AGENDA

PANOCHE WATER DISTRICT

ENERGY SERVICE CONTRACT PUBLIC HEARING
and
REGULAR BOARD OF DIRECTORS MEETING
March 08, 2022 – 9:30 a.m.

CONSISTENT WITH RESOLUTION NO. 800-22 PROCLAIMING A LOCAL EMERGENCY AND AUTHORIZING REMOTE TELECONFERENCE BOARD MEETINGS THROUGH MARCH 10, 2022 PURSUANT TO AB 361, THE OPEN SESSION OF THIS MEETING MAY BE JOINED FROM YOUR COMPUTER, TABLET OR SMARTPHONE THROUGH THE FOLLOWING MEANS:

https://meet.goto.com/860821805

AND PLEASE DIAL

Conference call in number: (844) 783-6236 Passcode: 209 364 6136

PRESIDENT'S ANNOUNCEMENT: Pursuant to Government Code Section 54952.3, let it be known that Board Members receive no compensation or stipend for simultaneous or serial order meetings of the Panoche Water District, Panoche Drainage District, Panoche Financing Authority, and/or the Panoche Resource Conservation District.

1. **CALL TO ORDER**

2. **REVIEW OF AGENDA:** The Board will consider corrections and/or additions to the Agenda of items requiring immediate action that came to the attention of the Board after the Agenda was posted.

3. **ROLL CALL:** A quorum will be confirmed and the Board will consider appointment of an acting Officer(s) in the event the President, Vice-President, and/or Secretary is absent from the meeting.

4. **POTENTIAL CONFLICTS OF INTEREST:** Any Board member who has a potential conflict of interest may now identify the Agenda Item and recuse themself from discussing and voting on the matter. [Government Code Section 87105]

5. **PUBLIC COMMENT:** The Board of Directors welcomes participation in Board meetings. The public may address matters under the jurisdiction of the Board that have not been posted in the Agenda. The public will be given the opportunity to address the Board on any item in the Agenda at this time or before the Board's consideration of that item. If members of the public desire to address the Board relative to a particular Agenda item at the time it is to be considered, they should so notify the President of the Board at this time. Please note, California Law prohibits the Board from taking action on any matter during a regular meeting that is not on the posted Agenda unless the Board determines that it is an emergency or one of the other situations specified in Government Code Section 54954.2. During a special meeting, the Board may not take action on any matter that is not

on the posted Agenda. The President may limit the total amount of time allocated for public comment on particular issues to 3 minutes for each individual speaker.

6. DIVISION REPORTS:

A. Water Operations & Maintenance – Juan Cadena
B. Administration – Ara Azhderian
C. Ethics, Compliance, & Human Resources – Lorena Chagoya

7. PANOCHE WATER & DRAINAGE DISTRICTS JOINT CLOSED SESSION: Conference with Legal Counsel.

A. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Significant Exposure to Litigation pursuant to Section 54956.9(d), paragraph (2) or (3):

Number of Cases: Ten

8. REPORT FROM JOINT CLOSED SESSION (GOVERNMENT CODE SECTION 54957.1)

9. CLOSED SESSION

A. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Significant Exposure to Litigation pursuant to Section 54956.9(d), paragraph (2) or (3):

Number of Cases: Four

B. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
Pursuant to Section 54956.9(d)(1):

Names of Cases:

i. Stephen W. Sloan vs. Panoche Water District
Fresno County Superior Court Case No. 18CECG00511

ii. Imani Percoats & Chris Bettencourt vs. Panoche Water District
Fresno County Superior Court Case No. 18CECG01651

iii. Greenhouse Ranch v. Panoche Water District, et al.
Merced County Superior Court Case No. 21CV-01348

iv. Center for Biological Diversity, et al. v. United States, et al.
US District Court, E.D. Cal, Case No. 1:20-CV-00760 DAD-EPG

v. North Coast Rivers Alliance, et al. v. Kenneth Salazar, et al.
US District Court, E.D. Cal., Case No. 1:16-cv-00307-DAD-SKO

vi. Firebaugh Canal Water District & Central California Water District v. United States, et al.
US District Court, E.D. Cal., Case 1:88-cv-00634-LJO-SKO

C. CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to Section 54957.6:
Agency Designated Representative: Ara Azhderian, General Manager
Employee Organization: International Brotherhood of Electrical Workers Local 1245

10. REPORT FROM CLOSED SESSION

At approximately 10:30 a.m., it is anticipated President Bennett will call the public hearing to order.

11. PUBLIC HEARING: The Board will hold a public hearing on whether to enter into an energy service contract with ForeFront Power, LLC.

12. CONSENT CALENDAR

All matters listed on the Consent Calendar are considered to be routine and non-controversial and will be acted upon by a single action of the Board of Directors, unless a Board Member requests separate consideration of the item. If such a request is made, the item may be heard as an Action Item at this meeting. The Board will review and consider (Tab 2):

- Approval of DRAFT minutes from the May 11, 2021, regular meeting of the Board;
- Approval of DRAFT minutes from the February 22, 2022 special meeting of the Board;
- Acceptance of the monthly financial statements for the period ending February 28, 2022;
- Acceptance of Director's Monthly Credit Card Usage Report.

ACTION ITEMS

13. The Board to review and consider appointment of District Officers to serve during the fiscal year beginning March 1, 2022, through February 28, 2023 (Azhderian – Tab 3);

14. The Board to review and consider a Resolution authorizing execution of an energy service contract with ForeFront Power, LLC., and making certain findings of exemption under the California Environmental Quality Act (Azhderian/Williams – Tab 4);

15. The Board to review and consider a Resolution adopting an amended and restated Panoche Water District Retirement Plan and Trust (Azhderian – Tab 5);

16. The Board to review and consider a Resolution determining that during the Governor's proclaimed state of emergency due to the COVID-19 pandemic, meeting in person would present imminent risk to the health or safety of attendees (Azhderian – Tab 6);

17. The Board to review and consider approving a hardship request from Turlock Fruit to transfer 200 acre-feet to Westlands Water District (Azhderian – Tab 7);

18. The Board to review and consider authorizing execution of a Services Agreement with Panoche Drainage District (Azhderian/Williams – Tab 8);

19. The Board to review and consider accepting the General Manager's annual review of the District's Investment Policy (Azhderian – Tab 9);

20. The Board to review and consider approving payment of bills (Azhderian – Tab 10).

REPORT ITEMS

21. FINANCIAL REPORTS (Tab 11)
- A. FYE 2022 Budget-to-Actual Report;
- B. Other financial matters affecting the District.

22. REPORTS UNDER DISTRICT POLICIES
- A. Emergency COVID-19 Pandemic Response Policy;
- B. Report(s) on Brown Act Meetings & Conferences Attended at District Expense (may be written or oral and may be joint for multiple attendees);
- C. Board to Consider Update(s) or Approval(s) Required Under Any Other District Policies.

23. GENERAL MANAGER'S REPORT (Tab 12)
- A. Water Supplies & Deliveries;
- B. Water Quality Report;
- C. Domestic Water Treatment Plant;
- D. WaterSmart Grant Application;
- E. Sustainable Groundwater Management;
- F. Staffing Update;
- G. Other Matters Affecting the District.

24. REPORTS ON OTHER ITEMS PURSUANT TO GOVERNMENT CODE SECTION 54954.2(a)(3)

25. FUTURE MEETING DATES
- A. Board to Consider Action to Set Special Meeting Date(s): *No staff requests.*
- B. Next Regular Meeting Date: April 12, 2022.

26. ADJOURNMENT

- ❖ Items on the Agenda may be taken in any order.
- ❖ Action may be taken on any item listed on the Agenda.
- ❖ Writings relating to open session: Agenda items that are distributed to members of the Board of Directors will be available for inspection at the District office, excluding writings that are not public records or are exempt from disclosure under the California Public Records Acts.

Americans with Disabilities Act of 1990: Under this Act, a qualifying person may request that the District provide a disability-related modification or accommodation in order to participate in any public meeting of the District. Such assistance includes alternative formats for the agendas and agenda packets used for any public meetings of the District. Requests for assistance shall be made in person, in written form, or via telephone by calling (209) 364-6136. Requests must be received at least 18 hours prior to a scheduled public meeting.

Investment Information Disclaimer: This agenda has been prepared as required by the applicable laws of the State of California, including but not limited to, Government Code Section 54950 et seq., and has not been prepared with a view to informing an investment decision in any of the District's bonds, notes, or other obligations. Any projections, plans, or other forward-looking statements included in the information in this agenda are subject to a variety of uncertainties that could cause any actual plans or results to differ materially from any such statement. The information herein is not intended to be used by investors or potential investors in considering the purchase or sale of the District's bonds, notes or other obligations and investors and potential investors should rely only on information filed by the District on the Municipal Securities Rulemaking Board's Electronic Municipal Market Access System for municipal securities disclosures, maintained on the World Wide Web at https://emma.msrb.org/.

Panoche Water District

Renewable Energy Feasibility Analysis

Brian Taylor
Director – CA Public Sector

March 2022

SPURR
Buying Together. Buying Better.

FOREFRONT POWER

Panoche Water District

Sustainability Leader for CA Special Districts

On-Site Solar

Energy Savings

Statewide RFP

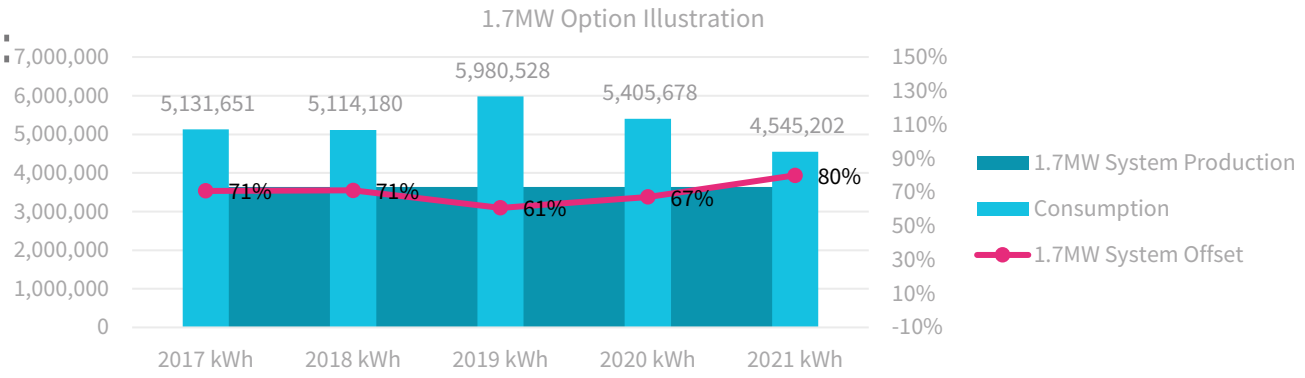
Included O&M

Solar Displays

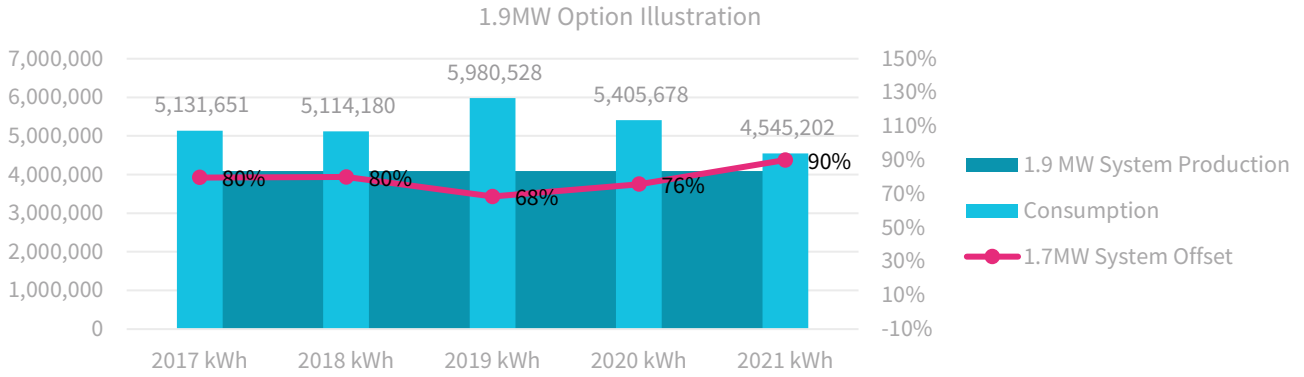
Sustainability Goals

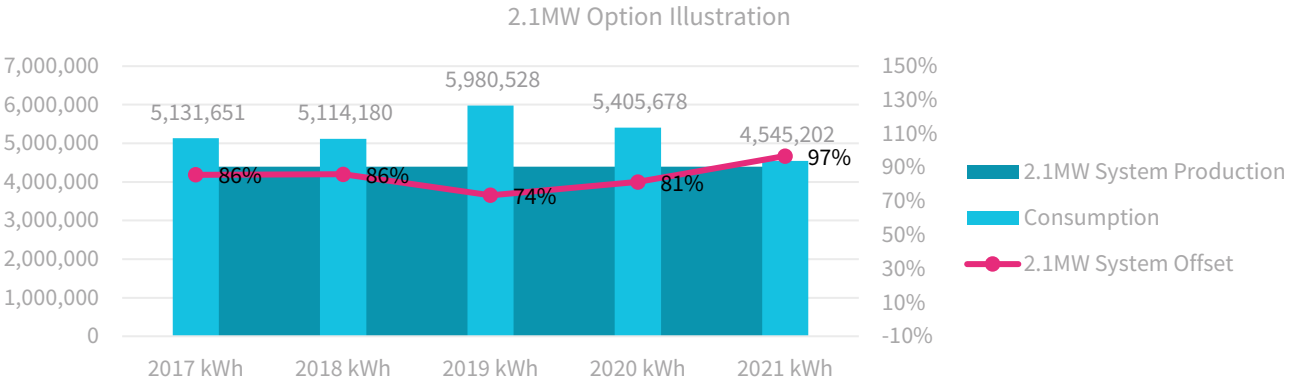
Solar Offset & System Sizing

- **Energy Consumption:**
  - 2017-2021
  - Max: 5.9M KWH
  - Min: 4.5M KWH
  - Avg: 5.3M KWH



- **System Size Options:**
  - 1.7MW
    - 80% of Minimum Consumption (2021)
    - 70% of Average Consumption
  - 1.9MW
    - 90% of Minimum Consumption (2021)
    - 79% of Average Consumption
  - 2.1 MW
    - 97% of Minimum Consumption (2021)
    - 85% of Average Consumption





Panoche Water District Renewable Strategy

Site	PPA Rate	PPA Escalator	Solar System Size	Y1 Production (kWh)	% Energy Offset	Year 1 Savings	Year 1 Savings (%)	20 Year Savings
1.7MW (80% Offset - 2021 Consumption)	$0.0977	0%	1,746	3,635,289	80%	$201,005	16%	$7,948,355
1.9MW (90% Offset - 2021 Consumption)	$0.0977	0%	1,964	4,089,700	90%	$218,714	21%	$8,769,472
2.1MW (97% Offset - 2021 Consumption)	$0.0977	0%	2,110	4,397,437	97%	$226,946	21%	$9,136,365

- **On Site Solar Solutions**
  - <1MW AC CEC avoids PG&E IX Expenses
  - Single Axis Tracker Systems
  - 2 NEMA Systems offsetting 23 meters
- **Save**
  - $+200K in year 1 Savings
  - $+8M over 20 years

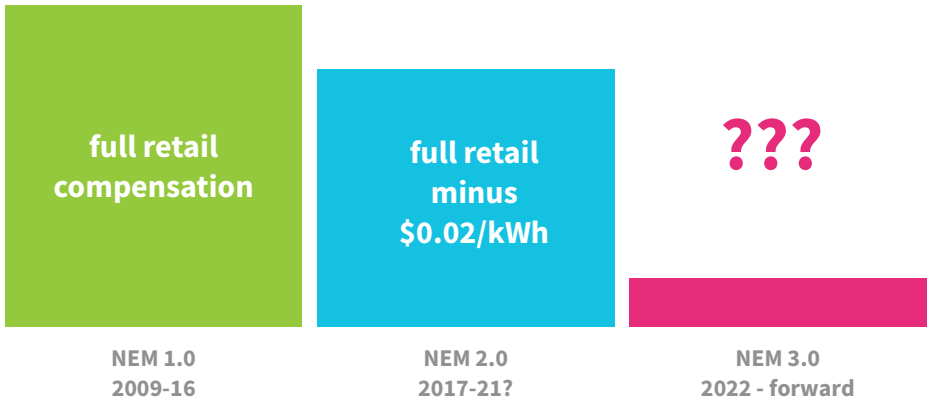
- **Sizing Options:**
  - 80%, 90%, & 97% of Worst Case 2021 PG&E Consumption

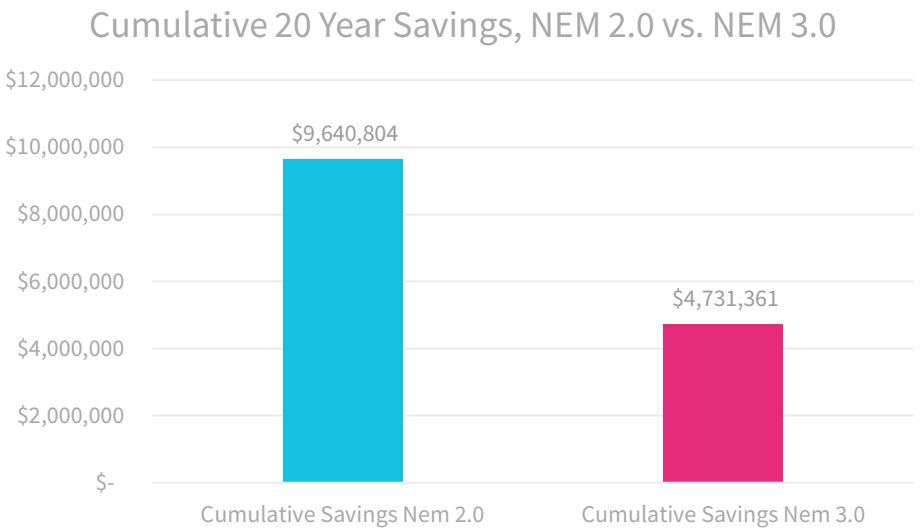
Offset	Max (2019 Consumption)	Min (2021 Consumption)	Average
1.7 MW	61%	80%	70%
1.9 MW	68%	90%	79%
2.1 MW	74%	97%	85%

Assumes 2.7% Annual Utility Energy Rate Escalator, 5% Annual Utility Demand Rate Escalator.

Solar Challenges NEM 3.0

- **Net Energy Metering**
  - CPUC decides NEM 3.0 in early 2022
  - Lowers value of exported energy.
  - Get Legacy NEM 2.0
    - Submit IX Applications NOW
    - Build Systems After
    - 20 Years of Compensation
- **Impact:**
  - $9.6M savings under NEM 2.0 vs. $4.7M under NEM 3.0
  - Assumes NEM 3.0 as currently proposed by PUC





Assumes 2.7% Annual Utility Energy Rate Escalator, 5% Annual Utility Demand Rate Escalator. 1.9MW Option

Meter List

PWD Office Lot SAT, Meter List

utility_service_id	utility_meter_number	Site Name:	Annual Consumption kWh*	Target Production kWh*
1264538850	1009987591	Station 7W Courtney New Orleans Pump	730,054	657,048
3241365145	5000118786	Station 2 Courtney/New Orleans Pump	471,511	424,360
497433715	1009987399	Station 3 Courtney/New Orleans Pump	335,113	301,602
3001920012	1010245360	Station 6W Courtney New Orleans Pump	233,725	210,352
3241365931	1010055701	Station 4 Courtney/New Orleans Pump	211,298	190,168
3008455582	1008819132	Old Station #1	109,877	98,889
3241365691	1010023769	Panoche WD Office	85,403	76,862
3003384652	1010262273	STA #T6	78,239	70,415
3003256118	1010070296	STA #T4	72,085	64,876
3241365651	1009716661	Panoche WD Office	44,360	39,924
3241365334	1009963392	Russ Return Sys 2	29,059	26,153
3009338696	1010074088	Russ Return Sys 1	25,529	22,976
1581462544	5000000237	Panoche WD Office	22,479	20,231
		TOTAL	**2,448,732**	**657,048**

San Joaquin River drainage SAT, Meter List

utility_service_id	utility_meter_number	Site Name:	Annual Consumption kWh*	Target Production kWh*
6227993450	1009481511	Station 6E	969,574	872,616
3008455679	1009987386	Recirculation Plant	868,176	781,358
2801882732	1009985219	T-1	199,842	179,858
3005374390	1010409860	T-2	155,462	139,916
3241365724	1008829444	Koda Lift #1	5,293	4,764
3008455466	1009502287	Tie In meter @ San Joaquin River Drainage Field	13,154	11,839
		TOTAL	**2,211,501**	**1,990,351**

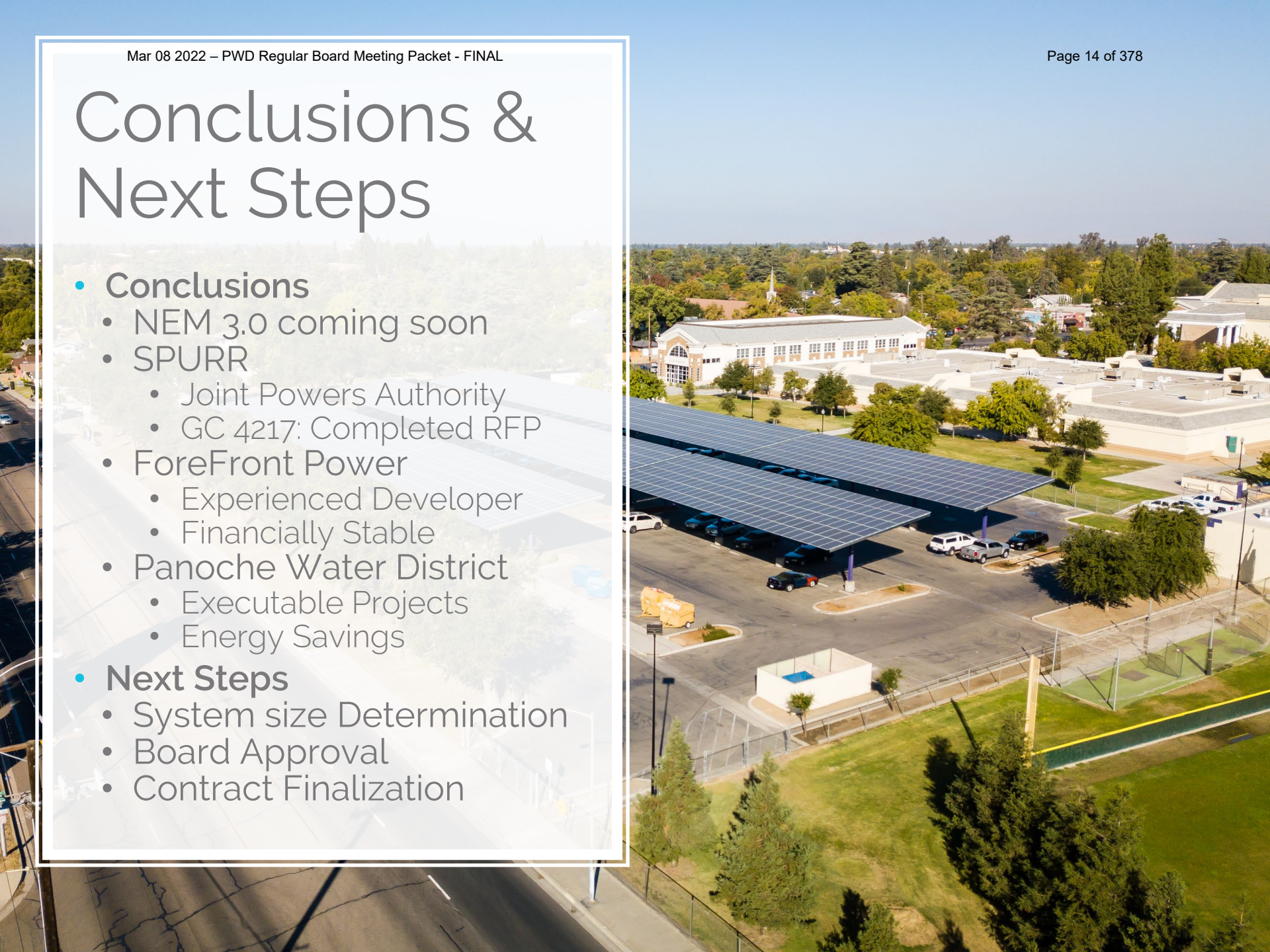
*Approximate Values

PWD Office Lot & San Joaquin Sites, NEMA Contiguous & Adjacent Parcel Mapping

NEMA:
Contiguous &
Adjacent Parcels

Conclusions & Next Steps

- **Conclusions**
  - NEM 3.0 coming soon
  - SPURR
    - Joint Powers Authority
    - GC 4217: Completed RFP
  - ForeFront Power
    - Experienced Developer
    - Financially Stable
  - Panoche Water District
    - Executable Projects
    - Energy Savings
- **Next Steps**
  - System size Determination
  - Board Approval
  - Contract Finalization



FOREFRONT
POWER

Project Cashflows: Panoche WD - March '22

Rate Scenario	**NEM 2.0**
Solutions	**Solar Only**
Project	**2.1MW (97% Offset - 2021 Consumption)**
Year 1 Savings	**$206,223**
Cumulative Savings	**$8,301,793**
Cumulative NPV Savings	**$4,939,392**
Payback Period	**Immediate**
Solar System Size (KW)	**1,924**
Storage System Size (KW)	**0**

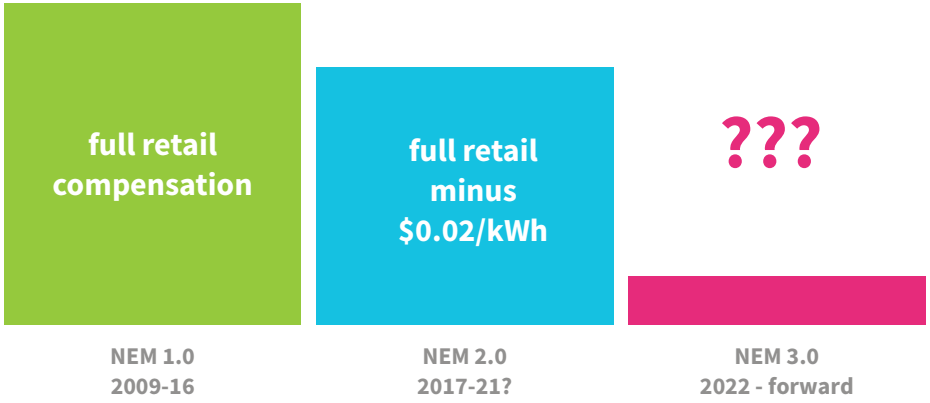
Financial Assumptions

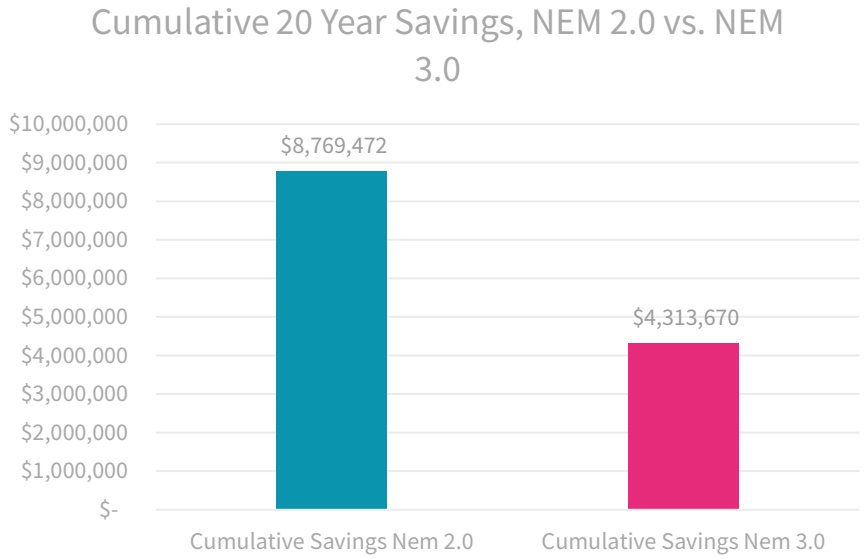
Parameter	*Value*
Year 1 PPA Rate ($/kWh)	$0.0977
PPA Rate Escalator (%/yr)	0.0%
Utility Energy Escalator (%/yr)	2.7%
Utility Demand Escalator (%/yr)	5.0%
PPA Term (Years)	20
Discount Rate (%)	5.0%
Solar Degradation Rate (%)	0.50%

Year	PPA Rate ($/KWH)	KWH Generated	Historic Utility Bill (without solar)	PPA Payment	New Utility Bill (with solar)	Total Electricity Costs (PPA + Utility)	Net Savings	Cumulative Savings
1	0.0977	4,009,703	977,865	391,831	379,811	771,642	206,223	206,223
2	0.0977	3,989,654	1,010,729	389,872	395,908	785,780	224,950	431,173
3	0.0977	3,969,706	1,044,804	387,922	412,732	800,654	244,150	675,323
4	0.0977	3,949,858	1,080,138	385,983	430,316	816,299	263,839	939,162
5	0.0977	3,930,108	1,116,782	384,053	448,698	832,751	284,032	1,223,194
6	0.0977	3,910,458	1,154,790	382,133	467,914	850,046	304,744	1,527,937
7	0.0977	3,890,906	1,194,217	380,222	488,004	868,226	325,991	1,853,929
8	0.0977	3,871,451	1,235,120	378,321	509,009	887,330	347,791	2,201,719
9	0.0977	3,852,094	1,277,561	376,429	530,973	907,402	370,160	2,571,879
10	0.0977	3,832,833	1,321,603	374,547	553,940	928,487	393,115	2,964,994
11	0.0977	3,813,669	1,367,311	372,674	577,960	950,634	416,677	3,381,671
12	0.0977	3,794,601	1,414,754	370,811	603,081	973,892	440,862	3,822,533
13	0.0977	3,775,628	1,464,005	368,957	629,356	998,313	465,692	4,288,225
14	0.0977	3,756,750	1,515,137	367,112	656,840	1,023,952	491,185	4,779,410
15	0.0977	3,737,966	1,568,231	365,276	685,591	1,050,868	517,364	5,296,774
16	0.0977	3,719,276	1,623,368	363,450	715,669	1,079,119	544,249	5,841,022
17	0.0977	3,700,680	1,680,633	361,633	747,137	1,108,770	571,862	6,412,885
18	0.0977	3,682,176	1,740,115	359,825	780,063	1,139,887	600,228	7,013,113
19	0.0977	3,663,765	1,801,910	358,026	814,515	1,172,540	629,369	7,642,482
20	0.0977	3,645,447	1,866,113	356,235	850,566	1,206,802	659,311	8,301,793
Total		**76,496,729**	**$27,455,186**	**$7,475,311**	**$11,678,083**	**$19,153,393**	**$8,301,793**	**$8,301,793**

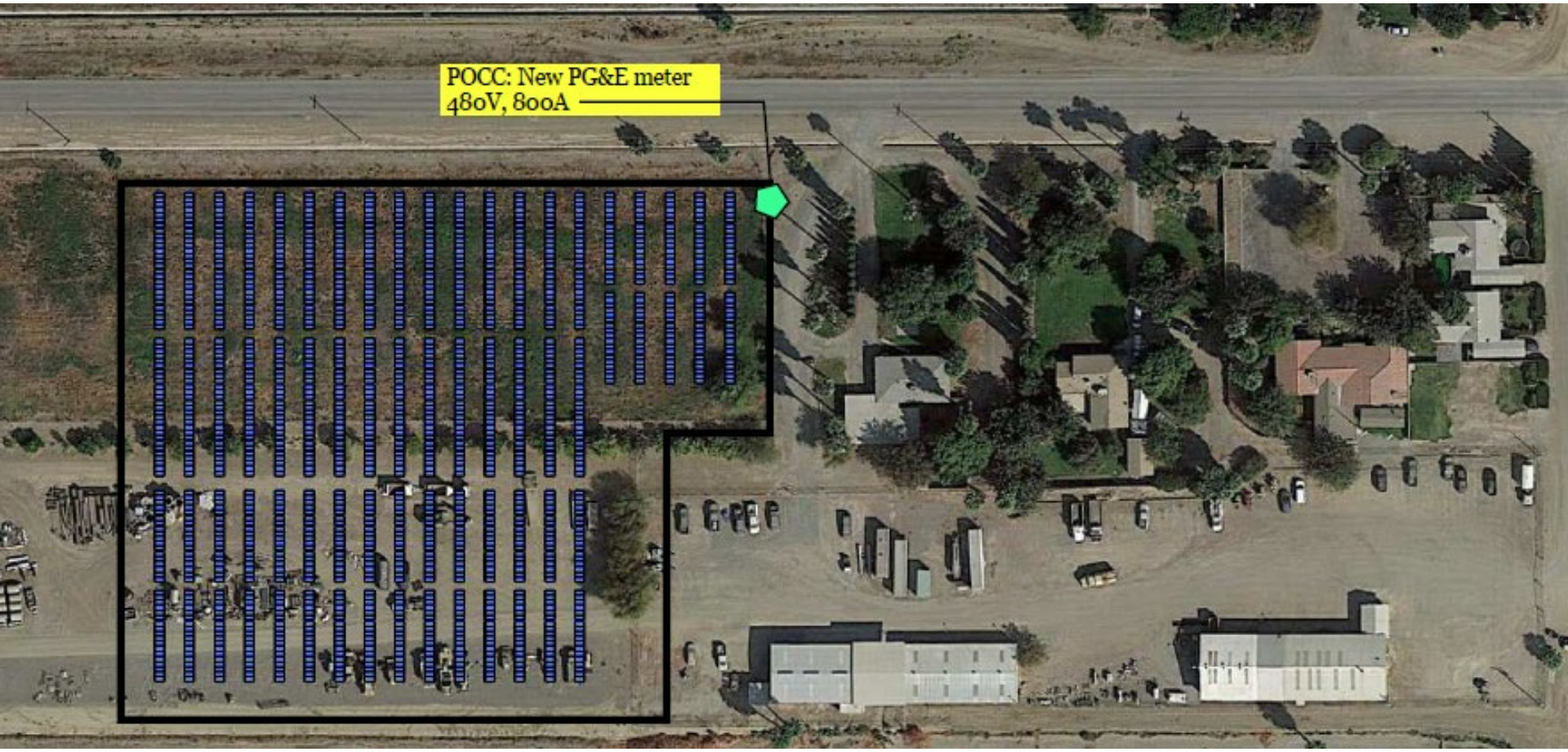
Solar Challenges NEM 3.0

- **Net Energy Metering**
  - CPUC decides NEM 3.0 sometime in 2022
  - Lowers value of exported energy.
  - Get Legacy NEM 2.0
    - Submit IX Applications NOW
    - Build Systems After
    - 20 Years of Compensation
- **Impact:**
  - $8.8 M savings under NEM 2.0 vs. $4.3M under NEM 3.0
  - Assumes NEM 3.0 as currently proposed by PUC

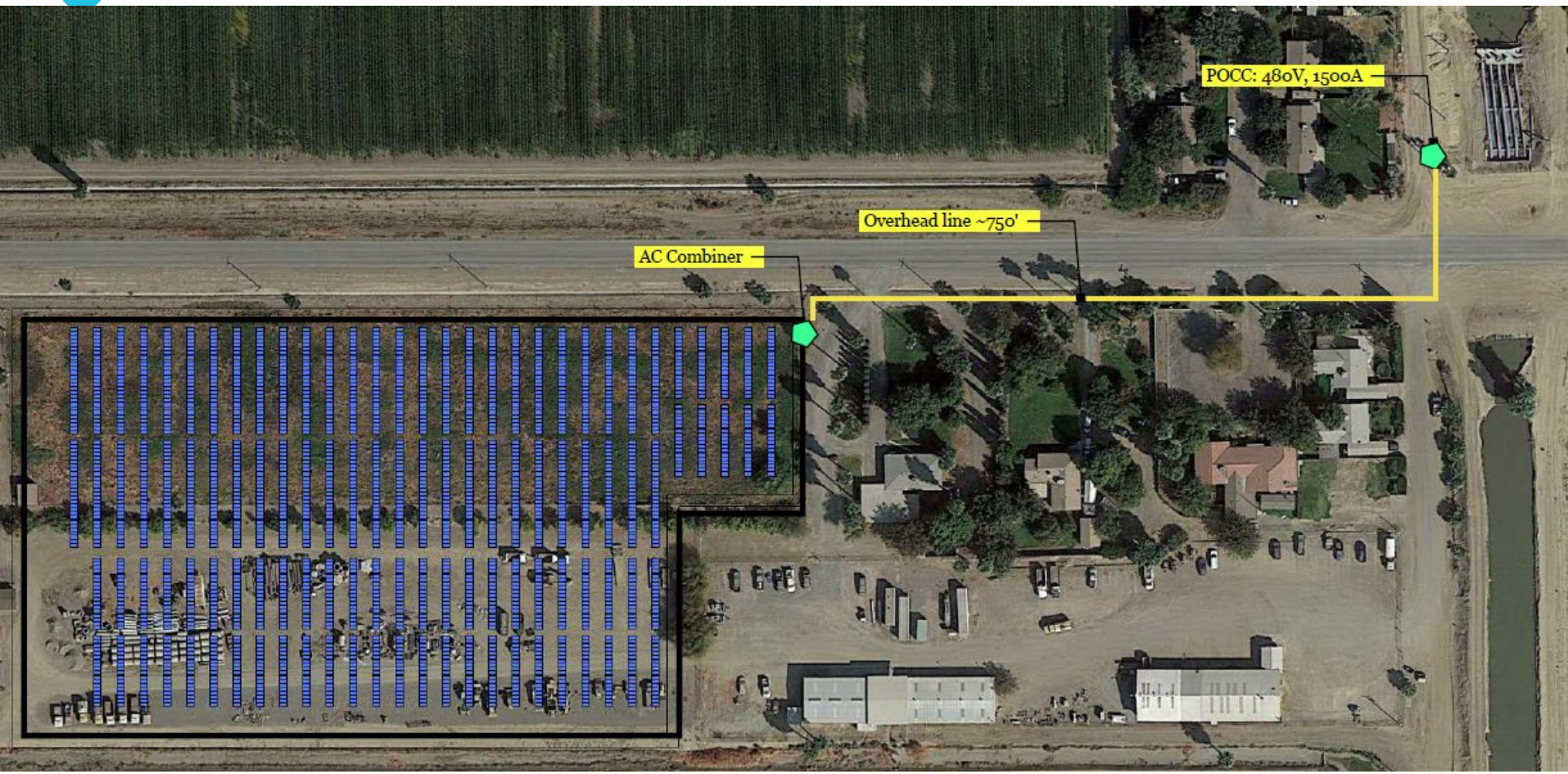




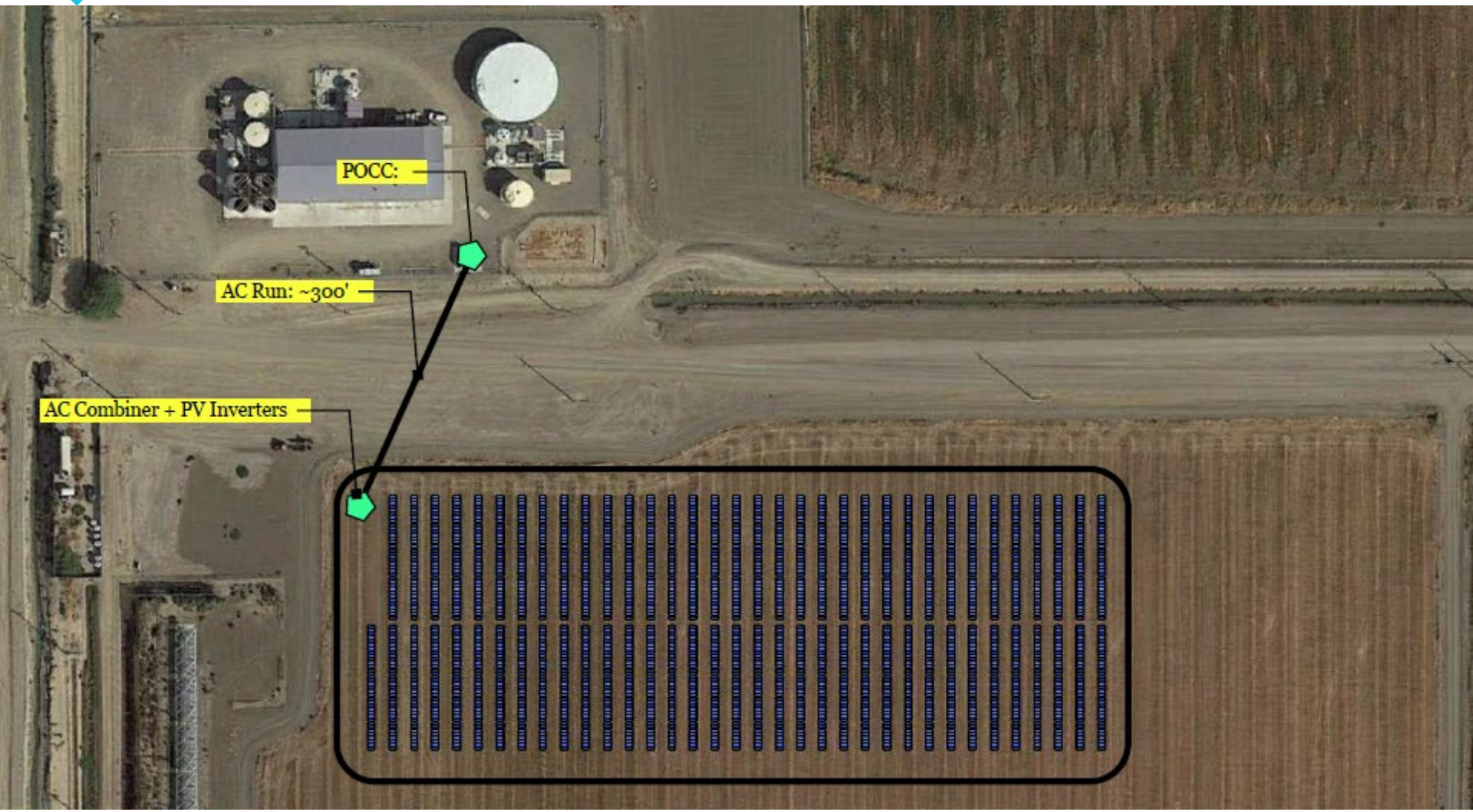
Panoche WD Office Lot SAT-665 kW DC



Panoche WD Office Lot SAT-1080 kW



San Joaquin River Drainage SAT – 1080 kW DC



PANOCHE WATER DISTRICT MEETING MINUTES
REGULAR MEETING OF THE BOARD OF DIRECTORS
May 11, 2021, at 9:00 A.M.

A regular meeting of the Board of Directors was held in accordance with Governor Newsom's Executive Orders N-25-20 and N-29-20 issued in response to the COVID-19 Pandemic, which allows local and state legislative bodies to hold meetings by web and teleconference, and to make meetings accessible to the public electronically. Those present at the meeting were:

Directors Present:	John Bennett, President Sue Redfern-West, Vice-President Mike Stearns, Secretary Michael Linneman, Director Ross Koda, Director
Directors Absent:	None
District Staff Present:	Ara Azhderian, General Manager Juan Cadena, Water Resources Manager John Paul Otollo, Treasurer & Controller Lorena Chagoya, Ethics & Compliance Officer Sandra Reyes, Watermaster
Others Present:	Philip Williams, General Counsel Diane Rathmann, Of Counsel Jonathan Guz, Bond Counsel Robert Porr, Municipal Financing Advisor Lora Carpenter, Municipal Financing Advisor Erik Helgeson, Proposition 218 Project Manager Gabriela Munoz, Grassland Basin Authority Wayne Western, Hammonds Ranches Bill Diedrich Beau Correia, KB Family Farm Steve Smith, Turlock Fruit Aaron Barcellos, A-Bar Ag Enterprises Stacey Olivera, Hammonds Ranch Roman Etcheveste Audry Arnao, WestWater Research Richard Hector

ANNOUNCEMENT PURSUANT TO GOVERNMENT CODE SECTION 54952.3

Pursuant to the Brown Act, President Bennett announced that Directors do not receive compensation or a stipend for simultaneous or serial order meetings of Panoche Water District, Panoche Drainage District, Panoche Financing Authority, and/or the Panoche Resource Conservation District.

CALL TO ORDER

President Bennett called the regular meeting to order at 9:03 a.m.

DRAFT

REVIEW OF AGENDA

There were no changes to the Agenda.

ROLL CALL

A quorum of the Board and presence of the District's Officers were confirmed.

POTENTIAL CONFLICTS OF INTEREST

No conflicts were reported.

PUBLIC COMMENT

There was no public comment.

2nd PROPOSITION 218 GROWERS' WORKSHOP

General Manager Azhderian presented the 2021 Assessment Election presentation to the Board and public. He reviewed why the special benefits election was occurring now, the Proposition 218 election process, provided a review of the ballots, and explained what the vote was for and the anticipated results if the election passed or failed, including a comparison between Central Valley Project cost collected through the CVP water rate versus a potential land-based assessment. He also reviewed the rational for proposing approval of Modernization Projects, noting the District's infrastructure was aged and ill-suited for meeting today's "just-in-time" water delivery demands, which results in higher operations and maintenance costs. Lastly, Azhderian responded to questions from the Board and public.

DIVISION REPORTS

A. Water Resources Manager, Juan Cadena reported on water deliveries and maintenance activities. Of note, he reported the T-Canal was being dredged to deepen and cool the water to minimize weed growth and reduce herbicide consumption by an estimated 20%. In the Drainage District, Cadena reported the Buick and Millux drains were being dredged and spoils previously dredged were being disked and leveled.

B. Controller, JP Otollo reported accounting staff were working on finalizing the 2021 fiscal year-end close-out activities, performing cost analyses, finalizing the 2021-22 Water District fiscal-year budget, processing monthly water usage billings, and supporting the Proposition 218 process. Of note, he reported the financial audit of the Drainage District for the fiscal-year ending 2020 had been completed.

C. Ethics & Compliance Officer, Lorena Chagoya reported that there had been no liability, worker's compensation, nor COVID-19 cases for the month of April. She also said there had been no reports made on the District's Speak-Up Hotline; however, there was one internal case being addressed. She said that various job specific safety trainings had been completed or scheduled. Lastly, Chagoya said the annual Ethics & Compliance training for all employees and Board members had been scheduled for the end of May and that the District's ethics and compliance consultants, Anne Harris and Amy McDougal, would be assisting in preparing and presenting the trainings.

CONSENT CALENDAR

General Manager Azhderian presented the Board with the Consent Calendar items, including the monthly financial statements for the period ending April 30, 2021, and the Director's Monthly Credit Card Usage Report. After consideration, on a motion by Director Linneman, seconded by Director Stearns, the Board unanimously accepted the Consent Calendar as presented.

DRAFT

The vote on the matter was as follows:

Ayes:	Bennett, Redfern-West, Stearns, Linneman, Koda
Nays:	None
Abstain:	None
Absent:	None

THE BOARD TO REVIEW AND CONSIDER APPROVING A REQUEST FROM TURLOCK FRUIT COMPANY TO TRANSFER 100 ACRE-FEET TO SAN LUIS WATER DISTRICT

General Manager Azhderian requested the Board consider a transfer request made by Turlock Fruit Company. He explained that Turlock Fruit was expected to transfer significantly more water into the District than it was requesting to transfer out and that they currently had needs in San Luis to irrigate their cherry orchard. Azhderian also stated it was the District's policy to collect the Operations & Maintenance rate so as to avoid redirected financial impact to other District growers. After consideration, on a motion by Director Stearns, seconded by Director Redfern-West, the Board unanimously approved the request to transfer and collection of the O&M rate.

The vote on the matter was as follows:

Ayes:	Bennett, Redfern-West, Stearns, Linneman, Koda
Nays:	None
Abstain:	None
Absent:	None

THE BOARD TO REVIEW AND CONSIDER AUTHORIZING EXECUTION OF A WATER TRANSFER AGREEMENT WITH THE SAN JOAQUIN RIVER EXCHANGE CONTRACTORS WATER AUTHORITY

General Manager Azhderian presented the Board the draft transfer agreement. He explained that the District had been working with the Exchange Contractors to acquire up-to 629 acre-feet of water that had been previously stored in Rosedale-Rio Bravo Water Storage District and that the water was being made available at a cost of approximately $820 per acre-foot in the O'Neill Forebay. Azhderian noted San Luis & Delta-Mendota Water Authority conveyance costs and the District's Operations & Maintenance rate would be in addition to the purchase price but that given the water supply and resultant market conditions, the supply and cost were both beneficial to the District's growers. After consideration, on a motion by Director Stearns, seconded by Director Linneman, the Board unanimously authorized execution of the transfer agreement as presented.

The vote on the matter was as follows:

Ayes:	Bennett, Redfern-West, Stearns, Linneman, Koda
Nays:	None
Abstain:	None
Absent:	None

THE BOARD TO REVIEW AND CONSIDER ACCEPTING THE TREASURER'S QUARTERLY INVESTMENT REPORT FOR THE PERIOD ENDING MARCH 31, 2020

Treasurer Otollo presented the Board with the Quarterly Investment Report. He explained the majority of District funds were invested in the State of California Local Agency Investment Fund and that the balance was deposited in Federal Deposit Insurance Corporation insured accounts with Mechanics Bank. Otollo stated the District's financial portfolio was in compliance with the its Statement of Investment Policy and that the District is expected to meet its expenditure requirements for the next six

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months based on projected revenue from water sales and reimbursements from other agencies for services rendered. After consideration, on a motion by Director Stearns, seconded by Director Linneman, the Board unanimously accepted the Treasurer's Report as presented.

The vote on the matter was as follows:

Ayes:	Bennett, Redfern-West, Stearns, Linneman, Koda
Nays:	None
Abstain:	None
Absent:	None

THE BOARD TO REVIEW AND CONSIDER ADOPTING A BUDGET AND OPERATIONS & MAINTENANCE RATE FOR THE 2021-22 FISCAL-YEAR

General Manager Azhderian presented the Board the proposed budget for the fiscal-year ending February 28, 2022. He and Controller Otollo reviewed the budget in detail. Azhderian explained that while the total proposed budget presented about a 30% reduction from the previous year, the proposed Operations & Maintenance rate presented about a 4% increase due to the projected reduction in water deliveries during the fiscal-year due to the drought related water supply shortage. After consideration, on a motion by Director Redfern-West, seconded by Director Stearns, the Board unanimously approved the proposed budget and O&M rate as presented.

The vote on the matter was as follows:

Ayes:	Bennett, Redfern-West, Stearns, Linneman, Koda
Nays:	None
Abstain:	None
Absent:	None

THE BOARD TO REVIEW AND CONSIDER APPROVING PAYMENT OF BILLS

Controller Otollo presented the Board with the District's accounts payable. After consideration, on a motion by Director Stearns, seconded by Director Linneman, the Board unanimously approved payment of the bills.

The vote on the matter was as follows:

Ayes:	Bennett, Redfern-West, Stearns, Linneman, Koda
Nays:	None
Abstain:	None
Absent:	None

CONTROLLER'S REPORT

Controller Otollo reviewed the District's revenue and expense report with the Board for the month ending April 30, 2021.

REPORTS UNDER DISTRICT POLICIES

General Manager Azhderian updated the Board on the District's COVID-19 management efforts, and reported on staff participation in other Brown Act meetings including the San Luis & Delta-Mendota Water Authority, Central Delta-Mendota Subbasin Groundwater Sustainability Agency, and the Grassland Basin Authority.

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GENERAL MANAGER'S REPORT

General Manager Azhderian reviewed the District's Water Accounting Report for April, the Project Operations Report and water supply forecasts prepared by Westlands Water District, and the District's water supply and water quality monitoring reports.

CLOSED SESSION

General Counsel Williams announced that the Panoche Water District's Board would meet in closed session for a conference with legal counsel to discuss those items listed on the Agenda pursuant to Government Code Section 54956.9, Subdivision (d), Paragraphs (2) or (3).

At approximately 10:39 a.m., President Bennett called the closed session to order.

At approximately 11:14 a.m., President Bennett adjourned the closed session.

CLOSED SESSION REPORT

General Counsel Williams reported the Board met with legal counsel in closed session and took no reportable action.

JOINT CLOSED SESSION

General Counsel Williams announced that the Panoche Water and Drainage Districts Boards would meet jointly in closed session for a conference with legal counsel on anticipated litigation pursuant to Government Code Section 54956.9, Subdivision (d), Paragraphs (1), (2), or (3).

At approximately 11:15 a.m., President Bennett called the joint closed session to order.

At approximately 11:58 a.m., President Bennett adjourned the joint closed session.

JOINT CLOSED SESSION REPORT

General Counsel Williams reported the Boards met jointly with legal counsel in closed session and took no reportable action.

REPORTS ON OTHER ITEMS PURSUANT TO GOVERNMENT CODE SECTION 54954.2(a)(3)

There was no report on other items.

FUTURE MEETING DATES

The next regular meeting of the Board was scheduled for June 8, 2021, at 9:00 a.m.

ADJOURNMENT

With no further business on the agenda, President Bennett adjourned the meeting at 12:00 p.m.

_____ _____

John Bennett, President Mike Stearns, Secretary

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PANOCHE WATER DISTRICT MEETING MINUTES
SPECIAL MEETING OF THE BOARD OF DIRECTORS
February 22, 2022, at 9:00 A.M.

A special meeting of the Board of Directors was held in accordance with District Resolution 800-22 proclaiming a local emergency due to the COVID-19 pandemic and authorizing the District's legislative body to hold meetings by web and teleconference, and to make meetings accessible to the public electronically, pursuant to Assembly Bill 361. Those present at the meeting were:

Directors Present:	John Bennett, President Aaron Barcellos, Vice-President Mike Stearns, Secretary Steve Fausone, Director Beau Correia, Director
Directors Absent:	None
District Staff Present:	Ara Azhderian, General Manager
Others Present:	Philip Williams, General Counsel Palmer McCoy, Grassland Basin Authority

ANNOUNCEMENT PURSUANT TO GOVERNMENT CODE SECTION 54952.3

Pursuant to the Brown Act, President Bennett announced that Directors do not receive compensation or a stipend for simultaneous or serial order meetings of Panoche Water District, Panoche Drainage District, Panoche Financing Authority, and/or the Panoche Resource Conservation District.

CALL TO ORDER

President Bennett called the regular meeting to order at 9:30 a.m.

REVIEW OF AGENDA

There were no changes to the Agenda.

ROLL CALL

A quorum of the Board and presence of the District's Officers were confirmed.

POTENTIAL CONFLICTS OF INTEREST

No conflicts were reported.

PUBLIC COMMENT

General Manager Azhderian reported that the hearing originally scheduled for February 22nd to hear public comment on whether or not to enter into an energy service contract with ForeFront Power, LLC., had been postponed to March 8th to provide additional time to update the proposal to reflect new information discovered during a recent site visit regarding Pacific Gas & Electric's equipment.

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PANOCHE WATER & DRAINAGE DISTRICTS' JOINT CLOSED SESSION

General Counsel Williams announced that the Panoche Water and Drainage Districts Boards would meet jointly in closed session for a conference with legal counsel on anticipated litigation pursuant to Government Code Section 54956.9, Subdivision (d), Paragraphs (1), (2), or (3).

At approximately 9:30 a.m., President Bennett called the joint closed session to order.

At approximately 10:45 a.m., President Bennett adjourned the joint closed session.

JOINT CLOSED SESSION REPORT

General Counsel Williams reported the Boards met jointly with legal counsel in closed session and took no reportable action.

PANOCHE WATER DISTRICT ONLY CLOSED SESSION

General Counsel Williams reported there was no need for a Water District only closed session.

THE BOARD TO REVIEW AND CONSIDER A RESOLUTION DESIGNATING DISTRICT REPRESENTATIVES TO SERVE ON THE CENTRAL DELTA-MENDOTA REGION MANAGEMENT COMMITTEE

General Manager Azhderian reported that as the Central Delta-Mendota Region SGMA Management Committee was a separate, though related, governance body from the Central Delta-Mendota Groundwater Sustainability Agency's Board of Directors, and, as such, the Committee had requested the Panoche Board take formal action to designate representatives. Azhderian recommended that, given the similar nature of issues considered by the two governance bodies and that the Panoche Board had previously designated Messrs. Mike Stearns and Steve Fausone to serve on the Agency's Board, that they also be named to serve on the Committee. After consideration, on a motion by Director Barcellos, seconded by Director Fausone, the Board unanimously accepted the recommendation.

The vote on the matter was as follows:

Ayes:	Bennett, Barcellos, Stearns, Fausone, Correia
Nays:	None
Abstain:	None
Absent:	None

THE BOARD TO REVIEW AND CONSIDER ACCEPTING THE TREASURER'S QUARTERLY INVESTMENT REPORT FOR THE PERIOD ENDING DECEMBER 31, 2021

General Manager Azhderian presented the Board the Treasurer's Report. He reported on the status of the District's idle funds and stated that the District's financial portfolio was in compliance with its Statement of Investment Policy. Lastly, he said it is expected the District will be able to meet its expenditure requirements for the next six months based on projected revenue from water sales, 2021 Bond assessment receipts, and reimbursements for services from other agencies. After consideration, on a motion by Director Stearns, seconded by Director Fausone, the Board unanimously accepted the Treasurer's Report.

The vote on the matter was as follows:

Ayes:	Bennett, Barcellos, Stearns, Fausone, Correia
Nays:	None
Abstain:	None
Absent:	None

DRAFT

THE BOARD TO REVIEW AND CONSIDER AMENDING THE 2021-22 FISCAL-YEAR BUDGET

General Manager Azhderian reported that after consulting with the District's accountants, he was recommending action to amend the 2021-22 fiscal-year budget be tabled until a later date to allow for other anticipated line-item adjustments to be accounted for during the year-end close out process. After consideration, the item was tabled and no further action was taken on the matter.

THE BOARD TO REVIEW AND CONSIDER ADOPTING A 2022-23 FISCAL-YEAR BUDGET

General Manager Azhderian presented the Board with the initial proposed budget for the fiscal-year ending February 28, 2023. He explained that given the uncertainty about water supply and deliveries, the budget would likely need to be reviewed in the early summer after the impacts of the remaining winter, and state and federal regulatory actions affecting Central Valley Project operations and potential transfers, were clearer. Azhderian reviewed the proposed budget with the Board, noting that anticipated reductions in pump and equipment repairs were significant contributors to the 11 percent reduction in operations and maintenance costs, reflecting the substantial work done in these areas in the previous calendar year. After consideration, on a motion by Director Stearns, seconded by Director Fausone, the Board unanimously adopted the proposed 2022-23 fiscal-year budget as presented.

The vote on the matter was as follows:

Ayes:	Bennett, Barcellos, Stearns, Fausone, Correia
Nays:	None
Abstain:	None
Absent:	None

THE BOARD TO REVIEW AND CONSIDER APPROVING A HARDSHIP REQUEST FROM TURLOCK FRUIT TO TRANSFER 150 ACRE-FEET TO WESTLANDS WATER DISTRICT

General Manager Azhderian recommended the Board approve a request from Turlock Fruit to transfer water to Westlands Water District. He noted that Turlock Fruit was a net importer of water into the District and that the District's O&M rate would be billed on the transfer; therefore, there would be no redirected water supply or financial impacts to any other growers in the District. After consideration, on a motion by Director Stearns, seconded by Director Fausone, the Board unanimously approved the request to transfer.

The vote on the matter was as follows:

Ayes:	Bennett, Barcellos, Stearns, Fausone, Correia
Nays:	None
Abstain:	None
Absent:	None

THE BOARD TO REVIEW AND CONSIDER ADOPTING A REVISED EMPLOYEES' HANDBOOK

General Manager Azhderian presented the Board the draft revised Employee Handbook. He explained the revisions were prepared by District staff and counsel to incorporate previous policy changes that were made to specific Handbook sections and to reflect changes in law since the last revision. After consideration, on a motion by Director Fausone, seconded by Director Correia, the Board unanimously adopted the revised Handbook and recommended staff prepare a package to include policies referenced in the Handbook for presentation to employees so that they may have all of the referenced information in one place.

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The vote on the matter was as follows:

Ayes:	Bennett, Barcellos, Stearns, Fausone, Correia
Nays:	None
Abstain:	None
Absent:	None

FUTURE MEETING DATES

The next regular meeting of the Board was scheduled for March 8, 2022, at 9:00 a.m.

ADJOURNMENT

With no further business on the agenda, President Bennett adjourned the meeting at 11:38 a.m.

_____ _____

John Bennett, President Steve Fausone, Secretary

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PANOCHE WATER DISTRICT
TREASURER'S MONTHLY FINANCIAL REPORT
BALANCE SHEET-CURRENT ASSETS & LIABILITIES

	February 28, 2022	January 31, 2022
CURRENT LIABILITIES		
ACCOUNTS PAYABLE	$59,819	$265,742
PREPAYMENTS/CREDIT ACCOUNTS	$403	$403
TOTAL CURRENT LIABILITIES	**$60,222**	**$266,145**
CASH AND INVESTMENT ACCOUNTS		
O&M CHECKING	$155,175	$31,065
PAYROLL CHECKING	$28,911	$54,700
CONTRACTUAL OBLIGATION FUND MONEY MARKET	$346,609	$5,070
LAIF	$3,973,257	$4,873,257
2021A REVENUE BONDS - LAIF RESTRICTED	$1,167,888	$1,167,888
TOTAL CASH AND INVESTMENTS	**$5,671,841**	**$6,131,980**
ACCOUNTS RECEIVABLES		
WATER	$342,665	$91,108
GROUNDWATER MANAGEMENT FEE	$2,656	$8,847
DELINQUENT ACCOUNT CHARGES	$475	$568
OTHER	$116,240	$116,449
GBA NOTE RECEIVABLE	$0	$16,796
PDD NOTE RECEIVABLE	$0	$11,709
CASH ADVANCE - PROP 84	$460,000	$460,000
TOTAL ACCOUNTS RECEIVABLES	**$922,035**	**$705,477**
TOTAL CURRENT ASSETS	**$6,593,877**	**$6,837,457**
NET CURRENT ASSETS (NET CASH POSITION)	**$6,533,654**	**$6,571,312**

General Ledger Detail Report
Summary Report for Period 12 Ending 2/28/2022

PANOCHE WATER DISTRICT (PWD)

Account Number/Description	Beginning Balance	Debit	Credit	Net Change	Ending Balance
13112-000					
MECHANIC CKNG #******8566	61,219.80	2,206,822.96	2,112,867.30	93,955.66	155,175.46
13412-000					
MECHANIC PR#******7895	27,398.19	151,599.41	150,086.42	1,512.99	28,911.18
13465-000					
2021A REVENUE BONDS - LAIF	1,167,888.30	0.00	0.00	0.00	1,167,888.30
13470-000					
CONTRACTUAL OBLIGTION FUND #9745	5,070.10	1,472,216.83	1,130,677.74	341,539.09	346,609.19
13520-000					
LOCAL AGENCY INVESTMENT FD	4,873,256.98	0.00	900,000.00	900,000.00-	3,973,256.98
Report Total:	6,134,833.37	3,830,639.20	4,293,631.46	462,992.26-	5,671,841.11

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Santa Maria, CA 93456-6010
800.797.6324
www.mechanicsbank.com

RETURN SERVICE REQUESTED

PANOCHE WATER DISTRICT
O & M ACCOUNT
52027 W ALTHEA AVE
FIREBAUGH CA 93622-9401

Statement Ending 02/28/2022

Managing Your Accounts

	Client Services	800.797.6324
	Online	www.mechanicsbank.com
	Mobile	Download Our Mobile Apps

LIMITED TIME OFFER[1]

2.99% APR[2]

Prime +1%, years 2-5[2]

EQUIPMENT FINANCING

Great rates for the equipment you need

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1) Offer is effective as of 10/1/2021 and is subject to change or cancellation without notice. See banker for details. 2) First year interest rate will have a promo of 2.99%. Years 2 – 5 will have an interest rate at Prime + 1% fixed at signing. As of 10/8/21, the Prime Rate is 3.25%. Pricing subject to change. Prepayment penalty in the first 2 years. Prime Rate is defined as "the Prime Rate as published daily in the Money Rates section of the Wall Street Journal." Offer is for new 5-year term loan up to $250,000 on new equipment only and does not apply to the refinance of existing loans.

Summary of Accounts

Account Type	Account Number	Ending Balance
PUBLIC CHECKING	XXXXXXXX8566	$320,922.53

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PUBLIC CHECKING-XXXXXXXX8566

Account Summary

Date	Description	Amount
02/01/2022	**Beginning Balance**	**$105,580.58**
	13 Credit(s) This Period	$2,173,868.63
	81 Debit(s) This Period	$1,958,526.68
02/28/2022	**Ending Balance**	**$320,922.53**

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PANOCHE WATER DISTRICT
PAYROLL ACCOUNT
52027 W ALTHEA AVE
FIREBAUGH CA 93622-9401

Statement Ending 02/28/2022

Managing Your Accounts

	Client Services	800.797.6324
	Online	www.mechanicsbank.com
	Mobile	Download Our Mobile Apps

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Prime +1%, years 2-5[2]

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1) Offer is effective as of 10/1/2021 and is subject to change or cancellation without notice. See banker for details. 2) First year interest rate will have a promo of 2.99%. Years 2 – 5 will have an interest rate at Prime + 1% fixed at signing. As of 10/8/21, the Prime Rate is 3.25%. Pricing subject to change. Prepayment penalty in the first 2 years. Prime Rate is defined as "the Prime Rate as published daily in the Money Rates section of the Wall Street Journal." Offer is for new 5-year term loan up to $250,000 on new equipment only and does not apply to the refinance of existing loans.

Summary of Accounts

Account Type	Account Number	Ending Balance
PUBLIC CHECKING	XXXXXXXX7895	$31,317.49

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PUBLIC CHECKING-XXXXXXXX7895

Account Summary

Date	Description	Amount
02/01/2022	**Beginning Balance**	**$29,388.11**
	4 Credit(s) This Period	$151,568.18
	16 Debit(s) This Period	$149,638.80
02/28/2022	**Ending Balance**	**$31,317.49**

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RETURN SERVICE REQUESTED

PANOCHE WATER DISTRICT
CONTRACTUAL OBLIGATION FUND
52027 W ALTHEA AVE
FIREBAUGH CA 93622-9401

Statement Ending 02/28/2022

Managing Your Accounts

	Client Services	800.797.6324
	Online	www.mechanicsbank.com
	Mobile	Download Our Mobile Apps

LIMITED TIME OFFER[1]

2.99% APR[2]

Prime +1%, years 2-5[2]

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1) Offer is effective as of 10/1/2021 and is subject to change or cancellation without notice. See banker for details. 2) First year interest rate will have a promo of 2.99%. Years 2 – 5 will have an interest rate at Prime + 1% fixed at signing. As of 10/8/21, the Prime Rate is 3.25%. Pricing subject to change. Prepayment penalty in the first 2 years. Prime Rate is defined as "the Prime Rate as published daily in the Money Rates section of the Wall Street Journal." Offer is for new 5-year term loan up to $250,000 on new equipment only and does not apply to the refinance of existing loans.

The "Per Check Charge" defined on your statement represents a $15 charge for each check that exceeds the six check limitation on your account. Refer to Mechanics Bank's Account Agreement for additional information.

Summary of Accounts

Account Type	Account Number	Ending Balance
PUBLIC MONEY MARKET	XXXXXXXX9745	$346,609.19

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PANOCHE WATER DISTRICT
Account Receivable Report
Fiscal Year 03/01/2021 - 02/28/2022

Report Period 2/28/22 - 3/2/22

Report Date: 3/02/22

	Total	Water	Others
Receivable Balance as of February 28, 2022	$ 462,036	$ 345,796	$ 116,240
Billings:	$ 55	$ 55	$ -
Total Billings:	$ 55	$ 55	$ -
Payments Received:			
Payments Received:	$ 5,788	$ 5,788	$ -
Total Payments Received:	**$ 5,788**	**$ 5,788**	**$ -**
Receivable Balance as of March 02, 2022	$ 456,303	$ 340,063	$ 116,240
Outstanding Accounts:			
Total Current Accounts Receivables	$ 340,277	$ 337,633	$ 2,644
Delinquent Accounts Receivables	$ 116,027	$ 2,430	$ 113,597
	$ 456,303	**$ 340,063**	**$ 116,240**
Non Current Receivables - Prior Years	$ 4,857,200	$ 985,638	$ 3,871,562
		-	$ -

Steve Fausone

March 7, 2022

Review Period: 1/7/2022 – 2/4/2022

Statement and documentation made available: 2/22/2022

I have reviewed the credit card documentation for the Westamerica Bank VISA account ending in 8512.

Included in the packet were credit card statement detail and supporting documentation. Activity for this time period include charges from the following cardholders:

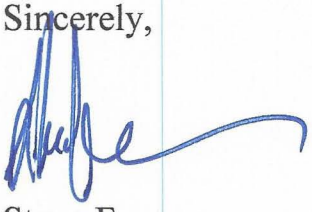
Mr. Ara Azhderian – General Manager

Mr. Juan Cadena – Director of Operations

Mr. John P. Otollo – Ex-Director of Finance and Administration. These charges are for UPS shipments and district email accounts. Changes have been made so future shipping and email charges will be made on Mr. Azhderian's credit card.

All charges reviewed appear to be valid district related expenses complete with supporting documents.

Sincerely,



Steve Fausone

MARCH 8, 2022, REGULAR BOARD MEETING
MEMORANDUM

TO: BOARD OF DIRECTORS

FROM: ARA AZHDERIAN, GENERAL MANAGER

SUBJECT: AGENDA ITEM 13
SELECTION OF DISTRICT OFFICERS

DATE: MARCH 3, 2022

CC: LORENA CHAGOYA, ETHICS & COMPLIANCE OFFICER

Recommendation: At the beginning of each new fiscal-year, the Board review and consider selection of District Officers.

Current District Officers:

President:	John Bennett
Vice-President:	Aaron Barcellos
Secretary:	Mike Stearns
Acting Treasurer:	Marlene Brazil

BACK

PANOCHE WATER DISTRICT
RESOLUTION NO. 802-22

A RESOLUTION AUTHORIZING EXECUTION OF AN ENERGY SERVICE CONTRACT WITH FOREFRONT POWER, LLC., AND MAKING CERTAIN FINDINGS OF EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, Panoche Water District (the "District") is a California water district established in 1953 with statutory authority pursuant to California Water District Law (Water Code sections 34000-38500) to provide water service to users spanning over 38,000 acres in the Central Valley of California. The District also has the power to perform all acts necessary or proper to carry out the purposes of the District (Water Code section 35400). The District is a multi-county district located on the west side of the San Joaquin Valley, spanning portions of Merced and Fresno Counties; and

WHEREAS**,** it is the policy of the State of California and the intent of the State Legislature to promote all feasible means of energy conservation and all feasible uses of alternative energy supply sources; and

WHEREAS**,** the District proposes to enter into power purchase agreements and related contract documents (collectively referred to as the "Agreement") with ForeFront Power, LLC ("ForeFront") for the financing, design, construction, operation, and maintenance of solar photovoltaic facilities to be constructed on the District's real property and, pursuant to the Agreement, ForeFront will arrange with the local utility for interconnection of said facilities;

WHEREAS**,** ForeFront has provided the District with analysis showing the financial and other benefits of entering into the Agreement, which analysis is attached hereto as Exhibit A and made part hereof by this reference; and

WHEREAS**,** Exhibit A includes data showing that the anticipated cost to the District for the electrical energy provided by the Agreement will be less than the anticipated cost to the District of electrical energy that would have been consumed by the District in the absence of such Agreement; and

WHEREAS**,** ForeFront was the selected vendor for School Project for Utility Rate Reduction's ("SPURR") Renewable Energy Aggregated Procurement ("REAP") Program, a competitive statewide solar request for proposals ("RFP") process, and the District adopts the REAP Program's competitive process as its own.

WHEREAS**,** the District proposes to enter into the Agreement, each in substantially the form and in the material terms presented at this meeting, subject to such changes, insertions or omissions as the General Manager reasonably deems necessary following the Board's adoption of this Resolution; and

WHEREAS**,** pursuant to Government Code section 4217.12, this Board held a public hearing, public notice of which was given two weeks in advance, to receive public comment; and

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WHEREAS, the District has reviewed the Agreement and the provisions of the California Environmental Quality Act and has considered whether any direct or indirect physical change to the environment will result from entering into the Agreement, has considered whether entering into the Agreement may possibly have a significant effect on the environment, and has considered whether there may be any cumulative impacts associated with the Agreement and whether entering the Agreement presents a reasonable possibility of a significant effect on the environment due to an unusual circumstance; and

WHEREAS, the Board of Directors believes entering the Agreement is necessary and proper for the District to acquire, plan, construct, maintain, improve, operate, and keep in repair the necessary District works for the production, storage, transmission, and distribution of water within the District for irrigation, domestic, and industrial purposes; and

WHEREAS, the Board of Directors has reviewed the Agreement and believes it is in the best interests of the District for the District to execute the Agreement.

NOW, THEREFORE, it is hereby resolved by the Board of Directors of the Panoche Water District that:

1. The Board of Directors of the Panoche Water District hereby finds and determines the above Recitals are true and correct and are incorporated herein by this reference.

2. In accordance with Government Code section 4217.12, and based on data provided by Exhibit A, the Board finds that the anticipated cost to the District for electrical energy provided by the Power Purchase Agreements will be less than the anticipated cost to the District of electrical energy that would have been consumed by the District in the absence of the Agreement.

3. The Agreement, as presented to the Board as Exhibit B and on file with the Secretary, is hereby approved in accordance with Government Code section 4217.12. Subject to Resolve Number 6 below, the District's President of the Board is hereby directed to execute the Agreement.

4. Executing the Agreement is subject to the "common sense" exemption from CEQA as provided in Title 14 of the California Code of Regulations section 15061, subd. (b)(3), because no possibility exists that entering into the Agreement could result in a significant impact to the environment. The Agreement will not change the type, intensity, or manner of services the District already provides, but will merely result in lower costs of electricity to the District. Executing the Agreement is further exempt from CEQA under Title 14 CCR section 15304 as it involves the minor alteration in the condition of land associated with the terms of the Agreement. Nor will there be any cumulative impact, as there are neither successive projects of the same type in the same place, over time, nor cumulative impacts of any kind associated with the project. Nor is there a reasonable possibility that the Agreement will have a significant effect on the environment due to unusual circumstances. The Agreement is further exempt from CEQA under Public Resources Code section 21080.35, which exempts the installation of solar energy systems on existing buildings or existing parking lots.

5. The District shall prepare and file the Notice of Exemption (Exhibit C) as provided for in Title 14 of the California Code of Regulations, Section 15062 (c)(2).

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6. The District's General Manager is hereby authorized and directed to negotiate any changes, insertions, and omissions to the Agreement as he reasonably deems necessary, and thereafter to execute and deliver the Agreement following the Board's adoption of this Resolution. The District's General Manager or his designee is further authorized and directed to execute and deliver any and all papers, instruments, opinions, certificates, affidavits, and other documents and to do or cause to be done any and all other acts and things necessary or proper for carrying out this resolution and said agreements.

PASSED AND ADOPTED this 8th day of March 2022, in a duly noticed and open meeting of the Board of Directors by the following vote, to wit:

Ayes:
Nays:
Abstain:
Absent:

BACK

_____
John Bennett, President

Attest: _____
Michael Stearns, Secretary

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CERTIFICATE OF SECRETARY
OF
PANOCHE WATER DISTRICT,
A California Water District

I, Michael Sterns, do hereby certify that I am the duly authorized and appointed Secretary of the Panoche Water District, a California Water District (the "District"); that the foregoing is a true and correct copy of that certain resolution duly and unanimously adopted and approved by the Board of Directors of the District on the 8th day of March 2022; and that said resolution has not been modified or rescinded and remains in full force and effect as the date hereof:

IN WITNESS WHEREOF, I have executed this Certificate on this _____ day of March 2022.

_____
Michael Stearns, Secretary

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Exhibit A
Analysis of the Financial Benefit of the Agreement

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Project Cashflows: Panoche WD - March '22

Rate Scenario	**NEM 2.0**
Solutions	**Solar Only**
Project	**Total**
Year 1 Savings	**$201,005**
Cumulative Savings	**$7,948,355**
Cumulative NPV Savings	**$4,736,735**
Payback Period	**Immediate**
Solar System Size (KW)	**1,746**
Storage System Size (KW)	**0**

Financial Assumptions

Parameter	*Value*
PPA Rate Escalator (%/yr)	0.0%
Utility Energy Escalator (%/yr)	2.7%
Utility Demand Escalator (%/yr)	5.0%
PPA Term (Years)	20
Discount Rate (%)	5.0%
Solar Degradation Rate (%)	0.50%

Year	Historic Utility Bill (without solar)	PPA Payment	New Utility Bill (with solar)	Total Electricity Costs (PPA + Utility)	Net Savings	Cumulative Savings
1	1,218,937	355,243	662,689	1,017,932	201,005	201,005
2	1,260,325	353,467	688,313	1,041,780	218,546	419,551
3	1,303,255	351,699	715,016	1,066,715	236,540	656,091
4	1,347,789	349,941	742,845	1,092,786	255,003	911,093
5	1,393,992	348,191	771,852	1,120,044	273,949	1,185,042
6	1,441,934	346,450	802,090	1,148,540	293,394	1,478,436
7	1,491,685	344,718	833,614	1,178,332	313,353	1,791,789
8	1,543,321	342,994	866,483	1,209,477	333,844	2,125,633
9	1,596,919	341,279	900,757	1,242,036	354,882	2,480,515
10	1,652,560	339,573	936,501	1,276,074	376,486	2,857,001
11	1,710,330	337,875	973,780	1,311,655	398,674	3,255,675
12	1,770,317	336,186	1,012,666	1,348,852	421,465	3,677,140
13	1,832,614	334,505	1,053,232	1,387,737	444,877	4,122,017
14	1,897,318	332,832	1,095,554	1,428,386	468,932	4,590,949
15	1,964,530	331,168	1,139,713	1,470,881	493,649	5,084,598
16	2,034,357	329,512	1,185,793	1,515,306	519,051	5,603,649
17	2,106,907	327,865	1,233,883	1,561,748	545,159	6,148,808
18	2,182,298	326,225	1,284,075	1,610,301	571,998	6,720,806
19	2,260,650	324,594	1,336,466	1,661,060	599,589	7,320,395
20	2,342,088	322,971	1,391,158	1,714,129	627,959	7,948,355
Total	**$34,352,127**	**$6,777,289**	**$19,626,484**	**$26,403,772**	**$7,948,355**	**$7,948,355**

Exhibit B
The Agreement

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CONFIDENTIAL AND PROPRIETARY

****

GENERAL TERMS AND CONDITIONS OF

ENERGY SERVICES AGREEMENT

These General Terms and Conditions of Energy Services Agreement are dated as of the ____ day of _____, 20____ and are witnessed and acknowledged by FFP BTM SOLAR, LLC, a Delaware limited liability company ("ForeFront Power") and Panoche Water District ("Purchaser"), as evidenced by their signature on the last page of this document. These General Terms and Conditions are intended to be incorporated by reference into Energy Services Agreements that may be entered into between ForeFront Power and Purchaser or between their respective Affiliates. These General Terms and Conditions shall have no binding effect upon ForeFront Power or Purchaser, respectively, except to the extent Purchaser or ForeFront Power (or an Affiliate thereof) becomes a party to an Energy Services Agreement that incorporates these General Terms and Conditions.

1. DEFINITIONS.

1.1 In addition to other terms specifically defined elsewhere in this Agreement, where capitalized, the following words and phrases shall be defined as follows:

"Affiliate" means, with respect to any specified Person, any other Person directly or indirectly controlling, controlled by or under common control with such specified Person.

"Agreement" means, the Energy Services Agreement.

"Applicable Law" means, with respect to any Person, any constitutional provision, law, statute, rule, regulation, ordinance, treaty, order, decree, judgment, decision, certificate, holding, injunction, registration, license, franchise, permit, authorization, guideline, Governmental Approval, consent or requirement of any Governmental Authority having jurisdiction over such Person or its property, enforceable at law or in equity, including the interpretation and administration thereof by such Governmental Authority.

"Assignment" has the meaning set forth in Section 13.1.

"Bankruptcy Event" means with respect to a Party, that either (i) such Party has (A) applied for or consented to the appointment of, or the taking of possession by, a receiver, custodian, trustee or liquidator of itself or of all or a substantial part of its property; (B) admitted in writing its inability, or be generally unable, to pay its debts as such debts become due; (C) made a general assignment for the benefit of its creditors; (D) commenced a voluntary case under any bankruptcy law; (E) filed a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding up, or composition or readjustment of debts; (F) taken any corporate or other action for the purpose of effecting any of the foregoing; or (ii) has a petition in bankruptcy filed against it, and such petition is not dismissed within ninety (90) days after the filing thereof.

"Business Day" means any day other than Saturday, Sunday or any other day on which banking institutions in New York, NY are required or authorized by Applicable Law to be closed for business.

"Commercial Operation" has the meaning set forth in Section 3.3(b).

"Commercial Operation Date" has the meaning set forth in Section 3.3(b).

"Confidential Information" has the meaning set forth in Section 15.1.

"Covenants, Conditions and Restrictions" or "CCR" means those requirements or limitations related to the Premises as may be set forth in a lease, if applicable, or by any association or other organization, having the authority to impose restrictions.

"Delay Liquidated Damages" means the daily payment of (i) $0.250/day/kW (DC) of the estimated nameplate capacity of the System (as set forth in Schedule 1 of the Special Conditions).

"Disruption Period" has the meaning set forth in Section 4.3.

"Early Termination Date" means any date on which this Agreement terminates other than by reason of expiration of the then applicable Term.

"Early Termination Fee" means the fee payable by Purchaser to Provider under the circumstances described in Section 2.2, Section 2.3 or Section 11.2.

"Effective Date" has the meaning set forth in the preamble to the Special Conditions.

"Energy Services" has the meaning set forth in the Special Conditions.

"Energy Services Agreement" means each Energy Services Agreement (including the Schedules attached thereto) that may be entered into between ForeFront Power and Purchaser or between their respective Affiliates that incorporates these General Terms and Conditions by reference.

"Energy Services Payment" has the meaning set forth in the Special Conditions.

"Environmental Attributes" shall mean, without limitation, carbon trading credits, renewable energy credits or certificates, emissions reduction credits, emissions allowances, green tags, tradable renewable credits, or Green-e® products.

"Environmental Documents" has the meaning set forth in Section 7.2(f).

"Environmental Law" means any and all federal, state, local, provincial and foreign, civil and criminal laws, statutes, ordinances, orders, common law, codes, rules, regulations, judgments, decrees, injunctions relating to the protection of health and the environment, worker health and safety, and/or governing the handling, use, generation, treatment, storage, transportation, disposal, manufacture, distribution, formulation, packaging, labeling, or release to the environment of or exposure to Hazardous Materials, including any such requirements implemented through Governmental Approvals.

"Estimated Remaining Payments" means as of any date, the estimated remaining Energy Services Payments to be made through the end of the then-applicable Term, as reasonably determined by Provider.

"Expiration Date" means the date on which this Agreement terminates by reason of expiration of the Term.

"Fair Market Value" means, with respect to any tangible asset or service, the price that would be negotiated in an arm's-length, free market transaction, for cash, between an informed, willing seller and an informed, willing buyer, neither of whom is under compulsion to complete the transaction. Fair Market Value of the System will be determined pursuant to Section 2.4.

"Financing Party" means, as applicable (i) any Person (or its agent) from whom Provider (or an Affiliate of Provider) leases the System, (ii) any Person (or its agent) who has made or will make a loan to or otherwise provides financing to Provider (or an Affiliate of Provider) with respect to the System, or (iii) any Person acquiring a direct or indirect interest in Provider or in Provider's interest in this Agreement or the System as a tax credit investor.

"Force Majeure Event" has the meaning set forth in Section 10.1.

"ForeFront Power" has the meaning set forth in the Preamble.

"General Terms and Conditions" means these General Terms and Conditions of the Energy Services Agreement, including all Exhibits hereto.

"Guaranteed Commercial Operation Date" has the meaning set forth in Section 5 of the Special Conditions, subject to extension as set forth in Section 2.2(b).

"Guaranteed Construction Start Date" has the meaning set forth in Section 5 of the Special Conditions, subject to extension as set forth in Section 2.2(b).

"Governmental Approval" means any approval, consent, franchise, permit, certificate, resolution, concession, license, or authorization issued by or on behalf of any applicable Governmental Authority, including any such approval, consent, order or binding agreements with or involving a governmental authority under Environmental Laws.

"Governmental Authority" means any federal, state, regional, county, town, city, or municipal government, whether domestic or foreign, or any department, agency, bureau, or other administrative, regulatory or judicial body of any such government.

"Hazardous Materials" means any hazardous or toxic material, substance or waste, including petroleum, petroleum hydrocarbons or petroleum products, and any other chemicals, materials, substances or wastes in any amount or concentration which are regulated under or for which liability can be imposed under any Environmental Law.

"Initial Term" has the meaning set forth in Section 2 of the Special Conditions.

"Installation Work" means the construction and installation of the System and the start-up, testing and acceptance (but not the operation and maintenance) thereof, all performed by or for Provider (by using one or more qualified contractors holding the appropriate licenses required in the jurisdiction where the System will be installed) at the Premises.

"Invoice Date" has the meaning set forth in Section 6.2.

"Liens" has the meaning set forth in Section 7.1(d).

"Local Electric Utility" means the local electric distribution owner and operator providing electric distribution and interconnection services to Purchaser at the Premises.

"Losses" means all losses, liabilities, claims, demands, suits, causes of action, judgments, awards, damages, cleanup and remedial obligations, interest, fines, fees, penalties, costs and expenses (including all attorneys' fees and other costs and expenses incurred in defending any such claims or other matters or in asserting or enforcing any indemnity obligation).

"Option Price" has the meaning set forth in Section 2.3(i).

"Party" or "Parties" has the meaning set forth in the preamble to the Special Conditions.

"Person" means an individual, partnership, corporation, limited liability company, business trust, joint stock company, trust, unincorporated association, joint venture, firm, or other entity, or a Governmental Authority.

"Pre-existing Environmental Conditions" means any: (i) violation of, breach of or non-compliance with any Environmental Laws with respect to the Premises that first existed, arose or occurred on or prior to Provider's commencement of construction at the Premises and (ii) the presence or release of, or exposure to, any Hazardous Materials at, to, on, in, under or from the Premises that first existed, arose or occurred on or prior to Provider's commencement of construction at the Premises.

"Premises" means the premises described in Schedule 1 of the Special Conditions. The Premises includes the entirety of any structures and underlying real property located at the address in Schedule 1 of the Special Conditions.

"Provider" has the meaning set forth in the Special Conditions.

"Provider Default" has the meaning set forth in Section 11.1(a).

"Provider Indemnified Parties" has the meaning set forth in Section 16.2.

"Purchase Date" means the first Business Day that occurs after the applicable purchase date set forth in Schedule 3 of the Special Conditions.

"Purchaser" has the meaning set forth in the preamble to the Special Conditions.

"Purchaser Default" has the meaning set forth in Section 11.2(a).

"Purchaser Indemnified Parties" has the meaning set forth in Section 16.1.

"Renewal Term" if applicable, has the meaning set forth in Section 2 of the Special Conditions.

"Representative" has the meaning set forth in Section 15.1.

"Security Interest" has the meaning set forth in Section 8.2(a).

"Site-Specific Requirements" means the site-specific information and requirements as may be set forth in Schedule 6 of the Special Conditions.

"Special Conditions" means each Energy Services Agreement, excluding these General Terms and Conditions.

"Stated Rate" means a rate per annum equal to the lesser of (a) the "prime rate" (as reported in The Wall Street Journal) plus two percent (2%) or (b) the maximum rate allowed by Applicable Law.

"System" has the meaning set forth in Schedule 1 of the Special Conditions.

"System-based Incentives" means any accelerated depreciation, installation or production-based incentives, investment tax credits and subsidies including, but not limited to, the subsidies in Schedule 1 of the Special Conditions and all other related subsidies and incentives.

"System Operations" means Provider's operation, maintenance and repair of the System performed by Provider or for Provider (by using one or more qualified contractors holding the appropriate licenses required in the jurisdiction where the System will be installed) in accordance with the requirements herein.

"Term" means the Initial Term, and the subsequent Renewal Term(s), if any.

"Term Year" means a twelve (12) month period beginning on the first day of the Term and each successive twelve (12) month period thereafter.

"Termination Date" means the date on which this Agreement ceases to be effective, including on an Early Termination Date or the Expiration Date.

"WREGIS" means the Western Renewable Energy Generation Information System.

1.2 Interpretation. The captions or headings in these General Terms and Conditions are strictly for convenience and shall not be considered in interpreting this Agreement. Words in this Agreement that impart the singular connotation shall be interpreted as plural, and words that impart the plural connotation shall be interpreted as singular, as the identity of the parties or objects referred to may require. The words "include", "includes", and "including" mean include, includes, and including "without limitation" and "without limitation by specification." The words "hereof", "herein", and "hereunder" and words of similar import refer to this Agreement as a whole and not to any particular provision of this Agreement. Except as the context otherwise indicates, all references to "Articles" and "Sections" refer to Articles and Sections of these General Terms and Conditions.

2. TERM AND TERMINATION.

2.1 Term. The Initial Term is as specified in the Special Conditions.

2.2 Early Termination.

(a) Purchaser may terminate this Agreement prior to any applicable Expiration Date for any reason upon sixty (60) days' prior written notice. If Purchaser terminates the Agreement prior to the Expiration Date of the Initial Term, Purchaser shall pay, as liquidated damages, the Early Termination Fee set forth on Schedule 3, Column 1 of the Special Conditions, and Provider shall cause the System to be disconnected and removed from the Premises in accordance with Section 2.4. Upon Purchaser's payment to Provider of the Early Termination Fee, this Agreement shall terminate automatically.

(b) Purchaser may (i) if Provider fails to commence construction by the Guaranteed Construction Start Date, be entitled (as its sole remedy) to Delay Liquidated Damages not to exceed $22.5/kW (DC) of the estimated nameplate capacity of the System (as set forth in Schedule 1 of the Special Conditions), (ii) terminate this Agreement with no liability whatsoever, including, but not limited to the Early Termination Fee, if Provider fails to commence construction of the System by the date that is ninety (90) days after the Guaranteed Construction Start Date, or (iii) if Provider fails to achieve Commercial Operation by the Guaranteed Commercial Operation Date, be entitled (as its sole remedy) to Delay Liquidated Damages not to exceed $15/kW (DC) of the estimated nameplate capacity of the System (as set forth in Schedule 1 of the Special Conditions), plus (if Installation Work had commenced at the Premises as of the date of termination) any costs reasonably incurred by Purchaser to return its Premises to its condition prior to commencement of the Installation Work. Further, Purchaser may terminate this Agreement with no liability whatsoever, including, but not limited to the Early Termination Fee, if Provider fails to commence Commercial Operation by the date that is sixty (60) days after the Guaranteed Commercial Operation Date. The Guaranteed Construction Start Date and Guaranteed Commercial Operation Date shall be extended on a day-for-day basis if any of the following occurs: (x) notwithstanding Provider's commercially reasonable efforts, interconnection approval is not obtained within sixty (60) days after the Effective Date, provided that interconnection applications are submitted within 45 days of the later of (a) the Effective Date and (b) finalization of the System layout, (y) a Force Majeure Event occurs or for any delays by the Local Electric Utility or (z) an occurrence of any other unforeseeable event outside of Provider's reasonable control, provided that Provider makes reasonable efforts to mitigate the impact of such events on the Guaranteed Construction Start Date or Guaranteed Commercial Operation Date (as applicable). Any such extension pursuant to subsection (z) shall be subject to the approval of Purchaser which shall not be unreasonably withheld, conditioned or delayed.

2.3 Purchase Option.

(i) On any Purchase Date, so long as a Purchaser Default shall not have occurred and be continuing, Purchaser has the option to purchase the System for a purchase price (the "Option Price") equal to the greater of (a) the Fair Market Value of the System as of the Purchase Date, or (b) the Early Termination Fee as of the Purchase Date, as specified in Schedule 3, Column 2 of the Special Conditions. To exercise its purchase option, Purchaser shall, not less than one hundred and eighty (180) days prior to the proposed Purchase Date, provide written notice to Provider of Purchaser's intent to exercise its option to purchase the System on such Purchase Date. Within thirty (30) days of receipt of Purchaser's notice, Provider shall specify the Option Price, and provide all calculations and assumptions supporting said Option Price to Purchaser. Purchaser shall then have a period of thirty (30) days after

notification to confirm or retract its decision to exercise the purchase option or, if the Option Price is equal to the Fair Market Value of the System, to dispute the determination of the Fair Market Value of the System. In the event Purchaser confirms its exercise of the purchase option in writing to Provider (whether before or after any determination of the Fair Market Value determined pursuant to Section 2.3(ii)), (i) the Parties shall promptly execute all documents necessary to (A) cause title to the System to pass to Purchaser on the Purchase Date, free and clear of any Liens, and (B) assign all vendor warranties for the System to Purchaser, and (ii) Purchaser shall pay the Option Price to Provider on the Purchase Date, such payment to be made in accordance with any previous written instructions delivered to Purchaser by Provider or Provider's Financing Party, as applicable, for payments under this Agreement. Upon execution of the documents and payment of the Option Price, in each case as described in the preceding sentence, this Agreement shall terminate automatically. Payment of the Option Price shall be in lieu of and instead of any payments as described in Section 2.2 hereof. In the event Purchaser retracts its exercise of, or does not timely confirm, the purchase option, the provisions of this Agreement shall be applicable as if Purchaser had not exercised any option to purchase the System.

(ii) Determination of Fair Market Value. If the Option Price indicated by Provider in accordance with Section 2.3(i) is equal to the Fair Market Value (as determined and demonstrated by supporting documentation provided by Provider) and Purchaser disputes such stated Fair Market Value within thirty (30) days of receipt of such notice from Provider, then the Parties shall mutually select an independent appraiser with experience and expertise in the Energy Services industry. Such appraiser shall have expertise and experience in valuing photovoltaic systems, resale markets for such systems and related environmental attributes, and shall act reasonably and in good faith to determine Fair Market Value and shall set forth such determination in a written opinion delivered to the Parties. The valuation made by the appraiser shall be binding upon the Parties in the absence of fraud or manifest error; however, if Purchaser in good faith disputes the valuation made by the appraiser, Purchaser shall have the right to retract its decision to exercise the Purchase Option. The costs of the appraisal shall be borne by Purchaser if such appraisal results in a value equal or greater than the value provided by Provider pursuant to Section 2.3(i); otherwise, the Parties shall equally share such cost.

2.4 Removal of System at Expiration. Subject to Purchaser's exercise of its purchase option under Section 2.3, upon the expiration or earlier termination of this Agreement, Provider shall, at Provider's expense, remove all of its tangible property comprising the System from the Premises on a mutually convenient date but in no case later than ninety (90) days after the Termination Date. The Premises shall be returned to its original condition, except for System mounting pads or other support structures on roof-mounted systems only, and ordinary wear and tear. If the System is to be located on a roof, then in no case shall Provider's removal of the System affect the integrity of Purchaser's roof, which shall be as leak proof as it was prior to removal of System (other than ordinary wear and tear). For purposes of Provider's removal of the System, Purchaser's covenants pursuant to Section 7.2 shall remain in effect until the date of actual removal of the System. Provider shall leave the Premises in neat and clean order. If Provider fails to remove or commence substantial efforts to remove the System by such agreed upon date, Purchaser shall have the right, at its option, to remove the System to a public warehouse and restore the Premises to its original condition (other than System mounting pads or other support structures and ordinary wear and tear) at Provider's reasonable cost.

2.5 Conditions Prior to the Commercial Operation Date.

(a) In the event that any of the following events or circumstances occur prior to the Commercial Operation Date, Provider may (at its sole discretion) provide notice that it is terminating this Agreement, in which case neither Party shall have any liability to the other except for any such liabilities that may have accrued prior to such termination, including but not limited to Provider's restoration of the Premises in accordance with Section 2.4:

(i) Provider determines that the Premises, as is, is insufficient to accommodate the System or unsuitable for construction or operation of the System.

(ii) There exist site conditions (including environmental conditions) or construction requirements that were not known as of the Effective Date and that could reasonably be expected to materially increase the cost of Installation Work or would adversely affect the electricity production from the System as designed.

(iii) There is a material adverse change in the regulatory environment, incentive program or federal or state tax code (including the expiration of any incentive program or tax incentives in effect as of the Effective Date) that could reasonably be expected to adversely affect the economics of the installation for Provider and its investors.

(iv) Provider is unable to obtain financing for the System on terms and conditions satisfactory to it.

(v) Provider has not received: (1) a fully executed a license in the form of Exhibit A of these General Conditions from the owner of the Premises (if the Purchaser is a tenant), (2) a release or acknowledgement from any mortgagee of the Premise, if required by Provider's Financing Party, to establish the priority of its security interest in the System, and (3) such other documentation as may be reasonably requested by Provider to evidence Purchaser's ability to meet its obligations under Section 7.2(d)(ii) to ensure that Provider will have access to the Premises throughout the Term.

(vi) There has been a material adverse change in the rights of Purchaser to occupy the Premises or Provider to construct the System on the Premises.

(viii) Purchaser has determined that there are easements, CCRs or other land use restrictions, liens or encumbrances that would materially impair or prevent the installation, operation, maintenance or removal of the System.

(ix) There has been a material adverse change in Purchaser's credit-worthiness.

(b) If any of the conditions set forth in Section 2.5(a) are partly or wholly unsatisfied, and Provider wishes to revise the information in the Special Conditions, then Provider may propose modifications to the Special Conditions for acceptance by Purchaser. If Purchaser does not accept such modified Special Conditions, Provider may terminate this Agreement as provided in Section 2.5(a) and shall restore the Premises in accordance with Section 2.4. If Purchaser accepts such revised Special Conditions, such revised Special Conditions shall be deemed an amendment of this Agreement, and this Agreement shall remain in force and effect upon execution by both Parties.

2.6 Co-Located Systems. With respect to any Systems that are co-located at the same Premises and connected to the same meter, the Parties acknowledge that the Systems are intended to be owned and operated as one integrated system, and that the Energy Services Payment (a) represents the added value of integrating the Systems to enable Provider's delivery of the Energy Services pursuant to the Agreements when needed by Purchaser, and (b) is a component part of the total consideration payable to Provider in exchange for Provider's comprehensive duties under this Agreement and the Agreement(s) related to the other co-located System(s). Accordingly, the Parties further agree (x) to treat the Systems as one integrated system for all purposes, and (y) that any right or option that is exercised with respect to the System or this Agreement, whether in respect of early termination, purchase option or otherwise, shall also be exercised with respect to the Agreement(s) related to the other co-located System(s).

3. CONSTRUCTION, INSTALLATION AND TESTING OF SYSTEM.

3.1 Installation Work. Provider will cause the System (by using one or more qualified contractors holding the appropriate licenses required in the jurisdiction where the System will be installed) to be designed, engineered, installed and constructed substantially in accordance with Schedule 1 of the Special Conditions and Applicable Law. At its request, Purchaser shall have the right to review all construction plans and designs, including engineering evaluations of the impact of the System. Provider shall perform the Installation Work at the Premises between the hours of 7:00 a.m. and 7:00 p.m. in a manner that minimizes inconvenience to and interference with the use of the Premises to the extent commercially practical.

3.2 Approvals; Permits. Purchaser shall assist Provider in obtaining all necessary consents, approvals and permits required to perform Purchaser's obligations under this Agreement, including but not limited to those related to the Local Electric Utility, any Governmental Approval, and any consents, waivers, approvals or releases required pursuant to any applicable contract or CCR.

3.3 System Acceptance Testing.

(a) Provider shall conduct testing of the System in accordance with such methods, acts, guidelines, standards and criteria reasonably accepted or followed by providers of Energy Services similar to those provided by the System in the United States. Provider shall provide Purchaser with reasonable advanced notice of such testing and shall permit Purchaser or Purchaser's representative to observe such testing. Purchaser's observation of such testing shall not be construed as or deemed an approval of such testing or test results.

(b) If the results of such testing indicate that the System is capable of providing the Energy Services, using such instruments and meters as have been installed for such purposes, and the System has been approved for interconnected operation by the Local Electric Utility ("Commercial Operation"), then Provider shall send a written notice to Purchaser to that effect, and the date of such notice shall be the "Commercial Operation Date".

4. SYSTEM OPERATIONS.

4.1 Provider as Owner and Operator. The System will be owned by Provider or Provider's Financing Party and will be operated and maintained and, as necessary, repaired by Provider at its sole cost and expense; *provided*, any repair or maintenance costs incurred by Provider as a result of Purchaser's negligence or breach of its obligations hereunder shall be reimbursed by Purchaser.

4.2 Metering. Provider shall install and maintain a utility grade kilowatt-hour (kWh) meter for the measurement of electrical energy provided by the System and may, at its election, install a utility grade kilowatt-hour (kWh) meter for the measurement of electrical energy delivered by the Local Electric Utility and consumed at the Premises. Such meter(s) shall meet the general commercial standards of the solar photovoltaic industry or the required standards of the Local Electric Utility.

4.2.1 Meter Testing.

(a) Provider shall provide certificates of calibration for all meters prior to the time of their installation, no meter will be placed in service for which Provider has not provided certificates of calibration. Provider shall test or arrange for all meters to be tested in accordance with the meter manufacturer's recommendations. Provider shall bear all costs and expenses associated with each meter testing. Purchaser shall be notified at least ten (10) days in advance of such testing and shall have the right to be present during such tests. Provider shall provide Purchaser with detailed written results of all meter tests.

(b) Provider shall test or arrange for meter inspection and testing bi-annually when performing System operations and maintenance.

4.2.2 Cost of Meter Repair.

(a) If meter testing, as described above demonstrates that a meter was operating outside of its allowable calibrations (+/- 2%), then Provider will pay for the cost of repairs or replacement necessary to restore a meter to proper working order.

(b) If a meter is found to be inaccurate by more than two percent (2%), invoices for the prior six (6) months or from the last date such meter was registering accurately, whichever period is less, shall be adjusted to reconcile the discrepancy and payment for the amount of the adjustment issued by the appropriate party within 45 days, except that Purchaser shall not be obligated to pay interest on any amount found to be due because a meter was operating outside of its allowable calibration (+/- 2%).

4.2.3 Meter Data. Provider shall gather and maintain the data from all meters, including but not limited to, interval data registered at least once every fifteen (15) minutes ("Meter Data"), and shall make such Meter Data promptly available to Purchaser at Purchaser's request.

4.3 System Disruptions. In the event that (a) the owner or lessee of the Premises repairs the Premises for any reason not directly related to damage caused by the System, and such repair requires the partial or complete temporary disassembly or movement of the System, or (b) any act or omission of Purchaser or Purchaser's employees,

Affiliates, agents or subcontractors (collectively, a "Purchaser Act") results in a disruption or outage in System production, then, in either case, Purchaser shall (i) pay Provider for all work required by Provider to disassemble or move the System and (ii) continue to make all payments for the Energy Services during such period of System disruption (the "Disruption Period"), and (iii) reimburse Provider for any other lost revenue during the Disruption Period, including any lost revenue associated with any reduced sales of Environmental Attributes and any reduced System-based Incentives, if applicable, during the Disruption Period. For the purpose of calculating Energy Services Payments and lost revenue for such Disruption Period, Energy Services for each month of said months shall be deemed to have been produced at the average rate over the same month for which data exists (or, if the disruption occurs within the first twelve (12) months of operation, the average over such period of operation). Notwithstanding the foregoing, Purchaser shall be entitled to exercise its rights under Section 9 (Allowed Disruption Time) of the Special Conditions.

5. TITLE TO SYSTEM.

5.1 Throughout the duration of this Agreement, Provider or Provider's Financing Party shall be the legal and beneficial owner of the System at all times, and the System shall remain the personal property of Provider or Provider's Financing Party and shall not attach to or be deemed a part of, or fixture to, the Premises. The System shall at all times retain the legal status of personal property as defined under Article 9 of the Uniform Commercial Code. Purchaser covenants that it will use reasonable commercial efforts to place all parties having an interest in or lien upon the real property comprising the Premises on notice of the ownership of the System and the legal status or classification of the System as personal property. If there is any mortgage or fixture filing against the Premises which could reasonably be construed as attaching to the System as a fixture of the Premises, Purchaser shall provide, at Provider's request, a disclaimer or release from such lien holder. If Purchaser is the fee owner of the Premises, Purchaser consents to the filing by Provider, on behalf of Purchaser, of a disclaimer of the System as a fixture of the Premises in the office where real estate records are customarily filed in the jurisdiction of the Premises. If Purchaser is not the fee owner, Purchaser will, at Provider's request, use commercially reasonable efforts to obtain such consent from such owner.

5.2 Environmental Attributes And System-Based Incentives. Purchaser's purchase of Energy Services includes Environmental Attributes, but does not include System-based incentives. System-based Incentives shall be owned by Provider or Provider's financing party for the duration of the System's operating life. Purchaser disclaims any right to System-based Incentives based upon the installation of the System at the Premises, and shall, at the request of Provider, execute any document or agreement reasonably necessary to fulfill the intent of this Section 5.2. During the Term, Provider shall establish and maintain a WREGIS sub-account to register and track renewable energy certificates (RECs) associated with generation produced by the System. Unless Purchaser prefers a different sub-account designation, RECs transferred into the WREGIS sub-account will be tagged by Provider as retired on behalf of Purchaser. Provider will provide Purchaser read-only access to the WREGIS sub-account and provide an annual report to Purchaser on the status of the RECs. Purchaser understands that if RECs are retired they cannot be used for any other purpose or 'un-retired'

6. PRICE AND PAYMENT.

6.1 Consideration. Purchaser shall pay to Provider a monthly Energy Services Payment for the Energy Services provided during each calendar month of the Term as set forth in the Special Conditions.

6.2 Invoice. Provider shall invoice Purchaser on or about the first day of each month (each, an "Invoice Date"), commencing on the first Invoice Date to occur after the Commercial Operation Date, for the Energy Services Payment in respect of the immediately preceding month. The last invoice shall include Energy Services provided only through the Termination Date of this Agreement. Invoices shall state, at a minimum, (i) the amount of actual electricity produced by the System and delivered to the delivery point during the invoice period (if applicable), (ii) the rates applicable to, and any charges incurred by, Purchaser under this Agreement, and (iii) the total amount due from Purchaser.

6.3 Time of Payment. Purchaser shall pay all undisputed amounts due hereunder within thirty (30) days after Purchaser's receipt of an invoice from Provider.

6.4 Method of Payment. Purchaser shall make all payments under this Agreement either (a) by electronic funds transfer in immediately available funds to the account designated by Provider from time to time or

(b) by check timely delivered to the location designated by Provider from time to time. All payments that are not paid when due shall bear interest accruing from the date becoming past due until paid in full at a rate equal to the Stated Rate.

