

ARTICLE V

INVESTMENT OF DEFERRED COMPENSATION

- 5.01 Contributions Made Promptly.** All amounts deferred under this Plan shall be transferred to a trust, custodial account or Annuity Contract described in Section 5.02 as soon as administratively practicable following the end of the payroll cycle with respect to which such amounts relate, and in any event within 15 business days following the end of the month in which the amounts would otherwise have been paid to the Participant.
- 5.02 Exclusive Benefit.** All amounts held under the Plan, including amounts deferred and earnings or other accumulations attributable thereto, shall be held for the exclusive benefit of Plan Participants and Beneficiaries (i) in Annuity Contracts, or (ii) in trust or in one or more custodial accounts pursuant to one or more separate written instruments. Any such Annuity Contract, trust, or custodial account must satisfy the requirements of Code Section 457(g)(1). The Annuity Contract, trust or custodial account must make it impossible, prior to the satisfaction of all liabilities with respect to Participants and their Beneficiaries, for any part of the assets and income of the Annuity Contract, trust or custodial account to be used for, or diverted to, purposes other than for the exclusive benefit of Participants and their Beneficiaries. Any issuer of an Annuity Contract or trustee or custodian of other investments held under the Plan shall have no authority to pay any amounts from such Plan investments to any creditor of the Plan Sponsor or Employer, and shall have no duty to inquire into the validity of any request by the Plan Sponsor or by an administrator or administrative committee for distribution of amounts for the benefit of a Participant or Beneficiary under the Plan.
- 5.03 Annuity Contracts and Other Plan Investments.** The Contract Administrator shall invest the amount of Compensation deferred by each Participant in Annuity Contracts and other Plan investments as specified in the Participants' Deferred Compensation Agreements. Responsibility for the selection of investment alternatives for Plan assets shall be retained by the Plan Sponsor, and the Plan Sponsor shall have the right to modify the selection of investment alternatives from time to time. However, Participants and Beneficiaries may allocate amounts held in their Accounts or otherwise credited for their benefit under the Plan among the investment alternatives selected by the Plan Sponsor, and the Contract Administrator shall cause such amounts to be so allocated within a reasonable time after the receipt of Participant instructions, or may instruct the issuer, trustee, or custodian to accept such allocation instructions directly from Participants and Beneficiaries.
- 5.04 Benefits Based on Participant's Account Value.** The benefits paid to a Participant or Beneficiary pursuant to Article VI of this Plan shall be based upon the value of the Participant's Account. In no event shall the Plan's liability to pay benefits exceed the value of the Participant's Account, and the Plan Sponsor shall not be liable for losses arising from depreciation or other decline in the value of any investments acquired under this Plan.

- 5.05 **Periodic Reports.** Each Participant shall receive periodic reports, not less frequently than annually, showing the then-current value of the Participant's Account.

ARTICLE VI

BENEFITS

- 6.01 **Distribution of Benefits.** Except as otherwise provided in this Article, a Participant's Account shall become distributable upon a Participant's attainment of age 70¹/₂ or upon Severance from Employment. If the Participant has had a Severance from Employment, the distribution of a Participant's Account shall commence no later than April 1 of the calendar year following the year of the Participant's attainment of age 70¹/₂. Distributions may be made in the form of a direct rollover (as described in Section 8.02(a)) or in such other forms of payment as may be available under the applicable Annuity Contract or other investment option and consistent with the limitations set forth in Section 6.03.
- 6.02 **Distribution Procedures.** The Plan Sponsor may from time to time establish procedures for Participant distribution elections, provided that such procedures are not inconsistent with the requirements of Section 6.01.
- 6.03 **Required Minimum Distributions.**
- (a) No payment option may be selected by the Participant (or a Beneficiary) unless it complies with a reasonable and good faith interpretation of the requirements of Code Section 401(a)(9) and any additional Code limitations applicable to the Plan. The requirements of this section shall take precedence over any inconsistent provisions of the Plan. All distributions required under this section shall be determined and made in accordance with the regulations under Code Section 401(a)(9).
 - (b) The Participant's entire interest shall be distributed, or begin to be distributed, to the Participant no later than the Participant's required beginning date. If the Participant dies before distributions begin, the Participant's entire interest shall be distributed, or begin to be distributed, no later than as follows:
 - (1) If the Participant's surviving spouse is the Participant's sole designated Beneficiary, then unless the surviving spouse elects to apply the 5-year rule (pursuant to subsection (f), below), distributions to the surviving spouse shall begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70 ¹/₂, if later.
 - (2) If the Participant's surviving spouse is not the Participant's sole designated Beneficiary, then unless the designated Beneficiary elects to apply the 5-year rule (pursuant to subsection (f), below), distributions to the designated Beneficiary shall begin by December 31 of the calendar

year immediately following the calendar year in which the Participant died.

