. ☐ An Eligible Employee must contribute to the Plan \_\_\_\_\_% (not to exceed 25%) of Compensation.  
 b. ☐ An Eligible Employee must, prior to his or her first Entry Date, make a one-time irrevocable election to contribute to the Plan from \_\_\_\_\_% (not less than 1%) to \_\_\_\_\_% (not to exceed 25%) of Compensation.  
 c. ☐ Other: \_\_\_\_\_ (must be definitely determinable)

**Employer pick-up contribution.** The mandatory Employee contribution is "picked up" by the Employer under Code §414(h)(2) unless elected below.

- d. ☐ The mandatory Employee contribution is not "picked-up" by the Employer.

32. **AFTER-TAX VOLUNTARY EMPLOYEE CONTRIBUTIONS (Plan Section 4.9) (skip if after-tax voluntary Employee contributions NOT selected at Question 11.e.)**

**Matching after-tax voluntary Employee contributions.** There are no Employer matching contributions on after-tax voluntary Employee contributions unless elected below.

- a. ☐ After-tax voluntary Employee contributions are considered elective deferrals for purposes of applying any matching contributions under the Plan.

**DISTRIBUTIONS**33. **FORM OF DISTRIBUTIONS (Plan Sections 6.5 and 6.6)**

Distributions under the Plan may be made in (select all that apply; must select at least one):

- a. ☒ lump-sums  
 b. ☒ substantially equal installments  
 c. ☒ partial withdrawals, provided the minimum withdrawal is \$\_\_\_\_\_ (leave blank if no minimum)

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- d. ☐ partial withdrawals or installments are only permitted for Participants or Beneficiaries who must receive required minimum distributions under Code §401(a)(9) except for the following (e.g., partial is not permitted for death benefits; leave blank if no exceptions):

1. ☐ \_\_\_\_\_

- e. ☐ annuity: \_\_\_\_\_ (describe the form of annuity or annuities)

- f. ☐ other: \_\_\_\_\_ (must be definitely determinable and not subject to Employer discretion)

**NOTE:** Regardless of the above, a Participant is not required to request a withdrawal of his or her total Account for an in-service distribution, a hardship distribution, or a distribution from the Participant's Rollover Account.

**Cash or property.** Distributions may be made in:

- g. ☒ cash only, except for (select all that apply; leave blank if none apply):

1. ☐ insurance Contracts

2. ☐ annuity Contracts

3. ☐ Participant loans

- h. ☐ cash or property, except that the following limitation(s) apply: (leave blank if there are no limitations on property distributions):

1. ☐ \_\_\_\_\_ (must be definitely determinable and not subject to Employer discretion)

34. **CONDITIONS FOR DISTRIBUTIONS UPON SEVERANCE OF EMPLOYMENT.** Distributions upon severance of employment pursuant to Plan Section 6.4(a) will not be made unless the following conditions have been satisfied:

**A. Accounts in excess of \$5,000**

- a. ☒ Distributions may be made as soon as administratively feasible following severance of employment.
- b. ☐ Distributions may be made as soon as administratively feasible after the last day of the Plan Year coincident with or next following severance of employment.
- c. ☐ Distributions may be made as soon as administratively feasible after the last day of the Plan Year quarter coincident with or next following severance of employment.
- d. ☐ Distributions may be made as soon as administratively feasible after the Valuation Date coincident with or next following severance of employment.
- e. ☐ Distributions may be made as soon as administratively feasible after \_\_\_\_\_ months have elapsed following severance of employment.
- f. ☐ No distributions may be made until a Participant has reached Early or Normal Retirement Date.
- g. ☐ Other: \_\_\_\_\_ (must be objective conditions which are ascertainable and may not exceed the limits of Code §401(a)(14) as set forth in Plan Section 6.7)

**B. Accounts of \$5,000 or less**

- h. ☒ Same as above
- i. ☐ Distributions may be made as soon as administratively feasible following severance of employment.
- j. ☐ Distributions may be made as soon as administratively feasible after the last day of the Plan Year coincident with or next following severance of employment.
- k. ☐ Other: \_\_\_\_\_ (must be objective conditions which are ascertainable and may not exceed the limits of Code §401(a)(14) as set forth in Plan Section 6.7)

- C. Timing after initial distributable event.** If a distribution is not made in accordance with the above provisions upon the occurrence of the distributable event, then a Participant may elect a subsequent distribution at any time after the time the amount was first distributable (assuming the amount is still distributable), unless otherwise selected below (may not be selected with 34.f. and 34.h.):

- l. ☐ Other: \_\_\_\_\_ (e.g., a subsequent distribution request may only be made in accordance with l. above (i.e., the last day of another Plan Year); must be objective conditions which are ascertainable and may not exceed the limits of Code §401(a)(14) as set forth in Plan Section 6.7)

- D. Participant consent (i.e., involuntary cash-outs).** Should Vested Account balances less than a certain dollar threshold be automatically distributed without Participant consent (mandatory distributions)?

**NOTE:** The Plan provides that distributions of amounts of \$5,000 or less are only paid as lump-sums.

- m. ☒ No, Participant consent is required for all distributions.

- n. ☐ Yes, Participant consent is required only if the distribution is over:

1. ☐ \$5,000

2. ☐ \$1,000

3. ☐ \$\_\_\_\_\_ (less than \$1,000)

**NOTE:** If 2. or 3. is selected, rollovers will be included in determining the threshold for Participant consent.

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**Automatic IRA rollover.** With respect to mandatory distributions of amounts that are \$1,000 or less, if a Participant makes no election, the amount will be distributed as a lump-sum unless selected below.

4. ☐ If a Participant makes no election, then the amount will be automatically rolled over to an IRA provided the amount is at least \$\_\_\_\_\_ (e.g., \$200).

- E. **Rollovers in determination of \$5,000 threshold.** Unless otherwise elected below, amounts attributable to rollover contributions (if any) will be **included** in determining the \$5,000 threshold for timing of distributions, form of distributions, or consent rules.

- o. ☐ Exclude rollovers (rollover contributions will be **excluded** in determining the \$5,000 threshold)

**NOTE:** Regardless of the above election, if the Participant consent threshold is \$1,000 or less, then the Administrator must include amounts attributable to rollovers for such purpose. In such case, an election to exclude rollovers above will apply for purposes of the timing and form of distributions.

35. DISTRIBUTIONS UPON DEATH (Plan Section 6.8(b)(2))

Distributions upon the death of a Participant prior to the "required beginning date" will:

- a. ☒ be made pursuant to the election of the Participant or "designated Beneficiary"
- b. ☐ begin within 1 year of death for a "designated Beneficiary" and be payable over the life (or over a period not exceeding the "life expectancy") of such Beneficiary, except that if the "designated Beneficiary" is the Participant's Spouse, begin prior to December 31st of the year in which the Participant would have attained age 70 1/2
- c. ☐ be made within 5 (or if lesser \_\_\_\_\_) years of death for all Beneficiaries
- d. ☐ be made within 5 (or if lesser \_\_\_\_\_) years of death for all Beneficiaries, except that if the "designated Beneficiary" is the Participant's Spouse, begin prior to December 31st of the year in which the Participant would have attained age 70 1/2 and be payable over the life (or over a period not exceeding the "life expectancy") of such "surviving Spouse"

**NOTE:** The elections above must be coordinated with the Form of distributions (e.g., if the Plan only permits lump-sum distributions, then options a., b. and d. would not be applicable).

36. OTHER PERMITTED DISTRIBUTIONS (select all that apply; leave blank if none apply)

A. IN-SERVICE DISTRIBUTIONS (Plan Section 6.11)

In-service distributions will NOT be allowed (except as otherwise permitted under the Plan without regard to this provision) unless selected below (if applicable, answer a. - e.; leave blank if not applicable):

- a. ☐ In-service distributions may be made to a Participant who has not separated from service provided the following has been satisfied:
1. ☐ Age. The Participant has reached:
    - a. ☐ Normal Retirement Age
    - b. ☐ age 62
    - c. ☐ age \_\_\_\_\_ (may not be earlier than age 62)

**Special effective date** (may be left blank if same as Plan or Restatement Effective Date)

- d. ☐ \_\_\_\_\_ (if this is a PPA restatement and the provisions were effective prior to the Restatement Effective Date, then enter the date such provisions were first effective; may not be earlier than the first day of the Plan Year beginning in 2007)

**Account restrictions.** In-service distributions are permitted from the following Participant Accounts:

- b. ☐ all Accounts
- c. ☐ only from the following Accounts (select one or more):
1. ☐ Account attributable to Employer matching contributions
  2. ☐ Account attributable to Employer contributions other than matching contributions
  3. ☐ Rollover Account
  4. ☐ Transfer Account
  5. ☐ Other: \_\_\_\_\_ (specify Account(s) and conditions in a manner that satisfies the definitely determinable requirement under Regulations §1.401-1(b) and is not subject to Employer discretion)

**Limitations.** The following limitations apply to in-service distributions:

- d. ☐ N/A (no additional limitations)
- e. ☐ Additional limitations (select one or more):
1. ☐ The minimum amount of a distribution is \$\_\_\_\_\_.
  2. ☐ No more than \_\_\_\_\_ distribution(s) may be made to a Participant during a Plan Year.
  3. ☐ Distributions may only be made from Accounts which are fully Vested.
  4. ☐ In-service distributions may be made subject to the following provisions: \_\_\_\_\_ (must satisfy the definitely determinable requirement under Regulations §1.401-1(b) and not be subject to Employer discretion).

37. HEART ACT PROVISIONS (Plan Section 6.17)

**Continued benefit accruals.**

- a. ☐ Continued benefit accruals will NOT apply
- b. ☒ Continued benefit accruals will apply

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**Special effective date.** If this is a PPA restatement and the provision applied other than as of the first day of the 2007 Plan Year, then enter the date such provision was first effective: (leave blank if not applicable)

c. ☐ \_\_\_\_\_ (may not be earlier than the first day of the 2007 Plan Year)

**Distributions for deemed severance of employment**

d. ☒ The Plan does NOT permit distributions for deemed severance of employment

e. ☐ The Plan permits distributions for deemed severance of employment

**Special effective date** (may be left blank if same as Plan or Restatement Effective Date)

1. ☐ \_\_\_\_\_ (if this is a PPA restatement and the provisions were effective prior to the Restatement Effective Date, then enter the date such provisions were first effective; may not be earlier than January 1, 2007)

**MISCELLANEOUS**38. **LOANS TO PARTICIPANTS** (Plan Section 7.6)

a. ☒ New loans are NOT permitted.

b. ☐ New loans are permitted.

**NOTE:** Regardless of whether new loans are permitted, if the Plan permits rollovers, then the Administrator may, in a uniform manner, accept rollovers of loans into this Plan.

39. **ROLLOVERS** (Plan Section 4.6) (skip if rollover contributions are NOT selected at 11.f.)

**Eligibility.** Rollovers may be accepted from all Participants who are Employees as well as the following (select all that apply; leave blank if not applicable):

a. ☒ Any Eligible Employee, even prior to meeting eligibility conditions to be a Participant

b. ☐ Participants who are Former Employees

**Distributions.** When may distributions be made from a Participant's Rollover Account?

c. ☒ At any time

d. ☐ Only when the Participant is otherwise entitled to a distribution under the Plan

**PPA TRANSITION RULES**

The following questions only apply if this is a PPA restatement (i.e., Question 5.b.1. is selected). If this is not a PPA restatement, then this Plan will not be considered an individually designed plan merely because the following questions are deleted from the Adoption Agreement.

**NOTE:** The following provisions are designed to be left unanswered if the selections do not apply to the Plan.

40. **WRERA - RMD WAIVERS FOR 2009** (Plan Section 6.8(f))

**Suspension/continuation of RMDs.** Unless otherwise elected below, required minimum distributions (RMDs) for 2009 were suspended unless a Participant or Beneficiary elected to receive such distributions:

a. ☐ RMDs for 2009 were suspended for any Participant or Beneficiary who was scheduled to receive his/her first RMD for 2009 or who did not make a continuing election prior to 2009 to receive his/her RMD (unless the Participant or Beneficiary made an election to receive such distribution). RMDs for 2009 were continued for any Participant or Beneficiary who had made a continuing election to receive an RMD prior to 2009 (unless the Participant or Beneficiary made an election to suspend such distribution).

b. ☐ RMDs continued unless otherwise elected by a Participant or Beneficiary.

c. ☐ RMDs continued in accordance with the terms of the Plan (i.e., no election available to Participants or Beneficiaries).

d. ☐ Other: \_\_\_\_\_

**Direct rollovers.** The Plan also treated the following as "eligible rollover distributions" in 2009 (If no election is made, then a "direct rollover" was only offered for "2009 RMDs"):

e. ☐ "2009 RMDs" and "Extended 2009 RMDs."

f. ☐ "2009 RMDs" but only if paid with an additional amount that is an "eligible rollover distribution" without regard to Code §401(a)(9)(H).

41. **NON-SPOUSAL ROLLOVERS** (Plan Section 6.14(d)). Non-spousal rollovers are permitted effective for distributions after December 31, 2006 unless an alternative effective date is selected at a. below:

a. ☐ Non-spousal rollovers are allowed effective \_\_\_\_\_ (may not be earlier than January 1, 2007 and not later than January 1, 2010; the Plan already provides for non-spousal rollovers effective as of January 1, 2010)



**Governmental Money Purchase Plan**

The adopting Employer may rely on an advisory letter issued by the Internal Revenue Service as evidence that the Plan is qualified under Code §401 only to the extent provided in Rev. Proc. 2011-49 or subsequent guidance.

The Employer may not rely on the advisory letter in certain other circumstances or with respect to certain qualification requirements, which are specified in the advisory letter issued with respect to the Plan and in Rev. Proc. 2011-49 or subsequent guidance. In order to have reliance in such circumstances or with respect to such qualification requirements, application for a determination letter must be made to Employee Plans Determinations of the Internal Revenue Service.

This Adoption Agreement may be used only in conjunction with the Volume Submitter basic Plan document #09. This Adoption Agreement and the basic Plan document will together be known as Nationwide Financial Services, Inc. Governmental Volume Submitter Money Purchase Plan #09-002.

The adoption of this Plan, its qualification by the IRS, and the related tax consequences are the responsibility of the Employer and its independent tax and legal advisors.

Nationwide Financial Services, Inc. will notify the Employer of any amendments made to the Plan or of the discontinuance or abandonment of the Plan. Furthermore, in order to be eligible to receive such notification, the Employer agrees to notify Nationwide Financial Services, Inc. of any change in address. In addition, this Plan is provided to the Employer either in connection with investment in a product or pursuant to a contract or other arrangement for products and/or services. Upon cessation of such investment in a product or cessation of such contract or arrangement, as applicable, the Employer is no longer considered to be an adopter of this Plan and Nationwide Financial Services, Inc. no longer has any obligations to the Employer that relate to the adoption of this Plan.

With regard to any questions regarding the provisions of the Plan, adoption of the Plan, or the effect of an advisory letter from the IRS, call or write (this information must be completed by the sponsor of this Plan or its designated representative):

Name: Nationwide Retirement Solutions

Address: P.O. Box 182797

Columbus Ohio 43218

Telephone: (877) 496-1630

The Employer and Trustee (or Insurer) hereby cause this Plan to be executed on the date(s) specified below:

EMPLOYER: Grayson County, TX

By: 

MARCH 31, 2021

DATE SIGNED

TRUSTEE (OR INSURER):

☒ The signature of the Trustee or Insurer appears on a separate agreement or Contract,

OR (add additional Trustee signature lines as necessary)

\_\_\_\_\_  
TRUSTEE OR INSURER

\_\_\_\_\_  
DATE SIGNED

## Governmental Money Purchase Plan

**APPENDIX A**  
**SPECIAL EFFECTIVE DATES AND OTHER PERMITTED ELECTIONS**

**A. Special effective dates** (leave blank if not applicable):

- a. ☐ **Special effective date(s):** \_\_\_\_\_. For periods prior to the specified special effective date(s), the Plan terms in effect prior to its restatement under this Adoption Agreement will control for purposes of the designated provisions. A special effective date may not result in the delay of a Plan provision beyond the permissible effective date under any applicable law.

**B. Other permitted elections** (the following elections are optional):

- a. ☒ **No other permitted elections**

**The following elections apply** (select one or more):

- b. ☐ **Deemed 125 compensation** (Plan Section 1.23). Deemed 125 compensation will be included in Compensation and 415 Compensation.
- c. ☐ **Reemployed after five (5) 1-Year Breaks in Service ("rule of parity" provisions)** (Plan Section 3.5(d)). The "rule of parity" provisions in Plan Section 3.5(d) will apply for (select one or both):
1. ☐ eligibility purposes
  2. ☐ vesting purposes
- d. ☐ **Beneficiary if no beneficiary elected by Participant** (Plan Section 6.2(e)). In the event no valid designation of Beneficiary exists, then in lieu of the order set forth in Plan Section 6.2(e), the following order of priority will be used: \_\_\_\_\_ (specify an order of beneficiaries; e.g., children per stirpes, parents, and then step-children).
- e. ☐ **Common, collective or pooled trust funds** (Plan Sections 7.2(c)(5) and/or 7.3(b)(6)). The name(s) of the common, collective or pooled trust funds available under the Plan is (are): \_\_\_\_\_.
- f. ☐ **Limitation Year** (Plan Section 1.29). The Limitation Year for Code §415 purposes will be \_\_\_\_\_ (must be a consecutive twelve month period) instead of the "determination period" for Compensation.
- g. ☐ **415 Limits when 2 defined contribution plans are maintained** (Plan Section 4.4). If any Participant is covered under another qualified defined contribution plan maintained by the Employer or an Affiliated Employer, or if the Employer or an Affiliated Employer maintains a welfare benefit fund, as defined in Code §419(e), or an individual medical account, as defined in Code §415(l)(2), under which amounts are treated as "annual additions" with respect to any Participant in this Plan, then the provisions of Plan Section 4.4(b) will apply unless otherwise specified below:
1. ☐ Specify, in a manner that precludes Employer discretion, the method under which the plans will limit total "annual additions" to the "maximum permissible amount" and will properly reduce any "excess amounts": \_\_\_\_\_.
- h. ☐ **Recognition of Service with other employers** (Plan Sections 1.39 and 1.54). Service with the following employers (in addition to those specified at Question 15) will be recognized as follows (select one or more):

	<b>Eligibility</b>	<b>Vesting</b>	<b>Contribution Allocation</b>
1. <input type="checkbox"/> Employer name: _____	a. <input type="checkbox"/>	b. <input type="checkbox"/>	c. <input type="checkbox"/>
2. <input type="checkbox"/> Employer name: _____	a. <input type="checkbox"/>	b. <input type="checkbox"/>	c. <input type="checkbox"/>
3. <input type="checkbox"/> Employer name: _____	a. <input type="checkbox"/>	b. <input type="checkbox"/>	c. <input type="checkbox"/>
4. <input type="checkbox"/> Employer name: _____	a. <input type="checkbox"/>	b. <input type="checkbox"/>	c. <input type="checkbox"/>
5. <input type="checkbox"/> Employer name: _____	a. <input type="checkbox"/>	b. <input type="checkbox"/>	c. <input type="checkbox"/>
6. <input type="checkbox"/> Employer name: _____	a. <input type="checkbox"/>	b. <input type="checkbox"/>	c. <input type="checkbox"/>

**Limitations**

7. ☐ The following provisions or limitations apply with respect to the recognition of prior service: \_\_\_\_\_  
(e.g., credit service with X only on/following 1/1/13)

**Governmental Money Purchase Plan**

- i. ☐ **Other vesting provisions.** The following vesting provisions apply to the Plan (select one or more):
1. ☐ **Special vesting provisions.** The following special provisions apply to the vesting provisions of the Plan: \_\_\_\_\_ (must be definitely determinable and satisfy the parameters set forth at Question 17)
  2. ☐ **Pre-amendment vesting schedule.** (Plan Section 6.4(b)). If the vesting schedule has been amended and a different vesting schedule other than the schedule at Question 17 applies to any Participants, then the following provisions apply (must select one of a. – d. AND complete e.):

**Applicable Participants.** The vesting schedules in Question 17 only apply to:

- a. ☐ Participants who are Employees as of \_\_\_\_\_ (enter date).
- b. ☐ Participants in the Plan who have an Hour of Service on or after \_\_\_\_\_ (enter date).
- c. ☐ Participants (even if not an Employee) in the Plan on or after \_\_\_\_\_ (enter date).
- d. ☐ Other: \_\_\_\_\_ (e.g., Participants in division A)

**Vesting schedule**

- e. The schedule that applies to Participants not subject to the vesting schedule in Question 17 is:

Years (or Periods) of Service	Percentage
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %

- j. ☐ **Minimum distribution transitional rules** (Plan Section 6.8(e)(5))

**NOTE:** This Section does not apply to (1) a new Plan, (2) an amendment or restatement of an existing Plan that never contained the provisions of Code §401(a)(9) as in effect prior to the amendments made by the Small Business Job Protection Act of 1996 (SBJPA), or (3) a Plan where the transition rules below do not affect any current Participants.

The "required beginning date" for a Participant is:

1. ☐ April 1st of the calendar year following the year in which the Participant attains age 70 1/2. (pre-SBJPA rules continue to apply)
2. ☐ April 1st of the calendar year following the later of the year in which the Participant attains age 70 1/2 or retires (the post-SBJPA rules), with the following exceptions (select one or both; leave blank if both applied effective as of January 1, 1996):
  - a. ☐ A Participant who was already receiving required minimum distributions under the pre-SBJPA rules as of \_\_\_\_\_ (may not be earlier than January 1, 1996) was allowed to stop receiving distributions and have them recommence in accordance with the post-SBJPA rules. Upon the recommencement of distributions, if the Plan permits annuities as a form of distribution then the following apply:
    1. ☐ N/A (annuity distributions are not permitted)
    2. ☐ Upon the recommencement of distributions, the original Annuity Starting Date will be retained.
    3. ☐ Upon the recommencement of distributions, a new Annuity Starting Date is created.
  - b. ☐ A Participant who had not begun receiving required minimum distributions as of \_\_\_\_\_ (may not be earlier than January 1, 1996) may elect to defer commencement of distributions until retirement. The option to defer the commencement of distributions (i.e., to elect to receive in-service distributions upon attainment of age 70 1/2) applies to all such Participants unless selected below:
    1. ☐ The in-service distribution option was eliminated with respect to Participants who attained age 70 1/2 in or after the calendar year that began after the later of (1) December 31, 1998, or (2) the adoption date of the restatement to bring the Plan into compliance with the SBJPA.

- k. ☐ **Other spousal provisions** (select one or more)

1. ☐ **Definition of Spouse.** The term Spouse includes a spouse under federal law as well as the following: \_\_\_\_\_
2. ☐ **Automatic revocation of spousal designation** (Plan Section 6.2(f)). The automatic revocation of a spousal Beneficiary designation in the case of divorce does not apply.
3. ☐ **Timing of QDRO payment.** A distribution to an Alternate Payee shall not be permitted prior to the time a Participant would be entitled to a distribution.

- l. ☐ **Applicable law.** Instead of using the applicable laws set forth in Plan Section 9.4(a), the Plan will be governed by the laws of: \_\_\_\_\_

- m. ☐ **Total and Permanent Disability.** Instead of the definition at Plan Section 1.49, Total and Permanent Disability means: \_\_\_\_\_ (must be definitely determinable).

**Governmental Money Purchase Plan**

- n. ☐ **Permissible Trust (or Custodian) modifications.** The Employer makes the following modifications to the Trust (or Custodial) provisions as permitted under Rev. Proc. 2011-49 (or subsequent IRS guidance) (select one or more of 1. - 3. below):

**NOTE:** Any elections below must not: (i) conflict with any Plan provision unrelated to the Trust or Trustee; or (ii) cause the Plan to violate Code §401(a). In addition, this may not be used to substitute all of the Trust provisions in the Plan.

1. ☐ **Investments.** The Employer amends the Trust provisions relating to Trust investments as follows:  

---
2. ☐ **Duties.** The Employer amends the Trust provisions relating to Trustee (or Custodian) duties as follows:  

---
3. ☐ **Other administrative provisions.** The Employer amends the other administrative provisions of the Trust as follows:  

---

**Governmental Money Purchase Plan****ADMINISTRATIVE PROCEDURES**

The following are optional administrative provisions. The Administrator may implement procedures that override any elections in this Section without a formal Plan amendment. In addition, modifications to these procedures will not affect an Employer's reliance on the Plan.