6.5 Disputed Payments. If a *bona fide* dispute arises with respect to any invoice, Purchaser shall not be deemed in default under this Agreement and the Parties shall not suspend the performance of their respective obligations hereunder, including payment of undisputed amounts owed hereunder. If an amount disputed by Purchaser is subsequently deemed to have been due pursuant to the applicable invoice, interest shall accrue at the Stated Rate on such amount from the date becoming past due under such invoice until the date paid.

7. GENERAL COVENANTS.

7.1 Provider's Covenants. Provider covenants and agrees to the following:

(a) Notice of Damage or Emergency. Provider shall (x) promptly notify Purchaser if it becomes aware of any damage to or loss of the use of the System or that could reasonably be expected to adversely affect the System, (y) immediately notify Purchaser if it becomes aware of any event or circumstance relating to the System or the Premises that poses a significant risk to human health, the environment, the System or the Premises. In the event of unreasonable damage to the Premises caused by, or as the result of, the System, Provider shall, at its sole cost, repair said Premises to the condition existing prior to such damage.

(b) Governmental Approvals. While providing the Installation Work, Energy Services, and System Operations, Provider shall obtain and maintain and secure all Governmental Approvals required to be obtained and maintained and secured by Provider and to enable Provider to perform such obligations.

(c) Health and Safety. Provider shall take all necessary and reasonable safety precautions with respect to providing the Installation Work, Energy Services, and System Operations that shall comply with all Applicable Laws pertaining to the health and safety of persons and real and personal property. All work shall be performed by licensed professionals, as may be required by Applicable Law, and in accordance with such methods, acts, guidelines, standards and criteria reasonably accepted or followed by a majority of System integrators in the United States.

(d) Liens. Other than a Financing Party's security interest in or ownership of the System, Provider shall not directly or indirectly cause, create, incur, assume or suffer to exist any mortgage, pledge, lien (including mechanics', labor or materialman's lien), charge, security interest, encumbrance or claim of any nature ("Liens") on or with respect to the Premises or any interest therein, in each case to the extent such Lien arises from or is related to Provider's performance or non-performance of its obligations hereunder. If Provider breaches its obligations under this Section, it shall (i) immediately notify Purchaser in writing, (ii) promptly cause such Lien to be discharged and released of record without cost to Purchaser, and (iii) defend and indemnify Purchaser against all costs and expenses (including reasonable attorneys' fees and court costs at trial and on appeal) incurred in discharging and releasing such Lien; *provided*, Provider shall have the right to contest any such Lien, so long as it provides a statutory bond or other reasonable assurances of payment that either remove such Lien from title to the Premises or that assure that any adverse judgment with respect to such Lien will be paid without affecting title to the Premises.

(e) System Condition. Provider shall take all actions reasonably necessary, including but not limited to repair and maintenance, to ensure that the System is capable of operating at a commercially reasonable continuous rate throughout the Term.

(f) Environmental Indemnification by Provider. Provider shall indemnify, hold harmless and defend Purchaser Indemnified Parties from and against all claims, pay costs and expenses, and conduct all actions required under Environmental Laws in connection with the deposit, release, or spill of any Hazardous Materials at, on, above, below or near the Premises by Provider. In no event shall Provider be responsible for the existence of any Hazardous Materials at the Premises prior to the Effective Date. Provider shall promptly notify Purchaser if it becomes aware of any Hazardous Materials, or any deposit, spill, or release of any Hazardous Materials at, on, above, below or near the Premises.

(g) Production Data. Provider shall provide Purchaser with access to System production data in electronic format, such as tabular Excel or csv with each production unit in a separate cell. Production data could be delivered monthly or by granting Purchaser access to a web portal.

7.2 Purchaser's Covenants. Purchaser covenants and agrees as follows:

(a) Notice of Damage or Emergency. Purchaser shall (i) promptly notify Provider if it becomes aware of any damage to or loss of the use of the System or that could reasonably be expected to adversely affect the System, (ii) immediately notify Provider it becomes aware of any event or circumstance that poses an imminent risk to human health, the environment, the System or the Premises. In the event of damage to Purchaser's premises caused by, or as the result of, the System, Provider shall, at its sole cost, repair said premises to the condition existing prior to such damage.

(b) Liens. Purchaser shall not directly or indirectly cause, create, incur, assume or suffer to exist any Liens on or with respect to the System or any interest therein. If Purchaser breaches its obligations under this Section, it shall immediately notify Provider in writing, shall promptly cause such Lien to be discharged and released of record without cost to Provider, and shall indemnify Provider against all costs and expenses (including reasonable attorneys' fees and court costs at trial and on appeal) incurred in discharging and releasing such Lien.

(c) Consents and Approvals. To the extent that only Purchaser is authorized to request, obtain or issue any necessary approvals, Governmental Approvals, rebates or other financial incentives, Purchaser shall cooperate with Provider to obtain or issue such approvals, Governmental Approvals, rebates or other financial incentives in the name of Provider. Purchaser shall provide to Provider copies of all Governmental Approvals and CCRs applicable to the Premises, other than those obtained by Provider or to which Provider is a party.

(d) Access to Premises, Grant of License.

(i) Purchaser hereby grants to Provider a revocable non-exclusive license coterminous with the Term containing all the rights necessary for Provider to use and occupy portions of the Premises for the installation, operation, maintenance and removal of the System pursuant to the terms of this Agreement, including ingress and egress rights to the Premises for Provider and its employees, contractors and subcontractors and access to electrical panels and conduits to interconnect or disconnect the System with the Premises' electrical wiring; *provided*, with respect to Provider's access to the Site, such license shall be subject to conditions or limitations for the protection of minor students that are imposed generally on commercial contractors by Purchaser or by Applicable Law. If Provider's financing structure requires that Purchaser enter into a license agreement directly with Financing Party, Provider shall enter into such an agreement which shall be in a form set forth by Provider and which contain substantially the same rights as set forth in this Section 7.2(d).

(ii) Regardless of whether Purchaser is owner of the Premises or leases the Premises from a landlord, Purchaser hereby covenants that (x) Provider shall have access to the Premises and System during the Term of this Agreement and for so long as needed after termination to remove the System pursuant to the applicable provisions herein, and (y) neither Purchaser nor Purchaser's landlord will interfere or handle any Provider equipment or the System without written authorization from Provider; *provided*, Purchaser and Purchaser's landlord shall at all times have access to and the right to observe the Installation Work or System removal.

(iii) If Purchaser is a lessee of the Premises, Purchaser further covenants that it shall deliver to Provider, a license from Purchaser's landlord in substantially the form attached hereto as Exhibit A of these General Conditions.

(e) Temporary storage space during installation or removal. Purchaser shall use commercially reasonable efforts to provide for sufficient space at the Premises for the temporary storage and staging of tools, materials and equipment and for the parking of construction crew vehicles and temporary construction trailers and facilities reasonably necessary during the Installation Work, System Operations or System removal, and access for rigging and material handling. Subject to Purchaser's indemnity obligations set forth herein, Purchaser shall have no liability whatsoever in connection with personal property or equipment of Provider or Provider's employees, consultants, contractors, subcontractors, and vendors. Provider shall be solely responsible for the safety and security

of Provider's employees, consultants, contractors, subcontractors, and vendors, as well as any personal property, including but not limited to, any tools, materials, and equipment of such parties used or stored on the Premises.

(f) Environmental Documents. On or before the Effective Date of each Special Conditions Purchaser shall identify and set forth in each Special Conditions and unless previously delivered, Purchaser shall, to the extent the same are known and in the possession or control of Purchaser, deliver to Provider copies of all reports, agreements, plans, inspections, tests, studies or other materials concerning the presence of Hazardous Materials at, from or on the Premises including, but not limited to, soil reports, design drawings, environmental reports, sampling results or other documents relating to Hazardous Materials that have been identified or may be present on, in or under the Premises (collectively, the "Environmental Documents"). Thereafter, Purchaser agrees to provide copies of any new Environmental Documents within ten (10) days of receipt of same. Purchaser hereby agrees to furnish such other documents in Purchaser's possession or control with respect to Governmental Approvals compliance with Environmental Law or Hazardous Materials with respect to the Premises as may be reasonably requested by Provider from time to time.

(g) Compliance with Environmental Laws. Notwithstanding anything to the contrary in this Agreement, Purchaser shall operate and maintain the Premises to comply with the requirements of all applicable Environmental Laws that limit or govern the conditions or uses of the Premises, without impairing or interfering with Provider's construction, operation and ownership of the System or occupancy of the Premises. In no event shall Provider have any liability or obligation with respect to any Pre-existing Environmental Condition on, in or under the Premises, or operations or maintenance of the Premises required to comply with Environmental Laws with respect to Pre-Existing Environmental Conditions.

(h) Environmental Indemnification by Purchaser. Purchaser shall indemnify, hold harmless and defend Provider from and against all claims, pay costs and expenses, and conduct all actions required under Environmental Laws in connection with (i) the existence at, on, above, below or near the Premises of any Pre-existing Environmental Conditions, and (ii) any Hazardous Materials released, spilled or deposited at, on above or below the Premises by the Purchaser. Purchaser shall promptly notify Provider if it becomes aware of any Hazardous Materials, or any deposit, spill, or release of any Hazardous Materials at, on, above, below or near the Premises.

8. REPRESENTATIONS & WARRANTIES.

8.1 Representations and Warranties of Both Parties. In addition to any other representations and warranties contained in this Agreement, each Party represents and warrants to the other as of the Effective Date that:

(a) it is duly organized and validly existing and in good standing in the jurisdiction of its organization;

(b) it has the full right and authority to enter into, execute, deliver, and perform its obligations under this Agreement;

(c) it has taken all requisite corporate or other action to approve the execution, delivery, and performance of the Agreement;

(d) this Agreement constitutes its legal, valid and binding obligation enforceable against such Party in accordance with its terms, except as may be limited by applicable bankruptcy and other similar laws now or hereafter in effect;

(e) there is no litigation, action, proceeding or investigation pending or, to the best of its knowledge, threatened before any court or other Governmental Authority by, against, affecting or involving any of its business or assets that could reasonably be expected to adversely affect its ability to carry out the transactions contemplated herein;

(f) its execution and performance of this Agreement and the transactions contemplated hereby do not and will not constitute a breach of any term or provision of, or a default under, (i) any contract, agreement or Governmental Approval to which it or any of its Affiliates is a party or by which it or any of its Affiliates or its or their property is bound, (ii) its organizational documents, or (iii) any Applicable Laws; and

(g) its execution and performance of this Agreement and the transactions contemplated hereby do not and will not require any consent from a third party, including any Governmental Approvals from any Governmental Authority, that are not identified in the Special Conditions.

8.2 Representations of Purchaser. Purchaser represents and warrants to Provider as of the Effective Date that:

(a) Purchaser acknowledges that it has been advised that part of the collateral securing the financial arrangements for the System may be the granting of a first priority perfected security interest (the "Security Interest") in the System to a Financing Party;

(b) To Purchaser's knowledge, the granting of the Security Interest will not violate any term or condition of any covenant, restriction, lien, financing agreement, or security agreement affecting the Premises;

(c) Purchaser is aware of no existing lease, mortgage, security interest or other interest in or lien upon the Premises that could attach to the System as an interest adverse to Provider's Financing Party's Security Interest therein;

(d) To Purchaser's knowledge, there exists no event or condition which constitutes a default, or would, with the giving of notice or lapse of time, constitute a default under this Agreement;

(e) To Purchaser's knowledge, Purchaser has identified and disclosed to Provider in the Special Conditions (i) all Environmental Documents in Purchaser's possession or control, (ii) all CCRs, Governmental Approvals or other restrictions imposed under Applicable Laws with respect to the use of the Premises that could affect the construction and operation of the System within Purchaser's possession or control, and (iii) all environmental reports, studies, data or other information relating to the use of the Premises by Provider within the Purchaser's possession or control;

(f) To Purchaser's knowledge, the Premises is in compliance with Environmental Laws, and that Purchaser holds and is in compliance with all Governmental Approvals required for the ownership and any current operations or activities conducted at the Premises; and

(g) Purchaser has identified in the Special Conditions and delivered to Provider all material reports and information concerning the presence or release of Hazardous Materials on, in or under the Premises in Purchaser's possession or control.

Any Financing Party shall be an intended third-party beneficiary of this Section 8.2.

8.3 EXCLUSION OF WARRANTIES. EXCEPT TO THE EXTENT OTHERWISE EXPRESSLY SET FORTH HEREIN, THE INSTALLATION WORK, SYSTEM OPERATIONS, AND ENERGY SERVICES PROVIDED BY PROVIDER TO PURCHASER PURSUANT TO THIS AGREEMENT SHALL BE "AS-IS WHERE-IS." NO OTHER WARRANTY TO PURCHASER OR ANY OTHER PERSON, WHETHER EXPRESS, IMPLIED OR STATUTORY, IS MADE AS TO THE INSTALLATION, DESIGN, DESCRIPTION, QUALITY, MERCHANTABILITY, COMPLETENESS, USEFUL LIFE, FUTURE ECONOMIC VIABILITY, OR FITNESS FOR ANY PARTICULAR PURPOSE OF THE SYSTEM, THE ENERGY SERVICES OR ANY OTHER SERVICE PROVIDED HEREUNDER OR DESCRIBED HEREIN, OR AS TO ANY OTHER MATTER, ALL OF WHICH ARE EXPRESSLY DISCLAIMED BY PROVIDER.

9. TAXES AND GOVERNMENTAL FEES.

9.1 Purchaser Obligations. Purchaser shall reimburse and pay for any documented taxes, fees or charges imposed or authorized by any Governmental Authority and paid by Provider due to Provider's sale of the Energy Services to Purchaser (other than income taxes imposed upon Provider). Provider shall notify Purchaser in writing with a detailed statement of such amounts, which shall be invoiced by Provider and payable by Purchaser. Purchaser shall timely report, make filings for, and pay any and all sales, use, income, gross receipts or other taxes, and any and

all franchise fees or similar fees assessed against it due to its purchase of the Energy Services. This Section 9.1 excludes taxes specified in Section 9.2.

9.2 Provider Obligations. Subject to Section 9.1 above, Provider shall be responsible for all income, gross receipts, ad valorem, personal property or real property or other similar taxes and any and all franchise fees or similar fees assessed against it due to its ownership of the System.

10. FORCE MAJEURE.

10.1 Definition. "Force Majeure Event" means any act or event that prevents the affected Party from performing its obligations in accordance with this Agreement, if such act or event is beyond the reasonable control, and not the result of the fault or negligence, of the affected Party and such Party had been unable to overcome such act or event with the exercise of due diligence (including the expenditure of reasonable sums). Subject to the foregoing conditions, "Force Majeure Event" shall include without limitation the following acts or events: (i) natural phenomena, such as storms, hurricanes, floods, lightning, volcanic eruptions and earthquakes; (ii) explosions or fires arising from lightning or other causes unrelated to the acts or omissions of the Party seeking to be excused from performance; (iii) acts of war or public disorders, civil disturbances, riots, insurrection, sabotage, epidemic, terrorist acts, or rebellion; (iv) strikes or labor disputes (except strikes or labor disputes caused solely by employees of Provider or as a result of such party's failure to comply with a collective bargaining agreement); and (v) action or inaction by a Governmental Authority (unless Purchaser is a Governmental Authority and Purchaser is the Party whose performance is affected by such action nor inaction). A Force Majeure Event shall not be based on the economic hardship of either Party, or upon the expiration of any lease of the Premises by the Purchaser from the owner of the Premises.

10.2 Excused Performance. Except as otherwise specifically provided in this Agreement, neither Party shall be considered in breach of this Agreement or liable for any delay or failure to comply with this Agreement (other than the failure to pay amounts due hereunder), if and to the extent that such delay or failure is attributable to the occurrence of a Force Majeure Event; *provided*, the Party claiming relief under this Article 10 shall as soon as practicable after becoming aware of the circumstances constituting Force Majeure (i) notify the other Party in writing of the existence of the Force Majeure Event, (ii) exercise all reasonable efforts necessary to minimize delay caused by such Force Majeure Event, (iii) notify the other Party in writing of the cessation or termination of said Force Majeure Event and (iv) resume performance of its obligations hereunder as soon as practicable thereafter; *provided*, Purchaser shall not be excused from making any payments and paying any unpaid amounts due in respect of Energy Services delivered to Purchaser prior to the Force Majeure Event performance interruption. Subject to Section 10.3 below, the Parties agree that to the extent permitted by Applicable Law, the Term of this Agreement shall extend on a day for day basis for every day in which the occurrence of a Force Majeure Event has affected either Party's performance of its obligations hereunder.

10.3 Termination in Consequence of Force Majeure Event. If a Force Majeure Event shall have occurred that has affected Provider's performance of its obligations hereunder and that has continued for a continuous period of one hundred eighty (180) days, then either Party shall be entitled to terminate this Agreement upon ninety (90) days' prior written notice to the other Party. If at the end of such ninety (90) day period such Force Majeure Event shall still continue, this Agreement shall automatically terminate. Upon such termination for a Force Majeure Event, neither Party shall have any liability to the other (other than any such liabilities that have accrued prior to such termination, including but not limited to Provider's obligations to remove the System and restore the Premises as set forth herein), and Purchaser shall have no obligation to pay the Early Termination Fee.

11. DEFAULT.

11.1 Provider Defaults and Purchaser Remedies.

(a) Provider Defaults. The following events shall be defaults with respect to Provider (each, a "Provider Default"):

(i) A Bankruptcy Event shall have occurred with respect to Provider;

(ii) Provider fails to pay Purchaser any undisputed amount owed under the Agreement within thirty (30) days from receipt of notice from Purchaser of such past due amount; and

(iii) Provider breaches any material representation, covenant or other term of this Agreement and (A) if such breach can be cured within thirty (30) days after Purchaser's written notice of such breach and Provider fails to so cure, or (B) Provider fails to commence and pursue a cure within such thirty (30) day period if a longer cure period is needed.

(b) Purchaser's Remedies. If a Provider Default described in Section 11.1(a) has occurred and is continuing, in addition to other remedies expressly provided herein, and subject to Article 12, Purchaser may terminate this Agreement with no penalty or liability whatsoever, including but not limited to the Early Termination Fee, and exercise any other remedy it may have at law or equity or under this Agreement.

11.2 Purchaser Defaults and Provider's Remedies.

(a) Purchaser Default. The following events shall be defaults with respect to Purchaser (each, a "Purchaser Default"):

(i) A Bankruptcy Event shall have occurred with respect to Purchaser;

(ii) Purchaser breaches any material representation, covenant or other term of this Agreement if (A) such breach can be cured within thirty (30) days after Provider's notice of such breach and Purchaser fails to so cure, or (B) Purchaser fails to commence and pursue said cure within such thirty (30) day period if a longer cure period is needed, such longer cure period not to exceed ninety (90) days; and

(iii) Purchaser fails to pay Provider any undisputed amount due Provider under this Agreement within thirty (30) days from receipt of notice from Provider of such past due amount.

(b) Provider's Remedies. If a Purchaser Default described in Section 11.2(a) has occurred and is continuing, in addition to other remedies expressly provided herein, and subject to Article 12, Provider may terminate this Agreement and upon such termination, (A) Provider shall be entitled to receive from Purchaser the Early Termination Fee set forth on Schedule 3, Column 1 of the Special Conditions, and (B) Provider may exercise any other remedy it may have at law or equity or under this Agreement.

11.3 Cross Default. With respect to any Systems that are co-located at the same Premises, if a Party defaults under this Agreement, it shall also be a default of such Party under the Agreement(s) related to the other co-located System(s); *provided*, a cure of the original default shall be a cure of any such cross default. In the event of a cross default, the non-defaulting Party shall be entitled to exercises its rights with respect to this Agreement and all such other Agreements, including terminating all such Agreements and, if Provider terminates one or more Agreements due to a Purchaser Default, Purchaser shall pay the Early Termination Fees for all such terminated Agreements.

11.4 Removal of System. Upon any termination of this Agreement pursuant to this Article 11 and payment of the Early Termination Fee (if applicable), Provider will remove the System pursuant to Section 2.4 hereof.

12. LIMITATIONS OF LIABILITY.

12.1 Except as expressly provided herein, neither Party shall be liable to the other Party or its Indemnified Persons for any special, punitive, exemplary, indirect, or consequential damages, losses or damages for lost revenue or lost profits, whether foreseeable or not, arising out of, or in connection with this Agreement.

12.2 A Party's maximum liability to the other Party under this Agreement, shall be limited to the aggregate Estimated Remaining Payments as of the date of the events giving rise to such liability, *provided*, the limits of liability under this Section 12.2 shall not apply with respect to (i) indemnity obligations hereunder in respect of personal injury or environmental claims and (ii) any obligation of Purchaser to pay Energy Service Payments, the

Early Termination Fee or the Option Price, (iii) any obligation of Provider to pay for Lost Savings in accordance with the Special Conditions and (iv) if applicable, any obligation of Provider to remove the System and restore the Premises in accordance with Section 2.4.

13. ASSIGNMENT.

13.1 Assignment by Provider. Provider shall not sell, transfer or assign (collectively, an "Assignment") the Agreement or any interest therein, without the prior written consent of Purchaser, which shall not be unreasonably withheld, conditioned or delayed; *provided*, Purchaser agrees that Provider may assign this Agreement without the consent of the Purchaser to an Affiliate of Provider or any party providing financing for the System. In the event that Provider identifies a secured Financing Party in the Special Conditions, or in a subsequent notice to Purchaser, then Purchaser shall comply with the provisions set forth in Exhibit B of these General Terms and Conditions and agrees to provide such estoppels, acknowledgments and opinions of counsel as Provider may reasonably request from time to time. Any Financing Party shall be an intended third-party beneficiary of this Section 13.1. Any Assignment by Provider without obtaining the prior written consent and release of Purchaser, when such consent is required by this Section 13.1, shall not release Provider of its obligations hereunder.

13.2 Acknowledgment of Collateral Assignment. In the event that Provider identifies a secured Financing Party in the Special Conditions, or in a subsequent notice to Purchaser, then Purchaser hereby acknowledges:

(a) The collateral assignment by Provider to the Financing Party, of Provider's right, title and interest in, to and under this Agreement, as consented to under Section 13.1 of this Agreement.

(b) That the Financing Party as such collateral assignee shall be entitled to exercise any and all rights of lenders generally with respect to Provider's interests in this Agreement.

(c) That it has been advised that Provider has granted a first priority perfected security interest in the System to the Financing Party and that the Financing Party has relied upon the characterization of the System as personal property, as agreed in this Agreement in accepting such security interest as collateral for its financing of the System.

Any Financing Party shall be an intended third- party beneficiary of this Section 13.2.

13.3 Assignment by Purchaser. Purchaser shall not assign this Agreement or any interest therein, without Provider's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. Any Assignment by Purchaser without the prior written consent of Provider shall not release Purchaser of its obligations hereunder.

14. NOTICES.

14.1 Notice Addresses. Unless otherwise provided in this Agreement, all notices and communications concerning this Agreement shall be in writing and addressed to the other Party (or Financing Party, as the case may be) at the addresses set forth in the Special Conditions, or at such other address as may be designated in writing to the other Party from time to time.

14.2 Notice. Unless otherwise provided herein, any notice provided for in this Agreement shall be hand delivered, sent by registered or certified U.S. Mail, postage prepaid, or by commercial overnight delivery service, and shall be deemed delivered to the addressee or its office when received at the address for notice specified above when hand delivered, upon confirmation of sending when sent by facsimile (if sent during normal business hours or the next Business Day if sent at any other time), on the Business Day after being sent when sent by overnight delivery service (Saturdays, Sundays and legal holidays excluded), or five (5) Business Days after deposit in the mail when sent by U.S. mail.

14.3 Address for Invoices. All invoices under this Agreement shall be sent to the address provided by Purchaser. Invoices shall be sent by regular first class mail postage prepaid.

15. CONFIDENTIALITY.

15.1 Confidentiality Obligation. If either Party provides confidential information, including business plans, strategies, financial information, proprietary, patented, licensed, copyrighted or trademarked information, and/or technical information regarding the financing, design, operation and maintenance of the System or of Purchaser's business ("Confidential Information") to the other or, if in the course of performing under this Agreement or negotiating this Agreement a Party learns Confidential Information regarding the facilities or plans of the other, the receiving Party shall (a) protect the Confidential Information from disclosure to third parties with the same degree of care accorded its own confidential and proprietary information, and (b) refrain from using such Confidential Information, except in the negotiation and performance of this Agreement. Notwithstanding the above, a Party may provide such Confidential Information to its officers, directors, members, managers, employees, agents, contractors, consultants, Affiliates, lenders (existing or potential), investors (existing or potential) and potential third-party assignees of this Agreement or third-party acquirers of Provider or its Affiliates (provided and on condition that such potential third-party assignees be bound by a written agreement restricting use and disclosure of Confidential Information) (collectively, "Representatives"), in each case whose access is reasonably necessary. Each such recipient of Confidential Information shall be informed by the Party disclosing Confidential Information of its confidential nature and shall be directed to treat such information confidentially and shall agree to abide by these provisions. In any event, each Party shall be liable (with respect to the other Party) for any breach of this provision by any entity to whom that Party improperly discloses Confidential Information. The terms of this Agreement (but not its execution or existence) shall be considered Confidential Information for purposes of this Article, except as set forth in Section 15.3. All Confidential Information shall remain the property of the disclosing Party and shall be returned to the disclosing Party or destroyed after the receiving Party's need for it has expired or upon the request of the disclosing Party.

15.2 Permitted Disclosures. Notwithstanding any other provision herein, neither Party shall be required to hold confidential any information that:

(a) Becomes publicly available other than through the receiving Party;

(b) Is required to be disclosed by a Governmental Authority, under Applicable Law, including but not limited to the California Public Records Act, or pursuant to a validly issued subpoena or required filing, but a receiving Party subject to any such requirement shall promptly notify the disclosing Party of such requirement;

(c) Is independently developed by the receiving Party; or

(d) Becomes available to the receiving Party without restriction from a third party under no obligation of confidentiality.

15.3 Goodwill and Publicity. Neither Party shall use the name, trade name, service mark, or trademark of the other Party in any promotional or advertising material without the prior written consent of such other Party. The Parties shall coordinate and cooperate with each other when making public announcements related to the execution and existence of this Agreement, and each Party shall have the right to promptly review, comment upon, and approve any publicity materials, press releases, or other public statements by the other Party that refer to, or that describe any aspect of, this Agreement; *provided*, no such publicity releases or other public statements (except for filings or other statements or releases as may be required by Applicable Law) shall be made by either Party without the prior written consent of the other Party. At no time will either Party acquire any rights whatsoever to any trademark, trade name, service mark, logo or other intellectual property right belonging to the other Party. Notwithstanding the foregoing, Purchaser agrees that Provider may, at its sole discretion, take photographs of the installation process of the System and/or the completed System, and Provider shall be permitted to use such images (regardless of media) in its marketing efforts, including but not limited to use in brochures, advertisements, websites and news outlet or press release articles. The images shall not include any identifying information without Purchaser permission and the installation site shall not be disclosed beyond the type of establishment (such as "Retail Store," "Distribution Center," or such other general terms), the city and state.

15.4 Enforcement of Confidentiality Obligation. Each Party agrees that the disclosing Party would be irreparably injured by a breach of this Article 15 by the receiving Party or its Representatives or other Person to whom the receiving Party discloses Confidential Information of the disclosing Party and that the disclosing Party may be entitled to equitable relief, including injunctive relief and specific performance, in the event of any breach of the provisions of this Article 15. To the fullest extent permitted by Applicable Law, such remedies shall not be deemed to be the exclusive remedies for a breach of this Article 15, but shall be in addition to all other remedies available at law or in equity.

16. INDEMNITY.

16.1 Provider's Indemnity. Subject to Article 12, Provider agrees that it shall indemnify and hold harmless Purchaser, its permitted successors and assigns and their respective directors, officers, members, shareholders and employees (collectively, the "Purchaser Indemnified Parties") from and against any and all Losses incurred by Purchaser Indemnified Parties to the extent arising from or out of the following: any claim for or arising out of any injury to or death of any Person or loss or damage to property of any Person to the extent arising out of Provider's negligence or willful misconduct. Provider shall not, however, be required to reimburse or indemnify any Purchaser Indemnified Party for any Loss to the extent such Loss is due to the negligence or willful misconduct of any Purchaser Indemnified Party.

16.2 Purchaser's Indemnity. Subject to Article 12 and to the extent permitted by Applicable Law, Purchaser agrees that it shall indemnify and hold harmless Provider, its permitted successors and assigns and their respective directors, officers, members, shareholders and employees (collectively, the "Provider Indemnified Parties") from and against any and all Losses incurred by Provider Indemnified Parties to the extent arising from or out of any claim for or arising out of any injury to or death of any Person or loss or damage to property of any Person to the extent arising out of Purchaser's negligence or willful misconduct. Purchaser shall not, however, be required to reimburse or indemnify any Provider Indemnified Party for any Loss to the extent such Loss is due to the negligence or willful misconduct of any Provider Indemnified Party.

17. INSURANCE.

17.1 Generally. Purchaser and Provider shall each maintain the following insurance coverages in full force and effect throughout the Term either through insurance policies or acceptable self-insured retentions: (a) Workers' Compensation Insurance as may be from time to time required under applicable federal and state law, (b) Commercial General Liability Insurance with limits of not less than $2,000,000 general aggregate, $1,000,000 per occurrence, and (c) automobile insurance with commercially reasonable coverages and limits. Additionally, Provider shall carry adequate property loss insurance on the System which need not be covered by Purchaser's property coverage. The amount and terms of insurance coverage will be determined at Provider's sole discretion.

17.2 Certificates of Insurance. Each Party, upon request, shall furnish current certificates evidencing that the insurance required under Section 17.1 is being maintained. Each Party's insurance policy provided hereunder shall contain a provision whereby the insured agrees to give the other Party thirty (30) days' written notice before the insurance is cancelled or materially altered.

17.3 Additional Insureds. Each Party's insurance policy shall be written on an occurrence basis and shall include the other Party as an additional insured as its interest may appear.

17.4 Insurer Qualifications. All insurance maintained hereunder shall be maintained with companies either rated no less than A- as to Policy Holder's Rating in the current edition of Best's Insurance Guide (or with an association of companies each of the members of which are so rated) or having a parent company's debt to policyholder surplus ratio of 1:1.

18. MISCELLANEOUS.

18.1 Integration; Exhibits. The Agreement, together with the Exhibits and Schedules attached thereto or incorporated by reference, constitute the entire agreement and understanding between Provider and Purchaser with

respect to the subject matter thereof and supersedes all prior agreements relating to the subject matter hereof which are of no further force or effect. The Exhibits and Schedules attached to this Agreement, including these General Terms and Conditions as incorporated by reference, are integral parts of this Agreement and are an express part of this Agreement. In the event of a conflict between the provisions of these General Terms and Conditions and any applicable Special Conditions, the provisions of the Special Conditions shall prevail.

18.2 Amendments. This Agreement may only be amended, modified or supplemented by an instrument in writing executed by duly authorized representatives of Provider and Purchaser.

18.3 Industry Standards. Except as otherwise set forth herein, for the purpose of this Agreement the normal standards of performance within the Energy Services industry in the relevant market shall be the measure of whether a Party's performance is reasonable and timely. Unless expressly defined herein, words having well-known technical or trade meanings shall be so construed.

18.4 Cumulative Remedies. Except as set forth to the contrary herein, any right or remedy of Provider or Purchaser shall be cumulative and without prejudice to any other right or remedy, whether contained herein or not.

18.5 [Reserved].

18.6 Limited Effect of Waiver. The failure of Provider or Purchaser to enforce any of the provisions of this Agreement, or the waiver thereof, shall not be construed as a general waiver or relinquishment on its part of any such provision, in any other instance or of any other provision in any instance.

18.7 Survival. The obligations under Section 2.4 (Removal of System), Section 7.1 (Provider Covenants), Sections 7.2(d), (e), (f), (g) and (h) (Purchaser Covenants), Section 8.3 (Exclusion of Warranties), Article 9 (Taxes and Governmental Fees), Article 12 (Limitation of Liability), Article 14 (Notices), Article 15 (Confidentiality), Article 18 (Miscellaneous), all payment or indemnification obligations accrued prior to termination of this Agreement, or pursuant to other provisions of this Agreement that, by their sense and context, are intended to survive termination of this Agreement shall survive the expiration or termination of this Agreement for any reason.

18.8 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California without reference to any choice of law principles. The Parties agree that the courts of the State of California and the Federal Courts sitting therein shall have jurisdiction over any action or proceeding arising under this Agreement to the fullest extent permitted by Applicable Law. The Parties waive to the fullest extent permitted by Applicable Law any objection it may have to the laying of venue of any action or proceeding under this Agreement any courts described in this Section 18.8.

18.9 Severability. If any term, covenant or condition in this Agreement shall, to any extent, be invalid or unenforceable in any respect under Applicable Law, the remainder of this Agreement shall not be affected thereby, and each term, covenant or condition of this Agreement shall be valid and enforceable to the fullest extent permitted by Applicable Law and, if appropriate, such invalid or unenforceable provision shall be modified or replaced to give effect to the underlying intent of the Parties and to the intended economic benefits of the Parties.

18.10 Relation of the Parties. The relationship between Provider and Purchaser shall not be that of partners, agents, or joint ventures for one another, and nothing contained in this Agreement shall be deemed to constitute a partnership or agency agreement between them for any purposes, including federal income tax purposes. Provider and Purchaser, in performing any of their obligations hereunder, shall be independent contractors or independent parties and shall discharge their contractual obligations at their own risk.

18.11 Successors and Assigns. This Agreement and the rights and obligations under this Agreement shall be binding upon and shall inure to the benefit of Provider and Purchaser and their respective successors and permitted assigns.

18.12 Counterparts. This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument.

18.13 Electronic Delivery. This Agreement may be duly executed and delivered by a Party by execution and facsimile or electronic, "pdf" delivery of the signature page of a counterpart to the other Party.

18.14 Liquidated Damages Not Penalty. Purchaser acknowledges that the Early Termination Fee constitutes liquidated damages, and not penalties, in lieu of Provider's actual damages resulting from the early termination of this Agreement. Purchaser further acknowledges that Provider's actual damages may be impractical and difficult to accurately ascertain, and in accordance with Purchaser's rights and obligations under this Agreement, the Early Termination Fee constitutes fair and reasonable damages to be borne by Purchaser in lieu of Provider's actual damages.

[Remainder of page intentionally left blank.]

These General Terms and Conditions are witnessed and acknowledged by ForeFront Power and Purchaser below. Neither ForeFront Power nor Purchaser shall have any obligations or liability resulting from its witnessing and acknowledging these General Terms and Conditions.

"FOREFRONT POWER": FFP BTM SOLAR, LLC

By: _____

Name: _____

Title: _____

Date: _____

"PURCHASER": *Panoche Water District*

By: _____

Name: _____

Title: _____

Date: _____

Exhibit A

of General Terms and Conditions

[PURCHASER'S LETTERHEAD]

[Landlord's Address]

Attn: Authorized Representative

Re: Proposed Energy System Installation at [Address of Premises]. Lease dated [ ] between [PURCHASER] and [LANDLORD] (the "Lease")

Dear Authorized Representative:

As has been discussed with you, [PURCHASER] ("Purchaser") and [FFP Entity], LLC ("Provider") have entered into an Energy Services Agreement, pursuant to which Provider will install, finance, operate, and maintain a [solar photovoltaic] [battery storage] system at the above-referenced premises which [PURCHASER] leases from you pursuant to the Lease. By signing below and returning this letter to us, you confirm that:

1. The [solar photovoltaic] [battery storage] system and the renewable energy (including environmental credits and related attributes) produced by the system are personal property, and shall not be considered the property (personal or otherwise) of [LANDLORD] upon installation of the system at the premises. Landlord consents to the filing by Provider of a disclaimer of the System as a fixture of the Premises in the office where real estate records are customarily filed in the jurisdiction of the Premises.

2. Provider or its designee (including finance providers) shall have the right without cost to access the premises in order to install, operate, inspect, maintain, and remove the [solar photovoltaic] [battery storage] system. [LANDLORD] will not charge Purchaser or Provider any rent for such right to access the premises.

3. [LANDLORD] has been advised that the finance providers for the [solar photovoltaic] [battery storage] system have a first priority perfected security interest in the system. Provider and the finance providers for the [solar photovoltaic] [battery storage] system (including any system lessor or other lender) are intended beneficiaries of [LANDLORD]'s agreements in this letter.

4. [LANDLORD] will not take any action inconsistent with the foregoing.

We thank you for your consideration of this opportunity and we look forward to working with you in our environmental campaign to increase the utilization of clean, renewal energy resources.

Very truly yours,

[PURCHASER]

By:_____
Name:
Title:

Acknowledged and agreed by:

[LANDLORD]

By: _____
Name:
Title:

Exhibit B

of General Terms and Conditions

Certain Agreements for the Benefit of the Financing Parties

Purchaser acknowledges that Provider will be receiving financing accommodations from one or more Financing Parties and that Provider may sell or assign the System or this Agreement and/or may secure Provider's obligations by, among other collateral, a pledge or collateral assignment of this Agreement and a first security interest in the System. In order to facilitate such necessary sale, conveyance, or financing, and with respect to any such Financing Party, Purchaser agrees as follows:

(a) Consent to Collateral Assignment. Purchaser consents to either the assignment, sale or conveyance to a Financing Party or the collateral assignment by Provider to a Financing Party, of Provider's right, title and interest in and to this Agreement.

(b) Notices of Default. Purchaser will deliver to the Financing Party, concurrently with delivery thereof to Provider, a copy of each notice of default given by Purchaser under this Agreement, inclusive of a reasonable description of Provider default. No such notice will be effective absent delivery to the Financing Party. Purchaser will not mutually agree with Provider to cancel, modify or terminate this Agreement without the written consent of the Financing Party, however, this provision shall not be interpreted to limit any termination rights of either Party as set forth in the Agreement.

(c) Rights Upon Event of Default. Notwithstanding any contrary term of this Agreement:

i. The Financing Party shall be entitled to exercise, in the place and stead of Provider, any and all rights and remedies of Provider under this Agreement in accordance with the terms of this Agreement and only in the event of Provider's or Purchaser's default. The Financing Party shall also be entitled to exercise all rights and remedies of secured parties generally with respect to this Agreement and the System.

ii. The Financing Party shall have the right, but not the obligation, to pay all sums due under this Agreement and to perform any other act, duty or obligation required of Provider thereunder or cause to be cured any default of Provider thereunder in the time and manner provided by the terms of this Agreement. Nothing herein requires the Financing Party to cure any default of Provider under this Agreement or (unless the Financing Party has succeeded to Provider's interests under this Agreement) to perform any act, duty or obligation of Provider under this Agreement, but Purchaser hereby gives it the option to do so.

iii. Upon the exercise of remedies under its security interest in the System, including any sale thereof by the Financing Party, whether by judicial proceeding or under any power of sale contained therein, or any conveyance from Provider to the Financing Party (or any assignee of the Financing Party) in lieu thereof, the Financing Party shall give notice to Purchaser of the transferee or assignee of this Agreement. Any such exercise of remedies shall not constitute a default under this Agreement.

iv. Upon any default not reasonably susceptible to cure by a Finance Party, including, without limitation, rejection or other termination of this Agreement pursuant to any process undertaken with respect to Provider under the United States Bankruptcy Code, at the request of the Financing Party made within ninety (90) days of such default, Purchaser shall enter into a new agreement with the Financing Party or its designee having the same terms and conditions as this Agreement.

(d) Right to Cure.

i. Purchaser will not exercise any right to terminate or suspend this Agreement unless it shall have given the Financing Party prior written notice by sending notice to the Financing Party (at the address provided by Provider) of its intent to terminate or suspend this Agreement, specifying the condition giving rise to such right, and the Financing Party shall not have caused to be cured the condition giving rise to the right of termination or suspension within thirty (30) days after such notice or (if longer) the periods provided for in this Agreement. The Parties agree that the cure rights described herein are in addition to and apply and commence following the expiration of any notice

and cure period applicable to Provider The Parties respective obligations will otherwise remain in effect during any cure period; *provided*, if such Provider default reasonably cannot be cured by the Financing Party within such period and the Financing Party commences and continuously pursues cure of such default within such period, such period for cure will be extended for a reasonable period of time under the circumstances, such period not to exceed additional ninety (90) days.

ii. If the Financing Party (including any purchaser or transferee), pursuant to an exercise of remedies by the Financing Party, shall acquire title to or control of Provider's assets and shall, within the time periods described in Sub-section (c)(i). above, cure all defaults under this Agreement existing as of the date of such change in title or control in the manner required by this Agreement and which are capable of cure by a third person or entity, then such person or entity shall no longer be in default under this Agreement, and this Agreement shall continue in full force and effect.

Exhibit C

of General Conditions

Requirements Applicable to the Installation Work

Section B.1 Prohibition Against Use of Tobacco. All properties and facilities owned, leased or operated by the Purchaser are tobacco-free work places. No person on, at or in any Purchaser-controlled property or facility, including, without limitation, the Premises, may smoke, chew or otherwise use tobacco products. Provider shall be responsible for: (i) informing any and all persons present on or at the Premises on account of the Installation Work about the Purchaser's tobacco-free policy; and (ii) strictly enforcing such policy with respect to the Premises. The Purchaser, Provider, and each Subcontractor shall require that any person present on or at the Premises on account of the Installation Work who violates such policy must permanently leave the Premises, and shall prohibit such person from thereafter being present or performing any of the Installation Work on or at the Premises.

Section B.2 Prohibition Against Use of Drugs.

(a) Purchaser Drug-Free Policy. All properties and facilities owned, leased or operated by the Purchaser are drug-free work places. No person on, at or in any Purchaser-controlled property or facility, including, without limitation, the Premises, may: (i) engage in the unlawful manufacture, dispensation, possession or use, including being under the influence, of any controlled substance, (ii) possess or use any alcoholic beverage, or (iii) use any substance which may cause significant impairment of normal abilities. Provider shall be responsible for: (i) informing any and all persons present on or at the Premises on account of the Installation Work about the Purchaser's drug-free policy; and (ii) strictly enforcing such policy with respect to the Premises. The Purchaser, Provider, and each Subcontractor shall require that any person present on or at the Premises on account of the Installation Work who violates such policy must permanently leave the Premises, and shall prohibit such person from thereafter being present or performing any of the Installation Work on or at the Premises.

(b) Drug-Free Workplace Certification. Provider is hereby made subject to the requirements of Government Code Sections 8350 et seq., the Drug-Free Workplace Act of 1990.

Section B.3 Compliance with Labor Requirements. The Installation Work is a "public works" project as defined in Section 1720 of the California Labor Code ("Labor Code") and made applicable pursuant to Section 1720.6 of the Labor Code. Therefore, the Installation Work is subject to applicable provisions of Part 7, Chapter 1, of the Labor Code and Title 8 of the California Code of Regulations, Section 16000 et seq. (collectively, "Labor Law"). Provider acknowledges that, as provided by Senate Bill 854 (Stats. 2014, Ch. 28), the Project is subject to labor compliance monitoring and enforcement by the California Department of Industrial Relations ("DIR").

Section B.4 Compliance with Labor Code Requirements. Provider must be, and shall be deemed and construed to be, aware of and understand the requirements of the Labor Law that require the payment of prevailing wage rates and the performance of other requirements on public works projects. Provider, at no additional cost to the Purchaser, must: (i) comply with any and all applicable Labor Law requirements, including, without limitation, requirements for payment of prevailing wage rates, inspection and submittal (electronically, as required) of payroll records, interview(s) of workers, et cetera; (ii) ensure that its Subcontractors are aware of and comply with the Labor Law requirements; (iii) in connection with Labor Law compliance matters, cooperate with the DIR, the Purchaser and other entities with competent jurisdiction; and (iv) post all job-site notices required by law in connection with the Installation Work, including, without limitation, postings required by DIR regulations. A Subcontractor that has been debarred in accordance with the Labor Code, including, without limitation, pursuant to Sections 1777.1 or 1777.7, is not eligible to bid on, perform, or contract to perform any portion of the Installation Work. Wage rates for the Installation Work shall be in accordance with the general prevailing rates of per-diem wages determined by the Director of Industrial Relations pursuant to Labor Code Section 1770. The following Labor Code sections are by this reference incorporated into and are a fully operative part of the Contract, and Provider shall be responsible for compliance therewith:

(a) Section 1735: Anti-Discrimination Requirements;

(b) Section 1775: Penalty for Prevailing Wage Rate Violations;

(c) Section 1776: Payroll Records;

(d) Sections 1777.5,1777.6 and 1777.7: Apprenticeship Requirements;

(e) Sections 1810 through 1812: Working Hour Restrictions;

(f) Sections 1813 and 1814: Penalty for Failure to Pay Overtime; and

(g) Section 1815: Overtime Pay.

Section B.5 Requirements for Payroll Records. Provider must comply with all applicable provisions of Labor Code Sections 1776 and 1812, which relate to preparing and maintaining accurate payroll records, and making such payroll records available for review and copying by the Purchaser, the DIR Division of Labor Standards Enforcement, and the DIR Division of Apprenticeship Standards. The payroll records must be certified and made available as required by Labor Code Section 1776.

Section B.6 Contractor Registration. On and after March 1, 2015, no contractor may bid on a public works project unless the contractor is, and no subcontractor may be listed in any bid for a public works project unless the subcontractor is, currently registered with the DIR and qualified to perform public work pursuant to Labor Code Section 1725.5. On and after April 1, 2015, no contractor or subcontractor may be awarded a contract for work on a public works project, or may perform any work on a public works project, unless the contractor or subcontractor is currently registered with the DIR and qualified to perform public work pursuant to Labor Code Section 1725.5. It is not a violation of Labor Code Section 1725.5 for an unregistered contractor to submit a bid authorized by Business and Professions Code Section 7029.1 or Public Contract Code Section 20103.5, if the contractor is registered at the time the contract is awarded.

Section B.7 Permits and Licenses. Without limiting anything set forth in Section B.7 of this Exhibit C, Provider, its Subcontractors, and all of their respective employees and agents: (i) shall secure and maintain in force at all times during the performance of the Installation Work such licenses and permits as are required by law; and (ii) shall comply with all federal and State, and County laws and regulations, and other governmental requirements applicable to the System or the Installation Work. Provider or its subcontractors shall obtain and pay for all permits and licenses required for the performance of, or necessary in connection with, the Installation Work, and shall give all necessary notices and deliver all necessary certificates to the Purchaser, and shall pay all royalties and license fees arising from the use of any material, machine, method or process used in performing the Installation Work. Provider shall be solely responsible for all charges, assessments and fees payable in connection with any such licenses, permits, materials, machines, methods, and processes.

Section B.8 Protection of Minor-Aged Students. Provider, in conformance with Education Code Section 45125.1, shall require and be responsible for ensuring compliance by each and every person who will be on or at the Premises in connection with the construction, maintenance, operation or other purposes related to the System with all California Department of Justice guidelines and requirements relating to fingerprinting and criminal-history background checks, regardless of whether Section 45125.1 otherwise by its terms would apply to any such activities. In the event Education Code Section 45125.1 is repealed or superseded, Provider, following receipt of written notice from the Purchaser, shall comply with such successor or other requirements as determined by the Purchaser in its reasonable discretion. The Purchaser, in its discretion, may exempt in writing any person(s) from the foregoing requirements if Provider makes alternative arrangements for supervision of such person(s) that are acceptable to the Purchaser in its sole discretion.

ENERGY SERVICES AGREEMENT – SOLAR

Panoche WD – Office Lot Single Axis Tracker

This Energy Services Agreement ("Agreement") is made and entered into as of this ____ day of _____, 20____ (or, if later, the latest date of a Party's execution and delivery to the other Party of this Agreement, the "Effective Date"), between FFP BTM SOLAR, LLC, a Delaware limited liability company ("Provider"), and *Panoche Water District* ("Purchaser"; and, together with Provider, each, a "Party" and together, the "Parties").

RECITALS

A. Purchaser desires that Provider install and operate a solar photovoltaic system at the Premises (as hereafter defined) for the purpose of providing Energy Services (as hereafter defined), and Provider is willing to have the Installation Work performed by using one or more qualified contractors holding the appropriate licenses required in the jurisdiction where the System will be installed;

B. Provider is in the business of designing, constructing, owning, financing, and operating solar photovoltaic systems for the purpose of selling power generated by the systems to its purchasers;

C. California Government Code sections 4217.10 et seq. authorizes a public entity to enter into energy service contracts, facility financing contracts, and related agreements to implement the State's conservation and alternative energy supply source policy;

D. Purchaser's governing body has made those findings required by Government Code section 4217.12 that the anticipated cost to the Purchaser for Energy Services provided by the System under this Agreement is expected to be less than the anticipated marginal cost to the Purchaser of electrical energy that would have been consumed by Purchaser in the absence of its purchase of the Energy Services;

E. Provider and Purchaser acknowledged those certain General Terms and Conditions of Energy Services Agreement between FFP BTM Solar, LLC and Purchaser dated as of _____, 20____ ("General Terms and Conditions"), which are incorporated by reference as set forth herein; and

F. The terms and conditions of this Energy Services Agreement, excluding the General Terms and Conditions incorporated herein, constitute the "Special Conditions" referred to in the General Terms and Conditions.

In consideration of the mutual promises set forth below, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Incorporation of General Terms and Conditions. The General Terms and Conditions are incorporated herein as if set forth in their entirety.

2. Initial Term. The initial term of this Agreement shall commence on the Effective Date and shall continue for Twenty (20) years from the Commercial Operation Date (as defined in the General Terms and Conditions), unless and until extended or terminated earlier pursuant to the provisions of this Agreement (the "Initial Term"). After the Initial Term, this Agreement may be renewed for an additional five (5) year term (a "Renewal Term"). At least one hundred and eighty (180) days, but no more than three hundred and sixty-five (365) days, prior to the expiration of the Initial Term, Provider shall give written notice to Purchaser of the availability of the Renewal Term. Purchaser shall have sixty (60) days to agree to continuation of this Agreement for the Renewal Term. Absent agreement to the Renewal Term this Agreement shall expire on the Expiration Date. The Initial Term and the subsequent Renewal Term, if any, are referred to collectively as the "Term".

3. Schedules. The following Schedules hereto are hereby incorporated into this Agreement:

Schedule 1	Description of the Premises, System and Subsidy
Schedule 2	Energy Services Payment
Schedule 3	Early Termination Fee
Schedule 4	Estimated Annual Production
Schedule 5	Notice Information
Schedule 6	Reserved
Schedule 7	Specific Items for Scope of Work
Schedule 8	Acknowledgment of Upgrades, Schedule or Scope Change
Schedule 9	Site Diagram

4. Privacy. Purchaser acknowledges that the System may collect certain information about Purchaser's electricity usage and the System performance. Such information may be stored and processed in the United States or any other country in which Provider or its third-party service providers, or its or their respective affiliates, subsidiaries, or service providers, maintain facilities. Purchaser consents to any such transfer of information outside of Purchaser's country.

5. Milestone Dates.

5.1 The Guaranteed Construction Start Date is 360 days from Effective Date.

5.2 The Guaranteed Commercial Operation Date is 210 days from Guaranteed Construction Start Date.

6. Purchase Requirement; Energy Services Payment. "Energy Services" means the supply of electrical energy output from the System and any associated reductions in Purchaser's peak demand from its Local Electric Utility. Purchaser agrees to purchase one hundred percent (100%) of the Energy Services generated by the System and made available by Provider to Purchaser during each relevant month of the Term, up to a maximum of one hundred and ten percent (110%) of Estimated Annual Production, as defined in Schedule 4. While the Energy Services are calculated and billed on a per kWh basis as set forth in Schedule 2 of these Special Conditions, they represent a package of services and benefits.

7. Net Energy Metering.

7.1 The Parties acknowledge that the pricing assumes Net Energy Metering (NEM) 2.0 for the Initial Term. If (i) Provider fails to submit interconnection applications by the CPUC final decision for Net Energy Metering 23.0, or (ii) prior to the Commercial Operation Date, Provider fails to keep such interconnection applications in good standing such that the System would not be eligible for NEM 2.0, Purchaser may terminate this Agreement with no liability whatsoever, including, but not limited to the Early Termination Fee. The foregoing shall not apply to the extent Provider's failure is caused by an act or omission by Purchaser in connection with Provider's submittal of interconnection applications.

Provided, however, that in the event of a change in Applicable Law that occurs after the Commercial Operation Date and results in a loss of NEM 2.0 grandfathering, Purchaser shall have no such termination right. Provided further that Purchaser shall ensure any correspondence with the Local Electric Utility regarding the tariff and changes to the interconnection agreement are promptly shared with Provider.

8. Estimated Annual Production. The annual estimate of electricity generated by the system for each year of the initial term is set as forth in Schedule 4 of the Special Conditions ("Estimated Annual Production"). Within sixty (60) days of each annual anniversary of the Commercial Operation Date, Provider will provide a statement to Purchaser that shows the actual annual kWh production from the System for the Term Year, the Estimated Annual Production, and the Minimum Guaranteed Output (defined below).

9. Minimum Guaranteed Output. If the System fails to generate at least ninety-five percent (95%) of the Estimated Annual Production for a full Term Year (such amount, the "Minimum Guaranteed Output"), other than as a result of the acts or omissions of Purchaser or the Local Electric Utility (including a Disruption Period), or an Event of Force Majeure, Provider shall credit Purchaser an amount equal to Purchaser's Lost

Savings on the next invoice or invoices during the following Term Year. The formula for calculating Lost Savings for the applicable Term Year is as follows:

Lost Savings = (MGO*WPR - AE) x RV

MGO = Minimum Guaranteed Output, as measured in total kWh, for the System for the applicable Term Year.

WPR = Weather Performance Ratio, measured as the ratio of the actual insolation over typical (pro-forma) insolation. Such Weather Performance Ratio shall only apply if the ratio is less than 1.00.

AE = Actual Electricity, as measured in total kWh, delivered by the System for the Term Year plus the estimated lost energy production during a Disruption Period.

RV = (ATP - kWh Rate)

ATP = Average tariff price, measured in $/kWh, for the Term Year paid by Purchaser with respect to the Premises. This price is determined by dividing the total cost for delivered electricity, including all charges associated with such electricity howsoever named, including, without limitation, charges for distribution, transmission, demand, and systems benefits, paid to the Local Electric Utility during the applicable Term Year by the total amount of delivered electricity by the electric utility during such Term Year.

kWh Rate = the kWh Rate in effect for the applicable Term Year(s), measured in $/kWh.

If the RV is zero or less, then no Lost Savings payment is due to Purchaser. Any Lost Savings payment shall occur no later than sixty (60) days after the end of the Term Year during which such Lost Savings occurred.

10. Allowed Disruption Time. Notwithstanding the provisions in Section 4.3 of the General Terms and Conditions to the contrary, during years 4 through 20 (but not years 1 through 3) of the Term, Purchaser shall be afforded a one-time allocation of fifteen (15) days which may be used consecutively or in separate periods of at least twenty-four (24) hours each ("Allowed Disruption Time") during which the System shall be rendered non-operational. Purchaser shall not be obligated to make payments to Provider for electricity not received during the Allowed Disruption Time, nor shall Purchaser be required to reimburse Provider for any other lost revenue during the Allowed Disruption Time, including any lost revenue associated with any reduced sales of Environmental Attributes, and Provider shall be credited for the estimated lost production the System would have produced during such Allowed Disruption Time toward satisfaction of its Minimum Guaranteed Output, as set forth in Section 8 of the Special Conditions, such estimated lost production to be calculated in the same manner as set forth in Section 4.3 of the General Conditions.

11. Distribution Upgrades, Scope and Schedule Changes.

11.1 For any distribution upgrades required or changes to the scope of Installation Work made pursuant to Schedule 2 of the Special Conditions, the Parties may execute an acknowledgment in the form attached hereto as Schedule 8 detailing (i) the description of the distribution upgrades or change in scope of the Installation Work (ii) the amount of the adjustment in the kWh Rate and Early Termination Fee that corresponds to such costs, if any (iii) changes to the Estimated Annual Production in Schedule IV, if any, and (iv) any change to the Guaranteed Construction Start Date and Guaranteed Commercial Operation Date resulting from such upgrades or scope changes;

11.2 For any day for day extensions made pursuant to Section 2.2(b) of the General Conditions, the Parties may execute an acknowledgment in the form attached hereto as Schedule 8 detailing (i) the circumstances that warrant such day for day extension and (ii) the updated Guaranteed Construction Start Date and/or Guaranteed Commercial Operation Date;

11.3 For any extensions that are not made pursuant to Section 2.2(b) of the General Conditions, Provider may request extensions to the Guaranteed Construction Start Date and/or Guaranteed Commercial Operation Date to the extent that Provider can demonstrate to Purchaser that Provider is seeking such extension for good cause. Purchaser in its sole discretion may approve such extension(s) by executing an acknowledgment in the form attached hereto as Schedule 8 on which Provider details (i) the circumstances for which Provider deems good cause for such extension(s), (ii) the actions that Provider is taking to complete the System on a schedule agreeable to the Purchaser and (iii) the updated Guaranteed Construction Start Date and/or Guaranteed Commercial Operation Date.

For the avoidance of doubt, Purchaser designates the District General Manager as authorized to execute the acknowledgment form attached hereto as Schedule 8 provided the terms of such acknowledgment comply with this Section 11.

12. Sunlight Access. Purchaser will take all reasonable actions as necessary to prevent other buildings, structures or flora from overshadowing or otherwise blocking access of sunlight to the System.

13. Use of System. Purchaser will not use electrical energy generated by the System for the purposes of heating a swimming pool within the meaning of Section 48 of the Internal Revenue Code.

IN WITNESS WHEREOF and in confirmation of their consent to the terms and conditions contained in this Agreement and intending to be legally bound hereby, Provider and Purchaser have executed this Agreement as of the Effective Date.

PROVIDER:
FFP BTM SOLAR, LLC

By:_____
Name:
Title:
Date:

PURCHASER:
Panoche Water District

By:_____
Name:
Title:
Date:

SCHEDULES

I. Schedule 1 – Description of the Premises, System and Subsidy

A. Premises	52027 W Althea Ave, Firebaugh, CA 93622
Site diagram attached:	X Yes ☐No
B. Description of Solar System	Net Energy Metering Aggregation, grid interconnected, ground mounted solar.
Solar System Size:	1080.54 kW (DC) (this is an estimate (and not a guarantee) of the System size; Provider may update the System Size prior to the Commercial Operation Date.)
C. Anticipated Subsidy or Rebate	$0

II. Schedule 2 – Energy Services Payment

Purchaser shall pay to Provider a monthly payment (the "Energy Services Payment") for the Energy Services provided by the System during each calendar month of the Term equal to the product of (x) Actual Monthly Production for the System for the relevant month multiplied by (y) the kWh Rate.

The "Actual Monthly Production" means the amount of energy recorded by Provider's metering equipment during each calendar month of the Term.

The kWh Rate with respect to the System under this Agreement shall be in accordance with the following schedule:

PPA Rate Table

Term Year	kWh Rate ($/kWh)	Term Year	$/kWh Rate ($/kWh)
1	$0.0895	11	$0.0895
2	$0.0895	12	$0.0895
3	$0.0895	13	$0.0895
4	$0.0895	14	$0.0895
5	$0.0895	15	$0.0895
6	$0.0895	16	$0.0895
7	$0.0895	17	$0.0895
8	$0.0895	18	$0.0895
9	$0.0895	19	$0.0895
10	$0.0895	20	$0.0895

Distribution Upgrades. Within thirty (30) days of receipt of notice from the Local Electric Utility of distribution upgrade costs required by the Local Electric Utility, Purchaser will provide written notice (email is acceptable) to Provider of Purchaser's election of one of the following options:

a. Purchaser will bear all the distribution upgrade costs, and the kWh Rates stated in the PPA Rate Table will remain unchanged. Purchaser shall make payments directly to the Local Electric Utility in accordance with the requirements of the Local Electric Utility.
b. For every $0.01 per watt DC of such distribution upgrade costs, the kWh rate in the PPA Rate Table will increase $0.00056 per kWh, with a maximum kWh rate increase of $.01568 per kWh. Provider shall then be responsible for all associated costs and payments.
c. If distribution upgrades are required and exceed the maximum kWh increase of $.01568 per kWh, then ForeFront Power has the option to terminate this Agreement.

Scope Changes (ITC Eligible). If changes in project scope occur that are eligible for the Federal Investment Tax Credit (including but not limited to adverse geotechnical conditions or the inclusion of spare conduit) and the costs directly related such changes go beyond those contemplated as part of the development and implementation of the System in this Agreement, Provider will provide reasonable documentation demonstrating the direct and actual time and materials costs relating to such costs to Purchaser. Within thirty (30) days after Purchaser receives such documentation, Purchaser will provide written notice to Provider of Purchaser's election of one of the following options:

a. Purchaser will bear all of the reasonably documented scope change costs, and the kWh rate as stated in Table 1 will remain unchanged.
b. For every $0.01 per watt DC of such costs, the kWh rate in Table 1 will increase $.00035 per kWh, with an additional maximum kWh rate increase of $.00653 per kWh. Provider shall then be responsible for all associated costs and payments.

Scope Changes (Non-ITC Eligible). If changes in project scope occur that are not eligible for the Federal Investment Tax Credit (including but not limited to ADA compliance costs not related to System configuration or construction) and the costs directly related such changes go beyond those contemplated as part of the development and implementation of the System in this Agreement, Provider will provide reasonable documentation demonstrating the direct and actual time and materials costs relating to such costs to Purchaser. Within thirty (30) days after Purchaser receives such documentation, Purchaser will provide written notice to Provider of Purchaser's election of one of the following options:

a. Purchaser will pay the entire amount of such associated costs, and the kWh rate as stated in the PPA Rate Table will remain unchanged.
b. For every $0.01 per watt DC of such associated costs, the kWh rate in the PPA Rate Table will increase $.00047 per kWh, with an additional maximum kWh rate increase of $.00436 per kWh. Provider shall then be responsible for all associated costs and payments.

III. Schedule 3 – Early Termination Fee

The Early Termination Fee with respect to the System under this Agreement shall be calculated in accordance with the following:

Early Termination Occurs in Year:	Column 1 Early Termination Fee where Purchaser does not take Title to the System ($/Wdc including costs of removal)	Purchase Date Occurs on the 91st day following: (Each "Anniversary" below shall refer to the anniversary of the Commercial Operation Date)	Column 2 Early Termination Fee where Purchaser takes Title to the System ($/Wdc, does not include costs of removal)
1*	$3.48		--
2	$2.90		--
3	$2.75		--
4	$2.60		--
5	$2.45		--
6	$2.30	5th Anniversary	$1.80
7	$2.27	6th Anniversary	$1.77
8	$2.25	7th Anniversary	$1.75
9	$2.22	8th Anniversary	$1.72
10	$2.20	9th Anniversary	$1.70
11	$2.17	10th Anniversary	$1.67
12	$2.14	11th Anniversary	$1.64
13	$2.11	12th Anniversary	$1.61
14	$2.08	13th Anniversary	$1.58
15	$2.05	14th Anniversary	$1.55
16	$2.02	15th Anniversary	$1.52
17	$1.99	16th Anniversary	$1.49
18	$1.96	17th Anniversary	$1.46
19	$1.92	18th Anniversary	$1.42
20	$1.89	19th Anniversary	$1.39

At Expiration (the end of the Initial Term), the amount in Column 1 shall be deemed to be zero (0).
*Includes Early Termination prior to the Commercial Operation Date.

IV. Schedule 4 – Estimated Annual Production

Estimated Annual Production commencing on the Commercial Operation Date with respect to System under this Agreement shall be as follows:

Term Year	Estimated Production (kWh)	Term Year	Estimated Production (kWh)
1	2,251,845	11	2,141,753
2	2,240,586	12	2,131,044
3	2,229,383	13	2,120,389
4	2,218,236	14	2,109,787
5	2,207,145	15	2,099,238
6	2,196,109	16	2,088,742
7	2,185,129	17	2,078,298
8	2,174,203	18	2,067,907
9	2,163,332	19	2,057,567
10	2,152,516	20	2,047,279

The values set forth in the table above are estimates (and not guarantees), of approximately how many kWhs are expected to be generated annually by the System assuming the System size indicated in Schedule 1 and based on initial System designs. Provider may deliver to Purchaser an updated table on or about the Commercial Operation Date based on the actual System size and design.

V. Schedule 5 – Notice Information

Purchaser:

District General Manager
Panoche Water District
(209) 364-6136
aazhderian@panochewd.org
52027 W Althea Ave, Firebaugh, CA 93622

Provider:

FFP BTM Solar, LLC
c/o Forefront Power, LLC
Attn: Director, Energy Services
100 Montgomery St., Suite 725
San Francisco, CA 94104

With a copy to

FFP BTM Solar, LLC
c/o Forefront Power, LLC
Attn: Legal Department
100 Montgomery St., Suite 725
San Francisco, CA 94104
Email: FPLegal@forefrontpower.com

Financing Party:
[To be provided by Provider when known]

VI. Schedule 6 – Reserved

VII. Schedule 7 –Specific Items for Scope of Work

1. Provider Responsibilities:

1.1. All System structures shall be permitted through the authority having jurisdiction as ground mounted structures. Provider shall obtain permits on behalf of the project(s), including building department, structural, grading, and/or electrical permits as required.

1.2. Provider and Purchaser are operating under the assumption that the premises will be eligible for a CEQA Notice of Exemption, and that a special use, conditional use, or zoning permit will not be required. Provider assumes that Purchaser, as lead agency, will issue a Notice of Exemption for CEQA. Upon request, Provider shall provide such limited support as necessary to Purchaser to obtain the NOE, including, if necessary, biological study and associated consultant work. Provider shall not be responsible for costs or delays associated with any unforeseen required special use, conditional use, zoning permits or mitigations that may result from a CEQA submittal and public comment.

1.3. Provider intends to interconnect the System to Purchaser-owned existing 480 volt, 1500 amp service at a mutually agreeable location. Based on the information Purchaser has provided, Provider believes that the existing conductors and service equipment are sufficiently capable of accepting the additional electrical load of the System. Provider shall not bear responsibility for

any required upgrades to the pre-existing electrical system if conditions differ from those listed in Schedule 9.

1.4. Provider intends to configure the System to be operated in parallel with electric distribution services from the Local Electric Utility. Provider and Purchaser agree that during Local Electric Utility power outages, public safety power shut offs or other instances when the Local Electric Utility ceases to provide electric distribution services to the Premises, the System shall cease providing Energy Services to the Premises until such time as the Local Electric Utility resumes electrical distribution services.

1.5. Provider shall not be responsible for exporting soils. Any spoils that result from the installation of the System are assumed to be spread on site.

1.6. Provider assumes Risk Level I BMPs as it relates to relevant SWPP assumptions for the installation of the System.

1.7. Provider shall be responsible for all fees associated with the interconnection application, except that Provider shall not be responsible for transmission and distribution upgrades determined necessary by the Local Electric Utility.

1.8. Provider will execute a Phase I ESA, in accordance with ASTM e1527. Provider assumes that there are no REC's, HREC's or de minimis concerns associated with the Project Site.

1.9. Provider assumes that there is a potable water source on site, and available for Provider's use in cleaning and maintaining the system. The estimated quantity of water needed is approximately 8,000 gallons annually.

1.10. Provider assumes that soil conditions are not such soils that are rocky, sandy, contaminated, ground water, caving, or otherwise have problematic construction limitations. Specifically, ForeFront Power assumes no required shoring or de-watering for trenches, and a maximum required pile depth of not more than 10' and W6X9 pile sizing. If soil conditions prove to be more adverse than these assumptions, Provider shall not be responsible for such additional expenses as a result of additional subterranean geotechnical work including boring and trenching. Provider shall work with Purchaser in good faith to determine a mutually acceptable solution for Purchaser to pay such additional costs, including potentially an increase in the kWh rate in Schedule 2.

1.11. Provider agrees to construct the System in no more than a single construction phase.

1.12. Provider shall be responsible for all inspection and inspector costs associated with the installation of the system.

2. Purchaser Responsibilities:

2.1. Purchaser shall deliver to Provider all as-built drawings in order to fully develop the solar plan sets and designs. Provider shall not be responsible for the accuracy of the as-built drawings.

2.2. Purchaser shall be responsible for all costs associated with all efforts and expenses required to obtain CEQA approval beyond the securing of a CEQA Notice of Exemption. The Construction Start Date shall be extended on a day for day basis for delays associated with CEQA review.

VIII. Schedule 8 –Acknowledgment of Upgrades, Schedule or Scope Change

Upgrades, Scope and/or Schedule Change Acknowledgment

This Acknowledgment is made in accordance with Section 10 of the Special Conditions, as defined in that Energy Service Agreement – [Solar], between [PURCHASER] ("Purchaser") and FFP BTM Solar, LLC ("Provider"), dated [_____, 20___] (the "Agreement"). Upon execution by both Purchaser and Provider, this Acknowledgment shall be effective as of [INSERT DATE] (the "Acknowledgment Effective Date").

1. Type of Change:

- ☐ Distribution Upgrades
- ☐ Scope Changes (ITC Eligible)
- ☐ Scope Changes (Non-ITC Eligible)
- ☐ Day for Day Extension
- ☐ Extension for Good Cause

2. Description of Change

[INSERT DESCRIPTION AND IF PROVIDER SEEKING EXTENSION FOR GOOD CAUSE, PROVIDER TO DETAIL CIRCUMSTANCES AND ACTIONS PROVIDER IS TAKING TO COMPLETE SYSTEM ON AGREED UPON SCHEDULE]

3. kWh Rate and Early Termination Fee [IF NO IMPACT TO RATE OR ETF THEN DELETE]

[INSERT UPDATED KWH RATE AND EARLY TERMINATION FEE TABLE]

4. Estimated Annual Production [IF NO IMPACT TO ESTIMATED ANNUAL PRODUCTION THEN DELETE]

[INSERT UPDATED SCHEDULE 4 ESTIMATED ANNUAL PRODUCTION TABLE]

5. Updated Guaranteed Construction Start Date and Guaranteed Commercial Operation Date [IF NO IMPACT TO CLIFF DATES THEN DELETE]

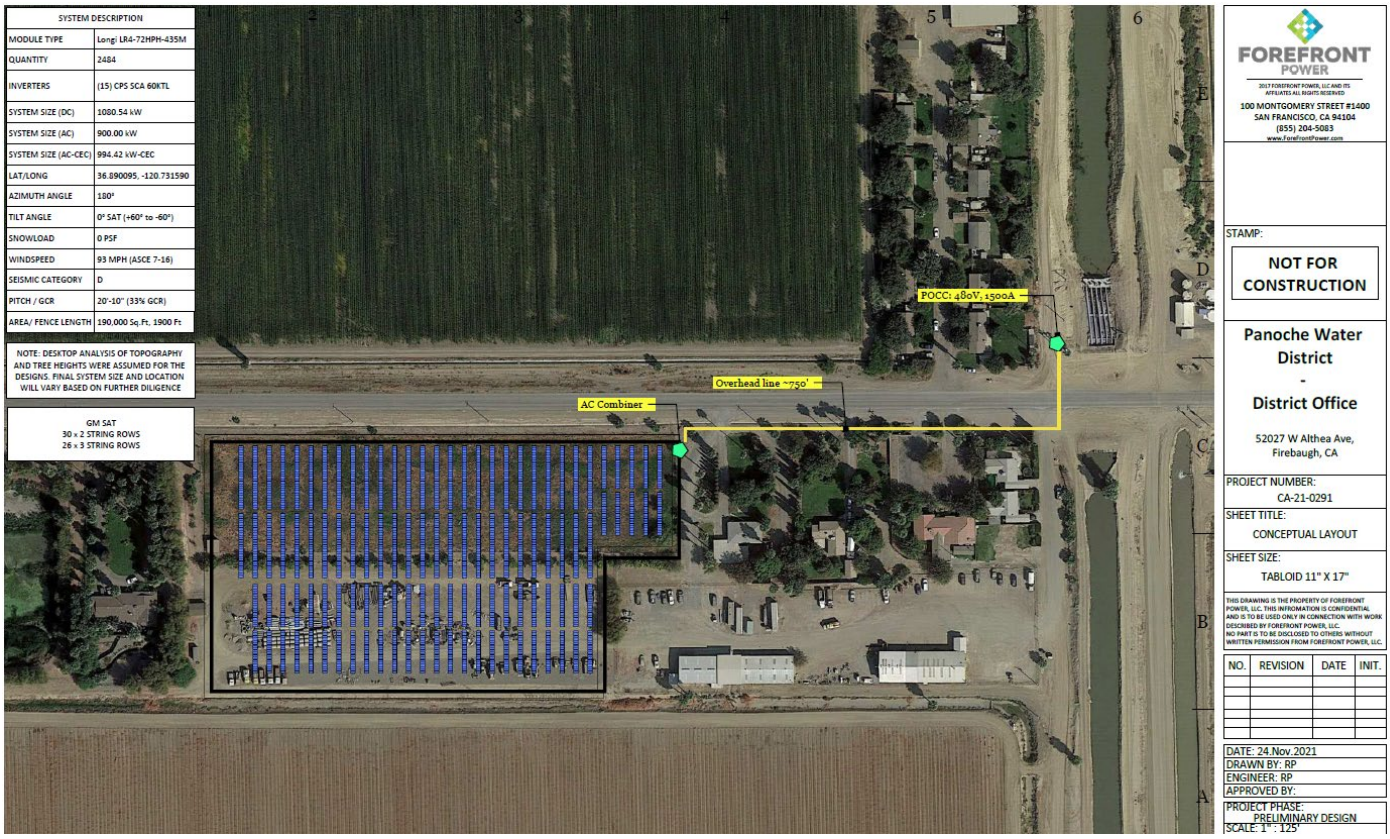
The Parties hereby agree that the Guaranteed Construction Start Date and the Guaranteed Commercial Operation Date as defined in the Agreement are updated as follows:

Guaranteed Construction Start Date: [_____]
Guaranteed Commercial Operation Date: [_____]

The Parties hereby acknowledge and confirm the terms set forth herein as of the Acknowledgment Effective Date.

[PURCHASER]	FFP BTM Solar, LLC
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____

IX. Schedule 9 – Site Diagram



ENERGY SERVICES AGREEMENT – SOLAR

Panoche WD – San Joaquin Drainage Field Single Axis Tracker

This Energy Services Agreement ("Agreement") is made and entered into as of this ____ day of _____, 20____ (or, if later, the latest date of a Party's execution and delivery to the other Party of this Agreement, the "Effective Date"), between FFP BTM SOLAR, LLC, a Delaware limited liability company ("Provider"), and *Panoche Water District* ("Purchaser"; and, together with Provider, each, a "Party" and together, the "Parties").

RECITALS

A. Purchaser desires that Provider install and operate a solar photovoltaic system at the Premises (as hereafter defined) for the purpose of providing Energy Services (as hereafter defined), and Provider is willing to have the Installation Work performed by using one or more qualified contractors holding the appropriate licenses required in the jurisdiction where the System will be installed;

B. Provider is in the business of designing, constructing, owning, financing, and operating solar photovoltaic systems for the purpose of selling power generated by the systems to its purchasers;

C. California Government Code sections 4217.10 et seq. authorizes a public entity to enter into energy service contracts, facility financing contracts, and related agreements to implement the State's conservation and alternative energy supply source policy;

D. Purchaser's governing body has made those findings required by Government Code section 4217.12 that the anticipated cost to the Purchaser for Energy Services provided by the System under this Agreement is expected to be less than the anticipated marginal cost to the Purchaser of electrical energy that would have been consumed by Purchaser in the absence of its purchase of the Energy Services;

E. Provider and Purchaser acknowledged those certain General Terms and Conditions of Energy Services Agreement between FFP BTM Solar, LLC and Purchaser dated as of _____, 20____ ("General Terms and Conditions"), which are incorporated by reference as set forth herein; and

F. The terms and conditions of this Energy Services Agreement, excluding the General Terms and Conditions incorporated herein, constitute the "Special Conditions" referred to in the General Terms and Conditions.

In consideration of the mutual promises set forth below, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Incorporation of General Terms and Conditions. The General Terms and Conditions are incorporated herein as if set forth in their entirety.

2. Initial Term. The initial term of this Agreement shall commence on the Effective Date and shall continue for Twenty (20) years from the Commercial Operation Date (as defined in the General Terms and Conditions), unless and until extended or terminated earlier pursuant to the provisions of this Agreement (the "Initial Term"). After the Initial Term, this Agreement may be renewed for an additional five (5) year term (a "Renewal Term"). At least one hundred and eighty (180) days, but no more than three hundred and sixty-five (365) days, prior to the expiration of the Initial Term, Provider shall give written notice to Purchaser of the availability of the Renewal Term. Purchaser shall have sixty (60) days to agree to continuation of this Agreement for the Renewal Term. Absent agreement to the Renewal Term this Agreement shall expire on the Expiration Date. The Initial Term and the subsequent Renewal Term, if any, are referred to collectively as the "Term".

3. Schedules. The following Schedules hereto are hereby incorporated into this Agreement:

Schedule 1	Description of the Premises, System and Subsidy
Schedule 2	Energy Services Payment
Schedule 3	Early Termination Fee
Schedule 4	Estimated Annual Production
Schedule 5	Notice Information
Schedule 6	Reserved
Schedule 7	Specific Items for Scope of Work
Schedule 8	Acknowledgment of Upgrades, Schedule or Scope Change
Schedule 9	Site Diagram

4. Privacy. Purchaser acknowledges that the System may collect certain information about Purchaser's electricity usage and the System performance. Such information may be stored and processed in the United States or any other country in which Provider or its third-party service providers, or its or their respective affiliates, subsidiaries, or service providers, maintain facilities. Purchaser consents to any such transfer of information outside of Purchaser's country.

5. Milestone Dates.

5.1 The Guaranteed Construction Start Date is 360 days from Effective Date.

5.2 The Guaranteed Commercial Operation Date is 210 days from Guaranteed Construction Start Date.

6. Purchase Requirement; Energy Services Payment. "Energy Services" means the supply of electrical energy output from the System and any associated reductions in Purchaser's peak demand from its Local Electric Utility. Purchaser agrees to purchase one hundred percent (100%) of the Energy Services generated by the System and made available by Provider to Purchaser during each relevant month of the Term, up to a maximum of one hundred and ten percent (110%) of Estimated Annual Production, as defined in Schedule 4. While the Energy Services are calculated and billed on a per kWh basis as set forth in Schedule 2 of these Special Conditions, they represent a package of services and benefits.

7. Net Energy Metering.

7.1 The Parties acknowledge that the pricing assumes Net Energy Metering (NEM) 2.0 for the Initial Term. If (i) Provider fails to submit interconnection applications by the CPUC final decision for Net Energy Metering, or (ii) prior to the Commercial Operation Date, Provider fails to keep such interconnection applications in good standing such that the System would not be eligible for NEM 2.0, Purchaser may terminate this Agreement with no liability whatsoever, including, but not limited to the Early Termination Fee. The foregoing shall not apply to the extent Provider's failure is caused by an act or omission by Purchaser in connection with Provider's submittal of interconnection applications.

Provided, however, that in the event of a change in Applicable Law that occurs after the Commercial Operation Date and results in a loss of NEM 2.0 grandfathering, Purchaser shall have no such termination right. Provided further that Purchaser shall ensure any correspondence with the Local Electric Utility regarding the tariff and changes to the interconnection agreement are promptly shared with Provider.

8. Estimated Annual Production. The annual estimate of electricity generated by the system for each year of the initial term is set as forth in Schedule 4 of the Special Conditions ("Estimated Annual Production"). Within sixty (60) days of each annual anniversary of the Commercial Operation Date, Provider will provide a statement to Purchaser that shows the actual annual kWh production from the System for the Term Year, the Estimated Annual Production, and the Minimum Guaranteed Output (defined below).

9. Minimum Guaranteed Output. If the System fails to generate at least ninety-five percent (95%) of the Estimated Annual Production for a full Term Year (such amount, the "Minimum Guaranteed Output"), other than as a result of the acts or omissions of Purchaser or the Local Electric Utility (including a Disruption Period), or an Event of Force Majeure, Provider shall credit Purchaser an amount equal to Purchaser's Lost

Savings on the next invoice or invoices during the following Term Year. The formula for calculating Lost Savings for the applicable Term Year is as follows:

Lost Savings = (MGO*WPR - AE) x RV

MGO = Minimum Guaranteed Output, as measured in total kWh, for the System for the applicable Term Year.

WPR = Weather Performance Ratio, measured as the ratio of the actual insolation over typical (pro-forma) insolation. Such Weather Performance Ratio shall only apply if the ratio is less than 1.00.

AE = Actual Electricity, as measured in total kWh, delivered by the System for the Term Year plus the estimated lost energy production during a Disruption Period.

RV = (ATP - kWh Rate)

ATP = Average tariff price, measured in $/kWh, for the Term Year paid by Purchaser with respect to the Premises. This price is determined by dividing the total cost for delivered electricity, including all charges associated with such electricity howsoever named, including, without limitation, charges for distribution, transmission, demand, and systems benefits, paid to the Local Electric Utility during the applicable Term Year by the total amount of delivered electricity by the electric utility during such Term Year.

kWh Rate = the kWh Rate in effect for the applicable Term Year(s), measured in $/kWh.

If the RV is zero or less, then no Lost Savings payment is due to Purchaser. Any Lost Savings payment shall occur no later than sixty (60) days after the end of the Term Year during which such Lost Savings occurred.

10. Allowed Disruption Time. Notwithstanding the provisions in Section 4.3 of the General Terms and Conditions to the contrary, during years 4 through 20 (but not years 1 through 3) of the Term, Purchaser shall be afforded a one-time allocation of fifteen (15) days which may be used consecutively or in separate periods of at least twenty-four (24) hours each ("Allowed Disruption Time") during which the System shall be rendered non-operational. Purchaser shall not be obligated to make payments to Provider for electricity not received during the Allowed Disruption Time, nor shall Purchaser be required to reimburse Provider for any other lost revenue during the Allowed Disruption Time, including any lost revenue associated with any reduced sales of Environmental Attributes, and Provider shall be credited for the estimated lost production the System would have produced during such Allowed Disruption Time toward satisfaction of its Minimum Guaranteed Output, as set forth in Section 8 of the Special Conditions, such estimated lost production to be calculated in the same manner as set forth in Section 4.3 of the General Conditions.

11. Distribution Upgrades, Scope and Schedule Changes.

11.1 For any distribution upgrades required or changes to the scope of Installation Work made pursuant to Schedule 2 of the Special Conditions, the Parties may execute an acknowledgment in the form attached hereto as Schedule 8 detailing (i) the description of the distribution upgrades or change in scope of the Installation Work (ii) the amount of the adjustment in the kWh Rate and Early Termination Fee that corresponds to such costs, if any (iii) changes to the Estimated Annual Production in Schedule IV, if any, and (iv) any change to the Guaranteed Construction Start Date and Guaranteed Commercial Operation Date resulting from such upgrades or scope changes;

11.2 For any day for day extensions made pursuant to Section 2.2(b) of the General Conditions, the Parties may execute an acknowledgment in the form attached hereto as Schedule 8 detailing (i) the circumstances that warrant such day for day extension and (ii) the updated Guaranteed Construction Start Date and/or Guaranteed Commercial Operation Date;

11.3 For any extensions that are not made pursuant to Section 2.2(b) of the General Conditions, Provider may request extensions to the Guaranteed Construction Start Date and/or Guaranteed Commercial Operation Date to the extent that Provider can demonstrate to Purchaser that Provider is seeking such extension for good cause. Purchaser in its sole discretion may approve such extension(s) by executing an acknowledgment in the form attached hereto as Schedule 8 on which Provider details (i) the circumstances for which Provider deems good cause for such extension(s), (ii) the actions that Provider is taking to complete the System on a schedule agreeable to the Purchaser and (iii) the updated Guaranteed Construction Start Date and/or Guaranteed Commercial Operation Date.

For the avoidance of doubt, Purchaser designates the District General Manager as authorized to execute the acknowledgment form attached hereto as Schedule 8 provided the terms of such acknowledgment comply with this Section 11.

12. Sunlight Access. Purchaser will take all reasonable actions as necessary to prevent other buildings, structures or flora from overshadowing or otherwise blocking access of sunlight to the System.

13. Use of System. Purchaser will not use electrical energy generated by the System for the purposes of heating a swimming pool within the meaning of Section 48 of the Internal Revenue Code.

IN WITNESS WHEREOF and in confirmation of their consent to the terms and conditions contained in this Agreement and intending to be legally bound hereby, Provider and Purchaser have executed this Agreement as of the Effective Date.

PROVIDER:
FFP BTM SOLAR, LLC

By:_____
Name:
Title:
Date:

PURCHASER:
Panoche Water District

By:_____
Name:
Title:
Date:

SCHEDULES

I. Schedule 1 – Description of the Premises, System and Subsidy

A. Premises	Adjacent to 10759 N Russell Ave, Firebaugh, CA 93622 APN # : 004-120-24ST
Site diagram attached:	X Yes ☐No
B. Description of Solar System	Net Energy Metering Aggregation, grid interconnected, ground mounted solar.
Solar System Size:	1029.6 kW (DC) (this is an estimate (and not a guarantee) of the System size; Provider may update the System Size prior to the Commercial Operation Date.)
C. Anticipated Subsidy or Rebate	$0

II. Schedule 2 – Energy Services Payment

Purchaser shall pay to Provider a monthly payment (the "Energy Services Payment") for the Energy Services provided by the System during each calendar month of the Term equal to the product of (x) Actual Monthly Production for the System for the relevant month multiplied by (y) the kWh Rate.

The "Actual Monthly Production" means the amount of energy recorded by Provider's metering equipment during each calendar month of the Term.

The kWh Rate with respect to the System under this Agreement shall be in accordance with the following schedule:

PPA Rate Table

Term Year	kWh Rate ($/kWh)	Term Year	$/kWh Rate ($/kWh)
1	$0.0935	11	$0.0935
2	$0.0935	12	$0.0935
3	$0.0935	13	$0.0935
4	$0.0935	14	$0.0935
5	$0.0935	15	$0.0935
6	$0.0935	16	$0.0935
7	$0.0935	17	$0.0935
8	$0.0935	18	$0.0935
9	$0.0935	19	$0.0935
10	$0.0935	20	$0.0935

Distribution Upgrades. Within thirty (30) days of receipt of notice from the Local Electric Utility of distribution upgrade costs required by the Local Electric Utility, Purchaser will provide written notice (email is acceptable) to Provider of Purchaser's election of one of the following options:

a. Purchaser will bear all the distribution upgrade costs, and the kWh Rates stated in the PPA Rate Table will remain unchanged. Purchaser shall make payments directly to the Local Electric Utility in accordance with the requirements of the Local Electric Utility.
b. For every $0.01 per watt DC of such distribution upgrade costs, the kWh rate in the PPA Rate Table will increase $0.00055 per kWh, with a maximum kWh rate increase of $.01609 per kWh. Provider shall then be responsible for all associated costs and payments.
c. If distribution upgrades are required and exceed the maximum kWh increase of $.01609 per kWh, then ForeFront Power has the option to terminate this Agreement.

Scope Changes (ITC Eligible). If changes in project scope occur that are eligible for the Federal Investment Tax Credit (including but not limited to adverse geotechnical conditions or the inclusion of spare conduit) and the costs directly related such changes go beyond those contemplated as part of the development and implementation of the System in this Agreement, Provider will provide reasonable documentation demonstrating the direct and actual time and materials costs relating to such costs to Purchaser. Within thirty (30) days after Purchaser receives such documentation, Purchaser will provide written notice to Provider of Purchaser's election of one of the following options:

a. Purchaser will bear all of the reasonably documented scope change costs, and the kWh rate as stated in Table 1 will remain unchanged.
b. For every $0.01 per watt DC of such costs, the kWh rate in Table 1 will increase $.00035 per kWh, with an additional maximum kWh rate increase of $.0067 per kWh. Provider shall then be responsible for all associated costs and payments.

Scope Changes (Non-ITC Eligible). If changes in project scope occur that are not eligible for the Federal Investment Tax Credit (including but not limited to ADA compliance costs not related to System configuration or construction) and the costs directly related such changes go beyond those contemplated as part of the development and implementation of the System in this Agreement, Provider will provide reasonable documentation demonstrating the direct and actual time and materials costs relating to such costs to Purchaser. Within thirty (30) days after Purchaser receives such documentation, Purchaser will provide written notice to Provider of Purchaser's election of one of the following options:

a. Purchaser will pay the entire amount of such associated costs, and the kWh rate as stated in the PPA Rate Table will remain unchanged.
b. For every $0.01 per watt DC of such associated costs, the kWh rate in the PPA Rate Table will increase $.00046 per kWh, with an additional maximum kWh rate increase of $.00447 per kWh. Provider shall then be responsible for all associated costs and payments.

III. Schedule 3 – Early Termination Fee

The Early Termination Fee with respect to the System under this Agreement shall be calculated in accordance with the following:

Early Termination Occurs in Year:	Column 1 Early Termination Fee where Purchaser does not take Title to the System ($/Wdc including costs of removal)	Purchase Date Occurs on the 91st day following: (Each "Anniversary" below shall refer to the anniversary of the Commercial Operation Date)	Column 2 Early Termination Fee where Purchaser takes Title to the System ($/Wdc, does not include costs of removal)
1*	$3.72		--
2	$3.09		--
3	$2.93		--
4	$2.76		--
5	$2.60		--
6	$2.44	5th Anniversary	$1.94
7	$2.41	6th Anniversary	$1.91
8	$2.39	7th Anniversary	$1.89
9	$2.36	8th Anniversary	$1.86
10	$2.33	9th Anniversary	$1.83
11	$2.30	10th Anniversary	$1.80
12	$2.27	11th Anniversary	$1.77
13	$2.24	12th Anniversary	$1.74
14	$2.21	13th Anniversary	$1.71
15	$2.18	14th Anniversary	$1.68
16	$2.14	15th Anniversary	$1.64
17	$2.11	16th Anniversary	$1.61
18	$2.07	17th Anniversary	$1.57
19	$2.03	18th Anniversary	$1.53
20	$1.99	19th Anniversary	$1.49

At Expiration (the end of the Initial Term), the amount in Column 1 shall be deemed to be zero (0).
*Includes Early Termination prior to the Commercial Operation Date.

IV. Schedule 4 – Estimated Annual Production

Estimated Annual Production commencing on the Commercial Operation Date with respect to System under this Agreement shall be as follows:

Term Year	Estimated Production (kWh)	Term Year	Estimated Production (kWh)
1	2,198,196	11	2,090,726
2	2,187,205	12	2,080,273
3	2,176,269	13	2,069,871
4	2,165,388	14	2,059,522
5	2,154,561	15	2,049,225
6	2,143,788	16	2,038,978
7	2,133,069	17	2,028,784
8	2,122,404	18	2,018,640
9	2,111,792	19	2,008,546
10	2,101,233	20	1,998,504

The values set forth in the table above are estimates (and not guarantees), of approximately how many kWhs are expected to be generated annually by the System assuming the System size indicated in Schedule 1 and based on initial System designs. Provider may deliver to Purchaser an updated table on or about the Commercial Operation Date based on the actual System size and design.

V. Schedule 5 – Notice Information

Purchaser:

District General Manager
Panoche Water District
(209) 364-6136
aazhderian@panochewd.org
52027 W Althea Ave, Firebaugh, CA 93622

Provider:

FFP BTM Solar, LLC
c/o Forefront Power, LLC
Attn: Director, Energy Services
100 Montgomery St., Suite 725
San Francisco, CA 94104

With a copy to

FFP BTM Solar, LLC
c/o Forefront Power, LLC
Attn: Legal Department
100 Montgomery St., Suite 725
San Francisco, CA 94104
Email: FPLegal@forefrontpower.com

Financing Party:
[To be provided by Provider when known]

VI. Schedule 6 – Reserved

VII. Schedule 7 –Specific Items for Scope of Work

1. Provider Responsibilities:

1.1. All System structures shall be permitted through the authority having jurisdiction as ground mounted structures. Provider shall obtain permits on behalf of the project(s), including building department, structural, grading, and/or electrical permits as required.

1.2. Provider and Purchaser are operating under the assumption that the premises will be eligible for a CEQA Notice of Exemption, and that a special use, conditional use, or zoning permit will not be required. Provider assumes that Purchaser, as lead agency, will issue a Notice of Exemption for CEQA. Upon request, Provider shall provide such limited support as necessary to Purchaser to obtain the NOE, including, if necessary, biological study and associated consultant work. Provider shall not be responsible for costs or delays associated with any unforeseen required special use, conditional use, zoning permits or mitigations that may result from a CEQA submittal and public comment.

1.3. Provider intends to provide and interconnect the System to a new 480V, service at a mutually agreeable location. Based on the information Purchaser has provided, Provider believes that the existing conductors and service equipment are sufficiently capable of accepting the additional electrical load of the System. Provider shall not bear responsibility for any required upgrades to the pre-existing electrical system if conditions differ from those listed in Schedule 9.

1.4. Provider intends to configure the System to be operated in parallel with electric distribution services from the Local Electric Utility. Provider and Purchaser agree that during Local Electric Utility power outages, public safety power shut offs or other instances when the Local Electric Utility ceases to provide electric distribution services to the Premises, the System shall cease providing Energy Services to the Premises until such time as the Local Electric Utility resumes electrical distribution services.

1.5. Provider shall not be responsible for exporting soils. Any spoils that result from the installation of the System are assumed to be spread on site.

1.6. Provider assumes Risk Level I BMPs as it relates to relevant SWPP assumptions for the installation of the System.

1.7. Provider shall be responsible for all fees associated with the interconnection application, except that Provider shall not be responsible for transmission and distribution upgrades determined necessary by the Local Electric Utility.

1.8. Provider will execute a Phase I ESA, in accordance with ASTM e1527. Provider assumes that there are no REC's, HREC's or de minimis concerns associated with the Project Site.

1.9. Provider assumes that there is a potable water source on site, and available for Provider's use in cleaning and maintaining the system. The estimated quantity of water needed is approximately 8,000 gallons annually.

1.10. Provider assumes that soil conditions are not such soils that are rocky, sandy, contaminated, ground water, caving, or otherwise have problematic construction limitations. Specifically, ForeFront Power assumes no required shoring or de-watering for trenches, and a maximum required pile depth of not more than 10' and W6X9 pile sizing. If soil conditions prove to be more adverse than these assumptions, Provider shall not be responsible for such additional expenses as a result of additional subterranean geotechnical work including boring and trenching. Provider shall work with Purchaser in good faith to determine a mutually acceptable solution for Purchaser to pay such additional costs, including potentially an increase in the kWh rate in Schedule 2.

1.11. Provider agrees to construct the System in no more than a single construction phase.

1.12. Provider shall be responsible for all inspection and inspector costs associated with the installation of the system.

2. Purchaser Responsibilities:

2.1. Purchaser shall deliver to Provider all as-built drawings in order to fully develop the solar plan sets and designs. Provider shall not be responsible for the accuracy of the as-built drawings.

2.2. Purchaser shall be responsible for all costs associated with all efforts and expenses required to obtain CEQA approval beyond the securing of a CEQA Notice of Exemption. The Construction Start Date shall be extended on a day for day basis for delays associated with CEQA review.

VIII. Schedule 8 –Acknowledgment of Upgrades, Schedule or Scope Change

Upgrades, Scope and/or Schedule Change Acknowledgment

This Acknowledgment is made in accordance with Section 10 of the Special Conditions, as defined in that Energy Service Agreement – [Solar], between [PURCHASER] ("Purchaser") and FFP BTM Solar, LLC ("Provider"), dated [_____, 20___] (the "Agreement"). Upon execution by both Purchaser and Provider, this Acknowledgment shall be effective as of [INSERT DATE] (the "Acknowledgment Effective Date").

1. Type of Change:

- ☐ Distribution Upgrades
- ☐ Scope Changes (ITC Eligible)
- ☐ Scope Changes (Non-ITC Eligible)
- ☐ Day for Day Extension
- ☐ Extension for Good Cause

2. Description of Change

[INSERT DESCRIPTION AND IF PROVIDER SEEKING EXTENSION FOR GOOD CAUSE, PROVIDER TO DETAIL CIRCUMSTANCES AND ACTIONS PROVIDER IS TAKING TO COMPLETE SYSTEM ON AGREED UPON SCHEDULE]

3. kWh Rate and Early Termination Fee [IF NO IMPACT TO RATE OR ETF THEN DELETE]

[INSERT UPDATED KWH RATE AND EARLY TERMINATION FEE TABLE]

4. Estimated Annual Production [IF NO IMPACT TO ESTIMATED ANNUAL PRODUCTION THEN DELETE]

[INSERT UPDATED SCHEDULE 4 ESTIMATED ANNUAL PRODUCTION TABLE]

5. Updated Guaranteed Construction Start Date and Guaranteed Commercial Operation Date [IF NO IMPACT TO CLIFF DATES THEN DELETE]

The Parties hereby agree that the Guaranteed Construction Start Date and the Guaranteed Commercial Operation Date as defined in the Agreement are updated as follows:

Guaranteed Construction Start Date: [_____]
Guaranteed Commercial Operation Date: [_____]

The Parties hereby acknowledge and confirm the terms set forth herein as of the Acknowledgment Effective Date.

[PURCHASER]	FFP BTM Solar, LLC
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____

IX. Schedule 9 – Site Diagram

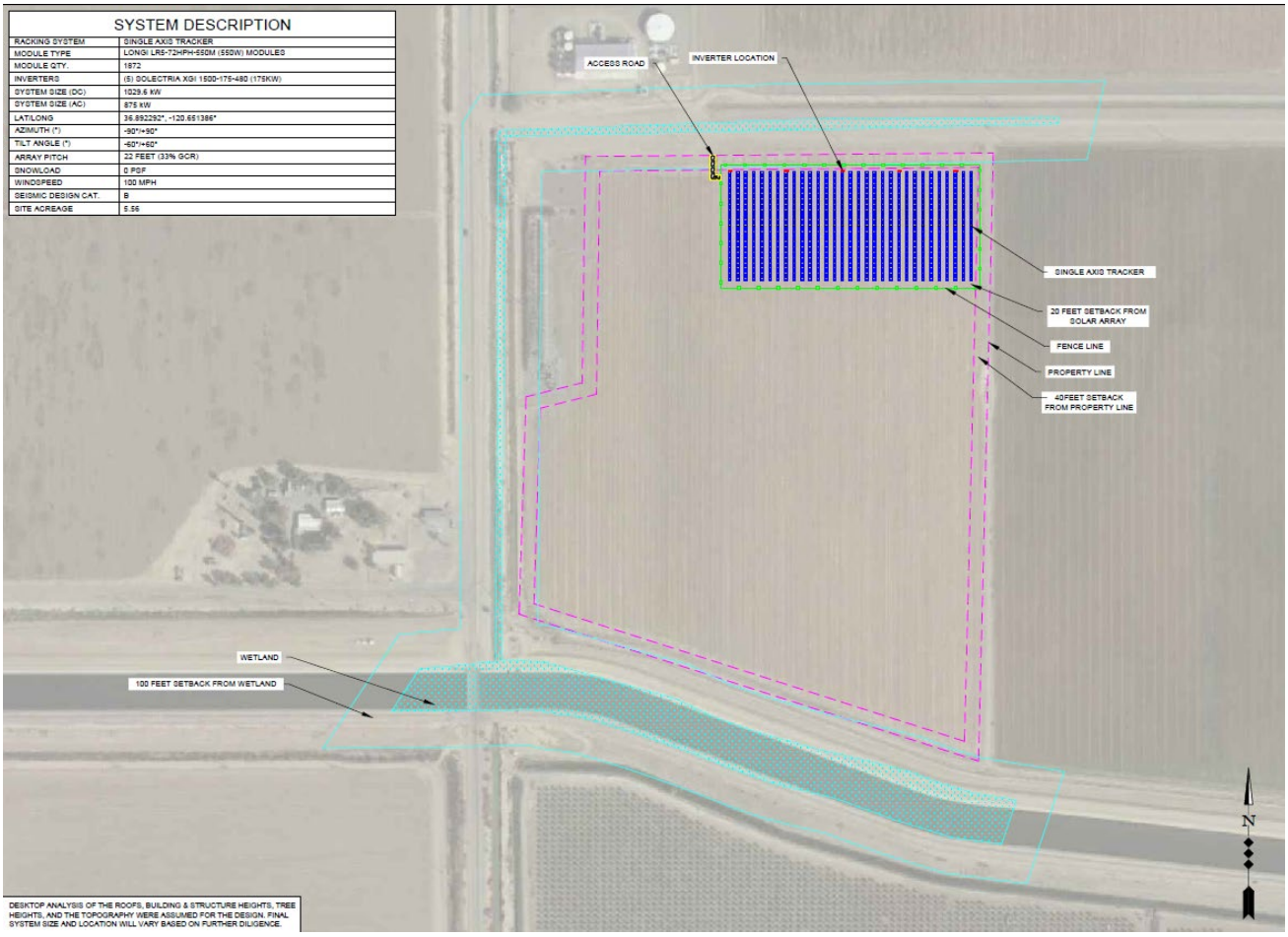


Exhibit C
Notice of Exemption

DRAFT

Notice of Exemption

Appendix E

To: Office of Planning and Research
P.O. Box 3044, Room 113
Sacramento, CA 95812-3044

County Clerk
County of: Fresno
PW Box 766
Fresno, CA 93712

From: (Public Agency): Panoche Water District
52027 W. Althea Ave.
Firebaugh, CA 93622
(Address)

Project Title: ForeFront Solar Energy Savings Project

Project Applicant: Panoche Water District

Project Location - Specific:
Panoche Water District

Project Location - City: Firebaugh Project Location - County: Fresno

Description of Nature, Purpose and Beneficiaries of Project:
See Attachment.

Name of Public Agency Approving Project: Panoche Water District

Name of Person or Agency Carrying Out Project: Ara Azhderian

Exempt Status: **(check one):**

- ☐ Ministerial (Sec. 21080(b)(1); 15268);
- ☐ Declared Emergency (Sec. 21080(b)(3); 15269(a));
- ☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- ☒ Categorical Exemption. State type and section number: CCR sections 15061, 15304
- ☒ Statutory Exemptions. State code number: Pub. Res. Code section 21080.35

Reasons why project is exempt:
See Attachment.

Lead Agency
Contact Person: Ara Azhderian Area Code/Telephone/Extension: (209) 364-6136

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? ☐ Yes ☐ No

Signature: _____ Date: _____ Title: General Manager

▪ Signed by Lead Agency ☐ Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code.
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

Date Received for filing at OPR: _____

Attachment

Description of Project:

The ForeFront Solar Energy Savings Project will install two solar fields within the boundaries of Panoche Water District on areas that are either existing parking lots or fields. One site will be an approximately 1080 KW site near Panoche Water District headquarters, and the other will be an approximately 1030 KW site new San Joaquin River Drainage Field. The Project would result in substantial energy savings for the District of up to $9.6 million over 20 years. The Project, while long-term, is temporary in that it does not permanently convert agricultural land to another use.

Reasons Why Project is Exempt:

Executing the Agreement is subject to the "common sense" exemption from CEQA as provided in Title 14 of the California Code of Regulations section 15061, subd. (b)(3), because no possibility exists that entering into the Agreement could result in a significant impact to the environment. The Agreement will not change the type, intensity, or manner of services the District already provides, but will merely result in lower costs of electricity to the District.

Executing the Agreement is further exempt from CEQA under Title 14 CCR section 15304 as it involves the minor alteration in the condition of land associated with the terms of the Agreement.

Nor will there be any cumulative impact, as there are neither successive projects of the same type in the same place, over time, nor cumulative impacts of any kind associated with the project. Nor is there a reasonable possibility that the Agreement will have a significant effect on the environment due to unusual circumstances.

The Agreement is further exempt from CEQA under Public Resources Code section 21080.35, which exempts the installation of solar energy systems on existing buildings or existing parking lots.

BACK

PANOCHE WATER DISTRICT
RESOLUTION NO. 803-22

A RESOLUTION RATIFYING EXECUTION OF AN AMENDED AND RESTATED PANOCHE WATER DISTRICT RETIREMENT PLAN AND TRUST

WHEREAS, on December 12, 2003, the Board of Directors of the Panoche Water District (the "Board" and the "District" or the "Employer," respectively) adopted the Plan and Trust known as the Panoche Water District Retirement Plan Money Purchase Pension Plan (the "Plan"); and

WHEREAS, the form of Plan presented to the Board is a Cash or Deferred Profit-Sharing Plan as authorized under Internal Revenue Code sections 401(a) 401(k), 402(g), 401(m) and 501(a), the most recent Restatement being effective March 1, 2016; and

WHEREAS, the Board is authorized and empowered to further amend the Plan under the same subsections; and

WHEREAS, on February 26, 2019, the Board adopted an amendment to the Plan and Trust to establish, effective March 1, 2018, that "compensation" of employees covered under the Plan did not exclude compensation paid by other public agencies administered by Panoche Water District, along with other minor clerical or conforming changes; and

WHEREAS, on August 11, 2020, the Board adopted an amendment to the Plan and Trust to establish, effective March 1, 2020, a "Safe Harbor" provision, along with other minor clerical or conforming changes; and

WHEREAS, on January 26, 2021, the Board adopted an amendment to the Plan and Trust to establish a "match" contribution provision, along with other minor clerical or conforming changes; and

WHEREAS, on February 28, 2022, the President of the Board of Directors of the District as Employer and the General Manger of the District as Trustee timely executed the amendment and restatement of the Panoche Water District Retirement Plan and the Panoche Water District Retirement Trust; and

WHEREAS, the Board is now presented with an amended and restated Plan and Trust to address clerical or conforming changes pursuant to the requirements listed in IRS Notice 2017-37 as required in IRS Revenue Procedure 2016- 37; and

WHEREAS, the Board has considered the Summary Plan Description as presented.

NOW, THEREFORE, BE IT HEREBY RESOLVED AS FOLLOWS:

1. The Board of Directors of the Panoche Water District hereby finds and determines the above Recitals are true and correct and are incorporated herein by this reference.

DRAFT

2. The Board hereby authorizes removal of John P. Otollo as a Trustee of the Panoche Water District Retirement Plan and the Panoche Water District Retirement Trust effective December 13, 2021.

3. The Board hereby ratifies execution of the amended and restated Panoche Water District Retirement Plan and the Panoche Water District Retirement Trust by the President and Trustee.

4. The Board hereby approves and adopts the amended and restated Panoche Water District Retirement Plan and the Panoche Water District Retirement Trust, including the Plan Expense Policy, effective March 1, 2021.

5. The General Manager, and his designees, are hereby authorized and directed to execute such additional documents and take such additional actions as may be required to fully implement the terms and intent of this Resolution, including notifying all employees of the amendment and restatement of the Plan and Trust by delivering to each employee a copy of the Summary Plan Description presented.

PASSED AND ADOPTED this 8th day of March 2022, in a duly noticed and open meeting of the Board of Directors by the following vote, to wit:

Ayes:
Nays:
Abstain:
Absent:

BACK

_____
John Bennett, President

Attest: _____
Michael Stearns, Secretary

DRAFT

POST-PPA RESTATEMENT FAQ

What is a plan restatement?

