

Loxahatchee River District

Water Reclamation | Environmental Education | River Restoration

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D. Albrey Arrington, Ph.D., Executive Director

MEMORANDUM

TO: GOVERNING BOARD
FROM: D. ALBREY ARRINGTON, Ph.D.
DATE: AUGUST 12, 2015
SUBJECT: RETIREMENT PLAN UPDATE

The District provides retirement benefits to staff through a defined contribution retirement plan known as the Loxahatchee River Environmental Control District Money Purchase Plan and Trust (the "Plan"). The Plan was first effective January 1, 1980, and has been revised and updated as necessary, with the most recent revisions approved by the Governing Board on April 17, 2014.

The Plan establishes an Administrative Committee to serve as the Plan Administrator with the responsibility to administer the Plan for the exclusive benefit of the Participants and their Beneficiaries, in accordance with the terms of the Plan. The Administrative Committee consists of the following persons: LRD Board Chairman (Steve Rockoff); LRD Trustee (Harvey Silverman); LRD Executive Director (Albrey Arrington); LRD Director of Administrative Services (Anna Williams); and an LRD Employee Representative (George Vazquez). Bonni Jensen (Klausner, Kaufman, Jensen & Levinson) is legal counsel to the Plan, and she works with the Administrative Committee to continually evaluate the plan and consider revisions necessary to keep the Plan in compliance with ever-changing regulations.

After meeting in July and August and with much discussion, and careful deliberation, the Administrative Committee unanimously passed the following motion "That the Loxahatchee River District Administrative Committee, as Administrator, recommends to change the date when an employee can direct their investments to immediately upon their initial contribution to the plan, to implement a Qualified Default Investment Alternative, and recommends the American Funds Target Date Retirement Series as the Qualified Default Investment Alternative for the Loxahatchee River Environmental Control District Money Purchase Plan and Trust."

These revisions were recommended for the following reasons:

1. "to change the date when an employee can direct their investments to immediately upon their initial contribution to the plan" – Presently, an employee is not able to direct their investments until they are fully vested in the Plan (a full two years following their initial contribution to the plan). During this two year period, the District invests the employee's funds in a Money Market fund. By revising this component of the plan, employees will be free to direct the investment of their retirement account balance on their first contribution to the plan. This revision is designed to minimize the District's risk associated with directing investments of our employees' funds.
2. "to implement a Qualified Default Investment Alternative" – Employee Retirement Income Security Act (ERISA) provides a safe harbor (i.e., limits liability) for plan fiduciaries investing participant assets in certain types of default investment alternatives in the absence of participant investment direction. While LRD is not technically under ERISA, our intent is to follow the spirit of ERISA. For more information regarding Qualified Default Investment Alternatives, please see <http://www.invesco.com/pdf/QDIA-BRO-1.pdf>

Gordon M. Boggie
Board Member

Dr. Matt H. Rostock
Board Member

Stephen B. Rockoff
Chairman

Harvey M. Silverman
Board Member

James D. Snyder
Board Member

3. “recommends the American Funds Target Date Retirement Series as the Qualified Default Investment Alternative” – Following the ERISA guidance, target date funds are explicitly acceptable as a Qualified Default Investment Alternative. Ed Thomasco, Financial Advisor, Morgan Stanley Wealth Management evaluated three of the top performing target date funds based on Morningstar’s comprehensive 2014 Target-Date Series Research Paper ([click here for the research paper](#)) and that are available through Morgan Stanley. Based on Mr. Thomasco’s evaluation and presentation comparing costs, fees, and performance of these funds, the Administrative Committee unanimously recommended the American Funds Target Date Retirement Series as the Qualified Default Investment Alternative. If implemented, these target date funds would serve as the default investment ONLY for employees that do not provide investment direction.

Based upon the Administrative Committee’s unanimous recommendation, Bonni Jensen, legal counsel to the Plan, drafted a revised and restated version of the Plan that assimilates the changes recommended by the Administrative Committee and addresses amendments required by recent changes to the Internal Revenue Code. Proposed additions to the Plan are underlined while proposed deletions to the Plan are shown using strikethrough. Changes include:

- ✓ Page 2 – Definition of Compensation – added language to include differential wages paid to Participants who left employment to serve in qualified military service.
- ✓ Page 7 – added Definition of Qualified Default Investment Alternative (“QDIA”). Renumbered all of the remaining definitions.
- ✓ Page 12 – Section 2.8 – Housekeeping changes to reflect new department name (changing from Anna to Kara) and clarify quorum and voting requirements.
- ✓ Page 17 – Section 4.3 – provides for QDIA as default investment for the Employer Contributions allocated to non-vested Participants.
- ✓ Page 21 – Section 4.6 – provides that Participants are eligible to direct investments upon making first employee contribution to plan.
- ✓ Page 23 – Section 4.7 – provides for QDIA as default investment.
- ✓ Page 28 – Section 6.2 – provides that Participant who dies while on qualified military service are entitled to benefits as if the Participant returned to service and then died.
- ✓ Page 28 – Section 6.3 - provides that Participant who becomes disabled while on qualified military service are entitled to benefits as if the Participant returned to service and then became disabled.
- ✓ Page 30 – Section 6.4 – clarifies that Participants who are vested are entitled to Employer Contributions.

Amendments to the Plan require the approval of the Administrator, the Trustee, and the Employer. The Administrator is the Administrative Committee. LRD Board Member Harvey Silverman is the Trustee. The LRD Governing Board is the Employer.

Harvey Silverman, as Trustee, is suggested to state on the record: **“The Trustee approves the amended and restated Loxahatchee River Environmental Control District Money Purchase Plan and Trust as presented.”**

Steve Rockoff, as member of the Administrative Committee, I confirm on the record that **“The Administrative Committee, as Administrator, approves the amended and restated Loxahatchee River Environmental Control District Money Purchase Plan and Trust as presented.”**

I offer the following motion for your consideration:

“THAT THE DISTRICT GOVERNING BOARD approve the amended and restated Loxahatchee River Environmental Control District Money Purchase Plan and Trust as presented and with an effective date of August 29, 2015.”

**LOXAHATCHEE RIVER
ENVIRONMENTAL
CONTROL DISTRICT
MONEY PURCHASE PLAN
AND TRUST**

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**LOXAHATCHEE RIVER ENVIRONMENTAL CONTROL DISTRICT
MONEY PURCHASE PLAN AND TRUST**

THIS AGREEMENT, hereby made and entered into this ____ day of _____, by and between Loxahatchee River Environmental Control District (herein referred to as the “Employer”) and Harvey M. Silverman (herein referred to as “Trustee”).

W I T N E S S E T H:

WHEREAS, the Employer heretofore established a Money Purchase Pension Plan and Trust effective January 1, 1980, (hereinafter called the “Effective Date”) known as Loxahatchee River Environmental Control District Money Purchase Plan and Trust (herein referred to as the “Plan”) in recognition of the contribution made to its successful operation by its employees and for the exclusive benefit of its eligible employees; and

WHEREAS, under the terms of the Plan, the Employer has the ability to amend the Plan, provided the Trustee joins in such amendment if the provisions of the Plan affecting the Trustee(s) are amended;

NOW THEREFORE, effective January 1, 2013, except as otherwise provided, the Employer and the Trustee in accordance with the provisions of the Plan pertaining to amendments thereof, hereby amend the Plan in its entirety and restate the Plan to provide as follows:

ARTICLE I – DEFINITIONS

1.1 “Administrator” means the person or entity designated by the Employer pursuant to Section 2.2 to administer the Plan on behalf of the Employer.

1.2 “Anniversary Date” means December 31st.

1.3 “Beneficiary” means the person to whom the share of a deceased Participant’s total account is payable, subject to the restrictions of Section 6.2 and 6.6. A “designated Beneficiary” is any individual designated in writing by the Participant in accordance with the terms of the Plan except that it shall not include any person who becomes a beneficiary by virtue of the laws of inheritance or intestate succession.

1.4 “Code” means the Internal Revenue Code of 1986, as amended or replaced from time to time.

1.5 “Compensation” with respect to any Participant means such Participant’s wages, salaries, 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 as follows: base pay, overtime pay, Sick Pay, Vacation Pay, Bonuses, Vacation Buy Back.

Compensation shall exclude (1) contributions made by the Employer to a plan of deferred compensation to the extent that, the contributions are not includible in the gross income of the Participant for the taxable year in which contributed, and (2) contributions made by the Employer for any fringe benefits such as payments for car allowances, travel expenses, excess life insurance, any medical insurance and/or cafeteria plan.

For a Participant's initial year of participation, Compensation shall be recognized as of such Employee's effective date of participation pursuant to Section 3.2.

Compensation in excess of \$200,000 shall be disregarded. Such amount shall be adjusted for increases in the cost of living in accordance with Code Section 401(a)(17), except that the dollar increase in effect on January 1 of any calendar year shall be effective for the Plan Year beginning with or within such calendar year. For any short Plan Year the Compensation limit shall be an amount equal to the Compensation limit for the calendar year in which the Plan Year begins multiplied by the ratio obtained by dividing the number of full months in the short Plan Year by twelve (12).

If, in connection with the adoption of this amendment and restatement, the definition of Compensation has been modified, then, for Plan Years prior to the Plan Year which includes the adoption date of this amendment and restatement, Compensation means compensation determined pursuant to the Plan then in effect.

Beginning with compensation after December 31, 2008, and pursuant to Internal Revenue Code Section 414(u)(7), the definition of compensation includes amounts paid by the Employer as differential wages to Participants who are absent from employment while in qualified military service.

1.6 "Contract" or "Policy" means any life insurance policy, retirement income or annuity policy or annuity contract (group or individual) issued pursuant to the terms of the Plan.

1.7 "Designated Investment Alternative" means a specific investment identified by name by a Fiduciary as an available investment under the Plan which may be acquired or disposed of by the Trustee pursuant to the investment direction by a Participant.

- 1.8 “Directed Investment Option” means one or more of the following:
- (a) Designated Investment Alternative.
 - (b) Any other investment permitted by the Plan and the Participant Direction Procedures and acquired or disposed of by the Trustee pursuant to the investment direction of a Participant.

1.9 “Early Retirement Date.” This Plan does not provide for a retirement date prior to Normal Retirement Date.

- 1.10 “Eligible Employee” means any Employee:
- (a) whose customary employment is for more than thirty (30) hours a week, or persons whose customary employment is for more than five (5) months in any Fiscal Year; and
 - (b) who is 18 years of age or older; and
 - (c) who has completed one year of full time employment.

1.11 “Employee” means any person who is employed by the Employer.

1.12 “Employee Contribution” means the amount a Participant is required to contribute to the Plan pursuant to Section 4.6 in order to share in Employer Contributions.

1.13 “Employee Contribution Account” means the account established by the Administrator for each Participant with respect to his total interest in the Plan resulting from the Participant’s mandatory contributions made pursuant to Section 4.6 of the Plan.

1.14 “Employer” means Loxahatchee River Environmental Control District and any successor which shall maintain this Plan; and any predecessor which has maintained this Plan. The Employer is a governmental unit.

1.15 “Fiduciary” means any person who (a) exercises any discretionary authority or discretionary control respecting management of the Plan or exercises any authority or control respecting management or disposition of its assets, (b) renders investment advice for a fee or other compensation, direct or indirect, with respect to any monies or other property of the Plan or has any authority or responsibility to do so, or (c) has any discretionary authority or discretionary responsibility in the administration of the Plan, including but not limited to, the Trustee, the Employer and its representative body, and the Administrator.

1.16 “Fiscal Year” means the Employer’s accounting year of 12 months commencing on October 1st of each year and ending the following September 30th.

1.17 “Forfeiture” means that portion of a Participant’s Account that is not Vested, and occurs on the earlier of:

- (a) the distribution of the entire Vested portion of a Terminated Participant’s Account, or
- (b) the last day of the Plan Year in which the Participant incurs five (5) consecutive 1-Year Breaks in Service.