**A. Loan Limitations.** (complete only if loans to Participants are permitted; leave blank if none apply)

- a. ☐ Limitations (select one or more):
1. ☐ Loans will be treated as Participant directed investments.
  2. ☐ Loans will only be made for hardship or financial necessity as specified below (select i. or ii.)
    - a. ☐ hardship reasons specified in Plan Section 6.12
    - b. ☐ financial necessity (as defined in the loan program).
  3. ☐ The minimum loan will be \$\_\_\_\_\_.
  4. ☐ A Participant may only have \_\_\_\_\_ (e.g., one (1)) loan(s) outstanding at any time.
  5. ☐ All outstanding loan balances will become due and payable in their entirety upon the occurrence of a distributable event (other than satisfaction of the conditions for an in-service distribution (including a hardship distribution), if applicable).
  6. ☐ **Account restrictions.** Loans will only be permitted from the following Participant Accounts (select all that apply or leave blank if no limitations apply):
    - a. ☐ Account(s) attributable to Employer matching contributions
    - b. ☐ Account attributable to Employer contributions other than matching contributions
    - c. ☐ Rollover Account
    - d. ☐ Transfer Account
    - e. ☐ Other: \_\_\_\_\_

**AND**, if loans are restricted to certain accounts, the limitations of Code §72(p) will be applied:

- f. ☐ by determining the limits by only considering the restricted accounts.
- g. ☐ by determining the limits taking into account a Participant's entire interest in the Plan.

**Additional Loan Provisions** (select all that apply; leave blank if none apply)

- b. ☐ **Loan payments.** Loans are repaid by (if left blank, then payroll deduction applies unless Participant is not subject to payroll (e.g., partner who only has a draw)):
1. ☐ payroll deduction
  2. ☐ ACH (Automated Clearing House)
  3. ☐ check
    - a. ☐ Only for prepayment
- c. ☐ **Interest rate.** Loans will be granted at the following interest rate (if left blank, then 3. below applies):
1. ☐ \_\_\_\_\_ percentage points over the prime interest rate
  2. ☐ \_\_\_\_\_%
  3. ☐ the Administrator establishes the rate at the time the loan is made
- d. ☐ **Refinancing.** Loan refinancing is allowed.

**B. Life Insurance.** (Plan Section 7.5)

- a. ☒ Life insurance may not be purchased.
- b. ☐ Life insurance may be purchased...
  1. ☐ at the option of the Administrator
  2. ☐ at the option of the Participant

**Limitations**

3. ☐ N/A (no limitations)
4. ☐ The purchase of initial or additional life insurance will be subject to the following limitations (select one or more):
  - a. ☐ Each initial Contract will have a minimum face amount of \$\_\_\_\_\_.
  - b. ☐ Each additional Contract will have a minimum face amount of \$\_\_\_\_\_.
  - c. ☐ The Participant has completed \_\_\_\_\_ Years (or Periods) of Service.
  - d. ☐ The Participant has completed \_\_\_\_\_ Years (or Periods) of Service while a Participant in the Plan.
  - e. ☐ The Participant is under age \_\_\_\_\_ on the Contract issue date.
  - f. ☐ The maximum amount of all Contracts on behalf of a Participant may not exceed \$\_\_\_\_\_.
  - g. ☐ The maximum face amount of any life insurance Contract will be \$\_\_\_\_\_.

**C. Plan Expenses.** Will the Plan assess against an individual Participant's Account certain Plan expenses that are incurred by, or are attributable to, a particular Participant based on use of a particular Plan service?

- a. ☐ No
- b. ☒ Yes

**Governmental Money Purchase Plan****D. Directed investments**

- a. ☐ Participant directed investments are NOT permitted.
- b. ☒ Participant directed investments are permitted from the following Participant Accounts:
  - 1. ☒ all Accounts
  - 2. ☐ only from the following Accounts (select one or more):
    - a. ☐ Account attributable to Employer contributions
    - b. ☐ Rollover Account
    - c. ☐ Transfer Account
    - d. ☐ Other: \_\_\_\_\_ (specify Account(s) and conditions in a manner that is definitely determinable and not subject to Employer discretion)

**E. Rollover Limitations.** Will the Plan accept rollover contributions and/or direct rollovers from the sources specified below?

- a. ☐ No, Administrator determines in operation which sources will be accepted.
- b. ☒ Yes

**Rollover sources.** Indicate the sources of rollovers that will be accepted (select one or more)

- 1. ☒ **Direct Rollovers.** The Plan will accept a direct rollover of an eligible rollover distribution from (select one or more):
  - a. ☒ a qualified plan described in Code §401(a) (including a 401(k) plan, profit sharing plan, defined benefit plan, stock bonus plan and money purchase plan), excluding after-tax employee contributions
  - b. ☐ a qualified plan described in Code §401(a) (including a 401(k) plan, profit sharing plan, defined benefit plan, stock bonus plan and money purchase plan), including after-tax employee contributions
  - c. ☒ a plan described in Code §403(a) (an annuity plan), excluding after-tax employee contributions
  - d. ☐ a plan described in Code §403(a) (an annuity plan), including after-tax employee contributions
  - e. ☒ a plan described in Code §403(b) (a tax-sheltered annuity), excluding after-tax employee contributions
  - f. ☐ a plan described in Code §403(b) (a tax-sheltered annuity), including after-tax employee contributions
  - g. ☒ a plan described in Code §457(b) (eligible deferred compensation plan)

**Direct Rollovers of Participant Loan.** The Plan will NOT accept a direct rollover of a Participant loan from another plan unless selected below (leave blank if default applies)

- h. ☐ The Plan will accept a direct rollover of a Participant loan
- i. ☐ The Plan will only accept a direct rollover of a Participant loan only in the following situation(s): \_\_\_\_\_ (e.g., only from Participants who were employees of an acquired organization).

- 2. ☒ **Participant Rollover Contributions from Other Plans (i.e., not via a direct plan-to-plan transfer).** The Plan will accept a contribution of an eligible rollover distribution (select one or more):
  - a. ☒ a qualified plan described in Code §401(a) (including a 401(k) plan, profit sharing plan, defined benefit plan, stock bonus plan and money purchase plan)
  - b. ☒ a plan described in Code §403(a) (an annuity plan)
  - c. ☒ a plan described in Code §403(b) (a tax-sheltered annuity)
  - d. ☒ a governmental plan described in Code §457(b) (eligible deferred compensation plan)
- 3. ☐ **Participant Rollover Contributions from IRAs:** The Plan will accept a rollover contribution of the portion of a distribution from a traditional IRA that is eligible to be rolled over and would otherwise be includible in gross income. Rollovers from Roth IRAs or a Coverdell Education Savings Account (formerly known as an Education IRA) are not permitted because they are not traditional IRAs. A rollover from a SIMPLE IRA is allowed if the amounts are rolled over after the individual has been in the SIMPLE IRA for at least two years.

## **ADMINISTRATIVE SERVICES AGREEMENT FOR THE GOVERNMENTAL 401(a) PLAN OF THE COUNTY OF GRAYSON, TEXAS**

This Administrative Services Agreement ("Agreement") is effective on the date of the last signature below (the "Effective Date") by and between Nationwide Retirement Solutions, Inc., a Delaware corporation ("Nationwide") and an affiliate and subsidiary of Nationwide Financial Services, Inc. and Grayson County, Texas, the Plan Sponsor (hereinafter "Plan Sponsor").

**WHEREAS**, Plan Sponsor, pursuant to and in compliance with the Internal Revenue Code of 1986, as amended ("Code"), established and sponsors the County of Grayson, Texas 401(a) Plan ("Plan"), a Section 401(a) Plan;

**WHEREAS**, Plan Sponsor desires to have Nationwide perform the non-discretionary recordkeeping and administrative services described in this Agreement for the Plan ("Administrative Services"); and

**WHEREAS**, Nationwide desires to provide such Administrative Services subject to the terms and conditions set forth in this Agreement.

**NOW THEREFORE**, Nationwide and Plan Sponsor desire to enter into this Agreement and abide by the terms therein.

### **1. DESIGNATION**

- a. Plan Sponsor designates Nationwide as a non-fiduciary, non-discretionary provider of Administrative Services for the Plan in accordance with the terms of this Agreement.
- b. Plan Sponsor represents that the selection and designation of Nationwide complies with any procurement statutes applicable to Plan Sponsor.
- c. Any duties or services not specifically described herein or delegated in the Plan's document as being provided by Nationwide are the responsibility of Plan Sponsor.
- d. Services in addition to those in this Agreement or delegated in the Plan's document may be added by mutual agreement of Nationwide and Plan Sponsor.

### **2. ELIGIBLE EMPLOYER**

Plan Sponsor has determined that it is an "eligible employer" as that term is defined in Code Section 414(d).

### **3. TERM**

This Agreement is effective until terminated in accordance with Section 22.

#### **4. GENERAL**

- a. Plan Sponsor adopts Nationwide's established policies and procedures with respect to the administration of 401(a) plans on its administrative system. Nationwide and Plan Sponsor shall mutually agree to any procedures which require customization, *e.g.*, loan procedures.
- b. Plan Sponsor acknowledges and agrees that Nationwide is not responsible for monitoring deferrals to other Section 457, 403(b), 401(a), and/or 414(h) plans, or any defined benefit plans referenced by the Code.
- c. Plan Sponsor acknowledges and agrees that Nationwide is not responsible for monitoring inter-plan coordination between the Plan administered by Nationwide and any other Section 401(a) plan which Plan Sponsor may have.
- d. This Agreement does not require, nor will this Agreement be construed as requiring, Nationwide to exercise any discretionary control or authority over the Plan or the assets of the Plan.
- e. This Agreement does not require, nor shall this Agreement be construed as requiring, Nationwide to provide investment, legal, or tax advice to Plan Sponsor or to Plan participants.

#### **5. PLAN SPONSOR RESPONSIBILITIES**

- a. Plan Sponsor is responsible for timely providing all information that Plan Sponsor and Nationwide mutually agree is necessary for Nationwide to perform the Administrative Services under this Agreement.
- b. Plan Sponsor is responsible for timely providing updated information regarding Plan participants.
- c. Plan Sponsor is responsible for ensuring that the provided information is accurate and complete. Nationwide is entitled to rely exclusively on the information provided by the Plan Sponsor or the Plan Sponsor's advisors, whether oral or in writing, and will have no responsibility to independently verify the accuracy of that information.
- d. Plan Sponsor acknowledges that inaccurate or late information could result in tax penalties, participant/beneficiary legal claims, or both. Nationwide assumes no responsibility for, and will not have any liability for, any consequences that result from Nationwide's inability to complete its work in the ordinary course of its business due to the failure of the Plan Sponsor to provide accurate and timely information to Nationwide.
- e. Plan Sponsor agrees to be responsible for all maximum deferral limit testing for this Plan.

#### **6. SERVICES RELATED TO PARTICIPANT ENROLLMENT**

- a. Plan Sponsor is responsible for determining employees eligible to participate in the Plan.
- b. Nationwide agrees to process the enrollment of employees eligible to participate in the Plan.



- c. Nationwide agrees to conduct enrollment meetings with Plan Sponsor's employees in such number and manner as determined by the parties.
- d. The Plan Sponsor agrees to allow and facilitate the periodic distribution of materials to Participants at the time and in the manner determined by the Plan Sponsor; provided, however, that all reasonable expenses associated with such distribution will be paid by Nationwide.

**7. SERVICES WITH RESPECT TO PARTICIPANT PLAN ACCOUNTS AND ACCOUNT ACCESS**

- a. Nationwide agrees to establish an account for each enrolled participant, beneficiary, and alternate payee of the Plan (for purposes of this Agreement only, hereinafter referred to as "Participants").
- b. For each Participant account, at a minimum, Nationwide will maintain the following information, if provided:
  - i. Name;
  - ii. Social Security number;
  - iii. Mailing address;
  - iv. Date of birth;
  - v. Current investment allocation direction;
  - vi. Contributions allocated and invested;
  - vii. Investment transfers;
  - viii. Benefit payments;
  - ix. Current account balance;
  - x. Transaction history since funding under the Agreement;
  - xi. Contributions since funding under the Agreement;
  - xii. E-mail address;
  - xiii. Beneficiary designation, if applicable;
  - xiv. Benefit tax withholding information; and
  - xv. Such other information as agreed upon by the Plan Sponsor and Nationwide.
- c. Participants will have the ability to exchange existing account balances, in full or in part, and to redirect future contributions from one available investment option to another on any Business Day subject to Nationwide policies and any applicable restrictions or penalties applied by the investment options.

- d. Nationwide will provide reports to the Plan Sponsor within thirty days following the end of each calendar quarter reporting period summarizing the following:
  - i. All participant activity that transpired during the reporting period;
  - ii. Total contributions allocated to each investment or insurance option under the Plan; and
  - iii. Total withdrawals by participant. This report shall include the amount, type and date of withdrawal.
- e. Nationwide will maintain, for a reasonable amount of time, the records necessary to produce any required reports. Plan Sponsor agrees that all related paper and electronic records remains the property of Nationwide.

## **8. SERVICES RELATED TO PLAN CONTRIBUTIONS**

- a. Plan Sponsor agrees to send all Plan contribution information and related funds to Nationwide on a timely basis that complies with all applicable legal requirements.
- b. Plan Sponsor will provide all contribution allocation information with respect to participant accounts to Nationwide in a mutually agreed upon format. Contribution allocation instructions include direction via electronic sources.
- c. Nationwide will allocate contribution amounts transmitted by Plan Sponsor to participant accounts in accordance with the latest instructions from participants or the Plan Sponsor (as applicable) on file with Nationwide, when such instructions are in good order.
- d. Nationwide agrees to post funds received in good order (as defined below) from Plan Sponsor in accordance with the separate funding arrangements between Plan Sponsor and Nationwide or any of its affiliates.
- e. Plan Sponsor may send funds by wire transfer, through an automated clearinghouse, or by check in accordance with written instructions provided by Nationwide. Failure to follow the written instructions provided by Nationwide may result in delay of posting to participant accounts.
- f. The term “in good order” means the receipt of required information by Nationwide, in a form deemed reasonably acceptable to Nationwide, with respect to the processing of a request or the completion of a task by Nationwide that reasonably requires information from a third party. More specifically, Plan contributions and contribution allocation information must meet all of the following requirements in order to be deemed to be in good order:
  - i. All records must include the correct and complete participant name, Social Security number (or other unique identifier), and the amount to be credited to the participant’s account(s);
  - ii. The source of funds must be identified (e.g., 401(a) salary reduction, employer contribution);
  - iii. The Plan name and Plan number must be clearly identified;

- iv. Both the participant allocation detail and the total contribution amount must be received, and these two totals must match each other; and
- v. All participants making or receiving a contribution must have an account established on the recordkeeping system.
- g. If Nationwide determines that the contribution or allocation detail is not in good order ("NIGO"), Nationwide will notify the Plan Sponsor. After such notification, the parties will continue to try to resolve the NIGO status. If the parties do not achieve resolution, Nationwide will return the funds to the Plan Sponsor within thirty Business Days. Nationwide will not be liable for any delay in posting if the Plan Sponsor fails to send the funds representing contribution amounts or contribution allocation information in accordance with Nationwide's instructions to the central processing site designated by Nationwide, or for any delay in posting that results from the receipt of funds and/or contribution allocation that Nationwide determines to be NIGO.
- h. The term "Business Day" means each Monday through Friday during the hours the New York Stock Exchange is open for business. No transactions can be completed on any Business Day after such time as the New York Stock Exchange closes.

## **9. SERVICES WITH RESPECT TO DISTRIBUTIONS**

- a. Nationwide shall make all distributions in accordance with the plan document.
- b. Except as provided in subsection d, below, Nationwide shall make all distributions as directed by a participant or the Plan Sponsor. Participants are responsible for selecting a form of payment from those available under the terms of the Plan and making all other elections regarding available distribution options.
- c. All distributions will be made pro-rata from each of the participant's investment options and money sources unless directed otherwise by the participant.
- d. Nationwide will provide notice and a distribution form to each participant attaining age 72 (or such other age as determined by current law) or older in the current calendar year. The notice will inform the participant that required minimum distributions ("RMD") must begin no later than the April 1 of the calendar year following the later of attainment of age 72 (or such other age as determined by current law) or retirement (subject to the terms of the Plan). Nationwide will automatically distribute the RMD to the Participant if no direction is received by the Participant.

## **10. ADDITIONAL SERVICES FOR GOVERNMENTAL 401(a) PLAN**

Nationwide may provide the following services to the Plan Sponsor for the Plan as mutually agreed upon in writing by the Plan Sponsor and Nationwide:

- Eligible Employee Verification
- Year End Valuation
- Contribution and Forfeiture Allocation
- Contribution Verification
- Vesting Calculation and Maintenance

- Contribution Limit Testing (This will be done on an individual plan basis. Nationwide will not be responsible for monitoring aggregate contribution limits to multiple plans or for reviewing or taking into account contributions to any other plan sponsored by the Plan Sponsor or contributions record kept by another vendor.)

## **11. TAX REPORTING**

- a. For each participant that has received a benefit payment, Nationwide shall furnish tax reporting forms. The forms will be provided in the manner and time prescribed by federal and state law.
- b. To the extent required by federal and state law, Nationwide will calculate and withhold from each benefit payment federal and state income taxes. Nationwide will report such withholding to the federal and state governments as required by applicable law.
- c. Plan Sponsor will be responsible for all tax reporting requirements for periods before the Effective Date of this Agreement, or after the termination date of this Agreement, unless otherwise agreed to in writing by the parties to this Agreement.

## **12. UNCLAIMED PROPERTY**

Nationwide shall administer participant and beneficiary unclaimed property funds, including but not limited to uncashed distribution checks and death claims, in accordance with Nationwide's standard unclaimed property procedures.

## **13. SERVICES RELATED TO PARTICIPANT COMMUNICATION AND EDUCATION**

### **a. Communication and Education**

- i. Participant Statements
  1. Participants will receive consolidated quarterly statements detailing their account activity and account balances for the Plan.
  2. Nationwide agrees to deliver account statements (by U.S. mail or electronically) to participants within thirty calendar days after the end of each calendar quarter. This timeframe is contingent upon Nationwide receiving fund returns from the mutual fund providers within four Business Days after the end of each quarter.

### **b. Website**

- i. Participants may access the website via a secured internet site at [www.nrsforu.com](http://www.nrsforu.com) to review and make changes to their accounts. The website complies with applicable data protection and privacy laws. The website is the exclusive property of Nationwide.
- ii. Using this site, participants may: (i) obtain information regarding their accounts, and (ii) conduct certain routine transactions with respect to their accounts. The Plan Sponsor authorizes Nationwide to honor instructions regarding such transactions that a Participant submits using the secure Internet site. Nationwide shall implement reasonable physical

and technical safeguards to protect personal information made available on its Internet site. Such safeguards shall be no less rigorous than generally accepted industry practices.

- iii. The website is available twenty-four hours a day, except for routine maintenance of the system.
- iv. The participant website experience will include access to an education library offering investment education. Content is delivered via multiple formats which can include short videos, print materials, and workshop modules.

**c. INTERACTIVE VOICE RESPONSE SYSTEM**

- i. Nationwide will provide an interactive voice response (IVR) toll free telephone number, which shall be operative twenty-four hours per day, seven days per week, except for routine maintenance of the system.
- ii. Participants will be able to conduct routine plan transactions and obtain account balance information through the IVR.
- iii. The Plan Sponsor authorizes Nationwide to honor participant instructions, which may be submitted using the toll-free number, either through the IVR or a live representative.

**d. CUSTOMER SERVICE**

Nationwide's customer service representatives will be available toll-free to answer participant questions and process applicable transactions between the hours of 8:00 a.m. and 11:00 p.m. Eastern Time each Monday through Friday, and between the hours of 9:00 a.m. and 6:00 p.m. Eastern Time each Saturday, except for certain holidays as dictated by the New York Stock Exchange holiday trading schedule.

**e. PARTICIPANT ENGAGEMENT PROGRAM**

- i. Nationwide will provide a personalized communication program (Participant Engagement Program or "PEP") designed to engage participants in retirement planning and motivate them to take action to improve their financial future. The program may include delivery methods such as email, digital targeting, social targeting, and Direct Mail.
- ii. Use of Third-Party Marketing Firm: Plan Sponsor understands that Nationwide may use a third-party marketing firm to provide the PEP, that the use of a third-party marketing firm may be essential to provide the PEP due to its personalized features, and that such a program cannot be offered without such use. Nationwide shares participant data with the marketing firm to allow it to target the appropriate retirement plan messages to each participant based on the participant's individual characteristics, demographics, and behaviors while considering the participant's preferences for accessing information, electronically or otherwise, for more impactful delivery.
- iii. Sharing of Participant Data: To facilitate the personalized communication program, Plan Sponsor approves the sharing of data with a third-party marketing firm. Participant data will only be shared with the third-party marketing firm for Plan-related purposes. Only third-

party marketing firms that comply with all applicable state and federal privacy laws, including the relevant provisions of the Gramm-Leach-Bliley Act, will be utilized. All participant data will be secured and protected at all times to avoid unauthorized access, and the third-party marketing firm must agree to abide by all current applicable legal and industry-standard data security and privacy requirements.

#### **14. SERVICES RELATED TO INVESTMENT OPTIONS**

- a. Plan Sponsor acknowledges that it has exercised its fiduciary duties in selecting the Plan's funding vehicle(s) and the applicable investment line-up under such funding vehicle(s).
- b. Plan Sponsor agrees to accept the terms and conditions of the annuity contracts, mutual funds, any other investment products, and investment advice agreements after being provided with a copy of same.
- c. With respect to funding vehicles that engage an independent investment advisor to establish and maintain the investment line-up, Plan Sponsor agrees that failure to follow the independent investment advisor's recommendation in accordance with the terms of its agreement with the independent investment advisor will cause Plan Sponsor to become the investment fiduciary for the Plan.
- d. Nationwide agrees to accept contributions to the Plan for investment in the investment options selected by the Plan Sponsor, a product's independent investment advisor, or other responsible plan fiduciary in its sole discretion and agreed to by Nationwide.

#### **15. COMPENSATION**

- a. As compensation for the Administrative Services provided by Nationwide pursuant to this Agreement, Plan Sponsor and Nationwide agree that Nationwide shall be entitled to an annualized compensation requirement of 0.15% (15 basis points) of the Plan's account value held by Nationwide ("Compensation Requirement") per year to be calculated and collected as an explicit asset fee according to Nationwide's standard business practices. In calculating the 15 basis points, the total Plan assets will include Plan balances held in the Self-Directed Brokerage Account ("SDBA") and as outstanding participant loan balances. The explicit asset management charge of 15 basis points will be taken against participant loans by applying an additional finance charge to the loan interest rate.
- b. The Plan Sponsor acknowledges that Nationwide and its affiliates receive payments in connection with the sale and servicing of investments allocated to participant Plan accounts ("Investment Option Payments"). In addition to the foregoing, the parties acknowledge and agree that Nationwide may receive revenue associated with annuity contracts, revenue from mutual fund providers, as well as fees associated with specific services or products. In addition to the explicit asset fee of 15 basis points described in 15.a. above, Nationwide shall also be entitled to receive 0.10% (10 basis points) from the revenue Nationwide receives from the Investment Option Payments. The Investment Option Payments include mutual fund service fee payments, which are described in detail at [www.nrsforu.com](http://www.nrsforu.com), and other payments received from investment option providers.

- c. Nationwide will provide the Plan Sponsor a quarterly report showing total participant account balances and the corresponding fee calculation within thirty (30) business days after the end of each quarter.
- d. The Plan Sponsor has directed Nationwide to establish and maintain a separate account (the "Plan Expense Account") representing that portion of the Investment Option Payments that exceed the 10 basis points described in 15.b. above. The Plan Expense Account will be funded on a quarterly basis. The Plan Sponsor will select a single investment vehicle to be used for the Plan Expense Account, which cannot be an investment vehicle included in the participant investment lineup. The Plan Sponsor will direct Nationwide, in writing, to pay reasonable and necessary Plan expenses directly to the Plan or a Plan service provider.
  - i. When each invoice is submitted to Nationwide for payment, the Plan Sponsor shall certify in writing that the expenses represented by the invoice are reasonable and necessary Plan expenses. As the fiduciary of the Plan, the Plan Sponsor is solely responsible for making determinations with respect to the appropriateness of all expenses of the Plan and how the Plan Expense Account is managed. Nationwide does not accept this responsibility.
  - ii. The account balance, account transactions and investment experience of the Plan Expense Account will be reported to the Plan Sponsor no later than thirty (30) Business Days after the end of each calendar quarter.
  - iii. The Plan Sponsor will maintain the cumulative balance held in the Plan Expense Account at a reasonable level given the size of the Plan and the Plan's total annual expenses. Should the cumulative balance of the Plan Expense Account exceed a reasonable level, Plan Sponsor will direct Nationwide to allocate any excess accumulation to participant accounts on a pro-rata basis based on their total account balance.
  - iv. Notwithstanding Section 15.d.iii. above, at the direction of the Plan Sponsor, any balance in the Plan Expense Account that has not been applied to pay for reasonable and necessary Plan expenses can be allocated to participant accounts on a pro-rata basis based on their total account balance on an annual basis to be mutually determined and agreed to by the parties.
- e. To the extent offered under the Plan, in addition to the above described fees, Nationwide will also receive fees with respect to a participant's use of participant loan administration, the Self-Directed Brokerage Account ("SDBA"), and Nationwide's managed account service ("ProAccount") as follows:
  - i. Loans- If requested by the Plan Sponsor and permitted under the terms of the Plan, Nationwide will assist the Plan Sponsor in processing participant loan requests pursuant to participant loan administrative procedures approved by the Plan Sponsor and Nationwide. All participant loan fees are governed by Nationwide's Plan Loan Procedures document, a copy of which has been provided to the Plan Sponsor.