A restatement is a complete re-writing of the plan document. It incorporates changes from any plan amendments that may have been adopted since the last time the document was re-written.

Is the current plan restatement mandatory or voluntary?

While some plan sponsors choose to restate their plans for various reasons, the current plan restatement is mandatory. Failure to complete the restatement by the July 31, 2022, deadline will jeopardize a plan's tax-qualified status.

Which types of plans must be restated?

All qualified retirement plans must be restated from time to time; however, they are divided into various cycles depending on plan type and document type. For example, there are different restatement cycles for defined benefit plans and defined contribution plans. There are also different cycles for individually designed (attorney-drafted) plan documents and pre-approved plan documents.

What is a pre-approved plan?

A pre-approved plan is one the IRS has reviewed and approved all of the options that are available. They issue an advisory or opinion letter as evidence of the pre-approved status. All employers who adopt a pre-approved plan covered by such a letter are entitled to rely on the approval letter issued at the "global" level without applying for their own, individual determination letter. In order to create a "level playing field," the IRS sends out the new approval letters for all pre-approved plan documents at the same time. The PPA approval letters were issued on June 30, 2020.

What are some of the changes in the Post-PPA Document?

This "Post-PPA Restatement" contains provisions for all retirement plan related legislation enacted prior to February 1, 2017. Some highlights include:

- Expansion of the definition of "spouse" to include those of the same gender.
- Availability of plan forfeitures to offset certain additional types of company contributions.
- Ability to amend safe harbor 401(k) plans once the year has already started.
- Allowance of in-plan Roth rollovers.

Why do we have to restate our plan?

Plan documents are drafted based on laws and regulations set forth by Congress, the Internal Revenue Service and the Department of Labor. As those laws and regulations change, documents must be updated to reflect those changes. The deadline for the last mandatory restatement was April 30, 2016, but it was based on documents approved by the IRS in early 2013. Since then, there have been a number of regulatory and legislative changes impacting retirement plans.

Don't we already have amendments addressing these changes?

Yes. The IRS recognizes that if plans had to be restated every time a regulation changes, we would be continuously re-writing plan documents. Thus, they created cycles during which plans simply adopt so-called "good-faith" or "snap-on" amendments addressing new laws instead of going through a full restatement; however, those amendments are similar to summaries of the language that is otherwise required. At the end of a given cycle, the plan document is re-written to incorporate the full text of the language that the good-faith amendments summarized.

We just restated our plan. Do we really have to do it again?

Yes. Regardless of how recently you may have restated your plan, if you used a pre-approved document, it could not have satisfied the new requirements since the IRS had not yet issued any new approval letters. As a result, you must restate again. The good news is that there is a 2-year window for completing the Post-PPA restatement, and you have flexibility within that window as to when your plan is restated. Keep in mind, however, that two years can pass quickly and certain plan provisions may impose other timing restrictions necessitating earlier restatement.

Our plan is brand new - we just set it up. Do we need a new plan document already?

Yes. As noted above with respect to plans that recently restated, newly created plans could not have satisfied the Post-PPA restatement requirement since the IRS had not yet issued the approval letters. As a result, even plans that were only recently established must restate. Again, the 2-year window offers timing flexibility.

We are considering terminating our plan. If we terminate before July 2022, do we still have to restate?

The answer is a definite maybe. If you intend to seek the IRS' blessing for your plan termination, a full restatement is required as part of that process. If you will forego the determination letter but you have timely adopted all previously required interim amendments (described above), then the Post-PPA restatement is not strictly mandatory as long as the plan is terminated prior to July 31, 2022. However, in that event, the IRS pre-approval letter for the plan document will not cover those interim amendments. That means, theoretically at least, that the IRS could challenge the validity of those amendments on audit (yes, the IRS can audit terminated plans). As a result, we suggest that you strongly consider restating your plan as part of the termination process.

What is the restatement deadline?

All pre-approved defined contribution plans must be restated within 2 years of the date the IRS issues the approval letters. The IRS has announced that the PPA restatement window will begin on August 1, 2020. If all goes as planned, the final deadline to complete the restatements will be July 31, 2022.

Can the plan pay for the restatement?

Yes. Since the current plan document restatement is required to maintain the plan's tax-qualified status, the Department of Labor allows the fee to be paid out of plan assets.

SUMMARY PLAN DESCRIPTION
FOR
PANOCHE WATER DISTRICT RETIREMENT PLAN

Panoche Water District Retirement Plan

Summary Plan Description

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BACK

SUMMARY PLAN DESCRIPTION
FOR
PANOCHE WATER DISTRICT RETIREMENT PLAN

INTRODUCTION

Effective March 1, 1973, Panoche Water District established the Panoche Water District Retirement Plan for the exclusive benefit of all eligible employees and their beneficiaries with the intention to provide a measure of retirement security for your future.

This Summary Plan Description reflects the plan options as of March 1, 2021.

This Summary Plan Description is a brief description of your plan and your rights and benefits under the plan and is not intended to cover every plan provision. This Summary Plan Description is not meant to interpret or change the provisions of your plan. A copy of your plan is on file at your employer's office and may be read by you, your beneficiaries, or your legal representatives at any reasonable time. This plan is subject to the provisions of the Employee Retirement Income Security Act of 1974 (ERISA). If you have any questions regarding either your plan or this Summary Plan Description, you should ask your plan administrator. If any discrepancies exist between this Summary Plan Description and the actual provisions of the plan, the plan shall govern.

GENERAL INFORMATION

Plan Name:	Panoche Water District Retirement Plan
Employer:	Panoche Water District 52027 West Althea Avenue Firebaugh, CA 93622-9401 (209) 364-6136
Employer Tax ID:	94-1198679
Three Digit Plan Number:	001
Type of Plan:	Cash or Deferred Profit Sharing Plan
Administration Type:	Self-Administered
Plan Administrator:	Panoche Water District 52027 West Althea Avenue Firebaugh, CA 93622-9401 (209) 364-6136
Plan Administrator ID Number:	94-1198679
Legal Agent:	Panoche Water District 52027 West Althea Avenue Firebaugh, CA 93622-9401 (209) 364-6136 Service of legal process may also be made upon a plan trustee or the plan administrator as listed herein.
Trustees:	Ara Azhderian 52027 West Althea Avenue Firebaugh, CA 93622-9401 (209) 364-6136
Funding Arrangement:	Trust
Trust Tax ID Number:	94-1198679
Plan Year:	March 1st to February 28th
Limitation Year:	March 1st to February 28th
Anniversary Date:	February 28th
Valuation Date:	The last day of the plan year for pooled accounts and daily valuation for individual investment accounts Daily

PARTICIPATION IN YOUR PLAN

In order to take advantage of the opportunities provided by your plan you must participate in the plan. There may be certain restrictions to your eligibility and participation. The following is information about how you can participate in the plan.

What types of contributions are available in the plan?

The following contribution types are available in the plan:

1. Pre-Tax Elective Deferral: This type of contribution is also known as a 401(k) contribution, a salary deferral contribution, or an elective deferral contribution.
2. Voluntary After-tax Employee Contribution: This type of contribution is an after-tax contribution made by you that is not a Roth elective deferral contribution. Voluntary after-tax employee contributions were discontinued as of February 28, 2007 .
3. Safe Harbor Contribution: The employer may make a required contribution to the plan. Depending on your plan each year you may receive a notice regarding the safe harbor contribution.
4. Employer Non-elective Contribution: This type of contribution is also known as a profit sharing contribution. Your employer may, at its discretion, make a profit sharing contribution to the plan.

Who may participate?

As an employee of Panoche Water District, you may participate in the plan once you have met the eligibility requirements.

Who is considered an employee?

An employee is an individual who performs services for the employer as a common law employee, a self-employed individual who is treated as an employee, or a leased employee.

What are the eligibility requirements to become a participant in the plan?

There may be different eligibility and entry date requirements for each contribution type under the plan. Meeting all the eligibility requirements for one contribution type does not automatically make you eligible for other contributions under the plan. You may begin participating under the Plan once you have satisfied the eligibility requirements and reached your entry date. The following describes the eligibility requirements and entry dates that apply. You should contact the Plan Administrator if you have questions about the timing of your Plan participation.

All Contribution Sources:

Excluded Employees:

The following individuals are not eligible for participation in the plan:

1. Union employees
2. Non-resident aliens

Eligibility Age Conditions:

You must attain age 21 to be eligible to receive contributions under the plan. However, you will not actually participate for purposes of receiving a contribution until you have reached the entry date as described below.

Eligibility Service Conditions:

You must complete 6 months of eligibility service to receive contributions under the plan. However, you will not actually participate for purposes of receiving a contribution until you have reached the entry date as described below.

Entry Date:

For the purpose of receiving a contribution, your entry date will be the first day of each month coincident with or next following the date you satisfy the eligibility requirements.

Safe Harbor Contribution:

Excluded Employees:

The following individuals are not eligible for purposes of safe harbor contributions under the plan:

What compensation will be used for my contributions in the plan?

Compensation is defined as your total compensation that is subject to income tax and paid to you by the employer. Amounts paid to you after you terminate employment may or may not be included as compensation used to calculate your contributions as described below. If you are a self-employed individual, your compensation will be equal to your earned income from the employer. The following describes the adjustments to compensation that may apply for the contribution types permitted under the plan.

All Contribution Sources:

Compensation used to calculate your contributions for all sources under the plan will be determined as follows:

* be based on W-2 wages.
* include compensation due to cafeteria plan deferrals under section 125, transportation compensation (section 132(f)(4)), 401(k) and 403(b) deferrals (section 402(e)), SEP deferrals (section 402(h)(1)(B)), 402(k) deferrals (section 408(p)), and 457(b) deferrals.
* exclude Fringe Benefit Compensation.
* include compensation for your first year of participation from your entry date as a participant.

Is there a limit on compensation for plan purposes?

The IRS limits the amount of compensation that may be taken into account for each participant for each plan year. For 2022, that limit is $305,000. For future years, the limit is subject to cost-of-living increases as published by the IRS.

Does plan compensation include monies paid to me during an absence or after my employment ends?

Usually, only the amounts paid to you while you are an employee are considered plan compensation. However, the plan may consider certain types of pay as plan compensation, though paid during an absence or after you leave employment.

Payments you receive after terminating employment might be considered plan compensation, if they meet the definition of "post-severance compensation." To be considered post-severance compensation, the payment must be one that you would have received had employment continued, such as your salary or wages. Post-severance compensation does not include severance pay, or other amounts you receive only because your employment ended.

To be included in plan compensation, post-severance compensation must be paid to you by the later of the end of the limitation year in which your employment ends, or within 2-1/2 months after the date your employment ends.

Payments for unused accrued sick, vacation, or other leave that you would have been able to use if your employment had continued are included in your plan's post-severance compensation.

How is service determined?

Eligibility Service:

Your service will be based on the total period of time that elapses while you are employed (i.e. while the employment relationship exists) with the employer or employers maintaining this plan. Eligibility service will be measured to the exact date in months.

Vesting Service:

You are credited with the actual hours you work, and for hours for which you are paid but not at work, such as paid vacation or paid sick leave. You cannot earn more than one year of vesting service during a plan year.

If records of your hours are not maintained, as a backup method of crediting you with hours of service, you will be credited with 10 hours each day in which you work at least one hour.

What is a year of service?

Eligibility Purposes:

You will earn a year of service for eligibility purposes if you are credited with 12 months of service or 365 days of service during the eligibility computation period.

Vesting Service Purposes:

You will earn a year of service for vesting service purposes if you are credited with 1000 hours in the vesting service computation period. The vesting service computation period will be the plan year.

What is a break in service for eligibility purposes?

Your employer does not count the actual hours that you work to determine if you have a break in service. If you fail to work at least 12 months of continuous service, you will incur a break in service in the plan.

What is a break in service for vesting purposes?

When you fail to complete more than 500 hours during the plan year, you incur a break in service. If you have incurred a break in service, your vesting percentage will not increase for the period in which the break occurs.

However, in certain circumstances, your plan is required to credit you with 500 hours, even though you didn't actually work that number of hours. This is primarily if you take time off to have, adopt or care for a child for a period immediately following the birth or adoption. You will receive this credit only for the purpose of determining whether you have incurred a break in service and not for receiving additional credit for a contribution or for vesting.

CONTRIBUTIONS

As a plan participant, you can contribute your pay on a tax-deferred basis (that is, before federal income taxes are deducted) or on an after-tax basis (that is, after federal income taxes are deducted). Your employer may also make contributions to the plan.

Your Contributions to the Plan:

When you enroll in the plan, you may make your salary deferrals on a pre-tax basis. You will also select the percentage or dollar amount of your pay to be deducted as a pre-tax salary deferral. Your employer will deduct the amount you've elected from your paycheck in accordance with procedures established by your employer.

What are pre-tax salary deferrals?

Pre-tax salary deferrals are deducted from your pay before federal income taxes are calculated. This reduces your taxable income by the amount you have elected to save under the plan. Since your taxable income is reduced, you pay less in current federal income taxes. This money is accumulated on a tax deferred basis until it is distributed from the plan. You should consult your plan administrator or tax advisor regarding treatment of salary deferrals for purposes of state and local taxes. See "Distributions" for additional information on tax consequences when you withdraw your money from the plan.

Are there limits to how much I can contribute?

Fringe Benefits are not subject to deferral election..

The IRS limits the maximum amounts that can be contributed on a pre-tax or after-tax salary deferral basis. For 2021, that limit is $19,500. For future tax years, the limit is subject to cost-of-living increases as published by the IRS. If you are age 50 or older, you may be able to contribute in excess of this limit. See "What are catch-up contributions?" below.

What are catch-up contributions?

All employees who are eligible to make salary deferrals under this plan and who are age 50 or older before the close of a plan year, are eligible to make catch-up contributions. The catch-up contributions are in addition to the regular salary deferrals mentioned above. The IRS limits the amount that can be contributed as a catch-up contribution. For the 2022 tax year, that limit is $6,500. For future tax years, the limit is subject to cost-of-living increases as published by the IRS.

When can I expect my salary deferrals to be deposited?

Salary deferrals are placed in the trust as soon as reasonably possible after being withheld from your pay but in no event later than the 7th business day following the date the contribution is withheld by your employer.

When can I change my salary deferral election?

You may make an election, or change an election the first day of the calendar month.

You may revoke your salary deferral election at any time.

What happens if I am contributing salary deferrals to another plan sponsored by a different employer?

The overall limit on salary deferrals described above applies collectively to all plans in which you are a participant. If you participate in two or more plans (which include 401(k), Simplified Employee Pensions

and 403(b) plans), that are sponsored by different employers, your total salary deferrals could exceed IRS limits for the year. Excess deferrals must be returned by the April 15th following the year in which the amount is deferred. If they are not, an excise tax applies. Your employer is not responsible for tracking the salary deferrals made to plans sponsored by other employers. Therefore, in order to assure that the refund of excess deferrals is timely, you should designate which plan will refund excess deferrals.

If you elect to have this plan return any excess, you should notify the plan administrator so that the excess can be returned to you, along with any earnings, before April 15th following the year in which the deferrals were withheld.

Does the plan accept rollovers?

Direct and In-Direct Rollover contributions are permitted from all employees who do not fall into an excluded class of employees.

Your Employer Contributions to the Plan:

In addition to your salary deferrals, your employer may make other types of contributions to the plan, such as a profit sharing contribution, or a safe harbor contribution.

What are profit sharing contributions?

Your employer may contribute a profit sharing contribution to the plan each year in an amount, if any, as it may determine.

Are there requirements to receive a profit sharing contribution?

There are no allocation requirements to receive a profit sharing contribution

How is the profit sharing contribution determined?

Your share of the profit sharing contribution is determined each year as a percentage of compensation or a dollar amount per participant. Your plan creates a separate employee classification group for each eligible employee.

When can I expect the profit sharing contributions to be allocated?

The profit sharing contributions made by your employer will be allocated to your profit sharing contribution account as of the last day of each pay period.

When can I expect the employer contributions to be deposited?

The employer contributions to the trust are normally paid directly to the Trust either during the plan year or after the close of the plan year (within the time during which the employer has to file its federal tax return).

When is a plan top heavy?

The plan becomes top heavy if more than 60% of the account balances are attributable to "key employees". Key employees are certain highly compensated officers or owner/shareholders.

Each year, the plan administrator will make a top heavy determination.

How will the plan operate in top heavy years?

If your plan is top heavy, all participants must receive a minimum contribution for such plan year, except participants who are key employees, participants who are key employees will be eligible at the discretion of the plan administrator, and participants who are covered by a collectively bargained agreement (union employees).

This top heavy contribution is based on the amount of contribution that the key employees receive and may be zero.

What is a safe harbor contribution?

This 401(k) plan takes advantage of certain rules that provide alternative methods to pass the non-discrimination tests required of 401(k) plans. Under these rules, your employer has elected to provide a contribution to each participant who has a deferral election on file.

How is the safe harbor contribution determined?

The safe harbor contribution will be a match of 100% your salary deferrals that do not to exceed 4% of compensation.

The safe harbor contribution is allocated to your account as of the last day of each pay period.

Will my employer make any other types of contributions?

Your employer may make additional employer contributions in order to pass certain nondiscrimination tests. These are called qualified non-elective contributions.

Qualified non-elective contributions, if made, will be allocated as a uniform dollar amount to all non-highly compensated participants. The maximum qualified non-elective contribution for any plan year is 25%.

Does the plan allow in-plan Roth rollovers?

The plan does not permit in-plan Roth rollovers.

VESTING

Vesting is the non-forfeitable balance of your employer contribution account(s) that you will be entitled to receive after your employment with the employer ends. If you terminate employment before you meet the requirements for retirement, the distribution from your employer contribution account(s) will be limited to the vested portion. Your vesting percentage grows with your years of vesting service.

Is any of my service excluded for vesting purposes?

No, all years of service with your employer except those excluded due to a break in service will be included in determining your vested account balance.

How is my vested percentage calculated?

If you leave employment due to termination, you are entitled to a percentage of your employer contribution accounts along with earnings, based on the following schedules:

Employer Profit Sharing Contributions:

Vesting Schedule

Years of Vesting Service	Percent Vested
Less than 1	0%
1 but less than 2	25%
2 but less than 3	50%
3 but less than 4	75%
4 but less than 5	100%
5 but less than 6	100%
6 or more	100%

Employer Top-heavy Contributions:

Vesting Schedule

Years of Vesting Service	Percent Vested
Less than 1	0%
1 but less than 2	25%
2 but less than 3	50%
3 but less than 4	75%
4 but less than 5	100%
5 but less than 6	100%
6 or more	100%

What vesting schedule applies to my other accounts?

The following contributions along with earnings associated with these accounts will be 100% vested and nonforfeitable at all times:

1. Salary Deferrals (including catch-up contributions)
2. Rollovers
3. Safe harbor ADP contributions
4. Qualified non-elective contributions

Does my vested percentage change for any reason?

You will become 100% vested in all of your accounts if you are still employed when you die, or become disabled.

Additionally, you will become 100% vested in all of your accounts when you reach your normal retirement age.

What happens if I terminate employment before I am fully vested?

The non-vested portion of your account will be forfeited and used to offset employer contributions at

the plan administrator's discretion in a nondiscriminatory and uniform manner.

The non-vested portion of your account that is forfeited may also be used to offset plan expenses or restore forfeited account balances of rehired employees.

The forfeiture takes place as of the end of the plan year in which you receive the final (complete) distribution of your distributable benefit or the end of the plan year of your 5th consecutive break in service. If you elect to receive less than your entire vested account balances from employer contributions, the portion forfeited will be prorated based on the portion of your total account balance distributed.

What happens to my forfeited amounts if I am rehired into a position covered by the plan?

If you were not vested (that is, 0% vested), when you severed employment, and you rejoin the plan before incurring a 5-year break in service, the amounts you forfeited will be restored as of your rehire date.

If you were partially vested (more than 0% but less than 100%), and received a distribution of your vested amounts, the forfeited amount may be restored. However, to restore the forfeiture, you must repay the full amount of your distribution of employer contributions by five (5) years after your rehire date, or if earlier, the date you incur a 5-year break following the date of the distribution.

If you are entitled to a restoration of your account balance that was forfeited, the plan will first use any forfeitures arising in the year of restoration. If that amount is not enough, the employer will make an additional contribution specifically allocated to your account.

If I am rehired into a position covered by the plan, how is my vesting service calculated?

If you were fully (100%) vested at the time your employment ended, you will resume participation and be 100% vested immediately, on your rehire date. This means that the vesting service you earned prior to severing employment (pre-break) will be added to the vesting service you earn after reemployment (post-break).

If you were not fully vested when your employment ended, your pre-break vesting service will be added to your post-break service, when you resume participation in the plan. Thus, your total years of vesting service are counted toward vesting in your employer account credited after your reemployment, and the employer account remaining in the plan from your prior period of employment, if any.

INVESTMENT ACCOUNTS

The money you deposit, if any and any employer contributions are held in a trust, and placed into investment accounts, which are credited with gains and losses at each valuation date.

Separate accounts are set up for each different type of money, for example: 401(k) deposits, matching, discretionary, rollover, employer contributions (if any) and qualified non-elective contributions because there are different plan and IRS rules for each type of contribution.

What is the value of my account?

The value of each of your accounts is established as of the valuation date under your plan. The valuation date is the last day of the plan year, and daily for pooled accounts and daily for individual investment accounts.

As of the valuation date:

1. contributions may be added to your accounts (see "Contributions");
2. distributions you have received since the prior valuation date will be subtracted from your accounts;
3. plan expenses may be subtracted from your accounts; and
4. interest and/or dividends, if any, will be added to your accounts.

Also, current market values will be reflected in your accounts as of the valuation date. Depending on stock and/or bond market conditions, the value of your accounts may increase or decrease from one valuation date to the next.

How are my accounts invested?

You may direct the investment of all of your accounts.

It is intended that your plan meet the requirements of ERISA section 404(c) by providing you with sufficient information for you to make informed investment choices. This information will be provided by the financial institutions managing the investment options. This means that you exercise control over the investments in your plan account, and you can modify those investment choices as your needs change or as you otherwise see fit. This allows you to invest in the way that best meets your personal goals. Therefore, the plan fiduciaries may be relieved of liability for losses that your account may experience as a result of your investment elections.

Please note that the trustee is considered the owner of all the assets held in the trust. The trustee, as owner of the securities and other trust property, has the exclusive right to vote the stock in the trust and exercise any other rights of ownership. As a plan participant, you merely have a beneficial interest in the trust and may not exercise the rights of ownership, as can the trustee.

Does my plan offer life insurance as an investment?

No. Life insurance policies are not available as a plan investment.

May I take a loan from my accounts?

Your plan does not permit loans from any source.

Where can I learn about the plan expenses?

Reasonable administrative expenses of the plan and trust may be paid by the plan to the extent not paid by the employer. For more information on plan expenses, see Appendix 1 - Plan Expense Policy attached to this SPD.

DISTRIBUTIONS

Does the plan allow for hardship distributions?

The primary purpose of the plan is to provide benefits to you upon your retirement; however, your plan permits you to request a hardship distribution. A hardship distribution may not exceed the amount of your need. However, the amount required to satisfy the financial need may include amounts necessary to pay any taxes or penalties that may result from the distribution.

The hardship distribution cannot exceed the amount necessary to meet your financial hardship. You must certify (in writing) that you cannot meet your financial need using cash or other sources of liquid assets you already have access to. The plan administrator may request proof that the amount requested does not exceed the financial hardship, including evidence that you have received all other available distributions from this and other plans (including those of other employers).

Safe Harbor Determination:
You may request a hardship distribution while employed for one of the following reasons:

1. Medical Care - Expenses for or necessary to obtain medical care for yourself, your spouse, dependents, or named primary beneficiaries.
2. Principal Residence - Costs directly related to the purchase of your principal residence (not including mortgage payments).
3. Eviction and/or Foreclosure - Payment to prevent eviction from your principal residence and/or foreclosure on the mortgage of your principal residence.
4. Tuition - Payment of tuition for the next 12 months of post secondary school education for yourself, your spouse, dependents, or named primary beneficiaries.
5. Funeral Expenses - Payments for burial or funeral expenses for your parents, spouse, children, dependents, or named primary beneficiaries.
6. Principal Residence Repair - Expenses for repair of damage to your principal residence that qualify for the casualty deduction (as defined in IRC 165, determined without regard to whether the loss exceeds 10% of adjusted gross income).
7. Federal Disaster Area - Expenses and losses (including loss of income) incurred by you on account of a disaster declared by the Federal Emergency Management Agency (FEMA) provided that your principal residence or principal place of employment at the time of the disaster was located in an area designated by FEMA for individual assistance with respect to the disaster.

You may request a hardship distribution from your pre-tax elective deferrals (including earnings), or non-elective contributions. The determination will be based on the safe harbor determination described above.

Does the plan allow for in-service distributions?

An in-service distribution is one that you receive while you are still employed by the employer. The primary purpose of the plan is to provide benefits to you upon your retirement; however, your plan permits you to request an in-service distribution.

You may request an in-service distribution of all or a portion of some of your accounts as provided below:

* You may request an in-service distribution from your pre-tax elective deferrals if you have attained age 65.0, ADP safe harbor contributions if you have attained age 65.0, or QNECs if you have attained age 65.0. You may request an in-service distribution from your non-elective contributions if you have been a participant in the plan for at least 5.0 years.

You may request an in-service distribution of all or part of your rollover account at any time.

All in-service distributions will be limited by the following:

* Require participation for al least 5 years.

What is my normal retirement age?

You will reach the plan's normal retirement age when you reach age 65 and have 4 years of service while a participant but in no event later than the later of age 65 or the 5th anniversary of your participation in the plan.

Your normal retirement date is the actual date normal retirement age is attained.

When am I eligible for early retirement benefits?

You will reach the plan's early retirement age when

Your early retirement date is the actual date early retirement age is attained.

When will I receive my normal retirement benefits?

Payment of your benefits from employer contribution accounts will begin as soon as practicable following the date of your retirement, based on the preceding valuation date.

Payment of your benefits from your salary deferral account and rollover account will begin as soon as practicable following the date of your retirement, based on the preceding valuation date.

When will my beneficiary receive my benefits if I die?

Payment of your benefits from employer contribution accounts will begin as soon as practicable following the date of your death, based on the preceding valuation date.

Payment of your benefits from your salary deferral account and rollover account will begin as soon as practicable following the date of your death, based on the preceding valuation date.

When will I receive my benefits upon termination?

Payment of your benefits from employer contribution accounts will begin as soon as practicable following your distribution determination date.

Your distribution determination date is your date of termination.

Payment of your benefits from your salary deferral account, will begin as soon as practicable following your distribution determination date.

Your distribution determination date is the date of your termination.

Does the plan have disability benefits?

You will be considered disabled if you suffer from a medically determinable physical or mental disability that is expected to result in death or to last a continuous period of 12 months that renders you incapable of performing your job duties. A determination of disability will be made by the plan administrator in a uniform, nondiscriminatory manner on the basis of medical evidence. You will also be considered disabled if the Social Security Administration has determined that you are eligible to receive Social Security disability benefits or if you have begun to receive payments under a long term disability program or a comparable disability program maintained by your employer.

You become entitled to a distribution due to disability as of the date the plan administrator determines that you are disabled.

If it is determined you are entitled to a distribution due to disability, payment of your benefits from employer contribution accounts will begin as soon as practicable following such determination based on your account value on the preceding valuation date. However, payment of your benefits from your salary deferral account, voluntary account, and rollover account will begin as soon as practicable following such determination based on your account value on the preceding valuation date.

How might divorce or a Qualified Domestic Relations Order affect my benefits?

Because your spouse has certain rights under your plan, you should immediately inform the plan administrator of any changes in your marital status.

In general, contributions made by you or your employer to this plan are not subject to alienation. This means they cannot be sold, used as collateral for a loan, given away or otherwise transferred. They are not subject to the claims of your creditors. However, they may be subject to claims under a Qualified Domestic Relations Order (QDRO).

A Domestic Relations Order is a court-issued decree or an order that allocates all or any portion of your plan benefits to your (former) spouse, your child, or other dependent. It is the plan administrator's responsibility to determine if a Domestic Relations Order is qualified (is a QDRO), as defined by law.

Distributions pursuant to a Qualified Domestic Relations Order are permitted on or after the date a Domestic Relations Order is determined to be a Qualified Domestic Relations Order, even if you are employed and have not attained the "earliest possible retirement age" (as defined below).

For QDRO purposes, the "earliest possible retirement age" means the earlier of these two dates:

1. the date you are entitled to a distribution; or
2. the later of:
   A. the date you reach age 50; or
   B. the earliest date you could begin receiving benefits under the plan if you separated from service.

Participants and beneficiaries can obtain, from the plan administrator, without charge, a copy of the plan's procedures governing Qualified Domestic Relations Orders.

How will I receive my distribution?

You may elect a lump sum distribution.

Will the plan automatically distribute any of my benefits?

The plan will make a mandatory distribution if your account balance is $5,000 or less. The distribution will be made as soon as administratively feasible. Any account balance that is from a rollover that you have transferred into the plan will not be taken into account in the determination of your total account balance for purposes of the mandatory distribution threshold.

If you do not provide payment instructions, the plan will automatically roll your distribution over to an IRA. Any account balance that is from a rollover that you have transferred into the plan will not be taken into account in the determination of your total account balance for purposes of the automatic rollover threshold. The plan administrator will notify you if the automatic rollover provisions apply to your distribution. After receiving this notice, you will have an opportunity to decide whether you wish to receive your distribution directly in cash or roll it into an eligible retirement plan or IRA.

The automatic rollover will be invested in an investment product designed to preserve principal and provide a reasonable rate of return, whether or not such return is guaranteed, consistent with liquidity.

What is a required minimum distribution?

Under certain circumstances, the law requires that your distributions begin no later than April 1 of the year following the date you reach age 70-1/2 (the date six months after your 70th birthday) if you are a greater than 5% owner born before July 1, 1949. If you are not a greater than 5% owner, these distributions will be delayed until you retire. If you were born after June 30, 1949, age 70-1/2 is replaced with age 72 where it appears above. You or your beneficiaries may elect the 5-year rule for distributions if you die before the required distributions begin. Your plan administrator will contact you if you are affected by this requirement.

How will my distributions be taxed?

The benefits you receive from the plan will be subject to ordinary income tax in the year in which you receive the payment, unless you defer taxation by a "rollover" of your distribution into another qualified plan or an IRA. Also, in certain situations, your tax may be reduced by special tax treatment such as "10-year forward averaging."

VERY IMPORTANT NOTE: Under most circumstances, if you receive a distribution from this plan, twenty percent (20%) of your distribution will be withheld for federal income tax purposes, unless you instruct the trustees of this plan to transfer your distribution DIRECTLY into another qualified plan or an IRA. You must give these instructions to the trustees no more than 180 days before the date you receive the payment. Also, the trustees must wait at least 30 days after receiving your instructions before making the payment, to allow you time to change your decision, unless you waive the waiting period in writing.

In addition to ordinary income tax, you may be subject to a 10% tax penalty if you receive a "premature" distribution. If you receive a distribution upon terminating employment before age 55 and you don't receive the payment as a life annuity, you will be subject to the 10% penalty unless you roll over your payment. But, there is no penalty for payments due to your death or disability.

As the rules concerning "rollovers" and the taxation of benefits are complex, please consult your tax advisor before making a withdrawal or requesting a distribution from the plan. As required by law, the plan administrator will provide you with a brief explanation of the rules concerning "rollovers."

Who may I name as my beneficiary?

The plan requires that your spouse be your primary beneficiary and receive 100% of your account balance on your death (see vesting section). You may name someone other than your spouse as your primary beneficiary only if your spouse gives written consent to your choice of beneficiary. A notary public or plan representative must witness your spouse's signature on the consent form. You have a right to designate your primary and contingent beneficiary or beneficiaries at any time by completing a beneficiary form that is provided to you or is acceptable to the plan administrator.

It is important that you keep your designation of beneficiary up-to-date. If you fail to designate a beneficiary, or if your beneficiary designation is not valid, or if all of your beneficiaries fail to survive you, then your benefits will be paid to your surviving spouse, or if none, to your surviving children in equal shares, or if none, to your other heirs or your estate, as the plan administrator selects. If you get divorced, your ex-spouse will be treated as having predeceased you and your benefits will be paid to your contingent beneficiary unless you make a post-divorce designation naming your ex-spouse as a beneficiary.

Your spouse will not be considered your spouse for plan purposes until you have been married for a period of one year.

OTHER IMPORTANT INFORMATION

Are my benefits protected?

Except for the requirements of a Qualified Domestic Relations Order, your plan benefits are not subject to claims, indebtedness, execution, garnishment or other similar legal or equitable process. Also, you cannot voluntarily (or involuntarily) assign your benefits under this plan.

Can the plan be amended or terminated?

The employer has reserved the right to amend or terminate the plan. However, no amendment can take away any benefits you have already earned. If your plan is terminated, you will be entitled to the full amount in your account as of the date of termination, regardless of the percent you are vested at the time of termination.

Does Pension Benefit Guaranty Corporation Insurance apply to this plan?

The benefits provided by this plan are not insured by the Pension Benefit Guaranty Corporation (PBGC). Such insurance is only required under Title IV of the Employee Retirement Income Security Act (ERISA) for defined benefit pension plans.

What are the claims for benefits procedures under this plan?

When you request a distribution of all or any part of your account, you will contact the plan administrator who will provide you with the proper forms to make your claim for benefits. Your claim for benefits will be given a full and fair review.

What is the waiting period for a non-disability claim?

The plan administrator will notify you or your beneficiary of the denial within a reasonable period of time, but not later than ninety (90) days of the date your claim for benefits was received. The plan administrator may extend this deadline by up to ninety (90) days if there are special circumstances beyond the control of the plan that require additional time to process the claim. If a delay occurs, you or your beneficiary will be notified in writing of the reason for the delay and a date by which a final decision will be given (not more than one hundred and eighty (180) days after the receipt of your claim.)

What is the waiting period for a disability claim?

If the claim is for disability benefits, the plan administrator will notify you or your beneficiary within a reasonable period of time, but not later than forty-five (45) days after the date your claim was received. The plan administrator may extend this deadline by up to thirty (30) days if there are special circumstances beyond the control of the plan that require additional time to process the claim. If a delay occurs, you or your beneficiary will be notified in writing before the end of the initial forty-five (45) day period.

If the plan administrator determines that, due to matters beyond the control of the plan, a decision cannot be made within that time, the period may be extended for up to an additional thirty (30) days. You or your beneficiary will be provided with notification prior to the expiration of the first thirty (30) day extension period of the circumstances requiring the extension and the date that the plan expects to make a decision.

After receipt of an extension notice the participant or beneficiary will have one hundred and eighty (180) days to appeal such denial. Upon receipt of such appeal, the plan administrator must act within forty-five (45) days.

What will I receive if the claim is denied in part or whole?

The initial denial letter and any appeal denial letter will be provided to your or your beneficiary with the

following information:

1. the standards on which the determination is being made
2. the unresolved issues that prevent the plan administrator from making the decision
3 the additional information that would be needed to allow the plan administrator to make the decision
4. reference to the plan provision(s) on which the denial is based
5. an explanation of the denial when the claim included a disability determination by the Social Security Administration or other third party disability payer, or any views of health care professionals, medical, or vocational professionals providing treatment or advice (regardless of whether the advice was relied upon)
6. an explanation of the scientific or clinical judgment for the determination if the denial is based on a medical necessity, experimental treatment, or similar exclusion or limit, or statement that the explanation is available free of charge upon request
7. all internal rules, guidelines, protocols, standards, or other similar criteria that were relied upon in denying the claim or a statement that such criteria do not exist
8. a statement that you are entitled to receive, upon request and free of charge, relevant documents

What happens to my disability claim if I need to provide information?

The plan administrator will notify you or your beneficiary if additional information is needed from you in order to complete the claim. You will have 45 days to respond with the needed information. The plan administrator's timing to process the claim will not be counted during this period.

How do I appeal a claim denial?

You or your beneficiary may file a written appeal of the claim denial within sixty (60) days (forty-five (45) days for disability claims) to the plan administrator. You may submit new information relating to the claim. The employer may hold a hearing or otherwise review facts as it deems necessary and shall make a decision, which shall be binding upon both parties.

The decision of the employer shall be made within sixty (60) days (forty-five (45) days for disability claims) after the receipt by the plan administrator of the notice of appeal, unless special circumstances require an extension of time for processing, in which case a decision of the employer shall be rendered as soon as possible but not later than one hundred twenty (120) days (ninety (90) days for disability claims) after receipt of the request for review.

In the case of an appeal denial letter, the letter must describe any contractual limitation period for a lawsuit and the expiration date for that limitation period along with a statement that the limitation period may not expire before the conclusion of the Plan's internal appeals process.

You may request a free of charge access to, copies of any information, records, and/or documents used to deny the claim.

Once you have exhausted the administrative remedies for claim, or the plan fails to establish or follow claims procedures consistent with plan regulations, it is your right to challenge the decision under section 502(a) of Employer Retirement Income Security Act of 1974 (ERISA) or other applicable law.

PARTICIPANT RIGHTS UNDER ERISA

As a participant in Panoche Water District Retirement Plan, you are entitled to certain rights and protections under the Employee Retirement Income Security Act of 1974 (ERISA). ERISA provides that all plan participants shall be entitled to:

Receive information about your plan and your benefits:

1. Examine, without charge, at the plan administrator's office all documents governing the plan and a copy of the latest annual report filed by the plan with the U.S. Department of Labor.
2. Obtain copies of all plan documents and other plan information upon written request to the plan administrator (the administrator may make a reasonable charge for the copies).
3. Receive a summary of the plan's annual financial report. The plan administrator is required by law to furnish each participant with a copy of this summary annual report.
4. Obtain a statement telling you whether you have a right to receive a benefit at normal retirement age and if so, what your benefits would be at normal retirement age if you stop working under the plan now. If you do not have a right to a benefit, the statement will tell you how many more years you have to work to get a right to a benefit. This statement must be requested in writing and is not required to be given more than once a year. The plan must provide the statement free of charge.

Actions by Plan Fiduciaries:
In addition to creating rights for plan participants, ERISA imposes duties upon the people who are responsible for the operation of the plan. The people who operate your plan, called "fiduciaries" of the plan, have a duty to do so prudently and in the interest of you and other plan participants and beneficiaries.

No one, including your employer may fire you or otherwise discriminate against you in any way to prevent you from obtaining a retirement benefit or exercising your rights under ERISA.

Enforcing your rights:
If your claim for a benefit is denied in whole or in part, you have the right to know why this was done and to obtain copies of documents relating to the decision without charge, and to appeal any denial, all within certain time schedules.

Under ERISA, there are steps you can take to enforce the above rights. For instance, if you request written materials from the plan and do not receive them within 30 days, you may file suit in a federal court. In such a case, the court may require the plan administrator to provide the materials and pay you up to $110 a day until you receive the materials, unless the materials were not sent because of reasons beyond the control of the administrator.

If you have a claim for benefits which is denied or ignored, in whole or in part, you may file suit in a state or federal court. In addition, if you disagree with the plan's decision or lack thereof concerning the qualified status of a domestic relations order or a medical child support order, you may file suit in federal court.

If it should happen that plan fiduciaries misuse the plan's money, or if you are discriminated against for asserting your rights, you may seek assistance from the U.S. Department of Labor, or you may file suit in a federal court. The court will decide who should pay court costs and legal fees. If you are successful, the court may order the person you have sued to pay these costs and fees. If you lose, the court may order you to pay these costs and fees, for example, if it finds your claim is frivolous.

Assistance with your questions:
If you have questions about your plan, you should contact the plan administrator. If you have any questions about this statement or your rights under ERISA, or if you need assistance in obtaining documents from the plan administrator, you should contact the nearest office of the Employee Benefits Security Administration, U.S. Department of Labor, listed in your telephone directory or the Division of Technical Assistance and Inquiries, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue N.W., Washington, D.C. 20210. You may also obtain certain

publications about your rights and responsibilities under ERISA by calling the publications hotline of the Employee Benefits Security Administration.

APPENDIX 1 - PLAN EXPENSE POLICY

This Policy is intended to comply with the disclosure requirements for plan-related administrative and individual expenses as prescribed by the Fiduciaries section of the Plan.

This Plan Expense Policy (the "Policy") is provided to help you make an informed decision about your retirement plan account. Please review it carefully.

Overview

In general, reasonable expenses for the administration, investments, and processing transactions relating to the on-going maintenance and operation of the plan (including expenses or fees charged on a one-time or on-going basis for legal, accounting, or recordkeeping services) may be charged against the assets of the plan and trust, paid by the employer, or allocated among terminated and active participants (or beneficiaries) in the plan. In some instances, these expenses are deducted directly from the investment returns of the investment funds offered under the plan as an investment related fee.

When a plan elects to pay their administrative expenses through the plan and trust, to the extent they are not paid from the forfeiture account, they can allocate them among their terminated and active participants (or beneficiaries) on a pro-rata or per capita basis. Under a pro-rata method, expenses are allocated based on the assets in an individual account; while under the per capita method, expenses are allocated in an equal amount to all individual accounts within the plan.

A plan is also permitted to charge against a participant's (or beneficiary's) account any individual expenses that directly relate to a transaction processed through their account.

This Policy does not address investment fees or expenses or the manner in which they might become chargeable against a participant's (or beneficiary's) account for the purchase or sale of an investment.

Effective March 1, 2021, this Policy reflects the manner in which all plan-related administrative and transaction expenses will be paid under the terms of the Plan and Trust.

General Administrative Expenses

Panoche Water District shall pay all plan-related expenses or fees.

Plan-related expenses or fees that are not paid by Panoche Water District shall be paid by the Plan. Under the terms of the Plan, some or all of these plan related expenses or fees will be paid or reduced by Forfeitures generated under the Plan (to the extent Forfeitures are available).

Individual Expenses

Individual Expenses are reasonable expenses for processing transactions that only affect the account of an individual participant (or beneficiary).

Terminated Participants:
Individual fees and expenses attributable to an individual transaction shall be charged against the account balance of each terminated participant responsible for the expense.

Listed below are the individual processing transactions and their related fees as they occur under the Plan:

Transaction	Expense
QDRO Distribution/Processing	$75.00
QDRO Determination/Review	$500.00
Distributions at termination of employment	$75.00

Active Participants:

Individual fees and expenses attributable to an individual transaction shall be charged against the account balance of each active participant responsible for the expense.

Listed below are the individual processing transactions and their related fees as they occur under the Plan:

Transaction	Expense
QDRO Distribution/Processing	$75.00
QDRO Determination/Review	$500.00
Hardship Distributions	$125.00
In-Service Distributions	$75.00

Impact on Your Account Reporting

Your statement will show the actual dollar amount for each fee or expense charged during the reporting period, along with a brief description.

Fees or expenses charged against your account will be reported, at least quarterly, on your account statement. Your statement will show the actual dollar amount for each fee or expense charged during the reporting period, along with a brief description.

Additional disclosures will be provided separately by the investment company(ies) or investment manager(s).

Assistance with Questions

If you have any question about this Policy, please contact the following:

Panoche Water District
52027 West Althea Avenue
Firebaugh, CA 93622-9401
(209) 364-6136

BACK

ADOPTION AGREEMENT
FOR THE CENTRAL ADMINISTRATIVE SERVICES, INC.
PRE-APPROVED DOCUMENT
20-001

DEFINED CONTRIBUTION PRE-APPROVED ADOPTION AGREEMENT
NON-STANDARDIZED
ALTERNATIVE ONE: CASH OR DEFERRED PROFIT SHARING PLAN

Note: Section references are to the Plan or the Trust. All capitalized terms are defined in the Plan or Trust. All dates are entered in the MM/DD or MM/DD/YYYY format, as applicable.

The Central Administrative Services, Inc. Pre-Approved Adoption Agreement Defined Contribution Plan is hereby adopted by

Panoche Water District
(the "Employer").

The Plan shall be known as:

Panoche Water District Retirement Plan
the "Plan".

A. General Plan Information

Employer Information

A1. Employer Address: 52027 West Althea Avenue , Firebaugh, CA 93622-9401

A2. Employer Telephone: (209) 364-6136

A3. Employer Tax ID (EIN): 94-1198679

A4. Employer Fiscal Year End: 02/28

A5. Legal Organization of Employer:

a. ☐ Sole Proprietorship
b. ☐ Partnership
c. ☐ C Corporation
d. ☐ S Corporation
e. ☐ Limited Liability Company (LLC)
f. ☐ Limited Liability Partnership (LLP)
g. ☐ Not for Profit Corporation
h. ☐ Professional Service Corporation
i. ☒ Other *(Must be legal entity recognized under federal income tax laws.):* California Local Public Agency

A6. Business Code *(as used on Form 5500; 6-digit NAICS):* 221300

A7. State of Legal Construction: California

A8. Date Business Commenced: ___/___/_____

A9. Members of a Controlled Group or Affiliated Service Group *(select all that apply):*

a. ☐ Controlled Group *(List controlled group members.):* _____

b. ☐ Affiliated Service Group *(List affiliated service group members.):* _____

Note: This list is optional and for informational purposes only. Controlled Group and Affiliated Service Group members who are also Participating Employers will sign this Adoption Agreement, a separate Adoption Agreement, or a Participating Employer Agreement.

Plan Information

A10. Three Digit Plan Number: 001

A11. Plan Agent:
Name: **Panoche Water District**
Address: **52027 West Althea Avenue**
City: **Firebaugh**
State: **CA**
Zip: **93622-9401**
Phone: **(209) 364-6136**

A12. Plan Administrator:
Name: **Panoche Water District**
Address: **52027 West Althea Avenue**
City: **Firebaugh**
State: **CA**
Zip: **93622-9401**
Phone: **(209) 364-6136**

A13. Plan Administrator ID Number: **94-1198679**

A14. IRS Determination Letter Date (Leave blank for a new plan.): _____

A15. IRS File Folder Number (Leave blank for a new plan.): _____

Trust Information

A16. Plan Trustee(s)

☐ Not applicable, the Plan is funded solely by Insurance Contract(s).
Name: **Ara Azhderian**
Address: **52027 West Althea Avenue**
City: **Firebaugh**
State: **CA**
Zip: **93622-9401**
Phone: **(209) 364-6136**

A17. Trust ID Number: **94-1198679**

A18. The Trustee(s) must sign the Adoption Agreement, discretionary amendments, and interim amendments.

a. ☒ No
b. ☐ Yes

Note: An executed copy of the Trust Agreement must be attached to this Plan. The Plan and Trust Agreement must be read and construed together. The powers, rights, and responsibilities of the Trustee shall be those specified in the Trust Agreement.

A19. If there are two or more Trustees appointed, they will be bound by the following (select one).

a. ☐ Not applicable.
b. ☐ The act of a majority of the Trustees.
c. ☒ The act of **1** individuals act in the capacity of Trustee.

Participating Employers

A20. Participating Employers and Multiple Employer Plan (select one).

a. ☒ This Plan is not a Multiple Employer Plan and no Related Employers are adopting the Plan.
b. ☐ The Employer is the Lead Sponsor of a Plan that includes Participating Employers. If there are Participating Employers who are not Related Employers, this Plan is a Multiple Employer Plan under Code sec. 413(c).
c. ☐ The Employer is a Participating Employer in the Plan. The Lead Sponsor is _____ .

Note: Participating Employers will need to sign this Adoption Agreement, a Participating Employer Agreement, or a separate Adoption Agreement.

B. General Plan Features

Effective Dates

B1. Effective Dates

a. The Effective Date of the Plan is: **March 1, 2021**.

Note: May not be earlier than the first day of the initial Plan Year or for restatement of an existing plan, the first day of the current Plan Year.

b. Special Effective Dates. The following dates will replace the Effective Date for the Plan provision provided *(select one).*

1. ☒ Not Applicable

2. ☐ The following special Effective Dates will apply *(select all that apply):*

A. ☐ Pre-Tax Elective Deferrals: ___/___/_____

B. ☐ Roth Elective Deferrals: ___/___/_____

C. ☐ Safe Harbor Contributions: ___/___/_____

D. ☐ Matching Contributions: ___/___/_____

E. ☐ Non-Elective Contributions: ___/___/_____

F. ☐ _____ ___/___/____:_

Note: The date(s) entered may not be earlier than the Effective Date of the Plan.

Note: The effective date for Elective Deferrals and Safe Harbor Contributions must be on or after the Adoption Date of the Plan.

Note: Safe Harbor Contributions and Roth Elective Deferrals cannot be effective before Pre-Tax Elective Deferrals are effective.

c. Initial Effective Dates *(select one).*

1. ☐ Not applicable, this is a new Plan.

2. ☒ The Plan was initially effective: **March 1, 1973**.

d. Restatement *(select one).*

1. ☐ Not applicable, this is a new Plan.

2. ☐ This Plan Document is an optional amendment of a pre-existing plan.

3. ☒ This Plan Document is a mandatory restatement of a pre-existing plan.

e. Frozen Plan

1. ☒ Not Applicable

2. ☐ The Plan is/was frozen effective: ___/___/_____

Note: No new Participants will enter the Plan and no benefits will accrue to any existing Participant, on or after the date the Plan has been frozen.

Contributions

B2. Contributions *(Select one for each contribution source.)*

	Not Permitted	Permitted	Formerly Permitted	Date Removed
a. Pre-Tax Elective Deferrals	☐	☒	☐	___/___/_____
b. Roth Elective Deferrals	☒	☐	☐	___/___/_____
c. Voluntary After-Tax Contributions	☐	☐	☒	February 28, 2007
d. Safe Harbor Contributions	☐	☒	☐	___/___/_____
e. Matching Contributions	☒	☐	☐	___/___/_____
f. Non-Elective Contributions	☐	☒	☐	___/___/_____
g. Prevailing Wage Contributions	☒	☐	☐	___/___/_____

B3. SIMPLE 401(k)

a. The Plan intends to meet the requirements to be a SIMPLE 401(k) Plan *(select one).*

1. ☒ No.

2. ☐ Yes.

b. Employer Contribution *(select one).*

1. ☐ A Matching Contribution equal to 100% of each Participant's Elective Deferral up to 3% of SIMPLE Compensation.

2. ☐ A Non-Elective Contribution of 2% of a Participant's SIMPLE Compensation, to be allocated to all Eligible Employees who received at least $ _____ *(must be less than $5,000)* of SIMPLE Compensation for the Year.

Note: If option a.1. is selected skip question b.

B4. Deemed IRA

a. Deemed IRAs are permitted *(select one).*

1. ☒ No.

2. ☐ Yes.

b. Pre-tax and/or after-tax Roth Deemed IRAs are permitted *(select all that apply).*

1. ☐ Pre-tax IRA

2. ☐ Roth IRA

Note: If option a.1. is selected skip question b.

Note: In order to accept a rollover from a Roth IRA, the Plan must permit Deemed IRAs.

C. Eligibility

C1. Excluded Classes of Employees

The classes of Employees specified below will not be eligible to be a Participant in the Plan *(select one for each applicable source).*

	All Contrib. Sources	Elective Deferrals	Safe Harbor Contributions	Matching Contributions	Non-Elective Contributions
a. No exclusions	☐	☐	☐	☐	☐
b. The following exclusions will apply (select all that apply):	☒	☒	☒	☐	☐
1. Union Employees	☒	☐	☐	☐	☐
2. Non-Resident Aliens	☒	☐	☐	☐	☐
3. Employees acquired in a Code section 410(b)(6)(C) transaction	☐	N/A	N/A	N/A	N/A
4. HCEs	☐	☐	☐	☐	☐
5. Key Employees	☐	☐	☐	☐	☐
6. Leased Employees	☐	☐	☐	☐	☐
7. HCEs who are Key Employees	☐	☐	☐	☐	☐
8. Self-Employed Individuals	☐	☐	☐	☐	☐
9. Compensation is based solely on commissions	☐	☐	☐	☐	☐
10. Employees not covered by a CBA with the specified unions.	☐	☐	☐	☐	☐
11. Other exclusion	☐	☐	☐	☐	☐

Specify the unions *(e.g., ABC Union).*

A. All contribution sources: _____

B. Elective Deferrals: _____

C. Safe Harbor Contributions: _____

D. Matching Contributions: _____

E. Non-Elective Contributions: _____

Specify the other exclusions *(e.g. John Smith, Employees in Division A).*

A. All contribution sources: _____

B. Elective Deferrals: _____

C. Safe Harbor Contributions: _____

D. Matching Contributions: _____

E. Non-Elective Contributions: _____

Note: The exclusions selected cannot result in the group of NHCEs participating under the Plan being only those NHCEs with the lowest amount of compensation and/or the shortest periods of Service and who may represent the minimum number of these Employees necessary to satisfy coverage under Code section 410(b).

Note: Selection of any options other than a, b1, b2, b3, or b4 will result in the plan having to satisfy coverage testing under Code section 410(b).

Note: The definition of "other exclusion" provided must be objectively determinable, may not be specified in a manner that is subject to Plan Administrator discretion, and may not discriminate in favor of HCEs. The Plan Administrator will make all determinations in connection with such issues in a uniform, nondiscriminatory manner.

Note: The definition of "other exclusion" cannot result in an exclusion based on age or length of service or create an indirect service requirement.

C2. QACA Excluded Classes of Employees

If the Plan includes a QACA provision, Employees with an affirmative Elective Deferral election are excluded from the Plan for Safe Harbor Contribution purposes *(select one).*

a. ☒ No
b. ☐ Yes

C3. Age Requirement for Eligibility

Employees must be at least __ years of age to be eligible to participate in the Plan *(select one for each applicable source).*

All contribution sources	☐	Not Applicable	☒	21
Elective Deferrals	☐	Not Applicable	☐	____
Safe Harbor Contributions	☐	Not Applicable	☐	____
Matching Contributions	☐	Not Applicable	☐	____
Non-Elective Contributions	☐	Not Applicable	☐	____

Note: Age cannot be greater than age 21. If the Plan is maintained exclusively for employees of a Code section 170(b)(a)(A)(ii) educational institution and Participants are 100% vested no later than upon attainment of one Year of Vesting Service, the age can be no greater than 26.

C4. Service Requirement for Eligibility

Employees who meet the service requirements specified below during the Eligibility Computation Period will be eligible to participate in the specified portion of the Plan *(select one for each applicable source).*

	All Contrib. Sources	Elective Deferrals	Safe Harbor Contributions	Matching Contributions	Non-Elective Contributions
a. No service required	☐	☐	☐	☐	☐
b. One Year of Eligibility Service	☐	☐	☐	☐	☐
c. Two Years of Eligibility Service	N/A	N/A	N/A	☐	☐
d. __ months of Eligibility Service	☒ 6	☐ ____	☐ ____	☐ ____	☐ ____
e. ___ consecutive months of Eligibility Service	☐ ____	☐ ____	☐ ____	☐ ____	☐ ____
f. ___ Years of Eligibility Service with ___ Hours of Eligibility Service in each year	☐ _______	☐ _______	☐ _______	☐ _______	☐ _______
g. ___ months of Eligibility Service with ___ Hours of Eligibility Service in each month	☐ _______	☐ _______	☐ _______	☐ _______	☐ _______
h. Other service requirement	☐	☐	☐	☐	☐

Specify the other service requirement *(e.g. 6 consecutive months of service with 500 hours of service earned over the 6-month time frame).*

1. All contribution sources: _____
2. Elective Deferrals: _____
3. Safe Harbor Contributions: _____
4. Matching Contributions: _____
5. Non-Elective Contributions: _____

Note: The Years of Eligibility Service required cannot exceed 1 year of service for Elective Deferrals and Safe Harbor Contributions and 2 years for Matching Contributions and Non-Elective Contributions. If more than 1 year of service is required for Matching Contributions or Non-Elective Contributions, the applicable contribution source must be 100% vested at two Years of Eligibility Service.

Note: The months of service required cannot exceed 12 months of service for Elective Deferrals and Safe Harbor Contributions and 24 months of service for Matching Contributions and Non-Elective Contributions. If more than 12 months of service are required for Matching Contributions or Non-Elective Contributions the applicable contribution source must be 100% vested at 24 months of Eligibility Service.

Note: The definition of "other service requirement" provided must be objectively determinable, may not be specified in a manner that is subject to Plan Administrator discretion, and may not discriminate in favor of HCEs. The Plan Administrator will make all determinations in connection with such issues in a uniform, nondiscriminatory manner.

Note: Hours of service failsafe: Regardless of the election made above, if eligibility is determined using the hours of service method, an Employee will be deemed to meet the eligibility requirement no later than the end of an Eligibility Computation Period during which the Employee completes

1,000 Hours of Eligibility Service; provided, that the individual is an Eligible Employee on the applicable entry date.

C5. For service requirements that include an hours requirement a Participant will have met the service requirement at the following time *(select one).*

	As soon as they have met the service requirement regardless if the entire period has passed.	At the end of the measurement period in which the service requirement was met.
a. All contribution sources	☐	☒
b. Elective Deferrals	☐	☐
c. Safe Harbor Contributions	☐	☐
d. Matching Contributions	☐	☐
e. Non-Elective Contributions	☐	☐

C6. Prevailing Wage Eligibility - Excluded Classes

Prevailing Wage Contributions will have no age or service requirements and will have immediate entry dates. The following Participants will be excluded from receiving Prevailing Wage Contributions *(select all that apply).*

a. ☐ No excluded classes.

b. ☐ The following Participants will be excluded *(select all that apply):*

1. ☐ HCEs.

2. ☐ Other: _____.

Note: The "Other" excluded classes must be objectively determinable, may not be specified in a manner that is subject to Plan Administrator discretion, and may not discriminate in favor of HCEs. The Plan Administrator will make all determinations in connection with such issues in a uniform, nondiscriminatory manner.

C7. One-Time Election

A Participant may make a one-time election pursuant to Plan Section 2.1.6 to not become a Participant under the Plan *(select one).*

a. ☐ No.

b. ☒ Yes.

Measuring Service

C8. Year of Eligibility Service

The Method of Measuring a Year of Eligibility Service is the following *(select one).*

a. ☐ Not applicable, there are no service requirements for any source under the Plan.

b. ☐ Hours of service method. A Year of Eligibility Service is _____ hours (not more than 1,000) in the Eligibility Computation Period.

c. ☒ Elapsed time method.

Note: If option b is not selected skip questions C9 – C10. If option a is selected skip question C11.

C9. Eligibility Computation Period

If the hours of service method is selected above, the first Eligibility Computation Period is the 12-month period ending on the first anniversary of the Employee's Employment Commencement Date. Subsequent Eligibility Computation Periods will be measured as follows *(select one).*

a. ☐ It will remain a 12-month period based on the anniversary of the Employee's Employment Commencement Date.

b. ☐ It will switch the Plan Years beginning with the first Plan Year commencing prior to the first anniversary of the Employee's Employment Commencement Date.

C10. Break in Eligibility Service

If the hours of service method is selected above, a Break in Eligibility Service occurs if an Employee fails to complete _____ *(not more than 500)* Hours of Service in an Eligibility Computation Period.

Note: If actual hours are being used and no Hours of Service are completed then a Break in Service will be defined as the lesser of 500 hours or the number of Hours of Service needed to earn a Year of Eligibility Service.

C11. Equivalencies

a. Hours of Service

If the hours of service method is selected above, when records of hours are not maintained the following equivalency will apply *(select one).*

1. ☐ Not applicable, actual hours will be used for all Employees.

2. ☐ The following equivalency will apply *(select one).*

A. ☐ Days worked *(10 hours)*

B. ☐ Weeks worked *(45 hours)*

C. ☐ Semi-Monthly or Bi-weekly Payroll period worked *(95 hours)*

D. ☐ Months worked *(190 hours)*

b. Elapsed Time

If the elapsed time method is selected above, eligibility service will be measured using the following *(select one).*

1. ☐ The exact date in years.

2. ☒ The exact date in months.

3. ☐ Calendar months with Employee granted a month of service if they work at least one Hour of Service in that month.

4. ☐ The nearest calendar month.

5. ☐ Completed calendar months.

C12. Service with Predecessor and Prior Employers

Service with Predecessor Employers must be treated as service for the Employer if the Employer maintains the plan of the Predecessor Employer. In all other cases, service with a Predecessor Employer or a Prior Employer is granted as specified below.

a. Predecessor or Prior Employer Service *(Select one.)*

1. ☒ No service with a Predecessor or Prior Employer will be credited.

2. ☐ Service with a Predecessor or Prior Employer is credited as specified below.

A. Service with the following entities shall be credited as service under this Plan: _____

B. Service with the above entities has been determined under the terms of the following documents, if any: _____

b. Service with a Predecessor or Prior Employer will be credited for the following purposes *(select all that apply):*

1. ☐ Eligibility Service.

2. ☐ Vesting Service.

3. ☐ Contribution Allocations.

4. ☐ Attainment of Early or Normal Retirement Age.

c. Service with a Predecessor or Prior Employer will be limited as follows: _____

C13. Age and Service Waiver

a. The age and service requirements will be waived as specified below *(select one).*

1. ☒ Not applicable

2. ☐ For all contribution sources

3. ☐ For the following contribution sources *(select all that apply).*

A. ☐ Elective Deferrals

B. ☐ Safe Harbor Contributions

C. ☐ Matching Contributions

D. ☐ Non-Elective Contributions

E. ☐ Other *(e.g., Prevailing Wage Contributions):* _____

b. The age and service requirements will be waived for Employees Employed on ___/___/_____

c. The following requirements will be waived *(select all that apply).*

1. ☐ The age requirement.

2. ☐ The service requirement.

d. Employees subject to the waiver will enter the Plan on *(select one):*

1. ☐ The Effective Date of this document.

2. ☐ The next Plan Entry Date for the applicable contribution source.

3. ☐ Other *(e.g., specific date):* _____ *(date must be prior to next Plan Entry*

Date).

e. The following limitations will apply to the age and/or service waiver *(select one).*

1. ☐ No limitations.

2. ☐ Other *(e.g., only Employees hired due to merger with Acme Inc. will be subject to the waiver):* _____

Plan Entry

C14. Entry Dates

Employees who meet the service requirements specified during the Eligibility Computation Period will be eligible to participate in the specified portion of the Plan *(select one for each applicable source).*

	All Contrib. Sources	Elective Deferrals	Safe Harbor Contributions	Matching Contributions	Non-Elective Contributions
a. Daily	☐	☐	☐	☐	☐
b. Weekly on the ___*(e.g., first)*	☐	☐	☐	☐	☐
day of the week	_____	_____	_____	_____	_____
c. Monthly on the ___*(e.g., last)*	☒	☐	☐	☐	☐
day of the month	first	_____	_____	_____	_____
d. Quarterly starting on __/__	☐	☐	☐	☐	☐
day of the month	__/__	__/__	__/__	__/__	__/__
e. Semi-annually starting on __/__	☐	☐	☐	☐	☐
	__/__	__/__	__/__	__/__	__/__
f. First Day of the Plan Year	☐	☐	☐	☐	☐
g. Last Day of the Plan Year	☐	☐	☐	☐	☐
h. Anniversary Date of the Employee's hire date	☐	☐	☐	☐	☐
i. Other Entry Date(s)	☐	☐	☐	☐	☐

Specify the other Entry Dates *(e.g. payroll date).*

1. All contribution sources: _____
2. Elective Deferrals: _____
3. Safe Harbor Contributions: _____
4. Matching Contributions: _____
5. Non-Elective Contributions: _____

Note: If option a is selected for any contribution source skip question C15 for that contribution source.

C15. Entry Time

Employees will be eligible to participate in the specified portion of the Plan on the Entry Date _____ the date they meet the eligibility requirements specified for the contribution source *(select one for each applicable source).*

	All Contrib. Sources	Elective Deferrals	Safe Harbor Contributions	Matching Contributions	Non-Elective Contributions
a. coincident with or next following	☒	☐	☐	☐	☐
b. next following	☐	☐	☐	☐	☐
c. nearest to	N/A	N/A	N/A	☐	☐

C16. Special Entry Dates

In addition to the Entry Dates specified above the following dates will also be Entry Dates *(select one for each applicable source).*

	All Contrib. Sources	Elective Deferrals	Safe Harbor Contributions	Matching Contributions	Non-Elective Contributions
a. Not Applicable	☒	☐	☐	☐	☐

b. Special Entry Date(s) ☐ ☐ ☐ ☐ ☐

Specify the special Entry Dates *(e.g. 2/1/2018).*

1. All contribution sources: _____
2. Elective Deferrals: _____
3. Safe Harbor Contributions: _____
4. Matching Contributions: _____
5. Non-Elective Contributions: _____

Note: The special Entry Dates must be objectively determinable, may not be specified in a manner that is subject to Plan Administrator discretion, and may not discriminate in favor of HCEs. The Plan Administrator will make all determinations in connection with such issues in a uniform, nondiscriminatory manner.

D. Dates and Definitions

General Dates

D1. Plan Year

a. The Plan Year *(must be 12 consecutive months.)* 03/01 to 02/28.
b. The Plan has a short Plan Year of: ___/___ to ___/___.

D2. Limitation Year

The Limitation Year is the *(select one):*

a. ☒ Plan Year.
b. ☐ calendar year coinciding with or ending within the Plan Year.
c. ☐ 12 consecutive month period ending __/__.
d. ☐ Employer's Fiscal Year ending with or within Plan Year.
e. ☐ 12 consecutive month period ending _____ *(e.g., the last Friday in February)* with or within Plan Year.

D3. Anniversary Date

The Anniversary Date is *(select one):*

a. ☒ the last day of the Plan Year.
b. ☐ the first day of the Plan Year.
c. ☐ __/__ of each Plan Year.
d. ☐ other *(must be at least annually):* _____

D4. Valuation Date

The Valuation Date is the *(select all that apply):*

a. ☒ Last day of the Plan Year
b. ☐ Semiannually
c. ☐ Quarterly
d. ☐ Monthly
e. ☒ Daily
f. ☐ Other *(i.e., assets held in XYZ fund will be valued on the 15th day of each calendar month, must be at least annually):* _____

Retirement Age

D5. Normal Retirement Age (NRA)

For each Participant the Normal Retirement Age is *(select all that apply):*

a. ☐ The later of age 65 or the 5th anniversary of participation in the Plan *(statutory).*
b. ☐ Age ___.
c. ☐ Age _____ and _____ Years of Service.
d. ☒ Age 65 and 4 Years of Participation.
e. ☐ Age _____ and the _____ anniversary of actual participation in the Plan.
f. ☐ Other: _____ , but in no event later than the later of age 65 or the 5th anniversary of participation.

Note: The age specified must be at least 55 and cannot exceed 65. If an age less than 62 is specified, the IRS Opinion Letter cannot be used to show that the age is reasonably representative of the typical retirement age for the industry in which the Participants work.
Note: The service specified cannot be greater than 5 years.

Note: If more than one option is selected, NRA is attained on the first date the requirements of any option are met, but in no event later than age 65 and the 5th anniversary of participation in the Plan. For this purpose only, participation is assumed to commence as of the first day of the first Plan Year in which the Employee became a Participant.
Note: The definition of "Normal Retirement Age" provided must be objectively determinable, may not be specified in a manner that is subject to Plan Administrator discretion, and may not discriminate in favor of HCEs. The Plan Administrator will make all determinations in connection with such issues in a uniform, nondiscriminatory manner.

D6. Normal Retirement Date

The Normal Retirement Date is *(select one):*

- **a.** ☒ The actual date NRA is attained.
- **b.** ☐ The first day of the month in which NRA is attained.
- **c.** ☐ The first day of the month nearest the date NRA is attained.
- **d.** ☐ The first day of the month coincident with or next following the date NRA is attained.
- **e.** ☐ Anniversary Date nearest the date NRA is attained.
- **f.** ☐ Anniversary Date coincident with or next preceding the date NRA is attained.
- **g.** ☐ The last day of the month in which NRA is attained.
- **h.** ☐ Other *(e.g., The last day of the month nearest the date NRA is attained):* _____

D7. Early Retirement Age (ERA)

For each Participant, the Early Retirement Age is *(select all that apply):*

- **a.** ☐ The Plan does not provide an ERA.
- **b.** ☐ Age ___.
- **c.** ☐ Age _____ and _____ Years of Service.
- **d.** ☒ Age 55 and 4 Years of Participation.
- **e.** ☐ Age _____ and the _____ anniversary of actual participation in the Plan.
- **f.** ☐ Other *(e.g., Age 55 and the fifth anniversary of employment):* _____

Note: If option a is selected skip question D8.
Note: In no event shall ERA exceed NRA.
Note: If more than one option is selected, the Participant attains ERA at the earliest age when any of the selected requirements are satisfied.
Note: The definition of "Early Retirement Age" provided must be objectively determinable, may not be specified in a manner that is subject to Plan Administrator discretion, and may not discriminate in favor of HCEs. The Plan Administrator will make all determinations in connection with such issues in a uniform, nondiscriminatory manner.

D8. Early Retirement Date

The Early Retirement Date is *(select one):*

- **a.** ☒ The actual date ERA is attained.
- **b.** ☐ The first day of the month in which ERA is attained.
- **c.** ☐ The first day of the month nearest the date ERA is attained.
- **d.** ☐ The first day of the month coincident with or next following the date ERA is attained.
- **e.** ☐ Anniversary Date nearest the date ERA is attained.
- **f.** ☐ Anniversary Date coincident with or next preceding the date ERA is attained.
- **g.** ☐ The last day of the month in which ERA is attained.
- **h.** ☐ Other *(e.g., The last day of the month nearest the date ERA is attained):* _____

General Definitions

D9. Highly Compensated Employee (HCE) Determination

a. HCEs will be determined using the top-paid group election *(select one).*

- **1.** ☒ No
- **2.** ☐ Yes

b. HCEs will be determined using the calendar year data election *(select one).*

- **1.** ☒ No
- **2.** ☐ Yes

c. When determining HCEs, Compensation will be measured over the following period *(select one).*

- **1.** ☒ The preceding Plan Year.
- **2.** ☐ The calendar year beginning within the preceding Plan Year *(non-calendar year*

plans only).

3. ☐ The 12-month period ending __/__. *(Select this option when using the Plan Year of another plan of the Employer.)*

D10. Disability

An Employee or Participant has a "Disability" and is "Disabled" if *(select all that apply):*

a. ☐ No disability benefits are provided and there are no disability-related vesting or waiver provisions.

b. ☒ The Participant suffers from a medically determinable physical or mental impairment that may be expected to result in death or to last for a continuous period of not less than **12** months and that renders him incapable of performing his duties.

c. ☒ The Social Security Administration has determined that the Participant is eligible to receive Social Security disability benefits.

d. ☒ The Participant has begun to receive payments under the long-term disability program or a comparable disability program maintained by the Employer.

e. ☐ Other: _____.

Note: If more than one option is selected, a Participant is Disabled on the first date the requirements of any option are met.

Note: The definition of "Disability" provided must be objectively determinable and may not be specified in a manner that is subject to Plan Administrator discretion. The Plan Administrator will make all determinations in connection with such issues in a uniform, nondiscriminatory manner.

D11. Designated Beneficiary

a. Default Beneficiary

In the event the Participant does not have a valid Designated Beneficiary, the Designated Beneficiary will be *(select one):*

1. ☒ determined under Plan Section 3.6.1.

2. ☐ the Participant's spouse; if no spouse, the Participant's estate.

3. ☐ other *(e.g., the Participant's spouse; if no spouse the Participant's children; if no children the Participant's estate):* _____

Note: If the Plan is a REA safe harbor plan the Participant's spouse must be the first default Designated Beneficiary.

b. Expiration of Beneficiary Designation

A Participant's valid beneficiary designation will expire when *(select one):*

1. ☐ designations will never expire.

2. ☒ upon divorce the ex-spouse shall be treated as having predeceased the Participant unless a beneficiary designation is completed post-divorce naming the ex-spouse as a Beneficiary.

3. ☐ other *(e.g., marriage of the Participant):* _____

Note: A Beneficiary designation cannot expire upon legal separation.

c. One-Year Marriage Rule

The One Year Marriage rule will apply *(select one):*

1. ☐ No.

2. ☒ Yes.

E. Compensation

E1. Base Definition

A Participant's Compensation is based on *(select one for each applicable source):*

	All Contrib. Sources	Elective Deferrals	Safe Harbor Contributions	Matching Contributions	Non-Elective Contributions
a. W-2 Compensation	☒	☐	☐	☐	☐
b. 3401(a) Compensation	☐	☐	☐	☐	☐
c. 415(c)(3) Compensation	☐	☐	☐	☐	☐
d. Simplified 415 Compensation	☐	☐	☐	☐	☐

Exclusions From Compensation

E2. Exclusion of Deferrals

The selected deferrals will be excluded from the definition of Compensation for the purposes specified *(select one for each applicable source).*

	All Contrib. Sources	Elective Deferrals	Safe Harbor Contributions	Matching Contributions	Non-Elective Contributions
a. All of the items listed below.	☐	☐	☐	☐	☐
b. The following items (select all that apply):	☐	☐	☐	☐	☐
1. 125 (Cafeteria Plan)	☐	☐	☐	☐	☐
2. 132(f)(4) (Transportation)	☐	☐	☐	☐	☐
3. 402(e)(3) (401(k) and 403(b) deferrals)	☐	☐	☐	☐	☐
4. 402(h)(1)(B) (Sep deferrals)	☐	☐	☐	☐	☐
5. 408(p) (Simple Retirement Account 402(k) deferrals)	☐	☐	☐	☐	☐
6. 457(b) deferrals	☐	☐	☐	☐	☐

Note: All salary deferrals must be included or excluded to maintain a Code sec. 414(s) safe harbor definition of Compensation. Exclusion of less than the full list will necessitate testing under Code section 414(s) to ensure the definition of Compensation is not discriminatory for all sources other than Elective Deferrals.

Note: If the item is not selected it will be included in the definition of Compensation for the applicable contribution source.

E3. Non-Participating Non-Resident Aliens

Provided the compensation is excluded from gross income and not effectively connected with a U.S. trade or business, compensation paid to nonresident aliens who are not Participants will be excluded from the definition of Compensation *(select one).*

a. ☐ No.

b. ☒ Yes.

E4. Other Exclusions

The selected items will be excluded from the definition of Compensation for the purposes specified *(select one for each applicable source).*

	All Contrib. Sources	Elective Deferrals	Safe Harbor Contributions	Matching Contributions	Non-Elective Contributions
a. No other exclusions	☐	☐	☐	☐	☐
b. The following items (select all that apply):	☒	☐	☐	☐	☐
1. Overtime	☐	☐	☐	☐	☐
2. Commissions	☐	☐	☐	☐	☐
3. Discretionary bonuses	☐	☐	☐	☐	☐
4. Bonuses	☐	☐	☐	☐	☐
5. Taxable employee benefits	☐	☐	☐	☐	☐
6. Compensation paid by an Employer who is not a Participating Employer	☐	☐	☐	☐	☐
7. In excess of	☐	☐	☐	☐	☐
A. Specify dollar amount:	$___	$___	$___	$___	$___
8. Other exclusion	☒	☐	☐	☐	☐

Specify the other exclusions *(e.g. compensation earned under a prevailing wage agreement).*

A. All contribution sources: **Fringe Benefit Compensation**
B. Elective Deferrals: _____
C. Safe Harbor Contributions: _____
D. Matching Contributions: _____
E. Non-Elective Contributions: _____

Note: The definition of "other exclusion" provided must be objectively determinable, may not be specified in a manner that is subject to Plan Administrator discretion, and may not discriminate in favor of HCEs. The Plan Administrator will make all determinations in connection with such issues in a uniform, nondiscriminatory manner.

Note: Any exclusion in this section aside from taxable employee benefits will necessitate testing under Code section 414(s) to ensure the definition of Compensation is not discriminatory for all sources other than Elective Deferrals.

Inclusions in Compensation

E5. Other Inclusions

The selected items will be included in the definition of Compensation for the purposes specified *(select one for each applicable source).*

	All Contrib. Sources	Elective Deferrals	Safe Harbor Contributions	Matching Contributions	Non-Elective Contributions
a. No other inclusions	☐	☐	☐	☐	☐
b. The following items (select all that apply):	☒	☐	☐	☐	☐
1. Earned before entry date	☐	☐	☐	☐	☐
2. Deemed 125 Compensation	☐	☐	☐	☐	☐
3. Post Year End Compensation	☐	☐	☐	☐	☐
4. Post-Severance Compensation	☒	☐	☐	☐	☐
5. Differential Wage Payments	☐	☐	☐	☐	☐
6. Military Continuation Payments	☐	☐	☐	☐	☐
7. Unfunded Deferred Comp Plan	☐	☐	☐	☐	☐
8. Other inclusion:	☐	☐	☐	☐	☐

Specify the other inclusions *(e.g. compensation earned under a prevailing wage agreement):*

A. All contribution sources: _____
B. Elective Deferrals: _____
C. Safe Harbor Contributions: _____
D. Matching Contributions: _____
E. Non-Elective Contributions: _____

Note: The definition of "other inclusions" provided must be objectively determinable, may not be specified in a manner that is subject to Plan Administrator discretion, and may not discriminate

in favor of HCEs. The Plan Administrator will make all determinations in connection with such issues in a uniform, nondiscriminatory manner.

Note: Elections made for items a, b1, b2, or b3 do not affect the 414(s) safe harbor status of the Plan's definition of Compensation.

Other Compensation

E6. Salary Continuation for Disabled Participants

Salary paid to Participants who are disabled is *(select one for each applicable source):*

	All Contrib. Sources	Elective Deferrals	Safe Harbor Contributions	Matching Contributions	Non-Elective Contributions
a. Excluded.	☒	☐	☐	☐	☐
b. Included for all Participants.	☐	☐	☐	☐	☐
c. Included for all Participants who are not HCEs.	☐	☐	☐	☐	☐

E7. Compensation Computation Period

The Compensation Computation Period is the following period that ends with or within the Plan Year *(select one for each applicable purpose).*

	All Contrib. Sources	Elective Deferrals	Safe Harbor Contributions	Matching Contributions	Non-Elective Contributions
a. Plan Year	☒	☐	☐	☐	☐
b. Limitation Year	☐	☐	☐	☐	☐
c. Calendar year	☐	☐	☐	☐	☐
d. Pay period	☐	☐	☐	☐	☐
e. Monthly period	☐	☐	☐	☐	☐
f. Quarterly period	☐	☐	☐	☐	☐
g. Semi-Annually	☐	☐	☐	☐	☐
h. Bi-Weekly	☐	☐	☐	☐	☐
i. Weekly period	☐	☐	☐	☐	☐
j. The 12-consecutive month period ending on __/__	☐	☐	☐	☐	☐
1. Specify the date:	_____	_____	_____	_____	_____

Note: The Compensation Computation Period for Safe Harbor Non-Elective Contributions is the Plan Year.

Note: If option j is selected, for Employees whose Employment Commencement Date is less than 12 months before the end of the 12-month period designated, Compensation will be determined over the Plan Year.

E8. Prevailing Wage Compensation

Compensation for Prevailing Wage Purposes will be defined the same as Compensation for *(select one):*

a. ☐ Elective Deferrals.
b. ☐ Safe Harbor Contributions.
c. ☐ Matching Contributions.
d. ☐ Non-Elective Contributions.
e. ☐ As specified on the Prevailing Wage Addendum.

Code Section 415 and 416 Compensation

E9. Code Section 415 and 416 Compensation

a. For the purposes of Code section 415 and 416, Compensation will be defined as *(select one):*

1. ☒ W-2 Compensation.
2. ☐ 3401(a) Compensation.
3. ☐ 415(c)(3) Compensation.
4. ☐ Simplified 415 Compensation.

b. For the purposes of Code section 415 and 416, the selected items will be included in the definition of Compensation *(select all that apply).*

1. ☐ Deemed 125 Compensation
2. ☐ Post Year End Compensation
3. ☒ Post-Severance Compensation
4. ☒ Differential Wage Payments
5. ☐ Military Continuation Payments
6. ☐ Unfunded Deferred Compensation Plan
7. ☐ Nonparticipating Nonresident Aliens salary
8. ☐ Other Inclusion *(e.g., PTO Payments):* _____

Note: The definition of "other inclusions" provided must be objectively determinable, may not be specified in a manner that is subject to Plan Administrator discretion, and may not discriminate in favor of HCEs. The Plan Administrator will make all determinations in connection with such issues in a uniform, nondiscriminatory manner.

c. For the purposes of Code section 416, salary paid to Participants who are disabled is *(select one):*

1. ☒ Excluded.
2. ☐ Included for all Participants.
3. ☐ Included for all Participants who are not HCEs.

F. Elective Deferrals, Voluntary After-Tax Contributions, and Safe Harbor Contributions

Elective Deferrals

F1. Limitations

a. Minimum deferral election *(select one):*
1. ☒ No minimum deferral.
2. ☐ The following minimum deferral *(select all that apply):*
A. ☐ Elective Deferrals must be at least _____ % of Compensation.
B. ☐ Elective Deferrals must be at least $ _____ per payroll period.

b. Maximum deferral election *(select one):*
1. ☒ Not applicable.
2. ☐ The following maximums *(select all that apply):*
A. ☐ Elective Deferrals cannot exceed _____ % of Compensation.
B. ☐ Elective Deferrals cannot exceed $ _____ per Plan Year.
C. ☐ HCE's Elective Deferrals cannot exceed $ _____ per Plan Year.
D. ☐ HCE's Elective Deferrals cannot exceed _____ % of Compensation.

c. Other limitations on Elective Deferrals *(select one):*
1. ☐ Not applicable.
2. ☒ **Fringe Benefits are not subject to deferral election.**.

Note: The other limitations provided must be objectively determinable, may not be specified in a manner that is subject to Plan Administrator discretion, and may not discriminate in favor of HCEs. The Plan Administrator will make all determinations in connection with such issues in a uniform, nondiscriminatory manner.

F2. Catch-up Contributions

Catch-up Contributions are permitted *(select one).*
a. ☐ No.
b. ☒ Yes.

F3. Roth Elective Deferrals

If Roth Elective Deferrals are permitted under the Plan, Participants *(select one):*
a. ☐ can elect to defer both Pre-Tax Elective Deferrals and Roth Elective Deferrals.
b. ☐ must elect to defer either Pre-Tax Elective Deferrals or Roth Elective Deferrals.

Automatic Enrollment

F4. The following automatic enrollment provisions will apply to the Plan *(select one):*
a. ☒ Not applicable.
b. ☐ Automatic Contribution Arrangement (ACA).
c. ☐ Eligible Automatic Contribution Arrangement (EACA).
d. ☐ Qualified Automatic Contribution Arrangement (QACA).

Note: If option a. is selected, skip questions F5 – F7.
Note: If QACA is chosen the Safe Harbor Contribution section must be completed.

F5. Automatic Deferral Rates

a. The automatic deferral rate for an ACA or EACA will be *(select one):*

1. ☐ a flat deferral rate of _____ %.

2. ☐ an increase deferral rate starting at ___% and increasing by _____% on each Increase Date after the Initial Period to a maximum default deferral rate of _____%.

3. ☐ a deferral rate that varies by Participant group. *(See EACA Addendum.)*

4. ☐ Other *(e.g., $25 per payroll period):* _____

b. The automatic deferral rate for a QACA will be *(select one):*

1. ☐ a flat deferral rate of __% *(must be at least 6 and no more than 10%).*

2. ☐ the QACA statutory provisions of an increase deferral rate starting at 3% and increasing by 1% on each Increase Date after the Initial Period to a maximum default deferral rate of 6%.

3. ☐ an increase deferral rate starting at __% and increasing by __% on each Increase Date after the Initial Period to a maximum default deferral rate of __%.

Note: If option 3. is selected the initial deferral rate must be at least 3%, the increase must be at least 1% and the maximum deferral rate cannot be greater than 10%.

F6. Increase Date and Initial Period

a. If the automatic enrollment provision includes increasing deferral rates the Increase Date will be *(select one):*

1. ☐ the first day of the Plan Year.

2. ☐ Other *(e.g., July 1, the anniversary of the Participant's date of hire):* _____.

b. A Participant's Initial Period will end *(select one):*

1. ☐ on the first Increase Date following the start of default deferrals under the Plan.

2. ☐ on the first Increase Date following the first full Plan Year of default deferrals under the Plan.

F7. The following Participants are subject to the default elections *(select one):*

a. ☐ all Participants.

b. ☐ the following Participants *(select all that apply):*

1. ☐ current Participants without an election.

2. ☐ all Participants whose prior year election is less than the initial default deferral rate.

3. ☐ all Participants hired after __/__/__.

4. ☐ the selections above apply only to Participants who do not have an election on file on or after __/__/__.

Under a 401(k) plan, the plan may provide that an affirmative election expires annually. If a Participant fails to complete a new affirmative election subsequent to their prior election expiring, the Participant becomes subject to the default deferral percentage as outlined in the plan pursuant to the automatic contribution provision. Each year, the Participant can always complete a new affirmative election and designate a new deferral percentage.
Note: An election not to defer must be on file.

In-Plan Roth Rollover

F8. In-Plan Roth Rollovers are permitted *(select one):*

a. ☒ No.

b. ☐ Yes, provided the Participant is eligible to take a distribution under the terms of the Plan.

c. ☐ Yes, provided the Participant is eligible to take a distribution under the Code and Treasury Regulations regardless of the terms of the Plan.

d. ☐ Yes.

Note: The Plan must allow for Roth Elective Deferrals in B2.b in-order to allow for In-Plan Roth Rollovers.

F9. In-Plan Roth Rollovers are permitted from the following Accounts *(select one).*

a. ☐ All non-Roth Accounts under the Plan.

b. ☐ Other contributions *(e.g., Rollover Contributions):* _____.

F10. Limitations

In-Plan Roth Rollovers are limited by *(select one):*

a. ☐ No limitations.

b. ☐ The following limitations *(select all that apply):*

1. ☐ Account must be fully vested.

2. ☐ Other *(e.g., only one In-Plan Roth Rollover per Plan Year):* _____.

Voluntary After-Tax Contributions

F11. Voluntary After-Tax Contributions are limited to *(select one):*

a. ☐ No Plan limitations.

b. ☐ The following limitations *(select all that apply):*

1. ☐ Voluntary After-Tax Contributions cannot exceed _____% of Compensation per Plan Year.

2. ☐ Voluntary After-Tax Contributions cannot exceed $ _____ per Plan Year.

Safe Harbor Contributions

F12. ADP Safe Harbor Contributions

The Plan will make the following ADP Test Safe Harbor Contributions to Participants eligible to receive Safe Harbor Contributions *(select one):*

a. ☐ Traditional Basic Matching Contribution
100% of the Elective Deferral that does not exceed 3% of Compensation, plus 50% of the Elective Deferral that exceeds 3% of Compensation but does not exceed 5% of Compensation.

b. ☐ QACA Basic Matching Contribution
100% of the Elective Deferral that does not exceed 1% of Compensation, plus 50% of the Elective Deferral that exceeds 1% of Compensation but does not exceed 6% of Compensation.

c. ☒ Enhanced Matching Contribution
100% of the Elective Deferral that does not exceed 4% of Compensation, plus _____ % of the Elective Deferral that exceeds _____% of Compensation but does not exceed _____% of Compensation.

d. ☐ Other ADP Test Safe Harbor Matching Contribution *(e.g., 100% of Elective Deferrals that exceeds 8% for non-HCEs and 100% of Elective Deferrals that exceeds 5% for HCEs).*
_____

e. ☐ ADP Test Safe Harbor Non-Elective Contribution
at least _____ % of Compensation *(must be at least 3%).*
Note: If c or d is chosen the selection must be completed so that the Safe Harbor Contribution the Participant will receive at each deferral level is at least as good as they would receive under the applicable basic matching contribution.
Note: Option b cannot be chosen if the Plan has elected the traditional safe harbor provisions.
Note: In order to be covered by the IRS pre-approval letter, the other ADP Safe Harbor Matching Contribution formula must be a combination of Matching Contribution formulas available in this Plan Document. Any other formulas will not be covered by the IRS pre-approval letter.

F13. ADP Safe Harbor Contributions will be made to *(select one)*:

a. ☒ this Plan.

b. ☐ another plan of the Employer: _____.

Note: If option b is selected the full name of the other Employer plan must be completed. The other Employer plan must have the same Plan Year, safe harbor contributions, and eligibility for safe harbor contributions as this Plan.

F14. ACP Safe Harbor Contributions

While no further contributions are required to meet the Safe harbor Contribution requirements, Participants eligible to receive Safe Harbor Contributions may receive *(select one):*

a. ☒ ACP Safe Harbor Contributions will not be made to the Plan.

b. ☐ The following ACP Safe Harbor Contributions *(select all that apply):*

1. ☐ the Plan may choose to make a discretionary ACP Safe Harbor Contribution. If a discretionary ACP Safe Harbor Matching Contribution formula applies (i.e., a formula that provides an Employer with discretion regarding how to allocate a Matching Contribution to Participants) and the Employer makes a discretionary ACP Safe Harbor Matching Contribution to the Plan, the Employer must provide the Plan Administrator (or Trustee, if applicable), written instructions describing (1) how the discretionary ACP Safe Harbor Matching Contribution formula will be allocated to Participants (e.g., a uniform percentage of Elective Deferrals or a flat dollar amount); (2) the computation period(s) to which the discretionary ACP Safe Harbor Matching Contribution formula applies; and (3) if applicable, a description of each business location or business classification subject to separate discretionary ACP Safe Harbor Matching Contribution allocation formulas. Such instructions must be provided no later than the date on which the discretionary ACP Safe Harbor Matching Contribution is made to the Plan. A summary of these instructions must be communicated to Participants who receive discretionary ACP Safe Harbor Matching Contributions. The summary must be communicated to Participants no later than 60 days following the date on which the discretionary ACP Safe Harbor Matching Contribution is made to the Plan.

2. ☐ the Plan will make a mandatory ACP Safe Harbor Contribution in the amount of *(select one):*

A. ☐ _____% of Elective Deferrals that do not exceed _____% of Compensation.

B. ☐ _____% of Elective Deferrals that do not exceed _____% of Compensation, plus _____% of Elective Deferrals that exceeds _____% of Compensation but do not exceed _____% of Compensation.

C. ☐ other: _____.

Note: While no further contributions are required to meet the Safe harbor Contribution requirements, the Plan may elect to make ACP Safe harbor Contributions in addition to the required ADP Safe Harbor Contributions.
Note: A discretionary ACP Safe Harbor Contribution cannot exceed 4% of Compensation.
Note: An ACP Safe Harbor Contribution cannot be made on Matched Contributions in excess of 6% of Compensation.
Note: In order to be covered by the IRS pre-approval letter, the other ACP Safe Harbor Matching Contribution formula must be a combination of Matching Contribution formulas available in this Plan Document. Any other formulas will not be covered by the IRS pre-approval letter.

F15. Allocation Dates

Safe Harbor Contributions will be allocated as of the *(select one for each applicable source):*

	ADP Safe Harbor Contributions	ACP Safe Harbor Contributions
a. last day of the Plan Year	☐	☐
b. last day of each pay period	☒	☐
c. last day of each Plan quarter	☐	☐
d. last day of each calendar month	☐	☐
e. other:	☐	☐

Specify the other allocation date *(e.g., last day of the calendar year).*

1. ADP Safe Harbor Contributions: _____

2. ACP Safe Harbor Contributions: _____

G. Matching Contributions and Non-Elective Contributions

Matching Contributions

G1. Allocation Conditions

In order to be eligible to receive a Matching Contribution, the Participant must *(select one):*

a. ☐ No allocation conditions.

b. ☐ The following allocation conditions will apply *(select all that apply):*

1. ☐ to be employed on the last day of the Plan Year

2. ☐ have received Compensation since the prior Allocation Date for Matching Contributions

3. ☐ must be employed on the Allocation Date for Matching Contributions

4. ☐ must complete the following service requirement:

A. ☐ _____ *(no more than 1,000) Hours of Credited Service in the Plan Year.*
B. ☐ _____ *(no more than 365) days using the Elapsed Time method of counting service.*
C. ☐ _____ *(no more than 12) months using the Elapsed Time method of counting service.*

Note: If option a is selected, skip question G2.

G2. Allocation Condition Waivers

The allocation conditions for Matching Contributions will be waived if, during the Plan Year, a Participant *(select one for each applicable allocation condition):*

	All Allocation Conditions	Last Day Requirement	Service Requirement
a. No allocation condition waivers	☐	☐	☐
b. The following waivers apply *(select all that apply)*	☐	☐	☐
1. dies.	☐	☐	☐
2. becomes Disabled.	☐	☐	☐
3. terminates from service after reaching NRA.	☐	☐	☐
4. is employed on the last day of the Plan Year	N/A	N/A	☐
5. other event.	☐	☐	☐

Specify the other event *(e.g., furloughed longer than 4 weeks):*
A. All Allocation Conditions: _____
B. Last Day Requirement: _____
C. Service Requirement: _____

Note: The definition of "other events" provided must be objectively determinable, may not be specified in a manner that is subject to Plan Administrator discretion, and may not discriminate in favor of HCEs. The Plan Administrator will make all determinations in connection with such issues in a uniform, nondiscriminatory manner.

G3. Matched Contributions

The following Employee contributions will be included in the definition of Matched Contribution *(select all that apply):*

a. ☐ Pre-Tax Elective Deferrals.
b. ☐ Roth Elective Deferrals.
c. ☐ Catch-up Contributions.
d. ☐ Voluntary After-Tax Contributions.
e. ☐ Other *(e.g., Elective Deferrals made under the Employer's 403(b) plan):*
_____

Note: The other Matched Contribution specified must be objectively determinable, may not be specified in a manner that is subject to Plan Administrator discretion, and may not discriminate in favor of HCEs. The Plan Administrator will make all determinations in connection with such issues in a uniform, nondiscriminatory manner.

G4. Matching Contribution Formula

The amount of the Matching Contributions made on behalf of Participants eligible for Matching Contributions for each Plan Year will be *(select one):*

a. ☐ a discretionary amount determined by the Employer in a non-discriminatory manner. If a discretionary Matching Contribution formula applies (i.e., a formula that provides an Employer with discretion regarding how to allocate a Matching Contribution to Participants) and the Employer makes a discretionary Matching Contribution to the Plan, the Employer must provide the Plan Administrator (or Trustee, if applicable), written instructions describing (1) how the discretionary Matching Contribution formula will be allocated to Participants (e.g., a uniform percentage of Elective Deferrals or a flat dollar amount); (2) the computation period(s) to which the discretionary Matching Contribution formula applies; and (3) if applicable, a description of each business location or business classification subject to separate discretionary Matching Contribution allocation formulas. Such instructions must be provided no later than the date on which the

discretionary Matching Contribution is made to the Plan. A summary of these instructions must be communicated to Participants who receive discretionary Matching Contributions. The summary must be communicated to Participants no later than 60 days following the date on which the discretionary Matching Contribution is made to the Plan.

b. ☐ Flat Percentage
_____% of Matched Contributions that do not exceed _____% of Compensation.

c. ☐ Graded Match based on Percentage of Compensation Deferred
_____% of Matched Contributions that do not exceed _____% of Compensation, plus
_____% of Matched Contributions that exceeds _____% of Compensation but do not exceed _____% of Compensation.

d. ☐ other Matching Contribution formula specified on the Matching Contribution Formula Addendum.

G5. Supplemental Discretionary Matching Contribution Formula

The Employer may choose to make a Supplemental Discretionary Matching Contribution on behalf of Participants eligible for Matching Contributions for each Plan Year *(select one).*

a. ☐ No.

b. ☐ Yes. If a discretionary Matching Contribution formula applies (i.e., a formula that provides an Employer with discretion regarding how to allocate a Matching Contribution to Participants) and the Employer makes a discretionary Matching Contribution to the Plan, the Employer must provide the Plan Administrator (or Trustee, if applicable), written instructions describing (1) how the discretionary Matching Contribution formula will be allocated to Participants (e.g., a uniform percentage of Elective Deferrals or a flat dollar amount); (2) the computation period(s) to which the discretionary Matching Contribution formula applies; and (3) if applicable, a description of each business location or business classification subject to separate discretionary Matching Contribution allocation formulas. Such instructions must be provided no later than the date on which the discretionary Matching Contribution is made to the Plan. A summary of these instructions must be communicated to Participants who receive discretionary Matching Contributions. The summary must be communicated to Participants no later than 60 days following the date on which the final discretionary Matching Contribution is made to the Plan for each Plan Year.

G6. Limitations

Matching Contributions will be limited to *(select one):*

a. ☐ No limitations

b. ☐ The following limitations apply *(select all that apply):*

1. ☐ _____% of Compensation per Plan Year.

2. ☐ $_____ per Plan Year.

3. ☐ $_____ per payroll period.

4. ☐ other *(e.g., 3% of Compensation per Plan Year for HCEs):* ___.

Note: The other limitations on Matching Contributions must be objectively determinable, may not be specified in a manner that is subject to Plan Administrator discretion, and may not discriminate in favor of HCEs. The Plan Administrator will make all determinations in connection with such issues in a uniform, nondiscriminatory manner.

G7. Allocation Dates

a. Matching Contributions will be allocated as of the *(select one):*

1. ☐ last day of the Plan Year

2. ☐ last day of each pay period

3. ☐ last day of each Plan quarter

4. ☐ last day of each calendar month

5. ☐ other *(e.g., last day of each calendar quarter):* _____

b. ☐ If Matching Contributions are not allocated on the last day of the Plan Year, any allocation conditions will be pro-rated.

G8. 410(b) Coverage Failure

Participants who normally would not be given an allocation of Matching Contributions may be given an allocation in order to satisfy the requirements of Code section 410(b) (select one):

a. ☐ No. The Plan must be amended in the case of a failure under Code section 410(b).
b. ☐ Yes. The Code section 410(b) fail safe will be used in the case of a failure under Code section 410(b).

Non-Elective Contributions

G9. Allocation Conditions

In order to be eligible to receive a Non-Elective Contribution, the Participant must *(select one):*

a. ☒ No allocation conditions.
b. ☐ The following allocation conditions will apply *(select all that apply):*
- **1.** ☐ be employed on the last day of the Plan Year
- **2.** ☐ have received Compensation since the prior Allocation Date for Non-Elective Contributions
- **3.** ☐ must be employed on the Allocation Date for Non-Elective Contributions
- **4.** ☐ must complete the following service requirement:
  - **A.** ☐ _____ *(no more than 1,000)* Hours of Credited Service in the Plan Year.
  - **B.** ☐ _____ *(no more than 365)* days using the Elapsed Time method of counting service.
  - **C.** ☐ _____ *(no more than 12)* months using the Elapsed Time method of counting service.

Note: If option a is selected, skip question G10.

G10. Allocation Condition Waivers

The allocation conditions for Non-Elective Contributions will be waived if, during the Plan Year, a Participant *(select one for each applicable purpose):*

	All Allocation Conditions	Last Day Requirement	Service Requirement
a. No allocation condition waivers	☐	☐	☐
b. The following waivers apply *(select all that apply)*	☐	☐	☐
1. dies.	☐	☐	☐
2. becomes Disabled.	☐	☐	☐
3. terminates from service after reaching NRA.	☐	☐	☐
4. is employed on the last day of the Plan Year.	N/A	N/A	☐
5. other event:	☐	☐	☐

Specify the other event *(e.g., furloughed longer than 4 weeks):*
- **A.** All Allocation Conditions: _____
- **B.** Last Day Requirement: _____
- **C.** Service Requirement: _____

Note: The definition of "other events" provided must be objectively determinable, may not be specified in a manner that is subject to Plan Administrator discretion and, may not discriminate in favor of HCEs. The Plan Administrator will make all determinations in connection with such issues in a uniform, nondiscriminatory manner.

G11. Non-Elective Contribution Amount

Non-Elective Contributions will be made in the following amount *(select one):*

a. ☒ a discretionary amount determined by the Employer each Plan Year.
b. ☐ an amount necessary to meet the requirements of the Non-Elective Contribution allocation formula specified below.
c. ☐ _____% *(no more than 25%)* of eligible Plan Compensation.
d. ☐ $_____ per Plan Year, but no more than 25% of eligible Plan Compensation.
e. ☐ the amount required under any applicable collectively bargained for agreement (CBA).

Note: Options b – e are mandatory contributions that must be made every Plan Year.
Note: Option b cannot be chosen unless option G12a is chosen or G12i is chosen and the formula specified includes a dollar or percentage amount per Participant.
Note: If option e is chosen, the CBA provisions related to the Non-Elective Contribution amount must be included as an addendum to the Plan.

G12. Non-Elective Contribution Allocation Formula

Non-Elective Contributions will be allocated to Participants eligible to receive a Non-Elective

Contribution according to the following formula *(select one):*

a. ☐ Flat dollar amount. The allocation will be based on the *(select one):*
- **1.** ☐ Plan Year.
- **2.** ☐ Compensation Computation Period.

b. ☐ Pro-rata. The allocation will be based on the *(select one):*
- **1.** ☐ Plan Year.
- **2.** ☐ Compensation Computation Period.

c. ☐ _____% of Compensation per Participant.

d. ☐ Age Weighted.
- **1.** Pre-Retirement Interest Rate: _____ *(must between 7.5% and 8.5%).*
- **2.** Post-Retirement Interest Rate: _____ *(must between 7.5% and 8.5%).*
- **3.** Post-Retirement Mortality *(e.g., UP-84 Unisex):* _____.

e. ☐ Integrated Formula. *(Complete Question G13.)*

f. ☐ Uniform Points. *(Complete Question G14.)*

g. ☒ Class Allocation based on each Participant in an individual group.

h. ☐ Class Allocation based on defined groups. *(Complete Question G15.)*

i. ☐ Other *(e.g., the greater of $500 or 1% of Plan Year Compensation):* _____.

Note: Options a - e are design based safe harbor allocation formulas. Options f - i will require testing under Code section 401(a)(4).

Note: Unless option e is selected, skip question G13. Unless option f is selected, skip question G14. Unless option h is selected, skip question G15.

Note: The other Non-Elective Contribution Allocation Formula specified must be objectively determinable, may not be specified in a manner that is subject to Plan Administrator discretion, and may not discriminate in favor of HCEs. The Plan Administrator will make all determinations in connection with such issues in a uniform, nondiscriminatory manner.

Note: In order to be covered by the IRS pre-approval letter, the other Non-Elective Contribution allocation formula must be a combination of Non-Elective Contribution allocation formulas available in this Plan Document. Any other formulas will not be covered by the IRS pre-approval letter.

G13. Integrated Non-Elective Contribution Allocation Formula

a. If an integrated allocation formula is selected above the Plan will allocate the Non-Elective Contribution in a *(select one):*

1. ☐ 2-step integrated allocation as described in Plan Section 2.3.5.
The Base Contribution Percentage will be _____%
The Excess Contribution Percentage will be _____%

2. ☐ 4-step integrated allocation as described in Plan Section 2.3.5.
The Base Contribution Percentage will be _____%
Permitted Disparity will be limited to _____%

3. ☐ Pro-rata integrated allocation as described in Plan Section 2.3.5

A. Will the pro-rata integrated allocation formula satisfy the requirements under Code section 401(l) *(select one)*?
- **1.** ☐ No.
- **2.** ☐ Yes.

B. If the Plan is Top-Heavy, the Non-Elective Contribution allocation formula will *(select one):*
- **1.** ☐ remain the same with the Minimum Top-Heavy Allocation determined last.
- **2.** ☐ change to the 4-step integrated allocation as described in Plan Section 2.3.5.

b. If an integrated formula is selected above the Integration Level will be *(select one):*

1. ☐ The Taxable Wage Base (TWB) under the Social Security Act.

2. ☐ _____% of the TWB (if more than 100% testing under Code section 401(l) will be required)

3. ☐ The greater of $_____ or _____% of the TWB *(if more than 100% testing under Code section 401(l) will be required)*

4. ☐ The lesser of $_____ or the TWB *(the dollar amount must be greater than 80% of the TWB or testing under Code section 401(l) will be required)*

5. ☐ 80% of the TWB plus $_____ *(not more than $1,000 or testing under Code section 401(l) will be required)*

6. ☐ Other *(e.g., 80% of the TWB rounded up to the next $3,000)*:_____.

G14. Uniform Points Non-Elective Contribution Allocation Formula

If a uniform points allocation formula is selected above the Plan will allocate the Non-Elective Contribution as specified below.

a. The Non-Elective Contribution will be allocated *(select one):*

1. ☐ pro-rata by based on all points awarded for the Plan Year.

2. ☐ $____ for each point awarded to the Participant.

3. ☐ _____% of the Participant's Compensation for each point awarded to that Participant.

b. Points will be awarded to each Participant following the formula below *(select all that apply):*

1. ☐ _____ points for each year of age

2. ☐ _____ points for each Year of Credited Service

3. ☐ _____ points for each $_____ *(not more than $200)* of Compensation

4. ☐ _____ points for _____ *(e.g., 1 point for each Year of Credited Service at NRA)*

c. ☐ Total points for each Participant will be limited to ___ points.

G15. Group Allocation Non-Elective Contribution Allocation Formula

If the group allocation formula is selected above the Plan will allocate the Non-Elective Contribution as specified below.

a. For Group A: _____ the Non-Elective Contributions will be allocated *(select one):*

1. ☐ pro-rata based on Compensation to all Participants in the group.

2. ☐ the same dollar amount to all Participants in the group.

3. ☐ _____ cents per Hour of Credited Service .

Note: The allocation groups must be objectively determinable and must not violate the definite predetermined allocation formula requirement of Treasury Regulation section 1.401-1(b)(1)(ii).Note: The allocation groups cannot be designed in a manner to benefit only those non-HCEs with the lowest Compensation, shortest period of service, or who are needed to pass testing under Code section 410(b).

Note: For Self-Employed Individuals, the allocation method must not result in a cash or deferred election under Treasury Regulation section 1.401(k)-1(a)(6).

Note: The Employer must provide the Plan Administrator or Trustee, if applicable, written notification of the Non-Elective Contribution to be allocated to each allocation group. The instructions must be provided no later than the Employer's tax return due date, including extensions, of the year for which the allocation is made.

G16. Limitations

Non-Elective Contributions will be limited by *(select one):*

a. ☒ No Plan imposed limitations

b. ☐ The following limitations apply *(select all that apply):*

1. ☐ Minimum Non-Elective Contribution for each Participant for a Plan Year is *(select one):*

A. ☐ $_____.

B. ☐ _____ % of the Participant's Compensation.

2. ☐ Maximum Non-Elective Contribution for each Participant for a Plan Year is *(select one):*

A. ☐ $_____.

B. ☐ _____ % of the Participant's Compensation.

3. ☐ other *(e.g., maximum of $1,500 per HCE):* _____

Note: The other limitations on Non-Elective Contributions must be objectively determinable, may not be specified in a manner that is subject to Plan Administrator discretion, and may not discriminate in favor of HCEs. The Plan Administrator will make all determinations in connection with such issues in a uniform, nondiscriminatory manner.

G17. Allocation Dates

a. Non-Elective Contributions will be allocated as of the *(select one):*

1. ☐ last day of the Plan Year

2. ☒ last day of each pay period

3. ☐ last day of each Plan quarter

4. ☐ last day of each calendar month

5. ☐ other *(e.g., last day of each calendar quarter):* _____

b. ☐ If Non-Elective Contributions are not allocated on the last day of the Plan Year, any allocation conditions will be pro-rated.