Furthermore, for purposes of paragraph (a) above, in the case of a Terminated Participant whose Vested benefit is zero, such Terminated Participant shall be deemed to have received a distribution of his Vested benefit upon his termination of employment. Restoration of such amounts shall occur pursuant to Section 6.4(f)(2). In addition, the term Forfeiture shall also include amounts deemed to be Forfeitures pursuant to any other provision of this Plan.

1.18 “Former Participant” means a person who has been a Participant, but who has ceased to be a Participant for any reason.

1.19 “Highly Compensated Employee” means, for Plan Years beginning after December 31, 1996, an Employee described in Code Section 414(q) and the Regulations thereunder, and generally means an Employee who performed services for the Employer during the “determination year” and received “415 Compensation” during the “look-back year” from the Employer in excess of \$100,000. The \$100,000 amount is adjusted at the same time and in the same manner as under Code Section 415(d) except that the base period is the calendar quarter ending September 30, 1996.

The “determination year” shall be the Plan Year for which testing is being performed, and the “look-back year” shall be the immediately preceding twelve-month period.

For purposes of this Section, the determination of “415 Compensation” shall be made by including amounts which are contributed by the Employer pursuant to a salary reduction agreement and which are not includible in the gross income of the Participant under Code Sections 125, 402(e)(3), 402(h)(1)(B), 403(b) or 457(b), and the Employee contributions described in Code Section 414(h)(2) that are treated as Employer contributions. Additionally, the dollar threshold amount specified in (b) above shall be adjusted at such time and in the same manner as under Code Section 415(d), except that the base period shall be the calendar quarter ending September 30, 1996. In the case of such an adjustment, the dollar limit which shall be applied is the limit for the calendar year in which the “look-back year” begins.

In determining who is a Highly Compensated Employee, Employees who are non-resident aliens and who received no earned income (within the meaning of Code

Section 911(d)(2)) from the Employer constituting United States source income within the meaning of Code Section 861(a)(3) shall not be treated as Employees. Highly Compensated Former Employees shall be treated as Highly Compensated Employees without regard to whether they performed services during the “determination year.”

1.20 “Highly Compensated Former Employee” means a former Employee who had a separation year prior to the “determination year” and was a Highly Compensated Employee in the year of separation from service or in any “determination year” after attaining age 55. Notwithstanding the foregoing, an Employee who separated from service prior to 1987 will be treated as a Highly Compensated Former Employee only if during the separation year (or year preceding the separation year) or any year after the Employee attains age 55 (or the last year ending before the Employee’s 55th birthday), the Employee received “415 Compensation” in excess of \$50,000. For purposes of this Section, “determination year,” and “415 Compensation” shall be determined in accordance with Section 1.25. Highly Compensated Former Employees shall be treated as Highly Compensated Employees. The method set forth in this Section for determining who is a “Highly Compensated Former Employee” shall be applied on a uniform and consistent basis for all purposes for which the Code Section 414(q) definition is applicable.

1.21 “Highly Compensated Participant” means any Highly Compensated Employee who is eligible to participate in the Plan.

1.22 “Hour of Service” means each hour for which an Employee is paid or entitled to payment for the performance of duties for the Employer.

1.23 “Income” means the income or losses allocable to Excess Deferred Compensation, Excess Contributions or Excess Aggregate Contributions which amount shall be allocated in the same manner as income or losses are allocated pursuant to Section 4.3(e).

1.24 “Investment Manager” means an entity that (a) has the power to manage, acquire, or dispose of Plan assets and (b) acknowledges fiduciary responsibility to the Plan in writing. Such entity must be a person, firm, or corporation registered as an investment adviser under the Investment Advisers Act of 1940, a bank, or an insurance company.

1.25 “Late Retirement Date” means the first day of the month coinciding with or next following a Participant’s actual Retirement Date after having reached his Normal Retirement Date.

1.26 “Non-Highly Compensated Participant” means any Participant who is not a Highly Compensated Employee. However, for the Plan Year prior to the first Plan Year

of this amendment and restatement, for the purposes of Section 4.4, if the prior year testing method is used, a Non-Highly Compensated Participant shall be determined using the definition of highly compensated employee in effect for the preceding Plan Year.

1.27 “Normal Retirement Age” means the Participant’s 59 ½ birthday. A Participant shall become fully vested in his Participant’s Account upon attaining his Normal Retirement Age. Notwithstanding any provisions in this Plan to the contrary and pursuant to Code Section 401(a)(36) and its regulations, a distribution from the Plan may be made to an Employee who reaches Normal Retirement Age even though the employee has not separated from service.

1.28 “Normal Retirement Date” means the first day of the month coinciding with or next following the Participant’s Normal Retirement Age.

1.29 “1-Year Break in Service” means a Period of Severance which is of at least 12 consecutive months in duration.

1.30 “Participant” means any Eligible Employee who participates in the Plan and has not for any reason become ineligible to participate further in the Plan.

1.31 “Participant Direction Procedures” means such instructions, guidelines or policies, the terms of which are incorporated herein, as shall be established pursuant to Section 4.7 and observed by the Administrator and applied and provided to Participants who have Participant Directed Accounts.

1.32 “Participant’s Account” means the account established and maintained by the Administrator for each Participant with respect to his total interest in the Plan and Trust resulting from the Employer contributions.

1.33 “Participant’s Directed Account” means that portion of a Participant’s interest in the Plan with respect to which the Participant has directed the investment in accordance with the Participant Direction Procedure.

1.34 “Period of Service” means the aggregate of all periods commencing with the Employee’s first day of employment or reemployment with the Employer and ending on the date a 1-Year Break in Service begins. The first day of employment or reemployment is the first day the Employee performs an Hour of Service. An Employee will also receive partial credit for any Period of Severance of less than 12 consecutive months. Fractional periods of a year will be expressed in terms of days.

For purposes of determining an Employee's service under the Plan, any military service in the Armed Forces of the United States during which an Employee's

employment and re-employment rights with the Employer are guaranteed by federal law (including the Uniformed Services Employment and Re-employment Rights Act of 1994) shall be recognized as service, provided such Employee applies for re-employment with the Employer after such separation from military service within the time prescribed by such law.

1.35 “Period of Severance” means a continuous period of time during which the Employee is not employed by the Employer. Such period begins on the date the Employee retires, quits or is discharged, or if earlier, the 12 month anniversary of the date on which the Employee was otherwise first absent from service.

In the case of an individual who is absent from work for maternity or paternity reasons, the 12-consecutive month period beginning on the first anniversary of the first day of such absence shall not constitute a 1-Year Break in Service. For purposes of this paragraph, an absence from work for maternity or paternity reasons means an absence (a) by reason of the pregnancy of the individual, (b) by reason of the birth of a child of the individual, (c) by reason of the placement of a child with the individual in connection with the adoption of such child by such individual, or (d) for purposes of caring for such child for a period beginning immediately following such birth or placement.

1.36 “Plan” means this instrument, including all amendments thereto.

1.37 “Plan Year” means the Plan’s accounting year of twelve (12) months commencing on January 1st of each year and ending the following December 31st.

1.38 “Qualified Default Investment Alternative” or “QDIA” means an investment vehicle selected by the Administrative committee used for investing retirement plan contributions in the absence of direction from the Participant.

~~1.39~~1.38 “Regulation” means the Income Tax Regulations as promulgated by the Secretary of the Treasury or his delegate, and as amended from time to time.

~~1.40~~1.39 “Retired Participant” means a person who has been a Participant, but who has become entitled to retirement benefits under the Plan.

~~1.41~~1.40 “Retirement Date” means the date as of which a Participant retires for reasons other than Total and Permanent Disability, whether such retirement occurs on a Participant’s Normal Retirement Date or Late Retirement Date (see Section 6.1).

~~1.42~~1.41 “Terminated Participant” means a person who has been a Participant, but whose employment has been terminated other than by death, Total and Permanent Disability or retirement.

~~1.43~~1.42 “Total and Permanent Disability” means a physical or mental condition of a Participant resulting from bodily injury, disease, or mental disorder which renders him incapable of continuing his usual and customary employment with the Employer. The disability of a Participant shall be determined by a licensed physician. The determination shall be applied uniformly to all Participants.

~~1.44~~1.43 “Trustee” means the person or entity named as trustee herein or in any separate trust forming a part of this Plan, and any successors. The Trustee is a member of the Employer’s Governing Board who is elected annually from among the members of the Governing Board.

~~1.45~~1.44 “Trust Fund” means the assets of the Plan and Trust as the same shall exist from time to time.

~~1.46~~1.45 “USERRA” means the Uniformed Services Employment and Re-employment Rights Act of 1994. Notwithstanding any provision of this Plan to the contrary, effective December 12, 1994, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Code Section 414(u).

~~1.47~~1.46 “Valuation Date” means the Anniversary Date and such other date or dates deemed necessary by the Administrator. The Valuation Date may include any day during the Plan Year that the Trustee, any transfer agent appointed by the Trustee or the Employer and any stock exchange used by such agent are open for business.

~~1.48~~1.47 “Vested” means the nonforfeitable portion of any account maintained on behalf of a Participant.

ARTICLE II – ADMINISTRATION

2.1 CREATION OF TRUST

A trust is hereby created to hold all of the assets of the Plan for the exclusive benefit of Participants and Beneficiaries, except that expenses and taxes may be paid from Employer Contributions or the Trust as provided in Section 7.5.

2.2 POWERS AND RESPONSIBILITIES OF THE EMPLOYER

(a) In addition to the general powers and responsibilities otherwise provided for in this Plan, the Employer shall be empowered to appoint and remove the Trustee and the Administrator from time to time as it deems necessary for the proper administration of the Plan to ensure that the Plan is being operated for the exclusive benefit of the Participants and their Beneficiaries in accordance with the terms of the

Plan, the Code, and the Act. The Employer may appoint counsel, specialists, advisers, agents (including any nonfiduciary agent) and other persons as the Employer deems necessary or desirable in connection with the exercise of its fiduciary duties under this Plan. The Employer may compensate such agents or advisers from the assets of the Plan as fiduciary expenses (but not including any business (settlor) expenses of the Employer), to the extent not paid by the Employer.

(b) The Employer shall establish a “funding policy and method,” i.e., it shall determine whether the Plan has a short run need for liquidity (e.g., to pay benefits) or whether liquidity is a long run goal and investment growth (and stability of same) is a more current need, or shall appoint a qualified person to do so. The Employer or its delegate shall communicate such needs and goals to the Trustee, who shall coordinate such Plan needs with its investment policy. The communication of such a “funding policy and method” shall not, however, constitute a directive to the Trustee as to investment of the Trust Funds. Such “funding policy and method” shall be consistent with the objectives of this Plan.

(c) The Employer shall periodically review the performance of any Fiduciary or other person to whom duties have been delegated or allocated by it under the provisions of this Plan or pursuant to procedures established hereunder. This requirement may be satisfied by formal periodic review by the Employer or by a qualified person specifically designated by the Employer, through day-to-day conduct and evaluation, or through other appropriate ways.

(d) The Employer shall establish a procedure by which mandatory Employee Contributions are to be made to the Trustee pursuant to the Plan. Such procedure may be made by payroll deduction or such other method as determined by the Employer.

2.3 DESIGNATION OF ADMINISTRATIVE AUTHORITY

The Employer appoints the Administrative Committee as the Administrator.

2.4 ALLOCATION AND DELEGATION OF RESPONSIBILITIES

The Administrator may delegate the functions of the Administrator to Employees of the Employer, including the authority to sign documents to carry out the determinations of the Administrative Committee. If more than one person is delegated the functions of the Administrator, the responsibilities of each may be specified by the Administrative Committee and accepted in writing by each. In the event that no such delegation is made, the Administrators may allocate the responsibilities among themselves, in which event the Administrators shall notify Employer and the Trustee in writing of such action and specify the responsibilities of each Administrator. Third parties shall accept and rely upon any documents executed by the appropriate

Employee on behalf of the Administrator until such time as the Administrative Committee files a written revocation of such designation.