- ii. Self-Directed Brokerage Account (SDBA) – The Plan offers an SDBA investment option for qualifying participants in the Plan. Initial and annual administrative fees may be charged as outlined in the separate fee agreement for the SDBA that will be provided to each participant by the SDBA provider.
- iii. Managed account services (Nationwide ProAccount) - Managed account services are offered by Nationwide Investment Advisors (“NIA”), an affiliate of Nationwide, and the Plan Sponsor must execute a separate agreement with NIA if the Plan Sponsor wants to add ProAccount to the Plan. Only participants who choose to utilize Nationwide’s ProAccount managed account service are assessed fees. Such fees are authorized in a separate ProAccount agreement between the participant and NIA and are assessed pursuant to the terms and conditions of such agreement.

Fees related to participant loans, the SDBA and Nationwide ProAccount are in addition to the fees in Sections 15.a., b., and d.

- f. Employer may request Nationwide and/or its affiliates to provide additional services not described in this Agreement by making such a request in writing, which Nationwide may decide to perform for compensation to be negotiated by the parties prior to the commencement of the additional services.

## **16. FRAUD**

- a. Nationwide will investigate suspected fraud in accordance with its standard procedures.
- b. Nationwide will report any fraud that is confirmed after performing its investigation to Plan Sponsor.
- c. Nationwide will work with Plan Sponsor to determine the appropriate action to mitigate or rectify any discovered fraud.
- d. If Nationwide suspects fraud with respect to an ACH transfer, Plan Sponsor agrees that Nationwide may issue a physical check to the participant instead.

## **17. ASSIGNABILITY AND PROVISION OF SERVICES**

- a. Excepted as otherwise specifically provided for in this Agreement, Plan Sponsor acknowledges that the Administrative Services under this agreement will be performed by Nationwide or one of its affiliates.
- b. Except as provided for in Subsection “a”, above, no party to the Agreement will assign the performance of services without the express written consent of the other party, which consent shall not be unreasonably withheld. Unless agreed to by the parties, such assignment shall not relieve any party to this Agreement of any duties or responsibilities herein. This provision does not restrict Nationwide’s right to delegate certain services to an agents, affiliates, and vendors.



## **18. CONFIDENTIALITY**

- a. Nationwide agrees to maintain all information obtained from or related to all Plan participants as confidential.
- b. Plan Sponsor authorizes Nationwide to disclose Plan and employee information to its agents, affiliates, vendors, brokers, registered representatives, and professional advisors (such as attorneys, accountants and actuaries) to enable or assist them in the performance of their duties hereunder and other plan-related activities.
- c. Plan Sponsor agrees to allow the periodic distribution to its employees of materials prepared by Nationwide regarding products and services offered by Nationwide, or its affiliates, which Nationwide reasonably believes would be beneficial to such Plan participants.
- d. Except as provided for in Sections 13(e) and 18(b), Plan Sponsor agrees that Plan and participant information may also be used or disclosed by Nationwide to other third parties pursuant to a written authorization signed by Plan Sponsor.
- e. Notwithstanding anything to the contrary contained herein, it is expressly understood that Nationwide retains the right to use any and all information in its possession in connection with its defense and/or prosecution of any litigation that may arise in connection with the Agreement, the investment arrangement funding the Plan, or the Plan; provided, however, in no event will Nationwide release any information to any person or entity except as permitted by applicable law.

## **19. INDEMNIFICATION**

- a. Nationwide agrees to indemnify, defend and hold harmless Plan Sponsor, its officers, directors, agents, and employees from and against any loss, damage or liability assessed against Plan Sponsor or incurred by Plan Sponsor arising out of or in connection with any claim, action, or suit brought or asserted against Plan Sponsor alleging or involving Nationwide's non-performance of the provisions of the Agreement under Nationwide's exclusive control, or negligence or willful misconduct in the performance of its services, duties and obligations under the Agreement. In addition, Nationwide represents, warrants and covenants that the indemnification in this paragraph is enforceable under applicable law and that Nationwide will not assert a position contrary to such representation in any judicial or administrative proceeding.
- b. To the extent not prohibited by state law, Plan Sponsor agrees to indemnify, defend and hold harmless Nationwide, its officers, directors, agents, and employees from and against any loss, damage or liability assessed against Nationwide or incurred by Nationwide arising out of or in connection with any claim, action, or suit brought or asserted against Nationwide alleging or involving Plan Sponsor's non-performance of the provisions of the Agreement under Plan Sponsor's exclusive control, or negligence or willful misconduct in the performance of its duties and obligations under this Agreement. In addition, Plan Sponsor represents, warrants and covenants that the indemnification in this paragraph is enforceable under applicable law and that Plan Sponsor will not assert a position contrary to such representation in any judicial or administrative proceeding.

## **20. PARTIES BOUND**

This Agreement and the provisions thereof shall be binding upon and shall inure to the benefit of the successors and assigns of Nationwide and Plan Sponsor. This Agreement shall be enforceable only by the parties, not by Plan participants or other third parties, and is intended to create no third-party beneficiaries.

## **21. MODIFICATION**

- a. The parties intend this writing to be both the final expression of the Agreement between the parties and a complete statement of the terms of the Agreement. Notwithstanding anything contained herein to the contrary, the parties may amend the Agreement from time to time and as mutually agreed upon. Except as otherwise provided herein, no modification of the Agreement will be effective unless and until such modification is evidenced by a writing signed by both parties.
- b. Notwithstanding the above, if Nationwide determines that an amendment to the Agreement is necessary that affects more than one plan sponsor and this change is communicated in writing to all affected plan sponsors, Nationwide reserves the right to implement the amendment on a prospective basis for any plan whose plan sponsor fails to respond to the request for written approval of the amendment in a timely fashion. Plan Sponsor hereby approves all such amendments unless a proper and timely response is made to Nationwide regarding any Agreement modification communicated to Plan Sponsor.

## **22. TERMINATION**

- a. Either the Plan Sponsor or Nationwide may terminate the Agreement for any reason upon providing 120 days written notice to the other party.
- b. In the event either party fails to perform any or all of its obligations as defined in the Agreement, the non-defaulting party shall give the defaulting party written notice, specifying the particulars of the default. If such default is not cured within sixty days from the date in which notice of default is given, the non-defaulting party may terminate the Agreement upon 60 days written notice to the defaulting party.
- c. Provision of such written notice of termination by Plan Sponsor to Nationwide does not relieve the Plan Sponsor of any termination requirements that may be associated with specific investment options.
- d. Plan Sponsor further acknowledges and agrees that the Plan is responsible for any investment product liquidation fees, if applicable, and that neither Nationwide nor any of its affiliates assumes liability for any such fees.
- e. Upon the effective date of termination of this Agreement the following shall occur:
  - i. Nationwide will no longer accept contributions to the Plan except by agreement of the parties.

ii. Nationwide will:

1. Provide Plan Sponsor, or such other entity as the Plan Sponsor may designate in writing, with a copy of all participant records in an electronic format and within a time frame as mutually agreed upon between Nationwide and Plan Sponsor.
  2. Transfer any periodic distribution amounts and schedules, continuing loan repayments, or other ongoing participant transactional activity to the Plan Sponsor, or such other entity as the Plan Sponsor may designate in writing, in accordance with the time frame agreed to by the parties for the delivery of participant records.
  3. Transfer all Plan assets under its control to the Plan Sponsor or to such other entity as the Plan Sponsor may designate in writing in accordance with the funding arrangement terms. Nationwide agrees to provide a final accounting of all Plan assets for which Nationwide provides recordkeeping.
- f. If the Plan is not funded within 180 days of the date this Agreement is signed by the parties or the Effective Date of the Agreement, if later, Nationwide reserves the right to terminate the Agreement by providing written notice of the termination to Plan Sponsor.

**23. CIRCUMSTANCES EXCUSING PERFORMANCE**

- a. Neither party to the Agreement will be in default by reason of failure to perform in accordance with its terms if such failure arises out of causes beyond their reasonable control and without fault or negligence on their part. Such causes may include, but are not limited to, Acts of God or public enemy, acts of the government in its sovereign or contractual capacity, severe malware or cyber-attack, fires, floods, epidemics, quarantine or restrictions, freight embargoes, and unusually severe weather.
- b. Neither party will be responsible for performing all of that portion of services precluded by the foregoing events for such period of time as Plan Sponsor or Nationwide are precluded from performing such services in the normal course of business. Neither Nationwide nor Plan Sponsor will be liable for lost profits, losses, damage or injury, including without limitation, special or consequential damages, resulting in whole or in part from the foregoing events.
- c. "Acts of God" are defined as acts, events, happenings or occurrences due exclusively to natural causes and inevitable accident or disaster, exclusive from all human intervention.

**24. NO WAIVER**

The failure of either party to enforce any provision of the Agreement will not be construed as a waiver of that provision or of any other provision in the Agreement. Either party may, at any time, enforce a provision previously unenforced, unless a modification to the Agreement has been executed that makes such provision unenforceable.

**25. SEVERABILITY**

Any provision of the Agreement which is prohibited or unenforceable in any jurisdiction where performance is required will be ineffective to the extent such provision is prohibited or

unenforceable without invalidating the remaining provisions. Any prohibited or unenforceable provision in any one jurisdiction will not prohibit or render unenforceable such provision in any other jurisdiction.

## **26. AUTHORIZED PERSONS**

Plan Sponsor will furnish a list to Nationwide (and from time to time whenever there are changes therein) of the individuals authorized to transmit instruction to Nationwide concerning the Plan and/or assets in the Plan, and written direction regarding the form of such instructions.

## **27. COMPLIANCE WITH LAWS**

Both Plan Sponsor and Nationwide agree to comply, in their respective roles under this Agreement, in all material respects with all applicable federal laws and regulations as they affect the Plan and the administration thereof. Nothing contained herein will be construed to prohibit either party from performing any act or not performing any act as either may be required by statute, court decision, or other authority having jurisdiction thereof.

## **28. SURVIVAL OF REPRESENTATIONS, WARRANTIES, INDEMNITY, AND CONFIDENTIALITY**

- a. Notwithstanding anything to the contrary, any representations and warranties contained herein will survive termination of the Agreement for the full period of any applicable statute of limitations that may apply to the Agreement. Further, the party making any representation or warranty shall notify the other party in writing within five business days of any representation or warranty that is no longer valid.
- b. Notwithstanding anything to the contrary, any indemnity provisions contained herein will survive the termination of the Agreement for the full period of any applicable statute of limitations that may apply to the Agreement.
- c. Notwithstanding anything to the contrary, any confidentiality provisions contained herein will survive the termination of the Agreement for the full period of any applicable statute of limitations that may apply to the Agreement.

## **29. PRIVACY OF CONTRACT**

Plan Sponsor acknowledges and agrees that Nationwide and participants of the Plan have no privity of contract with each other.

## **30. APPLICABLE LAW AND VENUE**

This agreement will be construed in accordance with the laws operating within the State of Ohio.

## **31. ATTORNEY'S FEES**

Each party agrees that in the event of a claim, arbitration, or lawsuit filed by a party to this Agreement, each party will be responsible for its own attorneys' fees and/or any costs or expenses related to the bringing or defense of any such claim, arbitration, or lawsuit.

### 32. HEADINGS

The headings of articles, paragraphs, and sections are included for convenience only and will not be considered by either party in construing the meaning of the Agreement.

### 33. NOTICES

All notices and demands to be given by one party to another must be given by certified or United States mail, addressed to the party to be notified or upon whom a demand is being made, at the addresses set forth in this Agreement or such other place as either party may, from time to time, designate in writing to the other party. Notice will be deemed received on the earlier of: (1) three days from the date of mailing, or (2) the day the notice is actually received by the party to whom the notice was sent.


If to Nationwide:                      Nationwide Retirement Solutions, Inc.  
    10 W. Nationwide Blvd., 05-04-101A  
    Columbus, Ohio 43215


If to Plan Sponsor:                      Grayson County  
    Attn: Kelly Cassell  
    100 West Houston Street, Ste 92  
    Sherman, TX 750

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the date of the last signature below.

Nationwide Retirement Solutions, Inc.

Grayson County, Texas  
Plan Sponsor

By:   
Name: Catherine Moore  
Title: AVP Operations  
Date: 6/10/2021 | 2:38 PM EDT

By:   
Name: WILLIAM L. MAGERS  
Title: COUNTY CLERK  
Date: MARCH 31, 2021


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## Nationwide Retirement Solutions Employer Data Sheet

### Plan Type

Please Select One: ☒ NACo ☐ USCM ☐ IAFF-FC Program ☐ Other

Please Select One: ☐ 457(b) ☒ 401(a) ☐ 401(k) ☐ OBRA

Select Only if Applicable to Plan: ☐ Morningstar Investment Fiduciary Program

### Employer Information (Required)

Employer Name: Grayson County TX Employer Number (From Nationwide): \_\_\_\_\_

Employer Physical Address: 100 West Houston St - STE G2

Mailing Address (for priority/overnight): \_\_\_\_\_

City: Sherman State: Texas ZIP: 75090

Employer Contact Name & Title: Kelly Cassell, HR Director

Employer Contact Phone: 903-813-5214

Email: cassellk@co.grayson.tx.us

Number of Eligible Employees: \_\_\_\_\_ Employer Tax ID Number (from W-2): \_\_\_\_\_

### Payroll Center Information

**Refer to Page 2 if more than one payroll center exists and separate payroll confirmations are desired.**

\* Indicates that the field is required.

Contact Name\*: Kelly Cassell Contact Title: Director Human Resources

Contact Phone: 903-813-5214 Contact Fax: 903-870-4087

Contact Email: cassellk@co.grayson.tx.us

Payroll Center Address\*: 100 W. Houston Street, Ste 92

City\*: Sherman State\*: TX ZIP\*: 75090

Frequency of Payroll Deductions\*: ☐ Weekly ☒ Bi-Weekly ☐ Monthly ☐ Semi-Monthly ☐ Other

Deferral Type\*: ☒ Percentage ☒ Dollar Amount Number of Payroll Centers\*: 1

Will Payroll Center furnish detail on web-based app? ☒ Yes ☐ No

**Deferrals must be remitted to Nationwide Retirement Solutions as frequently as deductions are made. OBRA Payroll Data must be segregated from the payroll data for your voluntary 457 deferred compensation plans.**

### Unforeseeable Emergency/Hardship Requests (if permitted)

Will Nationwide Retirement Solutions review and make determinations for Unforeseeable Emergency requests?

☐ Yes ☒ No

**If No, and the Employer will make these determinations, please indicate the names and titles of the individuals authorized to review.**

Name: Kelly Cassell Title: Director Human Resources

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

### Internal Use Only

Field Rep./RVP/Program Director Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Plan Administrator Signature: \_\_\_\_\_ Date: \_\_\_\_\_




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## Nationwide Retirement Solutions

### Primary Website User Form

Page 1 of 1

This form is required to establish one person within the Plan Sponsor's office as the primary website user on the NRS website. The primary user will administer all other website roles for the Plan's account.

Please fax this form to 1-877-677-4329, Attention: Plan Conversion and Setup OR email to [welcome@nationwide.com](mailto:welcome@nationwide.com)

☐ New Access Request ☐ Additional Access Request

#### Plan Sponsor Information (please print)

Plan Sponsor Name: Grayson County TX

Employer Tax ID Number: \_\_\_\_\_

Plan Sponsor Number (Nationwide Assigned): \_\_\_\_\_

Plan Sponsor Address: 100 West Houston St - STE G2

City: Sherman State: Texas Zip: 75090

#### Primary Website User Contact Information:

Name: Kelly Cassell

Email (required): kcassell@graysoncountytexas

Work Phone: 9031521 Cell Phone (optional): \_\_\_\_\_

The primary website user will have the following functions on the website:

- View plan and participant statements
- View participant account details
- View plan account details  
e.g. - plan health reporting and investment options
- View and/or submit payroll details
- Request on demand reports
- Establish secondary website user accounts for staff personnel

We take protecting retirement plan account information very seriously at Nationwide. Therefore, the primary website user is responsible for performing periodic audits to verify that the secondary website users accounts are being used by the original user for legitimate business purposes.

#### Payroll Automation

Payroll Automation enables a pay center to easily submit payroll detail, salary deferral contributions, and employer contributions electronically. If you are interested in payroll automation, no action is necessary. A representative from Nationwide will contact you shortly to discuss how you can take advantage of this valuable feature. If you have questions about how automation will benefit you, please contact Nationwide at 1-877-496-1630 Option #3.

#### Opt-Out of Payroll Automation

☐ By checking here, the Plan chooses not to take advantage of payroll automation at this time and acknowledges that the Plan will be responsible for manually submitting legible and reconciled payroll detail and contributions to Nationwide each pay cycle.

#### Required Authorization

Approving Plan Official:

Name (print): WILLIAM L. MAYERS Title: COUNTY JUDGE

Signature: William L. Mayers Date: MARCH 31, 2021

#### Form Return

By Fax: 1-877-677-4329, Attention: Plan Conversion and Setup

By Email: [welcome@nationwide.com](mailto:welcome@nationwide.com)





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# Nationwide Retirement Solutions

## Electronic Payment Instructions

Page 1 of 1

### Employer Information

Employer/Plan Name: Grayson County TX

Employer Number (from Nationwide): \_\_\_\_\_

### Employer Contact Information:

Name: County of Grayson TXPhone: 903-813-5214 Email: cassellk@co.grayson.tx.us

### Option 1: Debit ACH

We offer you the ability to allow us to Debit your accounts to make it convenient to submit payroll deposits without cost.

☒ Sign me up for Debit ACHBank Name: Bank of TexasName on Bank Account: Grayson County MainAccount Type: ☒ Checking ☐ Savings

Routing Number: \_\_\_\_\_ Account Number: \_\_\_\_\_

### Option 2: Wire or Credit ACH (Debit ACH Opt-Out)

If you are unable to use Debit ACH, your payroll deposits may be transferred via Wire or Credit ACH using the information below.

☐ We are unable to use Debit ACH, we will submit payroll deposits using the information provided below.

#### Wire

#### Credit ACH

Transfer To:	JP Morgan Chase, 100 East Broad St., Columbus, OH	JP Morgan Chase, 100 East Broad St., Columbus, OH
Routing Number:		
Credit To:	Nationwide Retirement Solutions CASS Main Account	Nationwide Retirement Solutions CASS Main Account
Account Number:		

NOTE: The addendum or OBI record should include your plan number, your company/department name, and pay period ending mm/dd/yy.

### Authorization

Upon receipt of notification from the customer, Nationwide will access the bank account identified above and process an Automated Clearing House (ACH) transaction for the amount of the contributions submitted.

The Trustee/Named Fiduciary of the above named Plan hereby authorizes Nationwide to access the customer's bank account for the purpose of executing an ACH debit for the total amount of the contributions submitted.

Authorized Signer:

Name (Print):

Signature:

WILLIAM L. MAYERS

Date: MARCH 31, 2021

### Form Return

Please complete and return to: Nationwide, Attn: Automation Technical Support, Fax: 877-677-4329.

If you have questions, please call 1-877-496-1630.


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## Nationwide Retirement Solutions

### Default Investment Alternative Election Form

This form is used to setup or change the Default Investment Alternative ("DIA") fund for your plan.

#### Plan Information

Plan Name: Grayson County TX 401(a) Plan Plan Number: TBD  
 Plan Sponsor Address: 100 West Houston St - STE G2  
 City: Sherman State: Texas ZIP: 75090  
 Phone: 901521 Email: assell@graysonfrus

#### Internal Revenue Code (IRC) Selection

☐ 457(b) ☒ 401(a) ☐ 401(k) ☐ 403(b) ☐ IRA

#### Default Investment Alternative (DIA) Election

- ☐ This is an initial setup of a Default Investment Alternative ("DIA")  
☐ This is a change to the existing Default Investment Alternative ("DIA")

**NOTE:** To eliminate the use of an existing DIA from your Plan(s), please contact your Field Representative or Home Office Relationship Consultant

#### Default Investment Alternative (DIA)

A DIA is an investment option selected by the plan sponsor/plan fiduciary for participants who fail to make an investment allocation or do not properly designate investment allocations. Once a DIA is selected for the plan, if a participant does not elect an investment allocation or the allocation equals greater than 100%, 100% of the participant's allocation will be set to the DIA. In addition, if a participant's allocation equals less than 100%, the unallocated portion will be placed into the DIA. There are three DIA options available for your plan: A single investment option, a Target Maturity fund group, or ProAccount (if offered by your Plan).

**Select one option below:**

☐ **Single Investment Option:**

Select an investment option from your Plan's current fund line-up:

**Fund Name:** \_\_\_\_\_

☐ **Target Maturity Fund Group Option**

If this option is selected, a calculation will be performed to determine the appropriate Target Maturity fund in which to allocate contributions based on the participant's date of birth, Normal Retirement Age and rounding method selected below.

**Nationwide Destination - Institutional Service Class**

**Target Maturity Fund Group Name:** \_\_\_\_\_

**Rounding Method and Normal Retirement Age (select one):**

- ☐ Round up to the more conservative fund  
☐ Round down to the more aggressive fund  
☒ Round Nearest - Round to the closest fund

Select the Normal Retirement Age below (The Normal Retirement Age selected should be between ages 55 and 70. The Normal Retirement Age selected below is only used for the purpose of determining the appropriate Target Maturity fund. If the Normal Retirement Age is specified in the Plan Document, please use this age below):

**Normal Retirement Age (must be a whole number) AGE:** 65

☐ **ProAccount Option** (if offered by your plan)

If this option is selected, the holding fund will be utilized as a temporary investment for contributions while the Managed Account is being established with the Money Manager.

**Holding Fund Investment Name:** \_\_\_\_\_

**Effective Date Date:** \_\_\_\_\_

**Note:** If no date is selected, this feature will be activated as soon as administratively possible following the receipt of this properly completed form.



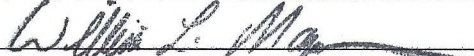
**Authorization**

I hereby elect to add or change the DIA as indicated above.

I understand the DIA fund selected must be a designated fund in the plan. If the fund I select is not currently a designated fund, I understand that this form will act as authorization to add the fund as a designated fund to the plan. If you have selected ProAccount as the Plan's DIA option and the Plan does not currently offer ProAccount, additional documents are necessary to complete in order to add ProAccount to the Plan. Please contact your Field Representative or Relationship Consultant to obtain these documents.

It is my responsibility as Plan Sponsor to monitor performance and other aspects of the DIA and select a replacement fund to serve as the DIA as I deem appropriate. In the event of a fund merger or liquidation by the fund house offering the fund I have selected, I authorize Nationwide to change the DIA to the merged/ replacement fund designated by the participants of the fund and/or the fund house. This material is not a recommendation to buy, sell, hold, or rollover any asset, adopt an investment strategy, retain a specific investment manager or use a particular account type. It does not take into account the specific investment objectives, tax and financial condition or particular needs of any specific person. Investors should work with their financial professional to discuss their specific situation.

Name (please print): WILLIAM L. MAGERS Date: MARCH 31, 2021

Signature: 

Title: COUNTY JUDGE

**Form Return**

Mail:	Nationwide Retirement Solutions	Email: <a href="mailto:rpublic@nationwide.com">rpublic@nationwide.com</a>
	ATTN: Public Sector Client Services	Fax: 877-677-4329
	10 West Nationwide Blvd.	
	Columbus, OH 43215	

This material is not a recommendation to buy, sell, hold, or rollover any asset, adopt an investment strategy, retain a specific investment manager or use a particular account type. It does not take into account the specific investment objectives, tax and financial condition or particular needs of any specific person. Investors should work with their financial professional to discuss their specific situation.



# Nationwide® Option Selection Form for New 401(a) Plans

Please select one option below.