G18. 410(b) Coverage Failure

Participants who normally would not be given an allocation of Non-Elective Contributions may be given an allocation in order to satisfy the requirements of Code section 410(b) *(select one):*

a. ☐ No. The Plan must be amended in the case of a failure under Code section 410(b).

b. ☒ Yes. The Code section 410(b) fail safe will be used in the case of a failure under Code section 410(b).

G19. Non-Elective Contributions to Disabled Participants

a. Non-Elective Contributions will be allocated to the following Participants eligible to receive a Non-Elective Contribution without regard to any allocation conditions *(select one):*

1. ☒ not applicable.

2. ☐ all Disabled Participants who are not HCEs.

3. ☐ all Disabled Participants.

b. Disabled Participants eligible to receive a Non-Elective Contribution under this section will *(select one):*

1. ☐ receive the contribution only for the Plan Year in which they became Disabled.

2. ☐ receive the contribution for ____ Plan Years provided they remain Disabled. However Non-Elective Contributions will cease *(select one):*

A. ☐ at the end of the Plan Year in which the Participant attains ERA.

B. ☐ at the end of the Plan Year immediately preceding the Plan Year in which the Participant attains ERA.

C. ☐ at the end of the Plan Year in which the Participant attains NRA.

D. ☐ at the end of the Plan Year immediately preceding the Plan Year in which the Participant attains NRA.

Measuring Credited Service

G20. Year of Credited Service

The Method of Measuring a Year of Credited Service is *(select one):*

a. ☒ Not Applicable.

b. ☐ Hours of service method. A Year of Credited Service is ____ hours *(not more than 1,000)* in the Credited Service Computation Period.

c. ☐ Elapsed time method.

If option b is not selected, skip questions G20 and G22.

G21. Credited Service Computation Period

If the hours of service method is selected above, the Credited Service Computation Period will be *(select one):*

a. ☐ the Plan Year.

b. ☐ the 12-month period ending on the employment anniversary date.

c. ☐ the calendar year ending with or within the Plan Year.

d. ☐ the Employee's Eligibility Computation Period.

G22. Equivalencies

a. Hours of Service

If the hours of service method is selected above, when records of hours are not maintained the following equivalency will apply *(select one).*

1. ☐ Not applicable, actual hours will be used for all Employees.

2. ☐ Days worked *(10 hours).*

3. ☐ Weeks worked *(45 hours).*

4. ☐ Semi-Monthly or Bi-weekly Payroll period worked *(95 hours).*

5. ☐ Months worked *(190 hours).*

b. Elapsed Time

If the elapsed time method is selected above, credited service will be measured using *(select one).*

1. ☐ Exact date in years.

2. ☐ Exact date in months.
3. ☐ Calendar months with Employee granted a month of service if they work at least one Hour of Service in that month.
4. ☐ Nearest calendar month.
5. ☐ Completed calendar months.

G23. Break in Credited Service

If the hours of service method is selected above, a Break in Credited Service occurs if an Employee fails to complete _____ *(not more than 500)* Hours of Service in a Credited Service Computation Period.

Note: If actual hours are being used and no Hours of Service are completed then a Break in Service will be defined as the lesser of 500 hours or the number of Hours of Service needed to earn a Year of Credited Service.

G24. Qualified Military Service

In the case of death or Disability resulting from Qualified Military Service, the Participant will be eligible for an allocation as if they returned to employment with the Employer immediately prior to death or Disability *(select one):*

a. ☒ No.
b. ☐ Yes.

H. Other Contributions

Prevailing Wage Contributions

H1. Designation of Contribution

Prevailing Wage Contributions will be treated as the following contribution source *(select one):*

a. ☐ Non-Elective Contributions.
b. ☐ Qualified Non-Elective Contributions.
c. ☐ The determination between Non-Elective Contribution and Qualified Non-Elective Contribution will be made at the time the contribution is allocated to the Participant's Account.

H2. Offset

Prevailing Wage Contributions will offset the following Employer Contributions *(select one):*

a. ☐ Not applicable; Prevailing Wage Contributions will supplement other Employer Contributions.
b. ☐ the following Employer Contributions *(select all that apply):*
1. ☐ Non-Elective Contributions.
2. ☐ Safe Harbor Contributions.
3. ☐ Matching Contributions.
4. ☐ Other *(e.g., Qualified Non-Elective Contributions):* _____

H3. Prevailing Wage Allocation Formula

Prevailing Wage Contributions will be allocated to Participants' Account *(select all that apply):*

a. ☐ ___% of Participant's Compensation per payroll period.
b. ☐ $___ per payroll period.
c. ☐ pursuant to the following collective bargaining agreement: _____.
d. ☐ ___% of Participant's fringe benefits per payroll period.
e. ☐ as described in the Prevailing Wage Addendum.
f. ☐ Other *(e.g., $.25 per Hour of Service):* ___

Qualified Non-Elective Contributions (QNECs)

H4. QNECs

The Employer may always make QNECs on behalf of Participants in order to correct any testing or operational failures. In addition, the Employer may make additional discretionary QNECs *(select one).*

a. ☐ No.
b. ☒ Yes.

Note: If option a is selected, skip questions H5 – H7.

H5. Eligibility for QNECs

The following Participants will be eligible for the additional discretionary QNEC *(select one):*

a. ☐ all Participants.

b. ☒ the following Participants *(select all that apply):*

1. ☒ non-HCE Participants.

2. ☐ Participants employed on the last day of the Plan Year.

3 ☐ other *(e.g., Participants covered under a collective bargaining agreement):* _____.

H6. QNEC Allocation Formula

The additional discretionary QNEC will be allocated to Participants eligible for such contributions *(select one):*

a. ☐ in proportion to a Participant's Compensation.

b. ☒ as a uniform dollar amount.

c. ☐ other *(e.g., 3% of Compensation):* _____

H7. QNEC Limitations

The additional discretionary QNEC will be allocated to Participants eligible for such contributions *(select one):*

a. ☒ 25 % (no more than 25%) of eligible Plan Compensation.

b. ☐ $___ per Plan Year, but no more than 25% of eligible Plan Compensation.

c. ☐ other (e.g., $1,000 per Plan Quarter, but not more than 25% of eligible Plan Compensation): _____

Qualified Matching Contributions (QMACs)

H8. QMACs

The Employer may always make QMACs on behalf of Participants in order to correct any testing or operational failures. In addition, the Employer may make additional discretionary QMACs *(select one).*

a. ☒ No.

b. ☐ Yes.

Note: If option a is selected, skip questions H9 – H11.

H9. Eligibility for QMACs

The following Participants will be eligible for the additional discretionary QMAC *(select one):*

a. ☐ all Participants.

b. ☐ the following Participants *(select all that apply):*

1. ☐ non-HCE Participants.

2. ☐ Participants employed on the last day of the Plan Year.

3. ☐ other *(e.g., Participants covered under a collective bargaining agreement):* _____

H10. QMAC Allocation Formula

The additional discretionary QMAC will be allocated to Participants eligible for such contributions *(select one):*

a. ☐ in proportion to a Participant's Compensation.

b. ☐ as a uniform dollar amount.

c. ☐ Other *(e.g., 3% of Compensation):* _____.

H11. QMAC Limitations

The additional discretionary QMAC will be allocated to Participants eligible for such contributions *(select one):*

a. ☐ _____ % *(no more than 25%)* of eligible Plan Compensation.

b. ☐ $____ per Plan Year, but no more than 25% of eligible Plan Compensation.

c. ☐ other *(e.g., $1,000 per Plan Quarter, but not more than 25% of eligible Plan Compensation):* _____

Rollovers

H12. Rollover Contributions

Rollover Contributions may be contributed to the Plan *(select one):*

a. ☐ No.
b. ☒ Yes *(select all that apply):*
  1. ☒ Direct Rollover Contributions are allowed.
  2. ☒ In-Direct Rollover Contributions are allowed.

Note: If option a is selected, skip questions H13 – H14.

H13. Rollover Contribution Eligibility

The following individuals will be permitted to make Rollover Contributions to the Plan *(select one):*

a. ☐ all Employees.
b. ☒ all Employees who do not fall into an excluded class.
c. ☐ all Participants who are Employees, have met eligibility requirements, and passed an entry date.
d. ☐ other *(e.g., all Participants):* _____

H14. Rollover Contribution Types

In addition to pre-tax assets, Rollover Contributions of the following types will be permitted *(select all that apply):*

a. ☐ Roth.
b. ☐ non-Roth after-tax *(direct rollover only).*
c. ☐ Participant loans *(direct rollover only).*
d. ☐ Rollover of in-kind assets will be permitted for *(select all that apply):*
  1. ☐ Participant loans.
  2. ☐ other plans of the Employer.
  3. ☐ all Rollover Contributions.

I. Top-Heavy and Other Testing

Minimum Top-Heavy Allocation

I1. Top-Heavy Minimum Allocation

In the event the Plan is Top-Heavy, if necessary, the Employer will *(select one):*

a. ☐ make an additional contribution to meet the Top-Heavy Minimum Allocation requirements.
b. ☒ first satisfy the Top-Heavy Contribution requirements then allocate the remaining Employer Contribution.

I2. Top-Heavy Minimum Eligibility

The Top-Heavy Minimum allocation will not be given to *(select one):*

a. ☐ not applicable.
b. ☒ the following Participants *(select all that apply):*
  1. ☒ Participants who are Key Employees.
  2. ☒ Participants who are Key Employees will be eligible at the discretion of the Plan Administrator.
  3. ☒ Participants who are covered by a collectively bargained agreement.

I3. Top-Heavy Minimum Allocation Formula

The Top-Heavy Minimum Allocation will be *(select one):*

a. ☒ The lesser of 3% or the highest percentage allocated to any Key Employee.
b. ☐ ___% *(at least 3%).*

Multiple Plans Top-Heavy Provisions

I4. Top-Heavy Minimum Allocation

The Employer that maintains a qualified defined benefit plan in which any Participant in the Plan is, was, or could become a Participant adds the following optional provisions that it deems necessary to satisfy Code section 416 because of the required aggregation of multiple plans *(select one):*

a. ☒ Not applicable - No other plan or all other plans terminated prior to the Effective Date of this Adoption Agreement.

b. ☐ A minimum contribution allocation of 5% of each eligible Non-Key Employee's total Compensation shall be provided in a defined contribution plan of the Employer.

c. ☐ A minimum benefit of the lesser of 2% times Years of Service or 20% of each eligible Non-Key Employee's Average Compensation shall be provided in a defined benefit plan of the Employer.

d. ☐ A minimum benefit of the lesser of 2% times Years of Service or 20% of each eligible Non-Key Employee's Average Compensation shall be provided in a defined benefit plan of the Employer but offset by the amount contributed on such eligible Non-Key Employee's behalf under any defined contribution plan of the Employer.

e. ☐ other (e.g., 6% of each eligible Non-Key Employee's total Compensation shall be provided in a defined contribution plan of the Employer): _____

Note: If option a is selected skip question I5.

I5. Top-Heavy Assumptions

The interest rate and mortality table used to establish the present value of accrued benefits in order to calculate the Top-Heavy Ratio under Code section 416 will be *(select one):*

a. ☐ same as the following defined benefit plan: _____.

b. ☐ other assumptions.
Interest Rate: _____%
Mortality table:_____

I6. Top-Heavy Duplications

If Employer maintains two or more defined contribution plans, the Employer has determined that a Minimum Top-Heavy Allocation will be provided as follows *(select one):*

a. ☒ Not applicable - No other plan or other plan terminated prior to the Effective Date of this Adoption Agreement.

b. ☐ A minimum contribution of ___ % of each Non-Key Participant's Compensation shall be provided by:

1. ☐ this Plan.

2. ☐ The following defined contribution plan: _____.

3. ☐ Employees who will receive the minimum contribution under such other plan: _____.

Note: Satisfying the Minimum Top-Heavy Allocation in another plan for some but not all of the Participants may cause the Plan to fail to satisfy the uniformity requirement of Treasury Regulations section 1.401(a)(4)-2(b)(2)(ii) for plans using a design-based safe harbor, even though all other requirements of the safe harbor are met.

ADP Tests

I7. ADP Test

For purposes of the ADP test, the Plan will use *(select one):*

a. ☒ current year testing.

b. ☐ prior year testing.

If applicable, for the first Plan Year the ADP for non-HCEs will be *(select one):*

1. ☐ not applicable.

2. ☐ 3%.

3. ☐ the ADP for non-HCEs for the Current Year.

ACP Tests

I8. ACP Test

For purposes of the ACP test, the Plan will use *(select one):*

a. ☐ current year testing.

b. ☐ prior year testing.

If applicable, for the first Plan Year the ADP for non-HCEs will be *(select one):*

1. ☐ not applicable.

2. ☐ 3%.

3. ☐ the ACP for non-HCEs for the Current Year.

J. Vesting and Forfeitures

All Elective Deferrals, Voluntary After-Tax Contributions, Prevailing Wage Contributions, Traditional Safe Harbor ADP Contributions, QNECs, QMACs, and SIMPLE 401(k) Contributions will be 100% vested and nonforfeitable at all times.

Vesting Schedules

J1. Matching Contribution Vesting Schedule

A Participant's Matching Contributions will vest according to the following schedule *(select one):*

a. ☐ 100% immediate vesting.
b. ☐ 6-year tiered vesting schedule.
c. ☐ 100% vested after ___ *(no more than 3)* Years of Vesting Service.
d. ☐ another vesting schedule.
1. ___ % at less than 1 Year of Vesting Service.
2. ___ % at more than 1 but less than 2 Years of Vesting Service.
3. ___ % at more than 2 but less than 3 Years of Vesting Service.
4. ___ % at more than 3 but less than 4 Years of Vesting Service.
5. ___ % at more than 4 but less than 5 Years of Vesting Service.
6. ___ % at more than 5 but less than 6 Years of Vesting Service.
7. 100% at more than 6 Years of Vesting Service.

Note: Option a must be selected if the service requirement for Matching Contributions specified in C4 is greater than 1 Year of Eligibility Service or 12 months of Eligibility Service.
Note: If option d is chosen and d4 is not 100%, d3 cannot be less than 20%, d4 cannot be less than 40%, d5 cannot be less than 60%, and d6 cannot be less than 80%.

J2. Non-Elective Contribution Vesting Schedule

A Participant's Non-Elective Contributions will vest according to the following schedule *(select one):*

a. ☐ 100% immediate vesting.
b. ☐ 6-year tiered vesting schedule.
c. ☐ 100% vested after ___ *(no more than 3)* Years of Vesting Service.
d. ☒ another vesting schedule.
1. 0 % at less than 1 Year of Vesting Service.
2. 25 % at more than 1 but less than 2 Years of Vesting Service.
3. 50 % at more than 2 but less than 3 Years of Vesting Service.
4. 75 % at more than 3 but less than 4 Years of Vesting Service.
5. 100 % at more than 4 but less than 5 Years of Vesting Service.
6. 100 % at more than 5 but less than 6 Years of Vesting Service.
7. 100% at more than 6 Years of Vesting Service.

Note: Option a must be selected if the service requirement for Non-Elective Contributions specified in C4 is greater than 1 Year of Eligibility Service or 12 months of Eligibility Service.
Note: If option d is chosen and d4 is not 100%, d3 cannot be less than 20%, d4 cannot be less than 40%, d5 cannot be less than 60%, and d6 cannot be less than 80%.

J3. Top-Heavy Contribution Vesting Schedule

Participant's Top-Heavy Contributions will vest according to the following schedule *(select one):*

a. ☐ not applicable.
b. ☐ 100% immediate vesting.
c. ☐ 6-year tiered vesting schedule.
d. ☐ 100% vested after ___ *(no more than 3)* Years of Vesting Service.
e. ☒ another vesting schedule.
1. 0 % at less than 1 Year of Vesting Service.
2. 25 % at more than 1 but less than 2 Years of Vesting Service.
3. 50 % at more than 2 but less than 3 Years of Vesting Service.
4. 75 % at more than 3 but less than 4 Years of Vesting Service.
5. 100 % at more than 4 but less than 5 Years of Vesting Service.
6. 100 % at more than 5 but less than 6 Years of Vesting Service.
7. 100% at more than 6 Years of Vesting Service.

Note: If option e is chosen and e4 is not 100%, e3 cannot be less than 20%, e4 cannot be less than 40%, e5 cannot be less than 60%, and e6 cannot be less than 80%.

J4. ACP Safe Harbor Contribution Vesting Schedule

A Participant's ACP Safe Harbor Contributions will vest according to the following schedule

(select one):

a. ☐ 100% immediate vesting.
b. ☐ 6-year tiered vesting schedule.
c. ☐ 100% vested after ___ *(no more than 3)* Years of Vesting Service.
d. ☐ another vesting schedule.
1. _____ % at less than 1 Year of Vesting Service.
2. _____ % at more than 1 but less than 2 Years of Vesting Service.
3. _____ % at more than 2 but less than 3 Years of Vesting Service.
4. _____ % at more than 3 but less than 4 Years of Vesting Service.
5. _____ % at more than 4 but less than 5 Years of Vesting Service.
6. _____ % at more than 5 but less than 6 Years of Vesting Service.
7. 100% at more than 6 Years of Vesting Service.

Note: If option d is chosen and d4 is not 100%, d3 cannot be less than 20%, d4 cannot be less than 40%, d5 cannot be less than 60%, and d6 cannot be less than 80%.

J5. QACA ADP Safe Harbor Contribution Vesting Schedule

A Participant's QACA ADP Safe Harbor Contributions will vest according to the following schedule *(select all that apply):*

a. ☒ not applicable.
b. ☐ 100% immediate vesting.
c. ☐ 100% vested after ___ *(no more than 2)* Years of Vesting Service.
d. ☐ another vesting schedule.
1. ___ % at less than 1 Year of Vesting Service.
2. ___ % at more than 1 but less than 2 Years of Vesting Service.
3. 100% at more than 2 Years of Vesting Service.

J6. Accelerated Vesting

A Participant will become 100% vested in all their accounts if they are still employed when they *(select all that apply):*

a. ☐ reach ERA.
b. ☒ die.
c. ☒ become Disabled.
d. ☐ other *(e.g., terminated from service due to closing of factory):*
_____.

Measuring Vesting Service

J7. Year of Vesting Service

The Method of Measuring a Year of Vesting Service is *(select one):*

a. ☐ Not Applicable.
b. ☒ Hours of service method. A Year of Vesting Service is **1000** hours *(not more than 1,000)* in the Vesting Service Computation Period.
c. ☐ Elapsed time method.

J8. Vesting Service Computation Period

If the hours of service method is selected above, the Vesting Service Computation Period will be *(select one):*

a. ☒ the Plan Year.
b. ☐ the 12-month period ending on the employment anniversary date.
c. ☐ the calendar year ending with or within the Plan Year.
d. ☐ the Employee's Eligibility Computation Period.

J9. Equivalencies

a. Hours of Service

If the hours of service method is selected above, when records of hours are not maintained the following equivalency will apply *(select one).*

1. ☐ Not applicable, actual hours will be used for all Employees.
2. ☒ Days worked *(10 hours).*
3. ☐ Weeks worked *(45 hours).*
4. ☐ Semi-Monthly or Bi-weekly Payroll period worked *(95 hours).*
5. ☐ Months worked *(190 hours).*

b. Elapsed Time

If the elapsed time method is selected above, credited service will be measured using *(select one).*

1. ☐ Exact date in years.
2. ☐ Exact date in months.
3. ☐ Calendar months with Employee granted a month of service if they work at least one Hour of Service in that month.
4. ☐ Nearest calendar month.
5. ☐ Completed calendar months.

J10. Break in Vesting Service

If the hours of service method is selected above, a Break in Vesting Service occurs if an Employee fails to complete **500** *(not more than 500)* Hours of Service in a Vesting Service Computation Period.

Note: If actual hours are being used and a no Hours of Service are completed then a Break in Service will be defined as the lesser of 500 hours or the number of Hours of Service needed to earn a Year of Vesting Service.

J11. Exclusions from Years of Vesting Service

The following Years of Vesting Service will be excluded when determining a Participant's Vesting Account Balance *(select one):*

a. ☒ all Years of Vesting Service are counted.
b. ☐ the following years will be excluded *(select all that apply):*
1. ☐ years before the Participant attains age 18.
2. ☐ years before the Plan's Original Effective Date.
3. ☐ years before a predecessor plan's original effective date. The predecessor plan's original effective date is __/__/____.

J12. Vesting for Disabled Participants

A Disabled Participant will continue to earn Vesting Service as though they were still employed *(select one):*

a. ☒ No.
b. ☐ Yes.

J13. Reemployment

If a Participant has been rehired their Years of Vesting Service will be calculated using the following rules *(select one):*

a. ☐ not applicable.
b. ☐ 5 one-year break in service rule.
c. ☐ one-year hold out rule.
d. ☒ all Years of Vesting Service are included for pre-break in vesting service Account balances.

Forfeitures

J14. Use of Forfeitures

Forfeitures may be used to *(select one):*

a. ☒ offset Employer Contributions at the Plan Administrator's discretion in a nondiscriminatory and uniform manner.
b. ☐ provide a supplemental Employer Contributions at the Plan Administrator's discretion in a nondiscriminatory and uniform manner.

Note: Forfeitures may always be used to reduce administrative expense of the Plan or to restore forfeited account balances of rehired Employees.
Note: If option a is selected skip question J15 and J16.

J15. Forfeiture Eligibility Requirements

	Matching Contributions	Non-Elective Contributions
a. Participants eligible to receive an allocation of the respective type of contribution	☐	☐
b. All Participants	☐	☐
c. Participant who are employed on the date the Forfeitures are determined	☐	☐

d. Participant who are employed on the date the Forfeitures are allocated ☐ ☐

e. Other: ☐ ☐

Specify the other eligibility requirements *(e.g., Participants who are employed on the last day of the Plan Year).*

1. Matching Contributions: _____

2. Non-Elective Contributions: _____

J16. Forfeiture Allocation Method

If Forfeitures will be used to supplement Employer Contributions *(select one):*

	Matching Contributions	Non-Elective Contributions
a. In the same manner as the respective Employer Contribution for the Plan Year	☐	☐
b. pro-rata for the Plan Year	☐	☐
c. pro-rata for the Compensation Computation Period	☐	☐
d. Other:	☐	☐

Specify the other allocation method *(e.g., following the Non-Elective Allocation Formula).*

1. Matching Contributions: _____

2. Non-Elective Contributions: _____

J17. Forfeiture Determination Period

Forfeitures will be determined *(select one):*

a. ☒ during the Plan Year.

b. ☐ since the prior Valuation Date.

c. ☐ since the prior allocation date.

d. ☐ other *(e.g., for the period before the prior Valuation Date):* _____

Note: The "Other" forfeiture determination period must be objectively determinable, may not be specified in a manner that is subject to Plan Administrator discretion, and may not discriminate in favor of HCEs. The Plan Administrator will make all determinations in connection with such issues in a uniform, nondiscriminatory manner.

J18. Forfeiture Allocation Date

Forfeitures will be allocated on *(select all that apply):*

a. ☐ each allocation date for Non-Elective Contributions

b. ☐ each allocation date for Matching Contributions

c. ☐ each Valuation Date

d. ☐ other *(e.g., each Anniversary Date):* _____

Note: The "Other" forfeiture allocation date must be objectively determinable, may not be specified in a manner that is subject to Plan Administrator discretion, and may not discriminate in favor of HCEs. The Plan Administrator will make all determinations in connection with such issues in a uniform, nondiscriminatory manner.

J19. Deemed Forfeiture Date

The non-vested portion of Participant's Account Balance will be deemed distributed and forfeited as of *(select one):*

a. ☐ the Participant's date of termination.

b. ☐ the last day of the Plan Year that contains the Participant's date of termination.

c. ☒ the last day of the Plan Year that contains the Participant's fifth consecutive break in service.

d. ☐ other *(e.g., the Valuation Date next following the Participant's date of termination):* _____

Note: The "Other" deemed forfeiture date must be objectively determinable, may not be specified in a manner that is subject to Plan Administrator discretion, and may not discriminate in favor of HCEs. The Plan Administrator will make all determinations in connection with such issues in a uniform, nondiscriminatory manner.

K. Distributions

REA Requirements

K1. REA Safe Harbor

The Plan meets the requirements to be exempt from the QJSA and spousal consent rules of

REA *(select one).*

a. ☐ No.

b. ☒ Yes, REA will apply only to assets merged in from plans subject to the REA requirements.

c. ☐ Yes.

K2. Qualified Joint and Survivor Annuity (QJSA)

If the Plan does not meet the requirement to be a REA safe harbor plan, the Qualified Joint and Survivor Annuity percentage is *(select one).*

a. ☒ not applicable.

b. ☐ ___% *(no less than 50 and no more than 100).*

Note: In addition to the percentage provided for the Qualified Joint and Survivor Annuity, a Participant must be permitted to elect an optional form of annuity. If the selected Qualified Joint and Survivor Annuity percentage is less than 75%, the Qualified Optional Survivor Annuity will be 75%. If the selected percentage is 75% or more, the Qualified Optional Survivor Annuity will be 50%.

Forms of Distribution

K3. Available Forms of Distributions

Participants eligible to take a distribution can take the distribution in the following format(s) *(select all that apply):*

a. ☒ lump sum distributions with the following limitations *(e.g., not to exceed $10,000):* _____

b. ☐ partial, non-periodic distributions with the following limitations *(e.g., each distribution must be at least $200):* _____

c. ☐ installment payments with the following limitations *(e.g., each distribution must be at least $200):* _____.

d. ☐ Annuities with the following limitations *(e.g., each distribution must be at least $200):* _____.

Note: If a distribution form is selected and no limitation is completed, no further limitation will apply.

K4. Minimum Distribution Amount

a. ☐ The Plan will provide the lesser of the account balance or $ _____ *(amount cannot exceed $100)* to a Participant with no vested balance.

K5. Distribution due to Disability

A distributable event due to Disability occurs *(select all that apply):*

a. ☐ Termination Date. *(Distributable event occurs upon the Participant's termination of employment.)*

b. ☐ The Participant's actual date of Disability, as determined by the Plan Administrator.

c. ☐ ___ months after the Participant's actual date of Disability, as determined by the Plan Administrator.

d. ☒ The date the Plan Administrator determines the Participant to be Disabled.

K6. Distribution Determination Date

For distribution purposes due to a distributable event, the value of a Participant's vested account balance shall be determined as of *(select one for each applicable event):*

	Termination for Reasons Other Than Death, Disability, or Retirement	Death, Disability, or Retirement	Elective Deferrals, Voluntary After-Tax, and Rollover Accounts
a. The last day of the Plan Year coinciding with or next following the date of the distributable event.	☐	☐	☐
b. The Valuation Date coinciding with or next following the date of the distributable event.	☐	☐	☐
c. The Valuation Date coinciding with or immediately preceding the date of the distributable event.	☐	☐	☐

d. As soon as administratively feasible following the date of the distributable event, based on the preceding Valuation Date.	☒	☒	☒
e. The Valuation Date preceding the Participant's Normal or Early Retirement Date.	☐	☐	☐
f. Other:	☐	☐	☐

Specify the other determination date *(e.g. last day of the Plan Year).*

1. Termination for Other Reasons: _____.
2. Death, Disability, or Retirement: _____.
3. Elective Deferrals, etc.: _____.

K7. Time of Distribution

For distributions other than mandatory cash out distributions, the distribution shall be made as indicated below:

a. Distributions at termination for reasons other than death, Disability, or retirement will be *(select one):*
1. ☒ made within a reasonable period following the Distribution Determination Date.
2. ☐ made within a reasonable period following the Anniversary Date.
3. ☐ Deferred until the Participant's Normal or Early Retirement Date.

b. Distributions to Participants who have a distributable event due to death, Disability, or retirement will be *(select one):*
1. ☒ made within a reasonable period following the Distribution Determination Date.
2. ☐ made within a reasonable period following the Anniversary Date.

c. Distributions of Elective Deferrals, Voluntary After-Tax, and Rollover Accounts will be *(select one):*
1. ☒ made within a reasonable period following the Distribution Determination Date.
2. ☐ made within a reasonable period following the Anniversary Date.

K8. Minimum Distribution for Rollovers

In order to be considered an Eligible Rollover Distribution, the total distribution must be at least *(select one):*
a. ☒ No limit
b. ☐ $200.
c. ☐ $ _____ *(amount cannot exceed $200)*

In-Service Distributions

K9. In-Service Distributions

In-Service Distributions are available under the Plan *(select one):*
a. ☐ No.
b. ☒ Yes.
Note: If option a is selected, skip questions K10 – K14.

K10. In-Service Distribution Event

In-Service Distributions will be permitted from the following Accounts upon reaching the specified event *(select one)*:

	Age 59½	NRA	ERA	Disability	Other Age	Specify age
a. All Sources	☐	☐	☐	☐	☐	____
b. the following sources (select all that apply):	☐	☐	☐	☐	☒	
1. Pre-Tax Elective Deferrals	☐	☐	☐	☐	☒	65.0
2. Roth Elective Deferrals	☐	☐	☐	☐	☐	____
3. ADP Safe Harbor Contributions	☐	☐	☐	☐	☒	65.0
4. QNECs	☐	☐	☐	☐	☒	65.0
5. QMACs	☐	☐	☐	☐	☐	____
6. Safe Harbor Contributions	☐	☐	☐	☐	☐	____

7. Matching Contributions	☐	☐	☐	☐	☐	____
8. Non-Elective Contributions	☐	☐	☐	☐	☐	____
9. Rollover Contributions	☐	☐	☐	☐	☐	____
10. Transfer Contributions	☐	☐	☐	☐	☐	____
11. Voluntary After-Tax Contributions	☐	☐	☐	☐	☐	____
12. Other (e.g. Money Purchase Contributions) _____	☐	☐	☐	☐	☐	____

Note: Regardless of what is selected above, In-Service Distributions from Elective Deferrals, ADP Safe Harbor Contributions, QNECs, and QMACs cannot take place before the Participant has reached age 59 ½ or incurred a disability under Code section 22(e).
Note: Participants will be eligible for an In-Service Distribution upon meeting one or more of the requirements selected above.

K11. Other In-Service Distribution Events

In-Service Distribution will be permitted from the following Accounts for the specified reason *(select all that apply):*

	Matching Contributions	Non-Elective Contributions	ACP Safe Harbor Contributions
a. Amounts have been allocated for __ years. *(Must be at least 2.)*	☐	☐	☐
b. Require participation for at least 5 years. *(Must be at least 5.)*	☐	☒	☐
c. Amounts have been allocated for __ years *(Must be at least 2.)* AND require participation for at least __ years. *(Must be at least 5.)*	☐	☐	☐
d. Amounts have been allocated for __ years *(Must be at least 2.)* OR require participation for at least __ years. *(Must be at least 5.)*	☐	☐	☐

Note: Participants will be eligible for an In-Service Distribution upon meeting one or more of the requirements selected above. These events are independent of the events selected in K10 above.

K12. In-Service Distributions at Any-Time

In-Service Distributions are permitted under the Plan at any-time for the following sources *(select all that apply):*

a. ☒ Rollover Contributions.
b. ☐ Voluntary After-Tax Contributions.

K13. In-Service Distributions for In-Plan Roth Rollover Accounts

In-Service Distributions of assets held in In-Plan Roth Rollover Accounts will be permitted *(select one):*

a. ☐ when a distribution of the assets would have been permitted prior to the In-Plan Roth Rollover.
b. ☐ at any time.
c. ☐ other *(e.g., age 59½):* ____

Note: In-Plan Roth Rollovers must be limited to either distribution options permitted under the Plan or distribution options permitted under the Code and Treasury Regulations in order to allow for the distributions of In-Plan Roth Rollover Contributions at any time.

K14. In-Service Distributions Limitations

All In-Service Distributions will be limited by the following *(select one):*

a. ☐ No limitations.
b. ☒ The following limitations *(select all that apply):*
  1. ☐ Participant must be 100% vested in all Plan Accounts.
  2. ☐ Participant may request ___ In-Service Distributions during each Plan Year.
  3. ☐ each In-Service Distribution must be at least the lesser of $ ___ *(no greater than $1,000)* or the total value of the vested account balances eligible for an In-Service Distribution.

4. ☒ other *(e.g., five distributions in total)*: **Require participation for al least 5 years.**.

Note: One request, regardless of the number of Accounts from which the distribution is to be taken, is considered a single In-Service Distribution.

Hardship Distributions

K15. Hardship Distributions

Hardship Distributions will be permitted from the following Accounts for the following reasons (the safe harbor hardship reasons is defined under Plan Section 2.5.10) *(select one):*

			Safe Harbor Hardship Definition	Non-Safe Harbor Hardship Definition
a.	☐	None		
b.	☐	All Accounts Listed Below	☐	☐
c.	☒	The following Accounts (select all that apply):	☒	☐
1.	☐	Matching Contributions	☐	☐
2.	☒	Non-Elective Contributions	☒	☐
3.	☐	Rollover Contributions	☐	☐
4.	☐	Transfer Contributions	☐	☐
5.	☐	Voluntary After-Tax Contributions	☐	☐
6.	☐	Other (e.g., Top-Heavy Contributions): _____.	☐	☐

Note: If option a is selected, skip questions K16 – K17.

K16. Non-Safe Harbor Hardship Distributions

If Hardship Distributions are allowed for a non-safe harbor hardship definition, the definition will be *(select one):*

a. ☐ A hardship will be defined as immediate and heavy financial need where the Participant lacks other available resources. The determination will be made by the Plan Administrator in a uniform and non-discriminatory manner.

b. ☐ Other *(e.g., medical expenses):* _____.

K17. Limitations on Hardship Distributions

Hardship Distributions will be limited by the following *(select one):*

a. ☐ no limitations.

b. ☒ the following limitations *(select all that apply):*

1. ☐ a Participant can receive no more than ___ Hardship Distributions in each Plan Year.

2. ☐ each Hardship Distribution must be at least $ ___ or 100% of the Participant's Account Balance available for Hardship Distributions, if less.

3. ☒ other *(e.g., must take any available loan from the Plan):* **Require participation for al least 5 years.**.

Other Distribution Provisions

K18. Distributions due to Qualified Military Service

Participants performing Qualified Military Service will be permitted to take the following distributions *(select one):*

a. ☒ None.

b. ☐ Yes, the following distributions are permitted *(select all that apply).*

1. ☐ Deemed Severance Distributions.

2. ☐ Qualified Reservist Distributions.

K19. Permissible Withdrawals

If the Plan contains an EACA provision *(select one):*

a. ☐ No.

b. ☐ Yes, Permissible Withdrawals can be requested within ___ *(no less than 30 and no more than 90)* days of the first automatic contribution under the EACA.

K20. Qualified Domestic Relations Orders

Distributions to an Alternate Payee are permitted while the Participant continues to be employed on or after the date a Domestic Relations Order is determined to be a Qualified Domestic Relations Order by the Plan Administrator *(select one):*

a. ☐ No.
b. ☒ Yes.

K21. Non-REA Safe Harbor Assets

Distributions of Account Balances transferred from a Money Purchase Pension Plan, Target Benefit Plan or defined benefit plan can be distributed upon *(select one):*

a. ☒ Not applicable.
b. ☐ attainment of age 62.
c. ☐ other *(e.g., age 62 and 100% vested):* _____ (cannot be earlier than age 62).

Required Minimum Distributions

K22. Required Beginning Date

The Required Beginning Date for Participants who are not a 5% Owner will be *(select one):*

a. ☐ April 1st of the calendar year following the calendar year in which the Participant attains age 70½.
b. ☒ the later of April 1st of the calendar year following the calendar year in which the Participant attains age 70 ½, or April 1st of the calendar year following the calendar year in which the Participant retires.
c. ☐ the Participant has the ability to choose between (1) April 1st of the calendar year following the calendar year in which the Participant attains age 70 ½ or, (2) if later the April 1st of the calendar year following the calendar year in which the Participant retires.

K23. Distributions to Beneficiaries

Beneficiaries of deceased Participants *(select one):*

a. ☐ may not elect to apply the 5-year rule.
b. ☒ may elect to apply the 5-year rule.

Mandatory Cash-Out and Automatic Direct Rollover

K24. Mandatory Cash-Out Threshold

The Mandatory Cash Out threshold is *(select one):*

a. ☐ no Mandatory Cash Out.
b. ☒ $ 5000.
Note: If option a is selected, skip questions K25 – K27.

K25. Mandatory Cash Out Timing

The Mandatory Cash Out will occur _____ following the Participant's termination from service *(select all that apply).*

a. ☒ as soon as administratively feasible
b. ☐ as soon as administratively feasible after the next Valuation Date
c. ☐ as soon as administratively feasible after the last day of the Plan Year

K26. Rollover Contributions Included in Mandatory Cash Out

Rollover Contributions will be included when determining if the Mandatory Cash Out threshold has been exceeded *(select one):*

a. ☒ No.
b. ☐ Yes.

K27. Automatic Rollover

If a Mandatory Cash-Out distribution takes place *(select one).*

a. ☐ All Mandatory Cash-Out Distributions will be paid directly to the Participant or Beneficiary.
b. ☐ Mandatory Cash-Out Distributions not in excess of $ ___ *(cannot exceed $1,000)* will be paid directly to the Participant or Beneficiary. Mandatory Cash-Out Distributions in excess of the specified amount will be directly rolled over into an IRA.
c.

☒ All Mandatory Cash-Out Distributions will be directly rolled over into an IRA.

Note: In order to select option a, the Mandatory Cash-Out Level must be $1,000 or less and Rollover Accounts must be included in determining the Mandatory Cash-Out Level.

Note: For the purpose of the automatic rollover rules, the determination of the amount of the Mandatory Cash-Out Distribution amount is made separately for Roth and non-Roth Account balances.

L. Administrative Provisions

Loans

L1. Loans

Participants will be permitted to take loans from their Account balance *(select one):*

a. ☒ No.
b. ☐ Yes.

Earnings

L2. Designation of Contribution

If the Plan does not value Accounts on a daily basis, for Participants who receive distributions on any date other than a Valuation Date, earnings will be *(select one):*

a. ☐ not applicable.
b. ☐ credited solely as of the immediately preceding Valuation Date.
c. ☒ the actual earnings on the date of distribution.

L3. Earnings on Forfeiture Accounts

Forfeiture Account holding the Plan's aggregate Forfeitures be subject to Trust earnings *(select one)*:

a. ☒ No.
b. ☐ Yes.

Investments

L4. Participant Direction

Participants may direct the investment of their following Accounts *(select one):*

a. ☐ None
b. ☒ All Accounts
c. ☐ The following Accounts *(select all that apply):*
  1. ☐ Pre-Tax Elective Deferrals
  2. ☐ Roth Elective Deferrals
  3. ☐ Safe Harbor Contributions
  4. ☐ QNECs
  5. ☐ QMACs
  6. ☐ Matching Contributions
  7. ☐ Non-Elective Contributions
  8. ☐ Rollover Contributions
  9. ☐ Transfer Contributions
  10. ☐ Voluntary After-Tax Contributions
  11. ☐ Other *(e.g., Top-Heavy Contributions):* _____.

Note: If option a is selected skip questions L5 – L6.

L5. Limitations on Participant Direction

Participant direction of investments will be limited by the following *(select one):*

a. ☒ no limitations.
b. ☐ the following limitations *(select all that apply):*
  1. ☐ must be 100% vested in directed Accounts.
  2. ☐ other *(e.g., XXXXX):* _____

L6. 404(c)

The Plan intends to comply with ERISA section 404(c) *(select one):*

a. ☐ No.
b. ☒ Yes.

L7. Life Insurance

Life Insurance Policies may be purchased to provide incidental insurance benefits *(select one):*

a. ☒ No.

b. ☐ Yes.

M. Authorizations and Signatures

The name, address and telephone number of the Document Sponsor which is also the document provider, is:

Document Sponsor and Document Provider
Central Administrative Services, Inc.
dba Hicks Pension Services
3459 West Shaw Avenue
(559) 241-7390

This Plan must be registered with the Document Sponsor within 60 days of adoption of this document, and the Document Serial Number assigned by the Document Sponsor shall be affixed to this signature page. The adopting Employer must notify the Document Sponsor if the Plan is terminated, merged, or of any changes in the name, address, or EIN of the adopting employer at least annually, and within 30 days of any request of the Document Sponsor. If the adopting Employer terminates its relationship with the Document Sponsor, its Plan will no longer be considered a pre-approved plan sponsored by the Document Sponsor.

Unregistered use of this document will result in the Plan no longer participating in this pre-approved plan, and the document will be considered an individually designed plan, without reliance on the opinion letter of the Document Sponsor, which could result in the disqualification of the Plan.

If the Employer's Plan fails to attain or retain qualification, such Plan will no longer participate in this pre-approved plan and will be considered an individually designed plan.

The Document Sponsor will inform the Employer of any amendments made to the Plan or of the discontinuance or abandonment of the Plan.

The adopting Employer may rely on an opinion letter issued by the Internal Revenue Service as evidence that the Plan is qualified under Code section 401 except to the extent provided in Revenue Procedure 2011-49.

The Employer may not rely on the opinion letter in certain other circumstances or with respect to certain qualification requirements that are specified in the opinion letter issued with respect to the Plan and in Revenue Procedure 2011-49.

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 Basic Plan Document #20 (the Central Administrative Services, Inc. Pre-Approved Defined Contribution Plan) Revised 06/30/2020.

* * *

The Employer hereby adopts the Plan as evidenced by the foregoing Adoption Agreement on this _____ day of _____, _____.

Employer:
Panoche Water District

_____
John F. Bennett
President

Plan Serial Number: 20211216-0070-6W43

Panoche Water District Retirement Plan

Protected Benefits, Prior Plan Provision, and Special Effective Dates Addendum

This addendum is to be used by the Plan to document any protected benefits (e.g., distribution events that were removed effective a specified date) or special effective dates. This addendum can, but is not required to, be used to document provisions that were included in a prior version of the plan document but that have since been removed by plan amendment (e.g., a profit sharing allocation formula that was used in the past).

Protected Benefits

EGTRRA- Effective 3/1/2009

" Hardship: Permitted -Elective Deferrals
" In-service: Deferrals-Must meet any Age 65; Require participation for at least 5 years
" Other Accounts Profit Sharing -Require Participation for at least 5 Years Profit Sharing
" Rollovers- No restrictions

Amendment to EGTRRA- Effective 2/01/2013 (added hardship to in-service for PS)

" Hardship: Permitted -Elective Deferrals
" In-service: Deferrals-Must meet any Age 65; Require participation for at least 5 years
" Amended to allow Other Accounts Profit Sharing -Require Participation for at least 5 Years Profit Sharing
" Amended to allow In-service allowed distributions allowed on account of Hardship, subject to Hardship requirements Section 2.5.10
" Rollovers- No restrictions

Amendment to EGTRRA- Effective 10/01/2015 (added age requirement to in-service for PS)

" Hardship: Permitted -Elective Deferrals
" In-service: Deferrals-Must meet any Age 65; Require participation for at least 5 years
" Amended: Other Accounts Profit Sharing Must meet ALL- After age 65 Require Participation for at least 5 Years Profit Sharing
" In-service allowed distributions allowed on account of Hardship, subject to Hardship requirements Section 2.5.10
" Rollovers- No restrictions

PPA- Effective 3/1/2016

" In-service: Deferrals & QNEC-Must meet any Age 65; Require participation for at least 5 years
" Other Accounts Profit Sharing: After age 65 OR Require Participation for at least 5 Years Profit Sharing
" In-service allowed distributions allowed on account of Hardship, subject to Hardship requirements Section 2.5.10
" Rollovers- No restrictions
" Hardship: Permitted -Elective Deferrals

Post-PPA Effective 3/1/2022

" In-service: Deferrals, ADP Safe Harbor Contributions & QNEC-Must meet any Age 65; Require participation for at least 5 years

" Other Accounts Profit Sharing: After age 65 and Require Participation for at least 5 Years Profit Sharing
" Hardship: Permitted from Non-Elective Contributions; Require participation for at least 5 years
" Rollovers- No restrictions
" Hardship: Permitted -Elective Deferrals

Employer:
Panoche Water District

_____
John F. Bennett
President

Panoche Water District Retirement Plan

Expanded Hardship Distribution Addendum

Hardship Distributions from Elective Deferrals, ADP Safe Harbor Contributions, QNECs, or QMACs

EH1. Hardship Distributions

Hardship Distributions will be permitted from the following Accounts *(select one):*

		Safe Harbor Hardship Definition	Non-Safe Harbor Hardship Definition
a. ☐	None		
b. ☐	All Permitted Accounts	☐	☐
c. ☒	The following Accounts *(select all that apply):*	☒	☐
1. ☒	Pre-Tax Elective Deferrals	☒	☐
2. ☐	Roth Elective Deferrals	☐	☐
3. ☐	ADP Safe Harbor Contributions	☐	☐
4. ☐	QNECs	☐	☐
5. ☐	QMACs	☐	☐

Note: If option a is selected, skip questions EH2 – EH3.

EH2. Non-Safe Harbor Hardship Distributions

If Hardship Distributions are allowed for a non-safe harbor hardship definition, the definition will be *(select one):*

a. ☐ A hardship will be defined as immediate and heavy financial need where the Participant lacks other available resources. The determination will be made by the Plan Administrator in a uniform and non-discriminatory manner.

b. ☐ Other *(e.g., medical expenses):* _____.

EH3. Hardship Distribution of Earnings on Elective Deferrals

If Hardship Distributions of Elective Deferrals are allowed, earnings on Elective Deferrals will be included in the Hardship Distribution *(select one):*

a. ☐ No.

b. ☒ Yes.

EH4. Limitations on Hardship Distributions

Hardship Distributions will be limited by the following *(select one):*

a. ☒ no limitations.

b. ☐ the following limitations *(select all that apply):*

1. ☐ a Participant can receive no more than ___ Hardship Distributions in each Plan Year.
2. ☐ each Hardship Distribution must be at least $_____ or 100% of the Participant's Account Balance available for Hardship Distributions, if less.
3. ☐ other *(e.g., must take any available loan from the Plan):* _____.

Employer:
Panoche Water District

_____
John F. Bennett
President

CENTRAL ADMINISTRATIVE SERVICES, INC.
TRUST AGREEMENT
DEFINED CONTRIBUTION PRE-APPROVED PLAN
BASE PLAN DOCUMENT #20

CENTRAL ADMINISTRATIVE SERVICES, INC.
TRUST AGREEMENT
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ARTICLE I

INTRODUCTION

1.1 Creation and Title. The Employer and the undersigned Trustee(s) hereby create a Trust to be used with the Plan Panoche Water District Retirement Plan (the "Trust"). All terms used herein have the same meaning as described in the Central Administrative Services, Inc. Defined Contribution Pre-Approved Base Plan Document #20.

1.2 Subject to the Requirements of the Plan. All Plan provisions are hereby incorporated by reference and apply to the Trustee in the same manner as if they were stated in this Trust Agreement. This Trust is subject to the terms of the Plan, and the Plan shall control in the event of any conflict between the Plan document and this Agreement.

1.3 Effective Date. The provisions of this Trust shall be effective as of the Effective Date specified in the most recent Adoption Agreement unless modified herein.

1.4 Purpose. The Plan and this Trust are established to provide retirement benefits to Eligible Employees in accordance with the Plan and the Adoption Agreement.

1.5 Plan Administration. The Plan is administered by the Plan Administrator. The Trustee shall act according to the Plan Administrator's directions unless such directions are inconsistent with the terms of the Plan or applicable law.

ARTICLE II

TRUSTEE

2.1 Acceptance of Trust. The Trustee, by the execution of this Trust Agreement, agrees to act in accordance with the express terms and conditions hereof and the Plan.

2.2 Trustee Capacity - Co-Trustees.

(a) The Trustee may be a bank, trust company, or other corporation possessing trust powers under applicable state or federal law or one or more individuals or any combination thereof.

(b) The term "Trustee" as used herein also includes any person holding the assets of a custodial account, an annuity contract, or other contract that is treated as a qualified trust pursuant to Code section 401(f), and references to the Trust Fund shall be construed to apply to such custodial account, annuity contract, or other contract.

(c) At any time that a group of individuals is acting as Trustee, the number of such persons who shall act in such capacity from time to time shall be determined by the Employer. The Employer shall appoint such persons, who may or may not be Participants or Employees of the Employer. When there are two or more Trustees, they may allocate specific responsibilities, obligations, or duties among themselves by their written agreement. An executed copy of such written agreement shall be delivered to, and retained by, the Plan Administrator. Unless otherwise elected by the Employer in the Adoption Agreement, any action taken by the Trustees shall be taken at the direction of a majority of such Trustees, or, if the number of such Trustees is two, by unanimous consent.

2.3 Resignation, Removal, and Successors. Any Trustee may resign at any time by delivering to the Employer a written notice of resignation to take effect at a date specified therein, which shall not be less than thirty days after the delivery thereof; the Employer may waive such notice. The Trustee may be removed by the Employer with or without cause, by tendering to the Trustee a written notice of removal to take effect at a date specified therein.

Upon such removal or resignation of a Trustee, the Employer shall either appoint a successor Trustee who shall have the same powers and duties as those conferred upon the resigning or discharged Trustee, or, if a group of individuals is acting as Trustee, determine that a successor shall not be appointed, and the number of Trustees shall be reduced by one.

In the event that a removal, resignation or incapacity of a Trustee results in no remaining Trustees and the Employer will not, or cannot, appoint a successor Trustee in a timely manner, a majority of the Participants in the Plan will have the authority, but not an obligation, to appoint a successor Trustee.

2.4 Consultations. The Trustee shall be entitled to advice of counsel, which may be counsel for the Plan or the Employer, in any case in which the Trustee shall deem such advice necessary. The Trustee shall not be liable for any action taken or omitted in good faith reliance upon the advice of such counsel.

With the exception of those powers and duties specifically allocated to the Trustee by the express terms of the Plan, it shall not be the responsibility of the Trustee to interpret the terms of the Plan, and the Trustee may request, and is entitled to receive, guidance and written direction from the Plan Administrator on any point requiring construction or interpretation of the Plan documents.

The Trustee shall be entitled to rely and act on the information provided by the Employer and/or Plan Administrator and shall have no duty or responsibility to further verify or question such provided information.

2.5 Rights, Powers, and Duties. The rights, powers, and duties of the Trustee are:

(a) The Trustee shall have exclusive authority, discretion, and responsibility for the management and control of the assets of the Trust Fund in accordance with the provisions of the Plan and any amendments thereto, but the Employer may limit the exclusive authority, discretion, and responsibility of the Trustee by written direction delivered to the Trustee. The duties of the Trustee under the Plan shall be determined solely by the express provisions hereof, and no other further duties or responsibilities shall be implied. Subject to the terms of the Plan, the Trustee shall be fully protected and shall incur no liability in acting in reliance upon the written instructions or directions of the Employer, the Plan Administrator, a duly designated investment manager, or any other named Fiduciary.

(b) The Trustee shall have all powers necessary or convenient for the orderly and efficient performance of its duties hereunder, including but not limited to those specified in this Section. The Trustee shall have the power generally to do all acts, whether or not expressly authorized, that the Trustee in the exercise of its fiduciary responsibility may deem necessary or desirable for the protection of the Trust Fund and the assets thereof.

(c) The Trustee shall have the power to collect and receive any and all moneys and other property due the Plan and to give full discharge and release therefor; to settle, compromise, or submit to arbitration any claims, debts, or damages due to or owing to or from the Trust Fund; to commence or defend suits or legal proceedings whenever, in the Trustee's judgment, any interest of the Trust Fund requires it; and to represent the Trust Fund in all suits or legal proceedings in any court of law or equity or before any other body or tribunal. Claims that are not subject to arbitration are ERISA claims, claims involving participants and claims that affect the qualification of the Plan.

(d) The Trustee shall cause any Life Insurance Policies or assets of the Trust Fund to be registered in its name as Trustee and shall be authorized to exercise any and all ownership rights regarding these assets, subject to the terms of the Plan.

(i) The requirements of paragraph (d) of this Section will not fail to be satisfied merely because securities of a plan are held in the name of a nominee or in street name, provided such securities are held on behalf of the Plan by:

(A) A bank or trust company that is subject to supervision by the United States or a State, or a nominee of such bank or trust company;

(B) A broker or dealer registered under the Securities Exchange Act of 1934, or a nominee of such broker or dealer; or

(C) A "clearing agency," as defined in section 3(a)(23) of the Securities Exchange Act of 1934, or its nominee.

(ii) Where a corporation described in section 501(c)(2) of the Internal Revenue Code holds property on behalf of the Plan, the requirements of paragraph (d) of this Section are satisfied with respect to such property if all the stock of such corporation is held in trust on behalf of the Plan by one or more trustees.

(iii) If the assets of an entity in which the Plan invests include Plan assets by reason of the Plan's investment in the entity, the requirements of paragraph (d) of this Section are satisfied with respect to such investment if the indicia of ownership of the Plan's interest in the entity are held in trust on behalf of the Plan by one or more trustees.

(e) The Trustee may temporarily hold cash balances and shall be entitled to deposit any funds received in a bank account in the name of the Trust Fund in any bank selected by the Trustee, including the banking department of a corporate Trustee, if any, pending disposition of such funds in accordance with the Plan. Any such deposit may be made with or without interest.

(f) The Trustee shall pay the premiums and other charges due and payable at any time on any Life Insurance Policies as the Plan Administrator may direct, provided funds for such payments are then available in the Trust. The Trustee shall be responsible only for such funds and Life

Insurance Policies that it actually receives as Trustee and shall have no obligation to make payments other than from such funds and cash values of Life Insurance Policies.

(g) If the whole or any part of the Trust Fund shall become liable for the payment of any estate, inheritance, income, or other tax that the Trustee shall be required to pay, the Trustee shall have full power and authority to pay such tax out of any moneys or other property in its possession for the Account of the person whose Plan interest is so liable. Prior to making any payment, the Trustee may require such releases or other documents from any lawful taxing authority as it shall deem necessary. The Trustee shall not be liable for any nonpayment of tax when it distributes an interest hereunder on instructions from the Plan Administrator.

(h) The Trustee shall keep a full, accurate, and detailed record of all transactions of the Trust, which the Employer and the Plan Administrator shall have the right to examine at any time during the Trustee's regular business hours. As of the close of each Plan Year, the Trustee shall furnish the Plan Administrator with a statement of account setting forth all receipts, disbursements, and other transactions effected by the Trustee during the year. The Plan Administrator shall promptly notify the Trustee in writing of his approval or disapproval of the statement of account.

The Plan Administrator's failure to provide written disapproval of the statement within sixty (60) days after receipt shall be considered an approval. Except as otherwise required by law, the Plan Administrator's approval shall be binding on all matters embraced in any statement to the same extent as if the statement of the Trustee had been settled by judgment or decree of a court of competent jurisdiction under which the Trustee, Employer, and all persons having or claiming any interest in the Trust Fund were parties; provided, however, that the Trustee may have its account judicially settled if it so desires.

(i) The Trustee is hereby authorized to execute all necessary receipts and releases to any parties concerned; and shall be under a duty, upon being advised by the Plan Administrator that the proceeds of any Life Insurance Policies are payable, to give reasonable assistance to the Beneficiary designated therein to collect such sums as may appear to be due and upon payment, transfer such sums to the Beneficiary.

(j) If, at any time, as the result of the death of the Participant, there is a dispute regarding the person to whom payment or delivery of moneys or property should be made by the Trustee, or regarding any action to be taken by the Trustee, the Trustee may postpone such payment, delivery, or action, retaining the funds or property involved, until such dispute shall have been resolved in a court of competent jurisdiction, the Trustee shall have been indemnified to its satisfaction, or it has received written direction from the Plan Administrator.

(k) Anything in this instrument to the contrary notwithstanding, the Trustee shall have no duty or responsibility with respect to the determination of matters pertaining to the eligibility of any Employee to become or remain a Participant under the Plan, the amount of benefit to which any Participant or Beneficiary shall be entitled under the Plan, or the size and type of any Life Insurance Policy to be purchased from any Insurer for any Participant under the Plan; all such responsibilities being vested in the Plan Administrator.

2.6 Right of Trustee to Contributions. Unless provided with written direction to the contrary, by the Employer or the Plan Administrator, the Trustee shall have the duty to require any contribution to be made or to determine whether contributions delivered to the Trustee by the Employer comply with the provisions of this Agreement. In the event the Employer assigns the duty to another Fiduciary Trustee shall be notified in writing of the Named Fiduciary to whom such responsibility has been assigned. In this case, the Trustee shall be accountable only for funds actually received by the Trustee.

If the Plan has two or more Named Fiduciaries or Trustees assigned this duty, it may be allocated to a single Named Fiduciary or Trustee. The Employer or Plan Administrator may also provide that a Named Fiduciary may direct the Trustee as to this responsibility or may appoint an Investment Manager to take on this duty. To the extent the nature and scope of the Trustee's responsibilities are specifically limited in the Plan documents, Trust Agreement or by written direction, it will be the responsibility of the Named Fiduciary with the authority to hire and monitor Trustees to assure that all Trustee responsibilities with respect to the management and control of the Plan's assets (including

collecting delinquent contributions) have been properly assigned to a Trustee, Investment Manager or Named Fiduciary.

The Plan must make systematic, reasonable and diligent efforts to collect delinquent Employer Contributions. The steps necessary to discharge this duty to collect contributions will depend on the available facts. In determining what collection actions to take, a Named Fiduciary must weigh the value of the Plan assets involved, the likelihood of a successful recovery, and the expenses expected to be incurred. Among other factors, the Named Fiduciary may take into account the Employer's solvency in deciding whether to expend Plan assets to pursue a claim.

2.7 Trustee Indemnification. The Employer shall indemnify and hold harmless the Trustee, its affiliates, and their respective directors, managers, officers, employees, agents, and other representatives for and from the assertion or occurrence of any liability to a Participant or Beneficiary for any action taken or omitted by the Trustee pursuant to any written direction to the Trustee from the Employer or the Plan Administrator. Such indemnification obligation of the Employer shall not be applicable to the extent that any such liability is covered by insurance. The Trustee shall have not duty to take any action other than the express responsibilities under this Plan unless the Trustee and the Employer agree to further responsibilities in an additional written document.

The Trustee shall not be liable to the Employer for any act, omission, or determination made in connection with the Plan except for its gross negligence or willful misconduct.

2.8 Changes in Trustee Authority. If a successor Trustee is appointed, neither an Insurer nor any other person who has previously had dealings with the former Trustee shall be chargeable with knowledge of such appointment or change until furnished with written notice. Until such notice, the Insurer and any other such party shall be fully protected in relying on any action taken or signature presented that would have been proper in accordance with information previously received.

2.9 Right to Compensation. The Trustee may receive reasonable compensation as may be agreed upon between the Trustee and the Employer. The Trustee is entitled to reimbursement for all proper expenses incurred in carrying out their duties under the Plan including, but not limited to, reasonable legal, accounting, and actuarial expenses.

ARTICLE III

FIDUCIARY DUTIES

3.1 Standard of Conduct. The duties and responsibilities of the Trustee with respect to the Plan shall be carried out (a) in a non-discriminatory manner; (b) for the exclusive benefit of Participants and their Beneficiaries; (c) by defraying the reasonable expenses of administering the Plan; (d) 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; (e) by diversifying the investments of the Plan to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and (f) in accordance with the documents and instruments governing the Plan insofar as such documents and instruments are consistent with the provisions of the Act.

3.2 Individual Fiduciaries. At any time that a group of individuals is acting in the same Fiduciary capacity, the number of such persons who shall act in such capacity from time to time shall be determined by the Employer. Such persons shall be appointed by the Employer and may or may not be Participants or Employees of the Employer. Unless otherwise elected by the Employer in the Adoption Agreement, any action taken by a group of individuals acting in such capacity shall be taken at the direction of a majority of such persons, or, if the number of such persons is two (2), by unanimous consent.

3.3 Incorporation of Plan Provisions Regarding Fiduciaries. The provisions of Sections 3.3.1 through 3.3.11 of the Plan are hereby incorporated by reference, and such provisions shall apply to the Trustee in the same manner as they apply to any other Fiduciary.

ARTICLE IV

TRUST ASSETS

4.1 Trustee Is Exclusive Owner. All assets held by the Trustee, whether in the Trust Fund or Segregated Funds, shall be owned exclusively by the Trustee, and no Participant or Beneficiary shall have any individual ownership thereof. Participants and their Beneficiaries shall share in the assets of the Trust, its net earnings, profits and losses, only as provided in the Plan.

4.2 Investments. The Trustee shall invest and reinvest the Trust Fund without distinction between income and principal in one or more of the following ways, as the Trustee shall from time to time determine:

(a) The Trustee may invest the Trust Fund or any portion thereof in obligations issued or guaranteed by the United States of America or of any instrumentality thereof, or in other bonds, notes, debentures, mortgages, preferred or common stocks, options to buy or sell stocks or other securities, mutual fund shares, limited partnership interests, commodities, real estate or any interest therein, or in such other property, real or personal, as the Trustee shall determine.

(b) The Trustee may cause the Trust Fund or any portion thereof to be invested in a common trust fund established and maintained by a national or other bank regulated by the Federal Deposit Insurance Corporation, for the collective investment of fiduciary funds, even though the bank is acting as the Trustee or investment manager, provided such common trust fund is a qualified trust under the applicable Code section, or corresponding provisions of future federal internal revenue laws, and is exempt from income tax under the applicable Code section. In the event any assets of the Trust Fund are invested in such a common trust fund, the Declaration of Trust creating such common trust fund, as it may be amended from time to time, shall be incorporated into the Plan by reference and made a part thereof.

Further, all or any portion of the assets subject to this Trust Agreement may be invested in any collective investment fund maintained exclusively for the investment of assets of (1) exempt, qualified employee benefit trusts and (2) collective investment funds consisting exclusively of assets of such qualified trust. The assets so invested shall be subject to all the provisions of the instrument establishing such collective investment fund, as such instrument may be amended from time to time. Such instrument, as amended from time to time, is hereby incorporated and made a part of this Trust Agreement and shall control notwithstanding any contrary provision of this Trust Agreement or the Plan.

(c) The Trustee may deposit any portion of the Trust Fund in savings accounts in federally insured banks or savings and loan associations or invest in certificates of deposit issued by any such bank or savings and loan association. The Trustee may retain, without liability for interest, any portion of the Trust Fund in cash balances pending investment thereof or payment of expenses.

(d) The Trustee may buy and sell put and call options, covered or uncovered, engage in spreads, straddles, ratio writing and other forms of options trading, including sales of options against convertible bonds, and sales of Standard & Poor futures contracts, and trade in and maintain a brokerage account on a cash or margin basis.

(e) The Trustee may invest any portion or all of the assets of the Trust Fund that are attributable to the vested and nonforfeitable interest in the Accounts of a Participant in the purchase of group or individual Life Insurance Policies issued on the life of the Participant or someone in whom the Participant has an insurable interest and for the benefit of the Participant with the consent of the Participant, subject to the following conditions, as they are represented by the Plan Administrator:

(i) If ordinary Life Insurance Policies are used, the aggregate life insurance premiums must be less than one-half of the aggregate Employer Contributions and Forfeitures allocated to the Participant's Account at any particular time, without regard to Trust earnings, capital gains and losses; for purposes of this Plan, the term "Ordinary Life Insurance Policies" shall mean

Policies with both nondecreasing death benefits and nonincreasing premiums.

(ii) The aggregate premiums paid for Life Insurance Policies on the life of any Participant or someone in whom the Participant has an insurable interest that are either term, universal or any other contracts which are not ordinary whole life Policies shall not at any time exceed twenty-five percent (25%) of the aggregate amount of Employer Contributions and Forfeitures that have been allocated to the Accounts of such Participant.

(iii) The sum of one-half of the aggregate premiums for ordinary whole Life Insurance Policies and all premiums for other Life Insurance Policies shall not at any time exceed twenty-five percent (25%) of the aggregate amount of Employer Contributions and Forfeitures that have been allocated to the Accounts of such Participant.

(iv) If the Plan permits in-service distributions to a Participant prior to his Normal Retirement Date, the amount that may be distributed to the Participant may be applied to the purchase of Life Insurance Policies.

(f) The Trustee may invest the Trust Fund or any portion thereof to acquire or hold Qualifying Employer Securities or Real Property, provided that the portion so invested shall not exceed the amount allowed as an investment under ERISA section 407. There shall be no limit on the acquisition of Qualifying Employer Securities in an individual account balance plan in which Participants may direct the Trustee to buy Qualifying Employer Securities on their behalf.

(g) If permitted, the Participant may direct the purchase of life insurance on his life, on the joint lives of the Participant and someone in whom the Participant has an insurable interest, or on the life of someone in whom the Participant has an insurable interest. The amount that can be used to pay life insurance premiums shall be determined according to this Section.

4.3 Administration of Trust Assets. Subject to the limitations expressly set forth here, and in the Plan, the Trustee shall have the following powers and authority in connection with the administration of the assets of the Trust:

(a) To hold and administer all contributions made by the Employer to the Trust Fund and all income or other property derived therefrom as a single Trust Fund, except as otherwise provided in the Plan;

(b) To manage, control, sell, convey, exchange, petition, divide, subdivide, improve, repair, grant options, sell upon deferred payments, lease without limit as determined for any purpose, compromise, arbitrate, or otherwise settle claims in favor of or against the Trust Fund, institute, compromise, and defend actions and proceedings, and to take any other action necessary or desirable in connection with the administration of the Trust Fund;

(c) To vote any stock, bonds, or other securities of any corporation or other issuer; otherwise consent to or request any action on the part of any such corporation or other issuer; to give general or special proxies or powers of attorney, with or without power of substitution; to participate in any reorganization, recapitalization, consolidation, merger, or similar transaction with respect to such securities; to deposit such stocks or other securities in any voting trusts, or with any protective or like committee, or with the trustee, or with the depositories designated thereby; to exercise any subscription rights and conversion privileges or other options and to make any payments incidental thereto; and generally to do all such acts, execute all such instruments, take all such proceedings and exercise all such rights, powers, and privileges with respect to the stock or other securities or property constituting the Trust Fund as if the Trustee were the absolute owner thereof;

(d) To apply for and procure, at the election of any Participant, Life Insurance Policies on the life of the Participant or someone in whom the Participant has an insurable interest; to exercise whatever rights and privileges may be granted to the Trustee under such Policies, and to cash in, receive, and collect such Policies or the proceeds therefrom as and when entitled to do so under the provisions thereof;

(e) 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;

(f) To register any investment held in the Trust in the Trustee's own name or in the name of a nominee for the benefit of the Plan, or to hold any investment in bearer form, provided that the books and records of the Trustee shall at all times show that all such investments are part of the Trust;

(g) To borrow money for the purposes of the Plan in such amounts and upon such terms and conditions as the Trustee deems appropriate;

(h) To commingle the assets of the Trust Fund with the assets of other similar trusts that are exempt from income tax, whether sponsored by the Employer, an affiliate of the Employer, or an unrelated employer, provided that the books and records of the Trustee shall at all times show the portion of the commingled assets that are part of the Trust; and

(i) To do all acts, whether or not expressly authorized, that the Trustee may deem necessary or proper for the protection of the property held hereunder.

4.4 Segregated Funds. Unless otherwise determined by the Trustee to be imprudent, the Trustee shall invest and reinvest each Segregated Fund without distinction between income and principal. Such accounts shall be held for the benefit of the Participant for whom such Segregated Fund is established in accordance with the terms of the Plan, and the Participant's Segregated Account shall be credited with any interest earned in connection with such accounts. If the Trustee determines that an alternative investment is appropriate, the Trustee may invest the Segregated Fund in any manner permitted with respect to the Trust Fund and such Segregated Fund shall be credited with the net income or loss or net appreciation or depreciation in value of such investments. No Segregated Fund shall share in any Employer Contributions or Forfeitures, any net income or loss from, or net appreciation or depreciation in value of, any investments of the Trust Fund, or any allocation for which provision is made in the Plan that is not specifically attributable to the Segregated Fund.

4.5 Investment Control Option. If the Employer elects in the Adoption Agreement to permit Participants to direct the investment of their 414(k) Accounts and Rollover Accounts, each Participant may elect to transfer funds that do not exceed the balances in his Trustee-directed Accounts to a Controlled Account and exercise investment control of those funds by appropriate direction to the Trustee.

To the extent that the funds to be transferred from a Participant's Account include his share of an Employer Contribution or other funds that have not yet been received by the Trustee, such transfer shall not occur until the Trustee receives such funds. Funds transferred to a Controlled Account on behalf of the Participant shall be thereafter be invested by the Trustee in such property, real or personal (other than collectibles), as the Participant shall direct from time to time in writing, unless policies adopted pursuant to Section 3.4.6 of the Plan permit electromechanical communications in this context. The Participant may not direct the Trustee to make distributions or loans to himself, nor to make loans to the Employer, and the Trustee may limit the investment alternatives available to the Participant in a uniform and nondiscriminatory manner.

A Participant shall make such election by giving notice thereof to the Trustee as the Trustee deems necessary, and such notice shall specify the source and amount of such funds to be transferred. Any such election shall be at the absolute discretion of the individual Participant and shall be binding upon the Trustee unless the Trustee has actual knowledge that such transaction is a prohibited transaction under the Code or the Act. Upon any such election being made, the amount of such funds to be transferred shall be deducted from his Trustee-directed Accounts as appropriate and added to a Controlled Account of the Participant. All earnings thereafter received with respect to such transferred funds, as well as any appreciation or depreciation in his investments, shall be added to or deducted from his Controlled Account.

If the Employer elects to follow ERISA section 404(c), the Plan Administrator or appropriate Fiduciary shall ensure that the Plan provides Participants with the minimum options and information required by

ERISA section 404(c) and the regulations thereunder.

If a Participant elects to transfer funds from his Trustee-directed Accounts to a Controlled Account as of a date other than a Valuation Date, the Trustee may defer such transfer until the next succeeding Valuation Date or may make such transfer, provided that the Trustee determines that the assets in the Trust Fund are such that it is feasible and practical to make such transfer. As of the date of such transfer, adjustments to the Participant's Accounts shall be made as if such date is a Valuation Date.

As of any Valuation Date, the Participant may elect to have all or any portion of any cash contained in his Controlled Account transferred back to the general assets of the Trust Fund, in which case the Trustee shall again invest such cash as part of the general assets of the Trust Fund. A Participant shall make such election by giving notice to the Trustee, in the manner that the Trustee deems necessary, and the notice shall specify the amount of cash to be transferred. The amount of such funds so transferred shall be deducted from the Participant's Controlled Account and added to the appropriate Account of the Participant. Any such election shall be at the absolute discretion of the individual Participant and shall be binding upon the Trustee.

The Trustee shall not have any investment responsibility with respect to a Participant's Controlled Account. In the event that a Participant elects to have any such funds transferred to a Controlled Account and invested in particular securities or assets pursuant to this Section, the Trustee shall not be liable for any loss or damage resulting from the investment decision of the Participant.

ARTICLE V

AMENDMENT AND TERMINATION

5.1 Amendments. The Employer may at any time or times amend this Trust, in whole or in part.

5.2 Manner of Amending. Each amendment of this Trust shall be made by delivery to the Trustee of a copy of the Employer resolution that sets forth such amendment.

5.3 Limitations On Amendments.

No amendment to this Trust shall:

(1) Directly or indirectly operate to give the Employer any interest whatsoever in the assets of the Trust or a custodial account or to deprive any Participant or Beneficiary of his vested and nonforfeitable interest in the assets of the Trust as then constituted, or cause any part of the income or corpus of the Trust to be used for, or diverted to purposes other than the exclusive benefit of Employees or their Beneficiaries; or

(2) Increase the duties or liabilities of the Trustee without the Trustee's prior written consent. The Employer will not be considered to have an individually designed plan merely because the Employer amends administrative provisions of the Trust or custodial account document (such as provisions relating to investments and duties of Trustees) so long as the amended provisions are not in conflict with any other provision of the Plan and do not cause the Plan to fail to qualify under Code section 401(a).

5.4 Trustee Powers Pending Final Distribution. Sections 3.8.4 through 3.8.6 of the Plan provide for the termination or partial termination of the Plan and the withdrawal of an Employer from participation in the Plan. Until final distribution of the assets of the Trust, the Trustee shall continue to have all the powers provided under the Plan and this Trust as are necessary for the orderly administration, liquidation, and distribution of the assets of the Trust.

5.5 Delegation to Sponsor. The Employer expressly delegates authority to the Plan Sponsor the right to amend any part of this Trust on its behalf to the extent necessary to preserve the qualified status of the Plan. For purposes of amendments by the Plan Sponsor, the Plan Document Provider shall be recognized as the agent of the Plan Sponsor. If the Plan Sponsor does not adopt the amendments made by the Plan Document Provider, the Plan shall no longer be identical to or a minor modifier of the Mass Submitter plan. The Plan Sponsor shall submit a copy of the amendment to each Employer who has adopted the Plan after first having received a ruling or favorable determination from the Internal Revenue Service that the Plan as amended satisfies the applicable requirements of the Code.

ARTICLE VI

MISCELLANEOUS

6.1 No Reversion to Employer. Except as specifically provided in the Plan, no part of the corpus or income of the Trust shall revert to the Employer or be used for, or diverted to, purposes other than for the exclusive benefit of Participants and their Beneficiaries.

6.2 Persons Dealing With Trustee Protected. No person dealing with the Trustee shall be required or entitled to see to the application of any money paid or property delivered to the Trustee, or determine whether the Trustee is acting pursuant to the authorities granted to the Trustee hereunder or to authorizations or directions herein required. The certificate of the Trustee that the Trustee is acting in accordance with the Plan shall protect any person relying thereon.

6.3 Notices. Any notice or direction to be given in accordance with this Trust shall be deemed to have been effectively given if hand delivered to the recipient or sent by certified mail, return receipt requested, to the recipient at the recipient's last known address. At any time that a group of individuals is acting as Trustee or in a Fiduciary capacity, notice to the Trustee or such Fiduciary may be given by giving notice to any one or more of such individuals.

6.4 Governing Law. The provisions of this Trust shall be construed, administered, and enforced in accordance with the provisions of the Act and, to the extent applicable, the laws of the state specified in the Adoption Agreement. All contributions to the Trust shall be deemed to take place in such state.

6.5 Severability of Provisions. In the event that any provision of this Trust shall be held to be illegal, invalid, or unenforceable for any reason, said illegality, invalidity or unenforceability shall not affect the remaining provisions, but shall be fully severable and the Trust shall be construed and enforced as if said illegal, invalid or unenforceable provisions had never been inserted herein.

6.6 Gender and Number. Whenever appropriate, words used in the singular shall include the plural, and the masculine gender shall include the feminine gender and vice versa.

6.7 Qualification Under Internal Revenue Laws. The Employer intends that the Trust qualify under the applicable Code provisions. Until advised to the contrary, the Trustee may assume that the Trust is so qualified and is entitled to tax exemption under the Code. If the Plan of the Employer fails to attain or retain qualification, the Employer's Plan shall no longer participate in the Prototype Plan and shall be considered an individually designed plan.

The Employer and the Trustee(s) hereby adopt the foregoing Trust on this _____ day of _____, _____.

Employer:	**Trustee:**
Panoche Water District	
_____	_____
John F. Bennett	Ara Azhderian
President	Trustee

Panoche Water District Retirement Plan
Removal of Trustee

Pursuant to a resolution of the Board of Directors of Panoche Water District, John P. Otollo is hereby removed as Trustee of the Panoche Water District Retirement Plan, effective December 13, 2021.

_____
Secretary

_____
Date

Central Administrative Services, Inc.
DEFINED CONTRIBUTION PRE-APPROVED
BASE PLAN DOCUMENT #20

Central Administrative Services, Inc.
DEFINED CONTRIBUTION PRE-APPROVED
BASE PLAN DOCUMENT #20

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PART I

ARTICLE I

INTRODUCTION

1.1.1 Adoption and Title. The Employer(s) whose signatures appear on the Adoption Agreement, hereby adopt a Plan to be known by the names set forth in the Adoption Agreement.

1.1.2 Effective Date. The provisions of this Plan will be effective as of the Effective Date set forth in the Adoption Agreement.

1.1.3 Purpose. This Plan is established for the purpose of providing retirement benefits to Eligible Employees in accordance with the Plan and the Adoption Agreement. In the event of any conflict between the terms of this plan and any conflicting provision contained in any associated trust, custodial account document or any other document that is incorporated by reference, the terms of this plan will govern.

ARTICLE II

DEFINITIONS

As used in this Plan and the Adoption Agreement, the following terms will have the following meanings:

"Account": One or more accounts, as listed in Section 3.1.1, established as necessary by the Plan Administrator and maintained to account for assets held for the benefit of a Participant.

"Average Contribution Percentage" (ACP): The Actual Contribution Percentage will mean, for a specified group of Participants (either Highly Compensated Employees or Non-highly Compensated Employees) for a Plan Year, the average of the Contribution Percentages of the Eligible Participants in the group.

"ACP Test Safe Harbor Account": An Account established and maintained for a Participant for accounting purposes with respect to their share of ACP Test Safe Harbor Contributions.

"ACP Test Safe Harbor Contributions": Matching Contributions described in Section 2.9.4.

"Act": The Employee Retirement Income Security Act of 1974, as amended from time to time.

"Average Deferral Percentage" (ADP): For a specified group of participants (either Highly Compensated Employees or Non-highly Compensated Employees) for a Plan Year, the average of the ratios (calculated separately for each participant in such group) of (1) the amount of Employer Contributions actually paid over to the Trust on behalf of such Participant for the Plan Year to (2) the Participant's Compensation for such Plan Year. Employer Contributions on behalf of any Participant will include: (1) any Elective Deferrals (other than Catch-up Contributions) made pursuant to the Participant's deferral election (including Excess Elective Deferrals of Highly Compensated Employees), but excluding (a) Excess Elective Deferrals of Non-highly Compensated Employees that arise solely from Elective Deferrals made under the Plan or plans of this Employer and (b) Elective Deferrals that are taken into account in the Actual Contribution Percentage test (provided the ADP test is satisfied both with and without exclusion of these Elective Deferrals); and (2) if elected by the Employer in the Adoption Agreement, Qualified Non-Elective Contributions and Qualified Matching Contributions. For purposes of computing Actual Deferral Percentages, an Employee who would be a Participant but for the failure to make Elective Deferrals will be treated as a Participant on whose behalf no Elective Deferrals are made.

"ADP Test Safe Harbor Account": An Account established and maintained for a Participant for accounting purposes with respect to their share of ADP Test Safe Harbor Contributions.

"ADP Test Safe Harbor Contributions": Matching Contributions and Non-Elective Contributions described in Section 2.9.3.

"Affiliated Employer": An employer that is not related to the Employer who is the Plan Sponsor of a Multiple Employer Plan. The Affiliated Employer may be a single entity or a group of employers treated as a single employer when they are required to be aggregated pursuant to Code sections 414(d), 414(c), 414(m) or 414(o) (a required aggregation group). The Affiliate Employer, with the consent of the Plan Sponsor may participate in a Multiple Employer Plan by executing a separate Adoption Agreement or the Adoption Addendum to the Plan. In the case of an Affiliated Employer that is a member of a required aggregation group, each member of the group must affirmatively elect to participate in a Multiple Employer Plan.

"Alternate Payee": Any spouse, former spouse, child, or other dependent of a Participant who is recognized by a Qualified Domestic Relations Order as having a right to receive all, or a portion of, the benefits payable under this or any other plan of the Employer with respect to such Participant.

"Anniversary Date": Unless otherwise specified in the Adoption Agreement, the last day of each Plan

Year.

"Annuity Starting Date": The first day of the first period for which an amount is paid as an annuity or any other form.

"Automatic Compensation Reduction" (ACR): An arrangement in a cash or deferred plan as defined in Section 2.2.3(a) of this Plan under which an Employee that has not affirmatively elected to defer Compensation into the Plan will have an amount deferred on their behalf by the Plan Administrator.

"Beneficiary": The person or persons entitled hereunder to receive the benefits that may be payable upon or after a Participant's death pursuant to Sections 3.6.1 and 3.6.2.

"Break in Service": The failure of an Employee to complete more than 500 Hours of Service or such lesser number specified in the Adoption Agreement during any 12 consecutive month computation period. The computation periods will be specified by the Employer in the Adoption Agreement. The computation period used for a Year of Service will be used to determine a Break in Service for that purpose, and the same computation period used for a Year of Vesting Service will be used to determine a Break in Service for purposes of vesting service. Under the Elapsed Time Method of service counting, the term "one year Period of Severance" will be substituted for the term "1 year Break in Service." An individual reemployed pursuant to section 414(u) of the Code will be treated with respect to the Plan as not having incurred a Break in Service with the Employer maintaining the Plan by reason of such individual's period of Qualified Military Service.

"Catch-up Contributions": Elective Deferrals made to the Plan that are in excess of an otherwise applicable Plan limit and that are made by Participants who are age 50 or over by the end of the applicable taxable year. See Section 2.2.2(b) for further discussion of Catch-up Contributions.

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

"Compensation": The compensation as defined in Section 3.2.5 and as specified in the Adoption Agreement (or Earned Income in the case of a Self-Employed Individual) that is actually paid to the Employee by the Employer during a Compensation Computation Period.

In the case of a Self-Employed Individual, Compensation means Earned Income during such period. Compensation for a Participant's initial year of participation will be Compensation from the Participant's Entry Date or for the Plan Year, as elected in the Adoption Agreement.

For Plan Years beginning on or after January 1, 1994 and before January 1, 2002, the annual Compensation of each Participant taken into account for determining all benefits provided under the Plan for any Plan Year will not $150,000, as adjusted for increases in the cost-of-living in accordance with Code section 401(a)(17)(B). The cost-of-living adjustment in effect for a calendar year applies to any Compensation Computation Period beginning in such calendar year.

For any Plan Year beginning after December 31, 2001, the annual Compensation of each Participant taken into account in determining allocations will not exceed $200,000, as adjusted for cost-of-living increases in accordance with Code section 401(a)(17)(B). However, solely for purposes of determining a participant's allocations for Plan Years beginning after December 31, 2001, the annual Compensation limit in effect for determination periods beginning before January 1, 2002 is $200,000. Annual Compensation means compensation during a Compensation Computation Period, which is either the Plan Year or such other consecutive 12 month period over which compensation is otherwise determined under the Plan. If Compensation for any prior Compensation Computation Period is taken into account in determining a Participant's allocations for the current Plan Year, the Compensation for such prior Compensation Computation Period is subject to the applicable annual compensation limit in effect under Code section 401(a)(17) for that prior period. The cost-of-living adjustment in effect for a calendar year applies to annual Compensation for the Compensation Computation Period that begins with or within such calendar year.

If a Compensation Computation Period consists of fewer than 12 months, the annual Compensation limit is an amount equal to the otherwise applicable annual Compensation limit multiplied by a fraction,

the numerator of which is the number of months in the short Compensation Computation Period, and the denominator of which is 12.

If Compensation for any prior Compensation Computation Period is taken into account in determining a Participant's allocations for the current Plan Year, the Compensation for such prior Compensation Computation Period is subject to the applicable annual compensation limit in effect for that prior period.

For purposes of Code sections 403(b)(3), 415(c)(3), and 457(e)(5), an Employee who is in Qualified Military Service will be treated as receiving Compensation from the Employer during such period of Qualified Military Service equal to: (A) the Compensation the Employee would have received during such period if the Employee were not in Qualified Military Service, determined based on the rate of pay the Employee would have received from the Employer but for absence during the period of Qualified Military Service, or (B) if the Compensation the Employee would have received during such period was not reasonably certain, the Employee's average Compensation from the Employer during the 12-month period immediately preceding the Qualified Military Service (or, if shorter, the period of employment immediately preceding the Qualified Military Service).

Differential Wage Payment For Retirement Plan Purposes. The Employer who elects to make Differential Wage Payments to active duty members in Qualified Military Service will treat the Differential Wage Payments as a payment of wages by the Employer to an Employee.

Treatment of Differential Wage Payments. For the purpose of the Plan:

(i) an individual receiving a Differential Wage Payment will be treated as an Employee of the Employer making the payment;

(ii) the Differential Wage Payment will be treated as Compensation; and

(iii) the Plan will not be treated as failing to meet the requirements of any plan qualification requirements under Code section 401(a) where a contribution or benefit is based on the Differential Wage Payment.

"Compensation Computation Period": The period specified as the Compensation Computation Period in the Adoption Agreement.

"Contribution Percentage": The ratio (expressed as a percentage) of the participant's Contribution Percentage Amounts to the Participant's Compensation for the Plan Year.

"Contribution Percentage Amounts": The sum of the Employee Contributions, Matching Contributions, and Qualified Matching Contributions (to the extent not taken into account for purposes of the ADP test) made under the Plan on behalf of the participant for the Plan Year. Such Contribution Percentage Amounts will not include Matching Contributions that are forfeited either to correct Excess Aggregate Contributions or because the contributions to which they relate are Excess Deferrals, Excess Contributions, or Excess Aggregate Contributions. If so elected in the adoption agreement the Employer may include Qualified Non-Elective Contributions in the Contribution Percentage Amounts. The Employer also may elect to use Elective Deferrals in the Contribution Percentage Amounts so long as the ADP test is met before the Elective Deferrals are used in the ACP test and continues to be met following the exclusion of those Elective Deferrals that are used to meet the ACP test.

"Controlled Account": An Account established and maintained for a Participant for accounting purposes over which they are permitted, under the terms of the Plan and the Plan's investment policy, to exercise investment control.

"Deductible Voluntary Account": An Account established and maintained for a Participant for accounting purposes with respect to their Voluntary Employee Contributions that were deductible by the Participant at the time they were made.

"Deemed IRA Account": (Deemed IRA) An Account established and maintained for a Participant for accounting purposes that meets the applicable requirements for an Individual Retirement Account under Sections 3.12.1 (Deemed Pre-tax IRA), 3.12.2 (Deemed Roth IRA) and Code sections 408(q)

and 408A to which they may make Deemed IRA Contributions.

"Deemed IRA Contribution": A Participant contribution designated as an IRA contribution to a Deemed IRA Account. Deemed IRA Contributions include Pre-tax IRA Contributions and Roth IRA Contributions.

"Deemed Section 125 Compensation": An amount not available to a Participant in cash in lieu of group health coverage (a forced reduction in pay) because the Participant is unable to certify that they have other health coverage. Therefore, the Employee is included in the Employer's health plan. The amount withheld will be treated as Deemed Code section 125 Compensation 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.

"Designated Beneficiary": The individual or trust that is designated as the Beneficiary under the Plan and who is a designated beneficiary under Code section 401(a)(9) and Treasury Regulations section 1.401(a)(9)-4.

"Differential Wage Payment": For purposes of the Plan, the term "Differential Wage Payment" means any payment which: (1) is made by an Employer to an individual with respect to any period during which the individual is performing service in the uniformed services (as defined in chapter 43 of title 38, United States Code) while on active duty for a period of more than 30 days; and (2) represents all or a portion of the wages the individual would have received from the Employer if the individual were performing services for the Employer. The Differential Wage Payment provisions will apply to wages paid after December 31, 2008.

"Direct Rollover": A payment by the Plan to the Eligible Retirement Plan specified by the Distributee.

"Disability": Notwithstanding anything contained in the Plan to the contrary, an Employer may elect in the Adoption Agreement the manner in which a Participant is determined to have a Disability. Such determination required to be made by the Plan Administrator in connection with the permanence and degree of a physical or mental impairment will be made in a uniform and nondiscriminatory manner based on medical evidence.

Generally, a person is Disabled if they suffer from a medically determinable physical or mental impairment that may be expected to result in death or to last for a continuous period of not less than 12 months and that renders them incapable of performing their duties.

"Disabled": An Employee is Disabled if they have a Disability.

"Distributable Benefit": The benefit to which a Participant is entitled following termination of their employment or the date they are determined to be Disabled, if so elected in the Adoption Agreement.

"Distributee": An Employee or former Employee. In addition, the Employee's or former Employee's surviving spouse and the Employee's or the former Employee's spouse or former spouse who is an Alternate Payee under a Qualified Domestic Relations Order, are Distributees with regard to the interest of the spouse or former spouse. For distributions after December 31, 2006, a Distributee includes the Employee's or former Employee's non-spouse Designated Beneficiary, in which case, the distribution can only be transferred to a traditional or Roth IRA established on behalf of the non-spouse Designated Beneficiary for the purpose of receiving the distribution.

"Distribution Determination Date": The date as of which the Distributable Benefit of a Participant is determined, as discussed in Section 2.5.1(d).

"Early Retirement Age": The age specified as the Early Retirement Age, if any, in the Adoption Agreement.

"Early Retirement Date": The date specified as the Early Retirement Date, if any, in the Adoption Agreement.

"Earned Income": The net earnings from self-employment in the trade or business with respect to

which the Plan is established for which personal services of the Participant are a material income-producing factor. Net earnings will be determined without regard to items not included in gross income and the deductions allocable to such items but with regard to the deduction allowed to the taxpayer by Code section 164(f). Net earnings will be reduced by contributions to a qualified plan to the extent deductible under Code section 404.

"Elapsed Time Method": A method of measuring service for purposes of eligibility to participate, vesting, and contribution allocations that determines service by reference to the total period of time that elapses while the Employee is employed (i.e., while the employment relationship exists) with the Employer or Employers maintaining this Plan. The Adoption Agreement may specify different methods to determine service for purposes of vesting, participation, and benefit accrual. Treasury Regulation section 1.410(a)-7 provides additional detail about the application of this method.

(a) General rule. For purposes of eligibility to participate and vesting, an Employee's service begins on their Employment Commencement Date, and service is counted until their Severance From Service Date, as such terms are defined in Subsection (f) below.

(b) "Service spanning" The following rules apply for purposes of eligibility to participate and vesting.

(1) The Period of Severance from the date an Employee severs employment due to a quit, discharge, or retirement to the date the Employee again performs an Hour of Service, within the meaning of Labor Regulations section 2530.200b-2(a)(1), counts as a Period of Service unless such Period of Severance is 12 months or longer.

(2) If an Employee is absent from service for less than 12 months for any other reason (e.g., layoff) and then quits, is discharged, or retires, the period of time during which the Employee may return and receive credit begins on the Severance From Service Date and ends 1 year after the first day of absence (e.g., first day of layoff).

(3) If an Employee returns to service more than 12 months after the date that service first ended, then such date will be a Reemployment Commencement Date and the Plan will resume counting the Employee's service from that date and will not count the intervening Period of Severance.

As a result of the operation of these rules, a severance from service (e.g., a quit), or an absence (e.g., layoff) followed by a severance from service, never results in a period of time of more than 1 year being required to be taken into account after an Employee severs from service or is absent from service.

(c) Additional Rules regarding Vesting.

(1) An Employee is credited with a number of Years of Vesting Service equal to the number of whole years of the Employee's Period of Service, whether or not the Employee completed such Periods of Service consecutively.

(2) The whole years of an Employee's Period of Service are determined by aggregating any non-successive Periods of Service and by aggregating any less than whole year Periods of Service (whether or not consecutive) on the basis that 12 Months of Service or 365 days of service equal a whole Year of Vesting Service. Fractional months are aggregated into Months of Service.

(3) After calculating an Employee's Period of Service in the manner prescribed in this Subsection, any remaining service that is less than a whole year, 12-month, or 365-day Period of Service is disregarded for purposes of determining an Employee's nonforfeitable percentage of accrued benefits derived from Employer Contributions.

(d) Contribution Allocations. For purposes of contribution allocations, an Employee's service is taken into account from their Participation Commencement Date until their Severance From Service Date. Periods of Severance under any circumstances are not taken into account.

(e) Break in Service Exception. If an Employee is absent from work for maternity or paternity reasons, the 12-consecutive month period ending on the first anniversary of the first day of such absence will not constitute a Break in Service. For purposes of this Subsection, an absence of work for maternity or paternity reasons means an absence: (1) due to the Employee's pregnancy, (2) due to the birth of the Employee's child, (3) due to a child's placement with the Employee as part of the Employee's adoption of such child, or (4) to care for a child for a period beginning immediately following such birth or placement.

(f) Definitions.

(1) Severance From Service Date: A "severance from service" occurs on the earlier of:

(i) The date on which an Employee quits, retires, is discharged, or dies; or

(ii) The first anniversary of the first date of a period in which an Employee remains absent from service (with or without pay) with the Employer or Employers maintaining the Plan for any reason other than a quit, retirement, discharge or death, such as vacation, holiday, sickness, Disability, leave of absence, or layoff.

(2) Reemployment Commencement Date: The first date, following a Period of Severance from service that is not required to be taken into account under the service spanning rules of Subsection (b), on which the Employee performs an Hour of Service within the meaning of Labor Regulations section 2530.200b-2(a)(1) for the Employer or Employers maintaining this Plan.

(3) Participation Commencement Date: The date a Participant first commences participation under the Plan.

(4) Period Of Severance: The period of time commencing on the Severance From Service Date and ending on the date on which the Employee again performs an Hour of Service within the meaning of Labor Regulations section 2530.200b-2(a)(1) for an Employer or Employers maintaining this Plan.

(5) Period of Service:

(i) General Rule: The period commencing on the Employee's Employment Commencement Date or Reemployment Commencement Date, whichever is applicable, and ending on the Severance from Service Date.

(ii) Aggregation Rule: Periods of Service will be aggregated unless such periods may be disregarded under Code sections 410(a)(5) or 411(a)(4).

(iii) Month of Service: 30 days are deemed to be a Month of Service.

"Elective Account": An Account established and maintained for a Participant for accounting purposes with respect to their Elective Deferrals.

"Elective Deferrals": Any contribution made by the Employer to the Plan at the election of the Participant or operation of the Plan, in lieu of cash compensation, including a contribution made pursuant to a salary reduction agreement or other deferral mechanism.

With respect to any taxable year, a Participant's Elective Deferrals are the sum of all Employer contributions made on behalf of the Participant pursuant to an election to defer under any qualified CODA as described in Code section 401(k), any simplified employee pension cash or deferred arrangement as described in Code section 408(k)(6), any SIMPLE IRA Plan described in Code section 408(p), any plan as described under Code section 501(c)(18), and any employer contributions made on the behalf of a Participant for the purchase of an annuity contract under Code section 403(b) pursuant to a salary reduction agreement. Elective Deferrals will not include any deferrals properly distributed as Excess Annual Additions.

For years beginning after 2005, the term "Elective Deferrals" includes Pre-tax Elective Deferrals and Roth Deferrals.

"Eligibility Computation Period": For purposes of determining Years of Service and Breaks in Service for purposes of eligibility, the initial Eligibility Computation Period is the 12 consecutive month period beginning on the date the Employee first performs an Hour of Service for the Employer (Employment Commencement Date).

If in accordance with the election in the Adoption Agreement, the subsequent periods may be:

(a) The succeeding 12-consecutive month periods that commence with the first anniversary of the Employee's Employment Commencement Date, or

(b) The first Plan Year that commences prior to the first anniversary of the Employee's Employment Commencement Date. An Employee who is credited with 1,000 Hours of Service in both the initial Eligibility Computation Period and the first Plan Year that commences prior to the first anniversary of the Employee's initial Eligibility Computation Period will be credited with 2 Years of Service for purposes of eligibility to participate.

"Eligible Automatic Contribution Arrangement" (EACA): An arrangement in a cash or deferred plan as defined in Section 2.2.3(b) of this Plan under which an Employee that has not affirmatively elected to defer Compensation into the Plan will have an amount deferred on their behalf by the Plan Administrator.

"Eligible Employee": An Employee who has met the eligibility requirements of the Plan.

"Eligible Retirement Plan": An eligible plan under Code section 457(b) that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and that agrees to separately account for amounts transferred into such plan from this Plan, an individual retirement account described in Code section 408(a), an individual retirement annuity described in Code section 408(b), an annuity plan described in Code section 403(a), an annuity contract described in Code section 403(b), or a qualified plan described in Code section 401(a), that accepts the Distributee's Eligible Rollover Distribution. The definition of Eligible Retirement Plan will also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is an Alternate Payee under a Qualified Domestic Relation Order. 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 will 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.

"Eligible Rollover Distribution": Any distribution of all or any portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or joint life expectancies) of the Distributee and the Distributee's Designated Beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Code section 401(a)(9); any Hardship distribution; the portion of any other distribution 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 that is reasonably expected to total less $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 are treated as made under separate plans.

A portion of a distribution will not fail to be an Eligible Rollover Distribution merely because the portion consists of after-tax Employee contributions that are not includible in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in Code sections 408(a) or (b), or to a qualified defined contribution plan described in Code sections 401(a) or 403(a) that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution that is includible in gross income and the portion of such distribution that is not so includible.

"Employee": A person who is currently or hereafter employed by the Employer, or by any other employer aggregated under Code sections 414(b), (c), (m), (n), or (o) and the regulations thereunder, including a Leased Employee subject to Code section 414(n) and a self-employed owner of an unincorporated employer, but, unless otherwise provided in the Adoption Agreement, excluding (a) an Employee who is a nonresident alien (within the meaning of Code section 7701(b)(1)(B) deriving no earned income (within the meaning of Code section 911(d)(2)) from the Employer that constitutes income from sources within the United States (within the meaning of Code section 861(a)(3)); and (b) employees who are included in the unit of Employees covered by a collective bargaining agreement between the Employer and employee representatives, provided benefits were the subject of good faith bargaining and 2% or less of the employees of the Employer who are covered pursuant to that agreement are "professional employees" as defined in Treasury Regulations section 1.410(b)-9. 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.

Except as otherwise provided in this paragraph, if the Employer elects in the Adoption Agreement to exclude Employees who became Employees as the result of a "Code section 410(b)(6)(C) transaction," then such Employees will not be "Eligible Employees" prior to the expiration of the transition period beginning on the date of the transaction and ending on the last day of the first Plan Year beginning after the date of the transaction. A "Code section 410(b)(6)(C) transaction" is an asset or stock acquisition, merger, or similar transaction involving a change in the Employer of the Employees of a trade or business. However, if a separate trade or business becomes a Related Employer as the result of a "Code section 410(b)(6)(C) transaction," then Employees of such Related Employer will not be treated as "Eligible Employees" prior to the date the entity adopts the Plan as a participating Employer. For purposes of this Section, "Related Employer" means any trade or business related to the Employer by the application of Code sections 414(b), (c), (m), (n), or (o).

In the case of an individuals who are not contemporaneously classified as Employees of the Employer for purposes of the Employer's payroll system (including, without limitation, individuals employed by temporary help firms, technical help firms, staffing firms, employee leasing firms, professional employer organizations, or other staffing firms whether or not deemed to be "common law" Employees or Leased Employees) are not considered to be Eligible Employees of the Employer and will not be eligible to participate in the Plan. The preceding sentence will not apply in the case of the Employer out-sourcing its human resource functions for Employees that the Employer would otherwise treat as "common law' Employees. In the event any such individuals are reclassified as Employees for any purpose (including without limitation, common law or statutory employees, by any action of any third party, including, without limitation, any government agency, or as a result of any private lawsuit, action, or administrative proceeding) such individuals shall, notwithstanding such reclassification, remain ineligible for participation hereunder. Notwithstanding foregoing, the exclusive means for individuals who are not contemporaneously classified as an Employee of the Employer on the Employer's payroll system to become eligible to participate in this Plan is through an amendment to this Plan, duly executed by the Employer, that specifically renders such individuals eligible for participation hereunder.

This Plan is to be construed to exclude all individuals who are not considered Employees for purposes of the Employer's payroll system, and the Plan Administrator is authorized to do so, despite the fact that its decision may result in the inadvertent loss of the Plan's tax qualification requiring an amendment of the Plan's eligibility provisions.

"Employer": The Employer maintaining the Plan and those Employers required to be aggregated with the Employer under Code sections 414(b), (c), (m) or (o). An individual who owns the entire interest of an unincorporated trade or business is treated as the Employer. Also, a partnership is treated as the Employer of each partner and each Employee of the partnership as well as any of its affiliates, successors or assigns that adopt the Plan. However, no mere change in the identity, form, or organization of the Employer will affect its status under the Plan in any manner, and, if the name of the Employer is hereafter changed, a corresponding change will be deemed to have been made in the name of the Plan and references herein to the Employer will be deemed to refer to the Employer as it is then known.

"Employer Account": An Account established and maintained for a Participant for accounting purposes with respect to their share of Employer Contributions, Non-Elective Contributions, and Forfeitures.

"Employer Contribution": A contribution by the Employer to a money purchase pension plan, profit sharing plan, or a Non-Elective Contribution to a cash or deferred profit sharing plan.

"Employment Commencement Date": The date on which an Employee first performs an Hour of Service within the meaning of Labor Regulations section 2530.200b-2(a)(1) for the Employer or Employers maintaining this Plan.

"Entry Date": The date or dates specified as the Entry Date in the Adoption Agreement.

"Excess Aggregate Contributions": With respect to any Plan Year, the excess of:

(a) The aggregate contribution percentage amounts taken into account in computing the numerator of the contribution percentage actually made on behalf of Highly Compensated Employees for such Plan Year, over

(b) The maximum contribution percentage amounts permitted by the ACP test (determined by hypothetically reducing contributions made on behalf of Highly Compensated Employees in order of their contribution percentages beginning with the highest of such percentages). Such determination will be made after first determining Excess Elective Deferrals and then determining Excess Contributions, as required in Part II, Article VII.

"Excess Annual Addition": The portion of the allocation of contributions and Forfeitures that cannot be added to a Participant's Accounts due to the limitations on Annual Additions contained in Part III, Article II.

"Excess Contributions": With respect to any Plan Year, the excess of:

(a) The aggregate amount of Employer contributions actually taken into account in computing the ADP of Highly Compensated Employees for such Plan Year, over

(b) The maximum amount of such contributions permitted by the ADP test (determined hypothetically by reducing contributions made on behalf of Highly Compensated Employees in order of their contribution percentages, beginning with the highest of such percentages).

Excess Contributions will be reduced by Excess Deferrals previously distributed.

"Excess Elective Deferrals": Those Elective Deferrals that are made either:

(a) During the Participant's taxable year and exceed the dollar limitation under such Code section 402(g) (including, if applicable, the dollar limitation on Catch-up Contributions defined in Code section 414(v)) for such year) or a lesser limitation set by the Adoption Agreement; or

(b) During a calendar year and exceed the dollar limitation under Code section 402(g) (including, if applicable, the dollar limitation on Catch-up Contributions defined in Code section 414(v)) for the Participant's taxable year beginning in such calendar year, or a lesser limitation set by the Adoption Agreement, counting only Elective Deferrals made under this Plan and any other plan, contract, or arrangement maintained by the Employer.

Excess Elective Deferrals will be treated as Annual Additions under the Plan, unless such amounts are distributed no later than the first April 15 following the close of the Participant's taxable year.

"Fiduciary": The Plan Administrator, the Trustee, and any other person who has discretionary authority or control in the management of the Plan or the disposition of Trust assets.

"5-Percent Owner": A Participant who satisfies the definition of a 5-percent owner within the meaning of Code section 416(i) at any time during the Plan Year ending with or within the calendar year.

"Forfeitures": The non-vested portion of a Participant's Account balance that is forfeited on or after their termination of employment in accordance with Section 2.4.4 and may be allocated to other

Participants, used to defray the administrative expenses of the Plan, or considered as part of the Employer's Contribution if permitted by Part II, Article III.

"Highly Compensated Employee" (HCE): Any Employee of an Employer required to be aggregated under Code sections 414(b), (c), (m) or (o) during a Plan Year who:

(a) Was a 5-Percent Owner of the Employer at any time during the year or the preceding year, or

(b) For the preceding year

(1) Had "compensation" from the Employer in excess of $80,000 (as adjusted by the Secretary of the Treasury pursuant to Code section 415(d)), and

(2) If the Employer elects in the Adoption Agreement the application of this clause for such preceding year, was in the top-paid group of Employees for such preceding year.

For this purpose, an Employee is in the top-paid group of Employees for any year if such Employee is in the group consisting of the top 20% of the Employees when ranked on the basis of compensation paid during such year.

For these purposes, the applicable year of the Plan for which a determination is being made is called a "determination year" and the preceding 12-month period is called a "look-back year."

The determination of whether an Employee had compensation in excess of $80,000, as adjusted, will be made based on compensation paid during the preceding Plan Year, unless the Employer has made a calendar year data election in the Adoption Agreement. The effect of the calendar year data election is that the look-back year becomes the calendar year beginning with or within the look-back year.

The top-paid group election and the calendar year data election must apply consistently to the determination years of all plans of the Employer.

Generally, a former Employee will be treated as a Highly Compensated Employee if:

(1) Such Employee was a Highly Compensated Employee when such Employee separated from service or

(2) Such Employee was an active Highly Compensated Employee for any Plan Year that ended on or after the Employee's 55th birthday.

The determination of whether a former Employee is a Highly Compensated Employee will be based on the rules applicable to determining Highly Compensated Employee status as in effect for that determination year, in accordance with temporary Treasury Regulations sections 1.414(q)-1T, A-7 and A-4 and Notice 97-45.

The Plan Administrator will apply rules to determine who is a Highly Compensated Employee as set forth in an administrative policy, so long as such rules are reasonable, nondiscriminatory, and uniformly and consistently applied.

"Hour of Service": An hour for which:

(a) The Employee is paid, or entitled to payment, by the Employer for the performance of duties. These hours will be credited to the Employee for the computation period in which the duties are performed.

(b) The Employee is paid or entitled to payment by the Employer during which no duties are performed (irrespective of whether the employment relationship has terminated) due to vacation, holiday, illness, incapacity (including Disability), layoff, jury duty, military duty, or leave of absence. These hours will be credited to the Employee for the computation period during which no duties are performed, beginning with the first Hour of Service to which the payment relates. No more than 501 Hours of Service will be credited under this Subsection for any single continuous period

(whether or not such period occurs in a single computation period).

(c) Back pay, irrespective of mitigation of damages, has been either awarded or agreed to by the Employer. These hours will be credited to the Employee for the period to which the award or agreement pertains rather than the period in which the award, agreement, or payment is made.

Hours of Service will not be credited under both (a) and (b), above, as the case may be, and under (c) above. Notwithstanding the preceding, no Hours of Service will be credited to the Employee by reason of a payment made or due under a plan maintained solely for the purpose of complying with applicable worker's compensation, or unemployment compensation or disability insurance laws, and no Hours of Service will be credited by reason of a payment that solely reimburses an Employee for medical or medically related expenses incurred by the Employee. The determination of Hours of Service for reasons other than the performance of duties and the crediting of Hours of Service to computation periods will be made in accord with the provisions of Labor Regulations sections 2530.200b-2(b) and (c) that are incorporated herein by reference.

Solely for the purposes of determining whether an Employee has incurred a Break in Service, an Employee will be credited with the number of Hours of Service that would otherwise have been credited to such individual but for the absence, and in any case in which such hours cannot be determined, with 8 Hours of Service for any day that the Employee is absent from work by reason of the Employee's pregnancy, the birth of a child of the Employee, the placement of a child with the Employee in connection with the adoption of such child by the Employee or for purposes of caring for such child for a period beginning immediately following such birth or placement. Such Hours of Service will be credited in the computation period in which the absence from work begins if such crediting is necessary to prevent the Employee from incurring a Break in Service in such period, and in any other case, in the immediately following computation period. Notwithstanding the foregoing, no credit will be given for such service unless the Employee furnishes to the Plan Administrator information to establish that the absence from work is for the reasons indicated and the number of days for which there was such an absence.