2.5 POWERS AND DUTIES OF THE ADMINISTRATOR

The primary responsibility of the Administrator is to administer the Plan for the exclusive benefit of the Participants and their Beneficiaries, subject to the specific terms of the Plan. The Administrator shall administer the Plan in accordance with its terms and shall have the power and discretion to construe the terms of the Plan and to determine all questions arising in connection with the administration, interpretation, and application of the Plan. Any such determination by 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 Code Section 401(a), and shall comply with the terms of the Act and all regulations issued pursuant thereto. 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 to participate or remain a Participant hereunder and to receive benefits under the Plan;
- (b) to compute, certify, and direct the Trustee with respect to the amount and the kind of benefits to which any Participant shall be entitled hereunder;
- (c) to authorize and direct the Trustee with respect to all nondiscretionary or otherwise directed disbursements from the Trust;
- (d) to maintain all necessary records for the administration of the Plan;
- (e) to interpret the provisions of the Plan and to make and publish such rules for regulation of the Plan as are consistent with the terms hereof;
- (f) to determine the size and type of any Contract to be purchased from any insurer, and to designate the insurer from which such Contract shall be purchased;

(g) to compute and certify to the Employer and to the Trustee from time to time the sums of money necessary or desirable to be contributed to the Plan;

(h) to consult with the Employer and the Trustee regarding the short and long-term liquidity needs of the Plan in order that the Trustee can exercise any investment discretion in a manner designed to accomplish specific objectives;

(i) to prepare and implement a procedure for notifying prospective Eligible Employees of their requirement to make mandatory Employee Contributions to the Plan as a condition of eligibility;

(j) to act as the named Fiduciary responsible for communications with Participants as needed to maintain Plan compliance with ERISA Section 404(c), including but not limited to the receipt and transmitting of Participant's directions as to the investment of their account(s) under the Plan and the formulation of policies, rules, and procedures pursuant to which Participants may give investment instructions with respect to the investment of their accounts;

(k) to assist any Participant regarding his rights, benefits, or elections available under the Plan.

2.6 RECORDS AND REPORTS

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

2.7 APPOINTMENT OF ADVISERS

The Administrator, or the Trustee with the consent of the Administrator, may appoint counsel, specialists, advisers, agents (including nonfiduciary agents) and other persons as the Administrator or the Trustee deems necessary or desirable in connection with the administration of this Plan, including but not limited to agents and advisers to assist with the administration and management of the Plan, and thereby to provide, among such other duties as the Administrator may appoint, assist with maintaining Plan records and the providing of investment information to the Plan's investment fiduciaries and to Plan Participants.

2.8 ADMINISTRATIVE COMMITTEE

(a) The Administrative Committee shall consist of the following persons: The Executive Director of the Employer; The Chairman of the Board of the Employer; The Trustee as defined in section 1.43; the Director of **Finance and Administration**; and One Employee representative to be chosen by vote of the other Eligible Employees covered by the Plan, for a term of two (2) years. An Employee Representative may serve successive terms. **Each member of the Administrative Committee is entitled to one (1) vote. A quorum of the Administrative Committee shall consist of three (3) members.**

(b) Each Administrative Committee member shall be a Fiduciary with respect to the Plan and Trust. Upon the termination of employment with the Employer or upon ceasing to be a member of the Board or an Officer of the Employer, the member shall cease to be a member of the Administrative Committee. Any member may resign at any time by notice in writing and filed with the Board of the Employer and with the Chairman or Secretary of the Administrative Committee. Vacancies shall be filled promptly by the Board of the Employer in such manner that the composition shall be as herein prescribed or in any event made up of members of the Board.

(c) The Administrative Committee shall elect a Chairman from among its members and a Secretary who need not be a member of the Committee. It may appoint such agents, who need not be members of the Administrative Committee, as it may deem necessary for the effective performance of its duties, whether ministerial or discretionary, as the Administrative Committee may deem expedient or appropriate. The compensation, if any of such agents shall be fixed by the Administrative Committee. The Administrative Committee shall hold meetings upon written notice of at least 24 hours at such place or places and at such time or times as it may from time to time determine; provided, however, that the Administrative Committee shall meet at least once during each Plan Year. Administrative Committee members may waive in writing the necessity for advance notice of a meeting. Meetings may be called by the Chairman or any two members. ~~A majority of the members of the Administrative Committee at the time in office shall constitute a quorum for the transaction of business.~~ The action of the Administrative Committee shall be determined by the vote or other affirmative expression of a majority of its members in attendance where a quorum is present. The meetings of the Administrative Committee are subject to the Florida Sunshine Law Chapter 287 of the Florida Statutes.

2.9 INFORMATION FROM EMPLOYER

To enable the Administrator to perform his functions, the Employer shall supply full and timely information to the Administrator on all matters relating to the Compensation of all Participants, their Hours of Service, their Periods of Service, their

retirement, death, disability, or termination of employment, and such other pertinent facts as the Administrator may require; and the Administrator shall advise the Trustee of such of the foregoing facts as may be pertinent to the Trustee's duties under the Plan. The Administrator may rely upon such information as is supplied by the Employer and shall have no duty or responsibility to verify such information.

2.10 PAYMENT OF EXPENSES

All expenses of administration may be paid out of the Trust Fund unless paid by the Employer. Such expenses shall include any expenses incident to the functioning of the Administrator, or any person or persons retained or appointed by any Named Fiduciary incident to the exercise of their duties under the Plan, including, but not limited to, fees of accountants, counsel, Investment Managers, agents (including nonfiduciary agents) appointed for the purpose of assisting the Administrator or the Trustee in carrying out the instructions of the Participants to the directed investment of their accounts and other specialists and their agents, and other costs of administering the Plan. Until paid, the expenses shall constitute a liability of the Trust Fund.

2.11 MAJORITY ACTIONS

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

2.12 CLAIMS PROCEDURE

Claims for benefits under the Plan may be filed in writing with the Administrator. Written notice of the disposition of a claim shall be furnished to the claimant within 90 days after the application is filed. In the event the claim is denied, the reasons for the denial shall be specifically set forth in the notice in language calculated to be understood by the claimant, pertinent provisions of the Plan shall be cited, and, where appropriate, an explanation as to how the claimant can perfect the claim will be provided. In addition, the claimant shall be furnished with an explanation of the Plan's claim review procedure.

2.13 CLAIMS REVIEW PROCEDURE

Any Employee, former Employee, or Beneficiary of either, who has been denied a benefit by a decision of the Administrator pursuant to Section 2.12 shall be entitled to request the Administrator to give further consideration to his claim by filing with the Administrator (on a form which may be obtained from the Administrator) a request for a hearing. Such request, together with a written statement of the reasons why the

claimant believes his claim should be allowed, shall be filed with the Administrator no later than 60 days after receipt of the written notification provided for in Section 2.12. The Administrator shall then conduct a hearing within the next 60 days, at which the claimant may be represented by an attorney or any other representative of his choosing and at which the claimant shall have an opportunity to submit written and oral evidence and arguments in support of his claim. At the hearing (or prior thereto upon 5 business days written notice to the Administrator) the claimant or his representative shall have an opportunity to review all documents in the possession of the Administrator which are pertinent to the claim at issue and its disallowance. Either the claimant or the Administrator may cause a court reporter to attend the hearing and record the proceedings. In such event, a complete written transcript of the proceedings shall be furnished to both parties by the court reporter. The full expenses of any such court reporter and such transcripts shall be borne by the party causing the court reporter to attend the hearing. A final decision as to the allowance of the claim shall be made by the Administrator within 60 days of receipt of the appeal (unless there has been an extension of 60 days due to special circumstances, provided the delay and the special circumstances occasioning it are communicated to the claimant within the 60 day period). Such communication shall be written in a manner calculated to be understood by the claimant and shall include specific reasons for the decision and specific references to the pertinent Plan provisions on which the decision is based.

ARTICLE III – ELIGIBILITY

3.1 CONDITIONS OF ELIGIBILITY

Any Eligible Employee who has completed a one (1) year Period of Service and has attained age 18 shall be eligible to participate hereunder as of the date he has satisfied such requirements in accordance with Section 3.2. However, any Employee who was a Participant in the Plan prior to the effective date of this amendment and restatement shall continue to participate in the Plan.

3.2 EFFECTIVE DATE OF PARTICIPATION

An Eligible Employee shall become a Participant effective as of the earlier of the first day of the Plan Year or the first day of the seventh month of such Plan Year coinciding with or next following the date such Employee met the eligibility requirements of Section 3.1, provided said Employee was still employed as of such date (or if not employed on such date as of the date of rehire if a 1-Year Break in Service has not occurred.)

3.3 DETERMINATION OF ELIGIBILITY

The Administrator shall determine the eligibility of each Employee for participation in the Plan based upon information furnished by the Employer. Such determination shall be conclusive and binding upon all persons, as long as the same is made pursuant to the Plan and the Act. Such determination shall be subject to review per Section 2.13.

3.4 TERMINATION OF ELIGIBILITY

(a) In the event a Participant shall go from a classification of an Eligible Employee to an ineligible Employee, such Former Participant shall continue to vest in his interest in the Plan for each Period of Service completed while a noneligible Employee, until such time as his Participant's Account shall be forfeited or distributed pursuant to the terms of the Plan. Additionally, his interest in the Plan shall continue to share in the earnings of the Trust Fund.

(b) In the event a Participant is no longer a member of an Eligible class of Employees and becomes ineligible to participate but has not incurred a 1-Year Break in Service, such Employee will participate immediately upon returning to an eligible class of Employees. If such Participant incurs a 1-Year Break in Service, eligibility will be determined under the break in service rules of the Plan in Sections 1.29 and 4.3.

3.5 OMISSION OF ELIGIBLE EMPLOYEE

If, in any Plan Year, any Employee who should be included as a Participant in the Plan is erroneously omitted and discovery of such omission is not made until after a contribution by his Employer for the pay period has been made, the Employer shall make a subsequent contribution with respect to the omitted Employee in the amount which the said Employer would have contributed in respect to him had he not been omitted. Such contribution shall be made regardless of whether or not it is deductible in whole or in part in any taxable year under applicable provisions of the Code.

3.6 INCLUSION OF INELIGIBLE EMPLOYEE

If, in any Plan Year, any person who should not have been included as a Participant in the Plan is erroneously included and discovery of such incorrect inclusions is not made until after a contribution for the pay period has been made, the Employer shall not be entitled to recover the contribution made with respect to the ineligible person regardless of whether or not a deduction is allowable with respect to such contribution. In such event, the amount contributed with respect to the ineligible person shall constitute a Forfeiture for the Plan Year in which the discovery is made.

3.7 APPLICATION FOR PARTICIPATION

All Participants shall be required to complete an application for participation and furnish such information to the Administrative Committee as it may reasonably request for the proper administration of the Plan.

ARTICLE IV – CONTRIBUTION AND ALLOCATION

4.1 FORMULA FOR DETERMINING EMPLOYER CONTRIBUTION

(a) The Employer shall make contributions over such period of years as the Employer may determine on the following basis. On behalf of each Participant eligible to share in allocations, for each year of his participation in this Plan, the Employer shall contribute 12% of his annual Compensation.

(b) Should the Employer, for any reason, fail to make a contribution for any year or should the Employer fail to make a contribution as provided for herein, then such deficiency shall be made up in subsequent years pursuant to Section 9.16.

(c) The Employer shall not contribute on behalf of any Participant who is not entitled to share in the allocation of the Employer contribution as provided in Section 4.3(d).

4.2 TIME OF PAYMENT OF EMPLOYER CONTRIBUTION

The Employer shall generally pay to the Trustee its contribution to the Plan for each Plan Year on a biweekly basis.

4.3 ACCOUNTING AND ALLOCATIONS

(a) The Administrator shall establish and maintain an account in the name of each Participant to which the Administrator shall credit biweekly all amounts allocated to each such Participant as set forth herein.

