
457(b) Deferred Compensation Plan

Amphitheater Public Schools, AZ

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457(b) DEFERRED COMPENSATION PLAN FOR GOVERNMENTAL EMPLOYERS

The Employer whose name and signature appear on the Adoption Agreement for the 457(b) Deferred Compensation Plan for Governmental Employers (the "Adoption Agreement") hereby establishes a deferred compensation plan (the "Plan") which is established pursuant to applicable state law and is intended to comply with Section 457(b) of the Internal Revenue Code of 1986, as amended, and any regulations issued thereunder. The Plan shall include the provisions set forth in this Plan document, the Adoption Agreement and any contracts, custodial agreements, and trusts as may be established or maintained by a provider of Investment Products available hereunder.

ARTICLE I - DEFINITIONS

As used in this Plan, the specific words and phrases shall have the following meanings, unless a different meaning is plainly required by the context and the following rules of interpretation shall apply in reading this instrument. The masculine pronoun shall include the feminine and the singular shall include the plural. All references herein to specific Sections shall mean Sections of this document unless otherwise qualified.

- 1.1 Account means the separate account or accounts established and maintained by the Trustee for each Participant under the terms of the Plan. 457 Rollover Account means that portion of a Participant's Account attributable to Rollover Contributions received from another eligible 457(b) deferred compensation plan sponsored by a Governmental Employer.
- 1.2 Administrator means Employer or the alternate Administrator appointed under Section 6.2 of the Plan to act as such under this Plan.
- 1.3 Adoption Agreement means the separate agreement as executed by Employer and which sets forth the elective provisions of the Plan. The Adoption Agreement shall be included as part of the Plan.
- 1.4 Beneficiary means the person(s), trust(s), or other entities designated by the Participant to receive the balance of the Participant's Accounts, if any, upon the Participant's death. Elections made by a Participant hereunder shall be binding on any such Beneficiary(s).
- 1.5 Code means the Internal Revenue Code of 1986, as amended and any regulations issued thereunder.
- 1.6 Contribution means all contributions made hereunder by or for the benefit of each Participant and deposited into each Participant's Account. A Rollover Contribution means a contribution of an eligible rollover distribution made by a Participant from another eligible deferred compensation 457(b) plan sponsored by a Governmental Employer.
- 1.7 Eligible Individual means any individual who qualifies for eligibility in accordance with the applicable provisions of the Adoption Agreement and under Section 2.1 of the Plan. Individuals who do not perform services for Employer may not defer compensation under the Plan.
- 1.8 Employee means any individual in the employ of the Employer who is designated on the payroll records of the Employer as a common law employee. Even if a subsequent determination by a court of competent jurisdiction or governmental agency reclassifies any individual as a common law employee, such individual shall be excluded from "Employee" status hereunder. "Leased employees" described in Code Section 414(n) of the Code shall not be included as Employees hereunder.
- 1.9 Employer means the governmental organization identified as Employer in the Adoption Agreement, any successor thereto that elects to maintain this Plan, and any predecessor which has maintained this Plan.
- 1.10 Governmental Employer means any entity described in Section 457(e) (1) (A) of the Code.
- 1.11 Includible Compensation means the remuneration paid by Employer to an Eligible Individual that qualifies as "includible compensation" under Section 457(e) (5) of the Code. Beginning in 2009 and thereafter, such term also includes any "differential pay" that may be received from the Employer while performing qualified military service under Code Section 414(u).

- 1.12 Independent Contractor means any person receiving cash remuneration from the Employer for services rendered to Employer pursuant to one or more contracts, if such person is not an Employee.
- 1.13 Investment Product means any investment product specifically approved and authorized by Employer to be offered to Participants under the Plan, provided that such products are held in an annuity contract, custodial account or trust that qualifies as a trust to hold 457(b) plan assets under Section 401(f) of the Code.
- 1.14 Participant means any Eligible Individual who has executed a Participation Agreement and has not become ineligible to participate in the Plan and any Employee for whom the Employer has made a direct contribution to the Plan. An "Active Participant" is any Participant who is currently deferring compensation under a Participation Agreement or who is receiving direct Employer contributions to his Account. An "Inactive Participant" is any former Participant who is not currently deferring compensation hereunder or who is not receiving direct Employer contributions to his Account.
- 1.15 Participation Agreement means an agreement by which an Eligible Individual agrees to defer current remuneration otherwise payable from the Employer into the Plan and the Employer agrees to deposit such deferred amount into the Plan in accordance with the terms of the agreement.
- 1.16 Plan means this 457(b) Deferred Compensation Plan for Governmental Employers and the related Adoption Agreement as executed by the Employer, along with any custodial account, Trust or annuity contract as may be established or maintained by a provider of Investment Products available hereunder.
- 1.17 Trust means any trust established under applicable state law by the Employer to hold Participant Accounts hereunder as provided in Article IV, and any other account, contract or instrument that qualifies as a trust under the terms of Section 401(f) of the Code.
- 1.18 Trustee means the person, entity or organization, if any, designated to act as Trustee of the Plan in the Adoption Agreement. If the assets of the Plan are held in annuity contracts and/or custodial accounts, then the issuer of such annuity contracts and/or custodial accounts must qualify under Sections 457(g) and 401(f) of the Code. The term "Trustee" shall include an insurer issuing such annuity contracts and/or the issuer of such custodial accounts