In the case of a Multiple Employer Plan, an Employee will be credited with Hours of Service with all the adopting Employers of the Multiple Employer Plan.

In the event the Employer does not maintain records of the actual hours for which an Employee is paid or entitled to payment, credit for service will be given in accordance with the method selected in the Adoption Agreement.

Service with another business entity that is, along with the Employer, a member of a controlled group of corporations under Code section 414(b), an affiliated service group under Code section 414(m) or trades or businesses under common control under Code section 414(c), or that is otherwise required to be aggregated with the Employer pursuant to Code section 414(o) and the regulations issued thereunder will be treated as service for the Employer. Hours of Service will be credited for any individual considered an Employee for purposes of this Plan under Code sections 414(n) or 414(o) and the regulations issued thereunder.

If elected in the Adoption Agreement, service for a predecessor to the Employer, whether as an Employee or a Self-Employed Individual, will be treated as service for the Employer. If the Employer maintains the plan of a predecessor employer, service with such predecessor will be treated as service for the Employer.

If elected in the Adoption Agreement, service with a prior employer whether as an Employee or a Self-Employer Individual will be treated as service for the Employer for legitimate business purposes so long as the grant of such service does not discriminate in favor of Highly Compensated Employees. Service with a prior employer will be limited to 5 years.

"In-Plan Roth Conversion Account": An Account which maintains pre-tax Elective Deferrals or other Employer Contributions that have been converted to after-tax Roth contributions. If elected in the Adoption Agreement, if the Plan includes a designated Roth Deferral after September 27, 2010, it may permit a Participant to take an Eligible Rollover Distribution pursuant to Section 2.5.12 and transfer such amounts into an In-Plan Roth Conversion Account within the Plan. The Plan will maintain such

records as are necessary for the proper reporting of in-plan Roth rollovers.

"Insurer": Any insurance company that has issued a Life Insurance Policy.

"Integration Level": The Integration Level will be equal to the Taxable Wage Base or such lesser amount specified in the Adoption Agreement. The Integration Level will be deemed to be the full amount specified in the Adoption Agreement, even though a Participant's Compensation may include less than a full year's compensation because either they commenced participation after the first day of the Compensation Computation Period or they terminated service prior to the end of the Compensation Computation Period.

"Joint and Survivor Annuity": An annuity for the life of the Participant with a survivor annuity for the life of the spouse (or other Beneficiary) that is not less than 50% and not more than 100% of the amount of the annuity that is payable during the joint lives of the Participant and the spouse or other Beneficiary and that is the amount of benefit that can be purchased with the Participant's vested Account balances. The percentage of the survivor annuity will be 50% unless a different percentage is elected by the Employer in the Adoption Agreement.

"Key Employee": For Plan Years beginning after December 31, 2001, an Employee or former Employee (including any deceased Employee) who, at any time during the Plan Year that includes the Determination Date (as defined in Subsection 2.6.2(g)) is either:

(a) An officer of the Employer having an Annual Compensation (as defined in Subsection 2.6.2(b)) greater $130,000 (as adjusted by Code section 416(i) for Plan Years beginning after December 31, 2002);

(b) A 5-Percent Owner; or

(c) Any person who owns directly or indirectly more than 1% of the outstanding stock of the Employer or stock possessing more 1% of the total combined voting power of all stock of the Employer or, in the case of an unincorporated Employer, the capital or profits interest in the Employer and has Annual Compensation (as defined in Subsection 2.6.2(b)) from the Employer of more than $150,000.

The determination of who is a Key Employee will be made in accordance with Code section 416(i)(1) and the regulations thereunder.

"Lead Sponsor": The Employer or its successor, agent or representative who is designated as the Plan Sponsor of the Multiple Employer Plan.

"Leased Employee": Any person (other than an Employee of the recipient) who, pursuant to an agreement between the recipient and any other person (the "leasing organization"), has performed services for the recipient (or for the recipient and related persons determined in accordance with Code section 414(n)(6)) on a substantially full time basis for a period of at least 1 year and such services are performed under the primary direction or control of the recipient; provided, that any such person will not be taken into account if:

(a) Such person is covered by a money purchase pension plan providing

(1) A nonintegrated Employer Contribution rate of at least 10% of compensation, as defined in Code section 415(c)(3) and Subsection 3.2.5(a)(iii) of the Plan, but including in compensation amounts contributed by the employer pursuant to a salary reduction agreement that are excludable from the person's gross income under Code sections 125, 132(f)(4), 402(e)(3), 402(h), or 403(b);

(2) Immediate participation; and

(3) Full and immediate vesting; and

(b) Leased Employees do not constitute more than 20% of the workforce of the recipient who are not

Highly Compensated Employees.

Contributions or benefits provided a Leased Employee by the leasing organization that are attributable to services performed for the recipient employer will be treated as provided by the recipient employer.

"Life Insurance Policy": A life insurance, group or individual annuity, deposit administration, or endowment policy or contract owned by the Trust, including any Life Insurance Policy on the life of a Participant, the life of someone in whom the Participant has an insurable interest, or the joint lives of a Participant and someone in whom the Participant has an insurable interest.

"Limitation Year": Unless otherwise specified in the Adoption Agreement, the Limitation Year will be the Plan Year, provided that all qualified plans maintained by the Employer must use the same Limitation Year. If the Limitation Year is amended to a different 12 consecutive month period, the new Limitation Year must begin on a date within the Limitation Year during which the amendment is made.

"Mass Submitter": DATAIR Employee Benefits Systems, Inc.

"Matching Account": An Account established and maintained for a Participant for accounting purposes with respect to their share of Matching Contributions and Forfeitures.

"Matching Contribution": A contribution to the Plan by the Employer that matches in whole or in part an Elective Deferral on behalf of an electing Employee.

"Minimum Top-Heavy Allocation": The minimum allocation of a Participant for which provision is made in Sections 2.3.4 and 2.6.1.

"Multiple Employer Plan" (MEP): A plan maintained by two or more employer who are not related pursuant to Code sections 414(d), 414(c), 414(m) or 414(o) and that operates as a single plan as described in Code section 413(c).

"Non-Elective Contribution": A contribution to a cash or deferred profit sharing plan by the Employer that is not a Qualified Non-Elective Contribution, Matching Contribution, Elective Deferral, or Qualified Matching Contribution.

"Non-Highly Compensated Employee" (NHCE): Any Employee who does not meet the definition of a Highly Compensated Employee in effect for a particular Plan Year.

"Non-Key Employee": Any Employee who does not meet the definition of a Key Employee in effect for a particular Plan Year.

"Normal Retirement Age" and "NRA": The age specified as the Normal Retirement Age in the Adoption Agreement, but in no event the later of age 65 or the 5th anniversary of the participation in the Plan. For this purpose only, participation is assumed to commence as of the first day of the first Plan Year in which the Employee became a Participant.

In the case of a money purchase pension plan:

(1) the age may not be earlier than the earliest retirement age that is reasonably representative of the typical retirement age for the industry in which the Plan Participants work;

(2) an age of 62 or older automatically meets this requirement;

(3) the age selected must not be earlier than 55.

NRA is the age selected in the Adoption Agreement. If the Employer enforces a mandatory retirement age, the NRA is the lesser of that mandatory age or the age specified in the Adoption Agreement.

"Normal Retirement Date" and "NRD": The date specified in the Adoption Agreement as the Normal Retirement Date but in no event more than 6 months after the Participant attains their Normal Retirement Age.

"Owner-Employee": An individual who is a sole proprietor or a partner owning more than 10% of either the capital or profits interest of the partnership.

"Participant": Any Eligible Employee who enters the Plan after meeting the requirements of Section 2.1.1.

"Participating Employer": A Related Employer or Affiliated Employer, other than the Lead Sponsor, that has adopted the Plan.

"Plan": The defined contribution plan for Employees as set forth in this Agreement, the Trust, and the Adoption Agreement, together with any amendments or supplements thereto.

"Plan Administrator": The person, persons, or entity appointed by the Employer to administer the Plan, or, if the Employer fails to make such appointment, the Employer.

"Plan Sponsor": The Plan Sponsor specified in the Adoption Agreement. If elected in the Adoption Agreement the Plan Sponsor may serve as the Lead Sponsor for a Multiple Employer Plan.

"Plan Year" or "Year": The 12 consecutive month period designated by the Employer in the Adoption Agreement.

"Post Severance Compensation": Compensation paid a Participant after a severance of employment as defined in the definition of Compensation in Section 3.2.5 of the Plan.

"Preretirement Survivor Annuity": A survivor annuity for the life of the surviving spouse (or other Beneficiary) of the Participant purchasable with an amount equal to at least 50% of the vested Account balance of the Participant as of the date of the Participant's death, reduced if necessary, to reflect any security interest held by the Plan by reason of a loan outstanding to the Participant for which a valid spousal consent has been obtained.

"Pre-tax Elective Account": An Account established and maintained for a Participant for accounting purposes with respect to their Pre-tax Elective Deferrals.

"Pre-tax Elective Deferral": Any Elective Deferral that is not includible in the Participant's gross income at the time deferred.

"Pre-tax IRA Account": An Account established and maintained for a Participant for accounting purposes with respect to their Pre-tax IRA Deferrals.

"Pre-tax IRA Contribution": Any Deemed IRA Contribution that is not includible in the Participant's gross income at the time it is made.

"Prevailing Wage Contribution": An Employer Contribution made pursuant to the Davis Bacon Act or any other state or federal prevailing wage law.

"Primary Beneficiary under the Plan": An individual named as a Beneficiary under the Plan who has an unconditional right to all or a portion of the Employee's Account balance under the Plan upon the Employee's death.

"Qualified Automatic Contribution Arrangement" and "QACA": An arrangement in a cash or deferred plan as defined in Section 2.2.3(c) of this Plan under which an Employee that has not affirmatively elected to defer Compensation into the Plan will have an amount deferred on their behalf by the Plan Administrator as well as certain other required Employer Contributions.

"Qualified Domestic Relations Order" and "QDRO": A domestic relations order that creates or recognizes the existence of an Alternate Payee's right to receive all, or a portion of, the benefits payable with respect to a Participant under this or any other plan of the Employer and that the Plan Administrator has determined to satisfy the conditions of Code section 414(p).

"Qualified Joint and Survivor Annuity": A Joint and Survivor Annuity that is immediately payable and for which the Beneficiary is the Participant's spouse. The percentage of the survivor annuity will be 50% unless a different percentage is elected by the Employer in the Adoption Agreement.

"Qualified Matching Account": An Account established and maintained for a Participant for accounting purposes with respect to their share of Qualified Matching Contributions.

"Qualified Matching Contribution": A Matching Contribution that is 100% vested and nonforfeitable when made and that is distributable only in accordance with the distribution restrictions applicable to Elective Deferrals under the Plan, except that a Qualified Matching Contribution may not be distributed on account of Hardship prior to the Participant's attainment of age 59 1/2.

"Qualified Military Service": Any service in the uniformed services, whether on a voluntary or involuntary basis, including active duty, active duty for training, initial active duty for training, inactive training, full-time National Guard duty, and the period of time a person is absent to determine their fitness to perform any such duty. Uniformed services refers to the Armed Forces, the Army National Guard, the Air National Guard, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or national emergency. Notwithstanding any provision of this Plan to the contrary, contributions, benefits, and service credit with respect to Qualified Military Service will be provided in accordance with section 414(u) of the Code and applicable DOL and Treasury rules and regulations.

In addition, the survivors of any Participant who dies on or after January 1, 2007, while performing Qualified Military Service, are entitled to any additional benefits (other than contributions relating to the period of Qualified Military Service, but including vesting service credit for such period and any ancillary life insurance or other survivor benefits) that would have been provided under the Plan had the Participant resumed employment on the day preceding the Participant's death and then terminated employment on account of death.

"Qualified Non-Elective Account": An Account established and maintained for a Participant for accounting purposes with respect to their share of Qualified Non-Elective Contributions.

"Qualified Non-Elective Contribution": An Employer Contribution to a cash or deferred profit sharing plan that is neither a Non-Elective Contribution, Matching Contribution, Qualified Matching Contribution, nor an Elective Deferral, that is 100% vested and nonforfeitable when made, that a Participant may not elect to receive in cash, and that is distributable only in accordance with the distribution restrictions applicable to Elective Deferrals under the Plan, except that Qualified Non-Elective Contributions may not be distributed on account of Hardship prior to the Participant's attainment of age 59 1/2.

"Qualified Optional Survivor Annuity": An immediate annuity for the life of the Participant with a survivor annuity for the life of the spouse which is equal to the applicable percentage of the amount of the annuity which is payable during the joint lives of the Participant and the spouse and which is the amount of benefit which can be purchased with the Participant's vested Account Balance. If the percentage of the survivor annuity is less than 75%, the applicable percentage is 75%. If the percentage of the survivor annuity is greater than or equal to 75%, the applicable percentage is 50%.

"Qualified Preretirement Survivor Annuity": A Preretirement Survivor Annuity for which the Beneficiary is the Participant's spouse, and the benefit the Participant would have received is a Qualified Joint and Survivor Annuity (or the actuarial equivalent thereof).

"Qualifying Employer Securities or Real Property": Securities or real property of the Employer that the Trustee may acquire and hold pursuant to the applicable provisions of the Code and the Act.

"Related Employer": Any trade or business related to the Employer or affiliated employer by the application of Code sections 414(b), (c), (m), (n), or (o) (a required aggregation group). A Related Employer will not be considered a Participating Employer until they affirmatively elect to adopt the Plan.

"Rollover Account": An Account established and maintained for a Participant for accounting

purposes with respect to amounts the Participant has rolled over to this Plan.

"Roth Deferral" (an after-tax contribution): Any contribution made by the Employer to the Plan at the election of the Participant that is: (1) designated irrevocably by the Participant at the time of the cash or deferred election as a Roth Deferral that is being made in lieu of all or a portion of the Pre-tax Elective Deferrals the Participant is otherwise eligible to make under the Plan; (2) treated by the Employer as includible in the Participant's income at the time the Participant would have received the contribution amount in cash if the Participant had not made the deferral election; and (3) maintained by the Plan in a separate account. Roth Deferrals must satisfy all Plan restrictions applicable to Elective Deferrals.

Under the separate accounting requirement, contributions and withdrawals of designated Roth Deferrals must be credited and debited to a designated Roth Deferral Account maintained for the Participant who made the designation, and the Plan must maintain a record of the Participant's investment in the contract (i.e., designated Roth Deferrals that have not been distributed) with respect to the Participant's designated Roth Deferral Account. In addition, gains, losses, and other credits or charges must be separately allocated on a reasonable and consistent basis to the designated Roth Deferral Account and other accounts under the Plan. However, Forfeitures may not be allocated to the designated Roth Deferral Account. The separate accounting requirement applies at the time the designated Roth Deferral is contributed to the Plan and must continue to apply until the designated Roth Deferral Account is completely distributed.

A designated Roth Deferral must satisfy all requirements applicable to Elective Deferrals made under the Plan. Distributions from Roth Deferral Accounts (other than corrective distributions) are not includible in the Participant's gross income if made after the Participant's death, Disability, or age 59-1/2 provided that such distribution occurs after 5 years from the establishment of the Roth Deferral Account for the Participant. Earnings on corrective distributions of Roth Deferrals are includible in gross income in the same manner as earnings on corrective distributions of Pre-tax Elective Deferrals.

"Roth Deferral Account": An Account established and maintained for a Participant for accounting purposes with respect to their Roth Deferrals.

"Roth IRA Account" (Roth IRA): An Account established and maintained for a Participant for accounting purposes with respect to their Roth IRA Contributions.

"Roth IRA Contribution" (an after-tax contribution): Any Deemed IRA Contribution that is (1) designated irrevocably by the Participant at the time of the cash or deferred election as a Roth IRA Contribution; (2) treated by the Employer as includible in the Participant's income at the time the Participant would have received the contribution amount in cash if the Participant had not made the deferral election; and (3) maintained by the Plan in a separate account.

"Segregated Account": An Account established and maintained for a Participant for accounting purposes with respect to their interest in a Segregated Fund.

"Segregated Fund": Assets held in the name of the Trustee that have been segregated from the other assets of the Trust Fund in accordance with any of the provisions of the Plan.

"Self-Employed Individual": An individual who has Earned Income for the taxable year from the trade or business for which the Plan is established or who would have had Earned Income but for the fact that the trade or business had no net profits for the taxable year.

"Straight Life Annuity": An annuity payable in equal installments over the life of the Participant that terminates upon the Participant's death.

"Taxable Wage Base": The contribution and benefit base in effect under section 230 of the Social Security Act at the beginning of the Plan Year.

"True-up": The process of increasing an annual contribution that has been limited on a Compensation Computation Period basis to the amount and period determined when applying the limits elected in the Adoption Agreement.

"Trustee": The persons, corporations, associations, or combination of them who acts as such from time to time hereunder. The term "Trustee" as used herein will also include a person holding the assets of a custodial account, an annuity contract, or other contract that is treated as a qualified trust pursuant to Code section 401(f), and references to the Trust Fund will be construed to apply to such custodial account, annuity contract, or other contract.

"Trust Fund": All money and property of every kind and character held by the Trustee pursuant to the Plan. Such Trust will be established by a Trust Agreement separate from the Adoption Agreement and Base Plan Document.

"Valuation Date": The date or dates specified as the Valuation Date(s) in the Adoption Agreement and any additional dates the Plan Administrator may deem necessary in their sole discretion.

"Voluntary Account": An Account established and maintained for a Participant for accounting purposes with respect to their Voluntary Employee Contributions that were not deductible by the Participant at the time they were made.

"Voluntary Employee Contributions": Pre-tax contributions made by a Participant at their discretion, prior to Plan Years beginning in 1987, and after-tax contributions made by a Participant at their discretion, but not including Roth Deferrals or Roth IRA Contributions.

"Year of Credited Service": A 12 consecutive month period used in determining a Participant's benefit allocation. Unless otherwise specified in the Adoption Agreement, an Employee is granted a Year of Credited Service for each Plan Year in which they earn 1,000 Hours of Service. The Plan's benefit formula may limit or exclude certain Years of Credited Service in the calculation of a Participant's annual benefit allocation.

"Year of Service": A Year of Service is completed on the last day of a 12 consecutive month period (computation period) specified in the Adoption Agreement during which an Employee completes at least 1,000 Hours of Service. If elected in the Adoption Agreement, the hours requirement for the completion of a Year of Service for a particular purpose can be less than 1,000 hours and can be satisfied before the end of the Eligibility Computation Period. For purposes of the Elapsed Time Method, a Year of Service means 12 Months of Service, as defined in the definition of Elapsed Time Method in this Article, or such lesser number of months specified in the Adoption Agreement. All Years of Service will be taken into account for purposes of eligibility.

"Year of Vesting Service": A Year of Vesting Service is the 12 consecutive month period specified in the Adoption Agreement during which an Employee completes at least 1,000 Hours of Service or such lesser number of hours specified in the Adoption Agreement. For purposes of the Elapsed Time Method, a Year of Vesting Service means either 12 Months of Service, as defined in the definition of Elapsed Time Method in this Article, 365 days of service, or such other period of service specified in the Adoption Agreement. The Plan Administrator will take into account all Years of Vesting Service unless the Employer specifies exclusions in the Adoption Agreement.

PART II

ARTICLE I

PARTICIPATION

2.1.1 Eligibility Requirements. Each Eligible Employee will become a participant in this Plan and receive an appropriate allocation of contributions upon reaching an Entry Date while still an Employee following the satisfaction of the eligibility requirements set forth in the Adoption Agreement.

Under a plan with a cash or deferred arrangement ("CODA"), an Employee's eligibility to make Elective Deferrals may not be conditioned upon the completion of more than 1 Year of Service or the attainment of more than age 21.

An Employee that is a member of an employee classification that indirectly imposes an Hours of Service requirement (e.g., part-time, seasonal, or temporary) will be eligible to participate in the Plan in any Eligibility Computation Period in which the Employee attains age 21 and is credited with at least 1,000 Hours of Service, or such lesser age or Hours of Service required by the Plan.

2.1.2 Commencement of Participation. An Eligible Employee will become a Participant in the Plan on the applicable Entry Date selected in the Adoption Agreement.

2.1.3 Participation upon Reemployment.

(a) Reemployment after Satisfying Eligibility Requirements

Unless otherwise specified in the Adoption Agreement, a Participant whose employment terminates and who is subsequently reemployed will re-enter the Plan immediately on the date of their reemployment notwithstanding the fact that they received a distribution of all of their vested Benefit. In the event that an Employee completes the eligibility requirements set forth in the Adoption Agreement terminates their employment prior to the date they would have become a Participant, and they are subsequently reemployed after the date that they would have become a Participant, the Employee will be deemed to have met the eligibility requirements as of the date of their reemployment and will become a Participant on the date of their reemployment. If such Employee is reemployed prior to the date they would have become a Participant, had their employment had not terminated, they will become a Participant as of the date they would have become a Participant if their employment had not terminated.

(b) Reemployment before Satisfying Eligibility Requirements

Except as provided in the next paragraph, an Employee who has not met the eligibility requirements and whose employment terminates and who is subsequently reemployed will become a Participant in accordance with the provisions of Sections 2.1.1 and 2.1.2.

If the Plan has an eligibility requirement longer than one year, an Employee who terminates after completing a Year of Service and is subsequently reemployed prior to incurring a Break in Service will receive credit for that Year of Service for purposes of eligibility under Sections 2.1.1 and 2.1.2. However, an Employee who incurs a Break in Service will not receive credit for that Year of Service for the year prior to the break.

(c) An individual returning from a period of Qualified Military Service will recommence participation in the Plan immediately upon reemployment.

2.1.4 Termination of Participation. An Employee who has become a Participant will remain a Participant until the entire amount of their Distributable Benefit is distributed to them or in the event of their death, to their Beneficiary.

2.1.5 Plan Administrator's Determination. In the event any question arises regarding the eligibility of any person to become a Participant or the commencement of participation, the Plan Administrator

will determine such question and the Plan Administrator's decision will be conclusive and binding.

2.1.6 One-time Election Not to Participate.

(a) Employees who made an election not to participate in this Plan or any other plan of the Employer pursuant to (b) and (c) below will continue to be excluded from this Plan on and after the date the Plan was restated for post-EGTRRA.

(b) Where an Employer may have elected to permit an Employee to make an election not to participate in the Plan. The election should:

(1) Include plans not yet established;

(2) Be for the duration of the Employee's employment with the Employer;

(3) Be a one-time irrevocable election;

(4) Be made no later than the first date an Employee becomes eligible under the Plan or any plan or arrangement of the Employer that is described in Code section 219(g)(5)(A) (whether or not such other plan or arrangement has terminated).

Such a one-time irrevocable election described in this Section will not be treated as having been made pursuant to a cash or deferred election.

(c) In the case of an irrevocable election made on or before December 23, 1994:

(1) The election does not fail to be treated as a one-time irrevocable election under this Section merely because an Employee was previously eligible under another plan of the Employer (whether or not such other plan has terminated); and

(2) In the case of a plan in which partners may participate, the election does not fail to be treated as a one-time irrevocable election under this Section merely because the election was made after the partner's commencement of employment or after the Employee first became eligible under any plan of the Employer, provided that the election was made before the first day of the first Plan Year beginning after December 31, 1988, or, if later, March 31, 1989.

2.1.7 Change in Status. If any Participant continues to be employed by the Employer or an affiliate for which service is required to be taken into account, but ceases to be a member of an eligible class of Employees for any reason (such as becoming covered by a collective bargaining agreement unless the collective bargaining agreement otherwise provides), the Participant will continue to be a Participant until the entire amount of their benefit is distributed. The individual will not be eligible for any Employer Contribution for purposes of Article III ("Allocations") during the period that the Participant is not an Eligible Employee for such reason. This means while a member of an ineligible class the Employee will not receive an allocation of Employer Contributions. Such Participant will continue to receive credit for Years of Vesting Service completed during the period for purposes of determining their vested and nonforfeitable interest in their Accounts. In the event that the individual subsequently again becomes a member of an eligible class of Employees, the individual will participate immediately upon the date of such change in status.

If a Participant incurs a Break in Service and is subsequently reemployed, eligibility to participate will be determined in accordance with Section 2.1.3. In the event that an individual who is not a member of an eligible class of Employees becomes a member of an eligible class, the individual will participate immediately if such individual has satisfied the eligibility requirements and would have otherwise previously become a Participant and will receive credit for Years of Vesting Service completed while in the ineligible class for purposes of determining their vested and nonforfeitable interest in their Accounts.

Any Participant who ceases to be a member of an eligible class of Employees and would otherwise be entitled to a Top-Heavy Minimum Contribution will have any such contribution based on Compensation while a member of an eligible class of Employees.

2.1.8 Existing Participants. Unless otherwise specified in the Adoption Agreement, if an Employee was a Participant on the Effective Date of this Plan, under the provisions of the Plan as in effect immediately prior to the Effective Date, they will be a Participant on the Effective Date and the provisions of Sections 2.1.1 and 2.1.2, pertaining to participation, will not be applicable unless the Employee is a member of an excluded class, as provided in Section 2.1.7. The rights of a Participant who is a member of an excluded class and whose employment terminated prior to the Effective Date of this Plan will be determined under the provisions of the Plan as in effect at the time of such termination.

2.1.9 Service Crediting Method. All Years of Service with the Employer will be used in to determine eligibility and break in service. The Employer may elect in the Adoption Agreement to use the Hours of Service method, Elapsed Time Method or any of the optional service counting methods permitted within the Plan for eligibility to participate, vesting, and application of the benefit formula. Thus, for example, service for eligibility may be determined by counting actual hours worked, while service for vesting could be determined either by the equivalencies as provided in the Adoption Agreement or by the Elapsed Time Method.

ARTICLE II

CONTRIBUTIONS

2.2.1 Employer Contributions.

(a) Amount of Contribution.

(1) Money Purchase Pension Plan. The Employer will contribute to the Trust Fund each Plan Year such amount, including any Forfeitures to be applied, as set forth in the Adoption Agreement.

(2) Profit Sharing Plan. The Employer may contribute to the Trust Fund each Plan Year such amount as elected in the Adoption Agreement.

(3) Cash or Deferred Profit Sharing Plan.

(i) Amount of Non-Elective Contribution. The Employer will contribute to the Trust Fund each Plan Year such amount as a Non-Elective Contribution as the Employer elected in the Adoption Agreement.

(ii) Amount of Matching Contribution. Subject to applicable limitations provided by the Plan, the Employer will contribute to the Trust Fund each Plan Year with respect to the amount of Elective Deferrals on behalf of each electing Employee, a Matching Contribution determined in the manner set forth in the Adoption Agreement, to the extent permitted under Code section 401(m). If elected in the Adoption Agreement, Catch-up Contributions will not be treated as Elective Deferrals in the calculation of Matching Contributions. If the Participants' Elective Deferral elections are made on an annual basis, but Elective Deferrals are taken from Compensation on some other basis, the Employer must True-Up Matching Contributions at the end of the Plan Year to an annual basis, unless elected otherwise in the Adoption Agreement.

(iii) Amount of Qualified Non-Elective Contribution and Qualified Matching Contribution. The Employer may, if elected in the Adoption Agreement, contribute to the Trust Fund each Plan Year such amount as a Qualified Non-Elective Contribution or Qualified Matching Contribution as the Employer may determine. In addition, if the Employer has elected in the Adoption Agreement to use the Current Year Testing Method, in lieu of distributing Excess Contributions or Excess Aggregate Contributions as provided in Article VII below, and to the extent elected by the Employer in the Adoption Agreement, the Employer may make Qualified Non-Elective Contributions or Qualified Matching Contributions on behalf of Participants who are not Highly Compensated Employees that are sufficient to satisfy either the ADP test or the ACP test, or both, pursuant to regulations under the Code.

(4) Prevailing Wage Contribution. Notwithstanding any other provision of this subsection 2.2.1, the Employer may, if elected in the Adoption Agreement, contribute a required prevailing wage contribution. If the Employer elects in the Adoption Agreement such amounts may be used to reduce or offset other Employer Contributions. The Plan Administrator will determine the contribution to be reduced or offset.

(5) In-kind Contributions The contribution of property, other than Qualifying Employer Securities, to a profit sharing plan or cash or deferred profit sharing plan, will be permitted, so long as the contribution is discretionary and the property is unencumbered. The contribution of Qualifying Employer Securities will be permitted to a pension plan subject to the requirements of ERISA section 408(e).

(b) Limitation. The Employer's Contribution for any Plan Year will not exceed the maximum amount deductible from the Employer's income for such year for federal income tax purposes under the applicable Code sections.

(c) Time of Contribution. All Employer Contributions will be delivered to the Trustee not later than the date fixed by law for the filing of the Employer's federal income tax return for the Year for which such contribution is made (including any extensions of time granted by the Internal Revenue Service for filing such return).

(d) Determination of Amount to be Final. The Employer's determination of the amount of its contribution hereunder will be in all respects final, binding, and conclusive on all persons or parties having or claiming any rights under this Agreement or under the Plan and the Trust created hereby. Under no circumstances and in no event will any Participant, Beneficiary, or other person or party have any right to examine the Employer's books or records. This subparagraph will not operate to limit any right to review granted by ERISA.

(e) True-Up. The Employer may make an additional contribution ("true up") on behalf of each Participant in the amount of the positive difference, if any, between the contributions that would have been allocated to their Account had such contributions been determined on the basis of Compensation for the entire Plan Year and the contributions previously allocated to such Participant's Account.

2.2.2 Elective Deferrals Contributed by the Employer on Behalf of Electing Employees.

(a) Amount of Deferrals. If the Plan is designated in the Adoption Agreement as a Cash or Deferred Profit Sharing Plan, each Participant may elect to have the Employer contribute to the Trust on their behalf for any Plan Year during which they are a Participant such amounts expressed either in dollars or percentages of their Compensation as they may elect, that would otherwise be payable by the Employer as Compensation. If elected in the Adoption Agreement, all or a portion of such Deferral amounts may be designated Roth Deferrals by the Participant. Such amount cannot exceed the dollar limitation on Elective Deferrals provided by Code section 402(g) in effect at the beginning of the taxable year (as adjusted for cost-of-living under Code section 402(g)(4)). In the case of a Participant age 50 or over by the end of the taxable year, Elective Deferrals that do not exceed the dollar limitation described in the preceding sentence may also include any Elective Deferrals that are treated as Catch-up Contributions (described in Subsection (c) below) because of another limitation.

Subsequent to reemployment after a period of Qualified Military Service, a Participant is entitled to make a contribution to make up Elective Deferrals they otherwise could have made if not for the period of Qualified Military Service. No such payment may exceed the amount the Participant would have been permitted or required to contribute had the Participant remained continuously employed by the Employer throughout the period of Qualified Military Service. Any payment to the Plan will be made during the period beginning with the date of reemployment and whose duration is three times the period of the Qualified Military Service, but not greater than five years.

Nevertheless, the Employer may impose reasonable limitations in a uniform, nondiscriminatory manner on the amounts contributed in order to satisfy applicable legal requirements and to ensure the deductibility of amounts contributed by the Employer to the Plan and any other qualified plan of deferred compensation. The Employer may elect in the Adoption Agreement to limit Elective Deferrals made on behalf of electing Employees to a percentage of Compensation or dollar amount that is less than the amount otherwise allowable by Code section 402(g). Where the Plan permits Elective Deferral and Catch-Up Contributions, the limit established by the Plan may not be a percentage that is less than 75 percent.

(b) Catch-up Contributions. If elected in the Adoption Agreement, a Participant may make Catch-up Contributions, which are Elective Deferrals made to the Plan that exceed an otherwise applicable Plan limit and that are made by Participants who are age 50 or over by the end of the applicable taxable year. An otherwise applicable Plan limit is a limit in the Plan that applies to Elective Deferrals without regard to Catch-up Contributions, such as the limits on Annual Additions (see Section 3.2.1), the dollar limitation on Elective Deferrals under Code section 402(g) (not counting Catch-up Contributions), and the limit imposed by the ADP test under Code section 401(k)(3) (see Section 2.7.1), or any Employer-provided limit on the amount of Elective Deferrals. Catch-up Contributions for a Participant for a taxable year may not exceed the lesser of:

(1) The dollar limit on Catch-up Contributions under Code section 414(v))(2)(B)(i) for the taxable year (as adjusted for cost-of-living under Code section 414(v)(2)(c)); or

(2) When added to the Participant's other Elective Deferrals, 100% of the Participant's Compensation for the taxable year.

All Catch-up eligible Participants will be provided with an effective opportunity to make the same dollar amount of Catch-up Contributions.

Catch-up Contributions are not subject to the limits on Annual Additions; are not counted in the ADP test; are not counted in determining the Minimum Top-Heavy Allocation (see Subsection 2.6.1(a)); and are not subject to any Employer-provided limit on the amount of Elective Deferrals. However, Catch-up Contributions made in prior years are counted in determining whether the Plan is Top-Heavy. (See Sections 2.6.1 and 2.6.2.)

(c) Election. The Plan Administrator will determine the manner in which a Participant may elect to have Elective Deferrals made to the Plan on their behalf. The Plan Administrator will establish reasonable periods during which the election may be made or modified and must allow at least one opportunity per Plan Year for a Participant to make or modify an election. Unless the Plan Administrator establishes another period during which the election may be made or modified, any such election may be made or modified during the 30-day period preceding the first day of the Plan Year. A Participant may not make a retroactive election, and once an election is made, it will remain in effect until modified or terminated. A Participant may revoke an election at any time. Except in the case of an in-plan Roth conversion pursuant to Section 2.5.12(f) (a rollover to a Participant's Roth Elective Deferral account from another Account of the Participant in this Plan), Elective Deferrals contributed to the Plan as one type, either Roth Deferrals or Pre-tax Elective Deferrals, may not later be reclassified as the other type.

(d) Payment of Contribution. Elective Deferrals will be remitted by the Employer to the Trustee or custodian on the earliest date that they can reasonably be segregated from the Employer's assets, but in no event later than the 15th business day of the month following the month in which the Participant contributions are withheld or received by the Employer, unless under the regulations an extension of up to 10 business days is granted by the Secretary of Labor with respect to Elective Deferrals received or withheld in a single month.

In the case of a small plan (less than 100) participants the Department of Labor has provided a safe harbor option for depositing Participant contributions within 7 business days after the money is received or withheld from payroll. This seven day rule was finalized as of January 14, 2010.

(e) Deferral Limitation After Hardship Distributions. For Hardship distributions occurring before January 1, 2002, a Participant may not have Elective Deferrals made on their behalf for the taxable year following the taxable year of a Hardship distribution in excess of the applicable limit under Code section 402(g) for such taxable year less the amount of the Employee's Elective Deferrals for the taxable year of the Hardship distribution.

2.2.3 Automatic Compensation Reduction (ACA), Eligible Automatic Contribution Arrangements (EACA) and Qualified Automatic Contribution Arrangements QACA).

(a) ACA. If elected in the Adoption Agreement, an Employee who becomes eligible to participate in the Plan and does not affirmatively elect to receive cash or have a specified amount contributed to the Plan will have their Compensation automatically reduced by the percentage elected in the Adoption Agreement. This percentage will be contributed to the Plan as a Pre-tax Elective Deferral. A Participant can make an affirmative election to make no Pre-Tax Elective Deferrals or to defer a different percentage of Compensation at any time.

The ACA is effective for any period in which an Employee has not made an affirmative election or until superseded by a subsequent election that is made in writing and filed with the Employer. Under the ACA the Employer will automatically reduce the Employee's Compensation within a reasonable time after giving notice of the arrangement and providing the Employee with an

effective opportunity to make an affirmative election.

The Employee must receive a notice that explains the ACA and the Employee's right to elect to have no such ACA made or to alter the amount of those reductions, including the procedure for exercising that right and the timing for implementation of any such election. The Employee must be notified annually of their ACA and the Employee's right to change that percentage. Each notice period must provide the Employee with a reasonable period to exercise their right to make an affirmative election.

If elected in the Adoption Agreement, the Employer may elect to apply the ACA to:

(i) a current Participant who has an Elective Deferral election in effect for less than the ACA percentage elected in the Adoption Agreement,

(ii) a current Participant who has no Elective Deferral election in effect,

(iii) to all Participants hired after a specified date, or

(iv) to Participants who do not make an Elective Deferral election within the reasonable period specified in the Plan.,

If that Participant thereafter makes an affirmative election to reduce their compensation by another percentage (or by zero percentage), then that affirmative election will be effective for pay periods beginning in the month following the date the Participant files the election with the Plan Administrator.

A Participant that is subject to an Automatic Compensation Reduction (ACA) will have the amount of the ACA increased by the rate elected in the Adoption Agreement, unless elected otherwise by the Participant, beginning the first day of the calendar year following the calendar year in which an ACA first became effective. The total increase of the ACA will be limited as elected in the Adoption Agreement.

(b) EACA. If elected in the Adoption Agreement, the Plan may satisfy the requirement for an Eligible Automatic Contribution Arrangement using an Automatic Compensation Reduction (ACA) arrangement under section 1.401(k)-(1(a) (2) and the uniform default percentage under section 1.414(w)-1 of the Treasury Regulations.

If that Participant thereafter makes an affirmative election to reduce their compensation by another percentage (or by zero percentage), then that affirmative election will be effective for pay periods beginning in the month following the date the Participant files the election with the Plan Administrator.

(1) Definition. For purposes of this Section 2.2.3(b), an "Eligible Automatic Contribution Arrangement" is an ACA arrangement under a cash or deferred profit sharing plan in which:

(i) a Covered Employee may elect to have the Employer defer a portion of their Compensation as a Pre-tax Elective Deferral under the Plan or receive such amounts directly in cash;

(ii) a Covered Employee who fails to make an affirmative election is treated as having elected to have the Employer make such contributions in an amount equal to a uniform percentage of Compensation;

(iii) the Employer has identified the group of Employees who will be covered under the EACA and to whom the default percentage will apply; and

(iv) the Employer meets the Annual Notice Requirements of Section 2.2.3(d).

(2) Automatic Default Elective Contribution. Default elective contributions will automatically be made for a Covered Employee who does not have an affirmative election in effect on or

before the date the default election applies. The default election will be effective no earlier than a reasonable period after receipt of the notice described in Section 2.2.3(d).

For the purpose of this Section, a default elective contribution will be a Pre-tax Elective Deferral. The amount of the default elective contribution made for a Covered Employee in each pay period will be based on a uniform default percentage elected in the Adoption Agreement, multiplied by the Covered Employee's Compensation for that pay period.

If elected in the Adoption Agreement, the default percentage applied to a Covered Employee's Compensation will increase by a designated percentage each Plan Year, beginning with the second Plan Year that begins after the Plan Year in which the initial default percentage first applies to that Covered Employee. Unless otherwise elected in the Adoption Agreement, the increase will be effective on the first day of the Plan Year.

(3) Affirmative Election. To avoid having default elective contributions deducted from their Compensation, a Covered Employee must make a written affirmative election. Unless otherwise elected in the Adoption Agreement, each year a Covered Employee will be required to make an affirmative election to have a higher or lower percentage (or zero percentage) applied to their Compensation, otherwise the default election will automatically apply at the default percentage elected in the Adoption Agreement.

(4) Limitations. To meet the limitations under Code sections 401(a)(17), 402(g) and 415(c) and to satisfy any suspension periods required after a Hardship distribution, the Employer may stop or reduce an Employee's contributions to the Plan.

(5) Covered Employees. A Covered Employee is an Employee who meets the eligibility requirements of the Plan and who is identified in the Adoption Agreement as a covered under the EACA.

(A) All Employees who are eligible to make Pre-tax Elective Deferrals to the Plan will be covered by the EACA and designated as Covered Employees, unless in the Adoption Agreement, the Employer identifies a specific group of Employees or classification of Employees to whom the default percentage will apply.

(B) A Covered Employee will have a reasonable opportunity after receipt of the notice described in Section 2.2.3(d) of the Plan to make an affirmative election regarding Pre-tax Elective Deferrals (either to have no Pre-tax Elective Deferrals made to the Plan or to have a different amount of Elective Deferrals made on their behalf) before the default percentage in Section 2.2.3(b)(2) above is applied.

(6) Unless otherwise elected by the Employer in the Adoption Agreement, when an Employee makes an affirmative election to make Elective Deferrals to the Plan at a percentage that is higher or lower than the default percent, that Employee will cease to be a Covered Employee for the Plan Year and for the purpose of the default percentage in Section 2.2.3(b)(2) and the Annual Notice provisions in Section 2.2.3(d).

(7) Permissible Withdrawal. The Covered Employee may request a Permissible Withdrawal from the Plan, no later than 90 days after the date on which the default elective contributions were first withheld from their Compensation. A "Permissible Withdrawal" is a distribution from the Plan of the default elective contribution made under an EACA that:

(A) is made pursuant to a written election by a Covered Employee;

(B) consists of the entire amount of contributions described in Section 2.2.3(b)(2) plus earnings attributable thereto through the date of the distribution; and

(C) is includible in the Covered Employee's gross income for the taxable year in which the distribution is made.

The Plan may charge the Covered Employee a withdrawal fee in an amount and manner similar to

the fee charged for processing a cash distribution from their account, according to a written expense policy, adopted by the Plan.

Notwithstanding the distribution provisions described in the Plan, spousal consent is not required for this distribution.

(8) Time for Making a Permissible Withdrawal Election. The provision of Subsection 2.2.3(b)(7) will not apply to a Covered Employee's withdrawal election, unless the election is made no later than 90 days after the date of their first default elective contribution. In the Adoption Agreement, the Employer may specify an earlier date for making this election, provided the election period is at least 30 days.

(9) Distribution Amount. The provision of Subsection 2.2.3(b)(7) will not apply to any election by a Covered Employee, unless the amount of the Permissible Withdrawal is limited to the amount of the default elective contributions made through the earlier of the second payroll period to which the default percentage first applied or the first payroll period that occurs 30 days before the effective date of the election. The amount of the distribution will be adjusted for earnings, investment gain or losses.

(10) Special Rules. The amount distributed as a Permissible Withdrawal will not be counted in the annual limitation on Elective Deferrals under Code section 402(g) for the calendar year in which the automatic contributions were contributed.

(11) Special Rules for Timing of Excess Contribution and Excess Aggregate Contribution. For Plan Years beginning on or after January 1, 2010, where all eligible Non-Highly Compensated Employees and all eligible Highly Compensated Employees are designated as Covered Employees under EACA for the entire Plan Year, the Plan Administrator must distribute Excess Contributions and Excess Aggregate Contributions from the Plan no later than 6 months after the last day of the Plan Year in which the excess amounts were determined.

(12) Tax Treatment of Excess Contributions. For Plan Years beginning after December 31, 2008, a corrective distribution of Excess Contributions (adjusted for any income or losses) will be included in an Employee's gross income in the tax year in which the distribution occurs.

(13) Forfeit of Employer Match under an Eligible Automatic Contribution Arrangement. For Plan Years beginning after January 1, 2010, Employer Matching Contributions that are made on amounts distributed from the Plan as Permissible Withdrawals will not be forfeited unless the matching contribution has been allocated to the Employee's account.

(c) QACA If elected in the Adoption Agreement, the Plan will satisfy the nondiscrimination requirements under Code section 401(k), by including the Safe Harbor contributions provision for a Qualified Automatic Contribution Arrangement and the Automatic Compensation Reduction (ACA) arrangement under sections 1.401(k)-3(j) and 1.401(k)-1(a)(2) of the Treasury Regulations.

(1) Definition. For purposes of this Section, a "Qualified Automatic Contribution Arrangement" is an ACA arrangement under which:

(i) an Employee may elect to have the Employer defer a portion of their Compensation as a Pre-tax Elective Deferral under the Plan or to receive such amounts directly in cash;

(ii) an Employee who fails to make an affirmative election is treated as having elected to have the Employer make such contributions as Default Elective Contributions based on a predefined percentage of Compensation (default percentage);

(iii) the Employer will make either a Safe Harbor Matching Contribution or a Safe Harbor Non-Elective Contribution as described in Section 2.2.3(c)(7); and

(iv) the Employer meets the Annual Notice Requirements of Section 2.2.3(d).

(2) Default Elective Contribution. Default Elective Contributions will automatically be made for an Employee who does not have an affirmative election in effect, on or before the date a default election applies. The default election will be effective no earlier than a reasonable period after receipt of the notice described in Section 2.2.3(d).

For the purpose of this Section 2.2.3, Default Elective Contributions will be Pre-tax Elective Deferrals. The amount of the Default Elective Contribution made for an Eligible Employee, in each pay period, will be based on the Minimum Default Percentage specified in Subsection 2.2.3(c)(6) and elected in the Adoption Agreement, multiplied by the Employee's Compensation for that pay period.

(3) Affirmative Election. To avoid having Default Elective Contributions deducted from their Compensation, an Eligible Employee must make a written affirmative election. Each year the Eligible Employee will be required to make an affirmative election to have a higher or lower percentage (or zero percentage) applied to their Compensation otherwise the default election will automatically apply at the default percentage described in Subsection 2.2.3(c)(6) and elected in the Adoption Agreement.

(4) Limitations. To meet the limitations under Code sections 401(a)(17), 402(g) and 415(c) and to satisfy any suspension periods required after a hardship distribution, the Employer may stop or reduce an Employee's contributions to the Plan.

(5) Eligible Employee: All Employees eligible to make Elective Deferrals to the Plan, will be covered by the QACA, unless otherwise specified in the Adoption Agreement.

(i) Permissible Exclusion. The Employer may elect, in the Adoption Agreement, to exclude current Participants who were eligible immediately before the effective date of these QACA provisions and had an affirmative election on file regarding Elective Deferrals.

(ii) Statutory Exclusion. The Employer may elect in the Adoption Agreement to exclude Employees who have not met the statutory eligibility requirements, as defined in Code section 410(b). This election will permit the Plan to exclude employees who have not yet reached age 21 and completed a Year of Service since their original Employment Commencement Date.

(6) Provisions for the Default Elective Contribution. The Employer will specify in the Adoption Agreement how the Default Elective Contribution will be determined for each Eligible Employee based on a minimum default percentage that will automatically increase after the initial period. Unless otherwise elected in the Adoption Agreement, the default percentage will be uniformly applied to an Employee's Compensation under the ACA arrangement for the entire Plan Year and will automatically increase for Plan Years after the initial period.

(i) Minimum Default Percentage. The Plan must have a Minimum Default Percentage that is at least 3% of an Employee's Compensation beginning with the initial period. The Minimum Default Percentage must be applied uniformly to all Eligible Employees, under a default election.

The Minimum Default Percentage will automatically increase for Plan Years beginning after the initial default election ("initial period"). Under the Automatic Escalator Method, the Minimum Default Percentage will be at least:

(A) 3% during the initial period, which begins on the date the first Default Elective Contributions are made with respect to such Employee;

(B) 4% during the period ending on the last day of the first Plan Year which begins after the date on which the first Default Elective Contribution described in Subparagraph (i) is made with respect to such Employee;

(C) 5% during the second Plan Year following the Plan Year described in Subparagraph (A); and

(D) 6% during any subsequent Plan Year.

Notwithstanding the preceding, an alternative to the Automatic Escalator Method may be elected in the Adoption Agreement:

(E) the Plan may elect to impose a higher percentage for the initial period and each Plan Year thereafter; or

(F) the Employer may elect in the Adoption Agreement to impose a uniform, flat percentage without annual increases, provided the Minimum Default Percentage is at least 6% or not more than the QACA rate maximum without annual increase.

(ii) Maximum Default Percentage. The Maximum Default Percentage cannot exceed 10%. If elected in the Adoption Agreement, the Employer may specify a lower maximum for the Plan.

(iii) Initial Period. For the purpose of applying a Minimum Default Percentage, an initial period begins when the default election for this QACA provision is first applied to an Eligible Employee and ends on the last day of the following Plan Year. The timing for a default election will be determined under the Annual Notice provisions described in Section 2.2.3(d) of the Plan.

If elected in the Adoption Agreement, the Plan may elect to:

(A) have a new initial period begin for an Employee who did not have any contributions made to the Plan during the entire Plan Year. and

(B) have the default percentage increase after the initial period on a date other than the first day of a Plan Year.

(7) Safe Harbor Contributions. The Employer is required to make Matching Contributions or Non-Elective Contributions. In the Adoption Agreement, the Employer will select and contribute to the Plan one of the following types of Safe Harbor Contributions for each Plan Year for which the QACA is effective:

(i) Matching Contribution. A Matching Contribution for each Non-Highly Compensated Employee in an amount equal to the sum of 100% of their Elective Deferrals, to the extent that such Elective Deferrals do not exceed 1% of their Compensation plus an additional Matching Contribution equal to 50% of the Eligible Employee's Elective Deferral that exceed 1% but does not exceed 6% of their Compensation; or

(ii) Non-Elective Contribution. A Non-Elective Contribution for each Eligible Employee in an amount equal to at least 3% of the Employee's Compensation; regardless as to whether or not the Employee elects to make Elective Deferral or Employee Voluntary Contributions to the Plan.

Notwithstanding the preceding, if elected in the Adoption Agreement, the Employer may elect to contribute a Matching Contribution or Non-Elective Contribution in an amount equal to or greater than the percentage allowed herein, provided it satisfies the requirement of sections 1.401(k)-3(b) or 1.401(k)-3(c) of the Treasury Regulations.

(iii) Special Requirements. The Safe Harbor Matching Contributions or the Safe Harbor Non-Elective Contributions made under this Section 2.2.3(c) will be subject to the following distribution restrictions and vesting requirements:

(A) Safe Harbor Contributions may not be withdrawn from the Plan before age 59-1/2, under the withdrawal restrictions described in section 1.401(k)-1(d) of the Treasury

Regulations; and

(B) Safe Harbor Contributions must be 100% vested after an Employee has completed 2 Years of Service.

(d) Annual Notice Requirement. QACA and EACA

(1) The Plan Administrator will give each Employee to whom the Qualified Automatic Contribution Arrangement in Section 2.2.3(c) or Eligible Automatic Contribution Arrangement in Section 2.2.3(b) applies, a notice explaining the Employee's rights and obligations under the arrangement. The notice must be provided within a reasonable period before the beginning of each Plan Year and it must be:

(i) sufficiently accurate and comprehensive to apprise the Employee of such rights and obligations and

(ii) written in a manner easily understood by the average Employee to whom the arrangement applies.

(iii) In the case of an EACA, the Employer will also include within the notice the Covered Employee's right to make a Permissible Withdrawal pursuant to Subsection 2.2.3(a)(7) and the administrative procedures for making such an election.

(2) Timing and Form of Notice. A notice will not be treated as meeting the requirements of this Section with respect to an Eligible Employee unless:

(i) the notice includes the level of the Default Elective Contribution that will be made for the affected Employee if they do not make an affirmative election;

(ii) the notice includes an explanation of the Employee's right to elect not to have Elective Deferral Contributions made on the Employee's behalf or to elect to have such contributions made at a different percentage;

(iii) the notice is given before the beginning of each Plan Year and gives the Employee a reasonable period after receipt of the notice to make an affirmative election.

(iv) the notice explains how Elective Deferrals and Safe Harbor or Employer Contributions made under the arrangement will be invested in the absence of any investment election by the Employee or where the Plan provides for two or more investment options.

(3) Reasonable Period. A notice satisfies the timing requirements of this Section only if it is provided sufficiently early so that the Employee has a reasonable period of time, after receipt of the notice, to make the elections described in Sections 2.2.3(b)(3) and 2.2.3(c)(3). The timing of the notice is considered reasonable if it is provided no later than the first pay date in the second payroll period that begins after the date the notice was provided or the first pay date that occurs at least 30 days after the notice is given to a newly hired employee. Notwithstanding, the Plan cannot make the default election effective any later than the earlier of:

(i) the pay date for the second payroll period that begins after the date the notice is provided; and

(ii) the first pay date that occurs at least 30 days after the notice is provided.

(iii) in the case of an EACA the Plan Administrator will include within the notice the Covered Employee's right to make a Permissible Withdrawal pursuant to Subsections 2.2.3(b)(3) and (7) and the administrative procedures for making such an election.

(e) Expiration of Affirmative Elections

Under a 401(k) plan, the plan may provide that an affirmative election expires annually. If a

Participant fails to complete a new affirmative election subsequent to their prior election expiring, the Participant becomes subject to the default deferral percentage as outlined in the plan pursuant to the automatic contribution provision. Each year, the Participant can always complete a new affirmative election and designate a new deferral percentage.

2.2.4 Employee Contributions.

(a) Amount of Contribution. Subject to the Employer's election in the Adoption Agreement, an Employee may make Voluntary Employee Contributions to the Plan on an after-tax basis. Voluntary Employee Contributions for Plan Years beginning after 1986 must meet the nondiscriminatory test of Code section 401(m). Such contributions will be maintained in a Voluntary Account and will be nonforfeitable at all times. The Voluntary Account will share in the gains and losses of the Trust according to the policy adopted pursuant to Section 3.1.3.

The Plan Administrator will not accept Deductible Voluntary Employee Contributions that are made for a taxable year beginning after December 31, 1986. Deductible Voluntary Employee contributions made prior to that date will be maintained in a Deductible Voluntary Account that will be nonforfeitable at all times. This Account will share in the gains and losses of the Trust according to the policy adopted pursuant to Section 3.1.3. No part of the Deductible Voluntary Account will be used to purchase life insurance.

(b) Withdrawal of Contributions. Subject to the requirements of Section 2.5.5 regarding Qualified Joint and Survivor Annuities (if applicable), the Participant may withdraw any part of the Voluntary Account or Deductible Voluntary Account by making a written application to the Plan Administrator. The Plan Administrator may adopt such procedures with respect to such withdrawals as may be necessary or appropriate. At the Plan Administrator's direction, the Trustee will distribute any such withdrawal to the Participant in accordance with those procedures. Except in the case of the Deductible Voluntary Account, such withdrawals will not include any interest or other increment earned on such contributions if the Participant is still an Employee. No Forfeitures will occur as a result of an Employee withdrawing such contributions. Notwithstanding the foregoing, the Employee's spouse must consent in writing to a withdrawal of Voluntary Employee Contributions subject to the spousal consent requirements of Subsection 2.5.5(c).

2.2.5 Return of Contributions. The Trustee will return contributions by the Employer, including Employer, Qualified Non-Elective, Non-Elective, Matching, and Qualified Matching Contributions, to the Employer in the following instances:

(a) If a contribution is made by the Employer because of mistake of fact, then the Trustee will return such contribution within 1 year after its payment upon the Employer's written request.

(b) Each contribution by the Employer is conditioned on initial qualification of the Plan under the applicable sections of the Code. If the Commissioner of Internal Revenue determines that the Plan does not initially qualify, then any contribution made incident to the initial qualification by the Employer will be returned within 1 year after the date of denial of initial qualification of the Plan, but only if the application for initial qualification is made by the time prescribed by law for filing the Employer's tax return for the taxable year in which the Plan is adopted, or such later date as the Secretary of the Treasury may prescribe.

(c) Each contribution by the Employer is conditioned upon the deductibility of the contribution under the applicable sections of the Code. If the deduction for part or all of a contribution is disallowed, the Trustee will return such contribution, to the extent of the disallowance, within 1 year after such disallowance.

2.2.6 Required Diversification For Plans That Hold Publicly Traded Securities. This Plan will provide Applicable Individuals with the right to divest Employer Securities in their Accounts and reinvest those amounts in certain diversified investments.

(a) In the case of the portion of an Applicable Individual's Account attributable to Voluntary Employee Contributions and Elective Deferrals invested in Employer Securities, the Plan will provide the Applicable Individual the right to direct the Plan to divest any such securities and to reinvest an

equivalent amount in other investment options meeting the requirements of Paragraph (c).

(1) An Applicable Individual with respect to Elective Deferrals and Voluntary Employee Contributions is:

(A) a Participant in the Plan;

(B) an Alternate Payee who has an account under the Plan; or

(C) a Beneficiary of a deceased Participant

(b) In the case of the portion of the Account attributable to Employer Contributions other than Elective Deferrals invested in Employer Securities, an Applicable Individual may elect to direct the plan to divest any such securities and to reinvest an equivalent amount in other investment options meeting the requirements of Paragraph (c).

(2) An Applicable Individual with respect to the Employer Contributions is:

(A) a Participant who has completed at least 3 years of service;

(B) an Alternate Payee who has an Account under the Plan with respect to a Participant who has completed at least 3 Years of Service; or

(C) a Beneficiary of a deceased Participant

(c) Investment options.

(1) The Plan will offer not less than 3 investment options, other than Employer Securities, to which an Applicable Individual may direct the proceeds from the divestment of Employer Securities. Each investment option must be diversified and have materially different risk and return characteristics.

(2) The Plan will permit an election to divest or reinvest at least quarterly.

(3) The Plan will not meet the requirements of this Section if the Plan imposes restrictions or conditions with respect to the investment of Employer Securities that are not imposed on the investment of other Plan assets. Notwithstanding, any restrictions or conditions imposed by under applicable securities laws will apply.

(d) Applicable Defined Contribution Plan. For purposes of this Section, the term "Applicable Defined Contribution Plan" means:

(1) any defined contribution plan which holds any Publicly Traded Employer Securities and

(2) does not include a one-participant retirement plan.

(A) The term "one-participant retirement plan" means a retirement plan that on the first day of the Plan Year:

(1) covers only one individual (or the individual and the individual's spouse) and the individual (or the individual and the individual's spouse) owned 100% of the plan sponsor (whether or not incorporated), or

(2) covers only one or more partners (or partners and their spouses) in the plan sponsor.

(B) The term "partner" includes a 2% shareholder (as defined in Code section 1372(b)) of an S Corporation.

(e) Certain plans treated as holding Publicly Traded Employer Securities.

(1) In the case of Employer Securities that are not Publicly Traded Employer Securities, the Plan will be treated as holding Publicly Traded Employer Securities if any Employer corporation, or any member of a Controlled Group of Corporations, which includes such Employer corporation, has issued a class of stock that is a Publicly Traded Employer Security.

(2) Exception for certain controlled groups with publicly traded securities, Clause (1) will not apply to the Plan if:

(A) no Employer Corporation or Parent Corporation of an Employer Corporation has issued any publicly traded Employer Security, and

(B) no Employer Corporation or Parent Corporation of an Employer Corporation has issued any special class of stock that grants particular rights to, or bears particular risks for the holder or issuer with respect to any corporation described in Subparagraph (i) that has issued any Publicly Traded Employer Security.

(3) **Definitions.** For purposes of this Subparagraph:

(A) **"Controlled Group of Corporations"** has the meaning given such term by Code section 1563(a) , except that "50 percent" will be substituted for "80 percent" each place it appears;

(B) **"Employer Corporation"** means a corporation which is an Employer maintaining the Plan; and

(C) **"Parent Corporation"** has the meaning given such term by Code section 424(e).

(f) **Other definitions.** For purposes of this Section:

(1) **"Elective Deferrals"** means an Employer Contribution as described in Code section 402(g)(3)(A).

(2) **"Employer Security"** has the meaning given by Code section 407(d)(1) of the Employee Retirement Income Security Act of 1974.

(3) **"Employee Stock Ownership Plan"** has the meaning given by Code section 4975(e)(7).

(4) **"Publicly Traded Employer Securities"** means Employer Securities that are readily tradable on an established securities market.

(5) **"Year of Service"** has the meaning given by Code section 411(a)(5).

(g) **Transition rule for securities attributable to Employer Contributions**

(1) Rules phased in over 3 years.

(A) In the case of the portion of an Employer Account other than Elective Deferral Account consisting of Employer Securities acquired in a Plan Year beginning before January 1, 2007, Section (b) will only apply to the Applicable Percentage of such securities. This subparagraph applies separately with respect to each class of securities.

(B) Exception for certain Participants aged 55 or over. The Transition Rules of Subparagraph (1) will not apply to an Applicable Individual who is a Participant who has attained age 55 and completed at least 3 Years of Service before the first Plan Year beginning after December 31, 2005.

(2) **Applicable Percentage.** For purposes of Subparagraph (1), the Applicable Percentage will be determined as follows:

Plan year to which Section (b) applies	The Applicable Percentage is
First Year	33
Second Year	66
Third and following Years	100

(h) Effective Date. The Diversification requirements of Section 2.2.6 will apply to the Plan and are effective with respect to Plan Years beginning after December 31, 2006, subject to certain special effective date rules, including a special rule with respect to plans maintained pursuant to a collective bargaining agreement.

ARTICLE III

ALLOCATIONS

2.3.1 Basic Allocation. Unless otherwise elected by the Employer in the Adoption Agreement, as of the last day of the Plan Year, the contribution made by the Employer, including any Forfeitures to be allocated, with respect to the Plan Year will be allocated among the Employer Accounts of Participants during the Plan Year, in the manner set forth in the Adoption Agreement; provided, that the Employer Contribution must satisfy the requirements of Code section 416 regardless of how the Adoption Agreement is completed.

2.3.2 Profit Sharing, Money Purchase Pension Plans. Unless otherwise elected by the Employer in the Adoption Agreement, as of the last day of the Plan Year, the Employer Contributions made by the Employer with respect to the Plan Year and Forfeitures will be allocated among the Employer Accounts of Participants during the Plan Year in the manner set forth in the Adoption Agreement. A Participant is treated as benefiting under the Plan for any Plan Year during which the Participant received or is deemed to receive an allocation in accordance with Treasury Regulations section 1.410(b)-3(a). If a Plan is integrated with Social Security, Section 2.3.5 or 2.3.6, as the case may be, will also apply.

(a) As elected by the Employer in the Adoption Agreement, the Employer will determine the total amount of contributions for each Plan Year and either (1) allocate such total amount to Participant groups (the "Participant Group Allocation method"), or (2) allocate such total amount using age weighted allocation rates (the "Age Weighted Allocation method"). Employer Contributions will be allocated to each Eligible Employee.

(1) Participant Group Allocation Method. The Employer may elect in the Adoption Agreement to use one of two Participant Group Allocation methods for the purpose of allocating the Employer Contribution: (a) the "employee classification," method that permits the Employer to divide the Eligible Employees into groups under pre-defined classifications or (b) the "separate allocation group" method where each Eligible Employee comprises a separate allocation group for the purpose of allocating the Employer Contribution.

The allocation will be made as follows: First, the total amount of contributions is allocated among the deemed aggregated allocation groups in portions determined by the Employer. A deemed aggregated allocation group consists of all of the separate allocation groups that have the same allocation rate. Second, within each deemed aggregated allocation group, the allocated portion is allocated to each Employee in the ratio that such Employee's Compensation, as defined in Part 1 Article II of the Plan, bears to the total Compensation of all Employees in the group. An allocation rate is the amount of contributions allocated to an Employee for a year, expressed as a percentage of compensation or dollar amount, as defined in Part 1 Article II of the Plan. If the Employer has elected in the Adoption Agreement, the "separate allocation groups" method, each Eligible Employee of the Employer will constitute a "separate allocation group" for purposes of allocating contributions. In the event that an Eligible Employee is included in more than one Participant allocation group, the Participant's share of the Employer Contribution allocated to each such group will be based on the Participant's Compensation for the part of the year the Participant was in the group.

The Employer will specify in written instructions to the Plan Administrator or Trustee, by no later than the due date of the Employer's tax return for the year to which the Employer Contribution relates, including extensions, the portion of such contribution to be allocated to each participant allocation group.

(2) Age Weighted Allocation Method. If the Age Weighted Allocation method is elected in the Adoption Agreement, the total Employer Contribution will be allocated to each Eligible Employee such that the equivalent benefit accrual rate for each Participant is identical. The equivalent benefit accrual rate is the annual annuity commencing at the Participant's testing age, expressed as a percentage of the Participant's Compensation as defined in Part 1 Article II of the Plan which is provided from the allocation of Employer Contributions and

Forfeitures for the Plan Year, using standardized actuarial assumptions that satisfy section 1.401(a)(4)-12 of the Income Tax Regulations. The Employee's testing age is the later of Normal Retirement Age, or the Employee's current age.

(b) Cross Testing. The Employer may elect in the Adoption Agreement one of the following methods to meet the requirements of Treasury Regulation section 1.401(a)(4)-8.

(1) Minimum Allocation Gateway Method. For any Plan Year in which the Employer intends to rely on Treasury Regulation section 1.401(a)(4)-8 (cross testing) in satisfying Code section 401(a)(4), each Non-Highly Compensated Employee entitled to receive a Non-Elective Contribution under this Section 2.3.1 or under Section 2.9.3 will receive a minimum allocation equal to the lesser of (a) 1/3 of the highest allocation rate (as a percentage of Compensation) of any Highly Compensated Employee applied to their Compensation, as defined in Part I, Article II, or (b) 5% of their compensation as defined in Subsection 3.2.5(a)(iii). Compensation for a Participant's initial year of participation will be measured either over the period starting from their Entry Date or over the 12 month period ending in the initial year of participation, as elected in the Adoption Agreement under the Compensation Computation Period. If a defined benefit plan sponsored by the Employer is aggregated with this Plan for purposes of satisfying Code section 410(b) and the Employer intends to rely on Treasury Regulations section 1.401(a)(4)-9, then each Non-Highly Compensated Employee entitled to an allocation will receive an allocation such that their aggregate normal allocation rate equals the lesser of (a) 1/3 of the highest aggregate normal allocation rate (as a percentage of Compensation) of any Highly Compensated Employee or (b) 5% of their compensation as defined in Subsection 3.2.5(a)(iii); provided, if the highest aggregate normal allocation rate of any Highly Compensated Employee exceeds 25%, each Non-Highly Compensated Employee will receive 6% of their Compensation, if the highest aggregate normal allocation rate of any Highly Compensated Employee exceeds 30%, each Non- Highly Compensated Employee will receive 7% of their Compensation, and if the highest aggregate normal allocation rate exceeds 35%, each Non-Highly Compensated Employee will receive 7.5% of their Compensation. Notwithstanding anything in the Plan to the contrary, on or after June 5, 2009, in the event that the Plan is Top-Heavy for a Plan Year, any Non-Highly Compensated Employee eligible for a Minimum Top-Heavy Allocation in Subsection 2.6.1(a) of the Plan will receive an allocation equal to the greater of the Minimum Top-Heavy Allocation or the amount determined above. Any allocation in excess to the Minimum Top-Heavy Allocation determined without regard to this provision must be made to this Plan and may not be made to another Plan in a Top-Heavy Allocation group.

(2) Gradual Age or Service Schedule. The Plan has a gradual age or service schedule for the Plan Year if the allocation formula for all Employees under the Plan provides for a single schedule of allocation rates under which; (1) The schedule defines a series of bands based solely on age, Years of Service, or the number of points representing the sum of age and Years of Service (age and service points), under which the same allocation rate applies to all Employees whose age, Years of Service, or age and service points are within each band; and (2) The allocation rates under the schedule increase smoothly at regular intervals, within the meaning of this paragraph and the following two paragraphs of this section.

(3) Smoothly Increasing Schedule Of Allocation Rates. A schedule of allocation rates increases smoothly if the allocation rate for each band within the schedule is greater than the allocation rate for the immediately preceding band (i.e., the band with the next lower number of years of age, Years of Service, or age and service points) but by no more than 5 percentage points. However, a schedule of allocation rates will not be treated as increasing smoothly if the ratio of the allocation rate for any band to the rate for the immediately preceding band is more than 2 or if it exceeds the ratio of allocation rates between the two immediately preceding bands.

(4) Regular Intervals. A schedule of allocation rates has regular intervals of age, Years of Service or age and service points, if each band, other than the band associated with the highest age, years of service, or age and service points, is the same length. For this purpose, if the schedule is based on age, the first band is deemed to be of the same length as the other bands if it ends at or before age 25. If the first age band ends after age 25, then, in

determining whether the length of the first band is the same as the length of other bands, the starting age for the first age band is permitted to be treated as age 25 or any age earlier than 25. For a schedule of allocation rates based on age and service points, the rules of the preceding two sentences are applied by substituting 25 age and service points for age 25. For a schedule of allocation rates based on service, the starting service for the first service band is permitted to be treated as one year of service or any lesser amount of service.

(5) Minimum Allocation Rates Permitted. A schedule of allocation rates under the Plan does not fail to increase smoothly at regular intervals, within the meaning of the preceding paragraphs of this Section, merely because a minimum uniform allocation rate is provided for all Employees or the minimum benefit described in section 416(c)(2) of the Code is provided for all Non-Key Employees (either because the Plan is Top-Heavy or without regard to whether the Plan is Top-Heavy) if the schedule satisfies one of the following conditions; (1) The allocation rates under the Plan that are greater than the minimum allocation rate can be included in a hypothetical schedule of allocation rates that increases smoothly at regular intervals, within the meaning of the preceding paragraphs of this section, where the hypothetical schedule has a lowest allocation rate no lower than 1% of Plan Year Compensation; or (2) For a Plan using a schedule of allocation rates based on age, for each age band in the schedule that provides an allocation rate greater than the minimum allocation rate, there could be an Employee in that age band with an equivalent accrual rate that is less than or equal to the equivalent accrual rate that would apply to an Employee whose age is the highest age for which the allocation rate equals the minimum allocation rate.

2.3.3 Cash or Deferred Profit Sharing Plans.

(a) Matching Contributions. Unless otherwise specified in the Adoption Agreement, as of the last day of the Plan Year, the Matching Contribution made by the Employer with respect to the Plan Year, and Forfeitures, will be allocated to the Matching Accounts of Participants for whom Elective Deferrals were made in the manner specified in the Adoption Agreement. If elected in the Adoption Agreement, Catch-up Contributions will not be treated as Elective Deferrals in the calculation of Matching Contributions allocated to Participant's Matching Accounts.

If a discretionary Matching Contribution formula applies (i.e., a formula that provides an Employer with discretion regarding how to allocate a Matching Contribution to Participants) and the Employer makes a discretionary Matching Contribution to the Plan, the Employer must provide the Plan Administrator (or Trustee, if applicable), written instructions describing (1) how the discretionary Matching Contribution formula will be allocated to Participants (e.g., a uniform percentage of Elective Deferrals or a flat dollar amount); (2) the computation period(s) to which the discretionary Matching Contribution formula applies; and (3) if applicable, a description of each business location or business classification subject to separate discretionary Matching Contribution allocation formulas. Such instructions must be provided no later than the date on which the discretionary Matching Contribution is made to the Plan. A summary of these instructions must be communicated to Participants who receive discretionary Matching Contributions. The summary must be communicated to Participants no later than 60 days following the date on which the discretionary Matching Contribution is made to the Plan. This written instruction requirement will become applicable the first day of the Plan Year following the Plan Year in which the Plan first executes a Cycle 3 (Post-PPA) pre-approve plan document.

(b) Pre-Tax Elective Deferrals. The Pre-Tax Elective Deferrals by the Employer on behalf of an electing Employee will be allocated to the Pre-Tax Elective Account of such electing Employee.

(c) Roth Deferrals. The Roth Deferrals contributed by the Employer on behalf of an electing Employee will be allocated to the Roth Deferral Account of such electing Employee.

(d) Qualified Non-Elective Contributions and Qualified Matching Contributions. As of the last day of the Plan Year, the Qualified Non-Elective Contributions and Qualified Matching Contributions made by the Employer with respect to the Plan Year will be allocated to the Qualified Non-Elective Account or Qualified Matching Account of Participants during the Plan Year in the manner specified in the Adoption Agreement. Contributions are treated as Qualified Non-Elective or Qualified Matching Contributions only if they meet the requirements of Treasury

Regulations sections 1.401(k)-2(a)(6)(iv) or 1.401(m)-2(a)(6)(v), respectively

2.3.4 Minimum Top-Heavy Allocation. In the event the Plan becomes a Top-Heavy Plan during any Plan Year, the provisions of Subsection 2.6.1(a) will apply. The Employer may elect to make an additional allocation to meet the Minimum Top-Heavy requirement or otherwise follow the Plan provisions. The allocation of Employer Contributions must satisfy the requirements of Code section 416 regardless of how the Adoption Agreement is completed. Elective Deferrals and Matching Contributions allocated to Key Employees, but not Catch-up Contributions, are taken into account for the purpose of determining the minimum contribution under Code section 416. However, Elective Deferrals (and, for Plan Years beginning before 2002, Matching Contributions) made on behalf of Non-Key Employees may not be taken into account for the purpose of satisfying the minimum contribution requirement under Code section 416.

2.3.5 Integration with Social Security - Profit Sharing Plans.

(a) If the Employer has elected in the Adoption Agreement that the Plan will be integrated with Social Security, then the applicable contributions plus Forfeitures will be allocated to Participants' Accounts as follows (provided that Steps One and Two, below, need only be applied in years in which the Plan is Top-Heavy):

STEP ONE: Contributions and Forfeitures will be allocated to each Participant's Account in the ratio that each Participant's Compensation bears to all Participant's Compensation, but not in excess of 3% of each Participant's Compensation.

STEP TWO: Any contributions and Forfeitures remaining after the allocation in Step One will be allocated to each Participant's Account in the ratio that each Participant's Compensation for the Plan Year in excess of the Integration Level bears to the excess compensation of all Participants, but not in excess of 3%.

STEP THREE: Any contributions and Forfeitures remaining after the allocation in Step Two (or starting with this Step Three if so elected in the Adoption Agreement, all contributions and Forfeitures) will be allocated to each Participant's Account in the ratio that the sum of each Participant's Compensation and Compensation in excess of the Integration Level bears to the sum of all Participants' Compensation and Compensation in excess of the Integration Level, but not in excess of the Maximum Profit Sharing Disparity Rate.

STEP FOUR: Any remaining contributions and Forfeitures will be allocated to each Participant's account in the ratio that each Participant's Compensation for the Plan Year bears to all Participants' Compensation for that year.

The Maximum Profit Sharing Disparity Rate is equal to the lesser of:

(1) 5.7% (minus the percentage of Compensation allocated in Step One, if any); or,

(2) 5.4% (minus the percentage of Compensation allocated in Step One, if any) if the Integration Level (IL) is more than 80% but less than 100% of the Taxable Wage Base (TWB) under section 230 of the Social Security Act at the beginning of the Plan Year; or

(3) 4.3% (minus the percentage of Compensation allocated in Step One, if any) if the IL is greater than 20% of the TWB, but not more than 80% of the TWB, and greater than $10,000.

(b) In the event the Plan is Top-Heavy and the Employer elects to use Steps Three and Four of Subsection (a) above, then allocations made due to Compensation greater than the Integration Level will be reduced proportionately to the extent necessary to provide all Employees entitled to a Top-Heavy Minimum Allocation with the required allocation.

2.3.6 Integration with Social Security - Money Purchase Plans.

(a) Annual overall permitted disparity limit. Notwithstanding the formula elected in the Adoption Agreement, for any Plan Year this Plan benefits any Participant who benefits under another

qualified plan or simplified employee pension, as defined in Code section 408(k), maintained by the Employer that provides for permitted disparity (or imputes disparity), the Employer will contribute for each eligible Participant an amount equal to the Excess Contribution Percentage multiplied by the Participant's total Compensation. For purposes of this Subsection, the "Excess Contribution Percentage" is the percentage of Compensation at which Employer-derived contributions are made with respect to Compensation at or above the Integration Level in a defined contribution plan.

(b) Cumulative permitted disparity limit. The cumulative permitted disparity limit for a Participant is 35 total cumulative permitted disparity years. Total cumulative permitted years means the number of years credited to the Participant for allocation or accrual purposes under this Plan or any other qualified plan or simplified employee pension plan (whether or not terminated) ever maintained by the Employer. For purposes of determining the Participant's cumulative permitted disparity limit, all years ending in the same calendar year are treated as the same year. If the Participant has not benefited under a defined benefit or target benefit plan for any year beginning on or after January 1, 1994, the Participant has no cumulative disparity limit.

(c) The Maximum Money Purchase Disparity Rate is equal to the lesser of the Base Contribution Percentage or the applicable percentage determined in accordance with the table below.

If the Integration Level:

is more than	**but not more than**	**the applicable percentage is:**
$0	X*	5.7%
X* of TWB	80% of TWB	4.3%
80% of TWB	Y**	5.4%
If TWB		5.7%

*X = the greater of $10,000 or 20% of the TWB

**Y = any amount more than 80% of the TWB but less than 100% of the TWB.

If the Integration Level is equal to the Taxable Wage Base ("TWB"), the applicable percentage is 5.7%.

For purposes of this Subsection, the "Base Contribution Percentage" will be the percentage of Compensation at which Employer-derived contributions are made with respect to Compensation at or below the Integration Level in a defined contribution plan.

(d) Top-Heavy Years. In the event the Plan becomes Top-Heavy, the Employer will make an additional contribution to the Plan to provide the Minimum Top-Heavy Allocation pursuant to Section 2.3.4.

2.3.7 Fail-Safe Allocation. Unless elected otherwise in the Adoption Agreement, failure of both the coverage tests under section 410(b) of the Code requires correction using the principles set forth in this Section if such use is elected in the Adoption Agreement. Testing is done as of the last day of the Plan Year. Notwithstanding any provision of the Plan or Adoption Agreement to the contrary, if the Plan would otherwise fail to satisfy the requirements of Code section 410(b) and the regulations thereunder because Employer Contributions have not been allocated to a sufficient number or percentage of Participants for the Plan Year, and the right to receive a contribution is conditioned upon participation on the last day of the Plan Year or the completion of more than 500 Hours of Service, or conditioned upon membership in a certain Employee classification, an additional contribution will be made by the Employer and will be allocated to the Employer Accounts of affected Participants, considering all the applicable exclusions of Code sections 410(b)(3) and (4) subject to the following provisions:

(a) The NHCE Participants eligible to share in the allocation of the Employer's Contribution will be expanded to include the minimum number of NHCE Participants who are not otherwise eligible to the extent necessary to satisfy the ratio percentage test of Code section 410(b)(1)(B). The specific NHCE Participants who will become eligible are those NHCE Participants who are members of an eligible classification of Employees, who are actively employed on the last day of the Plan Year, but have not met the Plan's Hours of Service requirement.

These Participants will be given an allocation one Participant at a time beginning with the Participant with the greatest number of Hours of Service and continuing in descending order until the ratio percentage test is passed. If two or more Participants have the same number of Hours of Service then the Participant with the highest Compensation will receive an allocation first. Fail-safe allocations will be given to the smallest number of Participants that allows the Plan to pass the ratio percentage test.

(b) If the ratio percentage test is still not satisfied, the NHCE Participants eligible to share in the allocation will be further expanded to include the minimum number of NHCE Participants who are members of an eligible classification of Employees who are not employed on the last day of the Plan Year as is necessary to satisfy the ratio percentage test. The specific NHCE Participants who will become eligible are those NHCE Participants who have completed the greatest number of Hours of Service (in excess of 500 hours) during the Plan Year.

These Participants will be given an allocation one Participant at a time in descending order until the ratio percentage test is passed. If two or more Participants have been credited with the same number of Hours of Service then the Participant with the highest Compensation will receive an allocation first.

(c) If the ratio percentage test is still not satisfied, the NHCE Participants eligible to share in the allocation of the Employer Contribution will be expanded to include the minimum number of NHCE Participants who are not otherwise eligible to the extent necessary to satisfy the ratio percentage test of Code section 410(b)(1)(B). The specific NHCE Participants who will become eligible are those NHCE Participants who are members of an ineligible classification of Employees, who are actively employed on the last day of the Plan Year, and have met the Plan's Hours of Service requirement.

These Participants will be given an allocation one Participant at a time beginning with the Participant with the greatest number of Hours of Service and continuing in descending order until the ratio percentage test is passed. If two or more Participants have the same number of Hours of Service then the Participant with the highest Compensation will receive an allocation first. Fail-Safe allocations will be given to the smallest number of Participants that allows the Plan to pass the ratio percentage test.

(d) If the ratio percentage test is still not satisfied, the NHCE Participants eligible to share in the allocation will be further expanded to include the minimum number of NHCE Participants who are members of an ineligible classification of NHCE Employees who are employed on the last day of the Plan Year but have not met the hours requirement of the Plan as is necessary to satisfy the ratio percentage test. The specific NHCE Participants who will become eligible are those NHCE Participants who have completed the greatest number of Hours of Service during the Plan Year. These Participants will be given an allocation one Participant at a time in descending order until the ratio percentage test is passed. If two or more Participants have been credited with the same number of Hours of Service then the Participant with the highest Compensation will receive an allocation first.

(e) If the ratio percentage test is still not satisfied, the NHCE Participants eligible to share in the allocation will be further expanded to include the minimum number of NHCE Participants who are members of an ineligible classification of NHCE Employees who are not employed on the last day of the Plan Year as is necessary to satisfy the ratio percentage test. The specific NHCE Participants who will become eligible are those NHCE Participants who have completed the greatest number of Hours of Service (in excess of 500 hours) during the Plan Year. These Participants will be given an allocation one Participant at a time in descending order until the ratio

percentage test is passed. If two or more Participants have been credited with the same number of Hours of Service then the Participant with the highest Compensation will receive an allocation first.

(f) The Employer may elect in the Adoption Agreement whether to apply this Section 2.3.7. If the Employer elects to apply this section 2.3.7 then for each Plan Year it is used, a list of each Participant benefiting on account of this Section and the associated percentage or dollar amount of Employer Contribution will be prepared for each Plan Year and provided to the Plan Administrator or Trustee not later than the time prescribed by law for filing the return for such applicable taxable year (including any extensions), and will be maintained as part of the administrative records of the Plan.

2.3.8 Contributions on Behalf of Disabled Participants. If elected in the Adoption Agreement by the Employer, Employer Contributions will be made to the Plan on behalf of each Participant who has a Disability.

2.3.9 Treatment in the Case of Death or Disability Resulting from Active Military Service.

(a) In the Adoption Agreement, the Employer may elect for benefit accrual purposes to treat an individual who dies or becomes disabled (as defined under the terms of the Plan) while performing Qualified Military Service, with respect to the Employer maintaining the Plan, as if the individual had resumed employment in accordance with the individual's reemployment rights under Code section 414(u) on the day preceding death or disability (as the case may be) and terminated employment on the actual date of death or disability. In the case of any such treatment, and subject to subparagraphs (b) and (c) of this Subparagraph, any full or partial compliance by the Plan with respect to the benefit accrual requirements of Code section 414(u)(8) with respect to such individual, will be treated for purposes of Code section 414(u)(1) as if such compliance were required under such section.

(b) Nondiscrimination Requirements. The provisions of this Section 2.3.9 will apply only if all individuals performing Qualified Military Service with respect to the Employer maintaining the Plan (as determined under Code sections 401(b), (c), (m), and (o)) who die or became disabled as a result of performing Qualified Military Service prior to reemployment by the Employer are credited with service and benefits on reasonably equivalent terms.

(c) Determination of Benefits. The amount of Voluntary Employee Contributions and the amount of Elective Deferrals of an individual treated as reemployed under this Section 2.3.9 for purposes of applying Code section 414(u)(8)(C) will be determined on the basis of the individual's average actual Voluntary Employee Contributions or Elective Deferrals for the lesser of:

(1) the 12-month period of service with the Employer immediately prior to Qualified Military Service; or

(2) the actual length of continuous service with the Employer, if service with the Employer is less than such 12-month period.

ARTICLE IV

VESTED BENEFITS

2.4.1 Vesting. A Participant will at all times be 100% vested and have a nonforfeitable interest in their Elective Deferral, Catch-up, Qualified Non-Elective, Qualified Matching, Prevailing Wage, Deductible Voluntary and Voluntary Accounts. In addition, ADP Test Safe Harbor Contributions made pursuant to Section 2.9.3 of the Plan will be 100% vested at all times. The vested and nonforfeitable interest of the Participant in their Controlled Account will be determined by reference to the Account from which the funds were originally transferred. The vested and nonforfeitable interest in a Participant's Employer and Matching Accounts will be determined subject to the vesting schedule selected in the Adoption Agreement and will not increase after the date the Participant terminates employment.

If the "6-year tired vesting schedule" is specified in the Adoption Agreement, the vested and nonforfeitable interest in a Participant's Account associated with the source will vest according to the following schedule:

Years of Vesting Service	Percentage
Less than 2	0%
2	20%
3	40%
4	60%
5	80%
6	or more 100%

For the purpose in determining the vested and nonforfeitable interest of a Participant, all of an Employee's Years of Vesting Service with the Employer or Related Employers maintaining the Plan will be applied to the vesting schedule selected for the Plan, unless otherwise elected in the Adoption Agreement.

Each period of Qualified Military Service served by an individual is, upon reemployment deemed to constitute service with the Employer for the purpose of determining the non-forfeitability of the Participant's Account balances under the Plan.

Changes in Vesting Schedule. The Employer may elect to amend the vesting schedule in the Adoption Agreement, provided the nonforfeitable interest of the Participant in their Employer and Matching Accounts is not less than the nonforfeitable interest in such Accounts under the Plan prior to the adoption the amendment.

Election of Former Schedule. Furthermore, each Participant with at least 3 Years of Service with the Employer may elect within a reasonable period after the adoption of an amendment changing the vesting schedule, to have their nonforfeitable percentage computed under the Plan without regard to such amendment. An election will be permitted by such a Participant, if the Participant has at least one Hour of Service in any Plan Year beginning on or after the effective date of the amendment. The period during which the election may be made will commence with the date the amendment is adopted or deemed to be made and will end on the latest of: (1) 60 days after the amendment is adopted; (2) 60 days after the amendment becomes effective; or (iii) 60 days after the Participant is issued written notice of the amendment by the Employer. With respect to benefits accrued as of the later of the adoption or effective date of such amendment, the vested percentage of each Participant will be the greater of the vested percentage under the old vesting schedule or the vested percentage under the new vesting schedule.

(a) Normal Retirement Age or Postponed Retirement. A Participant, on attaining their Normal Retirement Age will be 100% vested and have a nonforfeitable interest in their Employer and Matching Accounts. If a Participant continues in active employment following their Normal

Retirement Age, they will continue to participate under the Plan.

(b) Disability. If a Participant terminates employment prior to their Normal Retirement Age due to a Disability, they will be vested and have a nonforfeitable interest in their Employer and Matching Accounts as elected in the Adoption Agreement.

(c) Death. In the event of the death of a Participant before termination of employment with the Employer and before Normal Retirement Age, the Participant will be vested and have a nonforfeitable interest in their Employer and Matching Accounts as elected in the Adoption Agreement.

(d) Termination of Plan. In the event of Plan termination (including termination resulting from a complete discontinuance of contributions by the Employer), each Participant employed by the Employer as of the date of such termination will be 100% vested and have a nonforfeitable interest in all of their Accounts. In the event of a partial Plan termination, each Participant employed by the Employer with respect to whom such partial termination has occurred will be 100% vested and have a nonforfeitable interest in all of their Accounts.

(e) Early Retirement, Resignation, or Discharge. If the employment of a Participant terminates by reason of early retirement, resignation, or discharge prior to their Normal Retirement Age, they will be vested and have a nonforfeitable interest in a percentage of their Employer and Matching Accounts taking into account all of their Years of Vesting Service as of such termination date in accordance with the schedule set forth in the Adoption Agreement.

(f) All Other Times. A Participant will be vested and have a nonforfeitable interest in a percentage of their Employer and Matching Accounts determined by taking into account all of their Years of Vesting Service in accordance with the schedule set forth in the Adoption Agreement.

(g) Elapsed Time Method. A Participant will be vested and have a nonforfeitable interest in a percentage of their Employer and Matching Accounts determined by taking into account all of their Years of Vesting Service in accordance with the schedule set forth in the Adoption Agreement.

2.4.2 Leave of Absence. The Plan Administrator will not treat a temporary cessation from active employment with the Employer pursuant to an authorized leave of absence in accordance with the nondiscriminatory policy of the Employer, whether occasioned by illness, military service, or any other reason, as either a termination of employment or a Break in Service so long as the Employee returns to employment in a manner consistent with the authorized leave of absence policy.

2.4.3 Reemployment. Unless otherwise elected by the Employer in the Adoption Agreement, in the case of a Participant who has 5 or more consecutive Breaks in Service, all Years of Vesting Service after such Breaks in Service will be disregarded for vesting the Employer Account balance that accrued before such breaks, however, both pre-break and post-break service will count for vesting the Employer Account balance that accrues after such breaks.

Account balances that accrued before and after such Break in Service will share in the earnings and losses of the Trust Fund.

If a Participant receives a distribution from their Account when they have less than a 100% vested and nonforfeitable interest in the Account and the Participant resumes employment covered under the Plan, the Plan Administrator will restore the Participant's Employer-derived Account balance to the amount on the date of distribution if the Participant repays to the Plan the full amount of the distribution attributable to Employer Contributions before the earlier of 5 years after the first date on which the Participant is subsequently reemployed by the Employer, or the date the Participant incurs 5 consecutive Breaks in Service following the date of the distribution. If a Participant is deemed to receive a distribution pursuant to this Section, and the Participant resumes employment covered under the Plan before the date the Participant incurs 5 consecutive Breaks in Service, upon the reemployment of such Participant, the Plan Administrator will restore the Employer Account balance of the Participant to the amount on the date of such deemed distribution as of the date of the reemployment of such Participant.

2.4.4 Forfeitures. Unless otherwise elected in the Adoption Agreement, if a Participant terminates service and elects, in accordance with the provisions of the Plan, to receive the value of the their vested Account balance, the non-vested portion will be treated as a Forfeiture as of the earlier of the last day of the Plan Year in which the Plan Administrator distributes the Participant's entire vested interest, or the last day of the Plan Year of the 5th consecutive Break in Service. If the Participant elects to receive less than the entire vested portion of the Account balance derived from Employer contributions, the portion forfeited will equal the total non-vested portion of such Account multiplied by a fraction, the numerator of which is the distributed amount attributable to Employer contributions and the denominator of which is the entire vested portion of such Account.

If a Participant terminates service, and the value of the Participant's vested Account balance derived from Employer and Employee contributions is not greater than $5,000 (or a dollar amount that is less, if elected in the Adoption Agreement), and the Participant receives a distribution of the value of the entire vested portion of such Account balance, the Plan Administrator will treat the non-vested portion as a Forfeiture, unless elected otherwise in the Adoption Agreement, as of the earlier of the last day of the Plan Year in which the Plan Administrator distributes the Participant's entire vested interest, or the last day of the Plan Year of the 5th consecutive Break in Service. If elected in the Adoption Agreement, the portion of the Account balance that is attributable to rollover contributions (and earnings allocable thereto) within the meaning of Code sections 402(c), 403(a)(4), 403(b)(8), 408(d)(3)(A)(ii), and 457(e)(16), will be excluded from the Participant's Account balance for purposes of this Section. If a Participant would have received a distribution under the preceding but for the fact that the Participant's vested Account balance exceeded $5,000, or such lesser amount as elected above, when the Participant terminated service and if at a later time such Account balance is reduced such that it is not greater than $5,000, or such lesser amount as elected above, the Participant will receive a distribution of such Account balance and the Plan Administrator will treat the non-vested portion as a Forfeiture. If the value of a Participant's vested Account balance is zero, the Participant will be deemed to have received a distribution of such vested Account balance. A Participant's vested Account balance will not include accumulated deductible Employee contributions within the meaning of Code section 72(o)(5)(B) for Plan Years beginning prior to January 1, 1989.

Unless otherwise elected in the Adoption Agreement, the Plan Administrator will allocate such Forfeiture in the same manner as a contribution by the Employer for the year in which said Forfeiture occurred. For each Plan Year that Forfeitures are allocated, the Plan Administrator will designate the specific Employer Contribution or Contributions that the Forfeitures reduce or supplement. The Employer may elect in the Adoption Agreement to use Forfeitures to offset administrative expenses of the Plan to the extent the expenses are Plan expenses and not settlor expenses and any remaining Forfeitures will be allocated in the same manner as a contribution by the Employer for the year in which said Forfeiture occurred. Forfeitures that are used to supplement a contribution will increase that contribution that was otherwise specified for the Plan Year. Forfeitures that are used to reduce a fixed required contribution reduce the amount that the Employer would otherwise have to contribute to the Plan for the Plan Year. A Participant's forfeitable amount must remain in the Participant's account until used as a Forfeiture. The forfeitable amount must be exhausted by the end of the next plan year, within the limitations of the Code and Treasury Regulations, but in any event, as soon as administratively feasible.

If a Participant is reemployed following a Break in Service and is entitled to restoration of any amount of their Account that was forfeited because of such Break in Service, the Plan Administrator will restore such amount in the manner specified in the Adoption Agreement.

ARTICLE V

DISTRIBUTIONS

2.5.1 Distributable Benefit.

(a) When a Participant incurs a severance of employment (for any reason) and they are no longer employed by the Employer or another Related Employer, they or their Beneficiary will be entitled to a benefit equal to the vested and nonforfeitable interest in their Accounts as of the Distribution Determination Date. This will include a Disability benefit if so elected in the Adoption Agreement. Such Accounts will include the allocable share of contributions and Forfeitures, if any, that may be allocated to said Accounts as of such Distribution Determination Date and will be determined after making the adjustments for which provision is made in the Plan.

(b) If the value of the Participant's vested and nonforfeitable interest in the Plan at the time of their termination of employment is zero, the Participant will be deemed to have received a distribution of such interest as their Distributable Benefit as of the date their employment terminated.

(c) Minimum Distributable Benefit. If a Participant terminates service, and the value of the Participant's vested Account balance derived from Employer Contributions is zero, the Employer may elect in the Adoption Agreement to provide such Participant with a minimum Distributable Benefit.

(d) Distribution Determination Date. For purposes of determining the amount to be distributed, the Distribution Determination Date will be determined in the manner specified in the Adoption Agreement.

(e) Distributions following Distribution Determination Date. Subject to the necessity, if any, of obtaining the consent of a Participant and spouse, distribution of a Participant's Distributable Benefit will commence within a reasonable period after the Distribution Determination Date, unless otherwise elected by the Participant in accordance with the provisions of the Plan or as required by the provisions of the Plan. A distribution will not be made to a Participant if they are reemployed prior to the date their benefit would have been distributed.

2.5.2 Forms of Distribution. Subject to the Employer's elections in the Adoption Agreement distribution will be made by one of the following methods, as determined in accordance with the election of the Participant (or in the case of death, their Beneficiary) with such spousal consents as may be required by law.

Notwithstanding any election in the Adoption Agreement, Beneficiaries may elect to receive Required Minimum Distributions in the form of installment payments.

(a) Lump Sums. Payments made in a single taxable year representing the Participant's entire Distributable Benefit.

If the Participant fails to elect a distribution option and the Participant's vested Account balance is at or below the Mandatory Cash-out threshold of $5,000, (or lesser threshold amount, elected in the Adoption Agreement), then in lieu of a lump sum distribution, payment will be made pursuant to Subsection 2.5.3.(c) Mandatory Cash-out. The Employer may set a minimum Account balance to which this will apply. This Mandatory Cash-out provision applies only if the terminating Participant fails to request affirmatively a cash payment, or a Direct Rollover to another qualified plan, (or an IRA designated by the terminating Participant). If the value of a Participant's vested Account balance exceeds the threshold amount, an immediate cash-out will not be made unless the Participant, and if applicable, their spouse, or their Beneficiary consent to such distribution.

(b) Installments.

(1) Payments made in substantially equal annual, quarterly, or monthly installments over a period of more than 1 taxable year but not in excess of the period designated in the Adoption Agreement, or if permitted, as selected by the Participant (provided that such period is not greater than the Participant's life expectancy or the joint life expectancy of Participant and the Participant's Designated Beneficiaries), plus accrued net income. If distribution is to be made in installments, the Plan Administrator may transfer the undistributed portion of the Distributable Benefit to a Segregated Account, from which installment payments will thereafter be withdrawn from time to time.

(2) **Partial Nonperiodic Distribution.** If elected in the Adoption Agreement, ad hoc distributions at the times and in the amounts requested by the Participant or Beneficiary may be made subject to the limits, if any, in the Adoption Agreement.

(c) **Annuities.** Payments made by the purchase and delivery of a single premium, nontransferable, fully refundable, annuity contract issued by a legal reserve life insurance company. Payments must provide for equal periodic payments for the life of the Participant, or upon the Participant's death for payments to continue to the Participant's Designated Beneficiary over a specified period as may be designated in the Adoption Agreement and as selected by the Participant. Notwithstanding the Employer may elect a period certain annuity distribution option in the Adoption Agreement, the annuity under this election will be for a fixed duration that is less than the Participant's life expectancy as of the Annuity Starting Date. Such annuity will conform to all provisions set forth herein. Any refund feature under such annuity contract following the death of the Participant will inure to the benefit of the Participant's Beneficiary.

Notwithstanding, If the Distributable Benefit is subject to the funding standards of Code Section 412, the distribution to a married Participant will be made in the form of a Qualified Joint and Survivor Annuity or in the form of a life annuity to an unmarried Participant, subject to the terms and provisions under Subsection 2.5.6.

(d) **Alternative Distribution Methods.** Any alternative distribution method of equivalent value that was contained in the Plan at any time on or after the first day of the first Plan Year beginning after 1988 to which the Participant and spousal consents.

2.5.3 Methods of Distribution. Subject to the provisions of Section 2.5.7 and 2.5.8 below, any security interest in a loan from the Plan for which any necessary spousal consent has been obtained (to the extent such security interest is used as repayment of the loan), distribution will be made by one of the following methods, as determined in accordance with the election of the Participant (or in the case of death, their Beneficiary) with such spousal consents as may be required by law. Notwithstanding any restrictions on optional forms of distribution in the Adoption Agreement, active Participants may elect to receive Required Minimum Distributions in the form of installment payments in the amount of the Required Minimum Distribution.

(a) **Lump Sum Payment to Participant with 60-Day Rollover Option.** The Plan may pay a Distributable Benefit in a single sum distribution directly to a Participant, subject to the Spousal Consent requirements under Subsection 2.5.5 and the Automatic Rollover requirements under Subsection 2.5.3(d) below. Upon receipt and within 60 days, a Participant may elect to transfer, rollover, or deposit to an individual retirement account or another qualified plan all or a portion of the Distributable Benefit that is an Eligible Rollover Distribution.

(b) **Direct Rollovers.** Notwithstanding any provision of the Plan to the contrary that would otherwise limit a Participant's election under the Plan, a Participant may elect, at the time and in the manner prescribed by the Plan Administrator, to have any portion of an Eligible Rollover Distribution that is equal to at least $500 paid directly to an Eligible Retirement Plan specified by the Participant in a Direct Rollover. If an Eligible Rollover Distribution is less than $500, a Participant may not make the election described in the preceding sentence to roll over a portion of the Eligible Rollover Distribution.

(c) **Mandatory Cash-out.** The Employer may elect in the Adoption Agreement to require the mandatory distribution of a Participant's vested Account balance if its value, determined as of a date following the Participant's date of termination of employment with the Employer, is equal to

no more than $5,000 (or some lesser threshold amount as elected in the Adoption Agreement). If a distribution is required under this provision, the Participant will receive an immediate cash-out of their vested Account balance and no further benefits will be payable from the Plan. If the value of a Participant's vested Account balance exceeds the threshold amount, an immediate cash-out will not be made unless the Participant, and if applicable, their spouse, or their Beneficiary consent to such distribution.

The Employer may elect in the Adoption Agreement to exclude that portion of a Participant's Account balance that is attributable to Rollover contributions (and earnings allocable thereto) within the meaning of Code sections 402(c), 403(a)(4), 403(b)(8), 408(d)(3)(A)(ii), and 457(e)(16) in the determination of the Participant's nonforfeitable Account balance.

(d) Automatic Rollovers. Effective for distributions on and after March 28, 2005, in the event a Mandatory Cash-out distribution is greater than $1,000, or some lesser amount, in accordance with the provisions of Subsection 2.5.3(c), if the Participant does not elect to have such distribution paid directly to an Eligible Retirement Plan specified by the Participant in a Direct Rollover or to receive the distribution directly in accordance with Subsection 2.5.3(a), then the Plan Administrator will pay the distribution in a Direct Rollover to an individual retirement plan designated by the Plan Administrator. The Plan Administrator will select an IRA trustee, custodian, or issuer (the "trustee") that is unrelated to the Employer, will establish the IRA with that trustee on behalf of the terminating Participant who fails affirmatively to elect a Direct Rollover of a cash distribution, and make the initial investment choices for the account. For purposes of determining whether a mandatory distribution is greater than $1,000, the portion of the Participant's distribution attributable to any rollover contribution is included.

2.5.4 Commencement of Distributions. For purposes of determining when a Distributable Benefit can be distributed under this Article V, unless otherwise elected in the Adoption Agreement, by the Employer:

(a) Immediate Distribution. A distribution to a Participant whose vested Account balance is Immediately Distributable. A Participant's Account Balance is Immediately Distributable if any part of the Account balance could be distributed to the Participant, (or surviving spouse), before the Participant attains, (or would have attained if not deceased), the later of age 62 or their Normal Retirement Age.

(1) If the account is distributable, due to the Participant's death, Disability, or attainment of Early or Normal Retirement Age, the Participant may elect (or their Beneficiary may elect) to begin distribution of their Distributable Benefit within a reasonable period after the Distribution Determination Date. A Participant (or their Beneficiary), when permitted under the terms of the Plan, may elect a deferred Distribution under Subsection (b) below.

(2) If the account is immediately distributable, the Participant will have the distribution of their Distributable Benefit governed by Subsection (b) below.

(b) Deferred Distribution. Except in the case of amounts subject to Subsection 2.5.6(l), or mandatory distributions for which a Participant's consent is not required, a Participant with a Distributable Benefit in excess of $5,000 or the specified Mandatory Cash-out threshold selected by the Employer in the Adoption Agreement, a Participant may elect to delay the commencement of distributions. Upon such an election, the distribution of a Participant's Distributable Benefit will be deferred and must commence no later than the sixtieth (60th) day after the last day of the Plan Year in which the following occurs:

(1) The Participant attains the earlier of age sixty-five (65) or the Normal Retirement Age;

(2) The Participant reaches the tenth (10th) anniversary of their participation in the Plan; or

(3) The Participant terminates their employment with the Employer.

A Participant who terminates employment before satisfying the age requirement for Normal Retirement, or Early Retirement Age, but has satisfied any service requirement will be entitled to a

distribution of their Distributable Benefit in accordance with Subsection (a) above upon attaining such age.

The Plan Administrator will notify the Participant and the Participant's spouse of the right to defer any distribution while the Participant's Account balance in the Plan is Immediately Distributable, as defined in Subsection 2.5.7(a). Such notice will be given to the Participant at least 30, but no more than 180 days (90 days for Plan Years beginning before January 1, 2007) before the distribution. A Participant and the Participant's spouse may elect a distribution commencing less than 30 days after the notice is provided to the Participant, if the notice clearly indicates that the Participant has at least 30 days to decide whether to consent to the distribution. The failure of a Participant or the Participant's spouse to consent to a distribution while a benefit is Immediately Distributable will be deemed to be an election to defer commencement of benefits under this Section. If the Plan meets the requirements of Subsection 2.5.5(c), only the Participant must consent to the distribution of an Account balance that is Immediately Distributable.

Such distribution may commence less than 30 days after the notice required under Treasury Regulations section 1.411(a)-11(c) is given, provided that:

(1) The Plan Administrator clearly informs the Participant that the Participant has a right to a period of at least 30 days after receiving the notice to consider the decision of whether or not to elect a distribution (and if applicable, a particular distribution option),

(2) The Participant, after receiving the notice, affirmatively elects a distribution,

(3) The distribution commences more than 7 days after such explanation is provided,

(4) The Participant is permitted to revoke any affirmative distribution election at least until the Annuity Starting Date or, if later, at any time prior to the expiration of the 7 day period that begins the day after the explanation of the Qualified Joint and Survivor Annuity is provided to the Participant, and

(5) The Annuity Starting Date is a date after the date that the written explanation was provided to the Participant.

(c) Advance Distributions. If the Employer elects in the Adoption Agreement to permit advance distribution to a Participant or their Beneficiary after their employment has terminated or after they reach Normal Retirement Age but continues their employment, and before they are otherwise entitled to distribution of their Distributable Benefit but in no event earlier than a reasonable period following the Distribution Determination Date, the Trustee upon the request of the Participant or Beneficiary will make advance distributions to them or to their Beneficiary. The aggregate of such advance distributions will not exceed the sum of the vested and nonforfeitable interest in the Participant's Accounts.

If the Employer elects in the Adoption Agreement to forfeit non-vested amounts immediately upon distribution of the Employee's entire vested Account balance on termination of service, an Employee who terminates service and elects to receive the value of the Employee's vested Account balance will forfeit the non-vested portion. If the Employee elects to receive a distribution of less than the entire vested portion of the Account balance derived from Employer Contributions, the part of the non-vested portion that is treated as a Forfeiture is the total non-vested portion multiplied by a fraction, the numerator of which is the amount of the distribution attributable to Employer Contributions and the denominator of which is the total value of the vested Employer derived Account balance.

Except as provided in the preceding paragraph, if a Participant receives a distribution that reduces the balance in their Employer Account when they have less than a 100% vested and nonforfeitable interest in the Account, the amount, if any, of the Participant's vested and nonforfeitable interest in the undistributed balance of said Account at any relevant time will not be less than an amount ("X") determined by the formula: X = P (AB + (R x D)) - (R x D). For purposes of applying the formula: P is the vested percentage at the relevant time; AB is the Account balance at the relevant time; D is the amount of the distribution; and R is the ratio of the Account

balance at the relevant time to the Account balance after distribution.

(d) Distribution upon Plan Termination. In the event of Plan termination (including termination resulting from a complete discontinuance of contributions by the Employer), the Distribution Determination Date will be the date of such termination. In the event of a partial Plan termination, the Distribution Determination Date for each Participant with respect to whom such partial termination has occurred will be the last day of the Plan Year coinciding with or immediately following the date of such partial termination.

(e) Distribution upon Death. In the event of the Participant's death, the Distributable Benefits will be paid to the Participant's Designated Beneficiary according to the Required Minimum Distribution provision under Section 2.5.7. If the Participant dies before the distribution has begun under the Required Beginning Date of Subsection 2.5.7(b), unless the Plan or a Participant's Account is subject to Qualified Joint and Survivor Annuity requirement, then a Qualified Preretirement Survivor Annuity will be payable to the Participant's Spouse, unless the Participant and Spouse elects to waive subject to Subsection 2.5.6(k).

Notwithstanding, the survivors of any Participant who dies on or after January 1, 2007, while performing Qualified Military Service, are entitled to any additional benefits (other than contributions relating to the period of Qualified Military Service, but including vesting service credit for such period and any ancillary life insurance or other survivor benefits) that would have been provided under the Plan had the Participant resumed employment on the day preceding the Participant's death and then terminated employment on account of death.

(f) Distribution upon Disability. In the event the Participant is determined to be Disabled, the Participant will be entitled to receive their Distributable Benefit within a reasonable period as elected by the Employer in the Adoption Agreement.

If the Participant becomes Disabled after termination of employment, they will be entitled to commence distribution of their vested Account balance as if they became Disabled prior to termination of employment, however their vested Account balance will not increase if the Participant becomes Disabled after the termination of their employment.

2.5.5 General Distributions Requirements. Where a Plan permits a distribution under the terms of this Article, the Plan Administrator must notify the Participant (or in the event of the Participant's death, the Participant's spouse or survivor) of their right to elect a distribution (or the right to elect an optional forms of payment) under the terms of the Plan.

