

SOUTHWEST INITIATIVE
FOUNDATION

2520082702723

A Rural Minnesota Community Foundation

April 24, 2008

Top Hat Plan Exemption
Employee Benefits Security Administration, Room N-1513
U.S. Department of Labor
200 Constitution Avenue NW
Washington, DC 20210

001101117:46

To Whom It May Concern:

The undersigned declares that the employer described below maintains the following plan(s) primarily for the purpose of providing deferred compensation for a select group of management or highly compensated employees.

In compliance with Labor Reg. §2520.104-23 the undersigned provides the following information with respect to the plan(s):

Employer:

Employer Name: Southwest Initiative Foundation
Address: 15 3rd Avenue NW
Hutchinson, MN 55350
EIN#: 411555592

Name of Plan: Southwest Initiative Foundation 457(b) Plan
Number of Plan(s): C02
Number of Employees in Plan(s): 2

Very truly yours,

Plan Administrator

SOUTHWEST INITIATIVE FOUNDATION

457 TOPHAT PLAN

DOCUMENT

Cover page

**SOUTHWEST INITIATIVE FOUNDATION
CONSENT ACTION OF THE DIRECTORS**

The following actions are hereby taken by the unanimous consent of the directors of Southwest Initiative Foundation (the "Company").

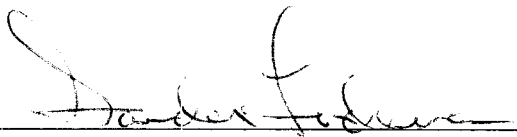
With respect to the adoption of the Southwest Initiative Foundation 457(b) Plan (the "Plan"), the following resolutions are hereby adopted:

RESOLVED: That the Plan be adopted as of March 1, 2008 in the form attached hereto, which Plan is hereby adopted and approved;

RESOLVED FURTHER: That the appropriate officers of the Company be, and they hereby are, authorized and directed to execute the Plan on behalf of the Company;

RESOLVED FURTHER: That the officers of the Company be, and they hereby are, authorized and directed to take any and all actions and execute and deliver such documents as they may deem necessary, appropriate or convenient to effect the foregoing resolutions including, without limitation, causing to be prepared and filed such reports documents or other information as may be required under applicable law.

Dated this 28th day of February, 2008.



Board Secretary

**ADOPTION AGREEMENT
SECTION 457(b) DEFERRED COMPENSATION PLAN**

The undersigned adopting employer hereby adopts this Plan. The Plan is intended to qualify as an "eligible deferred compensation plan" within the meaning of Code section 457(b). The Plan shall consist of this Adoption Agreement, its related Basic Plan Document and any related Appendix and Addendum to the Adoption Agreement. Unless otherwise indicated, all Section references are to Sections in the Basic Plan Document.

COMPANY INFORMATION

1. Name of adopting employer (Plan Sponsor): Southwest Initiative Foundation
2. Address: PO Box 428, 15 3rd Avenue NW
3. City: Hutchinson
4. State: MN
5. Zip: 55350-0428
6. Phone number: 320-587-4848
7. Fax number: 320-587-3838
8. Plan Sponsor EIN: 411555592
9. Plan Sponsor fiscal year end: December 31
10. State of organization of Plan Sponsor: Minnesota
11. The term "Company" includes the Plan Sponsor and the following entities: No other.

PLAN INFORMATION

A. GENERAL INFORMATION

1. **Plan name:**
 - a. Southwest Initiative Foundation
 - b. 457(b) Plan
2. **Effective Date:**
 - 2a. Original effective date of Plan: March 1, 2008
 - 2b. Is this a restatement of a previously-adopted plan?
 Yes No
 - 2c. If A.2b is "Yes", effective date of Plan restatement: _____
NOTE: If A.2b is "No", the Effective Date shall be the date specified in A.2a, otherwise the date specified in A.2c; provided, however, that when a provision of the Plan states another effective date, such stated specific effective date shall apply as to that provision.
3. **Plan Year** means each 12-consecutive month period ending on December 31 (e.g. December 31).
NOTE: The Plan Year should correspond to the Participant's taxable year which in most cases is the calendar year.

Plan Type

4. Type of Plan:
 - i. Plan maintained by a tax-exempt entity within the meaning of Code section 457(e)(1)(B).
 - ii. Governmental Plan maintained by a state or related entity within the meaning of Code section 457(e)(1)(A).