- (3) If there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest shall be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
- (4) If the Participant's surviving spouse is the Participant's sole designated Beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this subsection (b), other than paragraph (b)(1), shall apply as if the surviving spouse were the Participant.

For purposes of this subsection (b) and subsection (d), unless paragraph (b)(4) applies, distributions are considered to begin on the Participant's required beginning date. If paragraph (b)(4) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under paragraph (b)(1). If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's required beginning date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under paragraph (b)(1)), the date distributions are considered to begin is the date distributions actually commence.

Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions shall be made in accordance with subsections (c) and (d) of this section. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder shall be made in reasonable and good faith compliance with the requirements of Code Section 401(a)(9).

- (c) During the Participant's lifetime, the minimum amount that shall be distributed for each distribution calendar year is the lesser of:
 - (1) the quotient obtained by dividing the Participant's account balance by the distribution period in the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the regulations, using the Participant's age as of the Participant's birthday in the distribution calendar year; or
 - (2) if the Participant's sole designated Beneficiary for the distribution calendar year is the Participant's spouse, the quotient obtained by dividing the Participant's account balance by the number in the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9 of the regulations, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the distribution calendar year.

Required minimum distributions shall be determined under this subsection (c) beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the Participant's date of death.

- (d) (1) If the Participant dies on or after the date distributions begin and there is a designated Beneficiary, the minimum amount that shall be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the longer of the remaining life expectancy of the Participant or the remaining life expectancy of the Participant's designated Beneficiary, determined as follows:
 - (a) The Participant's remaining life expectancy is calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.
 - (b) If the Participant's surviving spouse is the Participant's sole designated Beneficiary, the remaining life expectancy of the surviving spouse is calculated for each distribution calendar year after the year of the Participant's death using the surviving spouse's age as of the spouse's birthday in that year. For distribution calendar years after the year of the surviving spouse's death, the remaining life expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.
 - (c) If the Participant's surviving spouse is not the Participant's sole designated Beneficiary, the designated Beneficiary's remaining life expectancy is calculated using the age of the Beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.
- (2) If the Participant dies on or after the date distributions begin and there is no designated Beneficiary as of September 30 of the year after the year of the Participant's death, the minimum amount that shall be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the Participant's remaining life expectancy calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.
- (3) Except as otherwise elected (pursuant to subsection (f), below), if the Participant dies before the date distributions begin and there is a designated Beneficiary, the minimum amount that shall be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the

remaining life expectancy of the Participant's designated Beneficiary, determined as provided in paragraph (d)(1) and subsection (2).

- (4) If the Participant dies before the date distributions begin and there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest shall be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
- (5) If the Participant dies before the date distributions begin, the Participant's surviving spouse is the Participant's sole designated Beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under paragraph (b)(1), this subsection (d) shall apply as if the surviving spouse were the Participant.

(e) Definitions.

- (1) "Designated Beneficiary" means the individual who is designated as the Beneficiary under Section 2.03 of the Plan and is the designated Beneficiary under Code Section 401(a)(9) and Section 1.401(a)(9)-1, Q&A-4, of the regulations.
- (2) "Distribution calendar year" means a calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year that contains the Participant's required beginning date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin under subsection (b). The required minimum distribution for the Participant's first distribution calendar year shall be made on or before the Participant's required beginning date. The required minimum distribution for other distribution calendar years, including the required minimum distribution for the distribution calendar year in which the Participant's required beginning date occurs, shall be made on or before December 31 of that distribution calendar year.
- (3) "Life expectancy" means life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9 of the regulations.
- (4) "Participant's account balance" means the account balance as of the last valuation date in the calendar year immediately preceding the distribution calendar year (valuation calendar year) increased by the amount of any contributions made and allocated or forfeitures allocated to the account balance as of dates in the valuation calendar year after the valuation date and decreased by distributions made in the valuation calendar year after the valuation date. The account balance for the valuation calendar year includes any amounts rolled over or transferred to the plan either in the

valuation calendar year or in the distribution calendar year if distributed or transferred in the valuation calendar year.