(b) The Employer shall provide the Administrator with all information required by the Administrator to make a proper allocation of the Employer contributions for each biweekly period. Within a reasonable period of time, but no later than 5 days after the date of receipt by the Administrator of such information, the Administrator shall allocate such contribution to each Participant's Account in accordance with Section 4.1.

(c) As of each Anniversary Date or on the Former Participant's employment termination date any amounts which became Forfeitures since the last Anniversary Date shall first be made available to reinstate previously forfeited account balances of Former Participants, if any, in accordance with Section 6.4(g)(2). The remaining Forfeitures, if any, shall be used to reduce the contribution of the Employer hereunder for the Plan Year in which such Forfeitures occur.

(d) Vested Participants shall be eligible to share in the allocation of employer contributions on a biweekly basis.

(e) Non-vested Participant's employer contributions shall be aggregated into a separate account in each Participant's name. These accounts shall be invested in the Plan's designated interest bearing money market fund so as to minimize the risk of any loss. When an employee vests, the Employer Contribution shall be combined with the Participant Directed Account.

(f) Participants' accounts shall be debited for any insurance or annuity premiums paid, if any, and credited with any dividends received on insurance contracts.

(g) If a Former Participant is reemployed after five (5) consecutive 1-Year Breaks in Service, then separate accounts shall be maintained as follows:

- (1) one account for nonforfeitable benefits attributable to pre-break service; and
- (2) one account representing his status in the Plan attributable to post-break service.

4.4 MAXIMUM ANNUAL ADDITIONS

(a) Notwithstanding the foregoing, the maximum "annual additions" credited to a Participant's accounts for any "limitation year" shall equal the lesser of (1) \$40,000 adjusted annually as provided in Code Section 415(d) pursuant to the Regulations or (2) one hundred percent (100%) (twenty-five percent (25%) for limitation years before January 1, 2002) of the Participant's "415 Compensation" for such "limitation year." Such limits shall be adjusted each calendar year based on the increase in the index as adjusted by the Secretary. For any short "limitation year," the dollar limitation in (1) above shall be reduced by a fraction, the numerator of which is the number of full months in short "limitation year" and the denominator of which is twelve (12).

(b) For purposes of applying the limitations of Code Section 415, “annual additions” means the sum credited to a Participant’s accounts for any “limitation year” of (1) Employer contributions, (2) Employee contributions, (3) forfeitures, (4) amounts allocated, after March 31, 1984, to an individual medical account, as defined in Code Section 415(1)(2) which is part of a pension or annuity plan maintained by the Employer and (5) amounts derived from contributions paid or accrued after December 31, 1985, in taxable years ending after such date, which are attributable to post-retirement medical benefits allocated to the separate account of a key employee (as defined in Code Section 419A(d)(3)) under a welfare benefit plan (as defined in Code Section 419(e)) maintained by the Employer. Except, however, the “415 Compensation” percentage limitation referred to in paragraph (a)(2) above shall not apply to: (1) any contribution for medical benefits (within the meaning of Code Section 419A(f)(2)) after separation from service which is otherwise treated as an “annual addition,” or (2) any amount otherwise treated as an “annual addition” under Code Section 415(1)(1).

(c) For purposes of applying the limitations of Code Section 415, the transfer of funds from one qualified plan to another is not an “annual addition.” In addition, the following are not Employee contributions for the purposes of Section 4.4(b)(2): (1) rollover contributions as defined in Code Sections 402(e)(6), 403(a)(4), 403(b)(8) and 408(d)(3)); (2) repayments of loans made to a Participant from the Plan; (3) repayments of distributions received by an Employee pursuant to Code Section 411(a)(7)(B) (cash-outs); (4) repayments of distributions received by an Employee pursuant to Code Section 411(a)(3)(D) (mandatory contributions); and (5) Employee contributions to a simplified employee pension excludable from gross income under Code Section 408(k)(6).

(d) For purposes of applying limitations of Code Section 415, the “limitation year” shall be the Plan Year.

(e) For purposes of this Section, all qualified defined contribution plans (whether terminated or not) ever maintained by the Employer shall be treated as one defined contribution plan.

(f) (1) If a Participant participates in more than one defined contribution plan maintained by the Employer which have different Anniversary Dates, the maximum “annual additions” under this Plan shall equal the maximum “annual additions” for the “limitation year” minus any “annual additions” previously credited to such Participant’s accounts during the “limitation year.”

(2) If a Participant participates in both a defined contribution plan subject to Code Section 412 and a defined contribution plan not subject to Code Section 412 maintained by the Employer which have the same Anniversary Date, "annual additions" will be credited to the Participant's accounts under the defined contribution plan subject to Code Section 412 prior to crediting "annual additions" to the Participant's accounts under the defined contribution plan not subject to Code Section 412.

(3) If a Participant participates in more than one defined contribution plan subject to Code Section 412 maintained by the Employer which has the same Anniversary date, the maximum "annual additions" under this Plan shall equal the product of (a) the maximum "annual additions" for the "limitation year" minus any "annual additions" previously credited under subparagraphs (1) or (2) above, multiplied by (B) a fraction of (i) the numerator of which is the "annual additions" which would be credited to such Participant's accounts under this Plan without regard to the limitations of Code Section 415 and (ii) the denominator of which is such "annual additions" for all plans described in this subparagraph.

(g) Notwithstanding anything contained in this Section to the contrary, the limitations, adjustments and other requirements prescribed in this Section shall at all times comply with the provisions of Code Section 415 and the Regulations thereunder, the terms of which are specifically incorporated herein by reference.

(h) "415 Compensation" with respect to any Participant means such Participant's wages, salaries, fees for professional services and other amounts received (without regard to whether or not an amount is paid in case) for personal service actually rendered in the course of employment with the Employer maintaining the Plan to the extent that the amounts are includible in gross income (including, but not limited to, commissions paid 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 nonaccountable plan (as described in Regulation 1.62-2(c)) for a Plan Year. Payment of "415 compensation" must be provided within 2 ½ months after severance from employment or within the limitation year that contains the severance from employment.

“415 Compensation” shall exclude (a)(1) contributions made by the Employer to a plan of deferred compensation to the extent that, the contributions are not includible in the gross income of the Participant for the taxable year in which contributed, (2) Employer contributions made on behalf of an Employee to a simplified employee pension plan described in Code Section 408(k) to the extent such contributions are excludable from the Employee’s gross income, (3) any distributions from a plan of deferred compensation; (b) amounts realized from the exercise of a non-qualified stock option, or when restricted stock (or property) held by an Employee either becomes freely transferrable 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 receive special tax benefits, or contributions made by the Employer (whether or not under a salary reduction agreement) towards the purchase of any annuity contract described in Code Section 403(b) (whether or not the contributions are actually excludable from the gross income of the Employee).

For Plan Years beginning after December 31, 1997, for purposes of this Section, the determination of “415 Compensation” shall include any elective deferral (as defined in Code Section 402(g)(3)), and any amount which is contributed or deferred by the Employer at the election of the Participant and which is not includible in the gross income of the Participant by reason of Code Sections 125 or 457.

If, in connection with the adoption of this amendment and restatement, the definition of “415 Compensation” has been modified, then, for Plan Years prior to the Plan Year which includes this adoption date of this amendment and restatement, “415 Compensation” means compensation determined pursuant to the Plan then in effect.

4.5 ADJUSTMENT FOR EXCESSIVE ANNUAL ADDITIONS

(a) If, as a result of a reasonable error in estimating a Participant’s Compensation, a reasonable error in determining the amount of elective deferrals (with the meaning of Code Section 402(g)(3)) that may be made with respect to any Participant under the limits of Section 4.4 or other facts and circumstances to which Regulation 1.415-6(b)(6) shall be applicable, the “annual additions” under this Plan would cause the maximum “annual additions” to be exceeded for any Participant, the Administrator shall (1) distribute any elective deferrals (within the meaning of Code Section 402(g)(3)) or return any Employee contributions (whether voluntary or mandatory), and for the distribution of gains attributable to those elective deferrals and Employee contributions, to the extent that the distribution or return would reduce the “excess amount” in the Participant’s

accounts (2) hold any “excess amount” remaining after the return of any elective deferrals or voluntary Employee contributions in a “Section 415 suspense account” (3) allocate and reallocate the “Section 415 suspense account” in the next “limitation year” (and succeeding “limitation years” if necessary) to all Participants in the Plan before any Employer or Employee contributions which would constitute “annual additions” are made to the Plan for such “limitation year” (4) reduce Employer contributions to the Plan for such “limitation year” by the amount of the “Section 415 suspense account” allocated and reallocated during such “limitation year.”

(b) For purposes of this Article, “excess amount” for any Participant for a “limitation year” shall mean the excess, if any, of (1) the “annual additions” which would be credited to his account under the terms of the Plan without regard to the limitations of Code Section 415 over (2) the maximum “annual additions” determined pursuant to Section 4.4.

(c) For purposes of this Section, “Section 415 suspense account” shall mean an unallocated account equal to the sum of “excess amounts” for all Participants in the Plan during the “limitation year.” The “Section 415 suspense account” shall not share in earnings or losses of the Trust Fund.

(d) The Plan may not distribute or return “excess amounts,” other than elective deferrals (within the meaning of Code Section 402(g)(3)) or Employee contributions (whether voluntary or mandatory) and gains attributable to such elective deferrals and Employee contributions, to Participants or Former Participants.

4.6 MANDATORY CONTRIBUTIONS

(a) ~~As a condition for sharing in Employer contributions, each~~ **Each** Participant shall agree to contribute 4% of his Compensation to the **Plan** Trustee. Such contribution shall be credited to his Employee Contribution Account and shall be invested in the Participant directed account **when the Participant’s first contribution is made.**

(b) The Employee Contribution Account shall be fully Vested to each employee at all times.

(c) Withdrawals from the Employee Contribution Account are not permitted prior to termination of employment.

(d) In the event a Participant has received a hardship distribution pursuant to Regulation 1.401(k)-1(d)(2)(iv)(B) from any other plan maintained by

the Employer, then such Participant shall be barred from making any Employee Contributions to the Trust Fund for a period of twelve (12) months after receipt of the distribution.

(e) The Employer shall transfer Employee Contributions to the Trustee on a biweekly basis.

(f) At Normal Retirement, or such other date when the Participant or his Beneficiary shall be entitled to receive benefits, the fair market value of the Employee Contribution Account shall be used to provide additional benefits to the Participant or his Beneficiary. Any distributions of amounts held in an Employee Contribution Account shall be made in a manner which is consistent with and satisfies the provisions of Section 6.5.

(g) In lieu of payment by the Participant, the Employer shall assume and pay on behalf of each Participant the mandatory Participant contribution provided above. No Participant shall have the option of receiving the contributed amount directly instead of having it paid by the Employer to the Plan. All such contributions by the Employer shall be deemed and considered as mandatory Participant contributions for all purposes under the Plan. This provision is intended to qualify this contribution as an employee contribution under Code Section 414(h).

4.7 DIRECTED INVESTMENT ACCOUNT

(a) Participants shall, subject to a procedure established by the Administrator (the Participant Direction Procedures) and applied in a uniform nondiscriminatory manner, direct the Trustee to invest all of their accounts in ~~specific~~ assets, ~~specific~~ funds or other investments permitted under the Plan and the Participant Direction Procedures **and chosen by the Participant**. That portion of the interest of any Participant so directing will thereupon be considered a Participant's Directed Account. Participant Directed Accounts shall not be pooled for purposes of investment. **If a Participant does not direct the investment of their employee contributions, then such contributions will be invested in the Qualified Default Investment Alternative.**

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

(1) To the extent that the assets in the Participant's Directed Account are accounted for as segregated assets,

the allocation of earnings, gains and losses from such assets shall be made on a separate and distinct basis.