ARTICLE II - ELIGIBLE INDIVIDUALS

- 2.1 ELIGIBILITY. The Administrator shall determine the eligibility of each Eligible Individual based upon the eligibility requirements selected in the Adoption Agreement. Such determination shall be conclusive and binding upon all persons.
- 2.2 PARTICIPATION. An Eligible Individual may participate and become an Active Participant by executing a valid Participation Agreement and delivering such agreement to Employer. The Participation Agreement shall specify:
- (a) the amount of the Active Participant's Includible Compensation which the Employer and the Active Participant agree to defer, and
 - (b) the date as of which reduction and deferral of compensation pursuant to the Participation Agreement shall begin, which date shall be as early as administratively practicable but not earlier than the first day of the first calendar month following the execution of the Participation Agreement.

If, in the Adoption Agreement, Employer has elected to make an Employer contribution to the Plan, any individual who is eligible to receive the contribution shall be deemed to be an Active Participant for all purposes of the Plan as of the first day of the first calendar month following satisfaction of the eligibility requirements for receiving the Employer contribution, provided that all required administrative forms necessary to open an Account and have such amounts contributed into an Investment Product have been executed by such date. The participation date shall default to the first day of each succeeding calendar month until all required forms are received by Employer or designated Administrator.

- 2.3 TERMINATION OF ELIGIBILITY. In the event a Participant ceases to be an Eligible Individual, the Participant shall become an Inactive Participant and all Contributions shall immediately cease.
- 2.4 AMENDMENTS OF PARTICIPATION AGREEMENTS. Participation Agreements are irrevocable as to all amounts previously deferred under the Participation Agreement. A Participant may modify a Participation Agreement, on forms approved by the Administrator, to do any of the following:
- (a) change the investment of any Contributions to the Account;
 - (b) terminate the election to be an Active Participant; and
 - (c) change prospectively the amount of compensation to be deferred.

An amendment or termination shall be effective as soon as administratively practicable, but not earlier than the first day of the following calendar month.

ARTICLE III - CONTRIBUTIONS AND ALLOCATIONS

- 3.1 CONTRIBUTIONS. Except as provided in Sections 3.2 and 3.3, the maximum amount that may be contributed into the Plan by or on behalf of a Participant during any taxable year shall not exceed the limits of Section 457(b)(2) of the Code. Subject to such limitation, nothing herein shall prohibit an Employer from making Contributions into the Plan for a Participant in accordance with the terms of the Adoption Agreement. If, in any taxable year, the total amount contributed by or on behalf of a Participant exceeds the limits of Section 457(b)(2) of the Code, (as modified by Section 3.2 and 3.3 of the Plan) then any such excess, plus earnings thereon, shall be distributed from the applicable Investment Products as soon as practicable upon discovery of the excess contribution.
- 3.2 FINAL THREE (3) YEARS OF SERVICE CATCH-UP DEFERRAL LIMIT. If elected by the Employer in the Adoption Agreement, an Active Participant may in any of his final three (3) years of employment, ending before the year in which the Participant attains Normal Retirement Age as defined in the Adoption Agreement, elect to defer from compensation an amount not exceeding the limits of Section 457(b)(3) of the Code, and applicable regulations issued thereunder. For purposes of this Section 3.2, a prior year shall be taken into account only if such year began after December 31, 1978, and the Participant was eligible to participate in the Plan during all or a portion of the prior year.
- 3.3 OLDER WORKER CATCH-UP CONTRIBUTION LIMIT. A Participant who has attained age 50 on or before the last day of the calendar year may elect to increase his deferrals in accordance with the limits of Section 414(v) of the Code. Such contributions are in addition to the limitations of Section 457(b)(2) of the Code, but may not be used in any taxable year in which the special limits described in Section 3.2 of the Plan provide for a larger contribution limit.
- 3.4 TRANSFERS FROM OTHER 457 PLANS. This Plan shall accept transfers from Participant accounts held in a previous Governmental Employer's eligible 457(b) deferred compensation plan.
- 3.5 ROLLOVERS INTO THE PLAN. Distributions to Participants from a previous Governmental Employer's eligible 457(b) deferred compensation plan may be rolled into this Plan provided such distributions qualify as "eligible rollover distributions," as defined in Section 402(c)(4) of the Code. Such amounts shall be allocated to the Participant's 457 Rollover Account.