(5) "Required beginning date" means April 1st of the calendar year following the later of:

(a) the calendar year in which the Participant attains age 70¹/₂; or

(b) the calendar year in which the Participant retires.

(f) Participants or Beneficiaries may elect, on an individual basis, whether the 5-year rule or the life expectancy rule in subsections (b) and (d) applies to distributions after the death of a Participant who has a designated Beneficiary. The election must be made no later than the earlier of September 30 of the calendar year in which distribution would be required to begin under subsection (b), or by September 30 of the calendar year which contains the fifth anniversary of the Participant's (or, if applicable, the surviving spouse's) death. If neither the Participant nor the Beneficiary makes an election under this paragraph, distributions shall be made in accordance with subsections (b) and (d).

6.04 Post-Retirement Death Benefits. Should the Participant die after he has begun to receive benefits under a payment option, the guaranteed or remaining payments, if any, under the payment option shall be payable to the Participant's Beneficiary commencing with the first payment due after the death of the Participant. Payment to the Participant's Beneficiary must comply with Code Section 401(a)(9) and with any additional Code limitations applicable to the Plan. If the Beneficiary does not continue to live for the remaining period of payments under the payment option, then the remaining benefits under the payment option shall be paid to the Beneficiary's beneficiary or, if none, the Beneficiary's estate. In no event shall the Plan be liable for any payments made in the name of the Participant or a Beneficiary before the Plan Sponsor or its agent receives proof of the death of the Participant or Beneficiary.

6.05 Pre-Retirement Death Benefits. Should the Participant die before he has begun to receive benefits under Section 6.01, a death benefit equal to the value of the Participant's Account shall be payable to the Beneficiary. Such death benefit shall be paid in a lump sum unless the Beneficiary elects a different payment option. Payment to the Participant's Beneficiary must comply with Code Section 401(a)(9) and with any additional Code limitations applicable to the Plan. Should the Beneficiary die before the completion of payments under the payment option, the value of the remaining payments under the payment option shall be paid to the Beneficiary's beneficiary or, if none, the Beneficiary's estate.

6.06 Unforeseeable Emergency Withdrawals. If the Participant has an unforeseeable emergency before retirement or other Severance from Employment, the Participant may elect to receive a lump sum distribution equal to the amount requested or, if less, the maximum amount permitted to be distributed under this Section 6.06.

- (a) Unforeseeable Emergency Defined: An unforeseeable emergency is defined as a severe financial hardship of the Participant resulting from an illness or accident of the Participant or Beneficiary, the Participant's spouse, or the Participant's dependent (as defined in Code Section 152, and without regard to Code Section 152(b)(1), (b)(2), and (d)(1)(B)); loss of the Participant's property due to casualty (including the need to rebuild a home following damage to a home not otherwise covered by homeowner's insurance, e.g., as a result of a natural disaster); the need to pay for the funeral expenses of the participant's spouse or dependent; or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the Participant. For example, the imminent foreclosure of or eviction from the Participant's or Beneficiary's primary residence may constitute an unforeseeable emergency. In addition, the need to pay for medical expenses, including non-refundable deductibles, as well as for the cost of prescription drug medication, may constitute an unforeseeable emergency. Except as otherwise specifically provided in this Section 6.06, neither the purchase of a home nor the payment of college tuition is an unforeseeable emergency.
- (b) Distribution Standard: A distribution on account of an unforeseeable emergency may not be made to the extent that such emergency is or may be relieved through reimbursement or compensation from insurance or otherwise, by liquidation of the Participant's assets, to the extent the liquidation of such assets would not itself cause severe financial hardship, or by cessation of deferrals under the Plan. Distributions because of an unforeseeable emergency may not exceed the amount reasonably necessary to satisfy the emergency need (which may include any amounts necessary to pay any federal, state or local income taxes or penalties reasonably anticipated to result from the distribution).

6.07 Participant's Election to Receive In-Service Distribution. A Participant may elect to receive an in-service distribution of the total amount payable to him under the Plan if:

- (a) such amount does not exceed the dollar amount under Code Section 411(a)(11)(A),
- (b) no amount has been deferred under the Plan with respect to the Participant during the two-year period ending on the date of the distribution, and
- (b) there has been no prior distribution under the Plan to the Participant under this Section 6.07 or under Section 6.09.