(c) The Participant Direction Procedures shall provide an explanation of the circumstances under which Participants and their Beneficiaries may give investment instructions, including, but need not be limited to, the following:

(1) the conveyance of instructions by the Participant or their Beneficiaries to invest Participant Directed Accounts in Directed Investments;

(2) the name, address and phone number of the Fiduciary (and, if applicable, the person or persons designated by the Fiduciary to act on its behalf) responsible for providing information to the Participant or a Beneficiary upon request relating to the investments in Directed Investments;

(3) applicable restrictions on transfers to and from any Designated Investment Alternative;

(4) any restrictions on the exercise of voting, tender and similar rights related to a Directed Investment by the Participants or their Beneficiaries;

(5) a description of any transaction fees and expenses which affect the balances in Participant Directed Accounts in connection with the purchase or sale of Directed Investments; and

(6) general procedures for the dissemination of investment and other information relating to the Designated Investment Alternatives as deemed necessary or appropriate, including but not limited to a description of the following:

(i) the investment vehicles available under the Plan, including specific information regarding any Designated Investment Alternative;

(ii) any designated Investment Managers; and

(iii) a description of the additional information which may be obtained upon request from the Fiduciary designated to provide such information.

(d) Any information regarding investment available under the Plan, to the extent not required to be described in the Participant Direction Procedures, may be provided to the Participant in one or more written documents which are separate from the Participant Direction Procedures and are not thereby incorporated by reference into this Plan.

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

ARTICLE V – VALUATIONS

5.1 VALUATION OF THE TRUST FUND

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

5.2 METHOD OF VALUATION

In determining the fair market value of securities held in the Trust Fund which are listed on a registered stock exchange, the Administrator shall direct the Trustee to value the same at the prices they were last traded on such exchange preceding the close of business on the Valuation Date. If such securities were not traded on the Valuation Date, or if the exchange on which they are traded was not open for business on the Valuation Date, then the securities shall be valued at the prices at which they were last traded prior to the Valuation Date. Any unlisted security held in the Trust Fund shall be valued at its bid price next preceding the close of business on the Valuation Date, which bid price shall be obtained from a registered broker or an investment banker. In determining the fair market value of assets other than securities for which trading or bid prices can be obtained, the Trustee may appraise such assets itself, or in its discretion,

employ one or more appraisers for that purpose and rely on the values established by such appraiser or appraisers.

ARTICLE VI – DETERMINATION AND DISTRIBUTION OF BENEFITS

6.1 DETERMINATION OF BENEFITS UPON RETIREMENT

(a) Every Participant may terminate his employment with the Employer and retire for the purposes hereof on his Normal Retirement Date. However, a Participant may postpone the termination of his employment with the Employer to a later date, in which event the participation of such Participant in the Plan, including the right to receive allocations pursuant to Section 4.3, shall continue until his Late Retirement Date. Upon a Participant's Retirement Date or attainment of his Normal Retirement Date without termination of employment with the Employer, or as soon thereafter as is practicable, the Trustee shall distribute, at the election of the Participant, all amounts credited to such Participant's Account in accordance with Section 6.5.

(b) A Participant has a non-forfeitable interest in the Employer Contribution Account upon reaching his Normal Retirement Date.

(c) Notwithstanding any provisions in this Plan to the contrary and pursuant to Code Section 401(a)(36) and its regulations, a distribution from the Plan may be made to an Employee who reached Normal Retirement Age even though the employee has not separated from service.

6.2 DETERMINATION OF BENEFITS UPON DEATH

(a) Upon the death of a Participant before his Retirement Date or other termination of his employment, all amounts credited to such Participant's Account shall become fully Vested. The Administrator shall direct the Trustee, in accordance with the provisions of Section 6.6 and 6.7, to distribute the value of the deceased Participant's accounts to the Participant's Beneficiary.

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

(c) The Administrator may require such proper proof of death and such evidence of the right of any person to receive payment of the value of the account of a deceased Participant or deceased Former Participant as the

Administrator may deem desirable. The Administrator's determination of death and of the right of any person to receive payment shall be conclusive.

(d) Unless otherwise elected in the manner prescribed in Section 6.6, the Beneficiary of the death benefit shall be the Participant's spouse. Except, however, the Participant may designate a Beneficiary other than his spouse if:

- (1) the Participant and his spouse have validly waived the Pre-Retirement Survivor Annuity in the manner prescribed in Section 6.6, and the spouse has waived his or her right to be the Participant's Beneficiary, or
- (2) the Participant is legally separated or has been abandoned (within the meaning of local law) and the Participant has a court order to such effect (and there is no "qualified domestic relations order" as defined in Code Section 414(p) which provides otherwise), or
- (3) the Participant has no spouse, or
- (4) the spouse cannot be located.

In such event, the designation of a Beneficiary shall be made on a form satisfactory to the Administrator. A Participant may at any time revoke his designation of Beneficiary or change his Beneficiary by filing written notice of such revocation or change with the Administrator. However, the Participant's spouse must again consent in writing to any change in Beneficiary unless the original consent acknowledged that the spouse had the right to limit consent only to a specific Beneficiary and that the spouse voluntarily elected to relinquish such right. In the event no valid designation of Beneficiary exists at the time of the Participant's death, the death benefit shall be payable to his estate.

(e) Effective January 1, 2007, Employees who die or become disabled while serving on active duty military service shall be entitled to the rights of this section even though such Participant was not re-employed by the Employer. Participants who die or become disabled while on active duty military service shall be treated as though re-employed the day before the Participant became disabled or died, and then either died a non-duty death while employed or became disabled from a non-duty disability.

6.3 DETERMINATION OF BENEFITS IN EVENT OF DISABILITY

In the event of a Participant's Total and Permanent Disability prior to his Retirement Date or other termination of his employment, all amounts credited to such Participant's Account shall become fully Vested. In the event of a Participant's Total and Permanent Disability, the Trustee, in accordance with the provisions of Sections 6.5 and 6.7, shall distribute to such Participant all amounts credited to such Participant's Account as though he had retired. **Effective January 1, 2007, Employees who die or become disabled while serving on active duty military service shall be entitled to the rights of this section even though such Participant was not re-employed by the Employer. Participants who die or become disabled while on active duty military service shall be treated as though re-employed the day before the Participant became disabled or died, and then either died a non-duty death while employed or became disabled from a non-duty disability.**

6.4 DETERMINATION OF BENEFITS UPON TERMINATION

(a) If a Participant's employment with the Employer is terminated for any reason other than death, Total and Permanent Disability or retirement, such Participant shall be entitled to such benefits as are provided hereinafter pursuant to this Section 6.4.

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

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

Trustee to cause the entire Vested portion of the Terminated Participant's Account to be payable to such Terminated Participant. Any distribution under this paragraph shall be made in a manner which is consistent with and satisfies the provisions of Section 6.5.

If the value of a Terminated Participant's Vested benefit derived from Employer and Employee contributions does not exceed \$5,000 (\$3,500 for Plan Years beginning prior to August 6, 1997) and has never exceeded \$5,000 (\$3,500 for Plan Years beginning prior to August 6, 1997) at the time of any prior distribution, the Administrator shall direct the Trustee to cause the entire Vested benefit to be paid to such Participant in a single lump sum.

For purposes of this Section 6.4, if the value of a Terminated Participant's Vested benefit is zero, the Terminated Participant shall be deemed to have received a distribution of such Vested benefit.

(b) The Vested portion of any Participant's Account shall be a percentage of the total amount credited to his Participant's Account determined on the basis of the Participant's number of whole years of his Period of Service according to the following schedule:

Vesting Schedule

Periods of Service	Percentage
1	0%
2	0%
3	100%

Upon vesting under this schedule, a Participant is vested in the Employer Contributions as well as the Employee Contributions.

(c) Notwithstanding the vesting schedule above, the portion of a Participant's Account attributable to Mandatory Participant Contributions and Voluntary Participant Contributions, and the earnings thereon, shall be at all times non-forfeitable.

(d) Notwithstanding the vesting schedule above, the Vested percentage of a Participant's Account shall not be less than the Vested percentage attained as of the later of the effective date or adoption date of this amendment and restatement.

(e) Notwithstanding the vesting schedule above, upon any full or partial termination of the plan, all amounts credited to the account of any affected Participant shall become 100% Vested and shall not thereafter be subject for Forfeiture.

(f) The computation of a Participant's nonforfeitable percentage of his interest in the Plan shall not be reduced as the result of any direct or indirect amendment to this Plan. In the event that the plan is amended to change or modify any vesting schedule, a Participant with at least three (3) whole years of his Period of Service as of the expiration date of the election period may elect to have his nonforfeitable percentage computed under the Plan without regard to such amendment. Notwithstanding the foregoing, for Plan Years beginning before January 1, 1989, or with respect to Employees who fail to complete a least one (1) Hour of Service in a Plan Year beginning after December 31, 1988, five (5) shall be substituted for three (3) in the preceding sentence. If a Participant fails to make such election, then such Participant shall be subject to the new vesting schedule. The Participant's election period shall commence on the adoption date of the amendment and shall end 60 days after the latest of:

- (1) the adoption date of the amendment,
- (2) the effective date of the amendment, or
- (3) the date the Participant receives written notice of the amendment from the Employer or Administrator.

- (g) (1) If any Former Participant shall be reemployed by the Employer before a 1-Year Break in Service occurs, he shall continue to participate in the Plan in the same manner as if such termination had not occurred.
- (2) If any Former Participant shall be reemployed by the Employer before five (5) consecutive 1-Year Breaks in Service, and such Former Participant had received, or was deemed to have received, a distribution of his entire Vested interest prior to his reemployment, his forfeited account shall be reinstated only if he repays the full amount distributed to him before the earlier of five (5) years after the first date on which the Participant is subsequently reemployed by the Employer or the close of the first period of five (5) consecutive 1-Year Breaks in Service commencing after the distribution, or in the event of a deemed distribution, upon the reemployment of such Former Participant. In the event

the Former Participant does repay the full amount distributed to him, or in the event of a deemed distribution, the undistributed portion of the Participant's Account must be restored in full, unadjusted by any gains or losses occurring subsequent to the Valuation Date coinciding with or preceding his termination. The source for such reinstatement shall first be any Forfeitures occurring during the year. If such source is insufficient, then the Employer shall contribute an amount which is sufficient to restore any such forfeited Accounts.

(3) If any Former Participant is reemployed after a 1-Year Break in Service has occurred, Periods of Service shall include Periods of Service prior to his 1-Year Break in Service subject to the following rules:

(i) If a Former Participant has a 1-Year Break in Service, his pre-break and post-break service shall be used for computing Periods of Service for vesting purposes only after he has been employed for one (1) Period of Service following the date of his reemployment with the Employer;

(ii) Any Former Participant who under the Plan does not have a nonforfeitable right to any interest in the Plan resulting from Employer contributions shall lose credits otherwise allowable under (i) above if his consecutive 1-Year Breaks in Service equal or exceed the greater of (A) five (5) or (B) the aggregate number of his pre-break Periods of Service;

(iii) After five (5) consecutive 1-Year Breaks in Service, a Former Participant's Vested Account balance attributable to pre-break service shall not be increased as a result of post-break service;

(iv) Any Employee who terminates employment for any reason other than Retirement or by reason of Total and Permanent Disability shall, in the event of reemployment, be subject to the eligibility requirements set forth above in order to again become a Participant. No period of absence from

employment by reason of a Leave of Absence shall be deemed to constitute termination of employment.

6.5 DISTRIBUTION OF BENEFITS

(a) The Administrator, pursuant to the election of the Participant, shall direct the Trustee to distribute to a Participant or his Beneficiary any amount to which he is entitled under the Plan in one or more of the following methods:

- (1) One lump-sum payment in cash.
- (2) An installment distribution consisting of approximately equal annual or more frequent installments made over a term certain not to exceed 15 years.

(b) Notwithstanding any provision in the Plan to the contrary, for Plan Years beginning after December 31, 1996, the distribution of a Participant's benefits, whether under the Plan or through the purchase of an annuity contract, shall be made in accordance with the following requirements and shall otherwise comply with Code Section 401(a)(9) and the Regulations thereunder (including Regulation 1.401(a)(9)-2), the provisions of which are incorporated herein by reference:

- (1) A Participant's benefits shall be distributed or must begin to be distributed to him not later than April 1st of the calendar year following the later of (i) the calendar year in which the Participant attains age 70 ½ or (ii) the calendar year in which the Participant retires, provided, such distributions shall be equal to or greater than any required distribution.