(a) Notice and Consent. The Plan Administrator will notify the Participant of their right to a distribution by distributing the 402(f) Safe Harbor Tax Notice provided by the Internal Revenue Service and request an affirmative election to one of the distribution options under the Plan. The consent notice must be provided at least 30 days but in no case more than 180 days (90 days for Plan Years beginning before January 1, 2007) before the distribution commence.

Generally, no payment can be made under the Plan until at least 30 days after the Participant has received the consent notice. The consent notice must clearly inform the Participant that they have:

(1) a right to a period of at least 30 days after receiving the notice to consider the decision of whether or not to elect a distribution (and if applicable, a particular distribution option),

(2) a right to defer their distribution under Subsection 2.5.4, until they reach the Plan's NRA and/or commencement date as elected by the employer in the Adoption Agreement, and, for Plan Years beginning after December 31, 2006, the consequences of failing to defer any distribution, and

(3) a right to elect a Direct Rollover under Subsection 2.5.3.(b).

After receipt of the consent notice, the Participant has the right to waive all or a portion of the unexpired 30-day notice period and affirmative elects a distribution under the terms of the Plan.

Notwithstanding, where the Participant's vested Account balance derived from Employer and Employee Contribution is less than $5,000 or some lesser amount elected by the Employer in the Adoption Agreement, the Participant will not be required to consent to a certain form or method of distribution or the waiver of the 30 day notice period. Absent an affirmative election the Participant's distribution will be made as an Automatic Rollover under Subsection 2.5.3(d).

(b) Spousal Consent. If payment in the form of a Qualified Joint and Survivor Annuity is not required with respect to a Participant and the value of a Participant's vested Account balance derived from Employer and Employee contributions exceeds $5,000, and the Account balance is Immediately Distributable, then the Participant and the Participant's spouse must consent to any distribution of such Account Balance prior to reaching the Normal Retirement Age under the Plan. If payment in the form of a Qualified Joint and Survivor Annuity is required with respect to a Participant and the value of a Participant's vested Account balance derived from Employer and Employee contributions exceeds $5,000, and the Account balance is Immediately Distributable, then the Participant and the Participant's spouse must consent to any distribution of such Account Balance prior to reaching the Normal Retirement Age under the Plan. The notice and consent requirements under Subsection 2.5.5 will apply.

Neither the consent of the Participant nor the Participant's spouse will be required to the extent that a distribution is required to satisfy Code sections 401(a)(9) or 415.

(c) Exception to Spousal Consent Requirements. If a plan designated as either a Cash or Deferred Arrangement or Profit Sharing Plan, unless otherwise elected by the Employer in the Adoption Agreement, a Participant will not be required to obtain the consent of their spouse for any distribution or Participant loan if the following conditions are satisfied:

(1) The Participant does not or cannot elect payments in the form of a life annuity; and

(2) On the death of a Participant, the Participant's vested Account balance will be paid to the Participant's surviving spouse. If there is no surviving spouse or if the surviving spouse has consented in a manner conforming to a qualified election, then the Participant's vested Account balance will be paid to the Participant's Designated Beneficiary.

Notwithstanding, if a Participant's vested Account Balance in a plan designated as a Profit Sharing Plan or Cash or Deferred Arrangement contains any assets that were a direct or indirect transferee of a defined benefit plan, money purchase plan or target benefit plan, then spousal consent will be required for that portion of the Plan that is subject to the joint and survivor annuity requirements of Code sections 401(a)(11) and 417.

2.5.6 Annuity and Consent Requirements. If the only forms of distribution selected by the Employer in the Adoption Agreement are annuities or if the Plan or Distributable Benefit is subject to the minimum funding requirement of Code section 412, the Participant's distribution will be subject to joint and survivor provisions of Code sections 401(a)(11) and 417.

Notwithstanding the other provisions of this Section, if the Plan is designated in the Adoption Agreement as a Cash or Deferred Profit Sharing Plan or a Profit Sharing Plan and the Participant does not select a life annuity distribution option, the Qualified Joint and Survivor Annuity and Qualified Preretirement Survivor Annuity forms of distribution will not be available, except in the case of transfers under Subsection 3.9.3(b). However, a Participant's surviving spouse will be entitled to elect distribution of the Participant's vested Account balance in the manner provided by Section 3.6.3.

(a) Automatic Qualified Joint and Survivor Annuity. If benefits in the form of a life annuity become payable to a married Participant who:

(i) Begins to receive payments under the Plan on or after Normal Retirement Age; or

(ii) Dies on or after Normal Retirement Age while still working for the Employer; or

(iii) Begins to receive payments on or after the qualified Early Retirement Age; or

(iv) Separates from service on or after attaining Normal Retirement Age (or the qualified Early Retirement Age) and after satisfying the eligibility requirements for the payment of benefits under the Plan and thereafter dies before beginning to receive such benefits;

then such benefits will be received under this Plan in the form of a Qualified Joint and Survivor Annuity, unless the Participant has elected otherwise during the election period. The election period must begin at least 6 months before the Participant attains qualified Early Retirement Age and end not more than 90 days before the commencement of benefits. Any election hereunder will be in writing and may be changed by the Participant at any time.

(b) Terms of Annuity Contracts. Any annuity contract distributed from the Plan must be nontransferable. The terms of any annuity contract purchased and distributed by the Plan to a Participant or a Participant's spouse will comply with the requirements of the Plan as elected by the Employer in the Adoption Agreement.

(c) Survivor Annuity. If elected by the Employer in the Adoption Agreement the Plan will provide an immediate annuity for the life of the Participant and if the Participant is married, a survivor annuity for the life of the spouse which is not less than 50% (or a higher percentage as selected by the employer in the Adoption Agreement).

Unless a survivor annuity form of benefit is waived, pursuant to a qualified election within the applicable election period, a married Participant's vested Account balance will be applied toward the purchase of a Qualified Joint and Survivor Annuity (QJSA) and an unmarried Participant's vested account balance will be applied toward the purchase of a Straight Life Annuity (SLA). The Participant may elect to receive another form of payment or to receive a Qualified Optional Survivor Annuity within the applicable election period and waive the survivor annuity payments under the Plan.

A Qualified Optional Survivor Annuity (QOSA) is an optional form of benefit that provides a survivor annuity based on the survivor annuity provided under the Plan's Qualified Joint and Survivor Annuity as described in Subsection 2.5.6(j).

If the married Participant dies before the annuity start date, then the Participant's vested Account balance will be applied toward the purchase of a Qualified Pre-retirement Survivor Annuity (QPSA). The value of the Qualified Pre-retirement Survivor Annuity will not be less than the amount that would have been payable under the Qualified Joint and Survivor Annuity form of benefit. The surviving spouse may receive a payment under the Qualified Pre-retirement Survivor Annuity not later than the month in which the Participant would have attained the earliest retirement date under the Plan. Notwithstanding, the surviving spouse may elect to have such annuity distributed within a reasonable period after death.

(d) Exception if Participant is not Married for One Year. If the "One Year Marriage Rule" is elected in the Adoption Agreement, notwithstanding the foregoing, the benefits under the Plan will not be provided in the form of a Qualified Joint and Survivor Annuity or a Qualified Preretirement Survivor Annuity unless the Participant and their spouse have been married throughout the 1 year period ending on the earlier of the Participant's Annuity Starting Date or the date of the Participant's death.

If a Participant marries within 1 year before the Annuity Starting Date and the Participant and their spouse in such marriage have been married for at least a 1 year period ending on or before the date of the Participant's death, the Participant and such spouse will be treated as having been married throughout the required period. A former spouse will be treated as the spouse or surviving spouse and a current spouse will not be treated as the spouse or surviving spouse, to the extent provided under a Qualified Domestic Relations Order as described in Code section 414(p).

(e) Notice and Consent to Distributions. The Plan Administrator will notify the Participant and the Participant's spouse of the right to elect this form of distribution or the right to elect an optional form under the terms of the Plan. Such notification will include a general description of the material features and an explanation of the relative values of the optional forms of benefit available under the Plan in a manner that would satisfy the notice requirements of Code section

417(a)(3) and within a reasonable time before the Annuity Start Date.

(f) Written Explanations of Qualified Joint and Survivor Annuity. In general, the Plan Administrator will provide each Participant, with a written explanation of:

(1) The terms and conditions of a Qualified Joint and Survivor Annuity and of the Qualified Optional Survivor Annuity;

(2) The Participant's right to make and the effect of an election to waive the Qualified Joint and Survivor Annuity form of benefit;

(3) The rights of the Participant's spouse to consent to a Participant's election; and

(4) The right to make and the effect of a revocation of an election.

The written explanation will comply with the requirements of section 1.417(a)(3)-1 of the Income Tax Regulations.

(g) Applicable Election Period (QJSA). For the purpose of a Qualified Joint and Survivor Annuity the applicable election period will be no less than 30 days and no more than 180 days (90 days for Plan Years beginning before January 1, 2007) before the Annuity Starting Date with a written explanation of the survivor annuity option. During this period the Participant may elect a Qualified Optional Survivor Annuity.

(h) Written Explanation of Qualified Preretirement Survivor Annuity. The Plan Administrator will provide to each Participant within the applicable election period, a written explanation of a Qualified Preretirement Survivor Annuity comparable to that provided with respect to a Qualified Joint and Survivor Annuity percentage elected in the Plan. The written explanation will comply with the requirements of section 1.417(a)(3)-1 of the Income Tax Regulations.

(i) Applicable Election Period (QPSA). The Applicable election period for a Qualified Preretirement Survivor Annuity means with respect to a Participant, the later of the following periods:

(1) The period beginning with the first day of the Plan Year in which the Participant attains age 32 and ending with the close of the Plan Year preceding the Plan Year in which the Participant attains age 35.

(2) A reasonable period ending after the individual becomes a Participant.

(3) A reasonable period ending after the Plan ceases to fully subsidize costs.

(4) A reasonable period ending after Code section 401(a)(11) first applies to the Participant.

(5) A reasonable period ending after separation from service in case of a Participant who separates before attaining age 35. For purposes of applying the foregoing, a reasonable period ending after the enumerated events described in (2), (3) and (4) is the end of the two-year period beginning 1 year prior to the date the applicable event occurs and ending 1 year after that date. In the case of a Participant who separates from service before the Plan Year in which age 35 is attained, notice will be provided within the two-year period beginning prior to separation and ending 1 year after separation. If such a Participant thereafter returns to employment with the Employer, the Applicable Period for such Participant will be redetermined.

(j) Qualified Optional Survivor Annuity. Plans to which the Annuity and Consent requirements of Code sections 401(a)(11) and 417 apply must provide a Qualified Optional Survivor Annuity.

For purposes of a Qualified Optional Survivor Annuity, the term "Survivor Annuity Percentage" means the percentage by which the survivor annuity under the plan's Qualified Joint and Survivor Annuity bears to an annuity payable during the joint lives of the Participant and their spouse. If the Survivor Annuity Percentage:

(1) is less than 75%, then the applicable percentage is 75%; or

(2) is greater than or equal to 75%, then the applicable percentage is 50%.

The Qualified Optional Survivor Annuity provisions will apply to the Plan and are effective for Plan Years beginning after December 31, 2007, subject to certain special effective date rules for collectively bargained plans.

(k) Election to Waive Annuity Payment. At any time during the applicable election period, a Participant and their spouse may elect to waive the Qualified Joint and Survivor Annuity form of benefit or the Qualified Preretirement Survivor Annuity form of benefit (or both) and may revoke any such election. There is no limit to the number of times that an election or a revocation may be made by a Participant.

(l) Spousal Consent Required. An election to waive the Qualified Joint and Survivor Annuity form of benefit or the Qualified Preretirement Survivor Annuity form of benefit (or both) will not take effect unless:

(1) the spouse of the Participant consents in writing to the election, and such election designates a specific Beneficiary, including any class of Beneficiaries or contingent Beneficiaries, or, solely in the case of a waiver of a Qualified Joint and Survivor Annuity, designates an alternative form of benefit, that may not be changed without spousal consent (unless the consent of the spouse expressly permits designations by the Participant without any requirement of further consent by the spouse),

(2) the spouse's consent acknowledges the effect of such election and is witnessed by a Plan representative or a notary public, or

(3) the Participant establishes to the satisfaction of the Plan Administrator that such consent cannot be obtained because there is no spouse, because the spouse cannot be located, or because of other circumstances permitted by applicable regulations.

Any consent by a spouse obtained under this provision (or establishment that the consent of a spouse may not be obtained) will be effective only with respect to such spouse. A consent that permits designations by the Participant without any requirement of further consent by such spouse must acknowledge that the spouse has the right to limit consent to a specific Beneficiary, and a specific form of benefit where applicable, and that the spouse voluntarily elects to relinquish either or both of such rights.

A Participant may revoke a prior waiver without the consent of the spouse at any time before the commencement of benefits. The number of waivers and revocations will not be limited. No consent obtained under this provision will be valid unless the Participant has received notice as provided in Notice and Consent to Distribution provision of this section.

If payment in the form of a Qualified Joint and Survivor Annuity is required with respect to a Participant and either the value of a Participant's vested Account balance derived from Employer and Employee contributions exceeds $5,000 (or a lesser Mandatory Cash-out amount selected in the Adoption Agreement), or there are remaining payments to be made with respect to a particular distribution option that previously commenced, prior to the Participant reaching the earliest retirement age under the Plan, then the Participant and the Participant's spouse must consent to any distribution from the Plan.

If payment in the form of a Qualified Joint and Survivor Annuity is required with respect to a Participant and the value of a Participant's vested Account balance derived from Employer and Employee contributions does not exceeds $5,000(or a lesser Mandatory Cash-out amount selected in the Adoption Agreement), and the Account balance is Immediately Distributable, then the consent requirement will not apply to the distribution from the Plan.

If payment in the form of a Qualified Joint and Survivor Annuity is required with respect to a

Participant or the Plan, and the vested Account balance is used as security for a loan from the Plan, the Participant's spouse must consent in writing and acknowledge the effect of using the vested Account balance on survivor benefit due under the Plan during the 180 day period ending on the date the loan is secured.

The consent of a Participant or Participant's spouse must in writing and obtained within the 180-day period (90 days for Plan Years beginning before January 1, 2007) ending on the Annuity Starting Date.

2.5.7 Required Minimum Distributions. All distributions required under this Article V will be determined and made in accordance with Code section 401(a)(9) and the applicable regulations, including the minimum distribution incidental benefit requirements of Code section 401(a)(9)(G). In the event that a provision of this Plan conflicts with such requirements, such requirements will govern.

As of the first Distribution Calendar Year (defined in Subsection 2.5.7(i)(1)), distributions, if not made in a single sum, may only be made over one of the following periods (or a combination thereof): (1) the life of the Participant; (2) the life of the Participant and a Designated Beneficiary; (3) a period certain not extending beyond the Life Expectancy of the Participant; or (4) a period certain not extending beyond the joint and last survivor expectancy of the Participant and a Designated Beneficiary.

The Plan was amended pursuant to section 401(a)(9)(H) of the Code to provide for the waiver of the Required Minimum Distributions for the 2009 Distribution Calendar Year. The Plan suspended all Required Minimum Distributions attributable to the 2009 Distribution Calendar Year. The otherwise Required Minimum Distributions were not required to be distributed from the Plan unless a Participant submitted a written request electing to receive a distribution for 2009. The Required Beginning Date for 2009 for any Participant who attained age 70 1/2 in 2009 was postponed from April 1, 2010 until December 31, 2010. The Plan was not required to make a distribution under this provision until December 31, 2010 unless a Participant submitted a written request electing to receive a distribution for 2009. The Required Minimum Distribution payable during the lifetime of a Participant or after the death of a Participant to their Designated Beneficiary that was attributable to the 2009 Distribution Calendar Year was not distributed unless a Participant or the Designated Beneficiary submitted a written request electing to receive a distribution for 2009. Under this 2009 suspension of the Required Minimum Distribution a Participant or a Designated Beneficiary could have requested that the Plan make a Required Minimum Distribution for the 2009 Distribution Calendar Year by completing an individual election form. When made this distribution would be treated as an Eligible Rollover Distribution from the Plan. Where a Required Minimum Distribution was payable and the five year rule applies with respect to a deceased Participant's account, then the Required Minimum Distribution for the 2009 Distribution Calendar Year will be disregarded in the calculation of the 5 year period; resulting in a one year extension of this rule.

(a) Required Beginning Date. Notwithstanding anything herein to the contrary, unless the Participant has made an appropriate TEFRA 242(b)(2) election, as described in Subsection 2.5.7(j), that has not been revoked or modified, the Participant's entire benefit will be distributed, or begin to be distributed, to the Participant no later than the Required Beginning Date.

(b) Timing of Distributions if Participant Dies Before Distributions Begin.

(1) If the Participant dies before required distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

(A) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary, then, except as provided in the Adoption Agreement, 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 seventy and one-half (701/2), if later.

(B) If the Participant's surviving spouse is not the Participant's sole Designated Beneficiary, then, except as provided in the Adoption Agreement, distributions to the Designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.

(C) If there is no Designated Beneficiary as of the date of the Participant's death who remains a Beneficiary as of September 30 of the year immediately following the year the Participant died, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(D) 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 Subsection 2.5.7(b), other than Subsection 2.5.7(b)(1)(A), will apply as if the surviving spouse were the Participant.

(2) For purposes of this Subsection 2.5.7(b) and Subsections 2.5.7(f) and (g), distributions are considered to begin on the Participant's Required Beginning Date unless Subsection 2.5.7(b)(1)(D) applies. If Subsection 2.5.7(b)(1)(D) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under Subsection 2.5.7(b)(1)(A). If distributions under an annuity contract 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 Subsection 2.5.7(b)(1)(A)), the date distributions are considered to begin is the date distributions actually commence.

(3) If the Adoption Agreement permits Participants and Beneficiaries to elect the 5-year rule, the election must be made no later than the earlier of:

(A) September 30 of the calendar year in which the distribution would be required under Subsections 2.5.7(b)(1)(A) or (B), or

(B) By September 30 of the calendar year that contains the 5th anniversary of the Participant's (or if applicable, the surviving spouse's) death.

If this election is made, then the Participant's entire interest must be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(c) Forms of Distribution. Unless the Participant's interest is distributed in the form of an annuity contract purchased from an insurance company or in a single sum on or before the Required Beginning Date, distributions will be made in accordance with Subsections 2.5.7(d) and (f) as of the first Distribution Calendar Year. If the Participant's interest is distributed in the form of an annuity contract purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Code section 401(a)(9) and the applicable regulations.

(d) Required Minimum Distributions During Participant's Lifetime. During the Participant's lifetime, the minimum amount that will be distributed for each Distribution Calendar Year is the lesser of:

(1) The quotient obtained by dividing the Participant's Account Balance by the distribution period set forth in the Uniform Lifetime Table found in Treasury Regulations section 1.401(a)(9)-9, Q&A-2, using the Participant's age as of the Participant's birthday in the Distribution Calendar Year; or

(2) 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 Treasury Regulations section 1.401(a)(9)-9, Q&A-3, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the Distribution Calendar Year.

(e) Lifetime Required Minimum Distributions Continue Through Year of Participant's Death. Required Minimum Distributions will be determined under Subsection 2.5.7(d) beginning with the first Distribution Calendar Year and continuing up to, and including, the Distribution Calendar Year that includes the Participant's date of death.

(f) Required Minimum Distributions On or After Date Required Distributions Begin.

(1) Participant Survived by Designated Beneficiary. If the Participant dies on or after the date required 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 in accordance with the Single Life Table found in Treasury Regulations section 1.401(a)(9)-9, Q&A-1, 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 using the Single Life Table found in Treasury Regulations section 1.401(a)(9)-9, Q&A-1, 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 under the Single Life Table using the age of the Beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.

(2) No Designated Beneficiary Survives. If the Participant dies on or after the date required distributions begin and there is no Designated Beneficiary as of the Participant's date of death who remains a 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 under the Single Life Table calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

(g) Distribution Amount If Participant Dies Before Date Required Distributions Begin.

(1) Participant Survived by Designated Beneficiary. If the Participant dies before the date required 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 Subsection 2.5.7(f). If permitted in the Adoption Agreement, a Participant or Designated Beneficiary may elect to receive distributions over the 5-year period described in Subsection 2.5.7(b)(3).

(2) No Designated Beneficiary Survives. If the Participant dies before the date distributions begin and all Designated Beneficiaries, if any, as of the Participant's date of death are no longer Beneficiaries as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest must be completed by December 31 of the calendar year containing the 5th anniversary of the Participant's death.

(3) Death of Surviving Spouse Before Distributions to Surviving Spouse Are Required to Begin. If all of the following are true, this Subsection 2.5.7(g) will apply as if the surviving spouse were the Participant:

(A) The Participant dies before the date distributions begin,

(B) The Participant's surviving spouse is the Participant's sole Designated Beneficiary, and

(C) The surviving spouse dies before distributions are required to begin to the surviving spouse under Subsection 2.5.4(b)(1).

(h) Asset Rollovers and Transfers.

If a Participant requests a rollover of their benefits to a qualified plan not maintained by the Employer during their first or subsequent Distribution Calendar Year, or a Participant's benefits are transferred to another qualified plan, such rollover or transfer will be reduced by the Required Minimum Distribution for the Distribution Calendar Year under Code section 401(a)(9) and the reduction will be distributed to the Participant by the appropriate date.

If the Plan receives a rollover or transfer with respect to a Participant who has reached their Required Beginning Date, the Plan will distribute the Required Minimum Distribution under Code section 401(a)(9) beginning with the following calendar year. In the event that the beneficiary or method of distribution with respect to transferred assets differs from the Beneficiary or method of distribution of this Plan, the Plan will segregate the transferred assets and continue to distribute the benefits from the originating plan in accordance with the method of distribution and Life Expectancy of the originating plan.

(i) Definitions.

(1) Distribution Calendar Year. A calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first Distribution Calendar Year is the calendar year immediately preceding the calendar year that contains the Participant's Required Beginning Date. For distributions beginning after the Participant's death, the first Distribution Calendar Year is the calendar year in which distributions are required to begin under Subsection 2.5.7(b)(1). 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.

(2) Life Expectancy. Life Expectancy as computed by use of one of the following tables, found in Treasury Regulations section 1.401(a)(9)-9, as appropriate:

(A) Single Life Table;

(B) Uniform Life Table; or

(C) Joint and Last Survivor Table

(3) Participant's Account Balance. (For purposes of Required Minimum Distributions only.)

(A) The calendar year immediately preceding the Distribution Calendar Year is the "valuation calendar year." The Participant's Account Balance as of the last Valuation Date in the valuation calendar year is increased by the amount of any contributions made and allocated or Forfeitures allocated to the Participant's Account Balance as of dates in the valuation calendar year after the Valuation Date and decreased by distributions made in the valuation calendar year after the Valuation Date. If an amount is distributed or transferred from another source during the valuation calendar year, that amount is included in the Participant's Account Balance for the valuation calendar year regardless if such amount is transferred or rolled over to the Plan in the valuation calendar year or in the Distribution Calendar Year.

(B) Exception for second Distribution Calendar Year. For purposes of Subsection (i) above, if any portion of the minimum distribution for the first Distribution Calendar Year is made in the second Distribution Calendar Year on or before the Required Beginning Date, the amount of the minimum distribution made in the second Distribution Calendar

Year will be treated as if it had been made in the immediately preceding Distribution Calendar Year.

(4) Required Beginning Date.

(A) General rule. The Required Beginning Date of a Participant is the first day of April of the calendar year following the calendar year in which the Participant attains age 70 1/2.

(B) Non-5-Percent Owner Exception. If so elected in the Adoption Agreement, the Required Beginning Date of a Participant who is not a 5-Percent Owner will be the first day of April of the calendar year following the later of the calendar year in which the Participant retires or the calendar year in which the Participant attains age 70 1/2.

(C) Transition Rule:

(A) If previously elected by the Employer, any Participant who is not a 5-Percent Owner and attains age 70 1/2 in years after 1995 may elect by April 1 of the calendar year following the year in which the Participant attained age 70 1/2, (or by December 31, 1997 in the case of a Participant attaining age 70 1/2 in 1996) to defer distributions until the calendar year following the calendar year in which the Participant retires. If no such election is made the Participant who is not a 5-Percent Owner will begin receiving distributions by April 1 of the calendar year following the year in which the Participant attained age 70 1/2 (or by December 31, 1997 in the case of a Participant attaining age 70 1/2 in 1996).

(B) If previously elected by the Employer, any Participant who attained age 70 1/2 in years prior to 1997 but not earlier than January 1, 1996, was permitted to elect to stop distributions and recommence by the April 1 of the calendar year following the year in which the Participant retires. An Employer who adopted this option selected either:

(1) A new Annuity Starting Date upon recommencement, or

(2) No new Annuity Starting Date upon recommencement.

(C) If previously elected by the Employer, the requirement that distributions begin no later than age 70 1/2 only eliminated with respect to Employees who reach age 70 1/2 in or after a calendar year that begins after the later of December 31, 1998, or the date that the Employer adopted the GUST Restatement of this Plan.

(D) 5-Percent Owner. A Participant is treated as a 5-Percent Owner for purposes of this Section if such Participant is a 5-Percent Owner as defined in Part I, Article II at any time during the Plan Year ending with or within the calendar year in which such owner attains age 70 1/2. Once distributions have begun to a 5-Percent Owner under this Section, they must continue to be distributed, even if the Participant ceases to be a 5-Percent Owner in a subsequent year.

(j) TEFRA Section 242(b)(2) Election.

(1) Notwithstanding the other requirements of this Article and subject to the requirements of Sections 2.5.4 and 2.5.6, distribution on behalf of any Employee, including a 5-Percent Owner, may be made in accordance with all of the following requirements (regardless of when such distribution commences):

(A) The distribution by the Plan is one that would not have disqualified the Plan under Code section 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 Employee whose interest in the Plan is being distributed or, if the Employee is deceased, by a Beneficiary of such Employee.

(C) Such designation was in writing, was signed by the Employee or the Beneficiary, and was made before January 1, 1984.

(D) The Employee had an Account balance under the Plan as of December 31, 1983.

(E) The method of distribution designated by the Employee 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 Employee's death, the Beneficiaries of the Employee listed in order of priority.

(2) A distribution upon death will not be covered by this transitional rule 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 Employee.

(3) For any distribution that commences before January 1, 1984, but continues after December 31, 1983, the Employee 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 Subsections 2.5.7(j)(1)(A) and (E).

(4) If a designation is revoked, any subsequent distribution must satisfy the requirements of Code section 401(a)(9) and the applicable regulations. If a designation is revoked subsequent to the date distributions to a Participant were 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 that would have been required to have been distributed to the Participant to satisfy Code section 401(a)(9) and the applicable regulations, but for the TEFRA 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).

(5) If an amount is transferred or rolled over from one plan to another plan, the rules in Treasury Regulations section 1.401(a)(9)-8, Q&A 14 and Q&A 15 will apply.

2.5.8 Nature of Distributions.

(a) Trust Fund and Segregated Funds. Except as provided in Subsection (b) with regard to Life Insurance Policies and the Qualified Joint and Survivor Annuity requirements in Section 2.5.6, distribution of a Participant's Distributable Benefit will consist of cash, property, or an annuity contract, or a combination thereof. If a distribution includes property, the property will be valued at its fair market value as of the date of distribution.

(b) Insurance Policies. In the event that the Trustee has purchased one or more Life Insurance Policies on the life of the Participant, or someone in whom the Participant has an insurable interest, the values and benefits available with respect to each such Policy will be distributed as follows:

(1) If the Participant's employment terminates for any reason other than death, the Trustee, at the election of the Participant, will either (i) surrender the Life Insurance Policy for its available cash value and distribute the proceeds as provided in Subsection (a) above or (ii) distribute the Life Insurance Policy to the Participant, provided the Participant's vested Account balance is at least equal to the policy's cash value.

(2) If the Participant dies, the Participant's Beneficiary will be entitled to the full amount of the policy proceeds.

The Trustee will apply for and be the owner of any policy purchased under the terms of the Plan. The Policy must provide that the proceeds are payable to the Trustee subject to the Trustee's obligation to pay over the proceeds to the Participant's Beneficiary. A Participant's spouse will be the Designated Beneficiary of the proceeds of such Policy unless a qualified election has been made in accordance with Section 2.5.6 of the Plan, if applicable. Under no circumstances will the Trust retain any part of the proceeds. In the event of any conflict between the terms of the Plan and the terms of any policy purchased hereunder, the Plan provisions will control.

(3) In the event the Trustee purchases a Life Insurance Policy on the life of someone other than the Participant pursuant to this Plan, and such other person will die, the Participant may withdraw the life insurance proceeds to the extent they exceed the policy's cash value immediately prior to such death.

2.5.9 Qualified Military Service. Distributions to Individuals Called to Active Duty. Any individual who receives a Qualified Reservist Distribution may, at any time during the 2 year period beginning on the day after the end of the active duty period, make one or more repayment contributions to an Individual Retirement Plan of such individual in an aggregate amount not to exceed the amount of such distribution. The dollar limitations otherwise applicable to contributions to Individual Retirement Plans will not apply to any contribution made pursuant to the preceding sentence. No deduction will be allowed for any contribution pursuant to this Section. For purposes of this Subparagraph, the term "Qualified Reservist Distribution" means any distribution to an individual if:

(a) such distribution is from an Individual Retirement Plan, or from amounts attributable to elective deferrals under a 401(k) plan, 403(b) annuity contract, or certain similar arrangements;

(b) such individual was (by reason of being a member of a reserve component (as defined in section 101 of title 37, United States Code) was ordered or called to active duty for a period in excess of 179 days or for an indefinite period; and

(c) such distribution is made during the period beginning on the date of such order or call and ending at the close of the active duty period.

(d) This Paragraph 2.5.9 is effective August 17, 2001, and applies to individuals ordered or called to active duty after September 11, 2001, and before December 31, 2007. Effective June 17, 2008, it also applies to individuals ordered or recalled to active duty after December 31, 2007.

2.5.10 Hardship Distributions of Elective Deferrals. If the Plan is designated in the Adoption Agreement as a Cash or Deferred Profit Sharing Plan, the Employer may elect in the Adoption Agreement to permit Hardship Distributions of Elective Deferrals. A Hardship Distribution is a distribution that meets the requirements of a distribution on account of immediate and heavy financial need enumerated in this Section 2.5.10. A Participant may request a distribution from the Plan as a result of immediate and heavy financial needs of the Participant to the extent that the distribution is necessary to satisfy such financial needs. The availability of Hardship Distributions to Participants is limited to Participants who have not terminated employment. Effective August 17, 2006, the Plan may permit a Participant to request a Hardship Distribution where the Hardship or unforeseeable financial emergency occurs to the Participant's spouse, dependents, or Primary Beneficiary.

Hardship distributions are subject to the spousal consent requirements contained in Code sections 401(a)(11) and 417 unless the Plan meets the exception of Subsection 2.5.5(c). The Plan Administrator will determine whether a Participant has an immediate and heavy financial need. A distribution will be deemed to be made on account of an immediate and heavy financial need if the distribution is due to:

(a) Deductible medical expenses described in Code section 213(d) incurred or necessary for medical care of the Participant, their spouse, dependents, or Primary Beneficiary under the Plan;

(b) Purchase (excluding mortgage payments) of a principal residence for the Participant;

(c) Cost of tuition and related educational fees and room and board expenses for the next 12 months

of post-secondary education for the Participant, their spouse, children, Primary Beneficiary or dependents; or

(d) The need to prevent the eviction of the Participant from their principal residence or foreclosure on the mortgage of the Participant's principal residence.

(e) Payments for funeral or burial expenses for the Participant's deceased parent, spouse, child, dependent or Primary Beneficiary under the Plan. (For Plan Years beginning after 2005.)

(f) Expenses to repair damage to the Participant's principal residence that would qualify for a casualty loss deduction under Code section 165 (determined without regard to whether the loss exceeds 10% of adjusted gross income). (For Plan Years beginning after 2005.)

A distribution will be considered as necessary to satisfy an immediate and heavy financial need of the Participant only if:

(g) The Participant has obtained all distributions, other than Hardship Distributions, and all nontaxable loans under all plans maintained by the Employer;

(h) All plans maintained by the Employer provide that the Participant's Elective Deferrals and Voluntary Employee Contributions will be suspended for 6 months after the receipt of the Hardship Distribution; and

(i) The distribution is not in excess of the amount of an immediate and heavy financial need (including amounts necessary to pay any federal, state, or local income taxes or penalties reasonably anticipated to result from the distribution).

2.5.11 Distributions in the Event of Incapacity. In the sole judgment of the Plan Administrator, if any Beneficiary entitled to benefits under the Plan is not capable of managing the benefit about to be distributed, such distribution may be made to legal representative of that Beneficiary, or in the case of a minor Beneficiary the guardian, under a valid power of attorney, a court appointed guardian or any other person authorized under state law to receive the benefit. The Plan Administrator may require an order of a court of competent jurisdiction before making such distribution.

2.5.12 In Service Distributions.

(a) Cash or Deferred Profit Sharing Plans. If the Plan is designated in the Adoption Agreement as a Cash or Deferred Profit Sharing Plan, the Employer may elect to permit distributions of Elective Deferrals, Qualified Non-Elective Contributions, Qualified Matching Contributions, and ADP Test Safe Harbor Contributions to a Participant after attaining age 59 1/2 but only prior to their termination of employment. A Participant will be entitled to receive a distribution of all or a part of these Accounts upon filing a written request with the Plan Administrator; provided, that no distribution will be made unless the balance in the Account to be distributed has accumulated for at least 2 years or the individual has been a Participant for 5 or more Plan Years or on account of Hardship unless otherwise elected in the Adoption Agreement; and, the distribution of Elective Deferrals, Qualified Non-Elective Contributions, Matching Contributions (to the extent used in the ADP Test), Qualified Matching Contributions and ADP Test Safe Harbor Contributions must satisfy the limitations imposed by Section 2.7.8. In-service distributions due to Hardship must meet the Hardship requirements of Section 2.5.10.

The Adoption Agreement may provide that In-service Distributions are available before age 59 1/2 for Accounts other than Elective Deferrals, Qualified Non-Elective Contributions, Qualified Matching Contributions, Matching Contributions that are used to pass the ADP test, and ADP Test Safe Harbor Contributions but only prior to a Participant's termination of employment. In-Service Distributions from the Profit Sharing portion of a Cash or Deferred Profit Sharing Plan will be governed by Subsection (b) below.

(b) Profit Sharing Plans. If the Plan is designated in the Adoption Agreement as a Profit Sharing Plan, (including the Profit Sharing portion of a Cash or Deferred Profit Sharing Plan), the Employer may elect in the Adoption Agreement to permit distributions to a Participant prior to their

termination of employment. A Participant will be entitled to receive a distribution of all or part of their interest in the Plan upon filing a written request with the Plan Administrator; provided, that no distribution will be made unless the amount to be distributed to the Participant is fully vested and nonforfeitable (unless otherwise elected in the Adoption Agreement) and has accumulated for at least 2 years or the individual has been a Participant for 5 or more Plan Years, or on account of Hardship; provided, further that In-service distributions on account of Hardship will be subject to the restrictions of Section 2.5.10. In-service Distributions are subject to the spousal consent requirements contained in Code sections 401(a)(11) and 417 unless the Plan meets the exception of Section 2.5.5(c).

(c) Money Purchase Plans. The Employer may elect in the Adoption Agreement to permit In-service distributions upon a Participant reaching their Normal Retirement Age or an age that may not be earlier than age 62.

(d) All Plans. The Employer may elect in the Adoption Agreement to permit In-service Distributions at the election of the Participant for amounts held in a Rollover Account, in a Deductible Voluntary Account, or in a Voluntary Account regardless of age or periods of participation.

(e) Spousal Consent. In-service distributions are subject to the spousal consent requirements contained in Code sections 401(a)(11) and 417 unless the Plan meets the exception of Subsection 2.5.5(c).

(f) If the Plan is a Cash or Deferred Profit Sharing Plan permitting a Participant to contribute all or a portion of their Elective Deferrals to the Trust as designated Roth Deferrals (an after-tax deferral); and also contains distribution options that permit a Participant (active or former Participants with an Account Balance in the Plan) to request an Eligible Rollover Distribution from the Plan, the Employer may elect in the Adoption Agreement to include in the Plan an in-plan Roth conversion feature.

Notwithstanding, the Employer will not amend the Plan to restrict or eliminate any distribution rights that a Participant is entitled to under the Plan (such as a right to an Immediate Distribution of the amount rolled over or right to an In-service Distribution existing under the terms of the Plan).

(1) Conversion. The in-plan Roth conversion will be made through a Direct Rollover election. Under the in-plan Roth conversion feature, all or a portion of an Eligible Rollover Distribution from a non-designated Roth Account in this Plan is directly rolled into an In-plan Roth Rollover Conversion Account. An In-Plan Roth Conversion Account may be established for Eligible Rollover Distributions made on or after September 27, 2010.

Unless otherwise elected in the Adoption Agreement, any Eligible Rollover Distribution made under the Plan's In-service Distribution options that is otherwise eligible for a Direct Rollover election may be converted under the in-plan Roth conversion feature.

(2) Applicable Definitions.

(i) In-plan Roth conversion means the Direct Rollover of amounts from a non-designated Roth Account without removing the funds from the Plan into an In-plan Roth Conversion Account.

(ii) In-plan Roth Conversion Account means a separate Participant subaccount within the Plan that is treated as a designated Roth account under section 402A of the Code.

(iii) Non-designated Roth Account means any subaccount within the Plan that contains pre-tax contributions or earnings.

ARTICLE VI

CONTINGENT TOP HEAVY PROVISIONS

2.6.1 Top-Heavy Requirements. If the Plan becomes a Top-Heavy Plan during any Plan Year, the following provisions will supersede any conflicting provisions in the Plan or Adoption Agreement and apply for such Plan Year:

(a) Except as otherwise provided below, the Employer Contributions and Forfeitures allocated on behalf of any Participant who is not a Key Employee will not be less than the lesser of 3% of such Participant's Compensation, as defined in Section 2.6.2(b), or in the case where the Employer has no defined benefit plan that designates this Plan to satisfy Code section 401, the largest percentage of Employer Contributions and Forfeitures (not including Catch-up Contributions), as a percentage of the Key Employee's Compensation as defined in Section 2.6.2(b), and limited by Code section 401(a)(17), allocated on behalf of any Key Employee for that year. The Minimum Top-Heavy Allocation is determined without regard to any Social Security contribution. This Minimum Top-Heavy Allocation will be made even though, under other Plan provisions, the Participant would not otherwise be entitled to receive an allocation, or would have received a lesser allocation for the year because of (i) the Participant's failure to complete 1,000 Hours of Service (or any equivalent provided in the Plan), or (ii) the Participant's failure to make mandatory Employee contributions to the Plan, or (iii) compensation less than a stated amount. The Employer may elect in the Adoption Agreement to have this provision provide Key Employees with the Top-Heavy minimum benefit.

Elective Deferrals (and, for Plan Years beginning before 2002, Matching Contributions) may not be used to satisfy the Minimum Top-Heavy Allocation.

For purposes of computing the Minimum Top-Heavy Allocation, Compensation will mean a Participant's Compensation as defined in the Adoption Agreement.

The Minimum Top-Heavy Allocation provided above will not apply to any Participant who was not employed by the Employer on the last day of the Plan Year.

If so elected in the Adoption Agreement, the Minimum Top-Heavy Allocation provided above will not apply to any Participant who is in a unit of Employees covered by a collective bargaining agreement between the Employer and Employee representatives, provided benefits were the subject of good faith bargaining and 2% or less of the Employees of the Employer who are covered pursuant to that agreement are professionals as defined in Treasury Regulations section 1.410(b)-9(g).

The Minimum Top-Heavy Allocation provided above will not apply to any Participant to the extent the Participant is covered under any other plan or plans of the Employer and the Employer has provided in the Adoption Agreement that the Minimum Top-Heavy Allocation or benefit requirement applicable to Top-Heavy plans will be met in the other plan or plans and the Participant receives the minimum allocation or benefit under such plan or plans.

Effective for Plan Years beginning after December 31, 2007 if contributions consist solely of an "Automatic Contribution Arrangement" or section 401(k)(12) of the Code plan with matching contributions complying with section 401(m)(11) of the Code the Plan will not be considered Top-Heavy.

(b) The vested and nonforfeitable interest of each Participant will be equal to the percentage determined under the vesting schedule specified in the Adoption Agreement if the Plan becomes a Top-Heavy Plan, or if no vesting schedule is specified, the percentage determined under the following schedule:

Years of Vesting Service	Percentage
Less than 2	0%
2	20%
3	40%
4	60%
5	80%
6	or more 100%

The Top-Heavy minimum vesting schedule applies to all benefits within the meaning of Code section 411(a)(7), except those attributable to Employee Contributions, including benefits accrued before the effective date of Code section 416 and benefits accrued before the Plan becomes Top-Heavy.

No decrease in a Participant's nonforfeitable percentage may occur in the event the Plan's status as Top-Heavy changes for any Plan Year. Any Minimum Top-Heavy Allocation required (to the extent required to be nonforfeitable under Code section 416(b)) may not be forfeited under Code sections 411(a)(3)(B) or (D).

2.6.2 Top-Heavy Definitions. The following terms, as used in this Plan, will have the following meaning:

(a) "Aggregation Group": Each qualified retirement plan of the Employer in which a Key Employee is a participant and each other qualified retirement plan of the Employer that enables any plan in which a Key Employee is a participant to meet the requirements of Code sections 401(a)(4) or 410.

(b) "Annual Compensation": One of the following 3 definitions of Compensation as elected in the Adoption Agreement:

(1) W-2 Wages. Information required to be reported under Code sections 6041, 6051, and 6052 (wages, tips and other compensation as reported on Form W-2). Compensation is defined as wages within the meaning of Code section 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 sections 6041(d), 6051(a)(3), and 6052. Compensation must be determined without regard to any rules under section 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 section 3401(a)(2)).

(2) Section 3401(a) wages. Compensation is defined as wages within the meaning of Code section 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 section Code 3401(a)(2)).

(3) 415 Simplified Compensation. Compensation is defined as wages, salaries, 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 includable in gross income (including, but not limited to, commissions paid salesmen, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips, bonuses, fringe benefits, and reimbursements or other expense allowances under a non-accountable plan (as described in Treasury Regulation 1.62-2(c)), and excluding the following:

(A) 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, or any distributions from a plan of deferred compensation;

(B) 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;

(C) Amounts realized from the sale, exchange or other disposition of stock acquired under a qualified stock option; and

(D) Other amounts which received special tax benefits, or contributions made by the Employer (whether or not under a salary reduction agreement) towards the purchase of an annuity contract described in Code section 403(b) (whether or not the contributions are actually excludable from the gross income of the Employee).

For any Self-Employed Individual, Compensation will mean Earned Income.

For purposes of applying the limitations of this Article, Compensation paid or made available during such limitation year will include any Elective Deferral (as defined in Code section 402(e)(3)), and any amount which is contributed or deferred by the Employer at the election of the Employee and which is not includible in the gross income of the Employee by reason of Code sections 125, 132(f)(4), 402(k), 402(h)(1)(B) or 457.

If elected by the Employer in the Adoption Agreement, amounts under Code section 125 include any amounts not available to a Participant in cash in lieu of group health coverage because the Participant is unable to certify that they have other health coverage (deemed Code section 125 Compensation). An amount will be treated as an amount under Code section 125 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.

(c) "Top-Heavy Plan": For any Plan Year beginning after December 31, 1983, the Plan is Top-Heavy if any of the following conditions exists:

(1) If the Top-Heavy Ratio for the Plan exceeds 60% and the Plan is not part of any Required Aggregation Group or Permissive Aggregation Group of plans.

(2) If the Plan is a part of a Required Aggregation Group of plans but not part of a Permissive Aggregation Group and the Top-Heavy Ratio for the group of plans exceeds 60%.

(3) If the Plan is a part of a Required Aggregation Group and part of a Permissive Aggregation Group of plans and the Top-Heavy Ratio for the Permissive Aggregation Group exceeds 60%.

SIMPLE 401(k) plans and certain Safe Harbor CODA plans and Qualified Automatic Contribution Arrangements are not subject to the Top-heavy requirements of this Article VI.

(d) "Top-Heavy Ratio":

(1) If the Employer maintains one or more defined contribution plans (including any simplified Employee pension plan) and the Employer has not maintained any defined benefit plan that during the 1 year period ending on the Determination Date(s) has or has had accrued benefits, the Top-Heavy Ratio for this Plan alone or for the Required or Permissive Aggregation Group as appropriate is a fraction, the numerator of which is the sum of the Account balances of all Key Employees as of the Determination Date(s) (including any part of any Account balance distributed in the 1 year period ending on the Determination Date(s) (five (5) year period ending on the Determination Date in the case of a distribution made for a reason other than severance from employment, death, or Disability)), and the denominator of which is the sum of all Account balances (including any part of any Account balance distributed in the 1 year period ending on the Determination Date(s) (five (5) year period ending on the Determination Date in the case of a distribution made for a reason other than severance from employment, death, or Disability)), both computed in accordance with Code section 416 and the regulations thereunder.

Both the numerator and denominator of the Top-Heavy Ratio are increased to reflect any contribution not actually made as of the Determination Date, but that is required to be taken into account on that date under Code section 416 and the regulations thereunder.

(2) If the Employer maintains one or more defined contribution plans (including any simplified Employee pension plan) and the Employer maintains or has maintained one or more defined benefit plans that during the 1 year period ending on the Determination Date(s) has or has had any accrued benefits, the Top-Heavy Ratio for any Required or Permissive Aggregation Group as appropriate is a fraction, the numerator of which is the sum of Account balances under the aggregated defined contribution plan or plans for all Key Employees, determined in accordance with (i) above, and the present value of accrued benefits under the aggregated defined benefit plan or plans for all Key Employees as of the Determination Date(s), and the denominator of which is the sum of the Account balances under the aggregated defined contribution plan or plans for all Participants, determined in accordance with (i) above, and the present value of accrued benefits under the defined benefit plan or plans for all Participants as of the Determination Date(s), all determined in accordance with Code section 416 and the regulations thereunder. The accrued benefits under a defined benefit plan in both the numerator and denominator of the Top-Heavy Ratio are increased for any distribution of an accrued benefit made in the 1 year period ending on the Determination Date (five (5) year period ending on the Determination Date in the case of a distribution made for a reason other than severance from employment, death or Disability beginning before January 1, 2002.)

(3) For purposes of (1) and (2) above, the value of Account balances and the present value of accrued benefits will be determined as of the most recent that falls within or ends with the 12 month period ending on the Determination Date, except as provided in Code section 416 and the regulations thereunder for the first and second Plan Years of a defined benefit plan. The Account balances and accrued benefits of a Participant: (1) who is not a Key Employee but was a Key Employee in a prior year, or (2) who has not been credited with at least 1 Hour of Service with any Employer maintaining the Plan at any time during the 1 year period ending on the Determination Date will be disregarded. The calculation of the Top-Heavy Ratio and the extent to which distributions, rollovers, and transfers are taken into account will be made in accordance with Code section 416 and the regulations thereunder. Deductible Employee contributions will not be taken into account for purposes of computing the Top-Heavy Ratio, however, Catch-up Contributions will be taken into account. When aggregating plans, the value of Account balances and accrued benefits will be calculated with reference to the Determination Dates that fall within the same calendar year.

The accrued benefit of a Participant other than a Key Employee will be determined under: (a) the method, if any, that uniformly applies for accrual purposes under all defined benefit plans maintained by the Employer, or (b) if there is no such method, as if such benefit accrued not more rapidly than the slowest accrual rate permitted under the fractional rule of Code section 411(b)(1)(C).

(e) "Permissive Aggregation Group": The Required Aggregation Group of plans plus any other plan or plans of the Employer that, when considered as a group with the Required Aggregation Group, would continue to satisfy the requirements of Code sections 401(a)(4) and 410.

(f) "Required Aggregation Group":

(1) Each qualified plan of the Employer in which at least one Key Employee participates or participated at any time during the Plan Year containing the Determination Date (regardless of whether the plan has terminated).

(2) Any other qualified plan of the Employer that enables a plan described in (i) to meet the requirements of Code sections 401(a)(4) or 410.

(g) "Determination Date": For any Plan Year subsequent to the first Plan Year, the last day of the preceding Plan Year. For the first Plan Year of the Plan, the last day of that year.

(h) "Valuation Date": The date elected by the Employer in the Adoption Agreement as of which account balances or accrued benefits are valued for purposes of calculating the Top-Heavy Ratio.

(i) "Present Value": Present value will be based only on the interest and mortality rates specified in the Adoption Agreement.

ARTICLE VII

SPECIAL CODA LIMITATIONS

2.7.1 Limitation on Deferral Percentage for Highly Compensated Employees.

(a) Prior Year Testing. The Employer may elect in the Adoption Agreement to use the current year ADP for all eligible Highly Compensated Employees must not exceed the greater of the prior year's ADP for all Participants who were Non-Highly Compensated Employees in such year multiplied by:

(1) 1.25; or

(2) 2, but provided the sum is not more than 2 percentage points greater than the prior Plan Year ADP of such Non-Highly Compensated Employees.

The Employer may switch from Prior Year Testing to Current Year testing for any Plan Year.

For the first Plan Year that the Plan permits any Participant to make Elective Deferrals and this is not a successor plan, the ADP of Non-Highly Compensated Employees for the prior Plan Year will be deemed to be 3% or, at the Employer's election, the test will use actual data for the first Plan Year to determine the ADP of eligible Non-Highly Compensated Employees.

(b) Current Year Testing. The Employer may elect in the Adoption Agreement to use the current Plan Year ADP for all eligible Non-Highly Compensated Employees rather than the ADP for the prior Plan Year. Once the Employer has made this election, it may change to Prior Year Testing only if the Plan meets the requirements of Treasury Regulations section 1.401(k)-2(c)(1)(ii), including that:

(1) The Plan has used Current Year Testing for each of the preceding 5 Plan Years or, if lesser, the number of Plan Years that the Plan has been in existence; or

(2) As a result of a merger or acquisition described in Code section 410(b)(6)(C)(i), the Employer maintains both a plan using Prior Year Testing and a plan using Current Year Testing, and the change is made within the transition period described in Code section 410(b)(6)(C)(ii).

(c) Other Rules. An Employee who would be a Participant but for the failure to have Elective Deferrals made on their behalf will be treated as a Participant on whose behalf no Elective Deferrals are made. For purposes of the ADP test compensation may be compensation for the entire Plan Year whether or not the Participant was a Participant for the entire Plan Year or compensation from a Participant's Plan Entry Date determined each year by the Plan Administrator and applied to all eligible Participants in a uniform and non-discriminatory manner.

For purposes of determining the ADP test, Elective Deferrals (other than Catch-up Contributions), Qualified Non-Elective Contributions, and Qualified Matching Contributions must be made before the last day of the 12 month period immediately following the Plan Year to which the contributions relate. For any Plan Year in which Qualified Non-Elective Contributions, and Qualified Matching Contributions are made the Plan must use the Current Year testing method.

Pursuant to Code section 410(b)(4)(B), the Employer may elect to treat that portion of the Plan that benefits only Participants who satisfy age and service conditions under the Plan that are lower than the greatest minimum age and service conditions permitted under Code section 410(a) ("Otherwise Excludable Employees") and that portion of the Plan that benefits Participants that meet the greatest minimum age and service conditions permitted under Code section 410(a) ("Not Otherwise Excludable Employees") as 2 separate plans for purposes of Code section 401(k), and the ADP test need not be satisfied with respect to both plans in order for one of the plans to pass the ADP test. An Employee's membership in the class of Otherwise Excludible Employees will be determined using either the Plan's Entry Date provision or the earlier of the first day of the next

Plan Year of 6 months after completing the greatest minimum age and service conditions of Code section 410(a) as determined each year by the Plan Administrator.

Elective Deferrals that are made as Catch-up Contributions after a period of Qualified Military Service pursuant to Section 2.2.2(a) will not be used to determine a Participant's deferral percentage when the ADP of Participants is calculated for a particular Plan Year.

The determination and treatment of the ADP amounts of any Participant will satisfy such other requirements as may be prescribed by the Secretary of the Treasury.

Use of Qualified Non-Elective Contributions in the ADP or ACP test requires compliance with Reg. 1.401(k)-2(a)(6)(iv) or Reg. 1.401(m)-2(a)(6)(v), respectively, that require the Qualified Non-Elective Contribution be no greater than 5% of a Participant's compensation or no more than twice a "representative contribution rate" determined by analyzing the Qualified Non-Elective Contributions provided to all Non-Highly Compensated Employees.

2.7.2 Limitation on Matching Contributions.

(a) Prior Year Testing. The Employer may elect in the Adoption Agreement to use the current year ACP for eligible Highly Compensated Employees which must not exceed the greater of the prior year's ACP for all Participants who were Non-Highly Compensated Employees in such year multiplied by:

(1) 1.25; or

(2) 2, provided the sum is not more than 2 percentage points greater than the prior Plan Year ACP of such Non-Highly Compensated Employees.

The Employer may switch from Prior Year Testing to Current Year Testing for any Plan Year.

For the first Plan Year that the Plan permits any Participant to make Elective Deferrals and this is not a successor plan, the ACP of Non-Highly Compensated Employees for the prior Plan Year will be deemed to be 3% or, at the Employer's election, the test will use actual data of the first Plan Year to determine the ACP for eligible Non-Highly Compensated Employees.

(b) Current Year Testing. The Employer may elect in the Adoption Agreement to use the current Plan Year ACP for all eligible Non-Highly Compensated Employees rather than the ADP of the prior Plan Year. Once the Employer has made this election, it may change to Prior Year Testing only if the Plan meets the requirements of Treasury Regulations sections 1.401(m)-2(c)(1) and 1.401(k)-2(c)(1)(ii), including that:

(1) The Plan has used Current Year Testing for each of the preceding 5 Plan Years or, if lesser, the number of Plan Years that the Plan has been in existence; or

(2) As a result of a merger or acquisition described in Code section 410(b)(6)(C)(i), the Employer maintains both a plan using Prior Year Testing and a plan using Current Year Testing, and the change is made within the transition period described in Code section 410(b)(6)(C)(ii).

(c) Other Rules. If so elected in the Adoption Agreement, the Employer may include Qualified Non-Elective Contributions in the contribution percentage amounts. In order to be taken into account in the calculation of the ACP for a year under Current Year Testing, a Qualified Non-Elective Contribution or Qualified Matching Contribution must be allocated as of a date within the year using current data and must actually be paid to the Trust no later than the end of the 12-month period following the end of the Plan Year to which the contribution relates. The Employer may also elect to use Elective Deferrals in the contribution percentage amounts so long as the ADP test is met before the Elective Deferrals are used in the ACP test and continues to be met following the exclusion of those Elective Deferrals that are used to meet the ACP test. An ACP will be rounded to the nearest hundredth of a percentage point. If an Elective Deferral or other contribution by an Employee is required as a condition of participation in the Plan, any Employee who would be a Participant if such Employee made such a contribution will be treated as an

eligible Participant on behalf of whom no such contributions are made. For purposes of the ACP test compensation may be compensation for the entire Plan Year whether or not the Participant was a Participant for the entire Plan Year or compensation from a Participant's Plan Entry Date determined each year by the Plan Administrator and applied to all eligible Participants in a uniform and non-discriminatory manner.

The amount of Excess Aggregate Contributions for a Plan Year will be determined only after first determining the Excess Contributions that are treated as Voluntary Employee Contributions due to re-characterization.

Pursuant to section 410(b)(4)(B), the Employer may elect to treat that portion of the Plan that benefits only Participants who satisfy age and service conditions under the Plan that are lower than the greatest minimum age and service conditions permitted under Code section 410(a) ("Otherwise Excludable Employees") and that portion of the Plan that benefits Participants that meet the greatest minimum age and service conditions permitted under Code section 410(a) ("Not Otherwise Excludable Employees") as 2 separate plans for purposes of Code section 401(m), and the ACP test need not be satisfied with respect to both plans in order for one of the plans to pass the ACP test. An Employee's membership in the class of Otherwise Excludible Employees will be determined using either the Plan's Entry Date provision or the earlier of the first day of the next Plan Year of 6 months after completing the greatest minimum age and service conditions of Code section 410(a) as determined each year by the Plan Administrator.

Employee contributions are considered to have been made in the Plan Year in which contributed to the Trust. Matching Contributions, Voluntary Employee Contributions, Qualified Non-Elective Contributions, and Qualified Matching Contributions will be considered made for a Plan Year if made no later than the end of the twelve-month period beginning on the day after the close of the Plan Year.

Matching Contributions made on account of Elective Deferrals that are made as Catch-up Contributions after a period of Qualified Military Service pursuant to Section 2.2.2(a) will not be used to determine a Participant's contribution percentage when the ACP of Participants is calculated for a particular Plan Year.

The Employer will maintain records sufficient to demonstrate satisfaction of the ACP test and the amount of Qualified Non-Elective Contributions and Qualified Matching Contributions used in such test.

The determination and treatment of the contribution percentage of any Participant will satisfy such other requirements as may be prescribed by the Secretary of the Treasury.

Qualified Matching Contributions and Qualified Non-Elective Contributions may be used with Current Year testing method only if the contribution is made within the 12-month period following the last day of the Prior Year. Use of Qualified Matching Contributions in the ADP or ACP test requires compliance with Reg. 1.401(k)-2(a)(6)(iv) or Reg. 1.401(m)-2(a)(6)(v), respectively, that require the Qualified Matching Contribution be no greater than 5% of a Participant's compensation or no more than twice a "representative contribution rate" determined by analyzing the Qualified Matching Contributions provided to all Non-Highly Compensated Employees.

2.7.3 Multiple Plan Limitations For ADP and ACP Testing.

(a) No Participant will be permitted to have Elective Deferrals made under this Plan, or any other qualified plan maintained by the Employer, during any taxable year, in excess of the dollar limitation contained in Code section 402(g)(1) in effect at the beginning of such taxable year.

(b) The ADP for any Participant who is a Highly Compensated Employee for the Plan Year and who is eligible to have Elective Deferrals (and Qualified Matching Contributions, and Qualified Non-Elective Contributions if treated as Elective Deferrals for purposes of the ADP test) allocated to their Accounts under two or more arrangements described in Code section 401(k) that are maintained by the Employer, will be determined as if such Elective Deferrals and, if applicable, such Qualified Matching Contributions and Qualified Non-Elective Contributions) were made

under a single arrangement. If a Highly Compensated Employee participates in two or more cash or deferred arrangements of the Employer that have different plan years, all Elective Deferrals made during the Plan Year under all such arrangements will be aggregated. Notwithstanding the foregoing, certain plans will be treated as separate if mandatorily disaggregated under regulations under Code section 401(k).

(c) In the event that this Plan satisfies the requirements of Code sections 401(k), 401(a)(4), or 410(b) only if aggregated with one or more other plans, or if one or more other plans satisfy the requirements of such sections of the Code only if aggregated with this Plan, then this Section will be applied by determining the ADP of Employees as if all such plans were a single plan. If more than 10% of the Employer's Non-Highly Compensated Employees are involved in a plan coverage change as defined in Treasury Regulations section 1.401(k)-2(c)(4), then any adjustments to the Non-Highly Compensated Employee ADP for the prior year will be made in accordance with such Regulations, unless the Employer has elected in the Adoption Agreement to use the Current Year Testing method. Plans may be aggregated in order to satisfy Code section 401(k) only if they have the same Plan Year and use the same ADP testing method.

(d) The ACP for any Participant who is a Highly Compensated Employee and who is eligible to have contribution percentage amounts allocated to their Accounts under two or more plans described in Code section 401(a), or arrangements described in Code section 401(k), that are maintained by the Employer, will be determined as if the total of such contribution percentage amounts was made under each plan. If a Highly Compensated Employee participates in two or more cash or deferred arrangements that have different plan years, all types of contributions includible in the ACP test from all such arrangements that were made during the Plan Year will be aggregated. Notwithstanding the foregoing, certain plans will be treated as separate if mandatorily disaggregated under regulations under Code section 401(m).

(e) In the event that this Plan satisfies the requirements of Code sections 401(m), 401(a)(4), or 410(b) only if aggregated with one or more other plans, or if one or more other plans satisfy the requirements of such Code sections only if aggregated with this Plan, then Section 2.7.2 will be applied by determining the ACP of Employees as if all such plans were a single plan. If more than 10% of the Employer's Non-Highly Compensated Employees are involved in a plan coverage change as defined in Treasury Regulations section 1.401(m)-2(c)(4), then any adjustments to the Non-Highly Compensated Employee ACP for the prior year will be made in accordance with such regulations, unless the Employer has elected in the Adoption Agreement to use the Current Year Testing method. Plans may be aggregated in order to satisfy Code section 401(m) only if they have the same Plan Year and use the same ACP testing method.

2.7.4 Different Testing Methods for Elective Deferrals and Matching Contributions. The Plan must use the same testing method for the ADP test under Section 2.7.1 and the ACP test under Section 2.7.2 unless the Employer prohibits the use of Elective Deferrals in the ACP test and Recharacterization of Excess Contributions and the use of Qualified Matching Contributions in the ADP test.

2.7.5 Distribution of Excess Elective Deferrals. A Participant may assign to the Plan any Excess Elective Deferrals made during a taxable year of the Participant by notifying the Plan Administrator on or before March 15th of each calendar year of the amount of the Excess Elective Deferrals to be assigned to the Plan. A Participant is deemed to notify the Plan Administrator of any Excess Elective Deferrals that arise by taking into account only those Elective Deferrals made to this Plan and any other plans of the Employer.

Notwithstanding any other provision of the Plan, Excess Elective Deferrals, plus any income and minus any loss allocable thereto, will be distributed no later than April 15th to any Participant to whose Account Excess Elective Deferrals were assigned for the preceding year and who claims Excess Elective Deferrals for such taxable year. For years beginning after 2005, distribution of Excess Elective Deferrals for a year will be made first from the Participant's Pre-tax Elective Account to the extent Pre-tax Elective Deferrals were made for the year, unless the Participant specifies otherwise. For taxable years beginning before January 1, 2006, income or loss allocable to the period between the end of the taxable year and the date of distribution (the "gap-period") could be disregarded in determining income or loss on Excess Elective Deferrals for such years. Gap-period income loss must

be included in any distribution of Excess Elective Deferrals occurring in taxable years beginning in 2007, but must be excluded from any distribution of Excess Elective Deferrals occurring in taxable years beginning after 2007.

Excess Elective Deferrals distributed under this Section will be adjusted for any income or loss based on a reasonable method of computing the allocable income or loss. The method selected must be applied consistently to all Participants and used for all corrective distributions under the Plan for the Plan Year, and must be the same method that is used by the Plan for allocating income or loss to Participants' Accounts. The income allocable to Excess Deferrals is equal to the allocable gain or loss through the end of the Plan Year for which the Deferrals were made.

One reasonable method treats the income and loss allocable to Excess Elective Deferrals as the sum of:

(a) Income or loss allocable to the Participant's Elective Account for the taxable year, multiplied by a fraction, the numerator of which is such Participant's Excess Elective Deferrals for the year and the denominator is the Participant's Account balance attributable to Elective Deferrals without regard to any income or loss occurring during such taxable year; and

(b) 10% of the amount determined under (a) multiplied by the number of whole calendar months between the end of the Participant's taxable year and the date of the distribution, counting the month of distribution if distribution occurs after the 15th of such month. The Gap-period calculation is not applicable after the end of the 2007 Plan Year.

2.7.6 Distribution of Excess Contributions. If elected by the Employer in the Adoption Agreement, if the Plan permits all Participants to make Voluntary Employee Contributions, Elective Deferrals allocated to a Highly Compensated Employee as Excess Contributions will be re-characterized as Voluntary Employee Contributions (after-tax). A Participant must or may, as elected by the Employer in the Adoption Agreement, treat Excess Contributions allocated to them as an amount distributed to the Participant and then contributed by the Participant to the Plan. Re-characterized amounts will remain nonforfeitable. A Highly Compensated Employee may not recharacterize an amount to the extent that such amount in combination with other Voluntary Employee Contributions made by that Employee would exceed any stated limit under the Plan on Voluntary Employee Contributions. Recharacterized Excess Contributions will be reduced by Excess Deferrals previously distributed.

Re-characterization must occur no later than 2 1/2 months after the last day of the Plan Year in which such Excess Contributions arose and is deemed to occur no earlier than the date the last Highly Compensated Employee is informed in writing of the amount re-characterized and the consequences thereof.

If elected in the Adoption Agreement, Excess Contributions that are not recharacterized, plus any income and minus any loss allocable thereto, will be distributed no later than 12 months after the last day of each Plan Year to Highly Compensated Employees to whose Accounts such Excess Contributions were allocated for such Plan Year, except to the extent such Excess Contributions are classified as Catch-up Contributions. For years beginning after 2005, distribution of Excess Contributions for a year will be made first from the Participant's Pre-tax Elective Account to the extent Pre-tax Elective Deferrals were made for the year, unless the Participant specifies otherwise. For Plan years beginning before 2006, income or loss allocable to the period between the end of the Plan Year and the date of distribution (the "gap-period") could be disregarded in determining income or loss on Excess Aggregate Contributions for such years. Gap-period income or loss must be included in any distribution of Excess Aggregate Contributions occurring in Plan Years beginning in 2006 and 2007, but must be excluded from any distribution of Excess Aggregate Contributions occurring in Plan Years beginning after 2007.

The amount of Excess Contributions (and allocable income) to be distributed under this Section of the Plan or the amount of Excess Contributions recharacterized under this Section of the Plan with respect to a Participant for a Plan Year, is reduced by any amounts previously distributed to the Participant from the Plan to correct Excess Deferrals for the Participant's taxable year ending with or within the Plan Year in accordance with Code section 402(g)(2).

The amount required to be distributed to correct an Excess Deferral to an Employee for a taxable year is reduced by any Excess Contributions (and allocable income) previously distributed or excess contributions recharacterized with respect to the Participant for the Plan Year beginning with or within the taxable year. The amount of Excess Contributions includible in the gross income of the Employee, and the amount of Excess Contributions reported by the payer or Plan Administrator as includible in the gross income of the Participant, does not include the amount of an reduction under section 1.402(g)-1(e)(6) of the Treasury regulations.

Excess Contributions are applied to Highly Compensated Employees with the largest amounts of Elective Deferrals taken into account when calculating the ADP test for the Plan Year in which the excess arose, beginning with the Highly Compensated Employee with the largest contribution and continuing in descending order until all the Excess Contributions have been allocated. To the extent that a Highly Compensated Employee has not reached their Catch-up Contribution limit under the Plan, Excess Contributions allocated to such Highly Compensated Employee are Catch-up Contributions and will not be treated as Excess Contributions. If such excess amounts (other than Catch-up Contributions) are distributed more than 2 1/2 months after the last day of the Plan Year in which such excess amounts arose, a 10% excise tax will be imposed on the Employer maintaining the Plan with respect to such amounts.

Excess Contributions will be treated as Annual Additions under Part III, Article II even if distributed to the Participant.

Excess Contributions distributed under this Section will be adjusted for any income or loss based on a reasonable method of computing the allocable income or loss. The method selected must be applied consistently to all Participants and used for all corrective distributions under the Plan for the Plan Year, and must be the same method that is used by the Plan for allocating income or loss to Participants' Accounts. For Plan Years beginning after 2005, income or loss allocable to the period between the end of the Plan Year and the date of distribution may not be disregarded in determining income or loss.

One reasonable method treats the income and loss allocable to Excess Contributions as the sum of:

(a) Income or loss allocable to the Participant's Elective Account (and, if applicable, the Qualified Non-Elective Account or the Qualified Matching Account, or both) for the Plan Year, multiplied by a fraction, the numerator of which is such Participant's Excess Contributions for the year and the denominator is the Participant's Account balance attributable to Elective Deferrals (and Qualified Non-Elective Contributions or Qualified Matching Contributions, or both, if any such contributions are included in the ADP test) without regard to any income or loss occurring during such Plan Year; and

(b) 10% of the amount determined under (a) multiplied by the number of whole calendar months between the end of the Plan Year and the date of the distribution, counting the month of distribution if distribution occurs after the 15th of such month.

Matching Contributions attributable to Excess Contributions that have been returned will be forfeited according to the requirements of Section 2.7.9.

Excess Contributions applied to a Participant will be distributed from the Participant's Elective Account and Qualified Matching Account (if applicable) in proportion to the Participant's Elective Deferrals and Qualified Matching Contributions (to the extent used in the ADP test) for the Plan Year. Excess Contributions will be distributed from the Participant's Qualified Non-Elective Account only to the extent that such Excess Contributions exceed the amount of Excess Contributions in the Participant's Elective Account and Qualified Matching Account.

2.7.7 Distribution of Excess Aggregate Contributions. Notwithstanding any other provision of this Plan, Excess Aggregate Contributions, plus any income and minus any loss allocable thereto, will be forfeited, if forfeitable, or if not forfeitable, distributed no later than 12 months after a Plan Year to Participants to whose accounts such Excess Aggregate Contributions were allocated for such Plan Year. For Plan Years beginning after December 31, 2008, a corrective distribution of Excess Aggregate Contributions (adjusted for any income or loss) will be included in an Employee's gross income in the tax year in which the distribution occurs.

Excess Aggregate Contributions are determined only after first determining the amount of Excess Contributions treated as Employee Contributions due to recharacterization under a CODA in this or any other plan of the Employer.

Excess Aggregate Contributions are applied to Highly Compensated Employees with the largest contribution percentage amounts taken into account in calculating the ACP test for the year in which the excess arose, beginning with the Highly Compensated Employee with the largest contribution percentage amount and continuing in descending order until all the Excess Aggregate Contributions have been allocated. If such Excess Aggregate Contributions are distributed more than 2 1/2 months after the last day of the Plan Year in which such excess amounts arose, a 10% excise tax will be imposed on the Employer maintaining the Plan with respect to those amounts. However, for Plan Years beginning on or after January 1, 2010 where all eligible Non-Highly Compensated Employees and all eligible Highly Compensated Employees are Covered Employees under the Eligible Automatic Contribution Arrangement for the entire Plan Year, the Plan Administrator must distribute Excess Aggregate Contributions from the Plan no later than 6 months after the last day of the Plan Year in which the excess amounts were determined.

Excess Aggregate Contributions distributed under this Section will be adjusted for any income or loss based on a reasonable method of computing the allocable income or loss. The method selected must be applied consistently to all Participants and used for all corrective distributions under the Plan for the Plan Year, and must be the same method that is used by the Plan for allocating income or loss to Participants' Accounts. For Plan Years beginning after 2005, income or loss allocable to the period between the end of the Plan Year and the date of distribution may not be disregarded in determining income or loss. For Plan Years beginning on or after January 1, 2008, the income allocable to Excess Aggregate Contributions is equal to the allocable gain or loss through the end of the Plan Year for which the ACP Test is being corrected.

One reasonable method treats the income and loss allocable to the Participant's Excess Aggregate Contributions as the sum of:

(a) Income or loss allocable to the Participant's Voluntary Account, Matching Account, Qualified Matching Account, (if any, and if all amounts therein are not used in the ADP test) and, if applicable, Qualified Non-Elective Contribution and Elective Deferral Accounts for the Plan Year, multiplied by a fraction, the numerator of which is such Participant's Excess Aggregate Contributions for the year and the denominator is the balance(s) of the Participant's Account previously described, if any such contributions are included in the ACP test without regard to any income or loss occurring during such Plan Year; and

(b) 10% of the amount determined under (a) multiplied by the number of whole calendar months between the end of the Plan Year and the date of the distribution, counting the month of distribution if distribution occurs after the 15th of such month.

Forfeitures of Excess Aggregate Contributions may either be reallocated to the accounts of Participants who are not Highly Compensated Employees or applied to reduce Employer Contributions, as elected by the Employer in the Adoption Agreement.

Excess Aggregate Contributions allocated to a Participant will be forfeited, if forfeitable, or distributed on a pro-rata basis from the Participant's Voluntary, Matching, and Qualified Matching Accounts (and, if applicable, the Participant's Qualified Non-Elective Account or Elective Account, or both).

2.7.8 Limitation on Distributions. Except as otherwise provided in this Article, Elective Deferrals, Qualified Non-Elective Contributions, Qualified Matching Contributions, and income allocable thereto are not distributable to a Participant or their Beneficiary in accordance with such Participant's or Beneficiary's election prior to severance from employment, death, or Disability. Such amounts may, however, be distributed upon:

(a) Termination of the Plan without the establishment of another defined contribution plan, other than an employee stock ownership plan (as defined in Code sections 4975(e)(7) or 409(a)) or a simplified employee pension plan as defined in Code section 408(k), a SIMPLE IRA plan as

defined in Code section 408(p), a plan or contract described in Code section 403(b) or a plan described in Code section 457(b) or (f)) at any time during the period beginning on the date of plan termination and ending 12 months after all assets have been distributed from the Plan. Such a distribution must be made in a lump sum.

(b) The attainment of age 59 1/2.

(c) The Hardship of a Participant in accordance with Section 2.5.10.

(d) The Participant's call to active duty after September 11, 2001, (because of the Participant's status as a member of a reserve component) for a period of at least 180 days (90 days for Plan Years beginning before January 1, 2007) or for an indefinite period. (A "qualified reservist distribution.")

(e) The Participant's service in the uniformed services while on active duty for a period of at least 30 days. If a Participant receives a distribution under this provision, the Participant's Elective Deferrals (and Employee Contributions) will be suspended for 6 months after receipt of the distribution.

(f) A federally declared disaster, where resulting legislation authorizes such a distribution.

All such distributions are subject to the spousal and Participant consent requirements, if applicable, contained in Code sections 401(a)(11) and 417 unless the Plan meets the exception of Subsection 2.5.5(c). In addition, distributions that are triggered by any of the first three events enumerated above must be made in a lump sum.

2.7.9 Forfeiture of Matching Contributions. Matching Contributions will be forfeited when:

(a) The Elective Deferral to which the Matching Contribution or Qualified Matching Contribution relates is returned because it was determined to be Excess Deferrals (unless the Excess Deferrals are for Non-Highly Compensated Employees), Excess Contributions, or Excess Annual Additions; or

(b) The Employee contribution to which the Matching Contribution relates is returned because it was determined to be either Excess Aggregate Contributions or Excess Annual Additions.

The requirements of this Section will be met in whole or in part if the Matching Contribution in question is returned to the Participant as an Excess Aggregate Contribution.

Following the forfeiture of Matching Contributions pursuant to this Section, the highest rate of Matching Contribution allocated to any Highly Compensated Employee may not exceed the lowest rate of Matching Contribution allocated to any Non-Highly Compensated Employee eligible to receive an allocation of Matching Contributions under this Plan or under all plans in a mandatory or permissive aggregation group. This provision will not apply in the case of a Non-Highly Compensated Employee whose allocation of Matching Contributions is limited by the application of Code section 415. Allocation of Forfeitures under this Section will be governed by elections regarding the allocation of the forfeiture of Matching Contributions in the Adoption Agreement.

ARTICLE VIII

SIMPLE 401(k) LIMITATIONS

Notwithstanding any provision in the Plan or Adoption Agreement to the contrary, during any year for which the Employer has elected to treat this Plan as a SIMPLE 401(k) plan under Code sections 401(k)(11) and 401(m)(10), this Article VIII and the attendant election of the Adoption Agreement or any amendment thereof will prevail.

2.8.1 Establishing a SIMPLE 401(k) Plan. If the Employer has elected in the Adoption Agreement to have the 401(k) SIMPLE Provisions apply, then the provisions of this Article will apply for a Year only if (a) the Employer is an Eligible Employer and (b) no contributions are made, or benefits accrued for services during the Year, on behalf of any Eligible Employee under any other plan, contract, pension, or trust described in Code section 219(g)(5)(A) or (B) maintained by the Employer. To the extent that any other provision of the Plan is inconsistent with the provisions of this Article, the provisions of this Article govern.

2.8.2 Definitions.

(a) **"Compensation"** means, for purposes of Sections 2.8.2(b), 2.8.3, and 2.8.4 of this Article, the sum of the wages, tips, and other compensation from the Employer subject to federal income tax withholding (as described in Code section 6051(a)(3)) and the Employee's salary reduction contributions made under this or any other section 401(k) plan, and, if applicable, Elective Deferrals under a section 408(p) SIMPLE IRA Plan, a SARSEP, or a section 403(b) annuity contract and compensation deferred under a section 457 plan, required to be reported by the Employer on Form W-2 (as described in Code section 6051(a)(8)). For Self-Employed Individuals, Compensation means net earnings from self-employment determined under Code section 1402(a) prior to subtracting any contributions made under this Plan on behalf of the individual. The provisions of the Plan implementing the limit on compensation under Code section 401(a)(17) apply to the Compensation under Sections 2.8.3 and 2.8.4 of this Article.

(b) **"Eligible Employer"** means, with respect to any Year (as defined in Subsection 2.8.2(d) below), an employer that had no more than 100 employees who received at least $5,000 of Compensation from the Employer for the preceding Year. In applying the preceding sentence, all employees of controlled groups of corporations under Code section 414(b), all employees of trades or businesses (whether incorporated or not) under common control under Code section 414(c), all employees of affiliated service groups under Code section 414(m), and leased employees required to be treated as the Employer's employees under Code section 414(n), are taken into account.

An Eligible Employer that elects to have the 401(k) SIMPLE Provisions apply to the Plan and that fails to be an Eligible Employer for any subsequent Year is treated as an Eligible Employer for the 2 Years following the last Year the Employer was an Eligible Employer. If the failure is due to any acquisition, disposition, or similar transaction involving an Eligible Employer, the preceding sentence applies only if the provisions of Code section 410(b)(6)(C)(i) are satisfied.

(c) **"Eligible Employee"** means, for purposes of the 401(k) SIMPLE Provisions, any Employee who is entitled to make Elective Deferrals under the terms of the Plan.

(d) **"Year"** means the calendar year.

2.8.3 Salary Reduction Contributions.

(a) Each Eligible Employee may make a salary reduction election to have their Compensation reduced for the Year in any amount selected by the Employee subject to the limitation in Subsection 2.8.3(b). The Employer will make a salary reduction contribution to the Plan, as an Elective Deferral, in the amount by which the Employee's Compensation has been reduced.

(b) The total salary reduction contribution for the Year cannot exceed $10,000 for any Employee. To the extent permitted by law, this amount will be adjusted to reflect any annual cost-of-living increases announced by the IRS. After 2005, the $10,000 limit will be adjusted by the Secretary of the Treasury for cost-of-living increases under Code section 408(p)(2)(E). Any such adjustments will be in multiples of $500.

(c) The amount of a Participant's salary reduction contributions permitted for a Year is increased for Participants aged 50 or over by the end of the Year by the amount of allowable Catch-up Contributions. Allowable Catch-up Contributions are $2,500 for 2006. After 2006, the $2,500 limit will be adjusted by the Secretary of the Treasury for cost-of-living increases under Code section 414(v)(2)(C). Any such adjustments will be in multiples of $500. Catch-up Contributions are otherwise treated the same as other salary reduction contributions.

2.8.4 Other Contributions.

(a) Matching Contributions. Each Year, the Employer will contribute a Matching Contribution to the Plan on behalf of each Employee who makes a salary reduction election under Section 2.8.3. The amount of the Matching Contribution will be equal to the Employee's salary reduction contribution up to a limit of 3% of the Employee's Compensation for the full Year.

(b) Non-Elective Contribution. For any Year, instead of a Matching Contribution, the Employer may elect to contribute a Non-Elective Contribution of 2% of Compensation for the full Year for each Eligible Employee who received at least $5,000 of Compensation (or such lesser amount as elected by the Employer in the Adoption Agreement) for the Year.

2.8.5 Limitation on Other Contributions. No Employer or Employee contributions may be made to this Plan for the Year other than a salary reduction contributions described in Section 2.8.3, Matching or Non-Elective Contributions described in Section 2.8.4, and rollover contributions described in Treasury Regulations section 1.402(c)-2, Q&A-1(a).

2.8.6 Section 415 Limitations. The provisions of the Plan implementing the limitations of Code section 415 apply to contributions made pursuant to Sections 2.8.3 (other than Catch-up Contributions) and 2.8.4.

2.8.7 Election and Notice Requirements.

(a) Election Period

(1) In addition to any other election periods provided under the Plan, each Eligible Employee may make or modify a salary reduction election during the 60-day period immediately preceding each January 1.

(2) For the Year an Employee becomes eligible to make salary reduction contributions under the 401(k) SIMPLE Provisions, the 60-day election period requirement of Subsection 2.8.7(a)(1) is deemed satisfied if the Employee may make or modify a salary reduction election during a 60-day period that includes either the date the Employee becomes eligible or the day before.

(3) Each Employee may terminate a salary reduction election at any time during the Year.

(b) Notice Requirements

(1) The Employer will notify each Eligible Employee prior to the 60-day election period described in Subsection 2.8.7(a) that they can make a salary reduction election or modify a prior election during that period.

(2) The notification described in Subsection 2.8.7(b)(1) will indicate whether the Employer will provide a 3% Matching Contribution described in Subsection 2.8.4(a) or a 2% Non-Elective Contribution described in Subsection 2.8.4(b).

2.8.8 Vesting Requirements. All benefits attributable to contributions described in Sections 2.8.3 and 2.8.4 are nonforfeitable at all times, and all previous contributions made under the Plan are nonforfeitable as of the beginning of the Year the 401(k) SIMPLE Provisions apply.

2.8.9 Top-Heavy Rules. The Plan is not treated as a Top-Heavy plan under Code section 416 for any Year for which this Article applies.

2.8.10 Nondiscrimination Tests. The ADP and ACP tests described in Sections 2.7.1 and 2.7.2 of the Plan are treated as satisfied for any Year for which this Article applies.

2.8.11 Revocation. An amendment to have the 401(k) SIMPLE Provisions no longer apply is effective the next January 1 following the adoption of the amendment.

ARTICLE IX

SAFE HARBOR CODA PROVISIONS

2.9.1 Safe Harbor CODA Rules.

(a) If the Employer has elected in the Adoption Agreement to make a Safe Harbor CODA contribution pursuant to Code section 401(k)(12) or 401(k)(13) , this Article will apply for the Plan Year and any provisions relating to the ADP test described in Code section 401(k)(3) or the ACP test described in Code section 401(m)(2) will not apply. In accordance with Treasury Regulations 1.401(k)-1(e)(7) and 1.401(m)-1(c)(2), it is impermissible for the Plan to use ADP and ACP testing for a Plan Year in which it is intended for the Plan to be a safe harbor plan pursuant to sections 401(k) and 401(m) of the Code and the Plan fails to satisfy the requirements of such safe harbors for the Plan Year.

If the Employer has not elected a Safe Harbor CODA contribution option, the Employer may amend the Plan not later than 30 days before the last day of the Plan Year to specify that the Safe Harbor Non-Elective Contribution method will be used for the Plan Year, provided the Notice Requirement of Subsection 2.9.1(c) below, is met.

(b) If the Employer has not elected a Safe Harbor contribution option, the Plan must satisfy the ADP (and, if applicable, ACP) test for the Plan Year.

(c) **Notice Requirement.** For the purpose of a Safe Harbor contribution pursuant to Code section 401(k)(12), at least 30 days, or any other reasonable period but not more than 90 days, before the beginning of the Plan Year, the Employer must provide each Eligible Employee with a comprehensive notice of the Employee's rights and obligations under the Plan, written in a manner calculated to be understood by the average Eligible Employee, as described in Code section 401(k)(12)(D) and the applicable regulations. If an Employee becomes eligible after the Employer distributes the notice for a particular Plan Year, the Employer must provide the notice no more than 90 days before such Employee becomes eligible but not later than the date the Employee becomes eligible.

For the purpose of a Safe Harbor contribution pursuant to Code section 401(k)13), the Employer will give each Employee to whom the Qualified Automatic Contribution Arrangement in Section 2.2.3(c) applies, a notice that meets the requirements of Section 2.2.3(d).

The Employer reserves the right to amend the Plan to make a Safe Harbor Non-Elective Contribution under Subsection 2.9.1(b) above. If the Employer wishes to exercise that right, the notice given to Eligible Employees before the beginning of the Plan Year must provide that: (1) the Plan may be amended during the Plan Year to provide that the Employer will make a Safe Harbor Non-Elective Contribution of at least 3% to the Plan for the Plan Year, and (2) if the Plan is so amended, the Employer will give a supplemental notice to Eligible Employees 30 days prior to the last day of the Plan Year informing them of such an amendment.

(d) **Election Periods.** In addition to any other election periods provided under the Plan, each Eligible Employee may make or modify a deferral election during the 30-day period immediately following receipt of the notice described in Subsection 2.9.1(c) above.

(e) **Timing of Matching Contributions.** The Employer may also elect in the Adoption Agreement to meet the matching contribution requirements of this Article IX either (1) with respect to the Plan Year as a whole, or (2) separately with respect to each payroll period (or with respect to all payroll periods ending with or within each month or plan-year quarter) taken into account under the Plan for the Plan Year (the "payroll period method"). The payroll period method applies only for purposes of satisfying the ADP Safe Harbor Matching Contribution requirements of Section 2.9.3 of the Plan and the ACP Safe Harbor Matching Contribution requirements of Section 2.9.4 of the Plan, if applicable.

(f) Interaction With Other Plan Provisions. For any Plan Year in which the Plan relies on this Article instead of Subsection 2.7.2 to satisfy Code section 401(k)(3), the Plan is treated as having used Current Year Testing for purposes of Sections 2.7.1 and 2.7.2. The Plan cannot switch to Prior Year Testing under those Sections unless the Plan meets the requirements of Treasury Regulations section 1.401(k)-2(c)(1)(ii).

(g) Suspension, Reduction, or Discontinuance of a Safe Harbor Matching Contribution option.

(1) Pursuant to the Treasury Regulations sections 1.401(k)-3(g) and 1.401(m)-3(h) the Employer may elect to suspend, reduce or discontinue the Safe Harbor Matching Contributions on Elective Deferrals provided:

(A) all Eligible Employees are provided a notice of the suspension;

(B) all Eligible Employees are given a reasonable opportunity (including a reasonable period after receipt of the notice), prior to the discontinuance of the Safe Harbor Matching Contributions, to change their cash or deferred elections and, if applicable, their Employee Contribution elections;

(C) The Plan satisfies the Safe Harbor Matching Contribution requirement with respect to Safe Harbor Compensation paid through the effective date of the Amendment;

(D) The ADP and/or the ACP test will be satisfied for the entire Plan Year in which the Safe Harbor Matching Contribution was reduced or suspended; using the current year testing method described in Treasury Regulations 1.401(k)-2(a)(2)(ii) and 1.401(m)-2(a)(1)(ii); and

(E) The Plan must continue to provide Safe Harbor Matching Contributions on Elective Deferrals (or if applicable Voluntary Employee Contributions) until the effective date of the Amendment.

(2) The Plan is no longer a safe harbor plan described in Code sections 401(k)(12), 401(k)(13), 401(m)(11), or 401(m)(12) for the entire Plan Year. Accordingly, the Plan is not described in section 416(g)(4)(H) of the Code and, thus, will be subject to the Top-Heavy rules under section 416.

(h) Suspension, Reduction or Discontinuance of a Safe Harbor Non-Elective Contribution option. The Employer may elect to suspend, reduce, or discontinue the Safe Harbor Non-Elective Contribution option provided the Employer has incurred a substantial business hardship (comparable to a substantial business hardship described in Code section 412(c)).

(1) For purposes of this subsection the factors taken into account in determining a substantial business hardship will include (but will not be limited to) whether or not:

(A) the Employer is operating at an economic loss,

(B) there is substantial unemployment or underemployment in the trade or business and in the industry concerned,

(C) the sales and profits of the industry concerned are depressed or declining, and

(D) it is reasonable to expect that the Plan will be continued only if the Safe Harbor Non-Elective Contributions are suspended.

(2) The Employer may elect to suspend, reduce, or discontinue the Safe Harbor Non-Elective Contribution with an effective date on the later of the date that is 30 days after:

(A) all Eligible Employees are provided a notice of the suspension;

(B) Eligible Employees are given a reasonable opportunity (including a reasonable period after receipt of this notice) prior to the reduction or suspension of the Safe Harbor Non-Elective Contributions to change their cash or deferred elections and, if applicable, their Voluntary Employee Contribution elections;

(C) The Employer makes the Safe Harbor Non-Elective Contribution with respect to Safe Harbor Compensation paid through the effective date of the amendment. The Plan must pro-rate the otherwise applicable compensation limit under section 401(a)(17) of the Code in accordance with the requirements of section 1.401(a)(17)-1(b)(3)(iii)(A) of the Treasury Regulations.

(D) The ADP and/or the ACP test will be satisfied for the entire Plan Year in which the Safe Harbor Non-Elective Contribution was reduced or suspended; using the current year testing method described in Treasury Regulations 1.401(k)-2(a)(2)(ii) and 1.401(m)-2(a)(1)(ii).

(3) The Plan is no longer a safe harbor plan described in section 401(k)(12), 401(k)(13), 401(m)(11), or 401(m)(12) of the Code for the entire Plan Year. Accordingly, the Plan is not described in section 416(g)(4)(H) of the Code and, thus, will be subject to the top-heavy rules under section 416.

Safe Harbor Matching Contributions and Safe Harbor Non-Elective Contributions are immediately nonforfeitable regardless of the age and service of the Participant, or whether the Participant is employed on a specific date.

(i) Interaction with the Top-Heavy Rules.

(1) If the Plan is Top-Heavy, within the meaning of Subsection 2.6.2(c), an ADP Test Safe Harbor Non-Elective Contribution provided pursuant to Subsection 2.9.3(a) can be counted toward the Plan's Top-Heavy Minimum Contribution requirement. To the extent that the ADP Test Safe Harbor Non-Elective Contribution and other eligible Employer Contributions are less than the Plan's Top-Heavy Minimum Contribution requirement for a particular Participant, then that Participant must receive the an additional contribution sufficient to satisfy the applicable Top-Heavy Minimum Contribution requirement. Although for purposes of the ADP Test Safe Harbor Non-Elective Contribution, the Plan can limit a Participant's compensation to a portion of the Plan Year, the Plan must calculate the Top-Heavy Minimum Contribution using the Participant's compensation for the entire Plan Year.

(2) Effective for Plan Years beginning after December 31, 2001, an ADP Test Safe Harbor Matching Contribution provided pursuant to Subsection 2.9.3(a) can be counted toward the Plan's Top-Heavy Minimum Contribution requirement. To the extent that the ADP Test Safe Harbor Matching Contribution and other eligible Employer Contributions are less than the Plan's Top-Heavy Minimum Contribution requirement for a particular Participant, then that Participant must receive an additional contribution sufficient to satisfy the applicable Top-Heavy Minimum Contribution requirement.

(3) If the Plan receives only Elective Deferrals (including Catch-up Contributions) and contributions pursuant to this Article in a Plan Year, Code section 416(g)(4)(H) provides that the Plan will be deemed not to be Top-Heavy even if it would otherwise be considered a Top-Heavy Plan pursuant to Subsection 2.6.2(c). This rule is effective for Plan Years beginning after December 31, 2001. To meet this requirement for a particular Plan Year, no other Employer Contributions may be allocated to Participants for that Plan Year, including the allocation of any Forfeitures. In addition, all matching contributions must satisfy the requirements of Code section 401(m)(11).

(j) This Article Governs. To the extent that any other provision of the Plan is inconsistent with the provisions of this Article, the provisions of this Article will govern.

2.9.2 Definitions.

(a) **"Compensation"** is defined in Part I, Article II, except, for purposes of this Article, no dollar limit, other than the limit imposed by Code section 401(a)(17), applies to the Compensation of a Non-Highly Compensated Employee. However, solely for purposes of determining the Compensation subject to a Participant's deferral election, the Employer may use an alternative definition to the one described in the preceding sentence, provided such alternative definition is a reasonable definition within the meaning of Treasury Regulations section 1.414(s)-1(d)(2) and permits each Participant to elect sufficient Elective Deferrals to receive the maximum amount of matching contributions (determined using the definition of Compensation described in the preceding sentence) available to the Participant under the Plan.

(b) **"Eligible Employee"** means an Employee eligible to make Elective Deferrals under the Plan for any part of the Plan Year or who would be eligible to make Elective Deferrals but for a suspension due to a Hardship distribution described in Section 2.5.10 or to statutory limitations, such as Code sections 402(g) and 415. The Employer may elect in the Adoption Agreement to exclude Participants from the ADP Safe Harbor or ACP Safe Harbor portion of the Plan who have not completed a Year of Service since their original Employment Commencement Date, or have not yet reached age 21, and are not employed on the earlier of the first day of the next Plan Year after meeting the preceding requirements or 6 months after meeting the preceding requirements.

2.9.3 ADP Test Safe Harbor Contributions.

(a) **ADP Test Safe Harbor Contributions Options.** The Employer may elect in the Adoption Agreement to make a Qualified Automatic Contribution Arrangement, Basic or Enhanced Safe Harbor Matching Contributions, or Safe Harbor Non-Elective Contributions, for the Plan Year to this Plan in lieu of satisfying the ADP testing requirements under Sections 2.7.1 et Seq.

(1) In the case where the Employer elects to make ADP Test Safe Harbor Contributions for the Plan Year, unless the Employer elects in the Adoption Agreement to make Enhanced Matching Contributions or Safe Harbor Non-Elective Contributions, the Employer will contribute for the Plan Year a Safe Harbor Matching Contribution to the Plan on behalf of each Eligible Employee equal to (i) 100% of the amount of the Employee's Elective Deferrals that do not exceed 3% of the Employee's Compensation for the Plan Year, plus (ii) 50% of the amount of the Employee's Elective Deferrals that exceed 3% of the Employee's Compensation but that do not exceed 5% of the Employee's Compensation ("Basic Matching Contributions").

(2) Notwithstanding the requirement in (a) above that the Employer make ADP Test Safe Harbor Contributions to this Plan, a plan may provide in the Adoption Agreement that ADP Test Safe Harbor Contributions will be made to the defined contribution plan indicated in the Adoption Agreement. However, such contributions will be made to this Plan unless (i) each Employee eligible under this Plan is also eligible under the other plan and (ii) the other plan has the same plan year as this Plan.

(3) The Participant's Account balance derived from ADP Test Safe Harbor Contributions is nonforfeitable and may not be distributed earlier than severance from employment, death, Disability, an event described in Code section 401(k)(10), or, in the case of a profit sharing plan, the attainment of age 59 1/2. No distributions on account of Hardship are permitted. In addition, such contributions must satisfy the ADP Test Safe Harbor without regard to permitted disparity under Code section 401(l).

(b) **Suspension of ADP Safe Harbor Contributions.** If the Plan is making Matching Contributions under Subsection (a), the Plan may be amended to reduce or eliminate such Contributions by complying with the requirements of Section 2.9.1.

2.9.4 ACP Test Safe Harbor Matching Contribution Options.

(a) In addition to the ADP Test Safe Harbor Contribution Options described in Subsection 2.9.3(a) of this Article, the Employer will make the ACP Test Safe Harbor Matching Contributions, if any, indicated in the Adoption Agreement for the Plan Year.

(b) ACP Test Safe Harbor Matching Contributions will be vested as indicated in the Adoption Agreement, but, in any event, such contributions will be fully vested at Normal Retirement Age, upon the complete or partial termination of the Plan, or upon the complete discontinuance of Employer Contributions. Forfeitures of non-vested ACP Test Safe Harbor Matching Contributions will be used to reduce the Employer's Contribution.

ARTICLE X

PARTICIPATING EMPLOYERS

If elected by the Employer in the Adoption Agreement Related Employers and Affiliated Employers may adopt the Plan. If the Plan is adopted by one or more Affiliated Employers the Plan will be a Multiple Employer Plan (MEP) established and maintained pursuant to Code section 413(c) as a tax qualified defined contribution plan under Code sections 401 and 501. The Plan will be operated for the exclusive benefit of the Eligible Employees of the Participating Employers.

2.10.1 Adoption. If permitted by the Lead Sponsor, Related Employers and Affiliated Employers may adopt the plan by signing the same Adoption Agreement as the Lead Sponsor, executing a Participating Employer Addendum, or executing an Adoption Agreement that specifies the Employer is a Participating Employer in the Plan. No employer will become a Participating Employer of the Plan without the written consent of the Lead Sponsor.

The Participating Employer will be bound by the terms of the Plan, including all amendments, as adopted by the Lead Sponsor. If permitted by the Lead Sponsor, the Participating Employer may elect separate provisions to apply to only the Employees employed by the Participating Employer. These elections can be made using either a Participating Employer Addendum or a separate Adoption Agreement. The Lead Sponsor may limit the options available to Participating Employers if a Participating Employer Addendum or a separate Adoption Agreement is used. A Participating Employer Addendum or separate Adoption Agreement will not be considered valid unless it is executed by the Lead Sponsor.

2.10.2 Plan Maintenance. The Lead Sponsor may at any time or times amend the Plan, in whole or in part, without the consent of the Participating Employer(s). A Participating Employer may not modify the Plan, in whole or in part, without the consent of the Lead Sponsor. Any changes made by a Participating Employer without the consent of the Lead Sponsor will cause such Participating Employer to cease being a Participating Employer in the Plan.

In the event the Lead Sponsor terminates their participation in the Plan, at the discretion of the Lead Sponsor any Participating Employer may become the Lead Sponsor by execution of a new Adoption Agreement.

2.10.3 Operational Rules. The rules contained in this Plan Section govern the application of certain operational provisions and qualification requirements contained in the Plan with respect to the Lead Sponsor and each Participating Employer. With respect to the Lead Sponsor and each Participating Employer, the following rules apply the operation of the Plan.

(a) Service. An Employee's service, Hours of Service, Years of Service (or any fractional period thereof) and periods of employment will be determined by treating the Lead Sponsor, all Participating Employers, and Related Employers of either the Lead Sponsor or a Participating Employer as a single Employer.

An Employee's employment status will be determined by treating the Lead Sponsor, all Participating Employers, and Related Employers of either the Lead Sponsor or a Participating Employer as a single Employer. An Employee who terminates employment from the Lead Sponsor or a Participating Employer but starts or continues employment with the Lead Sponsor or a Participating Employer will not have a severance of employment.

(b) Testing.

Participating Employers will be treated as a single Employers for the purposes of meeting the requirements under:
(1) Code section 415,
(2) Code section 401(a)(2) relating to the “exclusive benefit rule”,

(3) Code section 402(g), and
(4) Code section 414(v).

Except as required under Code section 414(b), (c), (m), or (o), the requirements of the following Code sections will be applied separately to the Lead Sponsor and each Participating Employers:
(1) Code section 410(b),
(2) Code section 401(a)(4),
(3) Code section 401(k),
(4) Code section 401(m),
(5) Code section 414(q), and
(6) Code section 416.

2.10.4 Duties. The Lead Sponsor and Participating Employer(s) agree to provide to the Plan Administrator, in a timely fashion, all information the Plan Administrator, it its sole discretion, deems necessary for the operation of the Plan and to keep the Plan in compliance with all Code and regulatory requirements. The Lead Sponsor and Participating Employer(s) agree to provide all required contributions related to Employees that they employee in compliance with the provisions of the Plan and all Code and regulatory requirements. The Lead Sponsor and each Participating Employer(s) will be jointly and severally liable for all Plan expenses.

The Lead Sponsor and each Participating Employer will indemnify and hold harmless the Plan Administrator (and their delegates), any other Participating Employer, and any person serving as the Trustee from all claims, liabilities, losses, damages and expenses, including reasonable attorneys' fees and expenses for its failure to operate in accordance with the Plan or any intentional or negligent act or omission with respect to the Plan including but not limited to failure of oversight and or appointment.

The Plan Administrator may, in its sole discretion, utilize any IRS or DOL correction program to correct any Plan failures. Any fees or costs associated with such program will be the responsibility of the Lead Sponsor or Participating Employer(s) whose actions lead to the Plan failures.

2.10.5 Withdrawal of an Employer. The Lead Sponsor or any Participating Employer may elect to discontinue or revoke their participation in the Plan by providing written notice to the Plan Administrator within a reasonable time prior to the effective date of such discontinuance. Such discontinuance means there are no further benefits accruing after the effective date of such discontinuance. The Lead Sponsor may discontinue the participation in the Plan of any Participating Employer by providing written notice to the Participating Employer within a reasonable time prior to the effective date of such discontinuance. At the time of discontinuance the Plan Administrator has the right, but not the duty, to take any of the following actions:

(a) Spin-Off. The Lead Sponsor or the former Participating Employer can set up a successor plan. This successor plan will receive the assets of the Plan related to the former Participating Employer thru a non-elective transfer of assets. The Lead Sponsor may name either itself or the former Participating Employer as the Plan Administrator and/or adopting Employer.

(b) Existing Plan. If the former Participating Employer sponsors or participates in an existing qualified defined contribution plan, the Lead Sponsor may direct that the assets of the Plan related to the former Participating Employer be transferred to such plan thru a non-elective transfer of assets.

(c) Retain Assets. The Lead Sponsor may chose to retain the assets related to the former Participating Employer in the Plan.

At the time of such discontinuance the former Participating Employer much promptly contribute amounts necessary to cover all accrued benefits related to its Participants under the Plan that are not covered by contributions already made. The discontinuance of participation in the Plan by the Lead Sponsor or any Participating Employer does not, in and of itself, result in a termination from employment for the Participants of the former Participating Employer.

PART III

ARTICLE I

ACCOUNTING

3.1.1 Accounts. All income, profits, recoveries, contributions, and any and all moneys, securities, and properties of any kind at any time received or held by the Trustee will be held as a commingled Trust Fund, except to the extent such assets are transferred to a Segregated Fund or Controlled Account. For accounting purposes, the Plan Administrator shall, as necessary, establish and maintain the following Accounts for each Participant:

(a) Employer Account

(b) Controlled Account

(c) Elective Account

(d) Matching Account

(e) Qualified Matching Account

(f) Qualified Non-Elective Account

(g) Voluntary Account

(h) Deductible Voluntary Account

(i) Pre-tax Elective Account

(j) Roth Deferral Account

(k) Deemed IRA Account

(l) Pre-tax IRA Account

(m) Roth IRA Account

(n) Rollover Account

(o) ADP Test Safe Harbor Account

(p) ACP Test Safe Harbor Account

(q) Segregated Account

(r) In-Plan Roth Conversion Account

(s) Paid Time-Off Contribution Account

If, to fulfill any purposes of the Plan, assets are either deposited initially or transferred to a Segregated Fund for the benefit of a Participant, the Plan Administrator will establish and maintain a Segregated Account for the Participant. If a Participant elects to exercise investment control over all or a portion of their Accounts, the Plan Administrator will establish and maintain a Controlled Account for the Participant.

3.1.2 Valuation Adjustments.

(a) As of each Valuation Date, the following adjustments will be made to each Participant's Accounts in a manner consistent with the Plan's recordkeeping system:

(1) Distributions. Any distribution made to or on behalf of a Participant since the last preceding Valuation Date will be deducted from the Participant's Account from which the distribution was made.

(2) Expenses. Expenses earmarked for an individual Participant, if any, will reduce their Account balance.

(3) Contributions. Each Participant's Account will be increased by their portion of any Employer Contributions, Non-Elective Contributions, other contributions to the Plan by the Employer, Elective Deferrals, any allocated Forfeitures, and any other contributions made on behalf of the Participant.

(4) Forfeitures. If a Participant terminates service with the Employer, is less than 100% vested, and forfeits the non-vested portion of their Account, then their Account and the amount available for distribution will be reduced by the amount of such Forfeiture. To the extent that the Plan provides additional allocations from Forfeitures, the Accounts of those eligible for such an allocation will increase.

(5) Adjustment to Fair Market Value. The Trustee will appraise all moneys, securities, and other property in the Trust Fund, including Segregated Funds and Controlled Accounts but excluding Life Insurance Policies, at the then fair market value for each asset. In determining such value, all income and contributions, if any, received by the Trustee from the Employer or Participants will be included and all expenses will be deducted, such amounts being determined under the accounting method of the Trust. If the total net value so determined by the Trustee exceeds (or is less than) the total amount in the respective Accounts of all Participants, the excess (or deficiency) will be added to (or deducted from) the respective Accounts of all Participants in the ratio that each such Participant's Account bears to the total amount in all such Accounts.

(6) Insurance. If this Plan is funded by individual contracts that provide a Participant's benefit under the Plan, such individual contracts will constitute the Participant's Account balance. If this Plan is funded by group annuity contracts or group insurance contracts, premiums or other consideration received by the insurance company must be allocated to Participants' Accounts under the Plan. Payments made since the last preceding Valuation Date for Life Insurance Policies on the life of a Participant or someone in whom the Participant has an insurable interest (including without limitation payments of premiums and interest on policy loans) will be deducted from the Account of the Participant from which the payment was made. Dividends or credits received since the last preceding Valuation Date on any Life Insurance Policy will be added to the Account of the Participant from which the premiums for such Life Insurance Policy have been paid.

(7) Loans. The issuance of a loan to a Participant reduces the Account from which it is issued and increases the Participant's outstanding loan obligation. Loan repayments, including principal and interest, will increase the Account to which the repayment is made and decrease the outstanding loan obligation.

(8) Transfers To or From Segregated Funds. To the extent that funds are transferred to a Segregated Fund from the general assets of the Trust or from a Segregated Fund to the general assets of the Trust pursuant to any of the provisions of the Plan, the Account from which the funds were transferred will be decreased and the Account to which the funds were transferred will be increased for each affected Participant.

(b) Every adjustment made pursuant to this Section will be considered as having been made no later than the applicable Valuation Date pursuant to policies established by the Trustee in a nondiscriminatory manner. The Trustee's determination regarding the valuation of assets and charges or credits to the individual Accounts of the respective Participants will be conclusive and

binding on all persons. If funds are transferred from the Trust Fund to a Segregated Fund as of any date other than a Valuation Date pursuant to the terms of the Plan, the adjustment made pursuant to this Section will be made as of the date such transfer was made, as if such date is a Valuation Date. If any Participant receives a distribution pursuant to the terms of the Plan as of any date other than a Valuation Date, then the adjustments made pursuant to this Section will be made in the manner specified in the Adoption Agreement.

3.1.3 Allocation of Earnings, Gains, and Losses. As of each Valuation Date, the net income of the Trust Fund recognized since the prior Valuation Date will be allocated among Participant Accounts in a nondiscriminatory manner according to policies established by the Trustee. Net income is the interest, dividends, net gains or losses from the sale of investments, and unrealized appreciation (depreciation) in Trust Fund assets, less investment expenses of the Trust Fund. The portion of a Participant's Account held in a Controlled Account will not participate in the allocation of earnings of this Section, but instead will be credited with the actual earnings of such Controlled Account. In the event that the Participant's Accounts (or portion thereof) are invested in assets that are valued on a daily basis, their Account will reflect the daily activity of such assets and the method of allocating earnings described above will not apply.

3.1.4 Interim Valuations. It is contemplated that the Trust Fund will be valued by the Trustee and allocations made only on a Valuation Date. At any time that the Plan's valuations are not performed on a daily basis, should it be necessary to make distributions under the provisions hereof and the Plan Administrator in good faith determines that, because of (a) an extraordinary change in general economic conditions, (b) the occurrence of some casualty materially affecting the value of the Trust Fund or a substantial part thereof, or (c) a significant fluctuation in the value of the Trust Fund has occurred since the immediately preceding Valuation Date, the Plan Administrator may, in their sole discretion, prevent the payee from receiving a substantially greater or lesser amount than what they would be entitled to, based on current values, and cause a re-valuation of the Trust Fund to be made and a reallocation of the interests therein as of the date the payee's right of distribution becomes fixed. The Plan Administrator's determination to make such special valuation and the valuation of the Trust Fund as determined by the Trustee will be conclusive and binding on all persons ever interested hereunder. Such interim valuation will not discriminate in favor of Highly Compensated Employees.