ARTICLE IV - INVESTMENTS

- 4.1 PARTICIPANT DIRECTION. Participants shall provide investment instructions, on such forms as may be required by the Administrator, for Contributions to be deposited into Investment Products as directed by each Participant. If a Participant fails to instruct the Administrator where to invest Contributions made to his Account, or if instructions are not clear, complete or understandable, as determined solely by the Administrator, then any Contributions shall follow the default provisions as selected by the Employer in the Adoption Agreement.
- 4.2 AUTHORIZED INVESTMENT PRODUCTS. Employer shall authorize Investment Products in which Participants may invest their Accounts, provided that any authorized Investment Product must be held for the exclusive benefit of Participants and their Beneficiaries in a Trust or alternate funding vehicle that qualifies as a Trust pursuant to Section 1.17 of the Plan. Accounts may only be invested in Investment Products approved and authorized by the Employer.
- 4.3 ESTABLISHMENT OF ACCOUNTS. Appropriate Accounts shall be established for each Participant. These Accounts shall reflect the Contributions, if any, made for each Participant, and investment earnings or losses of the Investment Products utilized by the Participant to reflect any appreciation or depreciation in the fair market value of the Participants' Accounts. The fair market value of each Participant's Account shall represent the fair market value of all assets held, plus deposits and accrued earnings, less accrued expenses and proper charges against each Participant's Account as of each valuation. Each Account shall be valued at least once per calendar year.
- 4.4 TRUST REQUIREMENT. Accounts shall be held in trust for the exclusive benefit of Participants in a Trust or alternative instrument that qualifies as a trust under Section 401(f) of the Code. Any investment made hereunder shall be subject to the terms and conditions of the Trust to the extent such terms are not inconsistent with the terms of the Plan or applicable law (including regulations and other guidance provided thereunder). In such instance, the terms of the Plan shall control.
- 4.5 ADMINISTRATION OF INVESTMENTS. Contributions made by or on behalf of Participants (including Inactive Participants) shall continue to be invested in the manner selected by the Participant until the Administrator has received new investment instructions. Unless otherwise restricted by the Trust or alternate instrument, a designation filed by a Participant changing his investment option may apply to investment of future Contributions and/or to amounts already accumulated in his Account as the Participant elects. A Participant may change his investment options only as permitted under the terms of the applicable Trust or alternate instrument.
- 4.6 CONDITIONS OF INVESTMENTS. Amounts allocated to each Participant's Account shall be invested in the Investment Product selected by the Participant, or, if selected by Employer in the Adoption Agreement, in accordance with the default investment(s) so indicated. Participants invest their Accounts subject to the terms and conditions of any agreements governing the Investment Product in which their Accounts are invested. The terms and conditions of such Investment Products are considered part of, and shall be construed as having been incorporated into this Plan except to the extent any provision of an Investment Product agreement is inconsistent with the terms of the Plan or applicable law (including regulations and other guidance provided thereunder). In such instance, the terms of the Plan shall control.

ARTICLE V - DISTRIBUTIONS AND TRANSFERS OF BENEFITS

- 5.1 DISTRIBUTIONS UNDER THE PLAN. Except as provided in Section 5.2, a Participant's Account may not be distributed to a Participant (or, if applicable, the Beneficiary) until one of the following events has occurred:

- (a) the Participant has severed employment with the Employer,
- (b) the Participant has attained age 70-1/2,
- (c) the Participant has died, or
- (d) the Plan has been terminated by Employer.

Notwithstanding the above, a Participant who is on active duty for a period of at least 30 days while performing qualified military service and who is receiving differential pay from the Employer while on active duty may elect to receive a distribution of the Participant's deferrals into the Plan as permitted under Code Section 414(u). If a distribution of the Participant's deferrals is taken, then no deferrals into the Plan may be made by the Participant for a period of at least six (6) months from the date of the distribution.