Plan Name: Grayson County TX 401(a) Plan

☒ **Nationwide Freedom<sup>SM</sup>**

(Select One)

☐ Asset Management Charge: 0.70% / 0.80%

☒ Match 457(b) pricing. Plan Number: \_\_\_\_\_

Investment Line Up: Large array of investment options. Please see the Group Flexible Purchase Payment Deferred Variable Annuity Contract (non Morningstar version) for the list of investment options

Fixed Crediting Rate: Competitive rate, subject to change quarterly

Investment Fiduciary Services: Not available

☐ **Nationwide FreedomPro<sup>SM</sup>**

(Select One)

☐ Asset Management Charge: 0.70% / 0.80%

☐ Match 457(b) pricing. Plan Number: \_\_\_\_\_

Investment Line Up: Selected by Morningstar Investment Fiduciary Services. Please see the Group Flexible Purchase Payment Deferred Variable Annuity Contract (Morningstar version) for the list of investment options

Fixed Crediting Rate: Competitive rate, subject to change quarterly

Investment Fiduciary Services: Built in feature, provided by Morningstar

☐ **Nationwide FreedomPro+<sup>SM</sup>**

Asset Management Charge: 0.00%

Investment Line Up: Selected by Morningstar Investment Fiduciary Services. Please see the Group Flexible Purchase Payment Deferred Variable Annuity Contract (Morningstar version) for the list of investment options

Fixed Crediting Rate: Slightly reduced rate compared to Nationwide Freedom<sup>SM</sup> and Nationwide FreedomPro<sup>SM</sup>, subject to change quarterly

Investment Fiduciary Services: Built in feature, provided by Morningstar

I understand that there are additional legal documents that I will sign in order to complete the enrollment in the Investment Fiduciary Service (Nationwide FreedomPro<sup>SM</sup> and Nationwide FreedomPro+<sup>SM</sup>). When Nationwide processes participant contributions, in situations where the investment direction received is unclear, or if a new allocation is made to a closed or unavailable investment option, or the total investment option allocation percentages total less than 100%, the allocation will be made to the not in good order option. The Nationwide Money Market fund is the not in good order option for Nationwide Freedom<sup>SM</sup>. The Nationwide Investor Destination Conservative fund is the not in good order option for Nationwide FreedomPro<sup>SM</sup> and Nationwide FreedomPro+<sup>SM</sup>.

William L. May

Plan Sponsor Signature  
NRI-0587AO.1-0616

MARCH 31, 2021

Date

NRS CITY, NACo, IAFF1



## **RESOLUTION**

### **A RESOLUTION OF THE GRAYSON COUNTY COMMISSIONERS COURT OF THE STATE OF TEXAS TO ADOPT 401(a) PLAN AND TRUST**

WHEREAS, Grayson County, Texas, desires to accept and adopt the attached 401(a) Plan and Trust;  
and


WHEREAS, the undersigned authorized representative of Grayson County, Texas (the Employer)  
hereby certifies that the following resolution was duly adopted by the Employer on June 1, 2021, and that  
such resolution has not been modified or rescinded as of the date hereof;


NOW, THEREFORE, BE IT RESOLVED by the Commissioners Court of Grayson County, Texas:

1. That the form of the Plan and Trust effective July 1, 2021, presented to this meeting is hereby approved and adopted and that the County Judge is an authorized representative of Grayson County, Texas, the Employer, and is hereby authorized and directed to execute and deliver to the Administrator of the Plan one or more counterparts of the Plan; and
2. The undersigned further certifies that attached hereto are true copies of the County of Grayson, Texas, 401(a) Plan, and the Summary of Plan Provisions, which are hereby approved and adopted.

Adopted this the 1<sup>st</sup> day of June, 2021, at a regular meeting of the Grayson County Commissioners Court.


  
County Judge Bill Magers


  
Commissioner Jeff Whitmire  
Precinct One

  
Commissioner David Whitlock  
Precinct Two

  
Commissioner Phyllis James  
Precinct Three

  
Commissioner Bart Lawrence  
Precinct Four

Attest:   
County Clerk





## ADDITIONAL PRODUCTS AND SERVICES PLAN SPONSOR AUTHORIZATION AGREEMENT

**NOTE:** Please review this Agreement carefully. Nationwide Retirement Solutions provides your participants with education and services related to deferred compensation/defined contribution plans. NRS recognizes that your participants often need education and guidance during key transitions such as during a job change or when preparing to retire. A new offering through affiliated companies of NRS offers your participants additional support during these transitions. This Agreement authorizes our affiliates to offer additional products and services outside of your plan to participants.

This Plan Sponsor Authorization Agreement (“Agreement”) by and among Nationwide Retirement Solutions, Inc. (“NRS”), Nationwide Securities, LLC (“NSLLC”), Nationwide Bank of which the Nationwide Trust Company is a division (the “Bank”), Nationwide Fund Distributors LLC (“NFD”) (collectively referred to herein as “Nationwide”) and the above-mentioned Plan Sponsor (the “Plan Sponsor”) is effective on the date that the last of the parties to this Agreement signs and executes below. The Plan Sponsor hereby acknowledges and agrees that Nationwide is authorized to make available to Participants additional products and services provided by our affiliates.

### 1. Definitions

The following terms shall have the definitions set forth below:

- 1.1. “In-Plan Products and Services” means the education, retirement plan administration services, and retirement plan products that are provided by or through NRS and its affiliated companies under a separate agreement with the Plan Sponsor.
- 1.2. “Additional Products and Services” means the financial products and services outside of the Plan access to which this Agreement authorizes Nationwide to provide, and as described in Section 2 of this Agreement. Such products and services are outside of the Plan and are in addition to the In-Plan Products and Services currently being provided by and through NRS.
- 1.3. “Participants” means employees who participate or who are eligible to participate in the Plan.
- 1.4. “Plan” means the deferred compensation or defined contribution plans sponsored by the above-mentioned Plan Sponsor.

### 2. Additional Products and Services

- 2.1. NSLLC Products. The Plan Sponsor hereby authorizes NSLLC to make available to Plan Participants, on a non-exclusive basis, any and all insurance and financial products that NSLLC and its affiliated general agency are duly licensed, registered and authorized to sell (collectively the “NSLLC Products”). NSLLC reserves the right to amend its product offering at any time without notice. The NSLLC Products may be purchased through NSLLC registered representatives (“RRs”) who are available to address Plan Participants’ investment needs outside the Plan, including IRA rollover solutions. IRA rollover accounts („NSLLC IRA Rollover Accounts”) may be funded with eligible rollover distributions from the Plan or other eligible retirement plans. For those Plan Participants who indicate an interest in purchasing a Bank Product, NSLLC RRs may refer them to a customer call center operated by the Bank (the “Bank Call Center”).
- 2.2. Financial Assessments. In conjunction with its offering of the NSLLC Products, NSLLC may offer financial assessments that are designed to better enable Plan Participants to make informed investment decisions, including whether to remain in the Plan. Such assessments are designed to help Plan Participants understand their needs for financial protection, wealth accumulation, and income solutions outside of the Plan, and are available at no additional cost to the Plan or Plan Participants.
- 2.3. NSLLC Investment Advisory Services. The Plan Sponsor hereby authorizes NSLLC to make available to Plan Participants, on a non-exclusive basis, the investment advisory services (“NSLLC Advisory Services”) that it provides to all of its investment advisory services customers. The NSLLC Advisory Services shall be provided for assets held outside the Plan by properly registered NSLLC personnel in their capacity as investment advisory representatives (“IARs”) of NSLLC.

- 2.4. Bank Products. The Plan Sponsor hereby authorizes the Bank to make available to Plan Participants, on a non-exclusive basis, any and all banking products the Bank is authorized to sell (collectively the "Bank Products"). The Bank reserves the right to amend its product offering at any time without notice. Included among the Bank Products are IRA rollover accounts ("Bank IRA Rollover Accounts"). The Bank Rollover Accounts may be funded with eligible rollover distributions from the Plan or other eligible retirement plans. All self-directed Bank Product transactions by Plan Participants shall be subject to the provisions of Section 3 of this Agreement. The Bank reserves the right to decline any account application or to terminate any account, in its sole discretion.
- 2.5. Additional Products and Services. The Plan Sponsor hereby authorizes and acknowledges that Nationwide may make available to Plan Participants additional products and services not contemplated by this Agreement at a later date. Such products and services may include, without limitation, (i) shares of Nationwide Mutual Funds that are made available directly from NFD to self-directed Plan Participants without assistance of an investment professional (the "Funds"); and (ii) such other products and services Nationwide may make available in the future (the "Future Products and Services"). The Plan Sponsor hereby authorizes Nationwide to make available shares of the Funds to Plan Participants at a time of Nationwide's choosing. All self-directed transactions in Fund shares shall be subject to the provisions of Section 3 of this Agreement. NFD reserves the right to decline any order to purchase Fund shares at its discretion. Additionally, for Future Products and Services, the Plan Sponsor hereby agrees that Nationwide may make available such Future Products and Services to Plan Participants by providing the Plan Sponsor 30 days advance notice of the availability of the Future Products and Services. If the Plan Sponsor objects to making available such Future Products and Services within 30 days after the date of Nationwide's notification mailing, then those Future Products and Services will not be made available.
- 2.6. Nationwide Retirement Solutions, Inc. The products and services described in this Section 2 are completely separate and distinct from the retirement plan administration services or retirement plan products that are provided by or through NRS. The Additional Products and Services authorized by this Agreement are not offered or sold by NRS and are not recommended by the Plan Sponsor.

### 3. Self-Directed Purchases and Rollovers; Product Recommendations

- 3.1. Self-Directed Purchases and Rollovers. Subject to Section 3.2, the parties acknowledge and agree that, for any transactions which are self-directed by Plan Participants, Plan Participants shall be solely responsible for all orders and instructions placed for their accounts. Such responsibility includes, without limitation, determining the appropriateness and suitability of any trade, deposit transaction, rollover transaction, investment, investment strategy or investment risk associated with such transactions. Nationwide agrees to provide to Plan Participants disclosure of information concerning the limited liability of the Plan Sponsor and of Nationwide with respect to self-directed investments.
- 3.2. Product Recommendations. For those Plan Participants who indicate an interest in receiving assistance from NSLLC, NSLLC RRs are hereby authorized to make product recommendations with respect to the NSLLC Products and provide investment advice related thereto based upon suitability determinations that are made in accordance with applicable laws, rules, regulations and NSLLC policies. No Bank, NFD, Fund or NRS personnel (including but not limited to employees, agents, associates and service vendors) are authorized to make product recommendations or provide investment advice to Plan Participants with respect to the products and services referenced herein. The Bank Call Center personnel referenced in Section 2 shall be permitted to (i) distribute the materials referenced in Section 4 below, (ii) direct Plan Participants to NSLLC, when and as appropriate, and (iii) provide general information about available products and services, but may not engage in any securities-related advice or services, any insurance-related advice or services or any other activities requiring a securities registration or an insurance license.



#### 4. Advertising and Sales Literature

Nationwide may make available to Plan Participants marketing materials that describe the products and services that are made available under the terms of this Agreement. The Plan Sponsor shall have no authority to make any representations, other than those contained in printed marketing materials furnished by Nationwide, concerning any of the products or services referenced in this Agreement, nor shall it have any authority to create or distribute any marketing materials relating to such products or services without the prior written approval of Nationwide. Marketing materials created by Nationwide may be disseminated to Plan Participants by use of any methods, including but not limited to: (i) by direct mail, (ii) by electronic media, (iii) by NRS customer services representatives, (iv) by designated Plan Sponsor personnel, or (v) by other plan service providers. Except as otherwise permitted herein or agreed upon by the parties, such advertisements and marketing materials may not be used without permission.

#### 5. Compensation

- 5.1. No Compensation Paid by Plan Sponsor. Nationwide will not receive compensation from the Plan Sponsor for the provision of Additional Products and Services to Plan Participants pursuant to this Agreement.
- 5.2. Compensation to Nationwide. In the event Plan Participants purchase the products or services described in Section 2 herein, Nationwide may be compensated in various ways, which are consistent with industry practice for firms engaged in the sale of financial products and services. Such compensation may include, without limitation, (i) income generated from the sale of products, (ii) investment advisory fees, (iii) asset-based and other fees in connection with the offering, management, maintenance and administration of a product or service; and (iv) asset-based, spread based, and other fees in connection with the offering, management, maintenance and administration of bank products.
- 5.3. Compensation to Nationwide Representatives. Nationwide representatives, including NSLLC s RRs, will not receive sales commissions for transactions involving the sale of products or services described in Section 2. Compensation paid to representatives may include a salary and an incentive opportunity based on productivity.

#### 6. Term and Termination

- 6.1. Term. This Agreement shall commence as of the date of execution of this Agreement by all the parties, and shall remain in effect until it is terminated as provided in paragraph 6.2 herein.
- 6.2. Termination. Any party to this Agreement may terminate the Agreement at any time, without penalty, upon the provision of sixty (60) days advance written notice to the other parties. The provisions of this Section 6 shall survive any termination of this Agreement and shall remain in effect notwithstanding any such termination. The parties acknowledge and agree that Plan Participants who become NSLLC customers, Bank customers or Nationwide Mutual Fund shareholders shall remain as such notwithstanding the termination of this Agreement. The parties further acknowledge and agree that NSLLC shall be permitted to keep appointments that were made with Plan Participants prior to such termination and shall process applications for the purchase of NSLLC Products or NSLLC Investment Advisory Services that are submitted prior to such termination. In the event the plan administration agreement between NRS and the Plan Sponsor is terminated, the parties may nevertheless desire to continue operating under the terms and conditions of this Agreement.

#### 7. Representations and Warranties

Nationwide represents and warrants that it will comply with all applicable laws, rules and regulations in connection with the offer and sale of products and services pursuant to this Agreement.

#### 8. Access to Information; Confidentiality

NSLLC and its affiliated general agency shall have access to Plan Participant account information for the sole purpose of gathering pertinent information about Plan Participants in order to offer the NSLLC Products and provide the NSLLC Advisory Services described in this Agreement. NSLLC agrees to maintain information received from another Nationwide party pursuant to this Section 8 in strict confidence and in a manner designed to safeguard such information against unauthorized access, use or disclosure in accordance with all applicable state and federal laws, rules and regulations.

**9. Otherwise Permitted Use of Information and Data**

The Plan Sponsor recognizes and acknowledges the necessity for Nationwide to provide and share data with third-party subcontractors of Nationwide to assist with the provision of Additional Services under this Agreement. Notwithstanding any other Section of this Agreement, this Agreement shall not restrict Nationwide from sharing Plan and Plan Participant data and information with third-party subcontractors for any lawful purpose to develop, analyze, market and deliver the Additional Services. Nationwide agrees to enter agreements which are necessary and proper to safeguard any Plan or Plan Participant data and information exchanged with the third-party subcontractor.

**10. Complete Agreement**

This Agreement constitutes the entire agreement of the parties with respect to the subject matter of this Agreement, and there are no other oral or written agreements or understandings with respect to the subject matter of this Agreement that are not fully expressed herein. To the extent any separate agreement to which Nationwide or the Plan Sponsor is a party contains provisions that are inconsistent with the terms of this Agreement (including, but not limited to, those relating to the solicitation of Plan Participants and the sharing of Plan Participant information), the terms of this Agreement shall be controlling.

**11. Counterparts**

This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument; signature pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signature pages are physically attached to the same document.

**12. Indemnification**

As consideration for the authorization provided herein, Nationwide agrees to indemnify and hold harmless the Plan Sponsor and its elected or appointed officials, board members, officers, administrators, agents and employees from and against all losses, claims, demands, damages, liability, suits or other legal actions, judgments and decrees, attorneys' fees, costs and expenses of any kind or nature whatsoever, on account of claims arising directly or indirectly from errors and/or omissions in the provision of products and services described in this Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed on the date first written below.

**Nationwide Retirement Solutions, Inc.**

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

**Nationwide Securities, LLC**

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

**Nationwide Bank**

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

**Nationwide Fund Distributors LLC**

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

Agreed to and Accepted this 31<sup>ST</sup> day of MARCH, 2021.

**Plan Sponsor**

By: William L. May Title: COUNTY JUDGE

(signature)

Plan Name: Grayson County TX 401(a) Plan Plan Number: \_\_\_\_\_

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IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed on the date first written below.

**Nationwide Retirement Solutions, Inc.**

By:  Title: Associate Vice President

**Nationwide Securities, LLC**

By:  Title: President

**Nationwide Bank**

By:  Title: Vice President

**Nationwide Fund Distributors LLC**

By:  Title: Sr. Vice President

Agreed to and Accepted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

**Plan Sponsor**

By: See Attached Signature Page Title: \_\_\_\_\_  
(signature)

Plan Name: \_\_\_\_\_ Plan Number: \_\_\_\_\_



**APPLICATION FOR  
GROUP FLEXIBLE PURCHASE PAYMENT DEFERRED VARIABLE ANNUITY CONTRACT**  
*underwritten by*  
**Nationwide Life Insurance Company**  
**One Nationwide Plaza**  
**Columbus, Ohio 43215**  
**1-877-677-3678**

**APPLICANT**

Grayson County TX, (the "Applicant"), applies to be the Contract Owner of a Group Flexible Purchase Payment Deferred Variable Annuity Contract (the "Contract") underwritten by Nationwide Life Insurance Company ("Nationwide").

The Group Flexible Purchase Payment Deferred Variable Annuity Contract applied for will become effective on the "Effective Date of Contract" if the initial Purchase Payment and this application are accepted by Nationwide. In the event the initial Purchase Payment or this application are not accepted, Nationwide's liability will be limited to a return of the initial Purchase Payment, and any subsequent Purchase Payments remitted.

**PURCHASE PAYMENT**

Applicant agrees to permit Participants in its Plan to allocate Purchase Payments to the following Underlying Investment Options that Nationwide agrees to make available as of the "Effective Date of Contract".

Nationwide Destination 2025 Fund - Institutional Service Class	Baron Global Advantage Fund - Retail Shares	PIMCO International Bond Fund (U.S. Dollar-Hedged) - Class A
Nationwide Destination 2030 Fund - Institutional Service Class	BlackRock CoreAlpha Bond Fund Investor A Shares	Putnam Income Fund - Class A
Nationwide Destination 2035 Fund - Institutional Service Class	Columbia Capital Allocation Moderate Portfolio - Class A	Schwab Personal Choice Retirement Account
Nationwide Destination 2040 Fund - Institutional Service Class	Columbia Dividend Income Fund - Class A	Vanguard(R) Treasury Money Market Fund - Investor Shares
Nationwide Destination 2045 Fund - Institutional Service Class	Federated Kaufmann Small Cap Fund - Class A Shares	Virtus Ceredex Mid-Cap Value Equity Fund - Class I
Nationwide Destination 2050 Fund - Institutional Service Class	Franklin Small Cap Value Fund - Class A	Virtus KAR Mid-Cap Growth Fund - Class I
Nationwide Destination 2055 Fund - Institutional Service Class	Janus Henderson Balanced Fund: Class S	Virtus Zevenbergen Innovative Growth Stock Fund - Class I
Nationwide Destination 2060 Fund - Institutional Service Class	JPMorgan Government Bond Fund - Class R3	WCM Focused Emerging Markets Fund - Investor Class
Nationwide Destination Retirement Fund - Institutional Service Class	Lord Abbett High Yield Fund - Class R5	WCM Focused International Growth Fund - Investor Class
Nationwide Government Money Market Fund - Investor Shares	MFS Aggressive Growth Allocation Fund - Class R3	
Nationwide International Index Fund	Morley Stable Value Retirement Fund - DCVA	
Nationwide Large Cap Growth Portfolio		
Nationwide Mellon Dynamic U.S. Core Fund - Class A		
Nationwide Mid Cap Market Index Fund		
Nationwide S & P 500 Index Fund		
Nationwide Small Cap Index Fund		



**FIXED ACCOUNT**

☐ Yes ☐ No Applicant elects to add via endorsement to the Contract, a Fixed Account option funded by the general account of Nationwide.

If the Applicant elected the Fixed Account, **one of the exchange restrictions options listed below must be elected.**

- ☐ **Contract Level Aggregate Exchange Limitation** (the limitation on Outgoing Exchanges from the Fixed Account is determined based on total assets held in the Contract's Fixed Account as a percentage of the Fixed Account's value under the Contract as of the last Business Day preceding the current calendar year).
- ☐ **Participant Level Exchange Limitation** (the limitation on Outgoing Exchanges from the Fixed Account is applied to each Participant Account under the Contract. The Contract Owner, or its designated Record-Keeper is responsible for applying this limitation).

**STATE INSURANCE FRAUD WARNINGS**

**FOR DC RESIDENTS ONLY: WARNING:** it is a crime to provide false or misleading information to an insurer for the purpose of defrauding the insurer or any other person. Penalties include imprisonment and/or fines. In addition, an insurer may deny insurance benefits if false information materially related to a claim was provided by the applicant.

**NOTICE TO OK AND PA RESIDENTS ONLY:** Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties.

**NOTICE TO AR, CO, KY, LA, ME, NM, OH, AND TN RESIDENTS ONLY:** Any person who, knowingly and with intent to injure, defraud or deceive any insurance company or other person, files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which may be a crime and may subject such person to criminal and civil penalties, fines, imprisonment, or a denial of insurance benefits.

**NOTICE TO MN RESIDENTS ONLY:** This Contract is not protected by the Minnesota Life and Health Insurance Guaranty Association or the Minnesota Insurance Guaranty Association. In the case of insolvency, payment of claims (except for the Fixed Account, if elected) is not guaranteed. Only the assets of the Insurer will be available to pay your claim.

**NOTICE TO FL, MN, ND, SC, SD, TX AND VT RESIDENTS ONLY:** Annuity payments, death benefits, surrender values, and other Contract Values are variable when based on the investment experience of a separate account, or in the case of the Fixed Account, if elected, subject to a market value adjustment, and are not guaranteed as to fixed dollar amount, unless otherwise specified.

**FOR NJ RESIDENTS ONLY:** Any person who includes any false or misleading information on an application for an insurance policy is subject to criminal and civil penalties.

**NOTICE TO FL RESIDENTS ONLY:** Additionally, any benefits, values or payments based on the performance of the underlying investment options may vary and are NOT guaranteed by Nationwide Life Insurance Company, or any other insurance company, by the U.S. Government, or any State government. They are NOT federally insured by the FDIC, the Federal Reserve Board or any agency Federal or State.

**ADDITIONAL STATE NOTICES**

**FOR FL RESIDENTS ONLY:** Any person who knowingly and with intent to injure, defraud, or deceive any insurer files a statement of claim or an application containing any false, incomplete, or misleading information is guilty of a felony of the third degree.

**SIGNATURES**Signed on behalf of Grayson County TXthis 31<sup>ST</sup> day of MARCH, 2021.☐ Yes ☒ No Do you have existing life insurance or annuity contracts?☐ Yes ☒ No Will the applied for Contract replace any existing life insurance or annuity contracts?

(Authorized Signature of Applicant)

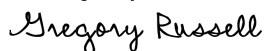
MARCH 31, 2021

Date

COUNTY JUDGE

(Title)

DocuSigned by:



6AF12B13DD1A48A...

4/11/2021 | 9:40:18 PM EDT

(Authorized Nationwide Agent/Representative Signature)

Date

Program Director, Public Sector Retirement Plans

(Title)

☐ Yes ☒ No Do you have any reason to believe the Contract applied for is to replace existing annuities or insurance?

Florida License Identification #: (Florida Agents only) \_\_\_\_\_



**Nationwide®**

**NATIONWIDE LIFE INSURANCE COMPANY  
ONE NATIONWIDE PLAZA  
COLUMBUS, OHIO 43215**

**Nationwide Life Insurance Company is a Stock Life Insurance Company organized under the laws of the State of Ohio.**

**NATIONWIDE LIFE INSURANCE COMPANY** ("Nationwide") will provide the benefits described in the Contract. The Contract is issued by Nationwide in consideration of the application and Purchase Payment(s) made by:

**THE COUNTY OF GRAYSON DEFINED CONTRIBUTION PROGRAM**, for the exclusive benefit of its Participants and their beneficiaries, (the "Contract Owner").

Effective Date of Contract: March 31, 2021

Issue Date of Contract: July 7, 2021

Jurisdiction: TX

The Contract Owner accepts the Contract, subject to all its terms and conditions as set forth in this document as well as any endorsements or amendments.