6.08 Distribution of Rollover Accounts. If a Participant has a separate account attributable to rollover contributions to the Plan as described in Section 8.02, the Participant may elect at any time to receive a distribution of all or any portion of the amount held in the rollover account.

6.09 Distribution without Participant's Consent. The total amount payable to a Participant under the Plan may be distributed to the Participant without the Participant's consent if:

- (a) such amount does not exceed \$1,000,
- (b) no amount has been deferred under the Plan with respect to the Participant during the two-year period ending on the date of the distribution, and
- (c) there has been no prior distribution under the Plan to the Participant under this Section 6.09 or under Section 6.07.

ARTICLE VII

NON-ASSIGNABILITY

7.01 In General. Except as provided in Section 7.02, the interests of each Participant or Beneficiary under the Plan are not subject to the claims of the Participant's or Beneficiary's creditors; and no Participant or Beneficiary shall have any right to commute, sell, assign, pledge, transfer or otherwise convey or encumber the right to receive any payments hereunder or any interest under the Plan, which payments and interests are expressly declared to be non-assignable and non-transferable.

7.02 Domestic Relations Orders.

- (a) Allowance of Transfers: Notwithstanding Section 7.01, if a judgment, decree or order (including approval of a property settlement agreement) that relates to the provision of child support, alimony payments, or the marital property rights of a spouse or former spouse, child, or other dependent of a Participant is made pursuant to a State domestic relations law ("domestic relations order"), then the amount of the Participant's Account shall be paid in the manner and to the person or persons so directed in the domestic relations order. Such payment shall be made without regard to whether the Participant is eligible for a distribution of benefits under the Plan. The Plan Sponsor shall establish reasonable procedures for determining the status of any such decree or order and for effectuating distribution pursuant to the domestic relations order. Where necessary to carry out the terms of such an order, a separate Account may be established with respect to the spouse, former spouse, or child who shall be entitled to make investment selections with respect thereto in the same manner as the Participant.
- (b) Release from Liability to Participant: The Plan's liability to pay benefits to a Participant shall be reduced to the extent that amounts have been paid or set aside for payment to a spouse, former spouse, child, or other dependent pursuant to paragraph (a) of this section. No such transfer shall be effectuated unless the Plan Sponsor or Contract Administrator has been provided with satisfactory evidence that the Plan Sponsor and the Contract Administrator are released from any further claim by the Participant with respect to such amounts. The Participant shall be deemed to have released the Plan Sponsor and the Contract Administrator from any claim with respect to such amounts, in any case in which (i) the Plan Sponsor or Contract Administrator has been served with legal process or otherwise joined in a proceeding relating to such transfer, (ii) the Participant has been notified of the pendency of such proceeding in the manner prescribed by the law of the

jurisdiction in which the proceeding is pending by service of process in such action or by mail from the Plan Sponsor or Contract Administrator to the Participant's last known mailing address, and (iii) the Participant fails to obtain an order of the court in the proceeding relieving the Plan Sponsor or Contract Administrator from the obligation to comply with the judgment, decree, or order. The Participant shall also be deemed to have released the Plan Sponsor or Contract Administrator if the Participant has consented to the transfer pursuant to the terms of a property settlement agreement and/or a final judgment, decree, or order as described in paragraph (a).

- (c) Participation in Legal Proceedings: The Plan Sponsor and the Contract Administrator shall not be obligated to defend against or seek to have set aside any judgment, decree, or order described in paragraph (a) or any legal order relating to the garnishment of a Participant's benefits, unless the full expense of such legal action is borne by the Participant. In the event that the Participant's action (or inaction) nonetheless causes the Plan Sponsor or Contract Administrator to incur such expense, the amount of the expense may be charged against the Participant's Account and thereby reduce the Plan Sponsor's obligation to pay benefits to the Participant. In the course of any proceeding relating to divorce, separation, or child support, the Plan Sponsor and Contract Administrator shall be authorized to the extent permitted by applicable laws to disclose information relating to the Participant's Account to the Participant's spouse, former spouse, or child (including the legal representatives of the spouse, former spouse, or child), or to a court.

ARTICLE VIII

TRANSFERS AND ROLLOVERS

8.01 Transfers. This Plan shall accept and allow transfers pursuant to Code Section 457 of amounts deferred by an individual under this Plan or another eligible deferred compensation plan meeting the requirements of Code Section 457(g), provided the conditions of this Section 8.01 are met.