- 5.2 UNFORESEEABLE EMERGENCY WITHDRAWALS. This Section shall apply only if selected by the Employer in the Adoption Agreement and if permitted by the Investment Products in which a Participant's Account is invested. Notwithstanding Section 5.1, a Participant may request an Unforeseeable Emergency withdrawal by submitting that request, in writing on the Plan's approved form, to the Administrator. After considering all information provided by the Participant, the Administrator shall approve or deny the request. If a request for an Unforeseeable Emergency withdrawal is approved, the Administrator shall direct the provider of the applicable Investment Products to distribute the approved amount from the Participant's Account. For purposes of this Section, "Unforeseeable Emergency" is defined in Section 457(d) (1) (A) (iii) and the regulations issued thereunder.
- 5.3 TIMING OF DISTRIBUTIONS. Upon the occurrence of an event described in Section 5.1, but no later than the mandatory distribution date determined under Section 5.4, a Participant may elect any benefit distribution option as permitted by the Investment Products in which the Participant's Account is invested. Such an election will be effective only if made on forms provided by the Administrator and received in the office of the Administrator in accordance with such procedures as the Administrator may establish. If a Participant fails to make an election as to the form or timing of his distribution, the Participant's benefit will be paid in installments calculated by the providers of the Investment Products to satisfy the requirements of Section 5.4.
- 5.4 MANDATORY DISTRIBUTION. Notwithstanding any other provision of this Plan, a Participant's Account shall begin distribution by April 1 of the calendar year following the calendar year in which occurs the later of the Participant's attainment of age 70-1/2 or severance from employment, unless a later date is authorized under the Code or applicable regulations. The Participant's Account shall then be distributed (both in determining the timing of subsequent distributions and the amount of all required distributions) in a manner consistent with Sections 457(d) and 401(a) (9) of the Code and in conformity with the requirements of Treas. Regs. 1.401(a) (9)-1 through 1.401(a) (9)-9. For the calendar year 2009 only, a Participant who would have been required to receive a distribution under this Section 5.4 but for the enactment of WRERA ("2009" mandatory distribution"), and who would have satisfied that requirement by receiving a distribution from the Plan will not receive a 2009 mandatory distribution. However, the Participant may affirmatively elect to receive such amount in 2009 which shall not be a mandatory distribution under this Section of the Plan.
- 5.5 DEATH DISTRIBUTIONS. A Participant's Beneficiary shall be entitled to receive the Participant's Account balance in the event of the Participant's death. A Beneficiary entitled to payment hereunder may elect in what form distributions shall be made, provided that any such distribution form is offered at that time and satisfies the requirements of Sections 457(d) and 401(a)(9) of the Code and regulations applicable thereunder. If a Participant fails to validly designate a Beneficiary prior to his death, or the Beneficiary is not alive at the time of the Participant's death, the provisions of Section 5.14 shall determine who the Participant's Beneficiary shall be for purposes of this Section 5.5. Distributions due to death are payable when the Administrator has received satisfactory proof of the Participant's death, all required tax information and any other required forms.

5.6 DEATH BEFORE DISTRIBUTIONS HAVE BEGUN. If the Participant dies before Mandatory Distributions (under Section 5.4) have begun, the Participant's Account shall either be totally distributed no later than the fifth year following the year of the Participant's death, or over a period not exceeding the joint and last survivor life expectancies of the Participant and Designated Beneficiary, provided that the distributions begin no later than the last day of the calendar year following the year in which the Participant died. If the sole Designated Beneficiary is the Participant's surviving Spouse, then lifetime distributions must begin by the later of the last day of the calendar year following the year in which the Participant died, or the last day of the calendar year in which the Participant would have attained age 70-1/2. If there is no Designated Beneficiary named by September 30 of the calendar year following the year in which the Participant died, the Participant's entire Account shall be distributed no later than the fifth year following the year of the Participant's death.

5.7 DEATH FOLLOWING THE COMMENCEMENT OF BENEFITS. If the Participant dies on or after Mandatory Distributions (under Section 5.4) must have begun, the remaining Account balance must be distributed at least as rapidly as was payable under the Mandatory Distributions requirements.

5.8 DISTRIBUTION FOR MINOR BENEFICIARY. If a distribution is payable to a legal minor, the Administrator may direct that such distribution be paid to the legal guardian, or if none has been duly appointed, then to any of the following:

- (a) any parent of the minor Beneficiary, or
- (b) the custodian for the minor Beneficiary under a Uniform Gift/Transfer to Minors Act, if such is permitted by the laws of the state in which Beneficiary resides.

Such a payment to the legal guardian, custodian or parent of a minor Beneficiary shall fully discharge the provider of the Investment Products, the Administrator, Employer, and Plan from further liability on account thereof.

5.9 LOCATION OF PARTICIPANT OR BENEFICIARY UNKNOWN. If all, or any portion, of the distribution payable to a Participant or his Beneficiary from the Plan remains unpaid solely by reason of the inability of the Administrator to locate such Participant or his Beneficiary, the amount so distributable shall be treated as a forfeiture pursuant to the Plan and maintained in a forfeiture account under the Plan. In the event a Participant or Beneficiary is located subsequent to his benefit being held in such account, such benefit shall be restored, including any applicable interest, and paid, to the Participant or Beneficiary, in accordance with the terms of the Plan.