Executed for Nationwide on the "Effective Date of Contract" by:

Secretary

President

**GROUP FLEXIBLE PURCHASE PAYMENT  
DEFERRED VARIABLE ANNUITY CONTRACT**  
Non-Participating

**In the event Nationwide is unable to fulfill any contractual obligations under the Contract, the Contract is not protected by an insurance guaranty fund or other solvency protection arrangement with respect to any benefits which are not specifically guaranteed by Nationwide.**

**ALL VALUES UNDER THE CONTRACT ARE BASED ON THE INVESTMENT EXPERIENCE OF A VARIABLE ACCOUNT, MAY INCREASE OR DECREASE IN VALUE BASED ON CHANGES TO THE NET INVESTMENT FACTOR, AND ARE NOT GUARANTEED AS TO FIXED DOLLAR AMOUNT UNLESS OTHERWISE SPECIFIED.**

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<b>CONTRACT SPECIFICATIONS PAGES .....</b>	<b>INSERT</b>
<b>DEFINITIONS.....</b>	<b>3</b>
<b>GENERAL PROVISIONS.....</b>	<b>4</b>
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## **CONTRACT SPECIFICATIONS PAGES**

<b><u>Contract Owner:</u></b>	County of Grayson Section 401a Defined Contribution Plan, for the exclusive benefit of its Participants and their beneficiaries.
<b><u>Contract Owner's Address:</u></b>	100 West Houston St Suite G2 Sherman, TX 75090 Attn: Kelly Cassell
<b><u>Nationwide's Address:</u></b>	Nationwide Life Insurance Company 10 W Nationwide Blvd Columbus, Ohio 43215 Attn: VP - Public Sector Finance and Actuarial
<b><u>Plan:</u></b>	County of Grayson Section 401a Defined Contribution Plan
<b><u>Record-Keeper:</u></b>	N/A
<b><u>Variable Account(s):</u></b>	The Deferred Compensation Variable Account
<b><u>Processing of Purchase Payments:</u></b>	Purchase Payments will be applied to the Contract by Nationwide within five (5) business days of receipt in good order.
<b><u>Contract Expenses:</u></b>	
Variable Account Charge:	Maximum Charge 0.95%
	<u>For Sub-Accounts Identified as Investor Destinations on the Application</u> 0.15%
	<u>For Sub-Accounts Identified as Select Spectrum on the Application</u> 0.15%
	<u>Minimum Charge Reduction For Plans with Assets Between \$10,000,001 and \$25,000,000*</u> 0.05%
	<u>Minimum Charge Reduction For Plans with Assets Between \$25,000,001 and \$50,000,000*</u> 0.05%
	<u>Minimum Charge Reduction For Plans with Assets Between \$50,000,001 and \$100,000,000*</u> 0.05%
	<u>Minimum Charge Reduction For Plans with Assets Between \$100,000,000 and greater*</u> 0.05%

\*For purposes of calculating the maximum charge, Plan assets are evaluated at least annually and no later than December 31st of each calendar year. The reductions are non-cumulative, that is each break-point is a total break-point, so the charge reduction is not added in addition to any lower level break-point reductions. If a break-point threshold is reached, Nationwide will apply the charge reduction within a reasonable period of time, but not later than six (6) months after the date assets are evaluated.

Contract Maintenance Charge:

N/A

Participant Account Charge:

N/A

**Fixed Account:**

Available

Exchange/Transfer Limitation Elected:

Combined per Participant Exchange and Transfer limitation of 20% of the Participant's Account value allocated to the Fixed Account with a combined maximum number of outgoing Exchanges and Transfers per Participant of 2 per year. A Participant is required to wait a minimum of 60 days between each Exchange and/or Transfer.

Guaranteed Minimum Fixed Account Interest Rate: 1.00%

## **DEFINITIONS**

**Business Day** - Each day the New York Stock Exchange and Nationwide's home office are open for business or any other day during which there is a sufficient degree of trading of the Sub-Accounts of the Variable Account that the current net asset value of its Units might be materially affected.

**Companion Investment Option(s)** - Another investment option under the Plan. This may include other investment contracts and options offered by Nationwide or by another provider.

**Contract** - The terms, conditions, benefits and rights of the group variable annuity described in this document, as well as any endorsements, amendments and the application form.

**Contract Anniversary** - Beginning with the "Effective Date of Contract," each recurring one-year anniversary of the "Effective Date of Contract" during which the Contract remains in force.

**Contract Owner** - The entity identified on the face page of the Contract and the "Contract Specifications Pages" as the Contract Owner.

**Contract Value** - The combined value of the Sub-Accounts of the Variable Account.

**Exchange** - The movement of amounts attributable to Participant Accounts to a Companion Investment Option under the Plan or from one or more Sub-Accounts of the Variable Account to one or more Sub-Accounts of the Variable Account.

**Nationwide** - Nationwide Life Insurance Company.

**Participant** - An employee or independent contractor who is eligible to be a part of the Plan and is entitled to benefits under the Plan. The Contract Owner, or its designated representative, determines eligibility to participate in the Plan.

**Participant Account** - An individual account established for a Participant under the Plan. A Participant Account will record all transactions attributable to the Plan on behalf of the Participant or the Participant directly, if permitted by the Plan. This includes, but is not limited to, Participant Contributions, Exchanges and Transfers and investment experience.

**Participant Account Value** - The present value of the Units attributable to a Participant's Account.

**Participant Benefit Payments** - All payments of benefits that result from a Participant's retirement, termination of employment, or any payment that a Participant is entitled to based on the terms of the Plan. Participant Benefit Payments specifically exclude all employer and/or Contract Owner initiated Withdrawals.

**Participant Contributions** - A portion of a Purchase Payment attributable to a Participant's election to contribute money to the Plan.

**Plan** - The employer sponsored retirement plan or tax deferred arrangement specified on the "Contract Specifications Pages."

**Purchase Payment(s)** - New money deposited into the Contract by the Contract Owner. Unless otherwise agreed to in writing, Nationwide only accepts Purchase Payments in the currency of the United States of America.

**Retired Participant** - A Participant that has severed his or her employment with the employer covered by the Plan and is eligible to receive distribution from his or her Participant Account.

**SEC** - The United States Securities and Exchange Commission or any successor federal authority charged with the regulation of securities.

**Sub-Account(s)** - Divisions of the Variable Account corresponding to Underlying Investment Options where Units are maintained separately.

**Transfer(s)** - The movement of amounts attributable to Participant Accounts to a non-Companion Investment Option.

**Underlying Investment Option(s)** - The investment corresponding to a Sub-Account of the Variable Account. These options, to the extent permitted by law, may include: (1) registered or unregistered mutual funds offered by Nationwide or a third-party; (2) managed separate account options offered by Nationwide or one of its affiliates; or (3) any other investment vehicle Nationwide chooses to offer.

**Unit** - An accounting unit of measure used to calculate the value of the Sub-Account of the Variable Account.

**Unit Value(s)** - The dollar value attributed to each Unit. This value increases or decreases based on the investment experience of the corresponding Sub-Account.

**Variable Account** - A separate investment account of Nationwide into which Purchase Payments are allocated.

**Withdrawal(s)** - A liquidation and payment of part or all of the Contract Value directed by the Contract Owner. References to "Withdraw" and "Withdrawn" shall also mean Withdrawal.

**Withdrawal Value** - The value of a partial or full liquidation of assets from the Contract. This represents the Contract Value on the date of Withdrawal minus any applicable charges stated on the "Contract Specifications Pages."

## **GENERAL PROVISIONS**

### **Entire Contract**

The Contract, and any endorsements or amendments, constitutes the entire agreement between Nationwide and the Contract Owner.

### **Non-Participating**

The Contract is non-participating. It does not share in the surplus of Nationwide.

### **Incontestability**

The Contract will not be contested by Nationwide.

### **Assignment**

The Contract may not be assigned by the Contract Owner without the prior written consent of Nationwide.

### **Communication**

All communications described in the Contract between the Contract Owner and Nationwide must be in writing and must be delivered to the respective parties' address listed on the "Contract Specifications Pages." Any change of address by any party to the Contract must be communicated in writing to the other party.

### **Alteration or Modification**

No agent or other person, except an authorized elected officer of Nationwide or specifically authorized designate, has the authority to change the terms and conditions of the Contract. Any changes to the Contract must be made in writing and signed by Nationwide's President or Secretary. A copy of any amendment or endorsement modifying the Contract will be furnished to the Contract Owner. Amendments and endorsements to the Contract may be subject to state regulatory approval before taking effect. In addition, the Contract may be modified or superseded by applicable law.

Nationwide may amend the Contract by providing the Contract Owner ninety (90) days advanced written notice. The Contract Owner will receive any amendment or endorsement to the Contract. In addition, Nationwide and the Contract Owner may mutually agree to amend the Contract.

In the event any modifications to the charge structures, contact information or elections stated on the "Contract Specifications Pages" are made, Nationwide will provide updated "Contract Specifications Pages" to the Contract Owner. The new "Contract Specifications Pages" will supersede the existing pages on the effective date of the change.

### **Plan Amendment**

Unless otherwise provided, the Contract Owner will notify Nationwide at least thirty (30) days prior to the effective date of any of the following events:

1. amendment or modification of the Plan that may materially affect Nationwide's obligations hereunder;
2. change in the administrative practices adhered to by the Plan that may materially affect Nationwide; and
3. change in the investment options offered by the Plan, including addition of investment options or alteration and/or modification of investment options.

The Plan is not a part of this Contract. Nationwide's rights and obligations are governed by the Contract.

Notwithstanding the foregoing, Nationwide may amend the Contract when, in the opinion of Nationwide, an amendment is necessary to comply with the action of any legislative, judicial, or regulatory body which impacts the Contract. In the event such amendments to the Contract cause an adverse financial impact to the Plan, the Contract may be terminated by the Contract Owner in accordance with the Termination provision of the Contract.

The Contract Owner may amend the Plan when, in the opinion of the Contract Owner, an amendment is necessary to comply with the action of any legislative, judicial or regulatory body which impacts the Plan. In the event such amendments to the Plan cause an adverse financial impact to Nationwide, the Contract may be terminated by Nationwide in accordance with the Termination provision of the Contract.

### **Number**

Unless otherwise provided, all references in this Contract in the singular form will include the plural; all references in the plural form will include the singular.

### **CONTRACT EXPENSES**

Nationwide will deduct the applicable charges described herein, as stated on the "Contract Specifications Pages."

Contract expenses are negotiated between Nationwide and the Contract Owner based on a multitude of factors, including, but not limited to, the number of Participants covered by the Contract, the size of Plan assets, the overall expense structure of the Plan, and how the Contract Owner wants expenses distributed. The expenses described herein are deducted from Participant Accounts.

### **Variable Account Charge**

The “Variable Account Charge” is assessed against the assets held in the Variable Account each Business Day and is listed on the “Contract Specifications Pages” on a nominal basis. To determine the daily “Variable Account Charge,” the charge is divided by the number of days in the year. Because the charge is assessed each Business Day, charges from multiple non-Business Days (e.g., days falling on a weekend or holidays) are accumulated and deducted on the next available Business Day.

The “Variable Account Charge” compensates Nationwide for expenses associated with issuing and maintaining the Contract, including Participant Accounts, as well as any risks Nationwide assumes in issuing the Contract.

Nationwide may offer a lower “Variable Account Charge” to certain identified groups of Sub-Accounts and in instances where assets attributable to the Plan that are held under the Contract reach defined thresholds. These tiered “Variable Account Charges,” if any, are listed on the “Contract Specifications Pages.”

### **Contract Maintenance Charge**

Nationwide may assess a “Contract Maintenance Charge” against the assets of the Variable Account. The “Contract Maintenance Charge” is a flat-dollar fee assessed against the assets of the Variable Account. If this charge is assessed by Nationwide, the amount and frequency is stated on the “Contract Specifications Pages.” Unless otherwise agreed to by Nationwide in writing, the Contract Owner will determine how this charge is to be allocated and deducted from Participant Accounts.

### **Participant Account Charge**

Nationwide may assess a “Participant Account Charge” against each Participant Account. The “Participant Account Charge” is a flat-dollar fee. If this charge is assessed by Nationwide, its amount and frequency are stated on the “Contract Specifications Pages.”

The “Participant Account Charge” will be assessed proportionally from each Sub-Account in which a Participant is invested.

### **Plan Expenses and Additional Service Fees**

The Contract Owner may decide to deduct expenses associated with the Plan or fees associated with additional services provided to Participants from assets held under the Contract. Nationwide will deduct these expenses or fees by canceling the appropriate number of Units of each Sub-Account or by some other method mutually agreed to by the parties. The Contract Owner must notify Nationwide in writing of the amount to be deducted for Plan expenses and how these deductions will be apportioned among the Sub-Accounts of each Variable Account and/or Participant Accounts.

### **Additional Expense Charges**

If the Contract Owner requests Nationwide to perform additional services related to the Contract, but not specifically described herein, then Nationwide may assess charges for such services rendered against the assets held in the Variable Account. Nationwide will deduct these charges by canceling Units of each Sub-Account or by some other method mutually agreed to by the parties. Nationwide and the Contract Owner will agree in writing, and in advance, to the amount of charges associated with the additional services described herein and how these deductions will be apportioned among the Sub-Accounts of each Variable Account and/or Participant Accounts.

## **THE VARIABLE ACCOUNT**

### **General Information Regarding the Variable Account**

Nationwide may make available one or more Variable Accounts to the Contract Owner. The Variable Account(s) are stated on the "Contract Specifications Pages."

Variable Account(s) are segregated investment accounts of Nationwide. All assets of the Variable Account(s) remain the property of Nationwide, but the portion of the assets of the Variable Accounts equal to the reserves and other contract liabilities are not chargeable with the liabilities incurred in any other business of Nationwide. Income, gains and losses of the Variable Account(s) reflect their own investment experience and not the investment experience of Nationwide.

Each Variable Account may offer various Underlying Investment Options, each being a Sub-Account of the Variable Account. The Contract Owner, or Participant if permitted by the Plan, may allocate Purchase Payments to any of the available Sub-Accounts of the Variable Account(s). Purchase Payments allocated to the Sub-Accounts are subject to any terms and/or conditions imposed by the corresponding Underlying Investment Options.

The initial Sub-Accounts to be made available under the Contract are specified on the application.

### **Determining the Variable Account Value or Participant Account Value**

The value of the Variable Account or an individual Participant Account on a given Business Day is determined by: (1) multiplying the Unit Value of the current Business Day of each Sub-Account of the Variable Account or Participant Account by the number of Units in that Sub-Account held by the Variable Account as of the current Business Day and (2) adding the values of all the Sub-Accounts of the Variable Account or an individual Participant Account.

Charges assessed by the Underlying Investment Options, as well as the "Variable Account Charge," are deducted each day when calculating the Unit Value. When a Sub-Account is established, the Unit Value is initially set at \$1 per unit. The Unit Value of the Sub-Account fluctuates based on the investment performance of the corresponding Underlying Investment Option. Investment experience is not tied to the number of Units, but rather, the value of the Units. Units of a Sub-Account are added by Purchase Payment and Exchange or Transfer allocations. Units of a Sub-Account are subtracted by any Withdrawals, Exchanges to other Sub-Accounts, outgoing Transfers, Participant Benefit Payments or charges described in the "Contract Expenses" section (except the "Variable Account Charge").

The investment performance of a Sub-Account is determined by the net investment factor. The net investment factor is determined by dividing (a) by (b) and subtracting (c) from the result where:

- (a) is the net asset value for the current Business Day of the Underlying Investment Option corresponding to the Sub-Account (plus any dividend or income distributions made by such Underlying Investment Option);
- (b) is the net asset value of the Underlying Investment Option determined as of the preceding Business Day; and
- (c) is a factor representing the daily "Variable Account Charge" (determined by taking the "Variable Account Charge" and dividing it by the number of days in the current calendar year).

If the net investment factor is multiplied by the preceding Valuation Period's Unit Value, the result will be the current Valuation Period's Unit Value. If the net investment factor is greater than one, the Unit Value increases. If the net investment factor is less than one, the Unit Value decreases.

## **Substitution of Securities**

If an Underlying Investment Option is no longer available for investment by a Variable Account or if, in the judgment of Nationwide's management, further investment in such Underlying Investment Option would be inappropriate in view of the purposes of the Contract, Nationwide may substitute another Underlying Investment Option for an Underlying Investment Option already purchased or to be purchased in the future by Purchase Payments under the Contract.

In the event of a substitution or change, and when required by law, Nationwide may make changes to the Contract and other contracts of this class by appropriate endorsement as may be necessary to reflect the substitution or change. Nothing contained in the Contract will prevent the Variable Accounts from purchasing other securities for other series or classes of contracts or from effecting a conversion between series or classes of contracts on the basis of requests made individually by owners of such contracts.

## **PURCHASE PAYMENTS**

### **Acceptance of Purchase Payments**

Purchase Payments, representing Participant Contributions or other Plan contributions on behalf of Participants to Participant Accounts, are accepted by Nationwide at the address listed on the "Contract Specifications Page." Nationwide will only accept Purchase Payments denominated in the currency of the United States of America. Nationwide may accept Purchase Payments in another manner, such as securities in-kind, subject to the following.

- (1) The Contract Owner provides advance notice to Nationwide and any specific information requested by Nationwide regarding the nature of the Purchase Payment; and
- (2) Nationwide provides its written consent to accept the Purchase Payment.

### **Processing of Purchase Payments**

Purchase Payments will be applied to the Contract as described on the "Contract Specifications Page." If the allocation of the Purchase Payment is not identified by the Contract Owner concurrent with Nationwide's receipt of the Purchase Payment or if the Purchase Payment is lacking any other supporting information reasonably necessary for Nationwide to process the Purchase Payment, Nationwide may return the Purchase Payment to the Contract Owner, without any further liability on the part of Nationwide.

### **Crediting and Recapture**

To the extent permitted by law, Nationwide may credit additional amounts to the initial Purchase Payment by mutual agreement of Nationwide and the Contract Owner. Typically, these credits are done at the request of the Contract Owner and are designed to cover expenses incurred by the Contract Owner upon leaving a previous investment provider. Nationwide anticipates recouping these expenses over time through the "Variable Account Charge." In the event the Contract is terminated prior to recouping the costs associated with providing these credits, Nationwide will subtract the remaining unrecouped expenses associated with these credits from the Withdrawal Value.

## **PARTICIPANT ACCOUNTS**

Nationwide is responsible for maintaining Participant Accounts under the Contract but may delegate this duty to a third-party. Any third-party maintaining Participant Accounts will be identified on the "Contract Specifications Pages" as the "Record-Keeper."



## **General Information Regarding Participant Accounts**

Nationwide will establish a Participant Account for each Participant making Participant Contributions to the Contract. The Participant Account will record the financial transactions made by the Contract Owner, or Participant if permitted by the Plan. These financial transactions include, Exchanges, Transfers, Participant Contributions, and Participant Benefit Payments. Contract expenses are deducted from each Participant Account.

### **Exchanges Among the Sub-Accounts of a Participant Account**

The Contract Owner, or Participant if permitted by the Plan, may Exchange amounts attributable to a Participant Account among the Sub-Accounts of the Variable Account. Nationwide will process Exchange requests within one (1) Business Day of the date the request is received in good order and accepted by Nationwide from the Contract Owner, or Participant if permitted by the Plan, subject to the limitations described in the “Limitations on Exchanges and Transfers” section below.

Nationwide completes an Exchange request by canceling the number of Units of the Sub-Account from which the Exchange is requested and adding Units to the Sub-Account into which Exchanged amounts are requested to be allocated. The number of Units cancelled is equal to the dollar amount of the Exchange request divided by the Unit Value calculated as of the close of business on the Business Day that the Exchange is processed. The number of Units added is equal to the dollar amount of the Exchange request divided by the Unit Value calculated as of the close of business on the Business Day that the Exchange is processed. The close of business is considered to be the time that the New York Stock Exchange closes, normally 4:00 p.m. Eastern Time, or any other time required to comply with closure rules established by any applicable regulatory body, such as the SEC.

### **Exchanges with a Companion Investment Option**

In order for Nationwide to accept Exchanges to or from a Companion Investment Option, the Contract Owner must identify the Companion Investment Option to Nationwide in writing and Nationwide must agree to accept Exchanges to or from the identified Companion Investment Option. Nationwide may discontinue accepting Exchanges to or from a Companion Investment Option at any time by giving the Contract Owner at least thirty (30) days advance written notice.

If Exchanges to a Companion Investment Option are agreed to by the Contract Owner and Nationwide, then Nationwide will process an outgoing Exchange from the Sub-Account of the Variable Account within one (1) Business Day of the date the Exchange request is received in good order and accepted by Nationwide from the Contract Owner, or Participant if permitted by the Plan, subject to the limitations described in the “Limitations on Exchanges and Transfers” section below.

Nationwide completes an Exchange request by canceling the number of Units of the Sub-Account from which the Exchange is requested. The number of Units cancelled is equal to the dollar amount of the Exchange request divided by the Unit Value calculated as of the close of business on the Business Day that the Exchange is processed. The dollar amount of the Exchange is then transmitted by Nationwide to the Companion Investment Option. Nationwide is not responsible for the processing of the Exchange by the receiving Companion Investment Option (unless it is a Nationwide contract or other Nationwide offering). The close of business is considered to be the time that the New York Stock Exchange closes, normally 4:00 p.m., Eastern Time, or any other time required to comply with closure rules established by any applicable regulatory body, such as the SEC.

### **Transfers**

Nationwide will permit amounts attributable to Participant Accounts to be Transferred if the Transfer is initiated at the request of the Participant.

Nationwide processes Transfer requests within seven (7) Business Days of the date the request is received and accepted by Nationwide from the Contract Owner on behalf of the Participant, or directly from the Participant if permitted by the Plan, subject to the limitations described in the “Limitations on Exchanges and Transfers” section below. Nationwide may require Transfer requests to be on a form it provides.

Nationwide completes a Transfer request by canceling the number of Units of the Sub-Account from which the Transfer is requested. The number of Units cancelled is equal to the dollar amount of the Transfer request divided by the Unit Value calculated as of the close of business on the Business Day that the Transfer is processed. The close of business is considered to be the time that the New York Stock Exchange closes, normally 4:00 p.m. Eastern Time, or any other time required to comply with closure rules established by any applicable regulatory body, such as the SEC.

### **Limitations on Exchanges and Transfers**

Exchanges and Transfers may be subject to any of the limitations and/or fees imposed on such transactions by the Underlying Investment Options. In addition, Exchanges and Transfers are subject to any rules and regulations imposed by the SEC or any other applicable laws, rules or regulations.

Nationwide may refuse, limit or otherwise restrict Exchange and Transfer requests, or take any other reasonable action it deems necessary to protect the Contract Owner, Participants and Retired Participants from short-term trading strategies or other harmful investment practices that negatively impact Underlying Investment Option performance.

Nationwide's failure to take action in any one or more instances with respect to the preceding restrictions is not, nor is it to be construed or deemed as, a further or continuing waiver of its right to enforce them.

### **Emergencies and Market Closure**

Situations may arise where the New York Stock Exchange or other stock exchanges are closed for short or extended periods of time. As a result, transaction activity and requests impacting the Contract and Participant Accounts may be impossible to perform. In such situations, Nationwide will comply with any emergency rules or regulations enacted by the governing authority (normally the SEC).

## **PARTICIPANT BENEFIT PAYMENTS**

### **Retirement Income Payment Options**

Nationwide agrees to make the following payment schedules and annuity options available to Retired Participants on a fixed and variable basis. Payment frequencies available under these income payment options are monthly, quarterly, semi-annual and annual. All variable annuity payments involving life contingencies will be calculated using an assumed investment return of 3.5% or 5.0% depending on the election of the Contract Owner, or Retired Participant if the Plan so provides. If no election is made, the default assumed investment return used will be 3.5%.

- (1) Payments of a Designated Amount - This payment schedule option represents a systematic liquidation of the Participant Account by taking a specified dollar amount at a determined frequency.
- (2) Payments of a Designated Period - This payment schedule option represents a systematic liquidation of the Participant Account by taking payments over a specific period of time at a determined frequency.
- (3) Life Income - This annuity payment provides the Retired Participant with payment contingent exclusively on his or her continuation of life. Payments are calculated using current annuity purchase rates and methods.
- (4) Life Income with Payment Certain (5, 10, 15, and 20 Years) - This annuity payment option provides the Retired Participant with payment contingent on his or her continuation of life, but with a guarantee that at least a minimum pre-determined duration of payments are received by the Retired Participant and any named beneficiaries of the Retired Participant, regardless of the mortality of the Retired Participant. Payments are calculated using current annuity purchase rates and methods.

- (5) Joint and Last Survivor Life Income - This annuity payment option allows the Retired Participant and another named individual to receive payments guaranteed throughout their lives. Payments cease upon the last "survivor's" death. Nationwide may also permit Joint and Last Survivor annuities with payment reductions after the first death. Payments are calculated using current annuity purchase rates and methods.
- (6) Any Other Option - Nationwide may make any other payment plans available upon agreement of the Contract Owner and Nationwide. Additional annuity payment options made available by Nationwide will be calculated using current annuity purchase rates and methods.

### **Death of Participant**

If a Participant dies prior to severance of employment with the Contract Owner, the beneficiary(ies) of the Participant will receive a death benefit equal to the Participant's Account Value on the date Nationwide receives a written request (on a form provided by Nationwide) and proof of the Participant's death. Distribution of a death benefit representing the Participant Account proceeds will be done in a manner consistent with the requirements of the Plan.

### **Death of Retired Participant**

If a Retired Participant dies prior to the beginning of payments, the beneficiary(ies) of the Retired Participant will receive a death benefit equal to the Participant's Account Value on the date Nationwide receives a written request (on a form provided by Nationwide) and proof of the Participant's death. Distribution of a death benefit representing the Participant Account proceeds will be done in a manner consistent with the requirements of the Plan.