Plan Features

5. Employer contributions are permitted (check all that apply):
 - a. Matching Contributions.
 - b. None active Contributions.

Compensation

6. Definition of Compensation (check all that apply):
 - a. Base salary.
 - b. The additional pay specified in A.7.
7. If A.6.b is selected, enter the additional pay: _____
- 8a. Are there any exclusions from the definition of Compensation:
 Yes No
- 8b. If A.8a is "Yes", enter the exclusions from the definition of Compensation: _____
- 8c. Exclude pay earned before participation in Plan from definition of Compensation:
 Yes No
Unless "No" is checked, Compensation shall include only that compensation which is actually paid to the Participant by the Company during that part of the Plan Year the Participant is eligible to participate in the Plan. Otherwise, Compensation shall include that compensation which is actually paid to the Participant by the Company during the Plan Year.

B. ELIGIBILITY

Eligible Employee

1. Subject to the conditions and limitations of **B.2** through **B.4**, the term Eligible Employee shall include Employees who are also (check all that apply):
 - a. Officers of the Company in the following positions: **Chief Executive Officer and Chief Operating Officer**.
 - b. Other management or highly compensated employees in the following classifications/positions: _____.
 - c. Employees listed in an appendix to the Adoption Agreement.
 - d. All Employees except: _____.
2. Indicate whether an independent contractor may participate in the Plan:
 Yes No

Eligible Employee - Other

3. In addition to the requirements in **B.1**, the following additional conditions must be met in order for an Employee to become an Eligible Employee (check all that apply):
 - a. Must be approved by the Chief Executive Officer of the Plan Sponsor.
 - b. Must be approved by the Chief Executive Officer of the Employee's employing entity.
 - c. Must be approved by the Board of the Plan Sponsor.
 - d. Must be approved by the Board of the Employee's employing entity.
 - e. Other requirements listed in **B.4**.
4. If **B.3.e** is selected, enter other requirements: _____

Requirements for Participation

An Eligible Employee shall become eligible to participate in the Plan upon meeting the following conditions in **B.5** through **B.6**:

5. Minimum service requirement for an Eligible Employee to become eligible to be a Participant in the Plan:
 - i. None.
 - ii. Completion of: _____
 - iii. Other: _____
6. Frequency of entry dates:
 - i. first day of each calendar month
 - ii. first day of each plan quarter
 - iii. first day of the first month and seventh month of the Plan Year
 - iv. first day of the Plan Year
 - v. Other: _____

Modifications

- 7a. Indicate whether there are any modifications to the requirements specified in **B.1 - B.6**:
 Yes No
- 7b. If **B.7a** is "Yes", specify the modifications: _____.

C. ELECTIONS/CONTRIBUTIONS

- 1a. Minimum Participant contribution: **None**
- 1b. Maximum Participant contribution: **Lesser of one hundred percent (100%) of compensation or 402(g) limit.**
2. A Participant may defer accumulated sick pay, accumulated vacation pay, and back pay:
 Yes No

Matching Contributions

3. If **A.5a** is "Yes" (matching contributions are permitted), specify method to allocate matching contributions (Section 5.01(b)):
 - i. Pursuant to the formula specified in **C.4**.

- ii. An amount and allocation formula as determined by the Company.
- 4. If A.5a is "Yes" (matching contributions are permitted), and C.3.i is selected, indicate the formula to allocate such contributions: _____.
- 5. If A.5a is "Yes" (matching contributions are permitted), indicate any requirements that must be met in the applicable Plan Year to receive an allocation of such contributions: none.
NOTE: If C.5 is blank or "None", there are no additional requirements for a Participant to receive an allocation of matching contributions.

Nonelective Contributions

- 6. If A.5b is "Yes" (nonelective contributions are permitted), specify method to allocate nonelective contributions (Section 5.01(b)):
 - i. In the ratio that each Participant's Compensation bears to the Compensation of all eligible Participants.
 - ii. Pursuant to the formula specified in C.7.
 - iii. An amount and allocation formula as determined by the Company.
- 7. If A.5b is "Yes" (nonelective contributions are permitted) and C.6.ii is selected, indicate the formula to allocate such contributions: _____.
- 8. If A.5b is "Yes" (nonelective contributions are permitted), indicate any requirements that must be met in the applicable Plan Year to receive an allocation of such contributions: None.
NOTE: If C.8 is blank or "None", there are no additional requirements for a Participant to receive an allocation of nonelective contributions.