Any Participant attaining age 70 ½ in years after 1995 may elect by April 1st of the calendar year following the year in which the Participant attained age 70 ½ (or by December 31, 1997 in the case of a Participant attaining age 70 ½ 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 will begin receiving distributions by the April 1st of the calendar year following the year in which the Participant attained age 70 ½ (or by December 31, 1997 in the case of a Participant attaining age 70 ½ in 1996).

Alternatively, distributions to a Participant must begin no later than the applicable April 1st as determined under the preceding paragraph and must be made over the life of the Participant (or the lives of the Participant and the Participant's designated Beneficiary) or the life expectancy of the Participant (or the life expectancies of the Participant and his designated Beneficiary) in accordance with Regulations.

(2) Distributions to a Participant and his Beneficiaries shall only be made in accordance with the incidental death benefit requirements of Code Section 401(a)(9) and the Regulations thereunder.

(c) For purposes of this Section, the life expectancy of a Participant and a Participant's spouse may, at the election of the Participant or the Participant's spouse, be redetermined in accordance with the Regulations. The election, once made, shall be irrevocable. If no election is made by the time distributions must commence, then the life expectancy of the Participant and the Participant's spouse shall not be subject to recalculation. Life expectancy and joint and last survivor expectancy shall be computed using the return multiples in Tables V and VI of Regulation 1.72-9.

(d) Subject to the spouse's right of consent afforded under the Plan, the restrictions imposed by this Section shall not apply if a Participant has, prior to January 1, 1984, made a written designation to have his retirement benefit paid in an alternative method acceptable under Code Section 401(a) as in effect prior to the enactment of the Tax Equity and Fiscal Responsibility Act of 1982.

(e) All annuity Contracts under this Plan shall be non-transferable when distributed. Furthermore, the terms of any annuity Contract purchased and distributed to a Participant or spouse shall comply with all of the requirements of the Plan, including Code Section 401(a)(9).

(f) If a distribution is made at a time when a Participant is not fully Vested in his Participant's Account and the Participant may increase the Vested percentage in such account:

(1) a separate account shall be established for the Participant's interest in the Plan as of the time of the distribution; and

(2) at any relevant time, the Participant's Vested portion of the separate account shall be equal to an amount ("X") determined by the formula:

$$X = P (AB + (R \times D)) - (R \times D)$$

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 distribution, and R is the ratio of the account balance at the relevant time to the account balance after distribution.

6.6 DISTRIBUTION OF BENEFITS UPON DEATH

(a) (1) The death benefit shall be paid to the Participant's Beneficiary by either of the following methods, as elected by the Participant (or if no election has been made prior to the Participant's death, by his Beneficiary), subject to the rules specified in Section 6.6(g):

(i) One lump-sum payment in cash.

(ii) An installment distribution consisting of approximately equal annual or more frequent installment made over a term certain not to exceed 15 years.

(2) In the event the death benefit payable pursuant to Section 6.2 is payable in installments, then, upon the death of the Participant, the Administrator may direct the Trustee to segregate the death benefit into a separate account, and the Trustee shall invest such segregated account separately, and the funds accumulated in such account shall be used for the payment of the installments.

(b) Notwithstanding any provision in the Plan to the contrary, distributions upon the death of a Participant shall be made in accordance with the following requirements and shall otherwise comply with Code Section 401(a)(9) and the Regulations thereunder. If it is determined pursuant to Regulations that the distribution of a Participant's interest has begun and the Participant dies before his entire interest has been distributed to him, the remaining portion of such interest shall be distributed at least as rapidly as under the method of distribution selected pursuant to Section 6.5 as of his date of death. If a

Participant dies before he has begun to receive any distributions of his interest under the Plan or before distributions are deemed to have begun pursuant to Regulations, then his death benefit shall be distributed to his Beneficiaries by December 31st of the calendar year in which the fifth anniversary of his date of death occurs.

However, the 5-year distribution requirement of the preceding paragraph shall not apply to any portion of the deceased Participant's interest which is payable to or for the benefit of a designated Beneficiary. In such event, such portion shall be distributed over the life of such designated Beneficiary (or over a period not extending beyond the life expectancy of such designated Beneficiary) provided such distribution begins not later than December 31st of the calendar year immediately following the calendar year in which the Participant died. However, in the event the Participant's spouse (determined as of the date of the Participant's death) is his Beneficiary, the requirement that distributions commence within one year of a Participant's death shall not apply. In lieu thereof, distributions must commence on or before the later of: (1) December 31st of the calendar year immediately following the calendar year in which the Participant died; or (2) December 31st of the calendar year in which the Participant would have attained 70 ½. If the surviving spouse dies before distributions to such spouse begin, then the 5-year distribution requirement of this Section shall apply as if the spouse was the Participant.

(c) For purposes of this Section, the life expectancy of a Participant and a Participant's spouse (other than in the case of a life annuity) may, at the election of the Participant or the Participant's spouse, be redetermined in accordance with Regulations. The election, once made, shall be irrevocable. If no election is made by the time distributions must commence, then the life expectancy of the Participant and the Participant's spouse shall not be subject to recalculation. Life expectancy and joint and last survivor expectancy shall be computed using the tables in Regulation 1.401(a)(9).

(d) Subject to the spouse's right of consent afforded under the Plan, the restrictions imposed by this Section shall not apply if a Participant has, prior to January 1, 1984, made a written designation to have his death benefits paid in an alternative method acceptable under Code Section 401(a) as in effect prior to the enactment of the Tax Equity and Fiscal Responsibility Act of 1982.

6.7 TIME OF SEGREGATION OR DISTRIBUTION

Except as limited by Sections 6.5 and 6.6, whenever the Trustee is to make a distribution or to commence a series of payments the distribution or series of payments may be made or begun as soon as is practicable. However, unless a Former

Participant elects in writing to defer the receipt of benefits (such election may not result in a death benefit that is more than incidental), the payment of benefits shall begin not later than the 60th day after the close of the Plan Year in which the latest of the following events occurs: (a) the date on which the Participant attains the earlier of age 65 or the Normal Retirement Age specified herein; (b) the 10th anniversary of the Year in which the Participant commenced participation in the Plan; or (c) the date the Participant terminates his service with the Employer.

6.8 DISTRIBUTION FOR MINOR BENEFICIARY

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

6.9 LOCATION OF PARTICIPANT OR BENEFICIARY UNKNOWN

In the event that all, or any portion, of the distribution payable to a Participant or his Beneficiary hereunder shall, at the later of the Participant's attainment of age 62 or his Normal Retirement Age, remain unpaid solely by reason of the inability of the Administrator, after sending a registered letter, return receipt requested, to the last known address, and after further diligent effort, to ascertain the whereabouts of such Participant or his Beneficiary, the amount so distributable shall be treated as Forfeiture pursuant to the Plan. In the event a Participant or Beneficiary is located subsequent to his benefit being reallocated, such benefit shall be restored unadjusted for earnings and losses.

6.10 QUALIFIED DOMESTIC RELATIONS ORDER DISTRIBUTION

All rights and benefits, including elections, provided to a Participant in this Plan shall be subject to the rights afforded to any "alternative payee" under a "qualified domestic relations order." Furthermore, a distribution to an "alternate payee" shall be permitted if such distribution is authorized by a "qualified domestic relations order," even if the affected Participant has not separated from service and has not reached the "earliest retirement age" under the Plan. For the purposes of this Section, "alternative payee," "qualified domestic relations order" and "earliest retirement age" shall have the meaning set forth under Code Section 414(p).

ARTICLE VII – TRUSTEE

7.1 BASIC RESPONSIBILITIES OF THE TRUSTEE

(a) The Trustee shall have the following categories of responsibilities:

(1) Consistent with the “funding policy and method” determined by the Employer, to invest, manage, and control the Plan assets (consisting of Employer and Employee contribution for non-vested employees and Employee contributions not yet invested) subject, however, to the direction of a Participant with respect to his Participant Directed Accounts, the Employer or Investment Manager if the Trustee should appoint such manager as to all or a portion of the assets of the Plan;

(2) At the direction of the Administrator, to pay benefits required under the Plan to be paid to Participants, or, in the event of their death, to their Beneficiaries; and

(3) To maintain records of receipts and disbursements and furnish to the Employer and/or Administrator for each Plan Year a written annual report per Section 7.6.

(b) In the event that the Trustee shall be directed by a Participant (pursuant to the Participant Direction Procedures), or the Employer, or an Investment Manager with respect to the investment of any or all Plan assets, the Trustee shall have no liability with respect to the investment of such assets, but shall be responsible only to execute such investment instructions as so directed.

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

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

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

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

(c) If there shall be more than one Trustee, they shall act by a majority of their number, but may authorize one or more of them to sign papers on their behalf.

7.2 INVESTMENT POWERS AND DUTIES OF THE TRUSTEE

The Trustee shall have the investment powers listed in this section with respect to investment of Trust assets except to the extent that the investment of Trust assets is controlled by Participants, pursuant to Section 4.7.

(a) The Trustee shall invest and reinvest the Trust Fund to keep the Trust Fund invested without distinction between principal and income and in such securities or property, real or personal, wherever situated, as the Trustee shall deem advisable, including, but not limited to, stocks, common or preferred, bonds and other evidences of indebtedness or ownership, and real estate or any interest therein, and any other investments as permitted by law. The Trustee shall at all times in making investments of the Trust Fund consider among other factors, the short and long-term financial needs of the Plan on the basis of information furnished by the Employer. In making such investments, the Trustee shall not be restricted to securities or other property of the character expressly authorized by the applicable law for trust investments; however, the Trustee shall give due regard to any limitations imposed by the Code or the Act so that at all times the Plan may qualify as a qualified Money Purchase Pension Plan and Trust.

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

(c) The Trustee, at the direction of the Administrator, shall ratably apply for, own, and pay premiums on Contracts on the lives of the Participants. If a life insurance policy is to be purchased for a Participant, the aggregate premium for ordinary life insurance for each Participant must be less than 50% of the aggregate of the contributions and Forfeitures to the credit of the Participant at any particular time. If term insurance is purchased with such contributions, the aggregate premium must be less than 25% of the aggregate contributions and Forfeitures allocated to a Participant's Account. If both term insurance and ordinary life insurance are purchased with such contributions, the amount expended for term insurance plus one-half of the premium for ordinary life insurance may not in the aggregate exceed 25% of the aggregate contributions and Forfeitures allocated to a Participant's Account. The Trustee must convert the entire value of the life insurance contracts at or before retirement into cash or provide for a periodic income so that no portion of such value may be used to continue life insurance protection beyond retirement, or distribute the Contracts to the Participant. In the event of any conflict between the terms of this Plan and the terms of any insurance Contract purchased hereunder, the Plan provisions shall control.

7.3 OTHER POWERS OF THE TRUSTEE

The Trustee, in addition to all powers and authorities under common law, statutory authority, including the Act, and other provisions of the Plan, shall have the following powers and authorities, to be exercised in the Trustee's sole discretion:

(a) To purchase, or subscribe for, any securities or other property and to retain the same. In conjunction with the purchase of securities, margin accounts may be opened and maintained.