If a Retired Participant dies after an income payment option has begun, the beneficiary(ies) of the Retired Participant will receive either: (1) the remaining scheduled payments under an annuity payment option or any commuted value assuming such commuted value is allowed under the annuity payment option; or (2) the remaining scheduled payments under a systematic liquidation or a lump-sum of the present Participant Account Value.

### **Involuntary Cash-Outs of Participant Accounts**

Under circumstances permitted by the Plan (such as low Participant Account Value), Nationwide may pay to a Participant or Retired Participant the balance of his or her Participant Account in a lump-sum in-lieu of retaining such Participant Account or making available any payment schedules or annuity payment options. Any involuntary payment to the Participant described herein will be done in a manner consistent with applicable law.

### **Misstatement of Age or Gender**

In the event the age or gender of any Participant or Retired Participant has been misstated, Nationwide may adjust the Participant or Retired Participant's age or gender of record to comport with the proper age or gender. Nationwide may also request proof of age in the form of a birth certificate prior to making any annuity payments.

### **Other Participant Benefit Payments**

The Contract Owner, or Participant if permitted by the Plan, may request any other Participant Benefit Payment permitted under the Plan.

## **TERMINATION AND WITHDRAWALS**

In the event Nationwide provides annuity payment options to Retired Participants, notwithstanding anything in the Contract to the contrary, including contract termination, Nationwide will retain the assets attributable to Retired Participants that are receiving annuity payments from Nationwide.

### **Termination by the Contract Owner**

The Contract Owner may terminate the Contract at any time by notifying Nationwide in writing. Once Nationwide receives the notice to terminate, the full Withdrawal Value will be paid to the Contract Owner in one-hundred and twenty (120) days ("effective date of termination"). Thirty (30) days following Nationwide's receipt of the written notification to terminate, Nationwide will no longer accept any additional Purchase Payments to the Contract, except by mutual agreement with Contract Owner. The Contract Owner and Nationwide may agree to payment of the Withdrawal Value in any other mutually agreeable manner consistent with applicable law. The Withdrawal Value will be subject to any remaining charges specified on the "Contract Specifications Pages." Upon payment of the Withdrawal Value, Nationwide and the Contract Owner will be relieved of any additional responsibilities under the Contract. However, if an Underlying Investment Option cannot reasonably liquidate amounts on the effective date of termination, Nationwide may deliver in addition to cash any unliquidated securities held by the Underlying Investment Option that could not reasonably be liquidated.

### **Termination by Nationwide**

Nationwide may terminate the Contract at any time by notifying the Contract Owner in writing. Once the Contract Owner receives the notice to terminate, the full Withdrawal Value will be paid to the Contract Owner in one-hundred and twenty (120) days ("effective date of termination"). Thirty (30) days following the Contract Owner's receipt of the written notification to terminate, Nationwide will no longer accept any additional Purchase Payments to the Contract, except by mutual agreement with the Contract Owner. The Contract Owner and Nationwide may agree to payment of the Withdrawal Value in any other mutually agreeable manner consistent with applicable law. The Withdrawal Value will be subject to any remaining charges specified on the "Contract Specifications Pages." Upon payment of the Withdrawal Value, Nationwide and the Contract Owner will be relieved of any additional responsibilities under the Contract. However, if an Underlying Investment Option cannot reasonably liquidate amounts on the effective date of termination, Nationwide may deliver, in addition to cash, any unliquidated securities held by the Underlying Investment Option that could not reasonably be liquidated.

### **Recapture of Acquisition Expenses**

If Nationwide has provided any additional credits to the initial Purchase Payment that have not been recouped upon termination, Nationwide will deduct any unrecouped expenses associated with such credits from the Withdrawal Value.



**Nationwide<sup>®</sup>**  
Retirement Solutions

# 401(a) Plan Sponsor Administrative Guidebook

Your guide to working with Nationwide Retirement Solutions on the  
administration of your 401(a) Plan

# 401(a) Plan Sponsor Administrative Guidebook

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# 401(a) Plan Sponsor Administrative Guidebook

## WELCOME

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Welcome to Nationwide Retirement Solutions!

You're holding an important tool, designed to help you in the administration of your 401(a) Plan with Nationwide Retirement Solutions.

This booklet provides answers to the questions we hear most frequently regarding our administrative and recordkeeping services. You'll want to keep this booklet easily accessible so you can refer to it as needed.

We're honored to be entrusted with your retirement plan, and look forward to partnering with you to make your Plan work for you, your employees and retirees.

If you need assistance, don't hesitate to contact us. We have a dedicated team of associates ready to help. Just call toll-free at 877-496-1630.



# 401(a) Plan Sponsor Administrative Guidebook

## ABOUT THIS GUIDE

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This guide describes the administrative processes and procedures for your Plan. The guide is general in nature and your Plan may have additional terms that are not included in this document. Nothing in this guide will change the provisions of your Plan, your Plan Investment Options, or the terms of your Administration Service Agreement and any federal or state laws applicable to your Plan. If you have questions about the operation of your Plan, please feel free to contact us.

# 401(a) Plan Sponsor Administrative Guidebook

## ANNUAL PLAN ADMINISTRATION TASKS

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For every Plan Year, the following administrative tasks should be performed for your Plan: census data updating and review, compliance testing, and reporting.

### *Census Data Updating and Review*

Near the end of each plan year, we will ask you to update your Plan's census data for the plan year, including:

- Confirmation of existing employee data
- New hires and re-hires
- Change in employment status such as retirement, death, disability, or termination of employment and dates associated with these changes
- Employee compensation as defined by your Plan for the Plan Year
- Hours of service, if applicable for the Plan Year

We will provide you with detailed instructions and forms necessary to accurately update your Plan's census data information.

Great care should be taken in compiling your annual census information since we will rely on the census data you provide in completing your administrative work for that Plan Year.

### *Compliance Testing and Reporting*

Annually your Plan is required to complete certain testing in order to assure the Plan remains in compliance with the Internal Revenue Code and your Plan document. This testing ensures that your Plan continues to be tax qualified. Your Plan's tax qualified status gives the participants in your Plan tax advantages they would not otherwise have.

# 401(a) Plan Sponsor Administrative Guidebook

**Limitation on Compensation** – The law limits the amount of each employee’s annual compensation that may be taken into account in determining contributions under a qualified retirement plan. The annual compensation limit for 2014 is \$260,000. The Internal Revenue Service (IRS) may adjust this limit annually. If you have questions about these limits they can be found at [www.irs.gov](http://www.irs.gov) or by calling our Plan Sponsor Support Line at 877-496-1630.

**Limitation on Contributions** – For any plan year, the contributions (employer and employee) and any forfeitures allocated to a participant’s account cannot, based on the Plan’s contribution or allocation formula, exceed the lesser of (i) 100% of the participant’s compensation (as defined by Code section 415), or (ii) \$52,000 (the limit for years beginning on or after January 1, 2014). The \$52,000 amount may be modified in the future by the IRS. For more information, please see [www.irs.gov](http://www.irs.gov) or call our Plan Sponsor Support Line at 877-496-1630.

Combined contribution limits may apply if you maintain multiple defined contribution plans including but not limited to 401(k) or other 401(a) defined contribution plans. Additionally, 401(a) plans have a separate limit from 457(b) plans.

Nationwide will not be responsible for monitoring aggregate contribution limits to multiple plans or for reviewing or taking into account contributions to any other plan sponsored by the Plan Sponsor.

## *Reporting*

Each year Nationwide will provide services designed to help you comply with IRS requirements. Your Plan must also be operated in compliance with your Plan Document and applicable regulations. We will provide you with a set of reports based on the census data and compensation data you’ve provided that will assist you in operating your Plan. These reports include:

- Eligible Employee Verification
- Annual Plan Valuation
- Contribution and Forfeiture Allocation (if applicable)
- Contribution Verification
- Vesting Calculation (if applicable)
- Contribution Limit Testing

# 401(a) Plan Sponsor Administrative Guidebook

## EMPLOYEE ELIGIBILITY AND PARTICIPANT ENROLLMENT

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As Plan Sponsor, you are responsible for determining when your employees have met the Plan's eligibility requirements. Please refer to the "Conditions of Eligibility" and the "Effective Date of Participation" sections of your Adoption Agreement for a definition of your Plan's eligibility requirements.

Once employees have met the Plan's eligibility requirements, they must be given the opportunity to enroll in the plan. Additional enrollment materials can be ordered by contacting the Plan Sponsor Support Line at 1-877-496-1630. All booklets are shipped in bulk directly to your office via UPS Ground, or they can be sent directly to your Retirement Specialist upon request. You may also order enrollment materials through [NRSupply@nationwide.com](mailto:NRSupply@nationwide.com)

### Enrollment

Your employee enrollment materials will include an enrollment form that all eligible employees must fill out. The form has instructions included. Please read through these instructions carefully. Completed enrollment forms can be faxed Nationwide at 877-677-4329.

### Rehired Employees

Special attention must be given to rehired employees. They must complete a new enrollment form. Rehired workers may not be required to complete service requirements again in order to participate in your Plan upon rehire. Also, prior years of service will generally count toward vesting (ownership) in the rehired participants' account balances. In some cases, amounts previously forfeited from these participants' accounts will need to be restored.

# 401(a) Plan Sponsor Administrative Guidebook

## ACCOUNT ACCESS

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A Website is available to participants, to eligible employees interested in enrolling in the Plan, and to participating Plan Sponsors. The site provides general information about the Plan and also allows participants to download and print many Plan resources. The Español tab displayed on the Website's Home Page allows participants to access information about retirement plans on-line in Spanish.

A Participant may view all of the following:

- Account balance
- Current investment allocation
- Current contribution amount
- Fund descriptions
- Fund performance
- Fund prospectuses

In addition, participants may access basic account information, Plan forms and materials, exchange between investment options, and reallocate future contributions among the Plan's investment options via the Website. Please note, participant loans must be initiated through the Customer Service Center.

The Website can be accessed at: [WWW.NRSFORU.COM](http://WWW.NRSFORU.COM)

### *Web Site Availability and Response Times*

Except for scheduled maintenance, the Website is available 24 hours a day, 7 days a week.

# 401(a) Plan Sponsor Administrative Guidebook

## *Tools and Calculators*

Below are some of the online tools available to assist Plan participants with investment planning.

**On Your Side Interactive Retirement Planner<sup>SM</sup>** - This tool can help your participants set a retirement savings goal; then they can use the results to track progress. It takes into account factors such as retirement savings, pension and Social Security Income.

**The Morningstar® Retirement Manager** helps your participants make managing their retirement account easier. It provides a personalized retirement strategy that helps them set retirement income goals, a savings rate and helps them select a mix of assets for their portfolio. It also provides reports and resources to help them make informed decisions.

**Asset Allocation Tool** asks important questions about your participant's risk tolerance and time until retirement. It uses your participant's answers to help them diversify investment options.

**Paycheck Impact Calculator** – When there are pre-tax payroll deductions, your participants see more money being invested into their account and less money coming out of their paycheck. This tool can show your participants how their paycheck might be affected.

**Future Value Calculator** – Your participants can use this tool to see how their retirement savings may grow over time.

**Payout Calculator** – Your participants can run various scenarios to see how long money might last if they request payouts over time.

# 401(a) Plan Sponsor Administrative Guidebook

## *Investment Info*

Additional information is available to participants and visitors to the website. They include:

- Monthly Fund Performance
- Financial & Retirement Library
- Investment definitions
- Current up-to-date market information

## *Contact Us*

Plan Sponsors and participants can contact us with comments and questions via the below methods. This information is available under the “contact info” link.

- Email
- Phone
- Mail
- Overnight Mail
- Fax

## *Site Security*

The highest level of encryption is applied to protect data when employees enroll and log into their account. Additional security measures include:

- A username and password are required for login
- The user is automatically disconnected after 15 minutes of inactivity
- The user is locked out after 5 consecutive failed login attempts\*

\*If this occurs the participant can contact Customer Service at 1-877-677-3678 (877-NRSFORU)

# 401(a) Plan Sponsor Administrative Guidebook

## Forms

The website provides commonly used forms. They include:

- **Enrollment Form** - Participants use this form to enroll in the plan, change contributions, select or change beneficiaries, select or change investment options
- **Incoming Assets Form** - Participants use this form to roll money over from other retirement accounts into the Plan
- **Retirement Benefit Options** - Participants use this form to select payout options at termination or retirement, request a payout, stop current payouts, change a current payout, restart a payout, defer payout until a Required Minimum Distribution (RMD) is needed
- **Beneficiary Change Form** - Participants use this form to select primary and contingent beneficiaries, change how money will be divided between beneficiaries, remove and add beneficiaries
- **Automatic Deposit Authorization** - Participants use this form to add or change checking or savings information for automatic deposits
- **Beneficiary/Alternate Payee Claim Form** - Beneficiaries use this form to report the death of a participant and request a payout



# 401(a) Plan Sponsor Administrative Guidebook

## DEPOSIT OF CONTRIBUTIONS

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### *Remittance of Funds and Contribution Detail*

An important part of plan administration is the timely and accurate investment of contributions. On a regular basis, usually associated with each pay period, each Plan Sponsor will forward their Plan contribution data directly to Nationwide Retirement Solutions in accordance with established procedures for the remittance of this information. The timeliness and accuracy of the information provided is of utmost importance to ensure contributions to the Plan are invested accurately and expeditiously.

NRS accepts wire, ACH or check. We also offer NRS-initiated ACH if you choose one of the automated submission methods. Wire and ACH instructions may be obtained by contacting our Plan Sponsor Support Line or the Plan Administrator. Checks are to be made payable to: "Nationwide Retirement Solutions." Your Plan Sponsor number should be included with all remittances.

*Note: Please submit your contribution information and check (if not using wire or ACH to send funds) together to avoid any unnecessary delays.*

Checks are made payable to "Nationwide Retirement Solutions" and are mailed to the following address:

Nationwide Retirement Solutions  
P.O. Box 182797  
Columbus, OH 43272-5450

Nationwide Retirement Solutions can receive contribution details through electronic transfer or hard copy.

# 401(a) Plan Sponsor Administrative Guidebook

If a hard copy and a check are to be submitted together, both should be mailed to the following address:

Nationwide Retirement Solutions  
P.O. Box 182797  
Columbus, OH 43272-5450

Hard copy may be faxed to 1-877-677-4329. Payroll detail should be sent before or at the same time funds are mailed or electronically transferred.

## General Processing

Nationwide Retirement Solutions correlates the receipt of contribution detail and the remittance of funds from each Plan Sponsor for each payroll period. If either is received without the other, an inquiry is made to the Plan Sponsor and further processing is suspended until the missing item is received.

Once the contribution file has been balanced, it is processed through the NRS system. The contribution file will be processed to Participant accounts once the payroll has been received in “good order” meaning both of the funds and the data matching, prior to the 4:00 P.M., EST close of the New York Stock Exchange on any day that the New York Stock Exchange is open for business. Requests received after the 4 P.M., EST close of the New York Stock Exchange and/or on any day that the New York Stock Exchange (NYSE) is closed or an early close of the NYSE day will be processed on the next business day the New York Stock Exchange is open. Every contribution is allocated to the appropriate investment options based on the allocation information stored on the system.

## Contribution Detail Submission Methods

There are three submission methods available to send contribution information to Nationwide Retirement Solutions, they are:

### Secure File Transfer

Also referred to as File Transfer Protocol or “FTP” this is a secure method to transfer contribution detail information. NRS uses strong security protocols to safeguard your

# 401(a) Plan Sponsor Administrative Guidebook

information. You may use ACH credit, ACH debit and wire submission to submit contribution dollars. Contact us for the file format information and to discuss which file transfer protocol best fits your needs. You may contact our Plan Sponsor Support Line at: 1-877-496-1630.

## **Nationwide SecurePay (SM)**

Nationwide SecurePay(SM) is an online data entry option that allows you to enter your contribution information. It does not require any special software. You can use your internet browser to log in, view your history, enter new information or edit current information, update your contribution information and submit the data through our website. You may use ACH credit, ACH debit and wire submission to submit contribution dollars.

## **Requirements for Processing of Contributions**

The following information must be included with all the options above. Special formats are necessary with Secure File Transfer. Call us for these formats at: 1-877-496-1630.

- Plan Sponsor Number (This identifying number is assigned by Nationwide)
- Employee's Name
- Employee's 9 digit social security number
- Contribution amount for Employee contributions and Employer contributions must be clearly separated by money type.
- Pay Period Ending Date
- Payroll Center Number - If there are multiple payroll centers within the same plan and they are submitting contributions, and would like to receive separate payroll conformations, please contact the Plan Sponsor Support Line at 1-877-496-1630.

# 401(a) Plan Sponsor Administrative Guidebook

## Good Order Requirements

1. The amount received by electronic payment or check agrees with the total amount on the accompanying contribution detail.
2. All Social Security Numbers are in agreement with the established participant (employee) records at Nationwide Retirement Solutions.

Note: It is very important that both the Employer and NRS maintain the correct Social Security Number for participants

3. If items are being mailed, all items are received in the same packet, thus eliminating a delay in the processing of the payroll.
4. There are no negative (minus) entries for deferred contribution amounts on the contribution information. If sending electronic contribution information, file format must conform to the form of submission method.

## Return of Contribution

When a remittance is received and does not balance due to an employee not having an active account, a Financial Services Analyst will work with the local Retirement Specialist to establish an account. If an account is not established, Nationwide Retirement Solutions will obtain direction from you in order to hold the money in a suspense account for a total of five days. Money in the suspense account must be researched and identified, and final resolution must be made by day six. On day six, money held in the suspense account will be returned directly to you.

# 401(a) Plan Sponsor Administrative Guidebook

## Refund of an Investment in Error/Over-Contribution

If a Participant's account requires a refund due to an over-contribution, you must notify Nationwide Retirement Solutions in writing on employer letterhead: by email, by faxing the letter to 1-877-677-4329, or by clicking on "Contact Us" on NRSFORU.com to advise us of the error and request a refund. Include the following information:

1. Participant's name
2. Social Security Number
3. Amount Contributed in Error
4. Type or source of the contribution
5. Pay Period End Date
6. Plan Sponsor Number
7. The check recipient (Employer or Participant) and the address where the check is to be mailed

## *Over-Contribution*

Upon notification, Nationwide Retirement Solutions will reverse the contribution(s) applied in error. Nationwide Retirement Solutions will in turn refund the amount(s) you specify, to you or the participant. If it is returned to the participant, taxes will be withheld and a 1099-R will be issued.

## *Investment in Error*

If payments are received by Nationwide Retirement Solutions in error and the money has been applied to a Participant's account, the money will be refunded as of the current processing date and returned to the Participant's Plan Sponsor directly.

# 401(a) Plan Sponsor Administrative Guidebook

## PARTICIPANT WITHDRAWALS

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There are several ways a participant or beneficiary can access their funds. The majority of these ways require a distributable event.

### **Distributable Events**

#### *Retirement*

Every participant may retire and receive distributions from their account when they reach the Normal Retirement Date as defined in the Plan Document. Upon retirement, if you have signed the Additional Products and Services Plan Sponsor Authorization Agreement for your Plan, your participants may be referred to the Nationwide Participant Solutions Center, if applicable, for information about their available benefits and options going forward in retirement. Participants can receive personalized guidance that takes into account their entire financial picture.

#### *Termination of Employment*

Participants may receive distributions of their vested balance upon termination of employment. These funds can be distributed in cash or rolled into another qualified plan or an Individual Retirement Account (IRA). Other options may be available based on your Plan Document.

#### *Disability*

In the event of Total and Permanent Disability prior to the Normal Retirement Date the participant's account may become fully vested. Check your Plan Document for the specific terms of your Plan. The vested account balance may be distributed in accordance with the Plan Document.

# 401(a) Plan Sponsor Administrative Guidebook

## *Death*

In the event of a participant's death, the participant's account may become fully vested. The participant's vested account balance should be distributed in accordance with the Plan Document. If the beneficiary chooses not to take a distribution immediately, the account may become subject to Required Minimum Distribution (RMD) rules. The actual distribution method of the RMD will depend on the terms of your Plan Document. Under the RMD rules, participants are required to begin taking distributions from the Plan on the later of April 1 of the calendar year following the later of the calendar year in which the Participant attains age 70 1/2 or the calendar year in which the Participant retires. The IRS has guidelines for the amount of these distributions based on current mortality tables.

## *Financial Hardship*

If allowed by your Plan Document, participants may take a distribution for an immediate financial need. Financial need can be based on a facts and circumstance determination or may be made using the six safe harbor reasons that are recognized for financial hardship. These include::

1. Expenses for or necessary to obtain medical care that would be deductible under Internal Revenue Code section 213(d),
2. Costs directly related to the purchase, excluding mortgage payments, for the principal residence of the participant,
3. Payments for burial or funeral expenses for the participant's deceased parent, spouse, children, or dependents (as defined by section 152(a) of the Internal Revenue Code), not including travel expenses,
4. Payment of tuition, related educational fees, and room and board expenses for the next 12 months of post-secondary education for the participant, the participant's spouse, children, or dependents (as defined by section 152(a) of the Internal Revenue Code),
5. Payments necessary to prevent the eviction of the participant from the participant's principal residence or foreclosure of the mortgage on that residence,

# 401(a) Plan Sponsor Administrative Guidebook

6. Expenses to repair the damage of the participant's principal residence that would qualify as a casualty deduction under the Internal Revenue Code or a nationally declared emergency

Other limits and conditions for a hardship distribution include:

- The distribution is not in excess of the amount of the immediate and heavy financial need of the participant (including any amounts necessary to pay any federal, state or local taxes and for any penalties reasonably anticipated to result from the distribution),
- The participant has obtained all distributions, other than hardship distributions, and all non-taxable loans currently available under all plans maintained by the employer (to the extent the loan would not increase the hardship),
- The participant must suspend deferral contributions to all plans qualified and non-qualified for six months. This rule does not apply to defined benefit plans or plans that require mandatory employee contributions or distributions from the profit sharing portion of the 401(a) plan.

## *In-Service Withdrawal*

If allowed in the Plan Document, in-service withdrawals may be taken after the participant has reached the Normal Retirement Age, however, not earlier than age 62 for a Money Purchase Plan, or age 59 ½ for a Profit Sharing Plan. Please see your Plan Document for other restrictions.

## *Qualified Domestic Relations Orders*

Many retirement plans are required to honor “qualified domestic relations orders” (QDROs). A domestic relations order is a formal court-approved document dealing with alimony, child support payments, or division of retirement plan assets. A “qualified” domestic relations order is a domestic relations order which meets specific provisions of the Internal Revenue Code. These can be found at [www.dol.gov/ebsa](http://www.dol.gov/ebsa).



# 401(a) Plan Sponsor Administrative Guidebook

## *Distribution Options*

The distribution options for your participants are defined in the Plan Document and the Adoption Agreement. Options may include some or all of the following:

- **Lump sum** – A one time payment of the participant's entire account balance.
- **Substantially equal installments (Life Expectancy/Joint Life Expectancy)** - Payments over a period certain in monthly, quarterly, semiannual, or annual payments. The period over which such payment is to be made shall not extend beyond the earlier of the Participant's life expectancy or the joint life expectancy of the Participant and the Participant's designated Beneficiary. Once payments have begun, a Participant may elect to accelerate the payments (reduce the term and increase payments).
- **Partial withdrawals** – A one time payment of a specific amount that is less than the participant's full account balance. Your Adoption Agreement may specify a minimum required amount.
- **Partial withdrawals for Required Minimum Distributions only** – Participants are required to begin taking distributions from the Plan on the later of April 1 of the calendar year following the later of the calendar year in which the Participant attains age 70 1/2 or the calendar year in which the Participant retires. The IRS has guidelines for the amount of these distributions, based on current mortality tables.
- **Annuity purchase** – The participant may purchase an annuity through the Plan using either a full or partial account balance. The annuity may not be in any form that will provide for payments over a period extending beyond either the life of the Participant (or the lives of the Participant and the Participant's designated Beneficiary) or the life expectancy of the Participant (or the life expectancy of the Participant and the Participant's designated Beneficiary).

# 401(a) Plan Sponsor Administrative Guidebook

## *Taxation of Distributions*

Amounts distributed from qualified retirement plans are generally taxable as ordinary income to the recipient. Additionally, penalties could apply under certain circumstances. Participants and beneficiaries receiving distributions from your Plan should be encouraged to consult with a personal tax advisor or financial planner.

1099-R forms are prepared by Nationwide for all distributions from your plan. These forms are sent directly to recipients and copies are also provided directly to the IRS.

## *Tax Withholding*

Generally, federal income taxes are not withheld from taxable distributions that are eligible for rollover and are rolled into an eligible retirement plan or IRA. If not directly rolled over, a mandatory 20% is withheld from the taxable distribution. A number of exceptions to the 20% withholding requirement exist for amounts that cannot be rolled over:

- Annuities or installments paid over the participant's life or at least 10 years (if the payments have already begun, the 10-year period is measured from the date payments started)
- Required minimum distributions at age 70 ½
- Distributions of less than \$200 during a calendar year
- Payments to non-spouse recipients under a Qualified Domestic Relations Order
- Nontaxable distributions, or deemed distributions that become taxable due to loan default
- Financial hardship distributions

The form that the payee fills out contains an election for federal and state tax withholding. This form allows the participant to designate additional withholding to cover any applicable early distribution penalty.