Transfers/Rollovers

- 9. Transfers/rollover contributions are permitted (Section 5.03 and 5.04):
 Yes No
NOTE: If the Plan is not a Governmental Plan and C.9 is "Yes", Section 5.03 shall apply. If the Plan is a Governmental Plan and C.9 is "Yes", Section 5.03 and 5.04 shall apply.

D. EARNINGS/TRUST

Earnings

- 1. A Participant's Accounts shall be credited with earnings in the following manner:
 - i. Fixed rate specified in D.2.
 - ii. Predetermined investment(s) specified in an appendix to the Adoption Agreement.
 - iii. Predetermined investment(s) as specified by the Plan Administrator.
 - iv. Mid-term applicable federal rate (as defined pursuant to Code section 1274(d)) for January 1 of the calendar year.
- 2. If D.1.i (fixed rate) is selected, specify the rate: _____.
- 3. If D.1.ii or D.1.iii (predetermined investments) is selected, specify the extent to which a Participant may choose among the predetermined investments:
 - i. A Participant may not choose among predetermined investments.
 - ii. As of each Valuation Date.
 - iii. As of the first day of each Plan Year.
 - iv. Pursuant to Plan Administrator procedures.
- 4a. If D.1.ii or D.1.iii (predetermined investments) is selected and D.3.ii, D.3.iii or D.3.iv is selected (Participant direction is allowed), the Plan provides conditions and/or limitations to the Participant's right to select investments:
 Yes No
- 4b. If D.1.ii or D.1.iii (predetermined investments) is selected and D.3.ii, D.3.iii or D.3.iv is selected (Participant direction is allowed) and D.4a is "Yes", enter the conditions and/or limitations: _____.

Grantor Trust

- 5. If the Plan is not a Governmental Plan, specify the extent to which the Company shall establish a grantor trust to pre-fund its obligations for benefits hereunder (Section 7.02(a)):
 - i. No grantor trust shall be established.
 - ii. The Company may, in its sole discretion, establish a grantor trust.
 - iii. The Company shall establish a grantor trust.
 NOTE: If the Plan is a Governmental Plan, the Plan shall establish a Trust pursuant to Section 7.02(b).

Valuation Date

- 6a. Enter Valuation Date:
 - i. Last day of Plan Year
 - ii. Last day of each Plan quarter
 - iii. Last day of each month
 - iv. Each business day
 - v. Other
- 6b. If D.6a.v is selected, enter the Valuation Date: _____ (Must be at least annually).

E. VESTING FOR COMPANY CONTRIBUTIONS

Vesting Service Rules

- 1. Indicate the method of determining vesting service: **1 hour of service.**
NOTE: Unless otherwise specified in E.1, a Participant shall earn one year of vesting service for each calendar year in which he is credited with 1,000 hours of service with the Employer.

Vesting Exceptions

- 2. Provide for full vesting for a Participant who Terminates employment with the Employer after attainment of Normal Retirement Age while an Employee (Section 5.06):
 Yes No
- 3. Provide for full vesting for a Participant who Terminates employment with the Employer due to death while an Employee (Section 5.06):
 Yes No
- 4. Provide for full vesting for a Participant who Terminates employment with the Employer due to disability while an Employee (Section 5.06):
 Yes No
- 5a. Provide for full vesting for a Participant upon the circumstances described in E.5b (Section 5.06):
 Yes No
- 5b. If E.5a is "Yes", describe the other circumstances: _____.
- 6a. Company contribution vesting schedule:
 100% 3-7 Year Graded 2-6 Year Graded 1-5 Year Graded 1-4 Year Graded 5 Year Cliff
 3 Year Cliff 2 Year Cliff Other Pursuant to another plan.
- 6b. If E.6a is "Other", enter other vesting schedule: _____
- 6c. If E.6a is "Pursuant to another plan", enter name of other plan: _____

Special Forfeiture Provisions

- 7a. Provide for special forfeiture provisions (Section 5.06(c)):
 Yes No
- 7b. If E.7a is "Yes", describe any event that shall result in a complete forfeiture of that portion of the Participant's Account specified in E.7c: _____.
- 7c. If E.7a is "Yes", a Participant meeting the conditions of E.7b shall forfeit the following portion of his or her Account even if such Account is otherwise fully vested: _____.