- (a) Directed by Individual Participant or Beneficiary. A transfer from this Plan to another eligible governmental deferred compensation plan or from another eligible governmental deferred compensation plan to this Plan is permitted only if the transferor plan provides for transfers, the receiving plan provides for the receipt of transfers, the Participant or Beneficiary whose amounts deferred are being transferred shall have an amount deferred immediately after the transfer at least equal to the amount deferred with respect to that Participant or Beneficiary immediately before the transfer, and in the case of a transfer for a Participant, the Participant whose amounts deferred are being transferred has had a severance from employment with the transferring employer and is performing services for the employer maintaining the transferee plan. Upon the transfer of assets from this Plan under this Section 8.01(a), the Plan's liability to pay benefits to the

Participant or Beneficiary under this Plan shall be discharged to the extent of the amount so transferred for the Participant or Beneficiary.

Any such transferred amount shall not be treated as a deferral subject to the limitations of Section 2.16, except that, for purposes of applying the limit of Section 2.16, an amount deferred during any taxable year under the plan from which the transfer is accepted shall be treated as if it had been deferred under this Plan during such taxable year and compensation paid by the transferor employer shall be treated as if it had been paid by the Employer.

- (b) Permissive Service Credit Transfers. Subject to any limitations imposed by an investment provider, if a Participant is also a participant in a tax-qualified defined benefit governmental plan (as defined in Code Section 414(d)) that provides for the acceptance of plan-to-plan transfers with respect to the Participant, then the Participant may elect to have any portion of the Participant's Account transferred to the defined benefit governmental plan. A transfer under this Section 8.01(b) may be made before the Participant has had a Severance from Employment.

A transfer may be made under Section 8.01(b) only if the transfer is either for the purchase of permissive service credit (as defined in Code Section 415(n)(3)(A)) under the receiving defined benefit governmental plan or a repayment to which Code Section 415 does not apply by reason of Code Section 415(k)(3).

8.02 Rollovers.

- (a) A Participant or Beneficiary may elect to roll an Eligible Rollover Distribution to an Eligible Retirement Plan. The Participant shall be provided with a description of available rollover rights and rules in advance of such a distribution. When required by law, a distribution that is an Eligible Rollover Distribution and that is paid in a form other than a rollover shall be subject to mandatory withholding of 20%, or such other mandatory withholding rate as may be imposed under the Code from time to time.
- (b) A Participant who is an Employee and is entitled to receive an Eligible Rollover Distribution from another Eligible Retirement Plan may request to have all or a portion of the distribution paid to the Plan, subject to any administrative restrictions imposed by the Plan or by the investment provider. The Plan shall establish and maintain for the Participant a separate account for any Eligible Rollover Distribution paid to the Plan from any Eligible Retirement Plan that is not an eligible governmental plan under Code Section 457(b). In addition, the Plan shall establish and maintain for the Participant a separate account for any Eligible Rollover Distribution paid to the Plan from an eligible governmental plan under Code Section 457(b).

ARTICLE IX

LOANS

Loans shall be made available to all Participants on a reasonably equivalent basis, but only to the extent permitted under the Annuity Contract or other Plan investment and the provisions of this Article. No loan shall be made available under this Plan unless it satisfies all of the requirements of Code Section 72(p) and any other applicable regulatory guidance, including the limitations on the total of a Participant's non-taxable loans from all plans of the Employer for treatment as a tax-free loan. The making of loans under this Plan shall be subject to written guidelines set forth in a separate Loan Policy (or under the Annuity Contract), which guidelines shall govern the availability, terms and procedures for Participants to obtain loans under this Plan. The availability of loans under this Plan may be suspended, terminated or modified at any time.

ARTICLE X

AMENDMENT OR TERMINATION OF PLAN; TRUST PROVISIONS

- 10.01 Amendment or Termination.** The Plan Sponsor may at any time amend this Plan or terminate this Plan. In the event that the Plan is terminated, amounts deferred under the Plan (and all Plan assets) shall be distributed to Plan Participants and Beneficiaries as soon as administratively practicable after the termination of the Plan. If the Employer continues to maintain an eligible governmental deferred compensation plan for the benefit of its Employees, such plan shall be treated as a continuation and successor of the Plan with respect to the Employer and the Accounts of the Participants (including former Participants) of the Employer shall be included as accounts under such successor plan.
- 10.02 Amendment and Restatement of Previously Adopted Plan.** This Plan document constitutes an amendment and restatement of the Plan as previously adopted by the Employer. The amendments contained herein shall be effective as of the Effective Date, and the terms of the preceding plan document shall remain in effect through such date.
- 10.03 Employer Contributions.** Contributions shall be paid to and held by the trust, Annuity Contracts or custodial accounts for the exclusive benefit of the Employees and the Beneficiaries of such Employees, subject to all the terms and conditions of this Plan and the Trust provisions herein. The Contract Administrator shall keep separate books and records as to the accounts and credits of the Employees.
- 10.04 Responsibilities of the Trustee.**