5.10 ROLLOVERS FROM THE PLAN. Notwithstanding any provision of the Plan to the contrary that would otherwise limit a Distributee's election under this Section 5.10, a Distributee may elect to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee as a Direct Rollover. The Distributee shall, in the time and manner prescribed by the Administrator, specify the amount to be rolled over and the Eligible Retirement Plan to receive the rollover. Any portion of a distribution that is not rolled over shall be distributed to the Participant. For purposes of this Section 5.10, the following terms have the following meanings:

- (a) "Direct Rollover" means a payment by the Plan to the Eligible Retirement Plan specified by the Distributee.
- (b) "Distributee" means an Employee or former Employee entitled to receive a distribution hereunder. In addition, an Employee's surviving spousal Beneficiary and an Employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code, are Distributees with regard to the interest of the spouse or former spouse.
- (c) "Eligible Retirement Plan" means an eligible retirement plan described in Section 402(c) (8) (B) of the Code.

(d) "Eligible Rollover Distribution" means any distribution to a Distributee that qualifies as such under Section 402(c) (4) of the Code. Amounts required to be distributed under Section 401(a) (9) of the Code are not Eligible Rollover Distributions and amounts paid under Section 5.4 of this Plan are not Eligible Rollover Distributions hereunder.

- 5.11 PURCHASING SERVICE CREDITS UNDER A STATE OR LOCAL RETIREMENT SYSTEM. If permitted under the Investment Products in which a Participant's Account is invested, a Participant may direct the Administrator to transfer amounts in his Account in accordance with Section 457(e) (17) of the Code to a state or local retirement system for the purpose of purchasing past years of service credits under the system or to repay amounts previously cashed out under the system.
- 5.12 TRANSFERS TO OTHER 457 PLANS. Prior to a Participant's severance from service, transfers may be made from the Plan to another 457(b) plan sponsored by a Governmental Employer only if all of the assets of the Plan are being transferred to another 457(b) plan sponsored by the Employer, or if the Plan's assets are being transferred to another governmental plan within the same state. On or after a severance from service, a Participant may transfer his Account to the 457(b) plan of another Governmental Employer for whom the individual is currently performing services. Notwithstanding the preceding, transfers may only occur to the extent permitted by the Investment Products in which a Participant's Accounts are invested and subject to any terms thereof and provided such other plan provides or is able to provide for the acceptance of such transferred amounts. The Participant's election to transfer must be made prior to the date benefits would otherwise become payable pursuant to the terms of this Plan.
- 5.13 DISTRIBUTION TO ALTERNATE PAYEE. Notwithstanding any other provision herein, the Administrator may, with the Participant's consent, authorize an immediate distribution to any alternate payee named under a domestic relations order which has been issued by a court of competent jurisdiction and determined by the Administrator to be a qualified domestic relations order under Section 414(p) of the Code.
- 5.14 NO NAMED BENEFICIARY. If no valid Beneficiary designation is on file on the date of the Participant's death, or if such designation is not valid or effective for any reason, then a deceased Participant shall be deemed to have designated his legal spouse. If the Participant has no spouse, then his Beneficiary shall first be deemed to be the Participant's children who survive the Participant, in equal shares, then if the Participant has no surviving children, the Participant's estate.
- 5.15 NONSPOUSAL BENEFICIARY. Effective July 1, 2007, a nonspouse beneficiary receiving a distribution from the Plan which would be an Eligible Rollover Distribution (as defined in Section 5.10) if the recipient were a Distributee, may rollover an Eligible Rollover Distribution to an individual retirement account, provided such account is treated as an inherited IRA with respect to such nonspouse beneficiary.
- 5.16 BENEFICIARY WRERA RIGHTS. For the calendar year 2009 only, a Beneficiary who would have been required to receive a mandatory distribution under section 401(a)(9) of the Code but for the enactment of WRERA will not receive a 2009 mandatory distribution unless the Beneficiary elects to receive such amount.

ARTICLE VI - ADMINISTRATION

- 6.1 AUTHORITY OF EMPLOYER. Employer has full authority to interpret and construe the Plan in a manner consistent with its terms and with Section 457 of the Code and to establish practices and procedures conforming to those provisions. In all such cases, the Employer's determination shall be final and conclusive upon all persons. It is recognized that unusual circumstances may occur and questions may arise that are not specifically covered by any provision of the Plan, and Employer shall have the right to resolve all such questions.