(b) To sell, exchange, convey, transfer, grant options to purchase, or otherwise dispose of any securities or other property held by the Trustee, by private contract or at public auction. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity, expediency, or propriety of any such sale or other disposition, with or without advertisement;

(c) To vote upon any stocks, bonds, or other securities; to give general or special proxies or powers of attorney with or without power of substitution; to exercise any conversion privileges, subscription rights or other options, and to make any payments incidental thereto; to oppose, or to consent to, or otherwise participate in, corporate reorganizations or other changes affecting corporate securities, and to delegate discretionary powers, and to pay any assessments or charges in connection therewith; and generally to exercise any of the powers of

an owner with respect to stocks, bonds, securities, or other property. However, the Trustee shall not vote proxies relating to securities for which it has not been assigned full investment manager responsibilities. In those cases where another party has such investment authority or discretion, the Trustee will deliver all proxies to said party who will then have full responsibility for voting those proxies;

(d) To cause any securities or other property to be registered in the Trustee's own name or in the name of one or more of the Trustee's nominees, and to hold any investments in bearer form, but the books and records of the Trustee shall at all times show that all such investments are part of the Trust Fund;

(e) To borrow or raise money for the purposes of the Plan in such amount, and upon such terms and conditions, as the Trustee shall deem advisable; and for any sum so borrowed, to issue a promissory note as Trustee, and to secure the repayment thereof by pledging all, or any part, of the Trust Fund; and no person lending money to the Trustee shall be bound to see to the application of the money lent or to inquire into the validity, expediency, or propriety of any borrowing;

(f) To keep such portion of the Trust Fund in cash or cash balances as the Trustee may, from time to time, deem to be in the best interests of the Plan, without liability for interest thereon;

(g) To accept and retain for such time as the Trustee may deem advisable any securities or other property received or acquired as Trustee hereunder, whether or not such securities or other property would normally be purchased as investments hereunder;

(h) 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;

(i) To settle, compromise, or submit to arbitration any claims, debts, or damages due or owing to or from the Plan, to commence or defend suits or legal or administrative proceedings, and to represent the Plan in all suits and legal and administrative proceedings;

(j) To employ suitable agents and counsel and to pay their reasonable expenses and compensation, and such agent or counsel may or may not be agent or counsel for the Employer;

(k) To apply for and procure from responsible insurance companies, to be selected by the Administrator, as an investment of the Trust Fund such

annuity, or other Contract (on the life of any Participant) as the Administrator shall deem proper; to exercise, at any time or from time to time, whatever rights and privileges may be granted under such annuity, or other Contracts; to collect, receive, and settle for the proceeds of all such annuity or other Contracts as and when entitled to do so under the provisions thereof.

(l) To invest funds of the Trust in time deposits or savings accounts bearing a reasonable rate of interest in the Trustee's bank;

(m) To invest in Treasury Bills and other forms of United States government obligations;

(n) To invest in shares of investment companies registered under the Investment Company Act of 1940;

(o) To deposit monies in federally insured savings accounts or certificates of deposit in banks or savings and loan associations;

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

(q) To appoint a nonfiduciary agent or agents to assist the Trustee in carrying out any investment instructions of Participants and of any Investment Manager or Fiduciary, and to compensate such agent(s) from the assets of the Plan, to the extent not paid by the Employer;

(r) To do all such acts and exercise all such rights and privileges, although not specifically mentioned herein, as the Trustee may deem necessary to carry out the purposes of the Plan.

7.4 DUTIES OF THE TRUSTEE REGARDING PAYMENTS

At the direction of the Administrator, the Trustee shall, from time to time, in accordance with the terms of the Plan, make payments out of the Trust Fund. The Trustee shall not be responsible in any way for the application of such payments.

7.5 TRUSTEE'S COMPENSATION AND EXPENSES AND TAXES

The Trustee shall be paid such reasonable compensation as shall from time to time be agreed upon in writing by the Employer and the Trustee. An individual serving as Trustee who already receives full-time pay from the Employer shall not receive compensation from the Plan. In addition, the Trustee shall be reimbursed for any reasonable expenses, including reasonable counsel fees incurred by it as Trustee. Such compensation and expenses shall be paid from the Trust Fund unless paid or advanced by the Employer. All taxes of any kind and all kinds whatsoever that may be levied or assessed under existing or future laws upon, or in respect of, the Trust Fund or the income thereof, shall be paid from the Trust Fund or by the Employer.

7.6 ANNUAL REPORT OF THE TRUSTEE

Within a reasonable period of time after the Anniversary Date for each Plan Year, the Trustee shall furnish to the Employer and Administrator a written statement of account with respect to the Plan Year for which such contribution was made setting forth:

- (a) the net income, or loss, of the Trust Fund;
- (b) the gains, or losses, realized by the Trust Fund upon sales or other disposition of the assets;
- (c) the increase, or decrease, in the value of the Trust Fund;
- (d) all payments and distributions made from the Trust Fund; and
- (e) such further documentation as the Trustee and/or Administrator deems appropriate. The Employer, forthwith upon its receipt of each such statement of account, shall acknowledge receipt thereof in writing and advise the Trustee and/or Administrator of its approval or disapproval thereof. Failure by the Employer to disapprove any such statement of account within thirty (30) days after its receipt thereof shall be deemed an approval thereof. The approval by the Employer of any statement of account shall be binding as to all matters embraced therein as between the Employer and the Trustee to the same extent as if the account of the Trustee had been settled by judgment or decree in an action for a judicial settlement of its account in a court of competent jurisdiction in which the Trustee, the Employer and all persons having or claiming an interest in the Plan were parties; provided, however, that nothing herein contained shall deprive the Trustee of its right to have its accounts judicially settled if the Trustee so desires.

7.7 AUDIT

(a) If an audit of the Plan's records shall be required by the Act and the regulations thereunder for any Plan Year, the Administrator shall direct the Trustee to engage on behalf of all Participants an independent qualified public accountant for that purpose. Such accountant shall, after an audit of the books and records of the Plan in accordance with generally accepted auditing standards, within a reasonable period after the close of the Plan Year, furnish to the Administrator and the Trustee a report of his audit setting forth his opinion as to whether any statements, schedules or lists that are required by Action Section 103 or the Secretary of Labor to be filed with the Plan's annual report, are presented fairly in conformity with generally accepted accounting principles applied consistently. All auditing and accounting fees shall be an expense of and may, at the election of the Administrator, be paid from the Trust Fund.

(b) If some or all of the information necessary to enable the Administrator to comply with Action Section 103 is maintained by a bank, insurance company, or similar institution, regulated and supervised and subject to periodic examination by a state or federal agency, it shall transmit and certify the accuracy of that information to the Administrator as provided in Act Section 103(b) within one hundred twenty (120) days after the end of the Plan Year or by such other date as may be prescribed under regulations of the Secretary of Labor.

7.8 RESIGNATION, REMOVAL AND SUCCESSION OF TRUSTEE

(a) The Trustee may resign at any time by delivering to the Employer, at least thirty (30) days before its effective date, a written notice of his resignation.

(b) The Employer may remove the Trustee by mailing by registered or certified mail, addressed to such Trustee at his last known address, at least thirty (30) days before its effective date, a written notice of his removal.

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

(d) The Employer may designate one or more successors prior to the death, resignation, incapacity, or removal of a Trustee. In the event a successor is so designated by the Employer and accepts such designation, the successor shall, without further act, become vested with all the estate, rights, powers, discretions, and duties of his predecessor with the like effect as if he were originally named as Trustee herein immediately upon the death, resignation, incapacity, or removal of his predecessor.

(e) Whenever any Trustee hereunder ceases to serve as such, he shall furnish to the Employer and Administrator a written statement of account with respect to the portion of the Plan Year during which he served as Trustee. This statement shall be either (i) included as part of the annual statement of account for the Plan Year required under Section 7.6 or (ii) set forth in a special statement. Any such special statement of account should be rendered to the Employer no later than the due date of the annual statement of account for the Plan Year. The procedures set forth in Section 7.6 for the approval by the Employer of annual statements of account shall apply to any special statement of account rendered hereunder and approval by the Employer of such special statement in the manner provided in Section 7.6 shall have the same effect upon the statement as the Employer's approval of an annual statement of account. No successor to the Trustee shall have any duty or responsibility to investigate the acts or transactions of any predecessor who has rendered all statements of account required by Section 7.6 and this subparagraph.

7.9 TRANSFER OF INTEREST

Notwithstanding any other provision contained in this Plan, the Trustee at the direction of the Administrator shall transfer the Vested interest, if any, of such Participant in his account to another trust forming part of a pension, profit sharing or stock bonus plan maintained by such Participant's new employer and represented by said employer in writing as meeting the requirements of Code Section 401(a), provided that the trust to which such transfers are made permits the transfer to be made.

7.10 DIRECT ROLLOVER

(a) Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect, at the time and in the manner prescribed by the Administrator, to have any portion of an eligible rollover distribution that is equal to at least \$500 paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(b) For purposes of this Section the following definitions shall apply:

(1) An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Code Section 401(a)(9); 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 than \$200 during a year.

(2) An eligible retirement plan is 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), a qualified trust described in Code Section 401(a), and an eligible deferred compensation plan described in Code Section 457(b) that accepts the distributee's eligible rollover distribution.

(3) A distributee includes an Employee or former Employee and, the Employee's or former Employee's surviving spouse.

a. The Employees's or former Employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Code Section 414(p), are distributees with regard to the interest of the spouse or former spouse.

b. Effective for distributions after December 31, 2006, a non-spouse designated beneficiary who is entitled to a distribution as the result of the death of the Employee shall be treated as a distributee for purposes of a rollover to an individual retirement plan.

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

(5) Pursuant to Code Section 408A, for distributions after December 31, 2007, an Employee may make a qualified rollover contribution to a Roth IRA if the Employee's adjusted gross income for the year is less than \$100,000 or the Employee is married filing a separate return.

(c) If a distributee does not make an election under subsection (a) to rollover a mandatory distribution or to receive such mandatory distribution directly, then such distribution under the Plan in excess of \$1,000.00 shall be rolled over to an individual retirement plan of a designated trustee or issuer. The distributee shall be notified in writing that the distribution may be transferred to another individual retirement plan.

7.11 ROLLOVERS FROM QUALIFIED PLANS

(a) A participant may roll over all or part of his or her assets, including after-tax contributions, in another qualified plan to his or her Voluntary Contribution Account, provided all of the following requirements are met:

- (1) Some or all of the amount distributed from the other plan is rolled over to this plan no later than the 60th day after distribution was made from the other plan or, if distributions are made in installments, no later than the 60th day after the last distribution was made.
- (2) The rollover is made in cash.
- (3) The Participant certifies that the distribution is eligible for a rollover.
- (4) The rollover is from one of the following types of plans:
 - A. A qualified plan described in Code Sections 401(a) or 403(a);
 - B. An annuity contract described in Code Section 403(b);
 - C. An eligible plan under Code Section 457(b) which is maintained by a state political subdivision of a state or any agency or instrumentality of a state or a political subdivision of a state; and

D. An individual retirement account or annuity described in Code Section 408(a) or 408(b).

The amounts which the Trustee accepts as a rollover to this Fund shall, along with any earnings allocated to the Trustee, be fully vested at all times.

(b) Notwithstanding subsection (a), the Employer may reject the rollover contribution if it determines, in its discretion, that the form and nature of the distribution from the other plan does not satisfy the applicable requirements of the Code to make the transfer or rollover a non-taxable transaction to the Participant.

ARTICLE VIII – AMENDMENT, TERMINATION AND MERGERS

8.1 AMENDMENT

(a) The Employer shall have the right at any time to amend the Plan, subject to the limitations of this Section. However, any amendment which affects the rights, duties or responsibilities of the Trustee and Administrator, other than an amendment to remove the Trustee or Administrator, may only be made with the Trustee's and Administrator's written consent. Any such amendment shall become effective as provided therein upon its execution. The Trustee shall not be required to execute any such amendment unless the Trust provisions contained herein are a part of the Plan and the amendment affects the duties of the Trustee hereunder.

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

(c) Except as permitted by Regulations, no Plan amendment or transaction having the effect of a Plan amendment (such as a merger, plan transfer or similar transaction) shall be effective to the extent it eliminates or reduces any "Section 411(d)(6) protected benefit" or adds or modifies conditions relating to "Section 411(d)(6) protected benefits" the result of which is a further restriction on such benefit unless such protected benefits are preserved with respect to benefits accrued as of the later of the adoption date or effective date of the amendment. "Section 411(d)(6) protected benefits" are benefits described in

Code Section 411(d)(6)(A), early retirement benefits and retirement-type subsidies, and optional forms of benefit.