The primary responsibility of the Trustee is to hold the Plan assets for the exclusive benefit of the Participants and their Beneficiaries, subject to the specific terms of the Plan, the Trust and the Annuity Contracts and custodial account agreements under which the Plan assets are held. In the event there is any conflict or inconsistency between the Plan provisions and the provisions in the Annuity Contract or custodial account agreement, the terms of the Plan will control.

The Trustee shall be responsible for the investment and disbursement of Plan assets, including, but not limited to, the following:

- (1) To invest, manage, and control the Plan assets, subject to the terms of the Annuity Contracts and / or custodial account agreements in which Plan assets are invested, the terms of the Plan and any limitations imposed by the Code such that at all times the Plan may qualify as a Code Section 457(b) plan and trust;
- (2) At the direction of the Employer and as permitted and required under the Plan and the Annuity Contract or custodial account agreement, to pay Plan benefits to Participants or, in the event of their death, to their Beneficiaries;
- (3) To maintain records of receipts and disbursements and furnish to the Employer and/or Contract Administrator for each Plan Year a written annual report of such receipts and disbursements and a statement of account, in such form and at such time as set forth in the Annuity Contract or custodial account agreement or as required by the Employer and/or Contract Administrator; and
- (4) If there shall be more than one Trustee, they shall each act independently and severally with respect to the Plan assets under their control pursuant to an Annuity Contract or custodial agreement, or, if there shall be more than one Trustee with respect to the same Plan assets under their control, they shall act by a majority of their number, but may authorize one or more of them to sign papers on their behalf.

The Trustee shall be paid such reasonable compensation at such time and in such manner as set forth in the annuity agreement or custodial account agreement. 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.

ARTICLE XI

Reserved.

ARTICLE XII

MISCELLANEOUS

- 12.01 Mistaken Contributions.** If any contribution (or any portion of a contribution) is made to the Plan by a good faith mistake of fact, then within one year after the payment of the contribution, and upon receipt in good order of a proper request approved by the Plan Sponsor, the amount of the mistaken contribution (adjusted for any income or loss in value, if any, allocable thereto) shall be returned directly to the Participant or, to the extent required to the Employer.

- 12.02 USERRA.** An Employee whose employment is interrupted by qualified military service under Code Section 414(u) or who is on a leave of absence for qualified military service under Code Section 414(u) may defer additional Compensation upon resumption of employment with the Employer equal to the maximum amount of Compensation that could have been deferred during that period if the Employee's employment with the Employer had continued (at the same level of Compensation) without the interruption of leave, reduced by the amount of Compensation, if any, actually deferred during the period of the interruption or leave. This right applies for five years following the resumption of employment (or, if sooner, for a period equal to three times the period of the interruption or leave).
- 12.03 IRS Levy.** The Plan Sponsor may authorize payment from a Participant's or Beneficiary's Account the amount that the Plan Sponsor finds is lawfully demanded under a levy issued by the Internal Revenue Service with respect to that Participant or Beneficiary or is sought to be collected by the United States Government under a judgment resulting from an unpaid tax assessment against the Participant or Beneficiary.
- 12.04 Tax Withholding.** Contributions to the Plan are subject to applicable employment taxes (including, if applicable, Federal Insurance Contributions Act (FICA) taxes with respect to deferred Compensation which constitutes wages under Code Section 3121). Any benefit payment made under the Plan is subject to applicable income tax withholding requirements (including Code Section 3401 and the Employment Tax Regulations).
- 12.05 Payments to Minors and Incompetents.** If a Participant or Beneficiary entitled to receive any benefits hereunder is a minor or is adjudged to be legally incapable of giving valid receipt and discharge for such benefits, or is deemed so by the Plan Sponsor, benefits will be paid to such person as the Plan Sponsor may designate for the benefit of such Participant or Beneficiary. Such payments shall be considered a payment to such Participant or Beneficiary and shall, to the extent made, be deemed a complete discharge of any liability for such payments under the Plan.
- 12.06 Procedure When Distributee Cannot Be Located.** The Employer shall make all reasonable attempts to determine the identity and address of a Participant or a Participant's Beneficiary entitled to benefits under the Plan. If the Employer is unable to locate such a person entitled to benefits hereunder, or if there has been no claim made for such benefits, the benefits due such person shall continue to be held in the applicable Annuity Contract, trust or custodial account.
- 12.07 Governing Law.** The Plan will be construed, administered and enforced according to the Code and the laws of the State of Missouri.
- 12.08 No Employment Contract.** Nothing contained in this Plan shall be deemed to constitute an employment agreement between any Participant and the Employer and nothing contained herein shall be deemed to give any Participant any right to be retained in the employ of the Employer.