F. DISTRIBUTIONS

NOTE: All distributions are subject to the minimum distribution requirements of Code section 401(a)(9).

Normal Retirement

- 1. Normal Retirement Age means Attainment of age: **65.**

Time of Payment for Reasons other than Death

- 2. Benefits may not commence later than the date specified below (Section 6.01):
 - i. The earlier of the Required Beginning Date or the number of years specified in F.3 after the Participant's Termination.
 - ii. The earlier of the Required Beginning Date or Normal Retirement Age.
 - iii. Required Beginning Date.

3. If **F.2.i** is selected (number of years after Termination), enter the number years after the Participant's Termination during which benefits must commence (Section 6.01): _____.
NOTE: If zero is entered in **F.3**, distributions shall commence on the 61st day following the distribution event.

Form of Payment for Reasons other than Death

- 4a. Optional forms of payment payable for reasons other than death of the Participant (check all that apply):
- i. A single lump sum payment.
 - ii. Annual installment payments for a period of years (payable on an annual basis) which extends for no longer than the number of years specified in **F.4b**.
 - iii. Other optional form of benefit specified in **F.4c**.
- 4b. If **F.4a.ii** (annual installments) is selected, enter the maximum number of years over which payments may be made: **10**.
NOTE: May not extend beyond the life expectancy of the Participant and Beneficiary.
- 4c. If **F.4a.iii** (Other) is selected, describe other optional form of benefit: **periodic withdrawals**.

Payment on Participant Death

5. Distributions on account of the death of the Participant shall be made in accordance with one of the following payment forms (Section 6.05):
- i. Pay entire remaining Account by end of the first calendar year following the date of death.
 - ii. Participant's Beneficiary shall be entitled to make any elections as to timing and form of distribution as were available to the Participant at the time of death subject to the minimum distribution requirements of Code section 401(a)(9).

Unforeseeable Emergency

6. A Participant may receive a distribution upon the occurrence of an unforeseeable emergency (Section 6.04):
 Yes No

Small Distributions

7. A Participant may make a one-time election to receive a distribution of a small balance (\$5,000 or less) as permitted by Code section 457(e)(9)(A) (Section 6.03):
 Yes No

Medium of Payment

8. Medium of distribution from the Plan:
- i. Cash only
 - ii. Cash or in-kind
 - iii. In-kind only

Transfers

- 9a. Specify whether transfers may be made to another plan (Section 6.08):
 Yes No
- 9b. If the Plan is a Governmental Plan, specify whether service credit transfers may be made to another defined benefit governmental plan (Section 6.10):
 Yes No

Loans/In-service

10. If the Plan is a Governmental Plan, specify whether Participant loans may be made (Section 6.11):
 Yes No
11. If the Plan is a Governmental Plan and **C.9** permits rollover contributions, specify whether a Participant may receive an in-service withdrawal of his rollover Account (Section 6.07):
 Yes No
12. Specify whether a Participant may receive an in-service withdrawal of his Account upon attainment of age 70-1/2:
 Yes No

G. PLAN OPERATIONS

Plan Administration

- 1a. Designation of Plan Administrator (Section 7.01):
i. Plan Sponsor
ii. Committee appointed by Plan Sponsor
iii. Other
- 1b. If G.1a.iii is selected, Name of Plan Administrator: _____
- 2a. Type of indemnification for the Plan Administrator (and if applicable, the Trustee):
i. Standard according to Section 7.03.
ii. Custom.
- 2b. If G.2a.ii (Custom) is selected, indemnification for the Plan Administrator (and if applicable, the Trustee) is provided pursuant to an Addendum to the Adoption Agreement.

H. MISCELLANEOUS

Failure to properly fill out the Adoption Agreement may result in the failure of the Plan to achieve its intended tax consequences and may further result in significant tax penalties.

The Plan shall consist of this Adoption Agreement, its related Basic Plan Document #457B and any related Appendix and Addendum to the Adoption Agreement.

The undersigned agree to be bound by the terms of this Adoption Agreement and Basic Plan Document and acknowledge receipt of same. The Plan Sponsor caused this Plan to be executed this 28th day of February, 2008.