3.1.5 Earnings on Forfeitures. In the event that a Participant forfeits part of their Account balance, such Forfeiture will not be credited with earnings after the date the Forfeiture is recognized pursuant to Section 2.4.4.

3.1.6 Plan Expenses. Reasonable expenses for administration, investments, and processing will be charged against the Trust Fund earnings, paid by the Employer, or allocated among terminated and active Participants according to an expense policy adopted by the Employer and applied in a uniform manner consistent with DOL and Treasury regulations.

ARTICLE II

LIMITATIONS

3.2.1 Limitations on Annual Additions. The Annual Additions contributed or allocated to a Participant's Account for a Limitation Year will not exceed the Maximum Permissible Amount, as determined in Section 3.2.2. If the total amounts contributed or allocated would otherwise produce Annual Additions in excess of the Maximum Permissible Amount, the allocations or contributions will be reduced pursuant to Section 3.2.3 so that the Annual Additions for the Limitation Year equal the Maximum Permissible Amount.

If a Participant participates in, or has ever participated in, any of the following types of plans or funds maintained by the Employer, then the Annual Additions derived from the allocations of all such plans and this Plan credited to a Participant will not exceed the lesser of the Maximum Permissible Amount for the Limitation Year or any other limitation contained in the Plan:

(a) Another qualified defined contribution plan;

(b) A welfare benefit fund, as defined in Code section 419(e), under which amounts attributable to post-retirement medical benefits are held in separate accounts for Key Employees;

(c) An individual medical account, as defined in Code section 415(l)(2); or

(d) A simplified employee pension, as defined in Code section 408(k),

If such Annual Additions exceed the Maximum Permissible Amount for the Limitation Year, the amounts contributed or allocated will be reduced in accordance with Section 3.2.4 so that the Annual Additions under all such plans and funds for the Limitation Year will equal the Maximum Permissible Amount.

3.2.2 Determination of Annual Additions and Maximum Permissible Amount.

(a) Annual Additions. The term "Annual Additions" will mean the sum of the following amounts credited to a Participant's Accounts for the Limitation Year:

(1) Employer Contributions;

(2) Employee contributions;

(3) Forfeitures;

(4) Excess Elective Deferrals, Excess Contributions and Excess Aggregate Contributions;

(5) Amounts allocated after March 31, 1984, to an individual medical account, as defined in Code section 415(l)(2), that is part of a pension or annuity plan maintained by the Employer;

(6) Amounts derived from contributions paid or accrued after December 31, 1985, in taxable years ending after such date, that are attributable to post-retirement medical benefits held in separate accounts for Key Employees under a welfare benefit fund as defined in Code section 419(e), maintained by the Employer; and

(7) Allocations under a simplified employee pension as defined in Code section 408(k).

For this purpose, Excess Elective Deferrals are disregarded to the extent distributed to the Participant. Excess Contributions and Excess Aggregate Contributions are included even if distributed to the Participant. Any other amounts are disregarded if they are held in a suspense account or reallocated to other Participants in accordance with Section 3.2.3. Any excess amounts applied under Section 3.2.3 to reduce Employer Contributions in a Limitation Year are considered Annual Additions for such

Limitation Year.

Exception for Restorative Payments. Restorative payments allocated to a Participant's Account, which include payments made to restore losses to the Plan resulting from actions (or a failure to act) by a Fiduciary for which there is a reasonable risk of liability under Title I of ERISA or under other applicable federal or state law, where similarly situated Participants are similarly treated, do not give rise to an Annual Addition for any Limitation Year.

If, in a particular Limitation Year, the Employer contributes an amount to an Employee's account with respect to a prior Limitation Year and such contribution is required by reason of a Period of Qualified Military Service, then such contribution is not considered an Annual Addition with respect to the Employee for that particular Limitation Year in which the contribution is made, but, in accordance with section 414(u)(1)(B) of the Code, is considered an Annual Addition for the Limitation Year to which the contribution relates.

(b) Maximum Permissible Amount. Except for Catch-up Contributions, the term "Maximum Permissible Amount" will mean, for any Limitation Year beginning on or after January 1, 2002, the lesser of:

(1) $40,000, as adjusted for increases in the cost-of-living under Code section 415(d), or

(2) 100% of a Participant's compensation, as defined in Subsection 3.2.5(a), for the Limitation Year.

The compensation limit referred to in (2) above will not apply to any contribution for medical benefits after separation from service (within the meaning of Code sections 401(h) or 419A(f)(2)) that is otherwise treated as an Annual Addition.

Prior to determining a Participant's actual Compensation for a Limitation Year, the Employer may determine the Maximum Permissible Amount for the Participant based on a reasonable estimate of the Participant's Compensation for the Limitation Year, uniformly determined for all Participants similarly situated. As soon as is administratively feasible after the end of the Limitation Year, the Employer will determine the Maximum Permissible Amount for the Limitation Year based on the Participant's actual Compensation for the Limitation Year.

(c) Short Limitation Year. If a short Limitation Year is created because of an amendment changing the Limitation Year to a different 12 consecutive month period, the limitation determined in subsection (b)(1) above will be multiplied by a fraction, the numerator of which is the number of months in the short Limitation Year and the denominator of which is 12. Any new Limitation Year must begin within the Limitation Year in which the amendment is made.

3.2.3 Excess Annual Additions. If, due to the allocation of Forfeitures, a reasonable estimation of a Participant's Compensation that exceeds their actual Compensation, or a miscalculation in a Participant's Elective Deferrals, a Participant's Annual Additions exceed their Maximum Permissible Amount for the Limitation Year, the Employer may correct such amount using the methods permitted in the Employer Compliance Resolution System defined in Revenue Procedure 2008-50 as amended from time to time.

3.2.4 Participation in Certain Other Plans. If the Annual Additions with respect to the Participant under such other plans and funds maintained by the Employer are less than the Maximum Permissible Amount and the Employer Contribution that would otherwise be contributed or allocated to the Participant's Account under this Plan would cause the Annual Additions for the Limitation Year to exceed this limitation, the amount contributed or allocated will be reduced so that the Annual Additions under all such plans and funds for the Limitation Year will equal the Maximum Permissible Amount. If the Annual Additions with respect to the Participant under such other plans and funds 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.

If a Participant's Annual Additions under this Plan and such other plans and funds maintained by the Employer would result in an excess amount for a Limitation Year, such excess will be distributed or

reallocated according to the provisions of Section 3.2.3, and the excess amount will be deemed to consist of the Annual Additions last allocated. In addition, allocations to qualified defined contribution plans will be adjusted first, followed by adjustments to allocations to a simplified employee pension, followed by adjustments to allocations to an individual medical account, followed by adjustments to allocations to a welfare benefit fund, as those terms are referenced in Section 3.2.1.

If the excess amount was allocated to a Participant on an allocation date of this Plan that 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 (I) the Annual Additions allocated to the Participant for the Limitation Year as of such date under this Plan to (II) 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 of the Employer. Any excess amount attributed to this Plan will be disposed in the manner described in Section 3.2.3.

If the Participant is covered under another qualified defined contribution plan maintained by the Employer that is not a pre-approved plan, Annual Additions that may be credited to the Participant's Account under this Plan for any Limitation Year will be limited as provided above, unless the Employer specifies other limitations in the Adoption Agreement.

For purposes hereof, the excess amount is the excess of the Participant's Annual Additions for the Limitation Year over the Maximum Permissible Amount.

3.2.5 Definitions. For purposes of this Article, the terms below have the following meanings:

(a) Compensation. As elected by the Employer in the Adoption Agreement, Compensation will mean all of a Participant's:

(i) Wages, Tips, and Other Compensation Box on Form W-2. Compensation includes Information required to be reported under sections 6041, 6051, and 6052 of the Code. Compensation is defined as wages, within the meaning of section 3401(a) of the Code, 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 written statement under sections 6041(d), 6051(a)(3), and 6052 of the Code. Compensation will be determined without regard to any rules under section 3401(a) of the Code 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 section 3401(a)(2) of the Code).

(ii) Section 3401(a) Wages. Wages as defined in Code section 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 section 3401(a)(2) of the Code).

(iii) Section 415 Simplified Compensation. Wages, salaries, differential wage payments under section 3401(h) of the Code 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 for the Employer maintaining the Plan to the extent that the amounts are includible in gross income (including but not limited to commissions paid salesmen, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips, bonuses, fringe benefits, and reimbursements or other expense allowances under a non-accountable plan (as described in Treasury Regulations section 1.62-2(c) of the Code), but excluding items described in Section 3.2.5(a)(iv)(II)(A) through (E):

(iv) Section 415 Compensation. Except as otherwise provided in this Subparagraph (iv) Section 415 Compensation will mean, compensation from the Employer within the meaning

of section 415(c)(3) of the Code, which is used for purposes of section 415 and regulations promulgated under section 415, and includes all items of remuneration described in Subparagraph (iv)(I) of this section, but excludes the items of remuneration described in Subparagraph (iv)(II) of this section. Paragraphs (i) (ii) and (iii) of this section provides safe harbor definitions of Compensation that are permitted to be provided in the Plan in lieu of the generally applicable definition of compensation contained in this Paragraph (iv).

(I) Items Includible As Compensation. For purposes of applying the limitations of section 415, except as otherwise provided in this section, the term compensation means remuneration for services of the following types:

(A) The Employee's wages, salaries, fees for professional services, and other amounts received (without regard to whether or not an amount is paid in cash) for personal services actually rendered in the course of employment with the Employer maintaining the Plan, to the extent that the amounts are includible in gross income (or to the extent amounts would have been received and includible in gross income but for an election under sections 125(a), 132(f)(4), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b) of the Code). These amounts include, but are not limited to, commissions paid to salespersons, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips, bonuses, fringe benefits, and reimbursements or other expense allowances under a non-accountable plan as described in Section 1.62-2(c) of the Code.

(B) In the case of an Employee who is an Employee within the meaning of section 401(c)(1) of the Code and regulations promulgated thereunder, the Employee's Earned Income (as described in section 401(c)(2) of the Code and regulations promulgated thereunder), plus amounts deferred at the election of the Employee that would be includible in gross income but for the rules of sections 402(e)(3), 402(h)(1)(B), 402(k), or 457(b) of the Code.

(C) Amounts described in sections 104(a)(3), 105(a), or 105(h) of the Code, but only to the extent that these amounts are includible in the gross income of the Employee.

(D) Amounts paid or reimbursed by the Employer for moving expenses incurred by an Employee, but only to the extent that at the time of the payment it is reasonable to believe that these amounts are not deductible by the Employee under section 217 of the Code.

(E) The value of a nonstatutory option (which is an option other than a statutory option as defined in section 1.421-1(b) of the Treasury Regulations) granted to an Employee by the Employer, but only to the extent that the value of the option is includible in the gross income of the Employee for the taxable year in which granted.

(F) The amount includible in the gross income of an Employee upon making the election described in section 83(b) of the Code.

(G) Amounts that are includible in the gross income of an Employee under the rules of section 409A or section 457(f)(1)(A) of the Code or because the amounts are constructively received by the Employee.

(II) Items Not Includible As Compensation.

(A) Contributions (other than elective contributions described in sections 402(e)(3), 408(k)(6), 408(p)(2)(A)(i), or 457(b) of the Code) made by the Employer to a plan of deferred compensation (including a simplified employee pension described in section 408(k) of the Code or a simple retirement account described in section 408(p) of the Code, and whether or not qualified) to the extent that the contributions are not includible in the gross income of the Employee for the taxable year in which contributed. In addition, any distributions from a plan of deferred compensation

(whether or not qualified) are not considered as compensation for section 415 purposes, regardless of whether such amounts are includible in the gross income of the Employee when distributed. However, if the Plan so provides, any amounts received by an Employee pursuant to a nonqualified unfunded deferred compensation plan are permitted to be considered as compensation for section 415 purposes in the year the amounts are actually received, but only to the extent such amounts are includible in the Employee's gross income.

(B) Amounts realized from the exercise of a non-statutory option (which is an option other than a statutory option as defined in section 1.421-1(b) of the Treasury Regulations), or when restricted stock or other property held by an Employee either becomes freely transferable or is no longer subject to a substantial risk of forfeiture (see section 83 of the Code and regulations promulgated thereunder).

(C) Amounts realized from the sale, exchange, or other disposition of stock acquired under a statutory stock option (as defined in section 1.421-1(b) of the Code).

(D) Other amounts that receive special tax benefits, such as premiums for group-term life insurance (but only to the extent that the premiums are not includible in the gross income of the Employee and are not salary reduction amounts that are described in section 125 of the Code).

(E) Other items of remuneration that are similar to any of the items listed in Subparagraphs (I)(A) through (I)(E) of this section.

Notwithstanding the preceding sentence, if elected in the Adoption Agreement, Compensation for a Participant who is permanently and totally disabled (as defined in Code section 22(e)(3)) is the Compensation such Participant would have received for the Limitation Year if the Participant had been paid at the rate of Compensation paid immediately before becoming permanently and totally disabled.

(b) For Limitation Years beginning on or after July 1, 2007, or such earlier date as specified in the Adoption Agreement, Compensation for a Limitation Year will also include Compensation paid by the later of 2-1/2 months after an Employee's severance from employment with the Employer or the end of the Limitation Year that includes the date of the Employee's severance from employment with the Employer, if:

(i) the payment is regular Compensation for services during the Employee's regular working hours, or Compensation for services outside the Employee's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments, and, absent a severance from employment, the payments would have been paid to the Employee while the Employee continued in employment with the Employer; or, if the Employer so elects in the Adoption Agreement;

Or, if the Employer so elects in the Adoption Agreement,

(ii) the payment is for unused accrued bona fide sick, vacation or other leave that the Employee would have been able to use if employment had continued; or

(iii) the payment is received by the Employee pursuant to a nonqualified unfunded deferred compensation plan and would have been paid at the same time if employment had continued, but only to the extent includible in gross income.

Any payments not described above will not be considered Compensation if paid after severance from employment, even if they are paid by the later of 2-1/2 months after the date of severance from employment or the end of the Limitation Year that includes the date of severance from employment, except, if elected by the Employer in the Adoption Agreement, Compensation paid to a Participant who is permanently and totally disabled, as defined in section 22(e)(3) of the Code, provided, as elected by the Employer in 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, as defined in Part 1 Article 2 of the Plan immediately before becoming disabled.

Back pay, within the meaning of section 1.415(c)-2(g)(8) of the Treasury Regulations, will 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.

Compensation paid or made available during a Limitation Year will include amounts that would otherwise be included in Compensation but for an election under sections 125(a), 132(f)(4), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b) of the Code.

Unless the Employer elects otherwise in the Adoption Agreement, Compensation will not include Deemed 125 Compensation. Deemed section 125 Compensation is an amount that is excludable under section 106 of the Code that is not available to Participant in cash in lieu of group health coverage under a section 125 arrangement solely because the Participant is unable to certify that they or she has other health coverage. Amounts are Deemed section 125 Compensation only if the Employer does not request or otherwise collect information regarding the Participant's other health coverage as part of the enrollment process for the health plan.

If elected by the Employer in the Adoption Agreement, Compensation will not include amounts paid as Compensation to a nonresident alien, as defined in section 7701(b)(1)(B) of the Code, who is not a Participant in the Plan to the extent the Compensation is excludable from gross income and is not effectively connected with the conduct of a trade or business within the United States.

(c) Certain de minimis timing differences. Notwithstanding the provisions of this Section 3.2.5, the Employer may elect in the Adoption Agreement whether to include in Compensation for the Limitation Year amounts earned during the Limitation Year but not paid during the Limitation Year solely because of the timing of pay periods and pay dates if:

(i) These amounts are paid during the first few weeks of the next Limitation Year;

(ii) The amounts are included on a uniform and consistent basis with respect to all similarly situated Employees; and

(iii) No Compensation is included in more than one Limitation Year.

(d) Employer. Employer will mean the employer that adopts this Plan and all members of a group of employers that constitutes a controlled group of corporations or trades or businesses under common control (as defined in Code sections 414(b) and (c), as modified by Code section 415(h)), or an affiliated service group (as defined in Code section 414(m)) of which the adopting employer is part and any other entity required to be aggregated with the Employer under Code section 414(o) and the regulations issued thereunder. In addition, if the Plan is a Multiple Employer Plan, then the Employer will include any Participating Employer, along with their Related Employer who adopts this Plan.

3.2.6 Controlled Businesses. If this Plan provides contributions or benefits for one or more Owner-Employees who control both the business for which this Plan is established and one or more other trades or businesses, this Plan must, when looked at as a single plan, satisfy Code section 401(a), and contributions on behalf of any Owner-Employee may be made only with respect to the Earned Income of such Owner-Employee that is derived from the trade or business with respect to which this Plan is established.

ARTICLE III

FIDUCIARIES

3.3.1 Standard of Conduct. The duties and responsibilities of the Plan Administrator with respect to the Plan will be carried out (a) in a nondiscriminatory manner; (b) for the exclusive benefit of Participants and their Beneficiaries; (c) by defraying the reasonable expenses of administering the Plan; (d) 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; (e) by diversifying the investments of the Plan to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and (f) in accordance with the documents and instruments governing the Plan insofar as such documents and instruments are consistent with the provisions of the Act.

3.3.2 Individual Fiduciaries. At any time that a group of individuals is acting in the same Fiduciary capacity, the Employer will determine the number of such persons who will act in such capacity from time to time. Such persons will be appointed by the Employer and may or may not be Participants or Employees of the Employer. Unless otherwise provided for by agreement or by direction of the Employer, any action taken by a group of individuals acting as Plan Administrator will be taken at the direction of a majority of such persons, or, if the number of such persons is 2, by unanimous consent.

3.3.3 Disqualification from Service. No person will be permitted to serve as a Fiduciary, custodian, counsel, agent, or employee of the Plan or as a consultant to the Plan who has been convicted of any of the criminal offenses specified in the Act.

3.3.4 Bonding. Except as otherwise permitted by law, every Fiduciary or other person who handles funds or other property or assets of the Plan will be bonded in accordance with the requirements of the Act.

3.3.5 Prior Acts. No Fiduciary will be liable for any acts occurring prior to the period of time during which the Fiduciary was actually serving in such capacity with respect to the Plan.

3.3.6 Insurance and Indemnity. The Employer may purchase or cause the Trustee to purchase and keep current as an authorized expense liability insurance for the Plan, its Fiduciaries, and any other person to whom any financial or other administrative responsibility with respect to the Plan and the Trust is allocated or delegated, from and against any and all liabilities, costs, and expenses incurred by such persons as a result of any act or omission to act in connection with the performance of the duties, responsibilities, and obligations under the Plan and under the Act; provided that any such insurance policy purchased with Plan assets permits subrogation by the insurer against the Fiduciary in the case of breach by such Fiduciary.

Unless otherwise determined and communicated to affected parties by the Employer, the Employer will indemnify and hold harmless each such person, other than a corporate trustee, for and from any such liabilities, costs, and expenses that are not covered by any such insurance, except to the extent that any such liabilities, costs, or expenses are judicially determined to be due to the gross negligence or willful misconduct of such person. No Plan assets may be used for any such indemnification.

3.3.7 Expenses. Expenses incurred by the Plan Administrator or the Trustee in the administration of the Plan and the Trust, including appropriate fees for legal services regarding the Plan, such compensation to the Trustee as may be agreed upon in writing from time to time between the Employer and the Trustee, and all other proper charges and expenses of the Plan Administrator or the Trustee and of their agents and counsel will be paid by the Employer, or at its election at any time or from time to time, may be charged against the assets of the Trust, but until so paid will constitute a charge upon the assets of the Trust.

The Trustee will have the authority to charge the Trust Fund for its compensation and reasonable expenses unless paid or contested by written notice by the Employer within 60 days after mailing of the

written billing by the Trustee. All taxes of any and all kinds whatsoever that may be levied or assessed under existing or future laws upon the assets of the Trust or the income thereof will be paid from such assets. Notwithstanding the foregoing, no compensation will be paid to any Employee for services rendered under the Plan and the Trust as a Trustee.

3.3.8 Agents, Accountants, and Legal Counsel. The Plan Administrator will have authority to employ suitable agents, custodians, investment counsel, accountants and legal counsel who may, but need not be, legal counsel for the Employer. The Plan Administrator and the Trustee will be fully protected in acting upon the advice of such persons. The Trustee will at no time be obliged to institute any legal action or to become a party to any legal action unless the Trustee has been indemnified to the Trustee's satisfaction for any fees, costs, and expenses to be incurred in connection therewith.

3.3.9 Investment Manager. The Employer may employ as an investment manager or managers to manage all or any part of the Trust Fund any (a) investment advisor registered under the Investment Advisors Act of 1940; (b) bank as defined in said Investment Advisors Act; or (c) insurance company qualified to perform investment management services in more than one state. Any investment manager will have all powers of the Trustee in the management of such part of the Trust Fund, including the power to acquire or dispose of assets.

In the event an investment manager is so appointed, the Trustee will not be liable for the acts or omissions of such investment manager or be under any obligation to invest or otherwise manage that part of the Trust Fund that is subject to the management of the investment manager. The Employer will notify the Trustee in writing of any appointment of an investment manager, and will provide the Trustee with the investment manager's written acknowledgment that it is a Fiduciary with respect to the Plan.

3.3.10 Finality of Decisions or Acts. Except for the right of a Participant or Beneficiary to appeal the denial of a claim, any decision or action of the Plan Administrator or the Trustee made or done in good faith upon any matter within the scope of authority and discretion of the Plan Administrator or the Trustee will be final and binding upon all persons. In the event of judicial review of actions taken by any Fiduciary within the scope of their duties in accordance with the terms of the Plan and the Trust, such actions will be upheld unless determined to have been arbitrary and capricious.

3.3.11 404(c) Election. The Employer may designate in the Adoption Agreement that this Plan is intended to be administered pursuant to Labor Regulations section 2550.404c-1 as an ERISA section 404(c) Plan.

ARTICLE IV

PLAN ADMINISTRATOR

3.4.1 Administration of Plan. The Employer will designate the Plan Administrator from time to time. The primary responsibility of the Plan 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 Plan Administrator will administer the Plan and will construe and determine all questions of interpretation or policy in their sole discretion. The Plan Administrator may correct any defect, supply any omission, or reconcile any inconsistency in such manner and to such extent as they will deem necessary or advisable to carry out the purpose of the Plan; provided, however, that any interpretation or construction will be done in a nondiscriminatory manner and will be consistent with the intent that the Plan will continue to be a qualified Plan pursuant to the Code, and will comply with the terms of the Act. The Plan Administrator will have all powers necessary or appropriate to accomplish their duties under the Plan.

(a) The Plan Administrator will be responsible for the general administration of the Plan, including but not limited to the following duties:

(1) To determine all questions relating to the eligibility of an Employee to participate in the Plan or to remain a Participant in the Plan.

(2) To compute, certify, and direct the Trustee with respect to the amount and kind of benefits to which any Participant is entitled.

(3) To collect all contributions or other payments, as applicable, and transfer them to the Trustee.

(4) To authorize and direct the Trustee with respect to all disbursements from the Trust Fund.

(5) To maintain all the necessary records for the administration of the Plan.

(6) To interpret the provisions of the Plan and to make and publish rules and regulations for the Plan as the Plan Administrator may deem reasonably necessary for the proper and efficient administration of the Plan and consistent with its terms.

(7) To select the Insurer to provide any Life Insurance Policy to be purchased for any eligible Participant.

(8) To advise the Fiduciary responsible for Plan investments regarding the short and long-term liquidity needs of the Plan in order that the Fiduciary might direct its investment accordingly.

(9) To advise, counsel, and assist any Participant regarding any rights, benefits, or elections available under the Plan.

(10) To instruct the Trustee regarding the management, investment, and reinvestment of the Trust Fund unless the investment authority has been delegated to the Trustee or an investment manager.

(b) The Plan Administrator will also be responsible for preparing and filing such annual disclosure reports and tax forms as may be required from time to time by the Secretary of Labor, the Secretary of the Treasury, or other governmental authorities.

(c) Whenever the Plan Administrator determines it is in the best interest of the Plan and its Participants or Beneficiaries, the Plan Administrator may request such variances, deferrals, extensions, or exemptions or make such elections for the Plan as may be available under the law.

(d) The Plan Administrator will procure bonding for all persons dealing with the Plan or its assets as may be required by law.

3.4.2 Disclosure Requirements. Every Participant covered under the Plan and every Beneficiary receiving benefits under the Plan will receive from the Plan Administrator a summary plan description and such other information as may be required by law or by the terms of the Plan.

3.4.3 Information Generally Available. The Plan Administrator will make copies of this Plan and the Trust, the Adoption Agreement, the summary plan description, latest annual report, Life Insurance Policies, or other instruments under which the Plan was established or is operated available for examination by any Participant or Beneficiary in the principal office of the Plan Administrator and such other locations as may be necessary to make such information reasonably accessible to all interested parties. Subject to a reasonable charge to defray the cost of furnishing such copies, the Plan Administrator shall, upon written request of any Participant or Beneficiary, furnish a copy of any of the above documents to the respective party.

3.4.4 Statement of Account. Upon written request to the Plan Administrator once during any 12 month period, a Participant or Beneficiary will be furnished with a written statement, based on the latest available information, of their then vested Account balance and the earliest date upon which the same will become fully vested and nonforfeitable. The statement will also include a notice to the Participant of any benefits that are forfeitable if the Participant dies before a certain date.

3.4.5 Explanation of Rollover Treatment. The Plan Administrator shall, when making a distribution eligible for rollover treatment, provide a written explanation to the recipient of the provisions under which such distribution will not be subject to tax if transferred to an Eligible Retirement Plan within 60 days after the date on which the recipient received the distribution and, if applicable, the provisions of law pertaining to the tax treatment of lump sum distributions.

3.4.6 Electromechanical Communications. Electromechanical communications are permitted, but not required, among all parties to a communication regarding the Plan, including the Employer, Trustee, Plan Administrator, and Participant. Each Plan Fiduciary may adopt policies to govern its use of electromechanical communications, including policies developed by third parties working with the Fiduciary on Plan matters.

The Trustee (or other agent appointed for this purpose) may, but is not required to, act upon receipt of directions (including, without limitation, directions pursuant to voice response systems, facsimile, or other electromechanical means) with regard to all Plan transactions. The Trustee may comply with such direction and will incur no liability for doing so. If the Trustee permits the use of electromechanical directions, the giving of such directions will have the same meaning as if the directions were in writing and delivered as a document.

In the sole judgment of the Plan Administrator, if any Participant or Beneficiary entitled to benefits is not capable of managing their benefits under the Plan, any election that may be made by a Participant or Beneficiary may be made by the legal representative of such individual.

If the Plan Administrator, in their sole discretion is not satisfied with the power of a legal representative to act on behalf of a Participant or Beneficiary, the Plan Administrator may require an order of a court of competent jurisdiction.

3.4.7 Elections on Behalf of an Incapacitated Person. In the sole judgment of the Plan Administrator, if any person entitled to benefits under the Plan is incapacitated, any election that such person is permitted to make under the Plan may be made by the legal representative of such person.

If the Plan Administrator, in its sole discretion, is not satisfied with the power of a legal representative to act on behalf of a person, the Plan Administrator may require an order from a court of competent jurisdiction.

3.4.8 Operational Rules for Related Employer Groups. If the Plan Sponsor and/or an Participating Employer has one or more Related Employers, that Employer and such Related Employer(s) constitute a Related Employer group in such case, the following rules apply to the operation of the Plan:

(a) If the term "Employer" is used in the context of administrative functions necessary in the operation, maintenance, or termination of the Plan, only the Employer executing the Signature Page of this Plan is treated as the Employer.

(b) Hours of Service are determined by treating all members of the Related Employer group as the Employer.

(c) The term Excluded Employee is determined by treating all members of the Related Employer group as the Employer, except as specifically provided in the Plan.

(d) Compensation is determined by treating all members of the Related Employer group as the Employer, except as specifically provided in the Plan.

(e) An Employee is not treated as separated from service or terminated from employment if the Employee is employed by any member of the Related Employer group.

(f) The Annual Additions Limitation described in Part 3 Article 2 and the Top-Heavy Plan rules described in Part 2, Article 6 are applied by treating all members of the Related Employer group as the Employer.

In all other contexts, the term "Employer" generally means a reference to all members of the Related Employer group, unless the context requires otherwise. If the terms of the Plan are ambiguous with respect to the treatment of the Related Employer group as the Employer, the Plan Administrator has the authority to make a final determination or the proper interpretation of the Plan.

3.4.9 Use of Electronic Medium. The use of an electronic medium to provide applicable notices and to make Participant elections must comply with Treasury Regulation 1.401(a)-21 that reflects the requirements for electronic signatures contained in the Electronic Signatures in Global and National Commerce Act, Public Law 106-229 (114 Stat. 464 (2000) (ESIGN).

ARTICLE V

PARTICIPANT LOANS

3.5.1 Authorization. If the Employer elects in the Adoption Agreement to permit loans to Participants or Beneficiaries, the Plan Administrator will establish a Participant loan program in compliance with Treasury Regulations and Labor Regulations section 2550.408b. The terms of such Participant loan program will be in writing and will constitute part of the Plan. Such terms will include:

(a) The identity of the person or positions authorized to administer the Participant loan program;

(b) A procedure for applying for loans;

(c) The basis on which loans will be approved or denied;

(d) Limitations (if any) on the loan amount available, the number of loans, and the permitted purposes for a loan;

(e) The procedure under the program for determining a reasonable rate of interest;

(f) The types of collateral that may secure a Participant loan; and

(g) The events constituting default and the steps that will be taken to preserve Plan assets in the event of default.

3.5.2 Spousal Consent. Subject to Subsection 2.5.5(c), a Participant must obtain the written consent of their spouse, if any, to the use of the Participant's interest in the Plan as security for a Participant loan within 90 days before the date on which the loan is to be so secured, unless the Participant establishes the consent of the spouse cannot be obtained or the total value of the Participant's Accounts is less than $5,000. A new consent must be obtained whenever the amount of the loan is increased or if the loan is renegotiated, extended, renewed, or otherwise revised. The consent must acknowledge the effect of such consent and be witnessed by a Plan representative or a notary public. Such consent will thereafter be binding with respect to the consenting spouse or any subsequent spouse with respect to that loan.

If a valid spousal consent has been obtained, then notwithstanding any other provision of the Plan, the portion of the Participant's vested Account balance used as a security interest held by the Plan by reason of a loan outstanding to the Participant will be taken into account for purposes of determining the amount of the Account balance payable at the time of death or distribution, but only if the reduction is used as repayment of the loan. If less than the entire amount of the Participant's vested Account balance (determined without regard to the preceding sentence) is payable to the surviving spouse, the Account balance will first be reduced by the amount of the security used as repayment of the loan before determining the benefit payable to each Beneficiary, including the surviving spouse.

3.5.3 Limitations. Except as provided in the Participant loan program, in no event will the amount loaned to any Participant or Beneficiary, when added to the outstanding balance of all other loans to the Participant or Beneficiary, exceed the lesser of (a) $50,000.00 (reduced by the excess, if any, of the highest outstanding balance of loans from the Plan during the one-year period ending on the day before the date on which the loan was made over the outstanding balance of loans from the Plan on the date on which such loan was made) or (b) one-half of the vested and nonforfeitable interest in their Accounts, determined as of the Valuation Date coinciding with or immediately preceding such loan or $10,000, if greater.

For purposes hereof, all loans from all plans of the Employer and other members of a group of employers described in Code sections 414(b), (c), (m), and (o) will be aggregated. All loans must be adequately secured and bear a reasonable interest rate. No Participant loan will exceed the present value of the Participant's vested Account balance. In the event of a default, foreclosure on the note evidencing the loan and attachment of the security will not occur until a distributable event occurs.

3.5.4 Availability. If loans are authorized in the Adoption Agreement, they must be available to all Participants and Beneficiaries on a reasonably equivalent basis without regard to any individual's race, color, religion, sex, age, or national origin. Loans will not be made available to Highly Compensated Employees in an amount greater than the amount made available to other Employees.

3.5.5 Default. In the event of default, foreclosure on the note and attachment of security will not occur until a distributable event occurs for the Participant.

3.5.6 Qualified Military Service. If elected in the Participant loan program, the obligation to repay any loan made to a Participant who is performing service in the uniformed services will be suspended, as permitted under Code section 414(u)(4). Such a suspension of loan repayments will not trigger a distribution under Code section 72(p) or constitute a loan default.

ARTICLE VI

BENEFICIARIES

3.6.1 Designation of Beneficiaries. Subject to the provisions of Sections 2.5.5 and 2.5.6, each Participant will have the right to designate a Beneficiary or Beneficiaries and contingent or successive Beneficiaries to receive any benefits provided by this Plan that become payable upon the Participant's death. The Participant may change the Beneficiaries at any time or times by the filing of a new designation with the Plan Administrator, and the most recent designation will govern.

In the absence of a designation, the Designated Beneficiary will be the surviving spouse of the Participant, unless such surviving spouse consents in writing to an alternate designation and the terms of such consent acknowledge the effect of such alternate designation and the consent is witnessed by a representative of the Plan or by a notary public. The designation of a Beneficiary other than the spouse of the Participant or the designation of an optional form of benefit with the consent of such spouse may not be changed without the consent of such spouse, and any consent must acknowledge the specific nonspouse Beneficiary, including any class of Beneficiaries or any contingent Beneficiaries, unless the spouse expressly permits designations by the Participant without any further spousal consent.

Regardless of any prior designation, a Participant, at any time, may designate their spouse as Beneficiary, and with respect to Accounts providing annuities, may also designate the form of benefit as a Qualified Joint and Survivor Annuity.

In the event the Participant is divorced, the ex-spouse will be treated as having predeceased the Participant and benefits will go to the secondary Designated Beneficiaries or if none survive the Participant, to their surviving children, equally, or if none, such other heirs, or the executor or administrator of their estate, as the Plan Administrator will select. In the event the Participant intends that their ex-spouse remain their Beneficiary, a post-divorce Beneficiary designation must be completed naming the ex-spouse as a Designated Beneficiary.

Any consent by a spouse obtained under this provision (or establishment that the consent of a spouse may not be obtained) will be effective only with respect to such spouse. A consent that permits designations by the Participant without any requirement of further consent by such spouse must acknowledge that the spouse has the right to limit consent to a specific Beneficiary, and a specific form of benefit where applicable, and that the spouse voluntarily elects to relinquish either or both of such rights. A Participant may revoke a prior waiver without the consent of the spouse at any time prior to the commencement of benefits. The number of revocations will not be limited. No consent obtained under this provision will be valid unless the Participant has received notice as provided in Sections 2.5.5 and 2.5.6.

3.6.2 Absence or Death of Beneficiaries. Except with respect to the process of any life insurance payable upon the death of the Participant, if a Participant dies without having a Beneficiary designation then in force, or if all of the Participant's Designated Beneficiaries predecease them, their Beneficiary will be their surviving spouse, or if none, their surviving children, equally, or if none, such other heirs, or the executor or administrator of their estate, as the Plan Administrator will select.

Unless otherwise designated by the Participant, if a Participant dies and is survived by some, but not all, of their Designated Beneficiaries, such surviving Beneficiaries will be deemed their sole Beneficiaries. In the event that a surviving Beneficiary dies before the complete distribution of the deceased Participant's interest, the estate of such Beneficiary will be deemed to be the Beneficiary of the undistributed portion of such interest.

3.6.3 Surviving Spouse Election. If the Plan is designated in the Adoption Agreement as a Cash or Deferred Profit Sharing Plan or a Profit Sharing Plan and the Employer does not elect a life annuity form of distribution in the Adoption Agreement, a surviving spouse, who has not consented to an alternate designation under Section 3.6.1, above, may elect to have distribution of the Participant's vested Account balance commence within the 90-day period following the date of the Participant's

death. The Account balance will be adjusted for gains or losses occurring after the Participant's death in accordance with the provisions of the Plan governing the adjustment of Account balances for other types of distributions, as well as for the outstanding balance of any Plan loan to the Participant.

3.6.4 Right to Direct on Behalf of a Participant or Beneficiary. In the sole judgment of the Plan Administrator, if any Participant or Beneficiary entitled to benefits is not capable of managing their benefits under the Plan, any election that may be made by a Participant or Beneficiary may be made by the legal representative of such individual, or in the case of a minor Beneficiary, the guardian, under valid power of attorney, a court appointed guardian or any other person authorized under state law to receive the benefit.

If the Plan Administrator, in their sole discretion is not satisfied with the power of a legal representative to act on behalf of a Participant or Beneficiary the Plan Administrator may require an order of a court of competent jurisdiction.

ARTICLE VII

CLAIMS

3.7.1 Claim Procedure (Non-Disability). Any Participant or Beneficiary who is entitled to a payment of a benefit for which provision is made in this Plan will file a written claim with the Plan Administrator on such forms as furnished by the Plan Administrator and will furnish such evidence of entitlement to benefits as the Plan Administrator may require. The Plan Administrator will notify the Participant or Beneficiary in writing of the amount of benefit to which they are entitled, the duration of such benefit, the time the benefit is to commence, and other pertinent information concerning their benefit.

If the Plan Administrator denies a claim for benefits, in whole or in part, the Plan Administrator will provide adequate notice in writing to the Participant or Beneficiary whose claim for benefits has been denied within 90 days after receipt of the claim unless special circumstances require an extension of time for processing the claim. If such an extension of time for processing is required, the Plan Administrator will furnish written notice to the Participant or Beneficiary indicating the special circumstances and the date by which a final decision is expected to be rendered. In no event will the period of extension exceed 180 days after receipt of the claim. The notice of denial of the claim will include (a) the specific reason or reasons for the denial; (b) specific reference to pertinent Plan provisions on which the denial is based; (c) a description of any additional material or information necessary for the claimant to perfect the claim and an explanation of why such material or information is necessary; and (d) a statement that any appeal of the denial must be made by giving to the Plan Administrator, within 60 days after receipt of the notice of the denial, written notice of such appeal, such notice to include a full description of the pertinent issues and basis of the claim. The Participant or Beneficiary (or their duly authorized representative) may review pertinent documents and submit issues and comments in writing to the Plan Administrator. If the Participant or Beneficiary fails to appeal such action to the Plan Administrator in writing within the prescribed period of time, the Plan Administrator's adverse determination will be final, binding, and conclusive. Benefits under this Plan will be paid only if the Plan Administrator decides in their discretion that the applicant is entitled to them.

3.7.2 Appeal (Non-Disability). If the Plan Administrator receives from a Participant or a Beneficiary, within the prescribed period of time, a notice of an appeal of the denial of a claim for benefit, such notice and all relevant materials will immediately be submitted to the Employer. The Employer may hold a hearing or otherwise ascertain such facts as it deems necessary and will render a decision that will be binding upon both parties.

The Employer's decision will be made within 60 days after the Plan Administrator receives the notice of appeal, unless special circumstances require an extension of time for processing, in which case the Employer will render a decision as soon as possible but not later than 120 days after receipt of the request for review. If such an extension of time is required, written notice of the extension will be furnished to the claimant prior to the commencement of the extension. The Employer's decision will be in writing, will include specific reasons for the decision, written in a manner calculated to be understood by the claimant, as well as specific references to the pertinent Plan provisions on which the decision is based, and will be promptly furnished to the claimant. Benefits under this Plan granted pursuant to such an appeal will be paid only if the Employer decides in its discretion that the applicant is entitled to them.

3.7.3 Claims Involving Disability. If the Plan Administrator receives a Disability claim from a Participant or a Beneficiary, and the final determination of Disability is being made by the Plan Administrator, the claim will be reviewed in accordance with this subsection. If a claim for a Disability benefit is denied by the Plan Administrator, in whole or in part, the Plan Administrator will provide adequate notice, in writing, to the Participant or Beneficiary whose claim for benefit has been denied. The notice must be provided within 45 days after receipt of the claim that has been filed in accordance with the reasonable procedures of the Plan unless the Plan Administrator determines that an extension of time of up to 30 days is required due to matters beyond control of the Plan. If such an extension is required, the Plan Administrator will furnish written notice of the extension prior to the end of the initial 45 day period. The notice of extension must include information to indicate the special circumstances

that required the extension and the date by which the Plan Administrator will issue their determination (no later than 30 days beyond the end of the first deadline). If prior to the end of the first extension period the Plan Administrator determines that another extension is required due to matters beyond the control of the Plan, the deadline can be extended for a further 30 days. If such further extension is required, the Plan Administrator will furnish written notice of the extension prior to the end of the above notice period. The notice of extension must include information to indicate the special circumstances giving rise to the extension and the date by which the Plan Administrator will issue their determination. In no event will the determination extend more than 30 days beyond the end of the first deadline. Both notices of extension must contain (1) the standards on which the determination is being made, (2) the unresolved issues that prevent the Plan Administrator from making the decision, and (3) the additional information that would be needed to allow the Plan Administer to make the decision. After receipt of an extension notice the Participant or Beneficiary will have no less than 45 days to provide the information specific as need for the decision.

Following receipt of notice of the Plan Administrator decision the Participant or Beneficiary will have 180 days to appeal such denial. Upon receipt of such appeal, the Plan Administrator must act within 45 days.

In addition, with respect to a claim for Disability benefits as described above, the Participant or Beneficiary must be provided, free of charge, any new or additional evidence or rationale obtained by the Plan during pendency of appeal. The Participant or Beneficiary will have the right to review and respond to the additional information. This information must include any new or additional evidence considered, relied upon, or generated by the Plan, insurer, or other person making the benefit determination in connection with the claim. This information must be provided as soon as possible and sufficiently in advance of the Plan's decision on appeal to give the Participant or Beneficiary a reasonable opportunity to respond.

All claims subject to this Section 3.7.3 must be adjudicated in a manner designed to ensure the independence and impartiality of the persons involved in making the decision. Therefore, decisions regarding hiring, compensation, termination, promotion, or similar matters with respect to any individual must not be made based upon the likelihood that the individual will support the denial of the Disability claim. In addition, with respect to a Disability claim, both the initial denial letter and any appeal denial letter must be provided in a culturally and linguistically appropriate manner and must specifically set forth the following:

1. The specific basis for disagreeing with any determination by the Social Security Administration or other third party disability payer, or any views of health care professionals or vocational professionals treating a claimant, regardless of whether the information was relied upon.
2. If the adverse determination is based on a medical necessity, experimental treatment, or similar exclusion or limit, either (1) an explanation of the scientific or clinical judgment for the determination, or (2) the denial letter must make a statement that such an explanation will be made available upon request at no charge.
3. All internal rules, guidelines, protocols, standards or other similar criteria that were relied upon in denying the claim or a statement that such criteria do not exist.
4. A statement that the Participant or Beneficiary is entitled to receive, upon request and free of charge, relevant documents.
5. In the case of an appeal denial letter, the letter must describe any contractual limitation period for a lawsuit and the expiration date for that limitation period along with a statement that the limitation period may not expire before the conclusion of the Plan's internal appeals process.
6. If a claimant's address is in a county where at least 10% of the individuals in that population are literate only in the same non-English language (as determined by the United States Census Bureau), the notices must include a statement in the non-English language about the availability of language services. In addition, the Plan must provide a customer assistance process (such as a telephone hotline) with oral language services in the non-English language and provide written notices in that language upon request.

Failure to adhere to the special requirements applicable to benefit determinations pursuant to this Section 3.7.3 will result in the Participant or Beneficiary being deemed to have exhausted the Plan's administrative remedies, thus giving such Participant or Beneficiary the right to pursue court action, unless the violation was de minimis; non-prejudicial; attributable to good cause or matters beyond the

Plan's control; in the context of on-going good-faith exchange of information; and not reflective of a pattern or practice of non-compliance.

The administrative remedies available under the Plan with respect to claims for disability benefits will not be deemed exhausted based on de minimis violations that do not cause, and are not likely to cause, prejudice or harm to the claimant so long as the Plan demonstrates that the violation was for good cause or due to matters beyond the control of the Plan and that the violation occurred in the context of an ongoing, good faith exchange of information between the Plan and the claimant. This exception is not available if the violation is part of a pattern or practice of violations by the Plan. The claimant may request a written explanation of the violation from the Plan, and the Plan must provide such explanation within 10 days, including a specific description of its basis, if any, for asserting that the violation should not cause the administrative remedies available under the Plan to be deemed exhausted. If a court rejects the claimant's request for immediate review under on the basis that the Plan met the standards that the violation was de minimis; non-prejudicial; attributable to good cause or matters beyond the Plan's control, the claim will be considered as re-filed on appeal upon the Plan's receipt of the decision of the court. Within a reasonable time after the receipt of the decision, the Plan will provide the claimant with notice of the resubmission.

3.7.4 Claims Appeal Involving Disability. If the Plan Administrator receives a notice of an appeal of the denial of a claim for benefit from a Participant or a Beneficiary, within the prescribed period of time, such notice and all relevant materials will immediately be submitted to the Employer. The Employer may hold a hearing or otherwise ascertain such facts as it deems necessary and will render a decision, which will be binding upon both parties.

The decision of the Employer will be made within 60 days (45 days for Disability claims) after the receipt by the Plan Administrator of the notice of appeal, unless special circumstances require an extension of time for processing, in which case a decision of the Employer will be rendered as soon as possible but not later than 120 days after receipt of the request for review. If such an extension of time is required, written notice of the extension will be furnished to the claimant prior to the commencement of the extension. The decision of the Employer will be in writing, will include specific reasons for the decision, written in a manner calculated to be understood by the claimant, as well as specific references to the pertinent Plan provisions on which the decision is based and will be promptly furnished to the claimant. Benefits under this Plan granted pursuant to such an appeal will be paid only if the Employer decides in their discretion that the applicant is entitled to them.

ARTICLE VIII

AMENDMENT AND TERMINATION

3.8.1 Right to Amend.

(a) The Employer may at any time or times amend the Plan, Trust, and the provisions of the Adoption Agreement, in whole or in part. The Employer specifically reserves the right to amend the Plan retroactively. Subject to Subsection (b), an Employer that amends the Plan will no longer participate in this Plan and will be considered to have an individually designed plan.

(b) The Employer may change the choice of options in the Adoption Agreement, add overriding language in the Adoption Agreement when such language is necessary to satisfy Code sections 415 or 416 because of the required aggregation of multiple plans, and add certain sample or model amendments published by the Internal Revenue Service or other required good faith amendments that specifically provide that their adoption will not cause the Plan to be treated as individually designed. An Employer that amends the Plan for any other reason, including a waiver of the minimum funding requirements under Code section 412(d), will no longer have reliance on the Sponsor's advisory letter.

An Employer that has adopted the Plan may amend the Trust or custodial account document provided such amendment merely involves the specifications of the names of the Plan, Employer, Trustee or custodian, Plan Administrator or other Fiduciaries, the Trust Year, or the name of any pooled trust in which the Plan's Trust will participate.

An Employer that has adopted the Plan will not be considered to have an individually designed plan merely because the Employer amends administrative provisions of the Trust or custodial account document (such as provisions relating to investments and duties of Trustees) so long as the amended provisions are not in conflict with any other provision of the Plan and do not cause the Plan to fail to qualify under Code section 401(a).

An Employer may also add or change provisions permitted under the Plan and/or specify or change the effective date of a provision as permitted under the Plan and correct obvious and unambiguous typographical errors and/or cross-references that merely correct a reference but that do not in any way change the original intended meaning of the provisions.

3.8.2 Manner of Amending. The Employer will make each Plan amendment by delivery to the Plan Administrator of a copy of the Employer resolution that adopts and sets forth such amendment.

3.8.3 Limitations On Amendments.

(a) No Plan amendment shall:

(1) Directly or indirectly operate to give the Employer any interest whatsoever in the assets of the Trust or custodial account or to deprive any Participant or Beneficiary of their vested and nonforfeitable interest in the assets of the Trust as then constituted, or cause any part of the income or corpus of the Trust to be used for, or diverted to, purposes other than the exclusive benefit of Employees or their Beneficiaries;

(2) Increase the duties or liabilities of the Trustee without the Trustee's prior written consent;

(3) Change the vesting schedule under the Plan if the nonforfeitable percentage of the Account balance derived from Employer Contributions (determined as of the later of the date such amendment is adopted or the date such amendment becomes effective) of any Participant is less than such nonforfeitable percentage computed without regard to such amendment; or

(4) Reduce or eliminate the accrued benefit of a Participant within the meaning of Code section 411(d)(6), or otherwise places greater restrictions or conditions on a participant's rights,

except to the extent permitted under Code section 412(d)(2) or to the extent permitted under sections 1.411(d)-3 and 1.411(d)-4 of the regulations. An amendment that has the effect of decreasing a Participant's Account balance with respect to benefits attributable to service before the amendment will be treated as reducing an accrued benefit.

(b) If a Plan amendment changes the vesting schedule or the Plan is amended in any way that directly or indirectly affects the computation of the Participant's nonforfeitable percentage or if the Plan is deemed amended by an automatic change to or from a Top-Heavy vesting schedule, each Participant who has completed 3 Years of Service (or in the case of Participants who do not have at least 1 Hour of Service in any Plan Year beginning after 1988, 5 or more Years of Service) may elect within a reasonable period after the adoption of such amendment to have their nonforfeitable percentage computed without regard to such amendment or change. The period during which such Participant may make the election will commence with the date the amendment is adopted or deemed to be made and will end on the latest of 60 days after the latest of the date:

(1) The amendment is adopted;

(2) The amendment becomes effective; or

(3) The Employer or Plan Administrator issues the Participant written notice of the amendment.

(c) No Plan amendment will eliminate or restrict an optional form of benefit. The preceding sentence will not apply to a Plan amendment that eliminates or restricts the ability of a Participant to receive payment of their Account balance under a particular optional form of benefit if the amendment provides a single-sum distribution form that is otherwise identical to the optional form of benefit eliminated or restricted. For purposes of this condition, a single-sum distribution form is otherwise identical only if it is identical in all respects to the eliminated or restricted optional form of benefit (or would be identical except that it provided greater rights to the Participant) except with respect to the timing of payments after commencement.

3.8.4 Plan Termination. The Employer may elect to terminate the Plan or termination may occur based on certain business transactions. Upon termination, the Plan must provide for the immediate 100% vesting of the nonforfeitable interest in all of an affected Participant's account balance. Notwithstanding the effective date of the termination, the Trust will continue until the entire Distributable Benefit of each Participant has been distributed.

(a) Voluntary Termination. The Employer may terminate the Plan at any time by delivering to the Trustee an instrument in writing that designates such termination. Following termination of the Plan, the Trust will continue until the entire Distributable Benefit of each Participant has been distributed.

(b) Involuntary Termination. The Plan will terminate if: (a) the Employer is dissolved or adjudicated bankrupt or insolvent in appropriate proceedings, or if a general assignment is made by the Employer for the benefit of creditors, or (b) the Employer loses its identity by consolidation or merger into one or more corporations or organizations, unless within 90 days after such consolidation or merger, such corporations or organizations elect to continue the Plan.

(c) Partial Termination. The Plan will be subject to the rules under section 411(d)(3) of the Code, where it has been determined that a partial termination has occurred by reason of: (1) a plan amendment that adversely affect the rights of the Employees, or (2) by the Employer's severance of a group of Employees who were previously covered under the Plan. Such determination will depend on the facts and circumstances. Notwithstanding, if the Employer's turnover rate is at least 20% due to severance of employment, there is a presumption that a partial termination of the Plan has occurred. If a partial termination occurs, all Participants who had a severance from employment on account of the Partial Termination during the period will become immediately 100% vested in their account.

(d) Liquidation of all Unallocated Accounts. Following the termination of the Plan, the Employer will allocate any unallocated amounts due to excess annual additions or forfeitures that are held in a suspension account subject to limitation in section 415(c) of the Code. Notwithstanding any

unallocated amounts remaining that exceed the limitations imposed under section 415(c) of the Code to the extent set forth in rules prescribed by the Commissioner will revert to the Employer.

(e) Limitation on Establishing a Successor Plan in the Case of a Cash or Deferred Arrangement. The Employer who elects to terminate a Plan that is designated in the Adoption Agreement as a Cash or Deferred Profit Sharing Plan and thereafter liquidates the Trust may not establish a new plan any time during the period beginning on the effective date of the Plan's termination and ending 12 months after all assets have been distributed from the Plan, and further, a distribution may not be made under Article V if the Employer establishes or maintains an alternative defined contribution plan. For purposes of the preceding sentence, the term "Employer" is applied as of the date of plan termination, and a plan is an alternative defined contribution plan only if it is a defined contribution plan that exists at any time during the period beginning on the date of plan termination and ending 12 months after distribution of all assets from the terminated plan. However, if at all times during the 24-month period beginning 12 months before the date of plan termination, fewer than 2% of the employees who were eligible under the defined contribution plan that includes the cash or deferred arrangement as of the date of plan termination are eligible under the other defined contribution plan, the other plan is not an alternative defined contribution plan. In addition, a defined contribution plan is not treated as an alternative defined contribution plan if it is an employee stock ownership plan as defined in Code sections 4975(e)(7) or 409(a), a simplified employee pension as defined in Code section 408(k), a SIMPLE IRA plan as defined in section 408(p), a plan or contract that satisfies the requirements of Code section 403(b), or a plan that is described in Code sections 457(b) or (f).

3.8.5 Withdrawal By Employer. The Employer may withdraw from participation under the Plan without terminating the Trust upon making a transfer of the Trust assets to another Plan, which will be deemed to constitute an amendment in its entirety of the Trust.

3.8.6 Powers Pending Final Distribution. Until final distribution of the assets of the Trust, the Plan Administrator and Trustee will continue to have all the powers provided under this Plan as are necessary for the orderly administration, liquidation, and distribution of the assets of the Trust.

3.8.7 Delegation to Sponsor. The Employer expressly delegates authority to the Document Sponsor the right to amend any part of the Plan on its behalf to the extent necessary to preserve the qualified status of the Plan. For purposes of amendments by the Document Sponsor, the Mass Submitter will be recognized as the agent of the Document Sponsor. If the Document Sponsor does not adopt the amendments made by the Mass Submitter, the Plan will no longer be identical to or a minor modifier of the Mass Submitter plan. The Document Sponsor will submit a copy of the amendment to each Employer who has adopted the Plan after first having received a ruling or favorable determination from the Internal Revenue Service that the Plan as amended satisfies the applicable requirements of the Code. The Employer may revoke the authority of the Document Sponsor to amend the Plan on its behalf by written notice to the Document Sponsor of such revocation.

However, for purposes of reliance on an advisory or determination letter, the Document Sponsor will no longer have the authority to amend the Plan on behalf of the Employer as of the date (1) the Employer amends the plan to incorporate a type of plan described in section 6.03 of Rev. Proc. 2017-41 that is not permitted under the M&P program, or (2) the Internal Revenue Service notifies the Employer, in accordance with section 24.03 of Rev. Proc. 2017-41, that the Plan is an individually designed plan due to the nature and extent of Employer amendments to the Plan.

ARTICLE IX

PORTABILITY

3.9.1 Continuance by Successor. In the event of the dissolution, consolidation, or merger of the Employer, or the sale by the Employer of its assets, the resulting successor person or persons, firm, or corporations may continue this Plan by (a) adopting the Plan by appropriate resolution; (b) appointing a new Trustee as though the Trustee (including all members of a group of individuals acting as Trustee) had resigned; and (c) executing a proper agreement with the new Trustee. In such event, each Participant in this Plan will have an interest in the Plan after the dissolution, consolidation, merger, or sale of assets at least equal to the interest that they had in the Plan immediately before the dissolution, consolidation, merger, or sale of assets. Any Participants who do not accept a position with such successor within a reasonable time will be deemed to be terminated. If, within 90 days from the effective date of such dissolution, consolidation, merger, or sale of assets, such successor does not adopt this Plan, as provided herein, the Plan will automatically be terminated and deemed an involuntary termination.

3.9.2 Merger With Other Plan. In the event of the merger or consolidation with, or transfer of assets or liabilities to, any other deferred compensation plan and trust, each Participant will have an interest in such other plan that is equal to or greater than the interest that they had in this Plan immediately before such merger, consolidation, or transfer, and if such other plan thereafter terminates, each Participant will be entitled to a Distributable Benefit that is equal to or greater than the Distributable Benefit to which they would have been entitled immediately before such merger, consolidation, or transfer if this Plan had then been terminated, as adjusted for any investment gains or losses since such merger, consolidation, or transfer.

3.9.3 Transfers and Rollovers From Other Plans.

(a) The Employer may cause all or any of the assets held in connection with any other plan or trust that is maintained by the Employer for the benefit of its Employees and satisfies the applicable requirements of the Code relating to qualified plans and trusts to be transferred to the Trustee, whether such transfer is made pursuant to a merger or consolidation of this Plan with such other plan or trust within the meaning of Code section 414(l) or for any other allowable purpose. Any such assets so transferred to the Trustee will be accompanied by written instructions from the Employer, or the trustee, custodian, or individual holding such assets, setting forth the name of each Employee for whose benefit such assets have been transferred and showing separately the respective contributions by the Employer and by the Employee and the current value of the assets attributable thereto.

Upon receipt by the Trustee of such assets, the Trustee will place such assets in appropriate Accounts for each Employee. If the transferor plan maintained a vesting schedule that differs from the schedule maintained under this Plan, the vesting schedule of this Plan will apply, but eligible Participants will have the option to apply the vesting schedule of the transferor plan to the transferred assets in a manner consistent with the provisions of Section 3.8.3(b).

(b) If assets are transferred to the Plan from a defined benefit pension plan, money purchase pension plan, target benefit pension plan, stock bonus or profit sharing plan that are subject to the survivor annuity requirements of Code sections 401(a)(11) and 417, such transferred assets will remain subject to such requirements, and this Plan will provide life annuity distribution options as provided under the transferor plan. Unless this Plan is also subject to such survivor annuity requirements, the annuity distribution option will only apply to those assets that were transferred and any earnings therein.

Any such transferred assets and associated earnings will be distributed to the Participant only if: (1) they terminate employment with the Employer, attains Normal Retirement Age, becomes Disabled, or dies, (2) the Plan should subsequently terminate, or (3) the Employer spins off the business unit to which the Participant is a member. To implement the restrictions on distributions this Subsection imposes, the Plan must maintain separate accounting between the benefits attributable to the

transferred account balances and all other Account balances of each Participant who has Account balances attributable to such transfers.

(c) At the direction of the sponsoring Employer, the Trustee will accept the transfer of account balances from another plan of Employees that have become Employees of the sponsoring Employer due to the spin-off of the business unit to which they belong.

(d) If elected in the Adoption Agreement, the Plan will accept rollovers of Eligible Rollover Distributions made after December 31, 2001, from the types of plans specified in the Adoption Agreement, beginning on the effective date specified in the Adoption Agreement. Such rollover amounts will be placed in a Rollover Account for the benefit of the Employee in question.

Unless otherwise provided by the Employer in the Adoption Agreement, the Plan will accept a rollover contribution to a Roth Elective Deferral Account only if it is a Direct Rollover from another Roth elective deferral account under an applicable retirement plan described in Code section 402A(e)(1) and only to the extent the rollover is permitted under the rules of Code section 402(c).

The Plan will not provide for a Direct Rollover (including an automatic rollover) for distributions from a Participant's Roth Elective Deferral Account if the amount of the distributions that are Eligible Rollover Distributions are reasonably expected to total less than $200 during a year. In addition, any distribution from a Participant's Roth Elective Deferral Account is not taken into account in determining whether distributions from a Participant's other accounts are reasonably expected to total less than $200 during a year. However, Eligible Rollover Distributions from a participant's Roth Elective Deferral Account are taken into account in determining whether the total amount of the Participant's Account balances under the plan exceeds $1,000 for purposes of mandatory distributions from the Plan.

The provisions of the Plan that allow a Participant to elect a Direct Rollover of only a portion of an Eligible Rollover Distribution but only if the amount rolled over is at least $500 is applied by treating any amount distributed from the Participant's Roth Elective Deferral Account as a separate distribution from any amount distributed from the Participant's other accounts in the Plan, even if the amounts are distributed at the same time.

3.9.4 Transfer to Other Plans.

(a) The Trustee, upon written direction by the Employer, will transfer some or all of the assets held under the Trust to another plan or trust of the Employer or any other employer meeting the requirements of the Code relating to qualified plans and trusts, whether such transfer is made pursuant to a merger or consolidation of this Plan with such other plan or trust or for any other allowable purpose.

At the direction of the Employer, the Trustee will spin-off a portion of the Plan assets to a plan of the buyer of a portion of the assets of the Employer. The amount of the spin-off will be the portion of the assets representing the Account balances of Participants who are terminated due to the sale. In order to be a part of the spin-off, a Participant must become employed by the buyer within one year of the date of sale.

In addition, upon the termination of employment of any Participant and receipt by the Plan Administrator of a request in writing, the Participant may request that any distribution from the Trust to which they are entitled will be transferred to an individual retirement account, an individual retirement annuity, or any other plan or trust that is maintained by some other employer for the benefit of its employees and satisfies the applicable Code requirements relating to qualified plans and trusts. Upon receipt of any such written request, the Plan Administrator will cause the Trustee to transfer the assets so directed and, as appropriate, will direct the Insurer to transfer to the new trustee any applicable insurance policies issued for the benefit of the Participant.

(b) Transfer to Nonqualified Foreign Trust. If the interest of a Participant or Beneficiary under the Plan is transferred into a nonqualified foreign trust or the assets and liabilities are transferred into a plan described in Section 1165 of the Puerto Rico Code will be a taxable distribution. For this purpose a "Nonqualified Foreign Trust" is a trust: (i) created or organized outside of the United States or (ii) attached to a plan created or organized outside of the United States and is not

subject to the Internal Revenue Code.

(c) Exception with respect to Paragraph (b) above.

(1) The Plan Administrator of a pension, profit sharing or stock bonus plan and trust created or organized in Puerto Rico may elect under Section 1022(i)(2)(A) of the Employee Retirement Income Security Act of 1974 (ERISA), to be treated as a qualified trust under Code section 501(a). For purposes of ERISA 1022(i): (i) the plan must cover participants who are all "bona fide" residents of Puerto Rico; or (ii) the plan must covers participants who perform labor or services primarily within Puerto Rico, regardless of their place of residence; and (iii) the plan is exempt from income tax under the laws of Puerto Rico.

(2) Upon such an election, the plan will be treated as a qualified trust under Code section 401(a).

ARTICLE X

INSURANCE

3.10.1 Participants Insurable at Standard Rates. The Trustee, when directed by the Plan Administrator, and in accordance with the provisions specified in the Adoption Agreement, will provide incidental insurance benefits by purchasing for each Participant insurable at standard rates, either term insurance, universal life insurance, or ordinary life insurance policies. The manner in which insurance benefits are provided under this Part III Article X must not discriminate in favor of Highly Compensated Employees.

Said Life Insurance Policies will provide a 3.10.6, prior to the Normal Retirement Date, equal to the proceeds of such policies, subject to the following provisions:

(a) The Trustee may invest any portion or all of the assets of the Trust Fund that are attributable to a Participant in the purchase of group or individual Life Insurance Policies issued on the life of the Participant or in the case of a profit sharing plan (including a 401(k) plan), someone in whom the Participant has an insurable interest and for the benefit of the Participant with the consent of the Participant, subject to the following conditions, as they are represented by the Plan Administrator:

(1) If "Ordinary Life Insurance Policies" are purchased, the aggregate life insurance premiums must be less than 1/2 of the aggregate Employer contributions and Forfeitures allocated to the Participant's Account at any particular time, without regard to Trust earnings, capital gains, or losses. For purposes of this Plan, the term "Ordinary Life Insurance Policies" will mean policies with both nondecreasing death benefits and nonincreasing premiums.

(2) The aggregate Premiums paid for Life Insurance Policies that are either term, universal or any other policies that are not ordinary whole life Policies will not at any time exceed 25% of the aggregate amount of Employer Contributions and Forfeitures that have been allocated to the Accounts of such Participant.

(3) The sum of 1/2 of the aggregate premiums for Ordinary Life Insurance Policies and all premiums for other Life Insurance Policies will not at any time exceed 25% of the aggregate amount of Employer Contributions and Forfeitures that have been allocated to the Accounts of such Participant.

(4) For purposes of this Section, a Participant's Elective Deferrals are considered Employer Contributions.

(5) The Employer may elect in the Plan's policy on insurance to set minimum amounts for the initial amount of insurance purchased as well as for the purchase of additional amounts. The minimum amount will be expressed in terms of the face amount of the insurance and may not be greater than $1,000. The Plan's policy on insurance may require that insurance must be purchased in multiples not to exceed $1,000.

(b) If the case of a profit sharing plan (including a 401(k) plan) that permits In-service distributions to a Participant prior to their Normal Retirement Date in accordance with Subsection 2.5.12(a) or (b), the amount that may be distributed to the Participant may be used to purchase Life Insurance Policies without limitation unless otherwise specified in the Plan's policy on insurance. Voluntary Employee Contributions and rollovers from other plans may also be used to purchase Life Insurance Policies without limitation.

3.10.2 Uninsurable Participants. For each Participant found by an Insurer to be uninsurable, the Trustee, when requested by the Plan Administrator, will purchase a retirement annuity contract on the life of such Participant with a death benefit before Normal Retirement Date in an amount equal to the cash surrender value of such contract. The Participant must consent to the purchase of such a retirement annuity contract.

3.10.3 Participants Insurable at Above Standard Rates. If an Insurer finds a Participant to be uninsurable, except at above standard rates, the Trustee, when requested by the Plan Administrator, will pay premiums that do not exceed the percentage of standard rates specified in the Plan's policy on insurance. The face value of any insurance policy will be limited by the percentage of the aggregate Employer Contributions and Forfeitures allocated to the Participant's Account that the Employer dedicated to purchase insurance. The Participant must consent to the purchase of any insurance policy above standard rates.

3.10.4 Purchase of Policies. No Life Insurance Policy will be purchased under the Plan unless at the time of purchase it benefits an active Participant and such policy or separate definite written agreement between the Employer and the Insurer provides that no value 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 policy 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. Any Life Insurance Policy must provide that any proceeds are payable to the Trustee, subject to the Trustee's obligation to transfer such proceeds to the Beneficiary. Under no circumstances will the Trust retain any part of the proceeds.

If, at any time, a policy described herein will not be available from or will be determined to be invalid or unenforceable by an Insurer, the Trustee, when directed by the Plan Administrator, will purchase a policy or make such other alternative arrangements that, in the opinion of the Plan Administrator, conform most closely to the descriptions herein. In the event of a conflict between the terms of the Plan and the terms of any Life Insurance Policy, the Plan provisions will control.

3.10.5 Applications for Policies. The Trustee will be the applicant, owner, and beneficiary for all Life Insurance Policies required under the terms of the Plan. Any Life Insurance Policy distributed from the Plan must be nontransferable. The terms of any Life Insurance Policy purchased and distributed by the Plan to a Participant or spouse will comply with the requirements of the Plan. The Trustee will not be responsible for the validity or execution of any Life Insurance Policy, failure of an Insurer to pay proceeds when due, or failure of any policy to meet requirements or conform to the provisions of the Plan.

3.10.6 Incidents of Ownership. The Trustee will have the right to receive all sums payable under the terms of all Life Insurance Policies issued hereunder. The Trustee will be the complete and absolute owner of the Life Insurance Policies held in the Trust and of each and every incident of ownership therein and will have the power to exercise the rights, options, and privileges of an absolute owner with respect to the Life Insurance Policies, subject to the provisions of the Plan. The Plan Administrator will have the power to deal with and settle all claims.

3.10.7 Payment of Premiums. In a Plan Year in which the Employer Contributions are less than the amount required to sustain insurance premiums, the Plan Administrator will direct the Trustee to take one of the following steps with respect to payment of insurance premiums on Life Insurance Policies:

(a) Pay premiums due on policies from the Participant's Account, within the limits of 3.10.1 and 3.10.3 above,

(b) Pay premiums due on policies from the Participant's Account using the balance described in 3.10.1(b) above,

(c) Surrender any policies for their cash surrender values and add such amount to the Participant's Account,

(d) Convert the cash surrender value of any policies to paid up insurance for which there will be no further premiums, or

(e) Offer to sell any policies to the Participant for their cash surrender value for transfers or distributions made on or before February 13, 2004. Distributions or transfers of policies after February 13, 2004 sale be valued at Fair Market Value.

3.10.8 Discontinuance of Policies. The Trustee or other Fiduciary responsible for making investment decisions may discontinue the investment in Life Insurance Policies at any time. If the Plan provides for Participant-directed investments, life insurance, as an investment option, may be eliminated at any time by the Plan Administrator. If life insurance investment options are discontinued, the Plan Administrator, in its sole discretion, may offer to sell the policies to the Participant, or to another person, provided the prohibited transaction exemption requirements of the Department of Labor are satisfied.

3.10.9 Protection of the Insurer. An Insurer will not be responsible for the validity of the Plan or the Trust and will have no responsibility for action taken or not taken by the Trustee, for determining the propriety of accepting premium payments or other contributions, for making payments in accordance with the direction of the Trustee, or for the application of such payments. The Insurer will be fully protected in dealing with any representative of the Employer or any one of a group of individuals acting as Trustee. Until an Insurer receives written notice of a change of Trustee at its home office, the Insurer will be fully protected in dealing with any party acting as Trustee according to the latest information received by the Insurer at its home office.

3.10.10 No Responsibility for Act of Insurer. Neither the Employer, the Plan Administrator, nor the Trustee will be responsible for any of the following, nor will they be liable for instituting action in connection with:

(a) The validity of Life Insurance Policies or policy provisions;

(b) Failure or refusal by the Insurer to provide benefits under a policy;

(c) An act by a person that may render a policy invalid or unenforceable; or

(d) Inability to perform or delay in performing an act, which inability or delay is occasioned by a provision of a policy or a restriction imposed by the Insurer.

ARTICLE XI

MISCELLANEOUS

3.11.1 No Reversion to Employer.

(a) Except as specifically provided in the Plan, no part of the corpus or income of the Trust will revert to the Employer or be used for, or diverted to, purposes other than for the exclusive benefit of Participants and their Beneficiaries.

(b) Reversion Upon Termination. Notwithstanding Paragraph (a), any other Plan provision or section 1.401(a)-2 of the Treasury Regulations, upon termination of the Plan, amounts contributed to the Plan that exceed the limitations imposed under section 415(c) of the Code, to the extent set forth in rules prescribed by the Commissioner will revert to the Employer.

3.11.2 Employer Actions. Any action by the Employer pursuant to the provisions of the Plan will be evidenced by appropriate resolution or by written instrument executed by any person authorized by the Employer to take such action.

3.11.3 Execution of Receipts and Releases. Any payment to any person eligible to receive benefits under this Plan, in accordance with the provision of the Plan or the Trust, shall, to the extent thereof, be in full satisfaction of all claims hereunder. The Plan Administrator may require such person, as a condition precedent to such payment, to execute a receipt and release therefore in such form as it will determine.

3.11.4 Rights of Participants Limited. Neither the creation of this Plan and the Trust nor anything contained in this Plan or the Adoption Agreement will be construed as giving any Participant, Beneficiary, or Employee any equity or other interest in the assets, business, or affairs of the Employer, or the right to complain about any action taken by or about any policy adopted or pursued by the Employer, or as giving any Employee the right to be retained in the service of the Employer; and all Employees will remain subject to discharge to the same extent as if the Plan had never been executed. Prior to the time that distributions are made in conformity with the provisions of the Plan, neither the Participants nor their spouses, Beneficiaries, heirs-at-law, or legal representatives will receive or be entitled to receive cash or any other thing of current exchangeable value from either the Employer or the Trustee as a result of the Plan or the Trust.

3.11.5 Inalienability. The right of any Participant or their Beneficiary in any distribution hereunder or to any Account will not be subject to alienation, assignment, or transfer, voluntarily or involuntarily, by operation of law or otherwise, except as may be expressly permitted herein. No Participant will assign, transfer, or dispose of such right, nor will any such right be subjected to attachment, execution, garnishment, sequestration, or other legal, equitable, or other process. The preceding will also apply to the creation, assignment, or recognition of a right to any benefit payable with respect to a Participant pursuant to a domestic relations order, unless such order is determined to be a Qualified Domestic Relations Order or any domestic relations order entered before January 1, 1985.

The preceding provisions will not apply to judgments, orders, and decrees issued, and settlement agreements entered into, on or after August 5, 1997, that offset a Participant's benefits provided under this Plan if:

(a) The order or requirement to pay arises:

(1) Under a judgment of conviction for a crime involving this Plan,

(2) Under a civil judgment (including a consent order or decree) entered by a court in an action brought in connection with a violation (or alleged violation) of Part 4 of Subtitle B of Title I of the Act, or

(3) Pursuant to a settlement agreement between the Secretary of Labor and the Participant, or a settlement agreement between the Pension Benefit Guaranty Corporation and the Participant, in connection with a violation (or alleged violation) of Part 4 of such subtitle by a Fiduciary or any other person,

(b) The judgment, order, decree, or settlement agreement expressly provides for the offset of all or part of the amount ordered or required to be paid to the Plan against the Participant's benefits provided under the Plan, and

(c) In a case in which the survivor annuity requirements of Code section 401(a)(11) apply with respect to distributions from the Plan to the Participant, if the Participant has a spouse at the time at which the offset is to be made:

(1) Either such spouse has consented in writing to such offset and such consent is witnessed by a notary public or representative of the Plan (or it is established to the satisfaction of a Plan representative that such consent may not be obtained by reason of circumstances described in Code section 417(a)(2)(B)), or an election to waive the right of the spouse to either a Qualified Joint and Survivor Annuity or a Qualified Preretirement Survivor Annuity is in effect in accordance with the requirements of Code section 417(a),

(2) Such spouse is ordered or required in such judgment, order, decree, or settlement to pay an amount to the Plan in connection with a violation of Part 4 of such subtitle, or

(3) In such judgment, order, decree, or settlement, such spouse retains the right to receive the survivor annuity under a Qualified Joint and Survivor Annuity or under a Qualified Preretirement Survivor Annuity,) where such survivor annuity equals the survivor annuity determined under the Plan assuming that:

(i) The Participant terminated employment on the date of the offset,

(ii) There was no offset,

(iii) Benefits commence at the Participant's Normal Retirement Date (or current age if later),

(iv) The Qualified Joint and Survivor Annuity survivor percentage is 50% (even if another percentage is selected in the definition of Qualified Joint and Survivor Annuity), and

(v) The Qualified Preretirement Survivor Annuity is 50% of such Qualified Joint and Survivor Annuity.

In the event a Participant's benefits are attached by order of any court, the Plan Administrator may bring an action for a declaratory judgment in a court of competent jurisdiction to determine the proper recipient of the benefits to be paid by the Plan. During the pendency of the action, the Plan Administrator will cause any benefits payable to be paid to the court for distribution by the court as it considers appropriate.

3.11.6 Qualified Domestic Relations Orders. The Plan Administrator will adhere to the terms of any judgment, decree, or order (including approval of a property settlement agreement) that relates to the provision of child support, alimony payments, or marital property rights to a spouse, former spouse, child, or other dependent of a Participant and is made pursuant to a state domestic relations law (including a community property law) and that creates or recognizes the existence of an Alternate Payee's right to, or assigns to an Alternate Payee the right to, receive all or a portion of the benefits payable with respect to a Participant.

Any such domestic relations order must clearly specify the name and last known mailing address of the Participant and the name and mailing address of each Alternate Payee covered by the order, the amount or percentage of the Participant's benefit to be paid by the Plan to each such Alternate Payee, or the manner in which such amount or percentage is to be determined, the number of payments or period to which such order applies, and each plan to which such order applies.

Any such domestic relations order will not require the Plan to provide any type or form of benefit or any option not otherwise provided under the Plan, to provide increased benefits, or the payment of benefits to an Alternate Payee that are required to be paid to another Alternate Payee under another order previously determined to be a Qualified Domestic Relations Order. Notwithstanding the foregoing sentence, the Employer may elect to permit distributions to an Alternate Payee before the Participant has separated from service, on or after the date on which the Participant attains or would have attained the earliest retirement age under the Plan, as if the Participant had retired on the date on which such payment is to begin under such order. For this purpose, the "earliest retirement age" under the Plan means the earlier of: (a) the date on which the Participant is entitled to a distribution under the Plan, or (b) the later of the date the Participant attains age 50, or the earliest date on which the Participant could begin receiving benefits under the Plan if the Participant separated from service.

The payment of benefits to an Alternate Payee before the Participant has severed from employment will be determined as if the Participant had retired, or otherwise terminated employment, on the date on which such payment is to begin under the Qualified Domestic Relations Order, (but taking into account only the benefits actually accrued), and may be paid in any form in which such benefits may be paid under the Plan to the Participant (other than the form of a Joint and Survivor Annuity with respect to the Alternate Payee and their subsequent spouse).

If the Employer so elects in the Adoption Agreement, distributions to an Alternate Payee are permitted while the Participant continues to be employed on or after the date a Domestic Relations Order is determined to be a Qualified Domestic Relations Order by the Plan Administrator.

To the extent provided in the Qualified Domestic Relations Order, the former spouse of a Participant will be treated as a surviving spouse of such Participant for purposes of Code sections 401(a)(11) and 417 (and any spouse of the Participant will not be treated as a spouse of the Participant for such purposes) and if married for at least 1 year to the Participant, the surviving former spouse will be treated as meeting the requirements of Code section 417(d).

The Plan Administrator will promptly notify the Participant and each Alternate Payee of the receipt of a domestic relations order by the Plan and the Plan's procedures for determining the qualified status of domestic relations orders. Within a reasonable period after receipt of a domestic relations order, the Plan Administrator will determine whether such order is a Qualified Domestic Relations Order and will notify the Participant and each Alternate Payee of such determination. If the Participant or any affected Alternate Payee disagrees with the determinations of the Plan Administrator, the Plan Administrator will treat the disagreeing party as a claimant and follow the claims procedure of the Plan. The Plan Administrator may bring an action for a declaratory judgment in a court of competent jurisdiction to determine the proper recipient of the benefits to be paid by the Plan.

During any period in which the issue of whether a domestic relations order is a Qualified Domestic Relations Order is being determined (by the Plan Administrator, by a court of competent jurisdiction or otherwise), the Plan Administrator will separately account for the amounts that would have been payable to the Alternate Payee during such period if the order had been determined to be a Qualified Domestic Relations Order. If, within the 18 month period beginning on the date on which the first payment would be required to be made under the domestic relations order, the order (or modification thereof) is determined to be a Qualified Domestic Relations Order, the Plan Administrator will pay the segregated amounts, including any interest thereon, to the person or persons entitled thereto. If within such 18 month period it is determined that the order is not a Qualified Domestic Relations Order or the issue whether such order is a Qualified Domestic Relations Order is not resolved, then the Plan Administrator will pay the segregated amounts, including any interest thereon, to the person or persons who would have been entitled to such amounts if there had been no order. Any determination that an order is a Qualified Domestic Relations Order that is made after the close of the 18-month period will be applied prospectively only.

3.11.7 Missing Persons. If the Trustee mails by registered or certified mail, postage prepaid, to the last known address of a Participant or Beneficiary, a notification that the Participant or Beneficiary is entitled to a distribution and if (a) the notification is returned by the post office because the addressee cannot be located at such address and if neither the Employer, the Plan Administrator nor the Trustee will have any knowledge of the whereabouts of such Participant or Beneficiary within a reasonable timeframe from the date such notification was mailed, or (b) within a reasonable timeframe after such

notification was mailed to such Participant or Beneficiary, they does not respond thereto by informing the Trustee of their whereabouts, the ultimate disposition of the then undistributed vested Account balance of such Participant or Beneficiary will be determined in accordance with the then applicable Federal laws, rules, and regulations.

3.11.8 Notices. Any notice or direction to be given in accordance with the Plan will be deemed to have been effectively given if hand delivered to the recipient or sent by certified mail, return receipt requested, to the recipient at the recipient's last known address. At any time that a group of individuals is acting in a Fiduciary capacity, notice to such Fiduciary may be given by giving notice to any one or more of such individuals.

3.11.9 Governing Law. The provisions of this Plan will be construed, administered, and enforced in accordance with the provisions of the Act and, to the extent applicable, the laws of the state specified in the Adoption Agreement. All contributions to the Trust will be deemed to take place in such state.

3.11.10 Severability of Provisions. In the event that any provision of this Plan will be held to be illegal, invalid, or unenforceable for any reason, said illegality, invalidity, or unenforceability will not affect the remaining provisions, but will be fully severable, and the Plan will be construed and enforced as if said illegal, invalid, or unenforceable provisions had never been inserted herein.

3.11.11 Gender and Number. Whenever appropriate, words used in the singular will include the plural, and the masculine gender will include the feminine gender and vice versa.

3.11.12 Binding Effect. The Plan and Adoption Agreement, and all actions and decisions hereunder, will be binding upon the heirs, executors, administrators, successors, and assigns of any and all parties hereto and Participants, present and future, and their Beneficiaries.

ARTICLE XII

Deemed IRA

3.12.1 Deemed Pre-tax IRA. This Section will apply after December 31, 2005, if the Employer elects to permit Participants to make Pre-tax IRA contributions to the Plan.

(a) The Pre-tax IRA Account will be established for the exclusive benefit of the Participant or their Beneficiaries.

(b) The maximum permissible annual contribution will be:

(1) Except in the case of a rollover contribution (as permitted by Code sections 402(c), 402(e)(6), 403(a)(4), 403(b)(8), 403(b)(10), 408(d)(3), and 457(e)(16)), no contributions will be accepted unless they are in cash, and the total of such contributions will not exceed:

$3,000 for any taxable year beginning in 2002 through 2004;
$4,000 for any taxable year beginning in 2005 through 2007; and
$5,000 for any taxable year beginning in 2008 and years thereafter.

After 2008, the limit will be adjusted by the Secretary of the Treasury for cost-of-living increases under Code section 219(b)(5)(C). Such adjustments will be in multiples of $500.

(2) In the case of a Participant who is 50 or older, the annual cash contribution limit is increased by:

$500 for any taxable year beginning in 2002 through 2005; and
$1,000 for any taxable year beginning in 2006 and years thereafter.

(3) No contributions will be accepted under a SIMPLE IRA plan established by any employer pursuant to Code section 408(p). Also, no transfer or rollover of funds attributable to contributions made by a particular employer under its SIMPLE IRA plan will be accepted from a SIMPLE IRA, that is, an IRA used in conjunction with a SIMPLE IRA plan, prior to the expiration of the 2 year period beginning on the date the Participant first participated in that employer's SIMPLE IRA plan.

(c) If the Trust acquires collectibles within the meaning of Code Section 408(m) after December 31, 1981, for the benefit of any Pre-tax IRA Account, those Trust assets will be treated as a distribution in an amount equal to the cost of such collectibles.

(d) No part of the Trust funds attributable to a Pre-tax IRA Contribution will be invested in life insurance contracts.

(e) Distributions before death must commence no later than when the Participant attains age 70 1/2.

(1) Notwithstanding any provision of this Section to the contrary, the distribution of the Participant's interest in the Pre-tax IRA Account will be made in accordance with the requirements of Code section 408(a)(6) and the regulations thereunder, the provisions of which are herein incorporated by reference. If distributions are made from an annuity contract purchased from an insurance company, distributions thereunder must satisfy the requirements of Q&A-4 of Treasury Regulations section 1.401(a)(9)-6, rather than Subsections (2), (3), and (4) below and Subsection (f). The Required Minimum Distributions calculated for an IRA created under this Section may be withdrawn from another IRA of the Participant in accordance with Q&A-9 of Treasury Regulations section 1.408-8.

(2) The entire value of the Account of the Participant for whose benefit the Account is maintained will commence to be distributed no later than the first day of April following the calendar year in which such Participant attains age 70 1/2 (the "required beginning date") over the life of

such Participant or the lives of such Participant and their Designated Beneficiary.

(3) The amount to be distributed each year, beginning with the calendar year in which the Participant attains age 70 1/2 and continuing through the year of death, will not be less than the quotient obtained by dividing the value of the IRA created under this Section (as determined under Subsection (h)) as of the end of the preceding year by the distribution period in the Uniform Lifetime Table in Q&A-2 of Treasury Regulations section 1.401(a)(9)-9, using the Participant's age as of their birthday in the year. However, if the Participant's sole Designated Beneficiary is their surviving spouse and such spouse is more than ten (10) years younger than the Participant, then the distribution period is determined under the Joint and Last Survivor Table in Q&A-3 of Treasury Regulations section 1.401(a)(9)-9, using the ages as of the Participant's and spouse's birthdays in the year.

(4) The Required Minimum Distribution for the year the Participant attains age 70 1/2 can be made as late as April 1 of the following year. The Required Minimum Distribution for any other year must be made by the end of such year.

(f) Death On or After Required Beginning Date. If the Participant dies on or after the required beginning date, the remaining portion of their interest will be distributed at least as rapidly as follows:

(1) If the Designated Beneficiary is someone other than the Participant's surviving spouse, the remaining interest will be distributed over the remaining life expectancy of the Designated Beneficiary, with such life expectancy determined using the Beneficiary's age as of their birthday in the year following the year of the Participant's death, or over the period described in Subsection (3) below if longer.

(2) If the Participant's sole Designated Beneficiary is the Participant's surviving spouse, the remaining interest will be distributed over such spouse's life or over the period described in Subsection (3) below if longer. Any interest remaining after such spouse's death will be distributed over such spouse's remaining life expectancy determined using the spouse's age as of their birthday in the year of the spouse's death, or, if the distributions are being made over the period described in Subsection (3) below, over such period.

(3) If there is no Designated Beneficiary, or if applicable by operation of Subsections (f)(1) or (f)(2) above, the remaining interest will be distributed over the individual's remaining life expectancy determined in the year of the individual's death.

(4) The amount to be distributed each year under Subsections (1), (2), or (3), beginning with the calendar year following the calendar year of the Participant's death, is the quotient obtained by dividing the value of the IRA created under this Section as of the end of the preceding year by the remaining life expectancy specified in such Subsection. Life expectancy is determined using the Single Life Table in Q&A-1 of Treasury Regulations section 1.401(a)(9)-9. If distributions are being made to a surviving spouse as the sole Designated Beneficiary, such spouse's remaining life expectancy for a year is the number in the Single Life Table corresponding to such spouse's age in the year. In all other cases, remaining life expectancy for a year is the number in the Single Life Table corresponding to the Beneficiary's or Participant's age in the year specified in Subsections (1), (2), or (3) and reduced by 1 for each subsequent year.

(g) Death Before Required Beginning Date. If the Participant dies before the required beginning date, their entire interest will be distributed at least as rapidly as follows:

(1) If the Designated Beneficiary is someone other than the Participant's surviving spouse, the entire interest will be distributed, starting by the end of the calendar year following the calendar year of the Participant's death, over the remaining life expectancy of the Designated Beneficiary, with such life expectancy determined using the age of the Beneficiary as of their birthday in the year following the year of the Participant's death, or, if elected, in accordance with Subsection (3) below.

(2) If the Participant's sole Designated Beneficiary is the Participant's surviving spouse, the entire interest will be distributed, starting by the end of the calendar year following the calendar year of the Participant's death (or by the end of the calendar year in which the Participant would have attained age 70 1/2, if later), over such spouse's life, or, if elected, in accordance with Subsection (3) below. If the surviving spouse dies before distributions are required to begin, the remaining interest will be distributed, starting by the end of the calendar year following the calendar year of the spouse's death, over the spouse's Designated Beneficiary's remaining life expectancy determined using such Beneficiary's age as of their birthday in the year following the death of the spouse, or, if elected, will be distributed in accordance with Subsection (3) below. If the surviving spouse dies after distributions are required to begin, any remaining interest will be distributed over the spouse's remaining life expectancy determined using the spouse's age as of their birthday in the year of the spouse's death.

(3) If there is no Designated Beneficiary, or if applicable by operation of Subsections (1) or (2) above, the entire interest will be distributed by the end of the calendar year containing the fifth anniversary of the Participant's death (or of the spouse's death in the case of the surviving spouse's death before distributions are required to begin under Subsection (2) above).

(4) The amount to be distributed each year under Subsections (1) or (2) is the quotient obtained by dividing the value of the IRA created under this Section as of the end of the preceding year by the remaining life expectancy specified in such Subsection. Life expectancy is determined using the Single Life Table in Q&A-1 of Treasury Regulations section 1.401(a)(9)-9. If distributions are being made to a surviving spouse as the sole Designated Beneficiary, such spouse's remaining life expectancy for a year is the number in the Single Life Table corresponding to such spouse's age in the year. In all other cases, remaining life expectancy for a year is the number in the Single Life Table corresponding to the Beneficiary's age in the year specified in Subsections (1) or (2) and reduced by 1 for each subsequent year.

(h) The "value" of the IRA created under this Section includes the amount of any outstanding rollover, transfer, and recharacterization under Q&As-7 and -8 of Treasury Regulations section 1.408-8.

(i) If the sole Designated Beneficiary is the Participant's surviving spouse, the spouse may elect to treat the IRA created under this Section as their own IRA. This election will be deemed to have been made if such surviving spouse makes a contribution to the IRA or fails to take required distributions as a Beneficiary.

(j) The interest of a Participant in the balance in their Account is nonforfeitable at all times.

(k) Trust Provisions.

(1) The trustee of a Deemed IRA Account must be a bank, as required by Code section 408(a)(2) , or if the trustee is not a bank as defined in Code section 408(n), the Trustee must have received approval from the Commissioner of the Internal Revenue Service to serve as a nonbank trustee or nonbank custodian pursuant to Treasury Regulations section 1.408-2(e).

(2) The requirements of Code section 408(a)(5) regarding commingling of assets do not apply to Deemed IRAs. Accordingly, the assets of a Deemed IRA may be commingled for investment purposes with those of the Plan. However, the restrictions on the commingling of Plan and IRA assets with other assets apply to the assets of the Plan and Deemed IRA Accounts established under this Plan.

(l) Separate records will be maintained for the interest of each Participant.

(m) The trustee of the Deemed IRA Accounts will furnish annual calendar-year reports concerning the status of the Deemed IRA Accounts and such information concerning Required Minimum Distributions as is prescribed by the Commissioner of Internal Revenue Service.

(n) The nonbank trustee or custodian will substitute another trustee or custodian if the nonbank

trustee or custodian receives notice from the Commissioner of Internal Revenue Service that such substitution is required because it has failed to comply with the requirements of Treasury Regulations section 1.408-2(e).

(o) For purposes of this Section, "compensation" means wages, salaries, professional fees, or other amounts derived from or received for personal services actually rendered (including, but not limited to commissions paid salesmen, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips, and bonuses) and includes Earned Income, as defined in Code section 401(c)(2) (reduced by the deduction the Self-Employed Individual takes for contributions made to a self-employed retirement plan). For purposes of this definition, Code section 401(c)(2) will be applied as if the term trade or business for purposes of Code section 1402 included service described in Subsection (c)(6). Compensation does not include amounts derived from or received as earnings or profits from property (including but not limited to interest and dividends) or amounts not includible in gross income determined without regard to section 112 of the Code. Compensation also does not include any amount received as a pension or annuity or as deferred compensation. The term "compensation" will include any amount includible in the Participant's gross income under Code section 71 with respect to a divorce or separation instrument described in Code section 71(b)(2)(A) and Differential Wage Payments as defined in section 3401(h)(2) of the Code.

3.12.2 Deemed Roth IRA. This Section will apply after December 31, 2005, if the Employer elects to permit Participants to make Roth IRA contributions to this Plan.

(a) A Roth IRA Account will be established for the exclusive benefit of the Participant or their Beneficiaries.

(b) The maximum permissible annual contribution will be:

(1) Except in the case of a qualified rollover contribution or a recharacterization (as defined in Subsection (6) below), no contribution will be accepted unless it is in cash and the total of such contributions to all the Participant's Roth IRAs for a taxable year does not exceed the applicable amount (as defined in Subsection (2) below), or the Participant's compensation (as defined in Subsection (8) below), if less, for that taxable year. The contribution described in the previous sentence that may not exceed the lesser of the applicable amount or the Participant's compensation is referred to as a "regular contribution." A "qualified rollover contribution" is a rollover contribution that meets the requirements of Code section 408(d)(3), except the one-rollover-per-year rule of Code section 408(d)(3)(B) does not apply if the rollover contribution is from an IRA other than a Roth IRA (a "non-Roth IRA"). Contributions may be limited under Subsections (3) through (5) below. The applicable amount is will not exceed:

$3,000 for any taxable year beginning in 2002 through 2004;
$4,000 for any taxable year beginning in 2005 through 2007; and
$5,000 for any taxable year beginning in 2008 and years thereafter.

After 2008, the limit will be adjusted by the Secretary of the Treasury for cost-of-living increases under Code section 219(b)(5)(C). Such adjustments will be in multiples of $500.

(2) In the case of a Participant who is 50 or older, the annual cash contribution limit is increased by: PI=6,6

$500 for any taxable year beginning in 2002 through 2005; and
$1,000 for any taxable year beginning in 2006 and years thereafter.

(3) Regular Contribution Limit. If Subsections (i) and/or (ii) below apply, the maximum regular contribution that can be made to all the Participant's Roth IRAs for a taxable year is the smaller amount determined under Subsections (i) or (ii).

(i) The maximum regular contribution is phased out ratably between certain levels of modified adjusted gross income ("modified AGI," defined in Subsection (7) below) in

accordance with the following table:

Filing Status	Full Contribution	Phase-out Range Modified AGI	No Contribution
Single or Head of Household	$95,000 or less	Between $95,000 and $110,000	$110,000 or more
Joint Return or Qualifying Widow(er)	$150,000 or less	Between $150,000 and $160,000	$160,000 or more
Married Separate Return	$0	Between $0 and $10,000	$10,000 or more

If the Participant's modified AGI for a taxable year is in the phase-out range, the maximum regular contribution determined under this table for that taxable year is rounded up to the next multiple of $10 and is not reduced below $200 and after 2006, the dollar amount above will be adjusted by the Secretary of the Treasury for cost of living increases under section 408A(c)(3) of the Code. Such adjustments are in multiples of one $1,000.

(ii) If the Participant makes regular contributions to both Roth and non-Roth IRAs for a taxable year, the maximum regular contribution that can be made to all the individual's Roth IRAs for that taxable year is reduced by the regular contributions made to the Participant's non-Roth IRAs for the taxable year.

(4) Qualified Rollover Contribution Limit. A rollover from a non-Roth IRA cannot be made to this IRA if, for the year the amount is distributed from the non-Roth IRA, (i) the Participant is married and files a separate return, (ii) the Participant is not married and has modified AGI in excess of $100,000, or (iii) the Participant is married and together the Participant and the Participant's spouse have modified AGI in excess of $100,000. For purposes of the preceding sentence, a husband and wife are not treated as married for a taxable year if they have lived apart at all times during that taxable year and file separate returns for the taxable year.

(5) SIMPLE IRA Limits. No contributions will be accepted under a SIMPLE IRA plan established by any employer pursuant to Code section 408(p). Also, no transfer or rollover of funds attributable to contributions made by a particular employer under its SIMPLE IRA plan will be accepted from a SIMPLE IRA, that is, an IRA used in conjunction with a SIMPLE IRA plan, prior to the expiration of the 2 year period beginning on the date the individual first participated in that employer's SIMPLE IRA plan.

(6) Recharacterization. A regular contribution to a non-Roth IRA may be recharacterized pursuant to the rules in Treasury Regulations section 1.408A-5 as a regular contribution to this IRA, subject to the limits in Subsection (3) above.

(7) Modified AGI. For purposes of (3) and (4) above, a Participant's modified AGI for a taxable year is defined in Code section 408A(c)(3)(C)(i) and does not include any amount included in adjusted gross income as a result of a rollover from a non-Roth IRA (a "conversion").

(8) Compensation. For purposes of Subsection (b) above, compensation is defined as wages, salaries, professional fees, or other amounts derived from or received for personal services actually rendered (including, but not limited to commissions paid salesmen, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips, and bonuses) and includes Earned Income, as defined in Code section 401(c)(2) (reduced by the deduction the Self-Employed Individual takes for contributions made to a self-employed retirement plan). For purposes of this definition, Code section 401(c)(2) will be applied as if the term trade or business for purposes of Code section 1402 included service described in Subsection (c)(6). Compensation does not include amounts derived from or received as earnings or profits from property (including but not limited to interest and dividends) or amounts not includible in gross income. Compensation also does not include any amount received as a pension or annuity or as deferred compensation. The term "compensation" will include any amount includible in the individual's gross income under Code section 71 with respect to a divorce or separation instrument described in Code section 71(b)(2)(A). In the

case of a married Participant filing a joint return, the greater compensation of their spouse is treated as their own compensation, but only to the extent that such spouse's compensation is not being used for purposes of the spouse making a contribution to a Roth IRA or a deductible contribution to a non-Roth IRA. Compensation does not include amounts derived from or received as earnings or profits from property (including but not limited to interest and dividends) or amounts not includible in gross income determined without regard to section 112 of the Code. The term "compensation" will include any amount includible in the Participant's gross income under Code section 71 with respect to a divorce or separation instrument described in Code section 71(b)(2)(A) and Differential Wage Payments as defined in section 3401(h)(2) of the Code.

(c) If the trust acquires collectibles within the meaning of Code section 408(m) after December 31, 1981, for the benefit of any Roth IRA Account, those trust assets will be treated as a distribution in an amount equal to the cost of such collectibles.

(d) No part of the Trust funds attributable to a Roth IRA Contribution will be invested in life insurance contracts.

(e) No amount is required to be distributed prior to the death of the Participant for whose benefit the account was originally established.

(f) Distribution upon Death.

(1) Notwithstanding any provision of this Section to the contrary, the distribution of the Participant's interest in the Roth IRA Account will be made in accordance with the requirements of Code section 408(a)(6), as modified by Code section 408A(c)(5), and the regulations thereunder, the provisions of which are herein incorporated by reference. If distributions are made from an annuity contract purchased from an insurance company, distributions thereunder must satisfy the requirements of Temporary Treasury Regulations section 1.401(a)(9)-6T (taking into account Code section 408A(c)(5)), rather than the distribution rules in Subsections (2), (3), and (4) below.

(2) Upon the death of the Participant, their entire interest will be distributed at least as rapidly as follows:

(A) If the Designated Beneficiary is someone other than the Participant's surviving spouse, the entire interest will be distributed, starting by the end of the calendar year following the calendar year of the Participant's death, over the remaining life expectancy of the Designated Beneficiary, with such life expectancy determined using the age of the Beneficiary as of their birthday in the year following the year of the Participant's death, or, if elected, in accordance with Subsection (C) below.

(B) If the Participant's sole Designated Beneficiary is the Participant's surviving spouse, the entire interest will be distributed, starting by the end of the calendar year following the calendar year of the Participant's death (or by the end of the calendar year in which the Participant would have attained age 70 1/2, if later), over such spouse's life expectancy, or, if elected, in accordance with Subsection (C) below. If the surviving spouse dies before distributions are required to begin, the remaining interest will be distributed, starting by the end of the calendar year following the calendar year of the spouse's death, over the spouse's Designated Beneficiary's remaining life expectancy determined using such Beneficiary's age as of their birthday in the year following the death of the spouse, or, if elected, will be distributed in accordance with Subsection (C) below. If the surviving spouse dies after distributions are required to begin, any remaining interest will be distributed over the spouse's remaining life expectancy determined using the spouse's age as of their birthday in the year of the spouse's death.

(C) If the Participant's sole Designated Beneficiary is the Participant's surviving spouse, the entire interest will be distributed, starting by the end of the calendar year following the calendar year of the Participant's death (or by the end of the calendar year in which the Participant would have attained age 70 1/2, if later), over such spouse's life expectancy,

or, if elected, in accordance with Subsection (C) below. If the surviving spouse dies before distributions are required to begin, the remaining interest will be distributed, starting by the end of the calendar year following the calendar year of the spouse's death, over the spouse's Designated Beneficiary's remaining life expectancy determined using such Beneficiary's age as of their birthday in the year following the death of the spouse, or, if elected, will be distributed in accordance with Subsection (C) below. If the surviving spouse dies after distributions are required to begin, any remaining interest will be distributed over the spouse's remaining life expectancy determined using the spouse's age as of their birthday in the year of the spouse's death.

(D) The amount to be distributed each year under Subsection (A) or (B) is the quotient obtained by dividing the value of the IRA created under this Section as of the end of the preceding year by the remaining life expectancy specified in such Subsection. Life expectancy is determined using the Single Life Table in Q&A-1 of Treasury Regulations section 1.401(a)(9)-9. If distributions are being made to a surviving spouse as the sole Designated Beneficiary, such spouse's remaining life expectancy for a year is the number in the Single Life Table corresponding to such spouse's age in the year. In all other cases, remaining life expectancy for a year is the number in the Single Life Table corresponding to the Beneficiary's age in the year specified in Subsections (A) or (B) and reduced by 1 for each subsequent year.

(3) The "value" of the IRA created under this Section includes the amount of any outstanding rollover, transfer and recharacterization under Q&As-7 and -8 of Treasury Regulations section 1.408-8.

(4) If the sole Designated Beneficiary is the Participant's surviving spouse, the spouse may elect to treat the IRA created under this Section as their own IRA. This election will be deemed to have been made if such surviving spouse makes a contribution to the IRA or fails to take required distributions as a Beneficiary.

(g) The interest of a Participant in the balance in their Account is nonforfeitable at all times.

(h) Trust Provisions.

(1) The trustee of a Deemed IRA Account must be a bank, as required by Code section 408(a)(2), or if the trustee is not a bank as defined in Code section 408(n), the trustee must have received approval from the Commissioner of the Internal Revenue Service to serve as a nonbank trustee or nonbank custodian pursuant to Treasury Regulations section 1.408-2(e).

(2) The requirements of Code section 408(a)(5) regarding commingling of assets do not apply to Deemed IRA Accounts. Accordingly, the assets of a Deemed IRA Account may be commingled for investment purposes with those of the Plan. However, the restrictions on the commingling of Plan and IRA assets with other assets apply to the assets of the Plan and the Deemed IRA Accounts established under this Plan.

(i) Separate records will be maintained for the interest of each Participant.

(j) The trustee of the Deemed IRA Accounts will furnish annual calendar-year reports concerning the status of the Deemed IRA Accounts and such information concerning Required Minimum Distributions as is prescribed by the Commissioner of Internal Revenue.

(k) The nonbank trustee or custodian will substitute another trustee or custodian if the nonbank trustee or custodian receives notice from the Commissioner of Internal Revenue that such substitution is required because it has failed to comply with the requirements of Treasury Regulations section 1.408-2(e).