# 401(a) Plan Sponsor Administrative Guidebook

The 402(f) Special Tax Notice Regarding Plan Payments must be given to each participant requesting a distribution. This form is provided by Nationwide to participants and is available in the distribution package.

## *Early Distribution Penalty*

A 10% early distribution penalty applies to taxable amounts paid to participants prior to age 59½ unless one of the exceptions below applies:

- The amount is a death benefit, disability benefit, or is payable under a qualified domestic relations order (QDRO).
- The amount is paid after termination of employment, provided the participant is age 55 or older in the year of termination of employment.
- The amount is paid in installments (or as an annuity) over the participant's life expectancy (or at least 10 years).
- The amount is used to pay allowable medical expenses that exceed 7.5% of the participant's adjusted gross income.

## FIDUCIARY CONSIDERATIONS

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Governing state laws define the fiduciary standard applicable to your Plan. In general, a fiduciary is a person who exercises discretionary control over a retirement plan's administration or its assets. Fiduciaries may include the Plan Administrator named in the plan document, the employer, the Retirement Board charged with Plan implementation and oversight, and the Plan's investment manager. Generally, fiduciaries must discharge their duties:

- for the exclusive benefit of (1) providing benefits to plan participants and beneficiaries, and (2) defraying reasonable expenses of administering the plan,

# 401(a) Plan Sponsor Administrative Guidebook

- with the care, skill, and diligence of a prudent man,
- by diversifying plan assets to minimize the risk of large losses, and
- in accordance with the written terms of the plan document and, if applicable, the Plan's Investment Policy Statement.

In general, plan fiduciaries are held to a high standard of care with respect to the Plan. If fiduciaries do not feel they possess sufficient expertise to carry out their responsibilities (for example, in choosing the plan's investment funds and monitoring their performance) then the fiduciaries are obligated to engage experts to assist them.

Additionally, fiduciaries must diversify the Plan's investments to minimize the risk of large losses. Diversification is defined in terms of type of security, industry of the issuer of the security, and geographic location. Plan loans also must be considered with respect to the diversification requirement.


Most importantly, fiduciaries must act solely in the best interest of the Plan participants and beneficiaries. .

# 401(a) Plan Sponsor Administrative Guidebook

## STATEMENTS

Below is a sample Plan statement.

Best County Retirement Plan

  
On Your Side®

Entity: 123456  
July 1, 2013 - September 30, 2013

Plan Administrator  
123 Main St  
Best City, OH 12345

Please review your statement carefully. Corrections may not be accepted more than 45 days after the closing date of the statement.

Questions? Contact Us!

CUSTOMER SERVICE: (866)242-5048  
(ESPAÑOL): (800)769-4457  
TTY: (800)848-0833  
Website: www.nationwide401k.com  
Write us at: NATIONWIDE RETIREMENT SOLUTIONS  
PO BOX 182797  
COLUMBUS OH 43218-2797

Nationwide Investment Services Corporation, member FINRA, in Michigan Only:  
Nationwide Investment Svcs. Corporation

Activity at a Glance

	457(b) Plan	401(a)	457(b) ORRA-PST Plan	Total
Balance as of 07-01-13	\$236,985,403.88	\$37,422,477.56	\$6,155,710.25	\$280,563,591.69
Contributions/Loan Payments*	\$4,718,482.70	\$570,832.71	\$301,707.62	\$5,491,023.03
Interest/Dividend/Cap Gain/Reimb	\$370,025.41	\$52,398.49	\$0.00	\$422,423.90
Gain/Loss	\$10,507,419.60	\$1,607,663.06	\$54,089.61	\$12,259,172.17
Distributions/Loan Disbursements**	-\$4,287,859.79	-\$387,836.83	-\$97,970.41	-\$4,773,667.13
Charges/Fees	-\$10,625.00	-\$1,650.00	-\$25.00	-\$12,300.00
Balance as of 09-30-13	\$248,372,946.80	\$39,263,984.89	\$6,313,511.97	\$293,950,443.66

See your loan information inside!

\*Including, but not limited to, Employee and Employer Contributions, Loan Principal Payments, Rollovers and Transfers In.  
\*\*Including, but not limited to, Rollovers and Transfers Out, Partial and Lump Sum Payments.  
This statement represents an aggregate of the values of active accounts for those plan participants receiving a statement for this reporting period. Values reported above represent current period totals for those participants.

Investment Option Summary - July 1, 2013 to September 30, 2013

Ending Price is as of 9/30/2013


Investment Option	Ending Price	Units/Shares	Value
<b>457(b) Plan</b>			
*AmFds Am Mut R3	32.6900	47,282.2894	\$1,545,658.04
*AmFds Cap Wld Gr Inc R5	42.3400	148,298.0291	\$6,278,811.64
*AmFds EuroPacdc Gr R5	46.0300	152,830.3180	\$7,039,382.52
*AmFds Inc Fd Am R5	19.6300	266,233.9120	\$5,185,071.08
*AmFds Invt Co Am R5	35.7300	162,218.9764	\$5,798,094.09
*Baron Small Cap Fund	32.8300	28,490.7600	\$936,351.63
*DFA US Micro Cap	18.6800	240,227.6403	\$4,559,520.88
*DWS HI Inc Inst	4.0000	541,758.9007	\$2,654,608.70
*Drey MCap Indx	35.5000	93,481.8604	\$3,318,600.07
*Fid Contra	63.3000	207,875.4620	\$10,384,783.31
Gallard Stable Val 30bps	1.9313	10,405,545.6511	\$20,096,089.87
*Invesco Gr Inc Y	25.5600	135,407.3604	\$3,461,012.89
*JPM MCap Val Sel	33.6600	116,728.6155	\$3,929,085.14
*Lazard Emrg Mkt Eq Inst	19.0500	145,005.5075	\$2,762,386.51
*MSIF US RealEst I	17.1200	121,679.9658	\$2,083,161.31
NW BANK-2009-5YR CD QTR 4			\$128,230.33
NW BANK-2009-5YR CD QTR 1			\$7,981.01
NW BANK-2009-5YR CD QTR 3			\$47,274.93
NW BANK-2009-5YR CD QTR 4			\$55,919.46
NW BANK-2010-5YR CD QTR 1			\$3,364.36
NW BANK-2010-5YR CD QTR 3			\$32,937.70
NW BANK-2011-3YR CD QTR 1			\$5,160.38
NW Bank Liquid Savings			\$19,837,140.87
*NW Dest 2015 Inst Svc	8.4300	20,164.0636	\$180,147.13
*NW Dest 2020 Inst Svc	9.6800	74,074.1321	\$730,244.94
*NW Dest 2025 Inst Svc	10.0800	84,827.6557	\$864,470.75

WWW.NRSFORU.COM

Questions? Call us! (866)242-5048 1

# 401(a) Plan Sponsor Administrative Guidebook

Below is a sample participant statement.



Acct#: 123456  
July 1, 2013 - September 30, 2013

Best County Retirement Plan

John Participant  
123 Main Street  
Anytown, OH 12345

Please review your statement carefully. Corrections may not be accepted more than 45 days after the closing date of the statement.

**Questions? Contact Us!**  
**CUSTOMER SERVICE:** (877)877-3678  
**(ESPAÑOL):** (800)848-8494  
**TTY:** (800)848-0833  
**Website:** www.nrsforu.com  
**Write us at:** NATIONWIDE RETIREMENT SOLUTIONS  
 PO BOX 182797  
 COLUMBUS OH 43218-2797  
Nationwide Investment Services Corporation, member FINRA, in Michigan Only:  
 Nationwide Investment Svcs. Corporation

## Plan to outlive life expectancy

The Census Bureau says the average person born today will live 78½ years. However, today's 65 year old may live a lot longer.

- Roughly half of males age 65 now will likely live past age 83
- Half of females age 65 now will likely live past age 86
- In half of couples, at least one of the partners will likely see 90

Source: LIMRA Retirement Income Reference Book, 2012

Retirement planning is about planning *beyond* life expectancy. That's why you should learn more about National Save for Retirement Week, Oct. 20-26.

Find out what activities your employer has planned. Or go to the Plan website to learn ways that may help improve your potential financial security through retirement.

	457(b) Plan	401(a)	Total
Balance as of 07-01-13	\$29,029.37	\$25,902.38	\$54,931.75
Contributions/Loan Payments*	\$879.84	\$0.00	\$879.84
Gain/Loss/Interest	\$1,517.10	\$781.59	\$2,298.69
Distributions/Loan Disbursements**	\$0.00	\$0.00	\$0.00
Charges/Fees	-\$50.00	\$0.00	-\$50.00
Balance as of 09-30-13	\$31,176.31	\$26,683.97	\$57,860.28

See your loan information inside!

\*Including, but not limited to, Employee and Employer Contributions, Loan Principal Payments, Rollovers and Transfers.  
 \*\*Including, but not limited to, Rollovers and Transfers Out, Partial and Lump Sum Payments.

Plan Type	Contributions Since Joining	Total Gain/Loss Since Joining
457(b) Plan	\$37,153.50	\$10,383.53
401(a)	\$22,935.17	\$3,748.80

If applicable, "Total Gain/Loss Since Joining" includes investment performance, asset fees charged against core accounts and is reflective of fees and transfers associated with Self-Directed Option (SDO). "Since Joining" refers to the period of time your account has been administered by Nationwide Retirement Solutions (NRS). For information about asset fees, contact your customer service center.

# 401(a) Plan Sponsor Administrative Guidebook

## FORMS

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You may obtain forms on our web site, [nrsforu.com](http://nrsforu.com), or by calling us at 1-877-496-1630.

- Enrollment Form
- Incoming Assets Form
- Alternate Payee/Beneficiary Claim Form
- Financial Hardship Distribution Application Form
- In-Service Withdrawal Form
- Outgoing Rollover Request Form
- Retirement Benefit Options Form



**NATIONWIDE® RETIREMENT SOLUTIONS**  
**GROUP FLEXIBLE PURCHASE PAYMENT DEFERRED VARIABLE ANNUITY**

*Underwritten by*

**Nationwide Life Insurance Company**

One Nationwide Plaza  
Columbus, Ohio 43215

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**CERTIFICATE OF PARTICIPATION AND DISCLOSURE DOCUMENT**

This Certificate is designed to provide you basic information regarding your participation in the Group Flexible Purchase Payment Deferred Variable Annuity Contract ("Contract") funding your individual benefits under the Plan provided by your Employer. You are receiving this Certificate because you are a Participant, Retired Participant, or beneficiary of the Plan.

**This Certificate includes basic information about the Contract and your benefits under it. You should read this Certificate carefully before investing and retain it for future reference.**

If you have any questions regarding this Certificate or need additional information, please contact us using any of the following methods.

Regular Mail	E-Mail	Telephone
Nationwide Retirement Solutions P.O. Box 182797 Columbus, OH 43218-2797	nrsforu@nationwide.com	1-877-NRS-FORU (677-3678)

**Before investing, please remember the Contract and this Certificate are not insured by the FDIC, NCUSIF, or any other Federal government agency. Except as otherwise stated in this Certificate, the Underlying Investment Options offered under the Contract and this Certificate involve investment risk and may lose value.**

The Contract and this Certificate have not been registered with the Securities and Exchange Commission.

This Certificate is dated May 1, 2006.



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### **SPECIAL TERMS USED IN THIS CERTIFICATE**

**Business Day** - Each day the New York Stock Exchange and our home office are open for business or any other day during which there is enough trading of the Sub-Accounts of the Variable Account that the current net asset value of its Units might be materially affected.

**Companion Investment Option(s)** - Another investment option under the Plan. This may include other investment contracts and options offered by us or by another provider.

**Certificate** - This Certificate of Participation and Disclosure Document describing your benefits under the Contract issued to your Employer.

**Contract** - The document describing the obligations and rights between your Employer and us.

**Contract Owner** - Your Employer.

**Employer** - The entity that employs you and sponsors the Plan under which you participate. Your Employer may have delegated sponsor responsibilities to a third-party or independent board. For purposes of this Certificate, Employer will mean your employer and/or any third-party or independent board that sponsors your Plan.

**Exchange** - The movement of amounts in your Participant Account to a Companion Investment Option under the Plan or from one or more Sub-Accounts of the Variable Account to one or more Sub-Accounts of the Variable Account.

**Fixed Account** - A funding option that is part of our general account and credits guaranteed interest rates. If made available by your Employer, you may allocate Participant Contributions to the Fixed Account.

**Nationwide** - Nationwide Life Insurance Company. References to “we,” “our,” or “us,” will also mean Nationwide Life Insurance Company.

**Participant** - An employee or independent contractor eligible to be a part of the Plan and entitled to benefits under the Plan. References to “you,” and “your,” will also mean Participant.

**Participant Account** - An individual account established for you under the Plan. A Participant Account will record all transactions attributable to the Plan on your behalf. This includes, but is not limited to, Participant Contributions, Exchanges, Transfers, and investment experience.

**Participant Account Value** - The present value of the Units attributable to your Participant Account.

**Participant Benefit Payments** - All payments of benefits that result from your retirement, termination of employment, or any payment that you are entitled to based on the terms of the Plan.

**Participant Contributions** - The allocation of dollars you make to your Participant Account.

**Plan** - The retirement plan or tax deferred arrangement provided by your Employer.

**Retired Participant** - When you have severed employment with the Employer providing the Plan you become a Retired Participant for purposes of this Certificate and your eligibility to receive benefits, if any, will be determined according to the Plan.

**SEC** - The United States Securities and Exchange Commission or any successor federal authority charged with the regulation of securities.

**Sub-Account(s)** - Divisions of the Variable Account corresponding to Underlying Investment Options where Units are maintained separately.

**Transfer** - The movement of amounts attributable to your Participant Account to a non-Companion Investment Option.

**Underlying Investment Option** - The investment corresponding to a Sub-Account of the Variable Account. These options, to the extent permitted by law, may include: (1) registered or unregistered mutual funds offered by Nationwide or a third-party; (2) managed separate account options offered by Nationwide or one of its affiliates; or (3) any other investment vehicle Nationwide chooses to offer that is allowed by law and consistent with the investment policy of the Variable Account.

**Unit** - An accounting unit of measure used to calculate the value of the Sub-Account of the Variable Account.

**Unit Value** - The dollar value attributed to each Unit. This value increases or decreases based on the investment experience of the corresponding Sub-Account.

**Variable Account** - Our separate investment account where you may allocate Participant Contributions.

### **DESCRIPTION OF CHARGES AND EXPENSES**

The charges and expenses assessed against your Participant Account are determined by your Employer and us. Your Participant Account may be subject to some or all of these charges and expenses.

The charges and expenses listed below are the current maximum charges and expenses we assess for Contracts we issue. The maximum charges and expenses we assess, as well as the charges we assess your Plan, are subject to change.

#### **Variable Account Charge**

We assess a Variable Account charge against each Sub-Account of the Variable Account. The charge is deducted as part of our calculation of each Sub-Account's Unit Value. The charge is designed to reimburse us for expenses associated with administration, distribution, maintenance and risks assumed in connection with the Contract and this Certificate.

*Current Maximum Variable Account Charge: 0.95%*

The Variable Account charge may be reduced under two different circumstances.

First, we may provide for reductions in the Variable Account charge when Plan assets invested in the Contract reach a certain total dollar value (or "break-point"). For example, if total Plan assets invested in the Contract reached \$10,000,001 we would decrease the Variable Account charge by 0.05%.

Second, we may provide for reductions in the Variable Account charge based upon the Sub-Account in which you are invested. For example, we may designate a group of Underlying Investment Options (or "tier") for a 0.05% reduction in the Variable Account charge. In this example, if you invest in these Sub-Accounts, your Variable Account charge is 0.05% less when compared to Sub-Accounts not in the tier.

We will decide whether to offer Variable Account charge reductions for break-points or tiers and the amount of such reductions. Our decision to offer or not offer break-point and tier reductions will be done in a manner consistent with applicable law.

#### **Fixed Account Charge**

If your Employer has elected to include our Fixed Account, we may assess a Fixed Account charge against the interest credited to your Participant Account. The charge is deducted from the interest yield we credit, resulting in a lower overall crediting rate.

*Current Maximum Fixed Account Charge: 1.00%*

Any applicable Fixed Account charge will be assessed on each Business Day.

### **Participant Account Charge**

The Participant Account charge is a flat-dollar fee we assess against your Participant Account.

*Current Maximum Participant Account charge: \$100 per year*

Any applicable Participant Account charge will either be taken instead of, or in addition to, the Variable Account charge. If we assess this fee, it will be collected on a monthly, quarterly, semi-annual, or annual basis.

### **Contract Maintenance Charge**

The Contract maintenance charge is a flat-dollar fee assessed at the Contract level.

*Current Maximum Contract Maintenance Charge: \$1,000,000 per year*

Any applicable Contract maintenance charge will either be taken instead of, or in addition to, the Variable Account charge. If we assess this fee, it will be collected on a monthly, quarterly, semi-annual, or annual basis. Your Employer will direct us as to how to apportion this fee against all Participant Accounts under the Contract, including your Participant Account.

### **Other Expense and Service Charges**

Your Employer may request us to perform additional services for the Plan, provide special Participant level services, or request to have expenses associated with the Plan deducted from assets in the Contract. If this occurs, we will determine with your Employer the amount of the charge associated with any additional services we provide. With regard to any additional expenses, we will generally accept your Employer's direction with regard to how these charges are deducted from the Contract, including how they are deducted from Participant Accounts.

## **DESCRIPTION OF THE CONTRACT**

We issue the Contract as a funding vehicle for employer sponsored governmental benefit plans. Typically, these are governmental deferred compensation plans receiving favorable tax treatment under section 457(g) of the Internal Revenue Code or defined contribution plans receiving favorable tax treatment under section 401(a) of the Internal Revenue Code. However, we may issue the Contracts to fund other employer sponsored benefit plan.

Purchase payments representing Participant Contributions, including yours, are allocated to the Variable Account. The Variable Account is a separate investment account established by us. We accept purchase payments to the Contract in the currency of the United States of America. We may accept purchase payments in another form, but only with our prior written consent.

As a Participant, Retired Participant, or beneficiary under the Contract you received this Certificate. This Certificate describes the benefits afforded to you under the Contract. These benefits involve the segregation and maintenance of your Participant Account, the ability to allocate your Participant Contributions to any of the Sub-Accounts available to you in the Variable Account, and the ability to convert your Participant Account into a lifetime stream of guaranteed income payments (an annuity).

Your benefits under the Contract are contingent on the Contract remaining in-force. Your Employer or Nationwide may terminate the Contract under certain circumstances and transfer your Participant Account to a funding successor (a new investment provider). Unless otherwise specified in this Certificate, termination of the Contract ends your benefits under the Contract.

The Contract is not a part of your Plan. Your right to receive benefits and tax treatment of benefits are not governed by the Contract, but instead are determined by your Plan.

### **THE VARIABLE ACCOUNT**

We will make available one or more Variable Accounts under the Contract. Singular references to Variable Account will also include the plural.

The Variable Account is a segregated asset account we established under Ohio law. Income, gains, and losses credited to, or charged against, the Variable Account reflects its own investment experience and not ours. The Variable Account's assets are held separately from our assets and are not chargeable with liabilities incurred in any of our other business. Assets in the Variable Account belong to us, but we are obligated to pay benefits under the terms of the Contract.

The Variable Account is divided into Sub-Accounts. Each Sub-Account corresponds to an Underlying Investment Option. The Sub-Accounts made available under the Contract are negotiated between your Employer and us.

We will make available to you one or more Sub-Accounts in which to allocate your Participant Contributions. The particular Underlying Investment Options corresponding to the Sub-Accounts available under the Contract may change from time to time. Specifically, Underlying Investment Options, including particular share classes, currently available may be removed or closed off to future investment. New Underlying Investment Options or new share classes of currently available Underlying Investment Options may be added. In addition, your Employer may negotiate a modification of available Sub-Accounts with us. You will receive advance notice of any such changes.

### **THE FIXED ACCOUNT**

We make available a Fixed Account to offer in conjunction with the Variable Account. Your Employer elects whether to include the Fixed Account as part of the Contract, and by extension as an available option within your Participant Account. The Fixed Account is an option funded by our general account. This means any guarantees associated with the Fixed Account are liabilities of the general account and are guaranteed by us.

The Fixed Account is structured with guaranteed annual minimum interest rates and guaranteed quarterly interest rates. The annual minimum guaranteed interest rate is established at the beginning of each calendar year. This guarantee means interest credited through the current calendar year will never be less than this minimum rate. The guaranteed quarterly rate is established at the beginning of each calendar quarter. During the current calendar quarter, interest credited will never be less than this minimum rate.

We establish our interest rate guarantees at our own discretion based upon a multitude of factors.

In the event your Employer terminates the Contract and requests a lump-sum payment on the effective date of termination, amounts allocated to the Fixed Account (including Fixed Account allocations attributable to Participant Accounts) are subject to a negative market-value adjustment.

**The Fixed Account is not insured by the FDIC, NCUSIF, or any other Federal government agency. Any Fixed Account guarantees are subject to our claims paying ability.**

## **YOUR PARTICIPANT ACCOUNT**

### **General Information Regarding Participant Accounts**

We establish a Participant Account for each Participant under the Plan, including you. Your Participant Account records all relevant transactions you make, or in some cases the Plan makes. It also records Participant Contributions, Exchanges and Transfers, and Participant Benefit Payments.

We may delegate responsibilities regarding maintaining Participant Accounts to one of our third-party affiliates. Your Employer may want us to use another third-party to maintain Participant Accounts. Even if we delegate responsibilities regarding Participant Accounts to a third-party, we will continue to be ultimately responsible for maintaining Participant Accounts.

### **Calculating the Value of Your Participant Account**

Each Business Day, we calculate the value of your Participant Account. The value of each Sub-Account is determined by multiplying its Unit Value by the number of Units. The number of Units in a Sub-Account is increased by allocations of Participant Contributions and incoming Exchanges and Transfers. The number of Units in a Sub-Account is decreased by outgoing Exchanges and Transfers and the deduction of charges (except the Variable Account Charge, which is included in the calculation of the Unit Value). The combined value of the Sub-Accounts to which you have allocated amounts determines your Participant Account Value. If your Employer has elected the Fixed Account and you have allocated amounts to the Fixed Account, the amounts so allocated are added to your Sub-Accounts to determine the Participant Account Value.

### **Exchanges and Transfers**

We will permit you to Exchange amounts from one Sub-Account to another or from the Sub-Accounts of the Variable Account to a Companion Investment Option (if applicable). We will permit you to Transfer amounts from your Participant Account to a non-Companion Investment Option if permitted by the Plan. If you have severed employment with your Employer, we will also permit you to Transfer amounts in your Participant Account to a funding successor.

When an Exchange or Transfer occurs, the outgoing dollar value attributable to the requested transaction is divided by the Unit Value as of the Business Day the Exchange or Transfer is effective. The result is the number of Units associated with the outgoing transaction. These Units are then subtracted from the Sub-Account. If an Exchange is being made to another Sub-Account, the incoming dollar value attributable to the requested transaction is divided by the Unit Value as of the Business Day the Exchange is requested. The result is the number of Units associated with the incoming Exchange. These Units are then added to the Sub-Account.

If there is a Fixed Account, Transfers and Exchanges add or subtract to the value of the Fixed Account on the Business Day the transaction is requested. Exchanges to a Companion Investment Option or Transfers to a non-Companion Investment Option are governed by the terms and conditions of these external investment options.

We may permit Exchanges or Transfers to be performed in more than one manner, such as the telephone, in writing, or over the internet. All Exchange and Transfer requests may be subject to rules we establish. Rules covering Exchanges and Transfers are designed to protect you and us, and to ensure all transactions are conducted in an orderly fashion consistent with all applicable laws.

### **Limitations on Exchanges and Transfers**

Exchanges and Transfers may be subject to the limitations and/or fees imposed by any of the Underlying Investment Options. Exchanges and Transfers are subject to any rules and regulations imposed by the SEC or any other applicable laws, rules or regulations.

We may refuse, limit or otherwise restrict Exchange and Transfer requests, or take any other reasonable action we deem necessary to protect your Employer, Participants and Retired Participants from short-term trading strategies or other harmful investment practices that negatively impact Underlying Investment Option performance.

If the Fixed Account has been made available to you through the Contract, then outgoing Exchanges and Transfers will be limited depending on elections made by your Employer. We will provide you with specific information regarding the restrictions applicable to the Fixed Account upon request.

Our failure to take action with regard to any one or more of the restrictions listed above is not a waiver on our part of our right to enforce the restrictions later. If we fail to take action on the restrictions in one instance, you should not consider it a waiver of our right to enforce the restrictions at a later date.