8.2 TERMINATION

(a) The Employer shall have the right at any time to terminate the Plan by delivering to the Trustee and Administrator written notice of such termination. Upon any full or partial termination, all amounts credited to the affected Participants' Accounts shall become 100% Vested as provided in Section 6.4 and shall not thereafter be subject to forfeiture, and all unallocated amounts shall be allocated to the accounts of all Participants in accordance with the provisions hereof. In the event of termination, no part of the Trust shall be used or diverted for any purpose other than for the exclusive benefit of the Participants and Beneficiaries of this Trust.

(b) Upon the full termination of the Plan, the Employer shall direct the distribution of the assets of the Trust Fund to Participants in a manner which is consistent with and satisfies the provisions of Section 6.5. Distributions to a Participant shall be made in cash or through the purchase of irrevocable nontransferable deferred commitments from an insurer. Except as permitted by Regulations, the termination of the Plan shall not result in the reduction of "Section 411(d)(6) protected benefits" in accordance with Section 8.1(c).

8.3 MERGER OR CONSOLIDATION

This Plan and Trust may be merged or consolidated with, or its assets and/or liabilities may be transferred to any other plan and trust only if the benefits which would be received by a Participant of this Plan, in the event of a termination of the plan immediately after such transfer, merger or consolidation, are at least equal to the benefits the Participant would have received if the Plan had terminated immediately before the transfer, merger or consolidation, and such transfer, merger or consolidation does not otherwise result in the elimination or reduction of any "Section 411(d)(6) protected benefits" in accordance with Section 8.1(c).

ARTICLE IX – MISCELLANEOUS

9.1 PARTICIPANT'S RIGHTS

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

time regardless of the effect which such discharge shall have upon him as a Participant of this Plan.

9.2 ALIENATION

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

(b) This provision shall not apply to a “qualified domestic relations order” defined in Code Section 414(p), and those other domestic relations orders permitted to be so treated by the Administrator under the provisions of the Retirement Equity Act of 1984. The Administrator shall establish a written procedure to determine the qualified status of domestic relations orders and to administer distributions under such qualified orders. Further, to the extent provided under a “qualified domestic relations order,” a former spouse of a Participant shall be treated as the spouse or surviving spouse for all purposes under the Plan.

(c) This provision shall not apply to an offset to a Participant’s accrued benefit against an amount that the Participant is ordered or required to pay the Plan with respect to a judgment, order, or decree issued, or a settlement entered into, on or after August 5, 1997, in accordance with Code Sections 401(a)(13)(C) and (D). 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 pre-retirement 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 to settlement to pay an amount to the Plan in connection with a violation of fiduciary duties, 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 provided pursuant to Code Section 401(a)(11)(A)(i) and under a qualified pre-retirement survivor annuity provided pursuant to Code Section 401(a)(11)(A)(ii).

9.3 CONSTRUCTION OF PLAN

This Plan and Trust shall be construed and enforced according to the Act and the laws of the State of Florida, other than its laws respecting choice of law, to the extent not preempted by the Act.

9.4 GENDER AND NUMBER

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

9.5 LEGAL ACTION

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

9.6 PROHIBITION AGAINST DIVERSION OF FUNDS

(a) Except as provided below and otherwise specifically permitted by law, it shall be impossible by operation of the Plan or of the Trust, by termination of either, by power of revocation or amendment, by the happening of any contingency, by collateral arrangement or by any other means, for any part of the corpus or income of any trust fund maintained pursuant to the Plan or any funds

contributed thereto to be used for, or diverted to, purposes other than the exclusive benefit of Participants, Retired Participants, or their Beneficiaries.

(b) In the event the Employer shall make an excessive contribution under a mistake of fact pursuant to Act Section 403(c)(2)(A), the Employer may demand repayment of such excessive contribution at any time within one (1) year following the time of payment and the Trustees shall return such amount to the Employer within the one (1) year period. Earnings of the Plan attributable to the excess contributions may not be returned to the Employer but any losses attributable thereto must reduce the amount so returned.

9.7 BONDING

Every Fiduciary, except a bank or an insurance company, unless exempted by the Act and regulations thereunder, shall be bonded in an amount not less than 10% of the amount of the funds such Fiduciary handles; provided, however, that the minimum bond shall be \$1,000 and the maximum bond, \$500,000. The amount of funds handled shall be determined at the beginning of each Plan Year by the amount of funds handled by such person, group, or class to be covered and their predecessors, if any, during the preceding Plan Year, or if there is no preceding Plan Year, then by the amount of the funds to be handled during the then current year. The bond shall provide protection to the Plan against any loss by reason of acts of fraud or dishonesty by the Fiduciary alone or in connivance with others. The surety shall be a corporate surety company (as such term is used in Act Section 412(a)(2)), and the bond shall be in a form approved by the Secretary of Labor. Notwithstanding anything in the Plan to the contrary, the cost of such bonds shall be an expense of and may, at the election of the Administrator, be paid from the Trust Fund or by the Employer.

9.8 EMPLOYER'S AND TRUSTEE'S PROTECTIVE CLAUSE

Neither the Employer, the Administrator, nor the Trustee, nor their successors shall be responsible for the validity of any Contract issues hereunder or for the failure on the part of the insurer to make payments provided by any such Contract, or for the action of any person which may delay payment or render a Contract null and void or unenforceable in whole or in part.

9.9 INSURER'S PROTECTIVE CLAUSE

Any insurer who shall issue Contracts hereunder shall not have any responsibility for the validity of this Plan or for the tax or legal aspects of this Plan. The insurer shall be protected and held harmless in acting in accordance with any written direction of the Trustee, and shall have no duty to see to the application of any funds paid to the Trustee, nor be required to question any actions directed by the Trustee. Regardless of

any provision of this Plan, the insurer shall not be required to take or permit any action or allow any benefit or privilege contrary to the terms of any Contract which it issues hereunder, or the rules of the insurer.

9.10 RECEIPT AND RELEASE FOR PAYMENTS

Any payment to any Participant, his legal representative, Beneficiary, or to any guardian or committee appointed for such Participant or Beneficiary in accordance with the provisions of the Plan, shall, to the extent thereof, be in full satisfaction of all claims hereunder against the Trustee and the Employer, either of whom may require such Participant, legal representative, Beneficiary, guardian or committee, as a condition precedent to such payment, to execute a receipt and release thereof in such form as shall be determined by the Trustee or Employer.

9.11 ACTION BY THE EMPLOYER

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

9.12 NAMED FIDUCIARIES AND ALLOCATION OF RESPONSIBILITY

The “named Fiduciaries” of this Plan are (1) the Employer, (2) the Administrator and (3) the Trustee. The named Fiduciaries shall have only those specific powers, duties, responsibilities, and obligations as are specifically given them under the Plan or as accepted by or assigned to them pursuant to any procedure provided under the Plan, including but not limited to any agreement allocating or delegating their responsibilities, the terms of which are incorporated herein by reference. In general, unless otherwise indicated herein or pursuant to such agreements, the Employer shall have the duties specified in Article II hereof, as the same may be allocated or delegated thereunder, including but not limited to the responsibility for making the contributions provided for under Section 4.1; and shall have the authority to appoint and remove the Trustee and the Administrator; to formulate the Plan’s “funding policy and method”; and to amend or terminate, in whole or in part, the Plan. The Administrator shall have the responsibility for the administration of the Plan, including but not limited to the items specified in Article II of the Plan, as the same may be allocated or delegated thereunder. The Administrator shall act as the named Fiduciary responsible for communicating with the Participant according to the Participant Direction Procedures. The Trustee shall have the responsibility of management and control of the assets held under the Trust, except to the extent directed pursuant to Article II or with respect to those assets, the management of which has been assigned to an Investment Manager, who shall be solely responsible for the management of the assets assigned to it, all as specifically provided in the Plan and any agreement with the Trustee. Each named Fiduciary

warrants that any directions given, information furnished, or action taken by it shall be in accordance with the provisions of the Plan, authorizing or providing for such direction, information or action. Furthermore, each named Fiduciary may rely upon any such direction, information or action of another named Fiduciary as being proper under the Plan, and is not required under the Plan to inquire into the propriety of any such direction, information or action. It is intended under the Plan that each named Fiduciary shall be responsible for the proper exercise of its own powers, duties, responsibilities and obligations under the Plan as specified or allocated herein. No named Fiduciary shall guarantee the Trust Fund in any manner against investment loss or depreciation in asset value. Any person or group may serve in more than one Fiduciary capacity. In the furtherance of their responsibilities hereunder, the "named Fiduciaries" shall be empowered to interpret the Plan and Trust and to resolve ambiguities, inconsistencies and omissions, which findings shall be binding, final and conclusive.

9.13 HEADINGS

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

9.14 APPROVAL BY INTERNAL REVENUE SERVICE

(a) Notwithstanding anything herein to the contrary, contributions to this Plan are conditioned upon the initial qualification of the Plan under Code Section 401. If the Plan receives an adverse determination with respect to its initial qualification, then the Plan may return such contributions to the Employer within one year after such determination, provided the application for the determination is made by the time prescribed by law for filing the Employer's return for the taxable year in which the Plan was adopted, or such later date as the Secretary of the Treasury may prescribe.

(b) Notwithstanding any provisions to the contrary, except Sections 3.5 and 3.6, any contribution by the Employer to the Trust Fund is conditioned upon the deductibility of the contribution by the Employer under the Code and, to the extent any such deduction is disallowed, the Employer may, within one (1) year following the disallowance of the deduction, demand repayment of such disallowed contribution and the Trustee shall return such contribution within one (1) year following the disallowance. Earnings of the Plan attributable to the excess contribution may not be returned to the Employer, but any losses attributable thereto must reduce the amount so returned.

9.15 UNIFORMITY

All provisions of this Plan shall be interpreted and applied in a uniform, nondiscriminatory manner. In the event of any conflict between the terms of this Plan and any Contract purchased hereunder, the Plan provisions shall control.

9.16 WAIVER OF FUNDING

(a) In the event that the minimum funding requirement for a particular Plan Year has been waived in whole or in part, then, an Adjusted Account Balance shall be established for each Participant which shall reflect the Account balance the Participant would have had, had the waived amount been contributed. The Adjusted Account Balance shall remain in effect until such time as the value of the Participant's Account equals the value of the Participant's Adjusted Account Balance:

(1) The excess of the value of each Participant's Adjusted Account Balance over the value of the Participant's Account balance will be credited with earnings equal to 150 percent of the Federal mid-term rate (as in effect under Code Section 1274 for the first month of such Plan Year).

(2) The waiver payment to be made by the Employer in the year after the waiver is granted shall at least equal the amount necessary to amortize over 5 years, at the appropriate interest rate, the excess of the sum of the Adjusted Account Balances of the total value of the Trust Fund attributable to the Employer contributions. In the next year, the excess for such subsequent year, if any, is amortized over 4 years. In each succeeding year the amortization period is reduced by one year. The Employer may, however, make such larger payments at any time as the Employer shall deem appropriate.

(3) An unallocated Waiver Suspense Account shall be created, to which shall be made all payments designated to reduce the waived deficiency. If at the time of distribution, the non-forfeitable portion of a Participant's Adjusted Account Balance exceeds that Participant's actual Account balance, that Participant will receive the larger amount to the extent that there are then funds in the unallocated Waiver Suspense Account to cover the excess. If at any time, a Participant may not be able to receive a total distribution of

the entire non-forfeitable portion of his Adjusted Account Balance, such Participant would receive subsequent distributions derived from future waiver payments.

(b) When the total value of the Trust Fund equals the sum of the Adjusted Account Balances, the Waiver Suspense Account shall be allocated to the affected Participant so that each Participant's actual Account balance equals that Participant's Adjusted Account Balance.

IN WITNESS WHEREOF, this Plan has been executed the day and year first above written.

Loxahatchee River
Environmental Control District

By: _____
EMPLOYER

ATTEST _____

TRUSTEE Harvey Silverman
Trustee