Appendix A
Age-Weighted Tables
Table I

NRA	UP84 - male/female 7.50%	8.00%	8.50%	G71 - male 7.50%	8.00%	8.50%
50	133.39558	127.81104	122.64462	133.87491	128.27223	123.08767
51	131.68326	126.25593	121.22873	132.15556	126.71284	121.66974
52	129.91096	124.64274	119.75675	130.37691	125.09602	120.19650
53	128.08231	122.97462	118.23141	128.53619	123.41915	118.66534
54	126.19427	121.24857	116.65005	126.63053	121.67908	117.07298
55	124.24537	119.46290	115.01035	124.65642	119.87202	115.41560
56	122.23012	117.61205	113.30687	122.60942	117.99381	113.68869
57	120.15072	115.69789	111.54129	120.48454	116.03902	111.88699
58	118.01011	113.72295	109.71577	118.27602	114.00182	110.00446
59	115.81245	111.69104	107.83357	115.98196	111.88010	108.03873
60	113.55288	109.59709	105.88958	113.61351	109.68388	105.99902
61	111.23508	107.44439	103.88693	111.17770	107.42004	103.89146
62	108.86392	105.23735	101.82937	108.67722	105.09058	101.71801
63	106.44537	102.98163	99.72218	106.11093	102.69407	99.47675
64	103.98697	100.68415	97.57192	103.47950	100.23073	97.16756
65	101.49368	98.34959	95.38290	100.79213	97.70930	94.79850
66	98.97540	95.98734	93.16400	98.06584	95.14576	92.38490
67	96.44411	93.60886	90.92637	95.31689	92.55574	89.94173
68	93.89662	91.21125	88.66695	92.55865	89.95208	87.48110
69	91.32062	88.78211	86.37369	89.79449	87.33800	85.00626
70	88.70352	86.30928	84.03460	87.04327	84.73176	82.53467
71	86.04948	83.79645	81.65305	84.32727	82.15516	80.08784
72	83.36293	81.24763	79.23264	81.65112	79.61276	77.67027
73	80.64861	78.66750	76.77767	78.99038	77.08109	75.25922
74	77.92240	76.07114	74.30287	76.31234	74.52798	72.82319
75	75.19300	73.46702	71.81622	73.59988	71.93665	70.34555
76	72.47065	70.86510	69.32745	70.85419	69.30790	67.82691
77	69.76697	68.27672	66.84769	68.10189	66.66751	65.29201
78	67.09586	65.71559	64.39026	65.39577	64.06704	62.79139
79	64.44038	63.16517	61.93914	62.76892	61.53910	60.35702
80	61.81054	60.63528	59.50387	60.22700	59.08950	57.99492

	G71 - female			G83 - male		
NRA	7.50%	8.00%	8.50%	7.50%	8.00%	8.50%
50	144.90527	138.26324	132.16028	138.63492	132.59926	127.03027
51	143.60635	137.11101	131.13533	137.10255	131.22171	125.78854
52	142.23274	135.88840	130.04425	135.50742	129.78433	124.49022
53	140.78142	134.59258	128.88425	133.84552	128.28325	123.13102
54	139.24881	133.21983	127.65148	132.11209	126.71333	121.70618
55	137.63167	131.76671	126.34254	130.30165	125.06941	120.21023
56	135.92700	130.22987	124.95377	128.40761	123.34502	118.63663
57	134.13313	128.60760	123.48346	126.42384	121.53326	116.97877
58	132.24942	126.89888	121.93011	124.34516	119.62924	115.23140
59	130.27652	125.10399	120.29366	122.16888	117.63004	113.39128
60	128.21500	123.22312	118.57417	119.89545	115.53522	111.45762
61	126.06589	121.25681	116.77169	117.52676	113.34643	109.43158
62	123.82951	119.20499	114.88587	115.06712	111.06731	107.31606
63	121.50521	117.06681	112.91550	112.52366	108.70404	105.11699
64	119.09157	114.84023	110.85811	109.90545	106.26530	102.84183
65	116.58681	112.52340	108.71172	107.22400	103.76178	100.50089
66	113.98596	110.11094	106.47042	104.49343	101.20648	98.10645
67	111.28113	107.59468	104.12611	101.72785	98.61320	95.67153
68	108.46410	104.96593	101.66982	98.93819	95.99223	93.20585
69	105.54134	102.23046	99.10625	96.13028	93.34889	90.71464
70	102.53171	99.40595	96.45211	93.30456	90.68378	88.19812
71	99.46349	96.51942	93.73310	90.45657	87.99231	85.65193
72	96.37133	93.60395	90.98105	87.57864	85.26683	83.06821
73	93.27601	90.67967	88.21532	84.66842	82.50491	80.44450
74	90.18710	87.75586	85.44496	81.73067	79.71081	77.78463
75	87.11538	84.84304	82.68002	78.77675	76.89552	75.09910
76	84.06201	81.94230	79.92174	75.82433	74.07600	72.40433
77	81.02953	79.05620	77.17252	72.89544	71.27376	69.72120
78	78.02448	76.19112	74.43866	70.00987	68.50821	67.06872
79	75.05164	73.35197	71.72505	67.18340	65.79488	64.46223
80	72.12192	70.54948	69.04218	64.42863	63.14638	61.91418

	G83 - female			I71 - male		
NRA	7.50%	8.00%	8.50%	7.50%	8.00%	8.50%
50	147.91302	140.92288	134.51962	136.59149	130.66277	125.19499
51	146.76982	139.91631	133.63052	135.09132	129.30840	123.96842
52	145.56105	138.84839	132.68423	133.55057	127.91486	122.70451
53	144.28224	137.71524	131.67719	131.96756	126.48077	121.40180
54	142.93045	136.51337	130.60559	130.34036	125.00422	120.05840
55	141.50316	135.24040	129.46710	128.66701	123.48285	118.67197
56	139.99799	133.89372	128.25923	126.94415	121.91390	117.23962
57	138.41386	132.47191	126.98009	125.16914	120.29424	115.75829
58	136.74878	130.97319	125.62766	123.33832	118.62031	114.22449
59	135.00087	129.39540	124.20000	121.44854	116.88880	112.63481
60	133.16838	127.73611	122.69443	119.49602	115.09599	110.98557
61	131.24841	125.99266	121.10789	117.47707	113.23811	109.27267
62	129.23820	124.16174	119.43694	115.38790	111.31123	107.49220
63	127.13458	122.24028	117.67835	113.22541	109.31195	105.64069
64	124.93456	120.22482	115.82841	110.98680	107.23723	103.71486
65	122.63529	118.11200	113.88367	108.67109	105.08606	101.71346
66	120.23364	115.89850	111.84019	106.27953	102.85897	99.63642
67	117.72697	113.58125	109.69447	103.81445	100.55810	97.48575
68	115.11600	111.16051	107.44659	101.27956	98.18649	95.26405
69	112.40616	108.64074	105.10009	98.67918	95.74812	92.97465
70	109.60621	106.03004	102.66224	96.01785	93.24705	90.62141
71	106.72905	103.34048	100.14451	93.30055	90.68764	88.20808
72	103.79031	100.58642	97.56031	90.53223	88.07468	85.73910
73	100.80493	97.78230	94.92322	87.71814	85.41285	83.21877
74	97.78660	94.94115	92.24557	84.86385	82.70737	80.65186
75	94.74739	92.07442	89.53842	81.97568	79.96405	78.04391
76	91.69794	89.19222	86.81143	79.06057	77.18962	75.40114
77	88.64714	86.30317	84.07282	76.12621	74.39142	72.73066
78	85.60244	83.41460	81.32977	73.18116	71.57761	70.04018
79	82.56990	80.53235	78.58787	70.23399	68.75650	67.33794
80	79.55392	77.66068	75.85136	67.29335	65.93657	64.63201

	I71 - female			I83 - male		
NRA	7.50%	8.00%	8.50%	7.50%	8.00%	8.50%
50	145.27345	138.55022	132.37967	140.91751	134.59421	128.77736
51	144.00299	137.42172	131.37393	139.58740	133.40520	127.71147
52	142.66699	136.23143	130.31013	138.20573	132.16762	126.59975
53	141.26707	134.98100	129.18979	136.76822	130.87721	125.43825
54	139.80559	133.67233	128.01442	135.27022	129.52931	124.22237
55	138.28543	132.30786	126.78642	133.70628	128.11873	122.94695
56	136.70839	130.88954	125.50736	132.07126	126.64031	121.60671
57	135.07635	129.41867	124.17855	130.35991	125.08850	120.19650
58	133.38971	127.89588	122.80050	128.56627	123.45756	118.71015
59	131.64841	126.32069	121.37219	126.68475	121.74173	117.14211
60	129.84888	124.68968	119.89085	124.71191	119.93716	115.48811
61	127.98476	122.99654	118.34991	122.64626	118.04228	113.74637
62	126.04571	121.23108	116.73965	120.48904	116.05761	111.91704
63	124.01839	119.38033	115.04700	118.24356	113.98596	110.00253
64	121.88731	117.42877	113.25709	115.91489	111.83218	108.00687
65	119.63954	115.36368	111.35684	113.50918	109.60117	105.93467
66	117.26546	113.17531	109.33646	111.03240	107.29890	103.79118
67	114.76195	110.85983	107.19194	108.49094	104.93080	101.58132
68	112.13113	108.41859	104.92365	105.89092	102.50282	99.31059
69	109.37867	105.85674	102.53592	103.23881	100.02051	96.98409
70	106.51318	103.18160	100.03551	100.54041	97.48946	94.60693
71	103.54390	100.40190	97.42999	97.80114	94.91457	92.18357
72	100.48090	97.52644	94.72774	95.02578	92.30039	89.71836
73	97.33402	94.56453	91.93686	92.21877	89.65089	87.21460
74	94.11313	91.52514	89.06599	89.38364	86.96923	84.67558
75	90.82800	88.41741	86.12322	86.52577	84.26062	82.10585
76	87.48845	85.25047	83.11730	83.65211	81.53162	79.51167
77	84.10457	82.03371	80.05694	80.77127	78.79035	76.90089
78	80.68719	78.77757	76.95184	77.89309	76.04643	74.28268
79	77.24883	75.49375	73.81338	75.02843	73.31034	71.66727
80	73.80450	72.19685	70.65545	72.18888	70.59340	69.06559

	I83 - female			G83 - 50/50 blend		
NRA	7.50%	8.00%	8.50%	7.50%	8.00%	8.50%
50	148.15100	141.09944	134.64568	142.96988	136.50050	130.55119
51	147.05406	140.13394	133.79305	141.61377	135.29164	129.47044
52	145.90085	139.11630	132.89178	140.19287	134.02167	128.33231
53	144.68849	138.04356	131.93953	138.70319	132.68671	127.13249
54	143.41400	136.91241	130.93291	137.14035	131.28218	125.86707
55	142.07372	135.24040	135.71965	135.50061	129.80421	124.53176
56	140.66418	133.89372	134.46191	133.77962	128.24854	123.12223
57	139.18233	132.47191	133.13576	131.97313	126.61064	121.63393
58	137.62485	130.97319	131.73755	130.07793	124.88714	120.06329
59	135.98819	129.39540	130.26413	128.09181	123.07571	118.40765
60	134.27019	128.71306	123.56113	126.01379	121.17482	116.66528
61	132.46928	127.08224	122.08134	123.84377	119.18411	114.83548
62	130.58479	125.37126	120.52419	121.58291	117.10397	112.9183
63	128.61720	123.57960	118.88966	119.23342	114.93645	110.91517
64	126.56706	121.70795	117.17753	116.79882	112.68443	108.82849
65	124.43398	119.75546	115.38697	114.28428	110.35238	106.66235
66	122.21593	117.71976	113.51550	111.69566	107.94578	104.42131
67	119.90926	115.59705	111.55884	109.03972	105.47054	102.11105
68	117.50813	113.38139	109.51103	106.32292	102.93255	99.73679
69	115.00637	111.06619	107.36526	103.55064	100.33683	97.30324
70	112.40035	108.64758	105.11721	100.72765	97.68764	94.81405
71	109.69025	106.12501	102.76605	97.85741	94.98814	92.27195
72	106.87985	103.50166	100.31418	94.94323	92.24105	89.6795
73	103.97594	100.78369	97.76710	91.99074	89.45176	87.04153
74	100.98827	97.98005	95.13290	89.00923	86.62891	84.36604
75	97.92718	95.10007	92.42042	86.01041	83.78374	81.66405
76	94.80299	92.15358	89.63850	83.00905	80.93050	78.94916
77	91.62602	89.15000	86.79614	80.02145	78.08511	76.23672
78	88.40592	86.09861	83.90184	77.06220	75.26165	73.54055
79	85.15211	83.00822	80.96399	74.14289	72.47154	70.87187
80	81.87574	79.88931	77.99260	71.27254	69.72387	68.23969

NRA	GAR 7.50%	8.00%	8.50%
50	144.66357	138.03784	131.95119
51	143.30405	136.82698	130.86949
52	141.86853	135.54434	129.72020
53	140.35698	134.18947	128.50233
54	138.76709	132.76016	127.21368
55	137.09410	131.25116	125.84917
56	135.33905	129.66351	124.40922
57	133.50423	127.99902	122.89558
58	131.59505	126.26231	121.31211
59	129.61377	124.45566	119.66088
60	127.55850	122.57665	117.93940
61	125.43149	120.62740	116.14915
62	123.24136	118.61538	114.29734
63	120.98935	116.54224	112.38506
64	118.68845	114.41988	110.42379
65	116.33940	112.24870	108.41366
66	113.94389	110.03037	106.35605
67	111.50807	107.77058	104.25637
68	109.02035	105.45798	102.10343
69	106.45750	103.06983	99.87505
70	103.81262	100.59907	97.56403
71	101.07156	98.03152	95.15617
72	98.24187	95.37407	92.65754
73	95.34370	92.64577	90.08628
74	92.37423	89.84346	87.43903
75	89.33565	86.96893	84.71690
76	86.23708	84.03058	81.92786
77	83.08691	81.03609	79.07889
78	79.93101	78.03008	76.21336
79	76.78197	75.02472	73.34282
80	73.65159	72.03147	70.47867

Age-Weighted

TABLE II

years to NRA	discount factor 7.50%	8.00%	8.50%
at or over NRA	1.00000	1.00000	1.00000
1	0.93023	0.92593	0.92166
2	0.86533	0.85734	0.84946
3	0.80496	0.79383	0.78291
4	0.74880	0.73503	0.72157
5	0.69656	0.68058	0.66505
6	0.64796	0.63017	0.61295
7	0.60275	0.58349	0.56493
8	0.56070	0.54027	0.52067
9	0.52158	0.50025	0.47988
10	0.48519	0.46319	0.44229
11	0.45134	0.42888	0.40764
12	0.41985	0.39711	0.37570
13	0.39056	0.36770	0.34627
14	0.36331	0.34046	0.31914
15	0.33797	0.31524	0.29414
16	0.31439	0.29189	0.27110
17	0.29245	0.27027	0.24986
18	0.27205	0.25025	0.23028
19	0.25307	0.23171	0.21224
20	0.23541	0.21455	0.19562
21	0.21899	0.19866	0.18029
22	0.20371	0.18394	0.16617
23	0.18950	0.17032	0.15315
24	0.17628	0.15770	0.14115
25	0.16398	0.14602	0.13009
26	0.15254	0.13520	0.11990
27	0.14190	0.12519	0.11051
28	0.13200	0.11591	0.10185
29	0.12279	0.10733	0.09387
30	0.11422	0.09938	0.08652
31	0.10625	0.09202	0.07974
32	0.09884	0.08520	0.07349
33	0.09194	0.07889	0.06774
34	0.08553	0.07305	0.06243
35	0.07956	0.06763	0.05754
36	0.07401	0.06262	0.05303
37	0.06885	0.05799	0.04888
38	0.06404	0.05369	0.04505
39	0.05958	0.04971	0.04152
40	0.05542	0.04603	0.03827
41	0.05155	0.04262	0.03527
42	0.04796	0.03946	0.03251
43	0.04461	0.03654	0.02996
44	0.04150	0.03383	0.02761
45	0.03860	0.03133	0.02545
46	0.03591	0.02901	0.02345

47	0.03340	0.02686	0.02162
48	0.03107	0.02487	0.01992
49	0.02891	0.02303	0.01836
50	0.02689	0.02132	0.01692

Appendix B
INSURANCE ADDENDUM

Notwithstanding anything in the Plan to the contrary, if the Employer elects in the Adoption Agreement to fund the Plan exclusively with Insurance Contracts, the Plan will be deemed a "NonTrusteed Plan". As such, the following provisions will apply, and all references to the Trustee and the Trust Fund will be construed to apply to the annuity contracts as described in this Addendum. Any duties of the Trustees, including but not limited to the establishment of a Participant loan program, that do not expressly apply to the annuity contracts will apply to the Plan Administrator.

1. Purchase of Contracts. The benefits provided under this Plan will be funded exclusively through the purchase of annuity Contracts issued by an Insurance Company. The provisions of this Addendum will apply to any such Contracts which, as determined by the Employer, will not be held by the Trustee. The Employer will pay within a reasonable period of time all contributions that are made to this Plan to the Insurer for the purchase of such Contracts.

2. Employer Designated as Owner. Each Contract will designate the Employer as sole owner, with rights reserved to said Employer to exercise those rights or options contained therein that apply to the owner of the Contract. All such Contracts will be held by the Employer who will have the power and right to take such actions with respect to such Contracts as will be in accordance with this Plan for the exclusive purpose of providing benefits to Participants. The Employer will be treated as Trustee to the extent that the Contracts are treated as trusts pursuant to Code Section 401(f).

3. Type of Contracts(s). The Employer will have the right to determine whether to have fixed of a combination of fixed and variable Contracts and whether to have group or individual Contracts. The Employer will base its decision on which Contract(s) would be more beneficial for the Participants and on the administrative tasks imposed by each Contract. Such decision will be in the sole discretion of the Employer.

4. Voting Rights. The Employer will solicit and act in accordance with the instructions of the Participant in regard to any voting rights that pertain to a Contract for a variable accumulation of benefits. During the accumulation period, Participants will have the right to instruct the Employer with respect to the votes attributable to any Vested interest they have in the Contract. All other votes entitled to be cast during the accumulation period may be cast by the Employer in its sole discretion. During the annuity period, every Participant will have the right to instruct the Employer with respect to all votes attributable to the amount of assts established in the appropriate separate account to meet the annuity obligations related to such Participant. The Insurer will provide all notices and proxy materials to the Employer for distribution to the Participants. The Employer may cast all votes for which instruction were not received in accordance with the Employer's sole discretion.

5. Certificate of Participant. The Insurer will issue a certificate of participant and/or a Contract, as applicable, to each Participant. Each such certificate of participation will set forth in substance the benefits or other rights to which such Participant is entitled under the Contract.

6. Insurer Indemnification. The Employer agrees to indemnify and hold harmless the Insurer against any and all claims, losses, damages, expenses and liabilities the Insurer may incur in the exercise and performance of the Insurer's duties hereunder, unless the same are determined to be due to gross negligence or willful misconduct on the part of the Insurer.

Appendix C
EXPANDED HARDSHIP DISTRIBUTIONS AND REQUIRED MINIMUM DISTRIBUTION ADDENDUM

Section 1. General

1.1 Purpose and Adoption. The following amendment will amend the Plan in accordance with the Bipartisan Budget Act of 2018, the SECURE Act, and any subsequent guidance promulgated by the Internal Revenue Service.

1.2 Precedence. The requirements of this Amendment will take precedence over any inconsistent provisions of the Plan, including any previous amendments adopted by the Employer. Where appropriate, the term "Plan" shall mean the Plan and Trust.

1.3 Requirements of Treasury Regulations Incorporated. This Amendment is intended to update the Plan for changes made to the Code and Treasury Regulations by the Bipartisan Budget Act of 2018 and the SECURE Act. All matters addressed under this Amendment will be determined and made in accordance with both existing and future guidance related to the provisions contained in this Amendment.

1.4 Effective Date. This Amendment amends the Plan effective January 1, 2020, unless an earlier date is elected in an associated Adoption Agreement Amendment.

Section 2. Base Plan Document Provisions Related to Bipartisan Budget Act of 2018.

2.1 Qualified Matching Contribution. The definition of "Qualified Matching Contribution" is replaced in its entirety with the following:

"Qualified Matching Contribution" and "QMAC": A Matching Contribution that is one hundred percent (100%) vested and nonforfeitable when allocated to Participants' accounts and that is distributable only in accordance with the distribution restrictions applicable to Elective Deferrals under the Plan.

2.2 Qualified Non-Elective Contribution. The definition of "Qualified Non-Elective Contribution" is replaced in its entirety with the following:

"Qualified Non-Elective Contribution" and "QNEC": An Employer Contribution to a cash or deferred profit sharing plan that is neither a Non-Elective Contribution, Matching Contribution, Qualified Matching Contribution, nor an Elective Deferral, that is one hundred percent (100%) vested and nonforfeitable when allocated to Participants' accounts, that a Participant may not elect to receive in cash, and that is distributable only in accordance with the distribution restrictions applicable to Elective Deferrals under the Plan.

2.3 EACA Limitations. Section 2.2.3(b)(4) of the Base Plan Document is replaced in its entirety with the following:

(4) Limitations. To meet the limitations under Code sections 401(a)(17), 402(g), 414(u)(12)(B)(ii), and 415(c) , the Employer may stop or reduce an Employee's contributions to the Plan.

2.4 QACA Limitations. Section 2.2.3(c)(4) of the Base Plan Document is replaced in its entirety with the following:

(4) Limitations. To meet the limitations under Code sections 401(a)(17), 402(g), 414(u)(12)(B)(ii), and 415(c) , the Employer may stop or reduce an Employee's contributions to the Plan.

2.5 Hardship Distributions of Elective Deferrals. Section 2.5.10 of the Base Plan Document is replaced in its entirety with the following:

2.5.10 Hardship Distributions of Elective Deferrals, ADP Test Safe Harbor Contribution Accounts, QACA ADP Safe Harbor Contribution Accounts, QNEC Accounts, and QMAC Accounts. The Employer may elect in the Adoption Agreement or an Adoption Agreement Amendment to permit Hardship Distributions of Elective Deferrals (including attributed earnings if elected in the Adoption Agreement or Adoption Agreement Amendment), ADP Test Safe Harbor Contribution Accounts, QACA ADP Safe Harbor Contribution Accounts, QNEC Accounts, and QMAC Accounts. A Hardship Distribution is a distribution that meets the requirements of a distribution on account of immediate and heavy financial need enumerated in this Section 2.5.10. A Participant may request a distribution from the Plan as a result of immediate and heavy financial needs of the Participant to the extent that the distribution is necessary to satisfy such financial needs. The availability of Hardship Distributions to Participants is limited to Participants who have not terminated employment. Effective August 17, 2006, the Plan may permit a Participant to request a Hardship Distribution where the Hardship or unforeseeable financial emergency occurs to the Participant's spouse, dependents, or Primary Beneficiary.

Hardship distributions are subject to the spousal consent requirements contained in Code sections 401(a)(11) and 417 unless the Plan meets the exception of Subsection 2.5.5(c). The Plan Administrator shall determine whether a Participant has an immediate and heavy financial need. A distribution shall be deemed to be made on account of an immediate and heavy financial need if the distribution is due to:

(a) Deductible medical expenses described in Code section 213(d) incurred or necessary for medical care of the Participant, his spouse, dependents, or Primary Beneficiary under the Plan;

(b) Purchase (excluding mortgage payments) of a principal residence for the Participant;

(c) Cost of tuition and related educational fees and room and board expenses for the next twelve (12) months of post-secondary education for the Participant, his spouse, children, Primary Beneficiary or dependents;

(d) The need to prevent the eviction of the Participant from his principal residence or foreclosure on the mortgage of the Participant's principal residence;

(e) Payments for funeral or burial expenses for the Participant's deceased parent, spouse, child, dependent or Primary Beneficiary under the Plan (for Plan Years beginning after 2005.);

(f) Expenses to repair damage to the Participant's principal residence that would qualify for a casualty loss deduction under Code section 165 (determined without regard to Code section 165(h)(5) or whether the loss exceeds ten percent (10%) of adjusted gross income) (for Plan Years beginning after 2005.); or

(g) Expenses and losses (including loss of income) incurred by the Participant on account of a disaster declared by the Federal Emergency Management Agency (FEMA) under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, provided that Participant's principal residence or principal place of employment at the time of the disaster was located in an area designated by FEMA for individual assistance with respect to the disaster.

A distribution shall be considered as necessary to satisfy an immediate and heavy financial need of the Participant only if:

(a) The Participant has obtained all distributions, other than Hardship Distributions, under all plans maintained by the Employer;

(b) The distribution is not in excess of the amount of an immediate and heavy financial need (including amounts necessary to pay any federal, state, or local income taxes or penalties reasonably anticipated to result from the distribution); and

(c) For hardship distributions made on or after January 1, 2020, the Participant must represent, in writing, that they have insufficient cash or other liquid assets to satisfy the need. The Plan Administrator may rely on the Participant's representation unless the Plan Administrator has actual knowledge to the contrary.

2.6 Definitions. Section 2.9.2(b) of the Base Plan Document is replaced in its entirety with the following:

(b) "Eligible Employee" means an Employee eligible to make Elective Deferrals under the Plan for any part of the Plan Year or who would be eligible to make Elective Deferrals but for statutory limitations, such as Code sections 402(g) and 415. The Employer may elect in the Adoption Agreement to exclude Participants from the ADP Safe Harbor or ACP Safe Harbor portion of the Plan who have not completed a Year of Service since their original Employment Commencement Date, or have not yet reached age 21, and are not employed on the earlier of the first day of the next Plan Year after meeting the preceding requirements or 6 months after meeting the preceding requirements.

2.7 ADP Test Safe Harbor Contributions. Section 2.9.3(a)(3) of the Base Plan Document is replaced in its entirety with the following:

(3) The Participant's Account balance derived from ADP Test Safe Harbor Contributions is nonforfeitable and may not be distributed earlier than severance from employment, death, Disability, an event described in Code section 401(k)(10), or, in the case of a profit sharing plan, the attainment of age fifty-nine and one-half (59-1/2). Unless otherwise elected in an Adoption Agreement amendment, no distributions on account of Hardship are permitted. In addition, such contributions must satisfy the ADP Test Safe Harbor without regard to permitted disparity under Code section 401(l).

Section 3. Base Plan Document Provisions Related to Bipartisan Budget Act of 2018.

3.1 Timing of Distributions if Participant Dies Before Distributions Begin. Section 2.5.7(b) of the Base Plan Document is replaced in its entirety with the following:

(b) Timing of Distributions if Participant Dies Prior to January 1, 2020 and Before Distributions Begin.

(1) If the Participant dies prior to January 1, 2020 and before required distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

(i) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary, then, except as provided in the Adoption Agreement, 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 seventy and one-half (70 1/2), if later.

(ii) If the Participant's surviving spouse is not the Participant's sole Designated Beneficiary, then, except as provided in the Adoption Agreement, distributions to the Designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.

(iii) If there is no Designated Beneficiary as of the date of the Participant's death who remains a Beneficiary as of September 30 of the year immediately following the year the Participant died, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(iv) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this Subsection 2.5.7(b), other than Subsection 2.5.7(b)(1)(i), will apply as if the surviving spouse were the Participant.

(2) For purposes of this Subsection 2.5.7(b) and Subsections 2.5.7(f) and (g), distributions are considered to begin on the Participant's Required Beginning Date unless Subsection 2.5.7(b)(1)(iv) applies. If Subsection 2.5.7(b)(1)(iv) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under Subsection 2.5.7(b)(1)(i). If distributions under an annuity contract 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 Subsection 2.5.7(b)(1)(i)), the date distributions are considered to begin is the date distributions actually commence.

(3) If the Adoption Agreement permits Participants and Beneficiaries to elect the 5-year rule, the election must be made no later than the earlier of:

(i) September 30 of the calendar year in which the distribution would be required under Subsections 2.5.7(b)(1)(i) or (ii), or

(ii) By September 30 of the calendar year that contains the fifth (5th) anniversary of the Participant's (or if applicable, the surviving spouse's) death.

If this election is made, then the Participant's entire interest must be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

3.2 Required Minimum Distributions On or After Date Required Distributions Begin. Section 2.5.7(f) of the Base Plan Document is replaced in its entirety with the following:

(f) Required Minimum Distributions On or After Date Required Distributions Begin When Participant has Died Prior to January 1, 2020.

(1) Participant Survived by Designated Beneficiary. If the Participant died prior to January 1, 2020 and on or after the date required distributions begin and there is a Designated Beneficiary, the minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the longer of the remaining Life Expectancy of the Participant or the remaining Life Expectancy of the Participant's Designated Beneficiary, determined as follows:

(i) The Participant's remaining Life Expectancy is calculated in accordance with the Single Life Table found in Treasury Regulations section 1.401(a)(9)-9, Q&A-1, using the age of the Participant in the year of death, reduced by one for each subsequent year.

(ii) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary, the remaining Life Expectancy of the surviving spouse is calculated using the Single Life Table found in Treasury Regulations section 1.401(a)(9)-9, Q&A-1, for each Distribution Calendar Year after the year of the Participant's death using the surviving spouse's age as of the spouse's birthday in that year. For Distribution Calendar Years after the year of the surviving spouse's death, the remaining Life Expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.

(iii) If the Participant's surviving spouse is not the Participant's sole Designated Beneficiary, the Designated Beneficiary's remaining Life Expectancy is calculated

under the Single Life Table using the age of the Beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.

(2) No Designated Beneficiary Survives. If the Participant died prior to January 1, 2020 and on or after the date required distributions begin and there is no Designated Beneficiary as of the Participant's date of death who remains a 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 under the Single Life Table calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

3.3 Distribution Amount If Participant Dies Before Date Required Distributions Begin. Section 2.5.7(g) of the Base Plan Document is replaced in its entirety with the following:

(g) Distribution Amount If Participant Dies Before Date Required Distributions Begin When Participant Died Prior to January 1, 2020.

(1) Participant Survived by Designated Beneficiary. If the Participant died prior to January 1, 2020 and before the date required 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 Subsection 2.5.7(f). If permitted in the Adoption Agreement, a Participant or Designated Beneficiary may elect to receive distributions over the five (5) year period described in Subsection 2.5.7(b)(3).

(2) No Designated Beneficiary Survives. If the Participant died prior to January 1, 2020 and before the date distributions begin and all Designated Beneficiaries, if any, as of the Participant's date of death are no longer Beneficiaries as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest must be completed by December 31 of the calendar year containing the fifth (5th) anniversary of the Participant's death.

(3) Death of Surviving Spouse Before Distributions to Surviving Spouse Are Required to Begin. If all of the following are true, this Subsection 2.5.7(g) will apply as if the surviving spouse were the Participant:

(i) The Participant dies before the date distributions begin,

(ii) The Participant's surviving spouse is the Participant's sole Designated Beneficiary, and

(iii) The surviving spouse dies before distributions are required to begin to the surviving spouse under Subsection 2.5.4(b)(1).

3.4 Required Beginning Date. Section 2.5.7(i)(4)(i) and 2.5.7(i)(4)(ii) of the Base Plan Document are replaced in their entirety with the following:

(4) Required Beginning Date.

(i) General rule. For Participants born prior to July 1, 1949 the Required Beginning Date of a Participant is the first day of April of the calendar year following the calendar year in which the Participant attains age seventy and one-half (70-1/2). For Participants born after June 30, 1949 the Required Beginning Date of a Participant is the first day of April of the calendar year following the calendar year in which the Participant attains age seventy-two (72).

(ii) Non-5-Percent Owner Exception. If so elected in the Adoption Agreement, the Required Beginning Date of a Participant born prior to July 1, 1949 who is not a 5-Percent Owner shall be the first day of April of the calendar year following the later of the calendar year in which the Participant retires or the calendar year in which the Participant attains age seventy and one-half (70-1/2). If the Adoption Agreement shows that the Required Beginning Date of a Participant is not a 5-Percent Owner is the first day of April of the calendar year following the later of the calendar year in which the Participant retires or the calendar year in which the Participant attains age seventy and one-half (70-1/2) then for a Participant born after June 30, 1940 who is not a 5-Percent Owner the Required Beginning Date shall be the first day of April of the calendar year following the later of the calendar year in which the Participant retires or the calendar year in which the Participant attains age seventy-two (72)

3.5 Eligible Designated Beneficiaries. Section 2.5.7(i)(5) is added to the Base Plan Document as follows:

(5) Eligible Designated Beneficiary. This Plan section 2.5.7(i)(5) will be interpreted in accordance with Code section 401(a)(9)(E), as amended by the SECURE Act of 2019, and all applicable regulations and guidance issued related to such Act. In the event that a provision of this Plan conflicts with such requirements, such requirements will govern.

An Eligible Designated Beneficiary is a Beneficiary who, as of the date of the Participant's death is:

(i) the surviving spouse of the Participant;

(ii) a child of the Participant who has not reached majority;

(iii) disabled as defined in Code section 72(m)(7);

(iv) a chronically ill individual as defined in Code section 401(a)(9)(E)(IV); or

(v) not more than ten (10) years younger than the Participant and not otherwise an Eligible Designated Beneficiary.

3.6 Death of Participant On or After January 1, 2020. Section 2.5.7(k) is added to the Base Plan Document as follows:

(k) Death of Participant On or After January 1, 2020. This Plan section 2.5.7(k) will be interpreted in accordance with Code section 401(a)(9)(E), as amended by the SECURE Act of 2019, and all applicable regulations and guidance issued related to such Act. In the event that a provision of this Plan conflicts with such requirements, such requirements will govern.

(1) Participant Survived by Designated Beneficiary who is not an Eligible Designated Beneficiary. If the Designated Beneficiary is not also an Eligible Designated Beneficiary, the Participant's entire interest in the Plan will be distributed by December 31 of the calendar year containing the tenth (10th) anniversary of the Participant's death.

(2) Participant Survived by Designated Beneficiary who is also an Eligible Designated Beneficiary. If the Designated Beneficiary is also an Eligible Designated Beneficiary. If permitted in the Adoption Agreement, a Participant or Designated Beneficiary may elect to receive distributions over the five (5) year period described in Subsection 2.5.7(b)(3).

(3) No Designated Beneficiary Survives. If all Designated Beneficiaries, if any, as of the Participant's date of death are no longer Beneficiaries as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest must be completed by December 31 of the calendar year containing the fifth (5th) anniversary of the Participant's death.

(4) Non-Person Designated Beneficiary. If the Designated Beneficiary is not also an

Eligible Designated Beneficiary, the Participant's entire interest in the Plan will be distributed by December 31 of the calendar year containing the tenth (10th) anniversary of the Participant's death.

(5) Multi-Beneficiary Trust. If under its terms a Multi-Beneficiary Trust (1) is to be divided immediately upon the death of the Participant into separate trusts for each beneficiary of such trust or (2) no individual other than Disabled or Chronically Ill Eligible Designated Beneficiary has a right to the Participant's interest in the Plan until after the death of all such Disabled or Chronically Ill Eligible Designated Beneficiary, the requirements under Section 2.5.7(k) will be applied to each Designated Beneficiary separately.

(i) A "Disabled or Chronically Ill Eligible Designated Beneficiary" is a Designated Beneficiary that is either (1) disabled as defined in Code section 72(m)(7) or (2) a chronically ill individual as defined in Code section 401(a)(9)(E)(IV).

(ii) A "Multi-Beneficiary Trust" is a trust which (1) has more than one beneficiary, (2) all of the beneficiaries of which are treated as Designated Beneficiaries for purposes of determining the distribution period pursuant to this paragraph, and (3) at least one of the beneficiaries is a Disabled or Chronically Ill Eligible Designated Beneficiary.

(6) Death of Eligible Designated Beneficiary. If the Eligible Designated Beneficiary dies prior to the full distribution of the Participant's interest in the Plan, the remainder of the interest must be distributed to the beneficiary of the Eligible Designated Beneficiary no later than December 31 of the calendar year containing the tenth (10th) anniversary of the Eligible Designated Beneficiary's death.

(7) Attainment of Majority of an Eligible Designated Beneficiary. A Designed Beneficiary who is Eligible Designated Beneficiary due to their being a child of the Participant who has not reached majority will cease to be an Eligible Designated Beneficiary upon reaching majority. Upon ceasing to be an Eligible Designated Beneficiary, the Designated Beneficiary's entire interest in the Plan will be distributed within ten (10) years of the date they ceased to be an Eligible Designated Beneficiary.

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Plan Description: Non-Standardized Pre-Approved Profit Sharing/Money Purchase/CODA
FFN: 317D9208520-001 Case: 201901746 EIN: 94-2158860
Letter Serial No: Q703806a
Date of Submission: 12/31/2018

CENTRAL ADMINSTRATIVE SERVICES INC DBA HICKS
PENSION SERVICES
3459 WEST SHAW AVENUE
FRESNO, CA 93711

Contact Person:
Janell Hayes
Telephone Number:
513-975-6319
In Reference To: TEGE:EP:7521
Date: 06/30/2020

Dear Applicant:

In our opinion, the form of the plan identified above is acceptable for use by employers for the benefit of their employees under Internal Revenue Code (IRC) Section 401.

We considered the changes in qualification requirements in the 2017 Cumulative List of Notice 2017-37, 2017-29 Internal Revenue Bulletin (IRB) 89. Our opinion relates only to the acceptability of the form of the plan under the IRC. We did not consider the effect of other federal or local statutes.

You must provide the following to each employer who adopts this plan:
. A copy of this letter
. A copy of the approved plan
. Copies of any subsequent amendments including their dates of adoption
. Direct contact information including address and telephone number of the plan provider

Our opinion on the acceptability of the plan's form is a determination as to the qualification of the plan as adopted by a particular employer only under the circumstances, and to the extent, described in Revenue Procedure (Rev. Proc.) 2017-41, 2017-29 I.R.B. 92. The employer who adopts this plan can generally rely on this letter to the extent described in Rev. Proc. 2017-41. Thus, Employee Plans Determinations, except as provided in Section 12 of Rev. Proc. 2020-4, 2020-01 I.R.B. 148 (as updated annually), will not issue a determination letter to an employer who adopts this plan. Review Rev. Proc. 2020-4 to determine the eligibility of an adopting employer, and the items needed, to submit a determination letter application. The employer must also follow the terms of the plan in operation.

Except as provided below, our opinion doesn't apply to the requirements of IRC Sections 401(a)(4), 401(l), 410(b), and 414(s). Our opinion doesn't apply to IRC Sections 415 and 416 if an employer maintains or ever maintained another qualified plan for one or more employees covered by this plan. For this purpose, we will not consider the employer to have maintained another defined contribution plan provided both of the following are true:
. The employer terminated the other plan before the effective date of this plan
. No annual additions have been credited to any participant's account under the other plan as of any date within the limitation year of this plan

Also, for this purpose, we'll consider an employer as maintaining another defined contribution plan, if the employer maintains any of the following:
. A welfare benefit fund defined in IRC Section 419(e), which provides post-retirement medical benefits allocated to separate accounts for key employees as defined in IRC Section 419A(d)

. An individual medical account as defined in IRC Section 415(l)(2), which is part of a pension or annuity plan maintained by the employer
. A simplified employee pension plan

Our opinion doesn't apply to Treasury Regulations Section 1.401(a)-1(b)(2) requirements for a money purchase plan or target benefit plan where the normal retirement age under the employer's plan is lower than age 62.

Our opinion doesn't constitute a determination that the plan is an IRC Section 414(d) governmental plan. This letter is not a ruling with respect to the tax treatment to be given contributions which are picked up by the governmental employing unit within the meaning of IRC Section 414(h)(2).

Our opinion doesn't constitute a determination that the plan is an IRC Section 414(e) church plan.

Our opinion may not be relied on by a non-electing church plan for rules governing pre-ERISA participation and coverage.

Our opinion applies to the requirements of IRC Section 410(b) if 100 percent of all non-excludable employees benefit under the plan.

Employers who choose a safe harbor allocation formula and a safe harbor compensation definition may also rely on this opinion letter for the non-discriminatory amounts requirement under IRC Section 401(a)(4).

If this plan includes a cash or deferred arrangement (CODA) or otherwise provides for contributions subject to IRC Sections 401(k) and/or 401(m), the employer may rely on the opinion letter regarding the form of the non-discrimination tests of IRC Sections 401(k)(3) and 401(m)(2), if the employer uses a safe harbor compensation definition. For plans described in IRC Sections 401(k)(12) or (13) and/or 401(m)(11) or (12), employers may rely on the opinion letter regarding whether the plan's form satisfies the requirements of those sections unless the plan provides for the safe harbor contribution to be made under another plan. For SIMPLE plans described in IRC Sections 401(k)(11) and 401(m)(10), employers may also rely on the opinion letter regarding whether the plan's form satisfies the requirements of those sections.

The provisions of this plan override any conflicting provision contained in the trust or custodial account documents used with the plan, and an adopting employer may not rely on this letter to the extent that provisions of a trust or custodial account that are a separate portion of the plan override or conflict with the provisions of the plan document. This opinion letter does not cover any provisions in trust or custodial account documents.

An employer who adopts this plan may not rely on this letter when:
. the plan is being used to amend or restate a plan of the employer which was not previously qualified
. the employer's adoption of the plan precedes the issuance of the letter
. the employer doesn't correctly complete the adoption agreement or other elective provisions in the plan
. the plan is not identical to the pre-approved plan (that is, the employer has made amendments that cause the plan not to be considered identical to the pre-approved plan, as described in Section 8.03 of Rev. Proc. 2017-41)

Our opinion doesn't apply to what is contained in any documents referenced outside the plan or adoption agreement, if applicable, such as a collective bargaining agreement.

Our opinion doesn't consider issues under Title I of the Employee Retirement Income Security Act (ERISA) which are administered by the Department of Labor.

If you, the pre-approved plan provider, have questions about the status of this case, you can call the telephone number at the top of the first page of this letter. This number is only for the provider's use.

Individual participants or adopting eligible employers with questions about the plan should contact you.

You must include your address and telephone number on the pre-approved plan or the plan's adoption agreement, if applicable, so that adopting employers can contact you directly.

If you write to us about this plan, provide your telephone number and the best time to call if we need more information. Whether you call or write, refer to the letter serial number and file folder number at the top of the first page of this letter.

Let us know if you change or discontinue sponsorship of this plan.

Keep this letter for your records.

Sincerely Yours,

Khin M. Chow

Khin M. Chow
Director, EP Rulings & Agreements

Letter 6186 (June-2020)
Catalog Number 72434C

PANOCHE WATER DISTRICT
RESOLUTION NO. 804-22

A RESOLUTION OF THE BOARD OF DIRECTORS PROCLAIMING A LOCAL EMERGENCY, RATIFYING GOVERNOR NEWSOM'S MARCH 4, 2020, PROCLAMATION OF A STATE OF EMERGENCY, AND AUTHORIZING REMOTE TELECONFERENCE MEETINGS OF THE LEGISLATIVE BODIES OF PANOCHE WATER DISTRICT THROUGH APRIL 7, 2022 PURSUANT TO BROWN ACT PROVISIONS

WHEREAS, the Panoche Water District is committed to preserving and nurturing public access and participation in meetings of the Board of Directors; and

WHEREAS, all meetings of Panoche Water District's legislative bodies are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code 54950 – 54963), so that any member of the public may attend, participate, and watch the District's legislative bodies conduct their business; and

WHEREAS, the Brown Act, Government Code section 54953(e), makes provisions for remote teleconferencing participation in meetings by members of a legislative body, without compliance with the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions; and

WHEREAS, a required condition is that a state of emergency is declared by the Governor pursuant to Government Code section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code section 8558; and

WHEREAS, a proclamation is made when there is an actual incident, threat of disaster, or extreme peril to the safety of persons and property within the jurisdictions that are within the District's boundaries, caused by natural, technological, or human-caused disasters; and

WHEREAS, it is further required that state or local officials have imposed or recommended measures to promote social distancing, or, the legislative body meeting in person would present imminent risks to the health and safety of attendees; and

WHEREAS, such conditions now exist in the District, specifically, on March 4th, 2020, Governor Newsom proclaimed a State of Emergency due to the COVID-19 pandemic and such proclamation has not as of the date of this Resolution been lifted; and

WHEREAS, due to what may be the sensitivity of some members of the public as well as to members of the Board and District staff, the contagious nature of COVID-19, including variants of the virus, and current guidance from federal, state, and local agencies that social distancing reduces the transmission of the virus, meeting in person would present imminent risks to the health or safety of attendees; and

WHEREAS, the Board of Directors does hereby find that the current status of the COVID-19 pandemic has caused, and will continue to cause, conditions of peril to the safety of persons within the District that are likely to be beyond the control of services, personnel, equipment, and facilities of the District, and desires to proclaim a local emergency and ratify the Proclamation of a State of Emergency by the Governor of the State of California; and

WHEREAS, as a consequence of the local emergency, the Board of Directors does hereby find that the legislative bodies of Panoche Water District shall conduct their meetings without compliance with paragraph (3) of subdivision (b) of Government Code section 54953, as authorized by subdivision (e) of section 54953, and that such legislative bodies shall comply with the requirements to provide the public with access to the meetings as prescribed in paragraph (2) of subdivision (e) of section 54953; and

WHEREAS, District notices and agendas shall provide a reasonable means for members of the public to meaningful participate in public meetings of the District; and

NOW, THEREFORE, BE IT HEREBY RESOLVED AS FOLLOWS:

1. The Board of Directors of the Panoche Water District hereby finds and determines the above Recitals are true and correct and are incorporated herein by this reference.

2. The Board hereby proclaims that a local emergency now exists throughout the District, and meeting in person would present a significant risk to the health and safety of those participating in person.

3. The Board hereby ratifies the Governor of the State of California's Proclamation of State of Emergency, effective as of its issuance on March 4, 2020.

4. The General Manager, or his designee, and legislative bodies of the District are hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution including conducting open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act.

5. This Resolution shall take effect on March 8, 2022, and shall be effective until the earlier of (i) April 7, 2022, or (ii) such time as the Board of Directors adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the time during which the legislative bodies of the District may continue to teleconference without strictly complying with certain provisions of the Brown Act due to the ongoing COVID-19 pandemic and resulting State of Emergency.

PASSED AND ADOPTED this 8th day of March 2022, in a duly noticed and open meeting of the Board of Directors by the following vote, to wit:

Ayes:
Nays:
Abstain:
Absent:

BACK

_____
John Bennett, President

Attest: _____
Mike Stearns, Secretary

CERTIFICATE OF SECRETARY
OF
PANOCHE WATER DISTRICT,
A California Water District

I, Mike Sterns, do hereby certify that I am the duly authorized and appointed Secretary of the Panoche Water District, a California Water District (the "District"); that the foregoing is a true and correct copy of that certain resolution duly and unanimously adopted and approved by the Board of Directors of the District on the 8th day of March 2022; and that said resolution has not been modified or rescinded and remains in full force and effect as the date hereof:

IN WITNESS WHEREOF, I have executed this Certificate on this _____ day of March 2022.

_____
Mike Stearns, Secretary

From: Steve Smith
To: Ara Azhderian
Subject: Turlock Water Transfer to Westlands
Date: Friday, March 4, 2022 1:41:28 PM

I would like to ask your approval to transfer 200af to our acount in Westlands Water District. We farm a total of 307 acres in that district. To date we have requested and you have approved 162 af. We plan to bring into Panoche 750 af from our fallow land transfer from FCWD. Our RO system, when operational, should produce distilled water quality for blending in the district. We should be a net importer of water. The timing to implement theses transfers have been very cumbersome and slow largely because of the BOR review process. It is for this reason I am making this request now. This should cover all of our needs for this season in WWD. Thank you in advance for your consideration.

Sincerely,
Stephen Smith

BACK

Sent from my iPad

SERVICES AGREEMENT
PANOCHE WATER DISTRICT – PANOCHE DRAINAGE DISTRICT

THIS SERVICES AGREEMENT (this "Agreement") is made effective as of March 8, 2022, (the "Effective Date"), by and between PANOCHE WATER DISTRICT, a California Water District (the "Water District"), and PANOCHE DRAINAGE DISTRICT, a California Drainage District (the "Drainage District"). The Water District and the Drainage District are sometimes collectively referred to herein as the "Parties" and singularly by their individual names or as a "Party."

RECITALS

A. WHEREAS, the Water District is organized and exists for the purposes of providing water service to approximately 38,000 irrigable acres of agricultural land located in the western portions of Merced and Fresno Counties in the State of California; and

B. WHEREAS, the Water District employs professional staff to manage, administer, operate, and maintain the Water District and other districts and entities, including the Drainage District; and

C. WHEREAS, the Drainage District is organized and exists for the purposes of providing drainage service to approximately 41,500 acres of agricultural land located in the western portion of Merced and Fresno Counties in the State of California, which drainage services include the administration of contractual and regulatory drainage issues and the administration of federal and state grants related to drainage issues; and

D. WHEREAS, the Water District and the Drainage District are each legally authorized to plan, construct, maintain, improve, operate, and keep in repair the necessary works for the production, storage, transmission, and distribution of water for irrigation, domestic, industrial and municipal purposes, and any drainage or reclamation works connected therewith or incidental thereto (Water Code section 35401); and

E. WHEREAS, given the similarity of geographical location, and similar nature of operations and facilities maintained by the Parties, including operations conducted in other districts, the Drainage District desires to realize efficiencies and achieve the benefits of sharing the costs required for administering, operating, and maintaining the Drainage District; and

F. WHEREAS, the Water District and the Drainage District are legally authorized to contract with other public agencies, including each other, in order to carry out any of the powers of each respective district; and

G. WHEREAS, the Parties have historically worked together to provide certain administrative support, management, and operations and maintenance ("O&M") services on behalf of the Drainage District; and

H. WHEREAS, the Drainage District intends the Water District's General Manager to act as its authorized agent in communicating with the Water District pursuant to this Agreement and the Water District understands that any and all directions, requests, or communications from the Drainage District regarding this Agreement are valid and binding upon the Drainage District; and

DRAFT

I. WHEREAS, through this Agreement, the Water District and the Drainage District each intend to formalize and memorialize the extent of management and financial services provided to the Drainage District by the Water District; and

J. WHEREAS, given the Water District's long history of providing management, administrative support, and O&M services to the Drainage District, the Drainage District desires to enter into this Agreement with the Water District, whereby the Water District will continue to provide certain administrative support services and O&M services for the Drainage District; and

K. WHEREAS, the Parties share a common interest in the exchange between them of any data, information, documents, and other records, defined below as Common Interest Material, and intend that any such data, information, documents, and other records exchanged between them retain any and all confidential character which such data, information, documents, and records would enjoy absent such exchange; and

L. WHEREAS, the Parties intend that this Agreement reflects all past conduct and understanding between the Parties and is the controlling agreement going forward between the Parties with regard to the terms of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein contained and for good and valuable consideration, the receipt of which is hereby acknowledged, the Parties hereto agree as follows:

1. **Incorporation of Recitals**. The above Recitals are deemed true and correct and hereby incorporated into the terms of this Agreement.

2. **Purpose**. This Agreement provides the framework for cooperation between the Water District and the Drainage District to, among other things, be cost effective and efficient, by the Water District providing administrative support and O&M services on behalf of the Drainage District, as provided herein.

3. **Services Provided to the Drainage District by the Water District**.

(a) The Water District shall provide all staff necessary for the administrative implementation of the Drainage District's purposes, as described in the California Water Code and the California Drainage District Act, including: general management; financial accounting services for all Drainage District funds, including accounts receivable, accounts payable and banking services in compliance with the Water District's Accounting Policies and Procedures Manual; accounting for all services, including billing and certification of forms; and reporting to the appropriate federal, state, or local agencies for compliance with applicable rules and laws; and

(b) The Water District shall, at the direction of the Drainage District, procure audits of funds as required by California law and shall resolve any questions arising from said audits; and

(c) The Water District shall supply all employees, equipment, and materials required for operation and maintenance of Drainage District property.

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4. **The Drainage District's Responsibilities**. The Drainage District shall pay the Water District for those certain administrative support and O&M services actually provided by the Water District on behalf of the Drainage District, as follows:

(i) The Drainage District shall pay to the Water District all administration costs incurred by the Water District for administrative services provided by the Water District, which administration costs shall include all wages and benefits, all costs of materials used, and hourly equipment rates as determined on an annual basis by the Water District.

(ii) The Drainage District shall pay to the Water District all actual costs for O&M charges. O&M charges shall be based on employee time, which includes all wages and benefits, all costs of materials used, and hourly equipment rates as determined on an annual basis by the Water District.

The Drainage District agrees to pay the Water District for the services provided within thirty (30) days of receipt of an invoice issued by the Water District.

5. **Independent Contractor**. In performance of this Agreement, the Water District, including any and all of the Water District's directors, officers, agents, employees, and independent contractors, will at all times be acting and performing as an independent contractor, and will act in its independent capacity and not as an officer, agent, servant, employee, joint venturer, partner, or associate of the Drainage District. The Drainage District may verify that the Water District is performing its obligations in accordance with the terms and conditions of this Agreement. All persons employed by the Water District, including the Water District staff providing certain canal O&M services to the Drainage District, are employees of the Water District and not of the Drainage District. As it relates to the Water District staff members providing canal O&M services on Drainage District property, the Water District, as the employer of its employees, has the right to physically inspect the Drainage District work site and work process; to review and address, unilaterally or in coordination with the Drainage District, assigned staff work performance issues; and to enforce the Water District's employment policies relating to assigned staff conduct on Drainage District property. Water District employees providing services for the Drainage District shall be under the Water District's exclusive management, control and supervision at all times.

6. **Water District Employees**. Water District staff will separately track their time spent providing any and all administrative support and O&M services to the Drainage District. All such time will be treated by the Water District as equivalent to time spent providing services for the Water District for purposes of accruing Water District retirement and other benefits.

7. **Information Retention and Exchange**. The Water District shall be responsible for maintaining records of services provided to the Drainage District pursuant to the terms of this Agreement and the Water District's records retention policy. The Water District shall provide to the Drainage District such records upon request.

8. **Exchange of Common Interest Material.**

Data, information, documents, and records exchanged between the Parties shall be so exchanged upon the basis that the Parties share a common interest in the successful management of the Drainage District. In pursuit of that common interest, the Parties recognize that the ability to freely share data, reports, and memoranda without waiving any privilege or confidentiality of said information will be

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greatly enhanced by the respective Parties' experts and legal counsel to communicate about these matters. The Parties agree that from time to time, the Parties' common interest, as identified above, is best served by exchanging oral, electronic, and/or written communications or documents concerning the managerial, administrative, and operational aspects of either Party which, in the absence of such sharing, would be protected from disclosure to any third party by the attorney-client privilege, the work product doctrine, the exceptions to disclosure provided to public agencies by the California Public Records Act ("CPRA"), and/ or any other applicable privilege or basis for maintaining material within the common interest as confidential. All such shared information is considered by the Parties, and will be treated in accordance with the provisions of this Agreement, as "Common Interest Material."

The Parties agree that the exchange or disclosure of Common Interest Material in furtherance of the Parties' common interest does not diminish in any way the confidentiality of the Common Interest Material or constitute a waiver of any privilege or other protection accorded to the Common Interest Material, and the Parties hereby declare their intent that no sharing of information as set forth above shall waive the attorney-client privilege, the attorney work product doctrine, any exception applicable under the CPRA, and/ or any other applicable privilege or basis for maintaining the Common Interest Material as confidential. The Parties agree that their common interest also pertains to all such data, documents, information, and records shared prior to the Effective Date of this Agreement and in pursuance of the Party's common interest. Each Party agrees to take all necessary and appropriate measures to ensure that any person who is granted access to any Common Interest Material, or who participates in work on joint projects in pursuance of the common interest, or who otherwise assists counsel in connection with the performance of this Agreement, is familiar with the terms of this Agreement, and complies with such terms as they related to the duties of such person.

If a Party or person identified in this Section becomes subject to a bona fide requirement by law, regulation, deposition question, interrogatory, request for information or documents under the CPRA, subpoena, civil investigative demand, or similar process (collectively, a "Requirement") to disclose any Common Interest Material, such Party: (i) will, upon receipt of the Requirement and prior to producing any Common Interest Material, immediately notify the other Parties of the existence, terms, and circumstances of such Requirement to the extent permitted by law and in accordance with that Party's legal counsel; and (ii) will cooperate fully with any other Party seeking a protective order. The Party that received the Requirement shall determine whether the requested or demanded Common Interest Material can be protected in accordance with the law. If, in the opinion of that Party, the requested or demanded Common Interest Material is not exempt from disclosure or production, that Party shall promptly notify the other Party, who shall have the right to seek a protective order that may be based upon a privilege the Party that received the Requirement might hold. If such an order is sought, the Party that received the Requirement will refrain from disclosing the requested or demanded Common Interest Material until such time as a final disclosure agreement or judicial determination is made concerning the Requirement; *provided*, however, that the Party that received the Requirement shall not be required to refrain from disclosing the requested or demanded Common Interest Material if doing so would violate the law. The costs and expenses for seeking any protective order pursuant to this paragraph shall only be borne by the Party(ies) opposing the Requirement. If a Party subject to a Requirement, who has complied with the notification and cooperation obligations described in this paragraph, is compelled, in the opinion of its legal counsel, to make disclosure of Common Interest Material or else stand liable for contempt or other substantial penalty, such Party: (i) will furnish only that portion of the Common Interest Material

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which is legally required pursuant to the terms of such Requirement as modified by any protective order; and (ii) will not be liable to the other Party for the disclosure of Common Interest Material.

9. **Liability**.

(a) The debts, liabilities, and obligations of the Drainage District shall remain the debts, liabilities, and obligations of the Drainage District alone.

(b) The debts, liabilities, and obligations of the Water District shall remain the debts, liabilities, and obligations of the Water District alone.

10. **Insurance**. Without limiting the Drainage District's right to obtain indemnification pursuant to Section 11 below from the Water District or any third parties, the Water District, at its sole expense, shall maintain in full force and effect the following insurance policies, naming the Drainage District as an additional insured, throughout the term of this Agreement with one or more insurers that are either (a) admitted by the California Insurance Commissioner to do business in California and rated not less than "A-VII" in Best's Insurance Rating Guide, or (b) approved by the Drainage District.

(a) COMMERCIAL GENERAL LIABILITY insurance, including contractual, products and completed operations coverages, and bodily injury and property damage liability insurance, with combined single limits of not less than One Million Dollars ($1,000,000) per occurrence ($2,000,000 general aggregate).

(b) COMMERCIAL AUTOMOBILE LIABILITY insurance, endorsed for "any auto" with combined single limits of not less than One Million Dollars ($1,000,000).

(c) PROFESSIONAL LIABILITY insurance with a limit of liability of not less than One Million Dollars ($1,000,000.00).

(d) WORKERS COMPENSATION insurance in accordance with the California Labor Code.

11. **Indemnification**.

(a) To the fullest extent permitted by law, each Party shall indemnify, defend (at the indemnifying Party's sole cost and expense), protect and hold harmless the other and each of their directors, officers, employees, agents, and volunteers, and all representatives, successors, and assigns, from and against any and all claims (including, without limitation, claims for bodily injury, death or damage to property), demands, obligations, damages, actions, causes of action, suits, losses, judgment fines, penalties, forfeitures, liabilities, costs and expenses (including, without limitation, attorneys' fees, disbursements and court costs, and any and all other professional, expert or consultants' fees and costs and general and administrative expenses) of every kind and nature whatsoever (individually, a "Claim;" collectively, "Claims"), which may arise from or in any manner related (directly or indirectly) to, and only to the extent of, the breach of this Agreement, the negligent and/or willful acts, misconduct, or errors and/or omissions of the indemnifying Party, its officers, officials, agents, employees, independent contractors, person(s) acting at the direction of or under the supervision of the indemnifying Party,

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vendors, suppliers, contractors, subcontractors, consultants, subconsultants, subcontractors, anyone employed directly or indirectly by any of them or for whose acts they may be liable, or any or all of them, in performing any work or services to be provided under this Agreement.

(b) The Drainage District agrees to indemnify, defend, and hold harmless the Water District to the fullest extent allowed by law for all Claims that arise out of or occur as a result of acts or omissions made by the Drainage District. Water District employees providing services for the Drainage District shall be treated as Water District employees only and not as joint employees of the Drainage District and the Water District. However, to the extent the Drainage District exercises any direction and control over Water District employees' work, including those Water District employees providing services for the Drainage District, the Drainage District agrees to indemnify, defend, and hold harmless the Water District to the fullest extent allowed by law for all Claims that arise out of or occur as a result of the Drainage District's exercise of direction and control over a Water District employee.

12. **Term**. This Agreement shall be effective as the Effective Date first above written, upon execution by all the Parties hereto. This Agreement shall continue in effect until terminated by:

(a) Mutual written agreement of both Parties.

(b) By written notice of one Party to the other not less than six (6) months prior to the effective date of termination.

(c) The Drainage District may immediately suspend this Agreement and thereafter terminate this Agreement following a thirty (30)-day notice and opportunity to cure any alleged deficiencies, where, in the determination of the Drainage District Board of Directors, there is:

(i) An illegal or improper use of funds.

(ii) A material failure to comply with any term of this Agreement.

(iii) Improperly performed services that constitute a material breach of the contract, and such breach is incapable of cure, or the Water District does not cure such breach within thirty (30) days after receipt of written notice of such breach.

(d) The Water District may immediately suspend this Agreement and thereafter terminate this Agreement following a thirty (30)-day notice and opportunity to cure any alleged deficiencies, where, in the determination of the Water District Board of Directors, there is a material failure by the Drainage District to comply with any term of this Agreement.

13. **Amendments/Waiver**. This Agreement may only be amended through mutual written agreement executed by the Parties. No waiver by any Party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the Party so waiving. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or

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partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

14. **Governing Law**. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California. Venue for the purposes of the filing of any action regarding the enforcement or interpretation of this Agreement and any rights and duties hereunder shall be Merced County, California.

15. **Compliance with Laws**. In performing their respective duties hereunder, the Parties shall comply with all applicable laws and regulations of Federal, State and local governmental agencies.

16. **Dispute Resolution**. The Parties agree that in the event of any dispute arising from this Agreement, the Parties shall first attempt to resolve the dispute through join, good faith efforts of the Presidents of the Board of Directors of each Party to meet and confer on potential resolutions. In the event that a resolution of the dispute cannot be reached despite these efforts, either Party may declare an impasse and its intent to submit the matter to arbitration. Any such arbitration shall be held and conducted before one arbitrator who shall be selected by mutual agreement of the Parties. If agreement on the arbitrator is not reached on the selection of an arbitrator within fifteen (15) days after a Party has notified the other Party of its election to submit to arbitration, then such arbitrator shall be appointed by the presiding judgment of the Superior Court of Merced County upon application of either Party. The award or decision of the arbitrator shall be final and judgment may be entered thereon. The provisions of Title 9 of Part 3 of the California Code of Civil Procedure, including Section 1283.05, and successor statutes, permitting expanded discovery proceedings shall be applicable to all disputes which are arbitrated pursuant to this paragraph.

17. **Attorney's Fees**. In the event of any controversy, claim or dispute between the Parties arising out of or relating to this Agreement or the breach thereof, the prevailing party shall be entitled to recover from the other Party reasonable expenses, attorneys' fees, and costs.

18. **Complete Expression of Agreement**. This Agreement contains the entire agreement and understanding between the Parties in regard to the subject matter hereof, and no oral statements or prior written documents not specifically incorporated into this Agreement shall be of any force or effect.

IN WITNESS WHEREOF, the Parties have executed this Agreement to be effective as of the Effective Date first above written.

PANOCHE WATER DISTRICT, a California Water District

By: _____
John Bennett, President

PANOCHE DRAINAGE DISTRICT, a California Drainage District

By: _____
Michael Linneman, Vice President

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PANOCHE WATER DISTRICT
STATEMENT OF INVESTMENT POLICY

Purpose: This statement is to provide a guideline for the prudent investment of temporarily idle cash, trust funds and restricted monies in the District's possession and to outline a policy for maximizing the efficiency of its cash management system.

Objective: The cash management system of the Panoche Water District will be maintained to accurately monitor and forecast expenditures and revenues, thus assuring the investment of monies to the fullest extent consistent with safety and liquidity. Funds will be invested in such a manner which will provide the highest interest yield within the confines of this policy and legal statutes consistent with safety and liquidity.

Policy: This policy applies only to idle funds in the District's possession or immediate control. "Idle funds" means funds the use of which is not required to meet the demands of cash flow for the succeeding month and all trust funds held by the District, including bond security funds which are unnecessary to make debt service payments within the next six months. Investments will be made under the terms and conditions of Sections 53600 through 53683 and Sections 16429.1 through 16429.3 of the Government Code. The criteria for selecting investments and the absolute order of priority in making investments are:

1. Safety
2. Liquidity
3. Yield

Except for deferred compensation invested pursuant to Government Code Section 53609, the following instruments are authorized for investment of District funds:

1) To the extent permitted by law and as conditions dictate, in the State of California Local Agency Investment Fund (LAIF) in accordance with Section 16429.1 of the Government Code;

2) United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the full faith and credit of the United States are pledged for the payment of principal and interest;

3) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board, agency or authority of the state.

4) Bonds, notes, warrants, or other evidences of indebtedness of a local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled or operated by the local agency, or by a department, board, agency or authority of the local agency;

5) To the extent otherwise permitted by law and as conditions dictate, in a bank or savings and loan association but only to the extent that the funds are insured by the Federal Deposit Insurance Corporation, (FDIC) or collateralized by the financial institution;

6) To the extent permitted or required by law, the District may use general funds to advance or pay amounts due from one or more of the District's managed districts. While the District does not consider such advances or payments to be investments for purposes of this policy, the District will nevertheless make such advances or payments only to the extent they are consistent with the overall policy articulated herein and provide the District with an appropriate level of safety, liquidity and yield consistent with investments made pursuant to this policy.

Where the policy does not specify a limitation on the term or remaining maturity at the time of investment, no investment shall be made in any security that at the time of the investment has a term remaining to maturity in excess of five years, unless the Board has granted express authority to make that investment either specifically or as a part of an investment program approved by the Board no less than three months prior to the investment.

The Treasurer shall annually review the investment policy and provide the Board of Directors with any recommendations for any changes or updates. The Treasurer shall render the report to the Board of Directors showing all investments as set forth in Section 53646(b) of the Government Code, on at least a quarterly basis. Such report, insofar as it is required by law, shall include:

1) For all securities, investments and moneys held by the District for each of the following: (a) the type of investment, (b) issuer, (c) date of maturity par and (d) dollar amount invested.

2) A description of any of the District’s funds, investments or programs that are under the management of contracted parties, including lending programs.

3) A statement of the extent to which the District’s investments are or may be out of compliance with this policy.

4) The report shall include a statement denoting the ability of the District to meet its cash demands for the next six months or shall provide an explanation as to why sufficient cash shall, or may, not be available.

To the extent all of the District’s surplus or idle funds are invested in LAIF, or a bank or savings and loan association account insured by FDIC, or some combination thereof, the report may consist of the last statement from the institutions holding the funds plus each of the items set forth in paragraphs 2, 3 and 4 above.

This investment policy will remain in effect until rescinded or modified by the Board of Directors, but shall be reviewed annually insofar as such a review is required by law.

BACK

PANOCHE WATER DISTRICT
ACCOUNTS PAYABLE LIST
PAYMENTS RUN FROM 2/9/2022 TO 3/8/2022

MECHANICS O & M CHECKING # 8566

DATE	CHECK NUMBER	NAME	CHECK AMOUNT	MEMO
2/9/2022	40104	ACWA/JPIA	$ 49,308.70	MAR 2022 INSURANCE HEALTH $ 45,731.10, DENTAL $ 2,925.07, VISION $ 501.12 & LIFE $ 151.41
2/9/2022	40105	APPL, INC.	$ 272.00	WATER SAMPLES - DMC WELLS $ 248.00 & SLDMWA $ 24.00
2/9/2022	40106	BOB'S TIRE	$ 143.23	INSTALL TIRES # 11A
2/9/2022	40107	DATCO SERVICE CORPORATION	$ 54.50	PRE EMPLOYMENT DRUG TEST - P TORREZ
2/9/2022	40108	DEPARTMENT OF PUBLIC HEALTH	$ 599.00	2022 PERMIT FOR AUTO SHOP
2/9/2022	40109	GILTON SOLID WASTE MANAGEMENT	$ 405.22	JAN 2022 WASTE SERVICE
2/9/2022	40110	HICKS PENSION SERVICE	$ 1,165.00	BALANCE DUE 401K ADMIN FOR YE 2021
2/9/2022	40111	INTRADO ENTERPRISE COLLABORATION, INC.	$ 302.03	JAN 2022 CONFERENCE LINE
2/9/2022	40112	NAPA AUTO PARTS	$ 157.68	PARTS FOR # 10B
2/9/2022	40113	PACIFIC GAS & ELECTRIC	$ 23,937.26	ELECTRICAL SERVICE
2/9/2022	40114	PROVOST & PRITCHARD	$ 4,156.50	5 YR WATER MANAGEMENT PLAN & CONTROL SURVEY FOR SUBSIDENCE MONITORING
2/9/2022	40115	PRICE PAIGE & COMPANY	$ 300.00	PREPARATION OF STATE CONTROLLER'S FINANCIAL TRANSACTION REPORTS
2/9/2022	40116	RICK'S SMOG SHOP	$ 150.00	SMOG # 05B, # 13A & # SJ04A
2/9/2022	40117	SWRCB ACCOUNTING OFFICE	$ 548.00	2022 PERMIT FOR SURFACE WATER TREATMENT PLAN
2/9/2022	40118	TECHNO-FLO	$ 570.21	METER PARTS
2/9/2022	40119	TEE-DEE-US AUTO	$ 212.64	REPAIR # 5D
2/9/2022	40120	TIREHUB, LLC	$ 659.17	TIRES FOR # 11A
2/9/2022	40121	VERIZON WIRELESS	$ 1,512.45	DEC 2021 GPS & CELL PHONE SERVICE
2/9/2022	40122	WALPOLE & CO.	$ 131.25	JAN 2022 COMPUTER SUPPORT
2/9/2022	40123	WELLS FARGO VENDOR FIN SERVICE	$ 348.76	COPIER LEASE
2/9/2022	40124	WELTY WEAVER & CURRIE	$ 21,640.64	NOV & DEC 2021 LEGAL SERVICE & JAN 2022 LEGAL SERVICE
2/9/2022	40125	ALEX AUTO & SMOG	$ 361.82	SMOG REPAIRS # 13A
2/9/2022	40126	DEPARTMENT OF MOTOR VEHICLES	$ 23.00	DUPLICATE PLATE # SJ14B
2/8/2022	40127	FENTON & KELLER	$ 24,971.21	OCT 2021 LEGAL SERVICE
2/25/2022	40128	AG & INDUSTRIAL SERVICE	$ 973.11	MOTOR FOR # 42
2/25/2022	40129	AMAZON/SYNCH	$ 1,744.86	DISTRICT SUPPLIES
2/25/2022	40130	APPL, INC.	$ 100.00	DMC WELLS WATER SAMPLES
2/25/2022	40131	BAKER MANOCK & JENSEN	$ 1,294.68	JAN 2022 LEGAL SERVICES
2/25/2022	40132	BANKS & CO.	$ 500.00	2022 ANNUAL GAS TANK INSPECTION
2/25/2022	40133	BEST BEST & KRIEGER	$ 1,783.50	DEC 2021 LEGAL SERVICES
2/25/2022	40134	BOB'S TIRE	$ 282.97	REPAIRS FOR # 30 & NEW TIRES FOR GENERATOR
2/25/2022	40135	BRYANT L. JOLLEY	$ 800.00	CONSULTING FEES
2/25/2022	40136	BYRON-BETHANY IRRIGATION DISTRICT	$ 17,058.90	BBID BALANCE OF PURCHASED YUBA COUNTY WATER AGENCY TRANSFER
2/25/2022	40137	CAMPBELL SCIENTIFIC	$ 1,066.58	EC SENSORS GBP
2/25/2022	40138	CLARK PEST CONTROL	$ 584.00	DISTRICT & SHOP PEST CONTROL
2/25/2022	40139	LIGHHOUSE DOCUMENT TECHNOLOGIES, INC.	$ 162.00	OCT 2021 LEGAL CONSULTANT
2/25/2022	40140	DEPARTMENT OF MOTOR VEHICLES	$ 10.00	PTI FEES FOR # 64A
2/25/2022	40141	FENNEMORE DOWLING AARON	$ 82.00	NOV 2021 LEGAL SERVICES
2/25/2022	40142	FEDERAL EXPRESS	$ 846.11	SHIPPING GBP
2/25/2022	40143	FENTON & KELLER	$ 12,224.91	OCT & DEC 2021 LEGAL SERVICES
2/25/2022	40144	CORELOGIC INFORMATION SOLUTIONS	$ 200.00	JAN 2022 APN RESEARCH

DATE	CHECK NUMBER	NAME	CHECK AMOUNT	MEMO
2/25/2022	40145	HALLMARK GROUP	$ 7,661.01	OCT & NOV 2021 & JAN 2022 CONSULTING FEES
2/25/2022	40146	HOFFMAN SECURITY	$ 341.40	MAR 2022 SHOP & OFFICE SECURITY
2/25/2022	40147	KCOE ISOM, LLP	$ 5,405.00	OCT & NOV 2021 ACCOUNTING SERVICE
2/25/2022	40148	LAW OFFICE OF WILLIAM C. HAHESY	$ 2,275.00	DEC 2021 LEGAL SERVICES
2/25/2022	40149	FERRELLGAS	$ 664.19	PROPANE FOR WEED BURNER
2/25/2022	40150	MARFAB	$ 122.05	PARTS FOR # 42
2/25/2022	40151	MCCORMICK BARSTOW LLP	$ 49.50	JAN 2022 LEGAL SERVICES
2/25/2022	40152	MCGUIRE BOTTLED WATER	$ 138.55	DRINKING WATER
2/25/2022	40153	MOORE TWINING	$ 815.00	WATER SAMPLES - DOMESTIC PLANT
2/25/2022	40154	NAPA AUTO PARTS	$ 310.99	PARTS FOR DMC WELLS, # 18 & SHOP SUPPLIES
2/25/2022	40155	PACIFIC GAS & ELECTRIC	$ 73,753.79	ELECTRICAL SERVICE
2/25/2022	40156	PRICE PAIGE & COMPANY	$ 1,100.00	COMPLETE STATE CONTROLLER'S FINANCIAL TRANSACTION REPORTS
2/25/2022	40157	ROTO-ROOTER PLUMBERS	$ 380.00	SERVICE FOR HOUSE # 5
2/25/2022	40158	SAVEMART SUPERMARKET	$ 116.53	OFFICE SNACKS
2/25/2022	40159	SORENSEN'S TRUE VALUE	$ 16.51	PARTS FOR # 65A
2/25/2022	40160	TF TIRE & SERVICE	$ 922.47	REPLACE TIRE # SJ14
2/25/2022	40161	TEE-DEE-US AUTO	$ 1,703.04	REPAIR # 07B, # 5B & MAINTENANCE ON # 01AA
2/25/2022	40162	THARP'S FARM SUPPLY	$ 1,286.36	TOOLBOX FOR # 40, PARTS FOR # 13E, # 13B, # SJ81 & SHOP SUPPLIES
2/25/2022	40163	WATER RECLAMATION	$ 20,145.34	WELD PLUG & CLEAN VFD PDD WELL #4, TIGHTEN BOLTS PIPELINE # 7W, REPAIR WELL LINE # 13E, PULL PUMP & REINSTALL AFTER REPAIRS # 13E & CHECK ELECTRICAL T-4
2/25/2022	40164	WELTY WEAVER & CURRIE	$ 11,456.25	JAN 2022 LEGAL SERVICES
2/25/2022	40165	WESTSIDE WATER	$ 2,853.91	JAN 2022 WEEKLY SERVICE & POLYMERS - DOMESTIC PLANT
2/25/2022	40166	WINDECKER, INC.	$ 5,270.38	1,410 GALLONS UNLEADED @ $ 3.74
2/25/2022	40167	XIO, INC.	$ 94.00	CLOUD BASED MONITORING SERVICE - DOMESTIC PLANT
2/25/2022	40168	ALEX AUTO & SMOG	$ 1,257.26	REPAIR # 18 & # 6
3/8/2022	40169	ACWA/JPIA	$ 45,792.91	APR 2022 INSURANCE - HEALTH $ 40,103.27, DENTAL $ 2,740.37, VISION $ 464.00 & LIFE $ 134.61
3/8/2022	40170	FRONTIER COMMUNICATION	$ 584.60	TELEPHONES
3/8/2022	40171	HOME DEPOT CREDIT SERVICES	$ 111.09	SHOP SUPPLIES & HOSE FOR DOMESTIC PLANT
3/8/2022	40172	ISOLVED	$ 567.79	COBRA NOTICE ADMINISTRATION
3/8/2022	40173	MADERA PUMPS	$ 200.00	PUMP TEST WELL # 4
3/8/2022	40174	NAPA AUTO PARTS	$ 297.64	PARTS FOR # 70 & SHOP SUPPLIES
3/8/2022	40175	N & S TRACTOR	$ 260.64	PARTS FOR # 70
3/8/2022	40176	UNWIRED BROADBAND, INC.	$ 549.99	INTERNET SERVICES
3/8/2022	40177	WATER RECLAMATION	$ 5,691.39	SUPPLIES FOR # 13E & REPLACE SOFT START FOR ST T-4
3/8/2022	40178	WINDECKER, INC.	$ 6,774.49	1,600 GALS UNLEADED @ $ 4.23
2/2/2022	W00750	WESTAMERICA VISA	$ 1,700.39	SOLUTIONS FOR METERS GBP, BATTERIES FOR AUTO SAMPLER GBP, SERVICE # SJ65A, SAMPLES DMC WELLS, BUSINESS LUNCH - PDD, FUEL # 18A, SHIPPING & DISTRICT EMAILS
2/3/2022	JE-302	TRANSFER FUNDS FOR PAYROLL	$ 80,000.00	PAYROLL DATED 2/4/2022
2/11/2022	W00751	SL & DM WATER AUTHORITY	$ 220,267.64	DHCCP DEBT SERVICE $ 125,731.00, LOS VAQUEROS EXPANSION PROJECT 1ST PYMT 50% $ 89,712.00 & 2021 NOD WATER TRANSFER $ 4,824.64
2/11/2022	W00752	SLDM WATER AUTHORITY	$ 53,311.32	JAN 2022 SLC SLDMWA CONVEYANCE COSTS
2/11/2022	W00753	SL & DM WATER AUTHORITY	$ 10,892.18	EXPENSES THRU DEC 2021 - LONG TERM N TO S TRANSFER ADMIN COSTS $ 8,038.98, SJRECWA ADMIN COSTS $ 88.44 & FUTURE WATER TRANSFER IMPROVEMENT EFFORT ADMIN COSTS $ 2,764.76
2/11/2022	W00754	U.S. BUREAU OF RECLAMATION	$ 21,179.26	JAN 2022 USBR WATER COSTS SLC $ 18,678.93 & DMC $ 2,102.78, JAN 2022 RESTORATION WATER COSTS FOR SLC $ 340.95 & DMC $ 56.60
2/15/2022	W00755	PAI SERVICES, LLC	$ 122.93	JAN 2022 SAGE TIME SUPPORT
2/16/2022	JE-313	TRANSFER FUNDS FOR PAYROLL	$ 70,000.00	PAYROLL DATED 2/18/2022
2/22/2022	W00756	SL & DM WATER AUTHORITY	$ 770,261.00	2021 YUBA COUNTY WATER AGENCY TRANSFER
2/25/2022	W00757	SL & DM WATER AUTHORITY	$ 1,698.83	FEB 2022 NOD WATER TRANSFER

DATE	CHECK NUMBER	NAME	CHECK AMOUNT	MEMO
2/25/2022	W00758	U.S. BUREAU OF RECLAMATION	$ 89,383.26	MAR 2021 USBR WATER COSTS SLC $ 51,511.86 & DMC $ 8,155.92 & APR 2021 SLC USBR WATER COSTS $ 29,715.48
2/25/2022	W00759	WESTAMERICA VISA	$ 1,067.51	FUEL FOR # 12C, 4TH QTR 2021 PAYROLL STATE FILING FEE, BUSINESS LUNCHES, ADA COMPLIANT PORTABLE RAMP FOR OFFICE ENTRANCE, SHIPPING & DISTRICT EMAILS
2/25/2022	JE-325	US BANK	$ 197,073.33	PFA REVENUE BOND SERIES 2021A INTEREST INTALLMENT PYMT
2/25/2022	JE-326	**US BANK**	$ 210,963.91	PFA REVENUE BOND SERIES 2021B INTEREST INSTALLMENT PYMT $ 128,070.60, PRINCIPAL PYMT $ 300,000.00 LESS: CREDIT FROM COST OF ISSUANCE FUND $ 217,106.69
			$ 2,309,498.43	

MECHANICS PAYROLL CHECKING # 7895

DATE	CHECK NUMBER	NAME	CHECK AMOUNT	MEMO
2/3/2022	PR-1431	NET PAYROLL	$ 45,405.65	PAYROLL DATED 2/3/2022
2/4/2022	JE-303	EMPLOYMENT DEVELOPMENT DEPARTMENT	$ 3,748.43	STATE PAYROLL TAX DEPOSIT
2/4/2022	JE-304	INTERNAL REVENUE SERVICE	$ 16,354.86	FEDERAL PAYROLL TAX DEPOSIT
2/4/2022	JE-305	JOHN HANCOCK	$ 8,670.46	401K RETIREMENT
2/7/2022	3086	PRINCIPAL LIFE INSURANCE COMPANY	$ 1,044.54	EMPLOYEE PAID INSURANCE
2/17/2022	PR-1432	NET PAYROLL	$ 44,115.02	PAYROLL DATED 2/18/2022
2/18/2022	JE-316	EMPLOYMENT DEVELOPMENT DEPARTMENT	$ 3,256.67	STATE PAYROLL TAX DEPOSIT
2/18/2022	JE-317	INTERNAL REVENUE SERVICE	$ 16,695.57	FEDERAL PAYROLL TAX DEPOSIT
2/18/2022	JE-318	JOHN HANCOCK	$ 8,657.70	401K RETIREMENT
2/19/2022	3090	PRINCIPAL LIFE INSURANCE COMPANY	$ 569.34	EMPLOYEE PAID INSURANCE

BACK

PANOCHE WATER DISTRICT (PWD)

BUDGET to ACTUAL - Revenue and Expenses Report for the 12 months period ended February 28, 2022

	FY 2022		Budget Vs Actual 2022	FYE 2021	FYE 2020
Operating Revenues	ACTUAL	BUDGET	%ages	ACTUAL	ACTUAL
Water Revenue	$ 13,125,674	$ 19,957,880	66%	$ 15,243,903	$ 11,015,394
O & M Revenue	4,422,995	6,630,000	67%	5,134,747	7,545,928
SLDMWA-SGMA Revenue	54,686	54,151	101%	69,384	25,996
Other Revenue	2,036,134	250,000	814%	378,853	772,783
Reimbursements From Other Districts	711,213	475,000	150%	1,723,342	3,741,628
Total Revenue	**$ 20,350,702**	**$ 27,367,031**	74%	**$ 22,550,228**	**$ 23,101,728**
Operating Expenses					
Water Purchases Costs	$ 15,341,879	$ 20,202,031	76%	$ 14,284,863	$ 11,845,298
Operation & Maintenance Costs	$ 6,414,753	$ 7,088,625	90%	$ 9,532,555	$ 9,350,330
Total Expenses	**$ 21,756,632**	**$ 27,290,656**	80%	**$ 23,817,418**	**$ 21,195,629**
Net Revenue/(Deficit)	**$ (1,405,930)**	**$ 76,375**		**$ (1,267,190)**	**$ 1,906,100**

PANOCHE WATER DISTRICT (PWD)

BUDGET to ACTUAL - Revenue and Expenses Report for the 12 months period ended February 28, 2022

		FY 2022		Budget Vs Actual 2022	FYE 2021	FYE 2020
Operating Revenues		**ACTUAL**	**BUDGET (12months)**	**%ages**	**ACTUAL**	**ACTUAL**
	CVP AG Water Contract	3,586,827	5,203,406	69%	5,552,297	7,419,044
	Supplemental Water	9,538,846	14,754,474	65%	9,691,606	3,596,350
	O & M Revenue	4,422,995	6,630,000	67%	5,134,747	7,545,928
	SLDMWA-SGMA Revenue	54,686	54,151	101%	69,384	25,996
	Other Revenue	2,036,134	250,000	814%	309,469	772,783
	Labor Reimbursements	292,080	275,000	106%	1,332,749	2,632,602
	Other Reimbursements	419,133	200,000	210%	390,593	1,109,026
	Total Revenue	**$ 20,350,702**	**$ 27,367,031**	**74%**	**$ 22,480,845**	**$ 23,101,728**

PANOCHE WATER DISTRICT (PWD)

BUDGET to ACTUAL - Revenue and Expenses Report for the 12 months period ended February 28, 2022

		FY 2022		Budget Vs Actual 2022	FYE 2021	FYE 2020
Water Costs		**ACTUAL**	**BUDGET**	**%ages**	**ACTUAL**	**ACTUAL**
CVP AG Water Contract		3,995,937	5,203,406	77%	3,931,650	6,886,495
Supplemental Water		11,070,615	14,754,474	75%	10,040,717	4,743,070
SLDMWA -SGMA		54,151	54,151	100%	69,381	-
Other Water costs		221,176	190,000	116%	243,115	102,427
	Total Water Purchases Costs	**$ 15,341,879**	**$ 20,202,031**	76%	**$ 14,284,863**	**$ 11,731,992**

PANOCHE WATER DISTRICT (PWD)

BUDGET to ACTUAL - Revenue and Expenses Report for the 12 months period ended February 28, 2022

	FY 2022		Budget Vs Actual 2022	FYE 2021	FYE 2020
Operation & Maintenance Costs	**ACTUAL**	**BUDGET**	**%ages**	**ACTUAL**	**ACTUAL**
Salaries and Wages	1,616,970	$ 1,753,010	92%	$ 2,864,442	$ 2,846,115
Payroll Taxes	132,454	138,453	96%	226,730	385,252
Employee Benefits	882,107	760,766	116%	1,386,172	1,579,358
Interest Expenses - DHCCP	133,244	135,000	99%	112,452	113,306
Water rights	-	110,000	0%	105,217	-
Legal Costs	560,247	600,000	93%	945,288	828,367
Annual Audits	64,250	75,000	86%	104,285	94,258
Professional Services	68,344	85,000	80%	168,785	58,810
Utilities	30,786	35,000	88%	35,121	69,613
Communication Costs	46,773	80,000	58%	80,649	85,882
Conferences and Training Costs	47,157	65,000	73%	40,962	189,292
Insurance Costs	112,768	125,000	90%	120,237	53,386
Other Supplies & Services	205,434	120,000	171%	150,555	136,787
SLDMWA-Membership & assessments	164,507	166,382	99%	169,269	79,582
Energy Costs	1,251,455	1,468,069	85%	1,446,122	1,694,734
Chemical Application	150,875	170,000	89%	228,078	205,773
Domestic water plant maintenance	103,176	120,000	86%	148,827	93,102
Laboratory - Water Testing	17,433	12,134	144%	13,153	21,115
Other Districts overhead costs	131,674	154,811	85%	243,439	408,752
Equipment Repairs & Maintenance Costs	695,100	915,000	76%	942,772	520,154
Total Operation & Maintenance Costs	**$ 6,414,753**	**$ 7,088,625**	90%	**$ 9,532,555**	**$ 9,463,636**

PANOCHE WATER DISTRICT (PWD)

BUDGET to ACTUAL - Revenue and Expenses Report for the 12 months period ended February 28, 2022

Equipment Repairs & Maintenance Costs		FY 2022		Budget Vs Actual 2022	FYE 2021	FYE 2020
		Actual	Budget	%ages	Actual	Actual
	Equipment repairs	105,648	120,000	88%	51,441	28,972
	Pumps & Structures Repairs	440,150	510,000	86%	453,555	236,015
	Fuel & Oil Costs	83,044	110,000	75%	59,632	123,688
	Vehicle repairs & Maintenance	46,706	65,000	0%	193,093	47,157
	Office, Houses, Shops Repairs & Maintenance	19,551	35,000	56%	35,050	84,323
	Capital Cost - Depreciation	-	75,000	0%	150,000	-
Total Equipment Repairs & Maintenance Costs		**$ 695,100**	**$ 915,000**	**76%**	**$ 942,772**	**$ 520,154**

BACK

PANOCHE WATER DISTRICT WATER ACCOUNTING

Month: February, 2022

Water Supply																	
District Water March, 2021 - Feb, 2022	Annual AF	2021 March	2021 Apr	2021 May	2021 June	2021 July	2021 Aug	2021 Sept	2021 Oct	2021 Nov	2021 Dec	2022 Jan	2022 Feb	YTD Usage	Transfers Out	Not Pumped	**Remaining Balance**
Transfer 1 - DC	2,343		230	543	1,128	442								2,343			**0**
Transfer 3 - DC	210					210								210			**0**
Panoche DD Wells	0													0			**0**
SJRIP Lease Agreement	374	10	103	122	102	36								374			**0**
Grower Transfer Ins	3,341			215	755	1,277	925	39	40	90				3,341			**0**
Transfer 6	4								4					4			**0**
CCID Grower Wells f/Crdt	0													0			**0**
PWD Grower Wells f/Crdt	5,950	189	370	370	1,092	1,318	1,084	909	260	7			352	5,950			**0**
Gains or Losses	4,307	(102)	(123)	811	976	249	541	862	121	119	34	261	558	4,307			**0**
District Water Total	16,529	97	580	2,061	4,053	3,532	2,550	1,810	425	216	34	261	910	16,529	0		**0**
Bureau Water March, 2021 - Feb, 2022	Annual AF	2021 March	2021 Apr	2021 May	2021 June	2021 July	2021 Aug	2021 Sept	2021 Oct	2021 Nov	2021 Dec	2022 Jan	2022 Feb	YTD Usage	Transfers Out	Loss	**Remaining Balance**
2020-2021 Rescheduled	9,231	1,513	996	33	36	2,346	510	38	500	211	42	30	295	6,550	2,059	(347)	**275**
2021-2022 0% USBR	0													0			**0**
Grower Transfer Ins	4,392		1,092	2,022	843	42	279	42	21	42	9			4,392			**0**
CCID Grower Wells f/Crdt	729		105	338	286									729			**0**
Transfer 1	657				657									657			**0**
Transfer 2	1,046			619	413	14								1,046			**0**
Transfer 3	419				419									419			**0**
Transfer 4	73				73									73			**0**
Transfer 5	2,000					317	614	874	195					2,000			**0**
Transfer 6	100			9	91									100			**0**
Transfer 7	9,217													0		(2,304)	**6,913**
CVP 3F Wtr - Rescheduled	4,980												463	463	18	(520)	**3,979**
CVP 3F Wtr - 2021-22	3,676													0		(889)	**2,787**
Burea Water Total	36,520	1,513	2,193	3,021	2,818	2,719	1,403	954	716	253	51	30	758	16,429	2,077	(4,060)	**13,954**
Total Water Supply	**53,049**	**1,610**	**2,773**	**5,082**	**6,871**	**6,251**	**3,953**	**2,764**	**1,141**	**469**	**85**	**291**	**1,668**	**32,958**	**2,077**	**(4,060)**	**13,954**
Usage																	
Growers		1,610	2,773	5,082	6,871	6,251	3,953	2,764	1,141	469	85	291	1,668	32,958			
Transfers Out/Sales		0	307	300	230	576	245	257	0	0	0	0	162	2,077			
Total Usage/Transfers		1,610	3,080	5,382	7,101	6,827	4,198	3,021	1,141	469	85	291	1,830	35,035			
Diff/Losses: % of Supply	**%**	-6%	-5%	16%	15%	4%	14%	32%	11%	26%	40%	90%	33%	13%			
Budget to Actual - AF	**34,000**	1,501	2,714	4,338	5,926	4,974	2,975	2,145	1,011	469	85	291	1,406	27,835			**6,165**
(Changed from 40,000 to 34,000 AF)																	

275 Rescheduling for WY2022-23 I

*** Water Supply Numbers are estimates of known Transfers at this time - Deliveries are Actual ***

*** Total AF Delivery for O&M Budget is 29,912 AF. (27,835 AF + 2,077 AF) ***

Westlands Water District

MEMORANDUM

TO: SLDMWA BOARD OF DIRECTORS

FROM: TOM BOARDMAN, WATER RESOURCES ENGINEER

SUBJECT MARCH OPERATIONS UPDATE

DATE: MARCH 4, 2022

Project Operations

- Jones pumping continues to operate at its minimum rate of 800 cfs due to an increased Delta outflow standard required by D1641. The moderately high Delta outflow standard of 11,400 cubic feet per second (cfs) that began February 1 will remain active until mid-March. The current outflow requirement was determined by D1641 criteria that reflects the amount of Sacramento Valley runoff brought by storms that ended early January.
- The current Delta outflow requirement is being met almost entirely with releases of stored water from upstream reservoirs. Absent additional runoff resulting from near-term storms, CVP and SWP reservoirs will release about 384 TAF to meet the Delta outflow standard that has limited exports to minimum levels since February 1.
- Reclamation's latest estimate of the accounting balance under the Coordinated Operations Agreement (COA) is about 375 TAF in favor of the CVP. The COA accounting imbalance has been declining during the past few weeks as Oroville continues its elevated release to help the CVP meet its share of the Delta outflow requirement.
- Accumulated precipitation in the Sacramento Valley finished February at 5% of average. Persistent dry conditions have caused the annual precipitation to slip from 160% of average in early January to 88% today.
- Shasta storage is about 1.69 MAF – an increase of about 70 TAF from a month ago. The current storage is trending slightly below Reclamation's latest 90% exceedance which shows the reservoir refilling to 2.0 MAF by the end of April. Projected unimpaired flow into Shasta has decreased by more the 1 MAF since mid-January due to persistent dry conditions. The latest inflow projection under 90% exceedance conditions of 2.9 MAF is below the 4.0 MAF needed to avoid a Shasta Critical year.
- Folsom storage is 524 TAF which is 42 TAF below its maximum allowable flood control limit. Releases are holding at 2,000 cfs to meet the increased Delta outflow requirement. Reclamation's latest 90% exceedance forecast shows the reservoir refilling to 95% of capacity by late May.
- CVP demands for February were essentially at the 15-year average.

2021-22 San Luis Reservoir Operations

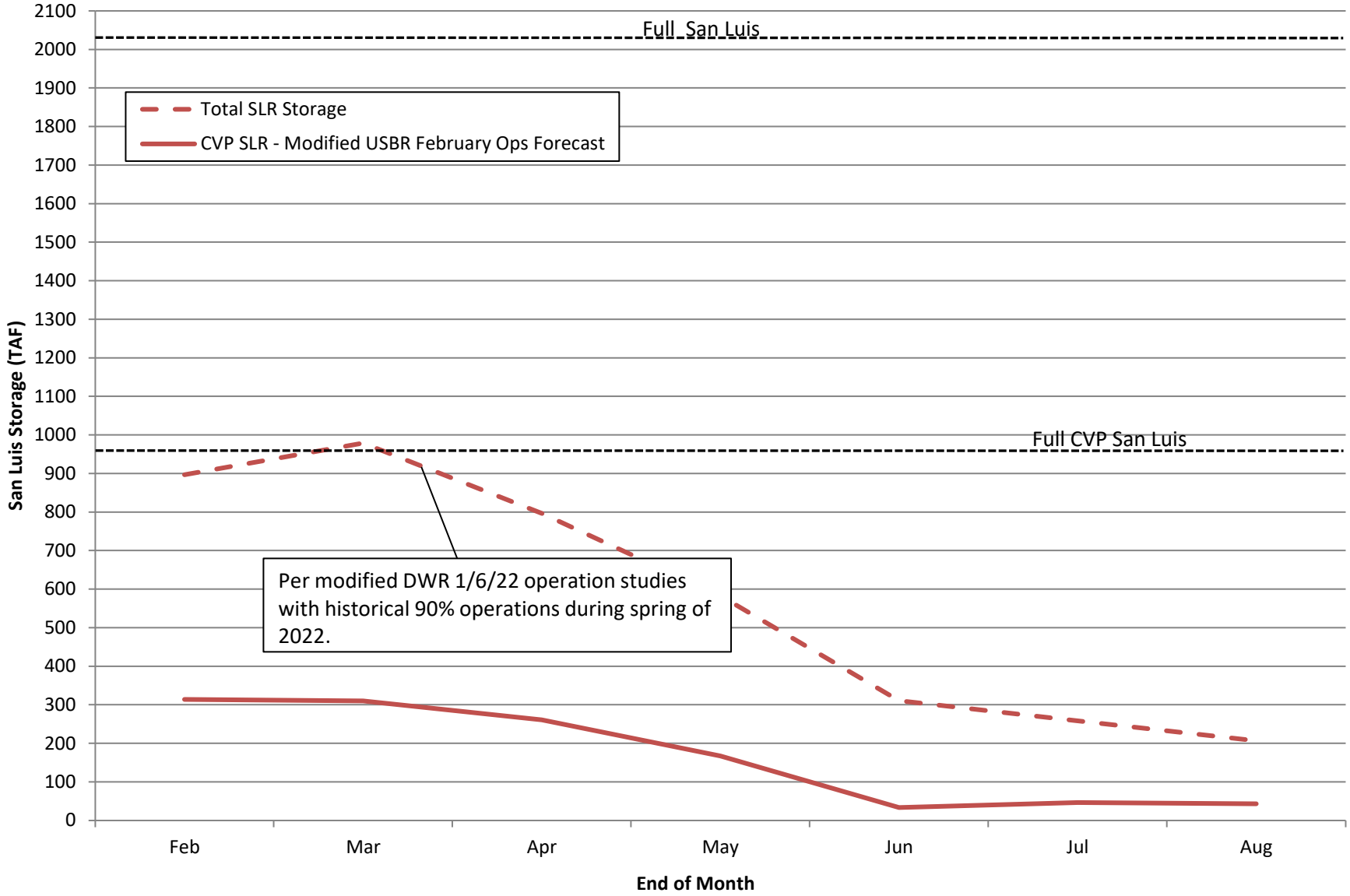
The CVP's share of the San Luis Reservoir (SLR) gained 20 TAF during the first half of February but lost the increase during second half of the month with the current storage at 307 TAF.

The attached SLR projection chart under 90% exceedance conditions shows CVP SLR storage drawing down during March. An estimated 260 TAF of non-project water is stored in CVP SLR. As such, only about 50 TAF of Project water is currently available to meet 2022 allocations. Reclamation's latest 90% exceedance forecast no longer shows enough water available to meet minimum allocations to senior water rights contractors. As such, Reclamation's Fresno office is estimating the need to release 200 TAF from Millerton to the Mendota Pool to help meet contractual delivery obligations to the Exchange Contractor under 90% exceedance conditions.

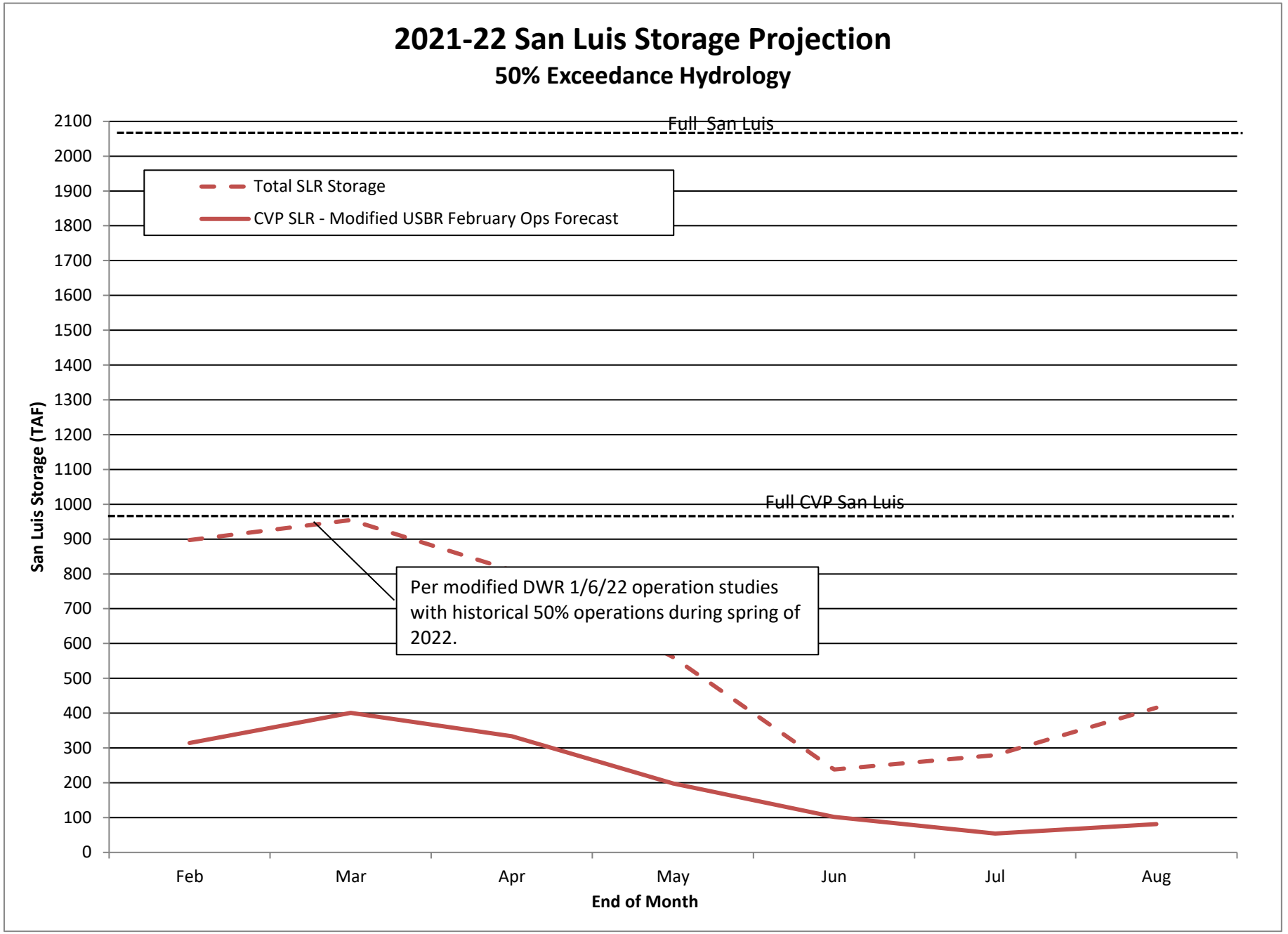
The attached SLR projection chart under 50% exceedance conditions shows CVP SLR refilling to about 400 TAF by end of March. However, given the current increased Delta outflow requirement and projected dry conditions for the next 7-10 days, the soonest an increase in CVP San Luis storage might occur would be during the second half of March. If higher exports are possible with wet conditions later in March, the additional Project water pumped will likely be used to reduce the possible Friant call before Reclamation considers any increase in the M&I allocation.

2021-22 San Luis Storage Projection

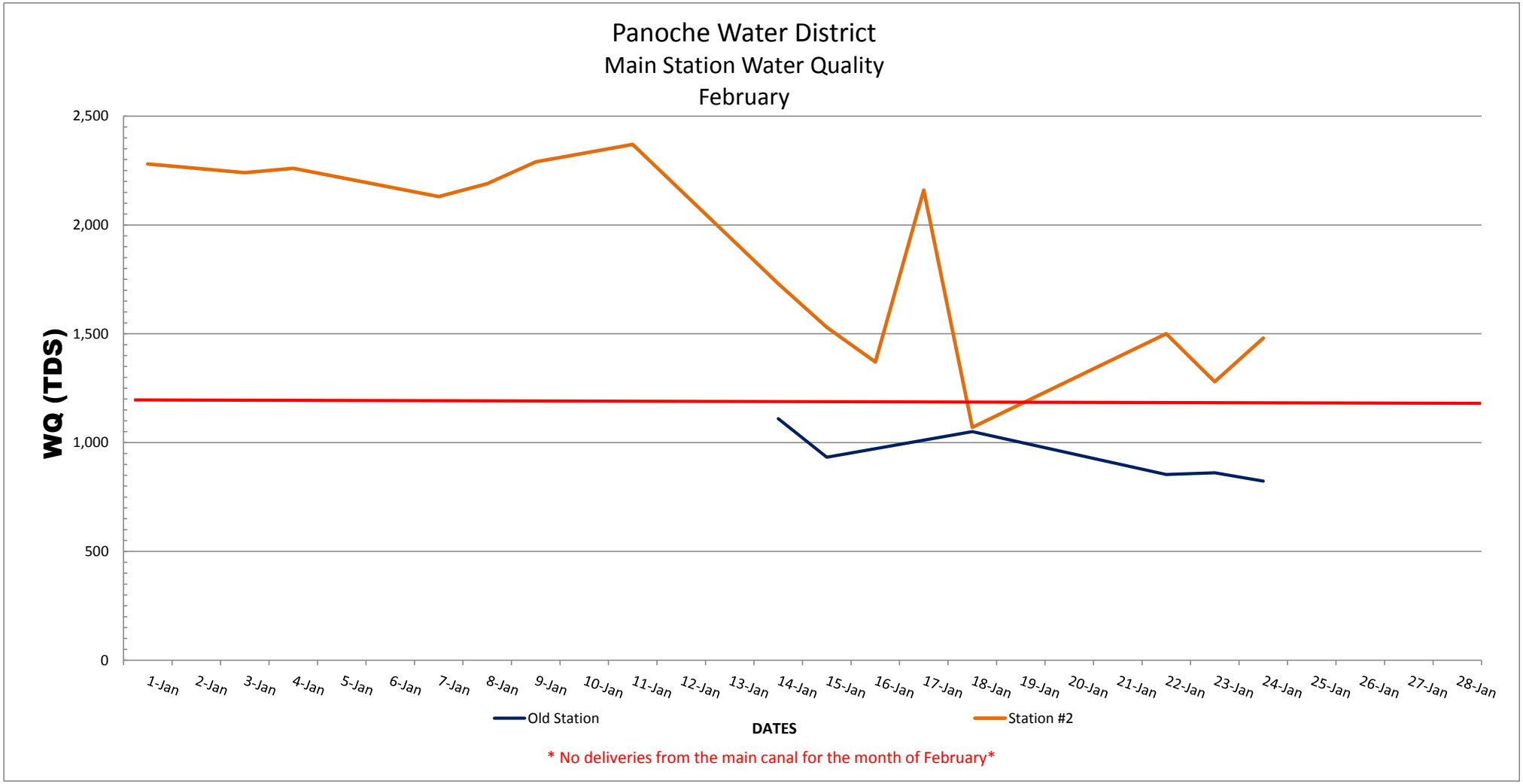
90% Exceedance Hydrology

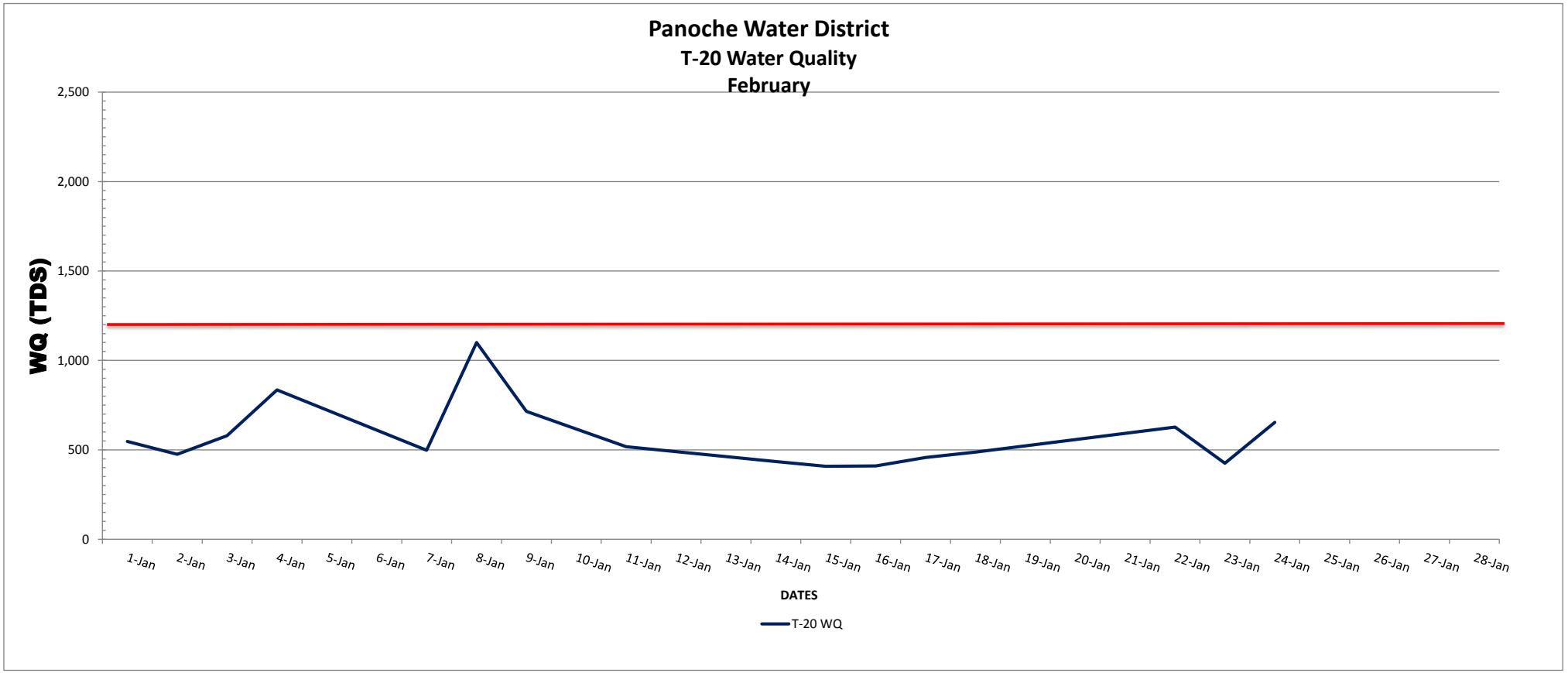


T. Boardman, WWD
3/2/2022



T. Boardman, WWD
3/2/2022


Panoche Water District
Main Station Water Quality
February
WQ (TDS)
2,500
2,000
1,500
1,000
500
0
1-Jan
2-Jan
3-Jan
4-Jan
5-Jan
6-Jan
7-Jan
8-Jan
9-Jan
10-Jan
11-Jan
12-Jan
13-Jan
14-Jan
15-Jan
16-Jan
17-Jan
18-Jan
19-Jan
20-Jan
21-Jan
22-Jan
23-Jan
24-Jan
25-Jan
26-Jan
27-Jan
28-Jan
Old Station
Station #2
DATES
* No deliveries from the main canal for the month of February*


Panoche Water District
T-20 Water Quality
February
WQ (TDS)
2,500
2,000
1,500
1,000
500
0
1-Jan
2-Jan
3-Jan
4-Jan
5-Jan
6-Jan
7-Jan
8-Jan
9-Jan
10-Jan
11-Jan
12-Jan
13-Jan
14-Jan
15-Jan
16-Jan
17-Jan
18-Jan
19-Jan
20-Jan
21-Jan
22-Jan
23-Jan
24-Jan
25-Jan
26-Jan
27-Jan
28-Jan
DATES
T-20 WQ

BACK