### **Emergencies and Market Closure**

Situations may arise where the New York Stock Exchange or other stock exchanges are closed for short or extended periods of time. As a result, transaction activity and requests impacting the Contract and Participant Accounts may be impossible to perform. If this situation occurs, we will comply with any emergency rules or regulations enacted by the governing authority (normally the SEC).

### **Participant Benefit Payments**

Your Plan provides the right for you to receive Participant Benefit Payments. In most instances, Participant Benefit Payments are permitted only when you become a Retired Participant or have otherwise severed employment with your Employer. There may be other instances or conditions that arise that may permit you to receive payment from your Participant Account in the form of a Participant Benefit Payment. Requirements and conditions of your receiving such payments are governed by your Employer's Plan.

### **Retirement Income Payment Options**

We will make the following payment schedules and annuity options available to Retired Participants. Payment frequencies available under these income payment options are monthly, quarterly, semi-annual and annual. All variable annuity payments are calculated using an assumed investment return of 3.5% or 5.0% depending on an election by your Employer (or you if permitted by the Plan).

- (1) Payments of a Designated Amount - This payment schedule option represents a systematic liquidation of your Participant Account by taking a specified dollar amount at a determined frequency.
- (2) Payments of a Designated Period - This payment schedule option represents a systematic liquidation of your Participant Account by taking payments over a specific period of time at a determined frequency.
- (3) Life Income - This annuity payment provides the Retired Participant with payment contingent exclusively on his or her continuation of life. Payments are calculated using current annuity purchase rates and methods.
- (4) Life Income with Payment Certain (5, 10, 15 and 20 Years) - This annuity payment option provides you with payment contingent on your continuation of life, but with a guarantee that at least a minimum pre-determined duration of payments are received by you and any of your beneficiaries, regardless of your own mortality. Payments are calculated using our current annuity purchase rates and methods.
- (5) Joint and Last Survivor Life Income - This annuity payment option allows you and another named individual to receive payments guaranteed throughout your life and the life of the additional individual you name. Payments cease upon the last "survivor's" death. We may also permit Joint and Last Survivor annuities with payment reductions after the first death. Payments are calculated using our current annuity purchase rates and methods.

- (6) Any Other Option – We may make any other payment plans available upon agreement of your Employer and us. Additional annuity payment options we make available will be calculated using our current annuity purchase rates and methods.

### **TERMINATION OF THE CONTRACT**

The Contract may be terminated by your Employer or us at any time. The proceeds of the Contract will be paid within one-hundred twenty days (120) of receipt of the notice to terminate by the non-terminating party (the “effective date of termination”). However, if an Underlying Investment Option cannot reasonably liquidate amounts on the effective date of termination, we may deliver, in addition to cash, any unliquidated securities held by the Underlying Investment Option that could not reasonably be liquidated.

We will discontinue accepting additional Purchase Payments to the Contract within thirty (30) days following receipt by the non-terminating party of notice to terminate. We may continue to accept Purchase Payments, however, if we reach a mutual agreement to do so with your Employer. After notice of termination is received by the non-terminating party, further liquidations from the Contract will not be permitted.

Until the effective date of termination is reached, we will continue to maintain your Participant Account and permit you to receive any applicable Participant Benefit Payments. You will not be able to make any Participant Contributions thirty (30) days after notice of termination is received by the non-terminating party. We may continue to accept Purchase Payments, however, if we reach a mutual agreement to do so with your Employer. We will let you continue to make Exchanges and Transfers, subject to any of the limitations imposed on your Participant Account prior to termination.

When the effective date of termination is reached, the Contract, including amounts attributable to your Participant Account, will be transferred to a funding successor. Once the Contract is terminated, our liability with regard to benefits and your Participant Account and any benefits described in the Contract and this Certificate will end. However, if you have purchased an annuity payment option (assuming one is available under the Contract) we will continue to send you annuity payments and be obligated to provide you the guaranteed income stream under the annuity payment option.

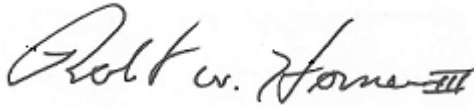
If your Employer elected a Fixed Account to offer in conjunction with the Contract, the Fixed Account will be paid in one of the following two ways (depending on your Employer’s election).

- (1) **Lump-sum Payment.** This payment method involves a total liquidation of the Fixed Account, including amounts allocated to your Participant Account. Your Participant Account will, however, be subject to a market value adjustment if the present value of assets in the Fixed Account are less than the value of the Contract’s allocation to the Fixed Account. We determine any market value adjustment at our sole discretion, but we do so in a manner consistent with approximation of the present value of assets attributable to the Fixed Account. If a market value adjustment is applied, it will decrease the value of the Fixed Account, including Fixed Account allocations you have made to your Participant Account.
- (2) **Sixty (60) Monthly Installments.** This payment method results in the Fixed Account being paid in sixty (60) monthly installments. We do not begin installment payments until the first month of the calendar year following the effective date of termination of the Contract. The amount of each installment is determined by the following:
  - (a) the Fixed Account value on the date before the installment is paid; divided by
  - (b) the number of remaining installments.



We will not permit Fixed Account liquidations in addition to the installment payments described above. We also will not permit Exchanges or Transfers.

For Nationwide:

A handwritten signature in cursive script, reading "Robert W. Horn III".

Secretary

A handwritten signature in cursive script, reading "Bill A. Walker".

President

**NATIONWIDE LIFE INSURANCE COMPANY  
ONE NATIONWIDE PLAZA  
COLUMBUS, OHIO 43215**

**FIXED ACCOUNT ENDORSEMENT**

**Group Flexible Purchase Payment Deferred Variable Annuity Contract**

**General Information Regarding this Endorsement**

This endorsement is made a part of the Contract to which it is attached. To the extent the terms of the Contract and this endorsement are inconsistent, the terms of this endorsement shall control the Contract accordingly. Non-defined terms shall have the meaning given to them in the Contract.

**DEFINITIONS**

The following definitions are modified in, or added to, the Contract:

**Annual Guaranteed Interest Rate** - The minimum guaranteed interest rate applied to the Fixed Account for a calendar year. Nationwide determines this rate at its sole discretion. This rate does not include the deduction of any applicable "Fixed Account Charge."

**Contract Value** - The combined value of the Variable Account(s) and the Fixed Account.

**Exchange** - The movement of amounts attributable to Participant Accounts to a Companion Investment Option under the Plan, or from one or more Sub-Accounts of the Variable Account to one or more Sub-Accounts of the Variable Account, or from one or more Sub-Accounts of the Variable Account to the Fixed Account, or from the Fixed Account to a Companion Investment Option under the Plan or to one or more Sub-Accounts of the Variable Account.

**Fixed Account** - An option funded by Nationwide's general account crediting specified interest rates.

**Guaranteed Minimum Fixed Account Interest Rate** - A floor rate established for the Fixed Account when the Contract is issued. All rates under the Contract are guaranteed to be at least as great as the Guaranteed Minimum Fixed Account Interest Rate for as long as the Contract remains in-force. Interest credited to the Fixed Account will not be less than 1.00%, subject to any applicable "Fixed Account Charge."

**Participant Account Value** - The present value of the Units and the Fixed Account attributable to a Participant's Account.

**Quarterly Guaranteed Interest Rate** - The minimum guaranteed interest rate applied to the Fixed Account for a calendar quarter. This rate may be equal to or greater than the applicable Annual Guaranteed Interest Rate. Nationwide determines this rate at its sole discretion. This rate does not include the deduction of any applicable "Fixed Account Charge."

**FIXED ACCOUNT**

The following is added to the Contract.

**General Information Regarding the Fixed Account**

The Fixed Account is an investment option under the Contract offering an Annual Guaranteed Interest Rate and a Quarterly Guaranteed Interest Rate. Nationwide credits interest to the Fixed Account at these rates that it prospectively declares. Interest rates are determined at the sole discretion of Nationwide, including any excess interest rates. Nationwide declares all of its rates as annual effective yields. Nationwide reserves the right to discontinue accepting additional Purchase Payment and Transfer and Exchange allocations to the Fixed Account at any time.

Fixed Account guarantees are supported by the general account of Nationwide and are not insured by the FDIC, NCUSIF or any other agency of the Federal government. The Fixed Account is a non-participating option. Allocations to the Fixed Account do not share in any surplus of Nationwide.

### **Guaranteed Interest Rates**

The Guaranteed Minimum Fixed Account Interest Rate for the Contract is listed on the "Contract Specifications Pages."

No later than the last Business Day of a calendar year, Nationwide declares the Annual Guaranteed Interest Rate for the Fixed Account for the next calendar year. In addition, no later than the last Business Day of a calendar quarter, Nationwide will declare the Quarterly Guaranteed Interest Rate to be credited for the next calendar quarter. Notwithstanding the preceding, the Withdrawal Value will be subject to a market value adjustment described herein due to termination.

### **Crediting Interest to the Fixed Account**

Nationwide interest rates are all declared as annual effective yields. An effective yield takes into account the effect of interest compounding. Nationwide credits interest to the Fixed Account on each Business Day. Annual effective yields are converted by Nationwide into a daily interest rate factor. The current Fixed Account value is calculated by taking the daily interest rate factor and multiplying it by the previous Business Day's Fixed Account value. Because interest is credited only on Business Days, interest from multiple non-Business Days (e.g., days falling on a weekend or holidays) accumulate and are credited on the next available Business Day.

### **Calculating the Fixed Account Value**

The Fixed Account value on any given Business Day is equal to:

- (1) total Purchase Payments allocated to the Fixed Account; plus
- (2) the daily interest earned (net of any applicable "Fixed Account Charge"); plus
- (3) Exchanges or Transfers to the Fixed Account; minus
- (4) Exchanges or Transfers out of the Fixed Account; minus
- (5) Withdrawals from the Fixed Account; minus
- (6) Participant Benefit Payments; minus
- (7) any applicable "Contract Maintenance Charge," the aggregate "Participant Account Charge," applied to Participant Accounts, plan expenses, and additional expense charges.

### **Calculating a Participant Account Value in the Fixed Account**

A Participant Account Value in the Fixed Account on any given Business Day is equal to:

- (1) total Participant Contributions allocated to the Fixed Account; plus
- (2) the daily interest earned (net of any "Fixed Account Charge") on the Participant's Account; plus
- (3) Exchanges or Transfers to the Fixed Account; minus

- (4) Exchanges or Transfers out of the Fixed Account; minus
- (5) Withdrawals from the Fixed Account; minus
- (6) Participant Benefit Payments; minus
- (7) any applicable “Contract Maintenance Charge” applied to a Participant’s Account, the “Participant Account Charge,” plan expenses, and additional expense charges.

### **CONTRACT EXPENSES**

The “Contract Expenses” provision of the Contract is amended with the addition of the following.

Unless otherwise mutually agreed to by the Contract Owner and Nationwide, all expenses and charges attributable to the Contract, except the “Variable Account Charge” and any applicable “Fixed Account Charge” will be deducted proportionally from the Variable Account(s) and the Fixed Account based on the value each account bears to the total Contract Value. Any applicable expenses or charges attributable to a Participant Account will be deducted proportionally and in the same manner.

#### **Fixed Account Charge**

Nationwide may assess a “Fixed Account Charge.” The “Fixed Account Charge” is deducted from the interest rate credited to the Fixed Account. If this charge is assessed by Nationwide, the amount of the charge is stated on the “Contract Specifications Pages” on an annual basis.

### **EXCHANGES AND TRANSFERS**

The following is added to the Contract.

#### **Exchanges and Transfers to and from the Fixed Account**

Nationwide will generally accept Exchanges and Transfers to the Fixed Account.

Exchanges and Transfers out of the Fixed Account are subject to certain limitations. The Contract Owner elects at the time of application to accept a Participant level Exchange and Transfer limitation or an aggregate Contract level Exchange and Transfer limitation. Liquidations of Contract Value via Exchange and Transfer are combined into a single percentage limitation. The type of limitation and percentage limitation are listed on the “Contract Specifications Pages.”

Nationwide may agree to not include in any Exchange and/or Transfer restrictions listed on the “Contract Specification Pages,” Exchanges and Transfers involving Participants actively utilizing asset allocation models, or asset allocation services available under the Plan.

All Exchange and Transfer limitations are set, or reset, on a calendar year basis. The permissible Exchange and Transfer amount cannot be rolled from year to year or otherwise “banked” for utilization in subsequent calendar years.

The Contract Owner may request to change the type of Exchange and Transfer limitation for the next calendar year if Nationwide receives, in a form acceptable to Nationwide, the request by the last Business Day of the preceding calendar year.

In the event the Contract Owner elects to add a Companion Investment Option to the Plan with characteristics in structure, investment time horizon, rate setting, or any other characteristics that could compel on-going Exchanges between the Fixed Account and such Companion Investment Option, then Nationwide may impose an equity wash that prohibits direct Exchanges between the Fixed Account and such Companion Investment Option. Nationwide will notify the Contract Owner in the event an equity wash will be imposed with regard to Exchanges with a Companion Investment Option and the Fixed Account.

### **Sixty Month Exchange or Transfer Program**

If the Contract Owner has elected a Participant level Exchange and Transfer limitation, Nationwide permits the Contract Owner, or Participant if permitted by the Plan, to direct the complete liquidation of amounts attributable to a Participant Account that are allocated to the Fixed Account via monthly Exchange or Transfer over a period of sixty (60) months subject to the following.

- (1) The amount to be Exchanged each month is equal to the value of the Fixed Account of the Participant Account divided by the number of remaining months until the 60 month Exchange or Transfer program is completed.
- (2) Any additional Participant Contribution, Exchange and/or Transfer to the Fixed Account of a Participant Account where the 60 month Exchange or Transfer program is in effect will result in immediate cancellation of any additional Exchanges or Transfers under this program.
- (3) If the Participant level Exchange limitation (whether the percentage limitation or number of transactions limit) has been met in the calendar year in which the request to initiate the 60 month Exchange or Transfer program is received, Nationwide will reject the request. The request may be made again beginning on the first day of the next calendar year.
- (4) The minimum allocation to the Fixed Account of the Participant Account under which the 60 month Exchange or Transfer program may be elected is \$1,000.

### **TERMINATION AND WITHDRAWALS**

The following is added to the Contract.

#### **Termination**

In the event the Contract Owner or Nationwide terminate the Contract, the following will apply to the Fixed Account.

Prior to the effective date of termination, as specified in the Contract, and thirty (30) days following the date the non-terminating party receives the notice to terminate, the Contract Owner must elect one of the two Withdrawal methods listed below for amounts attributable to the Fixed Account.

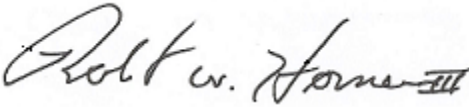
- (1) **Lump-sum Payment.** If the Contract Owner elects to have funds Withdrawn from the Fixed Account in one lump-sum payment, Nationwide will pay to the Contract Owner the Withdrawal Value of amounts attributable to the Fixed Account less a market value adjustment if the present value of amounts attributable to the Withdrawal are less than the present Contract Value of such amounts. The market value adjustment is determined by Nationwide at its sole discretion, but will be done in a manner consistent with making a reasonable approximation of the present value of assets attributable to the Fixed Account. Nationwide will provide the Contract Owner the current procedures it uses to determine the market value adjustment upon request.

- (2) Sixty (60) Monthly Installments. If the Contract Owner elects to have funds Withdrawn from the Fixed Account in sixty (60) monthly installments, Nationwide will not begin installment Withdrawals until the first month of the calendar year following the effective date of termination of the Contract. The amount of each installment is determined by the following:


- (a) the Fixed Account value on the date before the installment is Withdrawn; divided by
- (b) the number of remaining installments.

Fixed Account Withdrawals in addition to installment Withdrawals will not be permitted, nor will any Exchanges or Transfers be permitted.

Executed for Nationwide by:



Secretary



President

### **Have a complaint or need help?**

If you have a problem with a claim or your premium, call your insurance company or HMO first. If you can't work out the issue, the Texas Department of Insurance may be able to help.

Even if you file a complaint with the Texas Department of Insurance, you should also file a complaint or appeal through your insurance company or HMO. If you don't, you may lose your right to appeal.

#### **Nationwide Life Insurance Company**

To get information or file a complaint with your insurance company or HMO:

**Call: Nationwide Retirement Solutions at 1-877-496 - 1630**

**Toll-free: 1-877-496 - 1630**

Email: [nationwide.com](mailto:nationwide.com)

Mail: Nationwide Retirement Solutions, P.O. Box 182797, Columbus Ohio 43218-2797

#### **The Texas Department of Insurance**

To get help with an insurance question or file a complaint with the state:

Call: 1-800-252-3439

File a complaint: [www.tdi.texas.gov](http://www.tdi.texas.gov)

Email: [ConsumerProtection@tdi.texas.gov](mailto:ConsumerProtection@tdi.texas.gov)

Mail: MC 111-1A, P.O. Box 149091, Austin, TX 78714-9091

### **¿Tiene una queja o necesita ayuda?**

Si tiene un problema con una reclamación o con su prima de seguro, llame primero a su compañía de seguros o HMO. Si no puede resolver el problema, es posible que el Departamento de Seguros de Texas (Texas Department of Insurance, por su nombre en inglés) pueda ayudar.

Aun si usted presenta una queja ante el Departamento de Seguros de Texas, también debe presentar una queja a través del proceso de quejas o de apelaciones de su compañía de seguros o HMO. Si no lo hace, podría perder su derecho para apelar.

#### **Nationwide Life Insurance Company**

Para obtener información o para presentar una queja ante su compañía de seguros o HMO:

**Llame a: Nationwide Retirement Solutions al 1-877-496 - 1630**

**Teléfono gratuito: 1-877-496 - 1630**

Correo electrónico: [nationwide.com](mailto:nationwide.com)

Dirección postal: Nationwide Retirement Solutions, P.O. Box 182797, Columbus Ohio 43218-2797

#### **El Departamento de Seguros de Texas**

Para obtener ayuda con una pregunta relacionada con los seguros o para presentar una queja ante el estado:

Llame con sus preguntas al: 1-800-252-3439

Presente una queja en: [www.tdi.texas.gov](http://www.tdi.texas.gov)

Correo electrónico: [ConsumerProtection@tdi.texas.gov](mailto:ConsumerProtection@tdi.texas.gov)

Dirección postal: MC 111-1A, P.O. Box 149091, Austin, TX 78714-9091

**NATIONWIDE LIFE INSURANCE COMPANY  
ONE NATIONWIDE PLAZA  
COLUMBUS, OHIO 43215**

**ENDORSEMENT  
to  
Group Flexible Purchase Payment  
Deferred Variable Annuity Contract**

**General Information Regarding this Endorsement**

This endorsement is made a part of the Contract to which it is attached. The Contract may be issued by Nationwide to various entities, including public sector entities, in connection with the Plan.

To the extent any provisions contained in this endorsement are contrary to or inconsistent with those of the Contract to which it is attached, the provisions of this endorsement will control the Contract accordingly. Non-defined terms shall have the meaning given to them in the Contract.

**Definitions**

The new definition of the Underlying Investment Options in the Contract shall be governed by and consistent with the new "Substitution of Securities" provision set forth below, and shall not be interpreted to permit Nationwide to make any such changes to the array of Underlying Investment Options in the Contract without the Contract Owners' consent through the process described below.

**Alteration or Modification**

The following sentences are added as the final paragraph of the "Alteration and Modification" provision of the "General Provisions" of the Contract:

This provision does not apply to the alteration or modification of the Underlying Investment Options. The process for such alteration or modification is described in the "Substitution of Securities" section of this Contract. Nationwide does not assume any obligation to alter or modify the Contract on behalf of any Plan.

**Plan Amendment**

The third paragraph of the "Plan Amendment" section of the "General Provisions" of the Contract is deleted. Any amendment or modification of the Contract by Nationwide for any reason will be governed by the new "Alteration or Modification" provision set forth above.



## **Substitution of Securities**

The Substitutions of Securities section of the "Variable Account" provisions of the Contract is hereby deleted in its entirety and replaced with the following:

The Contract provides an array of Underlying Investment Options the Contract Owner may elect to make available to Participants. The Underlying Investment Options available for election are included in the Contract application and accepted by Contract Owners when they purchase the Contract. After the issue date of the Contract, the Participants decide whether or not to allocate their Participant Contributions to one or more of the Underlying Investment Options within that array. Contract Owners have the discretion and authority under the Contract to decide upon (and decide whether to reject) any changes to that array that Nationwide may periodically present to Contract Owners for consideration. Nationwide has no obligation to present any such changes to the array of Underlying Investment Options, and has no discretion or authority to impose any such changes without the Contract Owners' consent through the process described below.

### *Underlying Investment Option Changes*

From time to time, Nationwide may present changes to the array of Underlying Investment Options available under the Contract issued in connection with a Plan. Those changes may include (1) adding an Underlying Investment Option to the existing array, (2) removing an Underlying Investment Option from the existing array, (3) preventing any new Purchase Payments from being allocated to an Underlying Investment Option in the existing array, or (4) substituting any existing Underlying Investment Option in the array with a new Underlying Investment Option, and transferring assets from the existing Underlying Investment Option to the new Underlying Investment Option. The Contract Owner has the discretion and authority to decide upon (and decide whether to reject) any such changes presented. The Contract Owner makes the final determination as to any changes in the array, and has the responsibility to determine whether a change is in the best interests of the Plan. Nationwide has neither the discretion nor authority, with respect to those decisions made in connection with the Plan.

Any change to the array that may be presented by Nationwide will be communicated in writing to the Contract Owner at least 60 (sixty) days in advance of the proposed effective date of the change. This communication will:

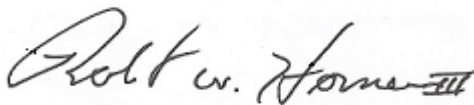
- describe the changes presented and their effective date;
- disclose any resulting changes to the contract expenses incurred by the Plans or Participants, and any resulting changes in the payments received by Nationwide or its affiliates from the Underlying Investment Options (such as 12b-1 fees and other payments made to Nationwide by mutual fund entities);
- advise that the Contract Owner can choose to reject the change presented;
- set forth the method by which the Contract Owner may communicate its rejection of the changes presented;

- describe that failure by Contract Owners to reject the changes presented as of a specified date will be treated as consent to those changes; and
- direct the Contract Owner to information and materials (such as mutual fund offering prospectuses and other explanatory data) that may aid Contract Owners' evaluation of the changes presented.

Nationwide will, upon request, assist Contract Owners in obtaining additional information necessary to engage in a full and fair evaluation of changes presented. Nationwide does not provide advice relating to the changes presented.

If the Contract Owner chooses to reject any change presented, that rejection shall be given effect and no change in the Underlying Investment Options will occur, provided that the previous investment option remains available. If the previous investment option is no longer available either (1) due to a change in applicable law, or (2) due to a change or event initiated by a fund company, including but not limited to, a merger, liquidation or closure, Nationwide will be unable to implement the Contract Owner's rejection. In such circumstances, the Contract Owner may terminate the Contract consistent with the "Termination by the Contract Owner" provision.

Executed for Nationwide by:



Secretary



President



## Trading Policies, Monitoring and Controls

### Excessive Trading and Market Timing

NRS limits trade activity to twenty (20) trades within a calendar year. Please note that a trade is defined as any exchange, restructure, or series of exchanges in a given day. Also, if a participant is on pace to exceed this 20 trade limit, we will require additional trade requests to be submitted in paper form by regular U.S. Mail.

- If 6 or more trade events occur in one calendar quarter, the participant will be notified by U.S. Mail that they have been identified as engaging in potentially harmful trading practices.
- Once 11 trade events occur over a period of 2 consecutive calendar quarters, all future trade requests will be required to be submitted in paper form by regular U.S. Mail for the remainder of the calendar year.
- If 20 trade events occur in a calendar year, all future trade requests will be required to be submitted in paper form by regular U.S. Mail for the remainder of the calendar year.

The policies and procedures identified above are NRS's general policy for deterring the harmful effects that frequent or short-term trading may have on all investors in a fund. NRS reserves the right to restrict trades made under any participant account for which it has been determined that it is necessary for the participant to remain limited to U.S. mail requested trades, NRS may also be required to take other immediate actions as requested by fund house managers.

Additionally, NRS may be required to implement more restrictive or different procedures immediately and without notice to protect the interests of all plan participants.

The Nationwide Group Retirement Series includes unregistered group fixed and variable annuities and trust programs. The unregistered group fixed and variable annuities are issued by Nationwide Life Insurance Company. Trust programs and trust services are offered by Nationwide Trust Company, FSB a division of Nationwide Bank. Nationwide Investment Services Corporation, member FINRA. In MI only: Nationwide Investment Svcs. Corporation. Nationwide Mutual Insurance Company and Affiliated Companies, Home Office: Columbus, OH 43215-2220.