- 6.2 APPOINTMENT OF ADMINISTRATOR. Employer shall act as Administrator of the Plan, however, Employer is authorized to appoint an alternate Administrator and to change an alternate Administrator as he deems necessary for the proper administration of the Plan and to assure that the Plan is being operated for the exclusive benefit of the Participants and their Beneficiaries in accordance with the terms of the Plan and the Code. Employer may appoint a committee ("Committee") of one or more Employees or local public officials to serve as the Administrator and to discharge the Administrator's responsibilities under the Plan. The Employer may remove a Committee member for any reason by giving such member ten (10) days written notice and may thereafter fill any vacancy thus created.
- 6.3 DELEGATION OF RESPONSIBILITIES. The Administrator may delegate responsibilities to other qualified parties, provided that the Administrator shall remain responsible for the quality of the performance of each such delegated duty.
- 6.4 ADVISORS. The Administrator may appoint and employ such agents, attorneys, actuaries, accountants, auditors, investment counsel, and clerical assistants, and other persons as the Administrator deems necessary or desirable in connection with the administration of this Plan.
- 6.5 POWERS AND DUTIES OF ADMINISTRATOR. The primary responsibility of the Administrator is to administer the Plan for the benefit of the Participants and their Beneficiaries, in accordance with applicable laws and subject to the specific terms of the Plan. The Administrator shall have the power and absolute discretion to construe the terms of the Plan and determine all questions arising in connection with the administration, interpretation, and application of the Plan. Any such determination by the Administrator shall be conclusive and binding upon all persons. The Administrator may establish procedures, correct any defect, supply any information, or reconcile any inconsistency in such manner and to such extent as shall be deemed necessary or advisable to carry out the purpose of the Plan; provided, however, that any procedure, discretionary act, interpretation or construction shall be done in a nondiscriminatory manner based upon uniform principles consistently applied and shall be consistent with the intent that the Plan shall continue to be deemed a qualified plan under the terms of Section 457(b) of the Code. The Administrator shall have all powers necessary or appropriate to accomplish his duties under this Plan. The Administrator shall be charged with the duties of the general administration of the Plan, including, but not limited to, the following:
- (a) the discretion to determine all questions relating to the eligibility of Employees and Independent Contractors to participate or remain a Participant hereunder and to receive benefits under the Plan;
 - (b) to determine the amounts to be contributed to each Participant's Account;
 - (c) to authorize and direct the providers of Investment Products with respect to all disbursements to which a Participant is entitled under the Plan;
 - (d) to maintain all necessary records for the administration of the Plan;
 - (e) to maintain practices and procedures necessary to administer the Plan as are consistent with the terms hereof; and
 - (f) to assist any Participant regarding his rights, benefits, or elections available under the Plan.
- 6.6 INFORMATION FROM EMPLOYER. To enable the Administrator to perform his functions, Employer shall supply the necessary information to the Administrator on a timely basis regarding the Participants in the Plan, including but not limited to compensation, date of hire, date of death, disability, or termination of employment, and such other pertinent facts as the Administrator may require. The Administrator may rely upon such information as is supplied by Employer and shall have no duty or responsibility to verify such information.

- 6.7 PAYMENT OF EXPENSES. Expenses of the Plan may be paid by Employer, Participants, and/or providers of Investment Products, as determined from time to time by Employer. Such expenses shall include any expenses incident to the functioning of the Administrator, including, but not limited to, fees of accountants, counsel, and other specialists and their agents, and other costs of administering the Plan. Notwithstanding the preceding, any expenses or fees related to and charged under Investment Products shall be paid by each Participant in accordance with the terms of the Investment Products in which each Participant's Account is invested.