ARTICLE XIII

ROTH ACCOUNTS AND IN-PLAN ROTH ROLLOVERS

13.01 Roth Elective Deferrals. The Employer hereby elects to allow its Employees to make Roth Elective Deferrals, the Plan shall accept Roth Elective Deferrals made on behalf of such Employees. A Participant's Roth Elective Deferrals shall be allocated to a separate Account maintained for such deferrals. Except as specifically stated otherwise, Roth Elective Deferrals shall be treated as elective Deferred Compensation for all purposes under the Plan.

- (a) A "Roth Elective Deferral" means an amount of Deferred Compensation an Employee has elected to defer under the terms of the Plan that (1) is designated irrevocably by the Participant at the time of the Compensation reduction election as a Roth Elective Deferral that is being made in lieu of all or a portion of the pre-tax Deferred Compensation the Participant is otherwise eligible to defer under the Plan; and (2) is treated by the Employer as includible in the Participant's income at the time the Participant would have received that amount in cash if the Participant had not made a Compensation reduction election.
- (b) Contributions and withdrawals of Roth Elective Deferrals shall be credited and debited to a Roth Elective Deferral Account maintained for each Participant who elects to make Roth Elective Deferrals. The Plan shall maintain a record of the amount of Roth Elective Deferrals in each such Participant's account. Gains, losses, and other credits or charges must be separately allocated on a reasonable and consistent basis to the Participant's Roth Elective Deferral Account and the Participant's other Accounts under the Plan. No contributions other than Roth Elective Deferrals and earnings properly attributable thereto shall be credited to a Participant's Roth Elective Deferral Account.

13.02 Direct Rollovers to and from Other Eligible Retirement Plans. Notwithstanding the provisions of Section 8.02:

- (a) A direct rollover of a distribution from a Roth Elective Deferral Account under this Plan shall only be made to another Roth elective deferral account under an applicable retirement plan described in Section 402A(e)(I) of the Code or to a Roth IRA described in Section 408A of the Code, and only to the extent the rollover is permitted under the rules of Section 402(c) of the Code.
- (b) The Plan will accept a rollover contribution to a Roth Elective Deferral Account in this Plan only if the rollover is a direct rollover from another Roth elective deferral account under an applicable retirement plan described in Section 402A(e)(1) of the Code, and only to the extent the rollover is permitted under the rules of Section 402(c) of the Code.

13.03 In-Plan Roth Rollovers. A Participant or a Beneficiary who is the surviving spouse of a Participant who is eligible under the terms of the Plan to receive a distribution from an Account in this Plan that is not a Roth Elective Deferral Account may elect, in accordance

with rules established by the Plan Sponsor or Contract Administrator, to have some or all of such Account rolled over within this Plan to an In-Plan Roth Rollover Account, provided that such in-Plan rollover satisfies the requirements to qualify as an Eligible Rollover Distribution from the Plan. An amount rolled over to an In-Plan Roth Rollover Account shall be included in the taxable income of the Participant or Beneficiary in the year the in-Plan Roth rollover occurs as if such amount had been distributed from the Plan in a taxable distribution. Thereafter, the In-Plan Roth Rollover Account shall be accounted for separately as any other designated Roth account within the Plan. A distribution that is rolled over in an in-Plan Roth direct rollover is not treated as a distribution for purposes of the loan provisions of the Plan.

IN WITNESS WHEREOF, the Rockwood R-VI School District has caused this Plan to be executed this 9th day of March, 2017.

ROCKWOOD R-VI SCHOOL DISTRICT

By: 

Its: President, Board of Education