ARTICLE VII - MISCELLANEOUS

- 7.1 EXCLUSIVE BENEFIT RULE. All amounts held under the Plan, all property and rights which may be purchased with such amounts and all income attributable to such amounts, property or rights shall be held in trust (or custodial account or annuity contract described in Section 401(f) of the Code) for the exclusive benefit of Participants and their Beneficiaries. All such amounts shall not be subject to the claims of the Employer's creditors.
- 7.2 PARTICIPANT RIGHTS. This Plan shall not be deemed to constitute a contract between the Employer and any Participant or to be a consideration or an inducement for the employment of any Participant, Employee, or Independent Contractor. Nothing contained in this Plan shall be deemed to give any Participant, Employee, or Independent Contractor the right to be retained in the service of the Employer or to interfere with the right of the Employer to discharge any Participant, Employee or Independent Contractor at any time regardless of the effect which such discharge shall have upon him as a Participant of this Plan.
- 7.3 ALIENATION. Subject to applicable state law and Section 401(g) of the Code, no benefit which shall be payable to any Participant or Beneficiary shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or charge, and any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, or charge the same shall be void; and no such benefit shall in any manner be liable for, or subject to, the debts, contracts, liabilities, engagements, or torts of any such person, nor shall be subject to attachment or legal process for or against such person, and the same shall not be recognized except to such extent as may be required by law.
- 7.4 STATE LAW. This Plan shall be construed and enforced according to the state and local laws of the state in which the Employer's principal office is located.
- 7.5 RECEIPT AND RELEASE FOR PAYMENTS. Any payment to any Participant, his legal representative, Beneficiary, or to any guardian or committee appointed for such Participant or Beneficiary in accordance with the provisions of this Plan, shall, to the extent thereof, be in full satisfaction of all claims hereunder against the provider of an Investment Product, Administrator and Employer.
- 7.6 QUALIFIED MILITARY SERVICE BENEFITS. Notwithstanding any provision of the Plan, any Participant whose employment is interrupted by qualified uniformed service in the US military under section 414(u) of the Code shall be entitled to all rights, benefits and protections afforded to such individuals thereunder, and such provisions are incorporated into this Plan. Uniformed services by any individual shall be determined as described as described in section 3401(h)(2)(A) of the Code.
- 7.7 PRE-1979 ACCOUNTS. Any amounts held by the Employer that can be identified as resulting from deferrals made by a Participant before January 1, 1979 shall be held under this Plan until the latest of (a) the Effective Date; (b) the date on which the Participant elects to have this Plan apply to such amount; or (c) the date on which such Participant exercises any right or power available under this Plan but not under the Plan agreement pursuant to which such deferral was made. All such persons who were Participants in any prior plan, who exercise any such right or privilege and who have not yet received a distribution of the amounts to which they are entitled under such prior plan shall be deemed to be Participants under this Plan for all purposes.

7.8 LOANS. If authorized in the Adoption Agreement, loans shall be permitted under the Plan to the extent permitted by and in accordance with the Investment Product agreements controlling the Account assets from which the loan is made and by which the loan will be secured. An Employee who has previously defaulted on a loan from any retirement plan or deferred compensation arrangement sponsored by the Employer and who has not repaid the loan, in full, shall not be permitted to take a loan from his Account under the Plan. The following limit shall apply to any loan made under the Plan unless the terms of the applicable Investment Product(s) are more restrictive:

(a) Maximum loan amount. No loan to a Participant under the Plan may exceed the lesser of (1) or (2) below:

(1) \$50,000, reduced by the greater of:

- (A) the outstanding balance on any loan from the Plan to the Participant on the date the loan is made or
- (B) the highest outstanding balance on loans from the Plan to the Participant during the one-year period ending on the day before the date the loan is approved by the Administrator (not taking into account any payments made during such one-year period).

(2) the greater of one half of the value of the Participant's vested Account (as of the date immediately preceding the date on which such loan is approved by the Administrator) or \$10,000.

For purposes of this Section 7.8, any loan from any other plan maintained by the Employer and any related organization shall be treated as if it were a loan made from the Plan, and the Participant's vested interest under any such other plan shall be considered a vested interest under this Plan; provided, however, that the provisions of this Section shall not be applied so as to allow the amount of a loan to exceed the amount that would otherwise be permitted in the absence of this section.

(b) Loan Repayments for Employees in Military Service. Notwithstanding any other provision of the Plan or any Investment Product agreement, loan repayments by eligible uniformed services personnel may be suspended as permitted under section 404(u)(4) of the Code and the terms of any loan shall be modified to conform to the requirements of the Uniformed Services Employment and Reemployment Rights Act.

7.9 INCORPORATION OF INVESTMENT PRODUCT AGREEMENTS. The Plan, together with the Adoption Agreement and any Investment Product agreements governing Participant Accounts, are intended to satisfy the requirements of section 457(b) of the Code and the Income Tax Regulations thereunder. Terms and conditions of the Adoption Agreement and applicable agreements are hereby incorporated by reference into the Plan, excluding those terms that are inconsistent with the Plan or section 457(b) of the Code. In such event, the agreements shall be interpreted, to the extent possible, in a manner to conform to the Plan and applicable requirements.

7.10 CONSTRUCTION. It is intended that this Plan qualify under section 457(b) of the Code. In accordance with such intent, this Plan shall be construed and administered in a manner consistent with the purpose and all applicable laws and regulations.

7.11 STATE LAW. The Plan shall be construed, administered and governed in all respects in accordance with the laws of the State of the Employer's principal address as indicated on the Adoption Agreement to the extent such laws are not superseded by federal law. If any provision herein is held by a court of competent jurisdiction to be invalid or unenforceable, the remaining provision hereof shall continue to be fully effective.

ARTICLE VIII - AMENDMENT AND TERMINATION

- 8.1 AMENDMENT. The Employer has the right at any time to amend this Plan, provided that no amendment to the Plan shall be effective if it authorizes or permits any part of the Investment Product (other than such part as is required to pay taxes, investment charges and administration expenses) to be used for or diverted to any purpose other than for the exclusive benefit of the Participants or their Beneficiaries or estates; or causes any reduction in the amount credited to the account of any Participant; or causes or permits any portion of the Investment Product to revert to or become property of the Employer. Any such amendment shall become effective as provided therein upon its execution, except that any amendment which conforms the Plan to the requirements of any applicable law or regulation shall be effective as of the date required for continued qualification under Section 457(b) of the Code.
- 8.2 TERMINATION. The Employer has the right at any time to terminate the Plan by notifying all Active Participants and providers of Investment Products hereunder with written notice of such termination. Upon the complete and total termination of the Plan, the Employer shall direct the distribution of the assets to Participants in a manner which is consistent with and satisfies the provisions of Article V.

ARTICLE IX - ROTH CONTRIBUTIONS

- 9.1 GENERAL APPLICATION. This Article IX shall apply only if Employer has elected to permit Roth 457(b) Contributions under the Plan as indicated on the Adoption Agreement.
- 9.2 ROTH 457(b) CONTRIBUTIONS. Participants may make Roth 457(b) Contributions to their Accounts under the Plan if authorized by the Employer on the Adoption Agreement. Unless otherwise provided, such contributions shall be treated as deferrals of Includible Compensation and are therefore subject to the requirements and limitations imposed by Section 457(b)(2) of the Code. A Participant's Roth 457(b) Contributions shall be allocated to a separate account maintained for such deferrals as described in Section 9.3.
- 9.3 SEPARATE ACCOUNTING REQUIREMENTS. Contributions and withdrawals of Roth 457(b) Contributions, and earnings or losses thereon, shall be credited and debited to each Participant's Account and shall be separately accounted for under each Employee's Account. Gains, losses, and other credits or charges shall be separately allocated on a reasonable and consistent basis for each Participant's Roth 457(b) Contributions. Except as provided in Section 9.6, no contributions other than Roth 457(b) Contributions and properly attributable earnings may be credited to each Participant's Roth subaccount.
- 9.4 DEPOSIT REQUIREMENTS. Roth 457(b) Contributions shall be deposited with the Investment Products selected by Participant as soon as practicable in accordance with Article IV of the Plan, unless an earlier date is required under state law.
- 9.5 DIRECT ROTH ROLLOVERS FROM THE PLAN. Notwithstanding Section 5.10 of the Plan, Participants may only make a direct rollover of a distribution of Roth 457(b) Contributions (and earnings thereon) to another governmental 457(b) plan with Roth 457(b) Contribution features, to a Roth 401(k) plan with Roth contribution features, to a Roth 403(b) plan with Roth contribution features or to a Roth IRA described in Section 408A of the Code, and only to the extent the Rollover is permitted under the rules of section 402(c) of the Code.
- 9.6 ROTH ROLLOVERS INTO THE PLAN. In conformity with Section 3.5 of the Plan, and unless otherwise indicated on the Adoption Agreement, the Plan shall only accept direct rollovers of Roth 457(b) Contributions from another governmental 457(b) plan with Roth contribution features, provided that the Investment Products utilized by the Participant will accept Roth 457(b) rollovers. Direct rollovers shall only be permitted if the transmitting plan satisfies the conditions set forth in Section 402A(e)(1) of the Code and only to the extent the rollover is permitted under the rules of Section 402(c) of the Code.

- 9.7 CORRECTION OF EXCESS CONTRIBUTIONS. Contributions made in excess of the applicable annual limitations shall be corrected by first distributing the amount of Roth 457(b) contributions (plus earnings thereon) made during the Plan Year needed to correct the excess and then by distributing a Participant's pre-tax contributions (plus earnings thereon). However, if a highly compensated employee (as defined in Section 414(q) of the Code) experiences an Excess Deferral in any Plan Year, he may designate the extent to which the excess amount is composed of pre-tax contributions and excess Roth 457(b) Contributions, provided that both types of contributions were made by the Employee during the applicable Plan Year. If the highly compensated employee does not designate which type of contributions are to be distributed, then excess pre-tax contributions shall be distributed first, followed by excess Roth 457(b) Contributions.
- 9.8 DEFINITION OF ROTH 457(b) CONTRIBUTIONS. A Roth 457(b) Contribution is an Employee contribution that is designated irrevocably by the Employee on his enrollment form to be a Roth 457(b) Contribution and is treated by the Employer as includible in the Employee's income.
- 9.9 ROTH CAVEAT. Employer, Administrator and providers of Annuity Contracts and Custodial Accounts shall utilize good faith compliance efforts to conform to the requirements applicable to Roth 457(b) Contributions based on applicable IRS guidance related to Roth 457(b) Contributions. The Plan shall be administered and interpreted in the manner necessary to ensure compliance with such guidance.