SOUTHWEST INITIATIVE FOUNDATION:

Signature: _____

Print Name: _____

Title/Position: _____

V2.00-2.00

**457(b) DEFERRED COMPENSATION PLAN
BASIC PLAN DOCUMENT #457B**

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JV Associates, Ltd
457(b) DEFERRED COMPENSATION PLAN
BASIC PLAN DOCUMENT
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ARTICLE 1
INTRODUCTION

Section 1.01 PLAN

This document ("Basic Plan Document") and its related Adoption Agreement are intended to provide deferred compensation for Eligible Employees of the Company. This Plan is intended to constitute an "eligible deferred compensation plan" within the meaning of Code section 457(b) and, if the Plan is not a Governmental Plan, a top hat plan within the meaning of ERISA sections 201(2), 301(a)(3) and 401(a)(1). The provisions of this Plan are intended to comply with requirements of Code section 457 in form and operation and shall be interpreted in a manner consistent with such Code section and regulations promulgated pursuant thereto.

Section 1.02 APPLICATION OF PLAN

Except as otherwise specifically provided herein, the provisions of this Plan shall apply to those individuals who are Eligible Employees of the Company on or after the Effective Date. Except as otherwise specifically provided for herein, the rights and benefits, if any, of former Eligible Employees of the Company whose employment terminated prior to the Effective Date, shall be determined under the provisions of the Plan, as in effect from time to time prior to that date.

ARTICLE 2
DEFINITIONS

"Account" means the book entry account maintained with respect to each Participant pursuant to Article 5.

"Adoption Agreement" means the document executed in conjunction with this Basic Plan Document that contains the optional features selected by the Plan Sponsor.

"Beneficiary" means the person or persons designated by the Participant to receive distributions from the Participant's Account after the Participant's death. Upon enrollment, the Participant shall designate a Beneficiary to receive distributions from the Participant's Account in the event of the Participant's death. A Participant may change his or her designated Beneficiary at any time. A Participant may designate any person or persons as Beneficiaries. Unless otherwise provided in the Beneficiary designation form, each designated Beneficiary shall be entitled to equal shares of the benefits payable after the Participant's death. If the Participant fails to designate a Beneficiary, or if no designated Beneficiary survives the Participant for a period of fifteen (15) days, then the Participant's surviving spouse shall be the Beneficiary. If the Participant has no surviving spouse, or if the surviving spouse does not survive the Participant for a period of fifteen (15) days, then the estate of the Participant shall be the Beneficiary.

"Code" means the Internal Revenue Code of 1986, as amended from time to time.

"Company" means the Plan Sponsor and any other entity that has adopted the Plan with the approval of the Plan Sponsor.

"Compensation" shall have the meaning set forth in the Adoption Agreement. Compensation for an independent contractor shall include payment by the Company to the independent contractor.

"Deferral" means an amount credited to a Participant's Account by reason of the Participant's agreement to defer a portion of his or her salary or wages. To the extent provided in the Adoption Agreement, a Participant may also defer accumulated sick pay, accumulated vacation pay, and back pay. The term "Deferral" shall not include transfers and rollovers from another plan described in Article 5.

"Deferral Agreement" means the agreement between an Employer and a Participant, including any amendments thereto, which specifies the amount of Deferrals to be made by the Employee. Each Deferral Agreement or amendment thereto shall be made or confirmed in writing under procedures established by the Plan Administrator.

"Effective Date" shall have the meaning set forth in the Adoption Agreement.

"Eligible Deferred Compensation Plan" means a plan maintained by any employer that constitutes an "eligible deferred compensation plan" within the meaning of Code section 457 and that has at all relevant times included the deferral limitations set forth in section 457(b).

"Eligible Employee" means any Employee employed by or performing services for the Company, subject to the modifications and exclusions described in the Adoption Agreement. If the Plan is not a Governmental Plan, it is intended that participation in the Plan be limited to a select group of management or highly compensated employees within the meaning of Title 1 of the Employee Retirement Income Security Act. If an individual is subsequently reclassified as, or determined to be, an Employee by a court, the Internal Revenue Service or any other governmental agency or authority, or if the Company is required to reclassify such individual an Employee as a result of such reclassification determination (including any reclassification by the Company in settlement of any claim or action relating to such individual's employment status), such individual shall not become an Eligible Employee by reason of such reclassification or determination.

An individual who becomes employed by the Employer in a transaction between the Employer and another entity that is a stock or asset acquisition, merger, or other similar transaction involving a change in the employer of

the employees of the trade or business shall not become eligible to participate in the Plan until the Plan Sponsor specifically authorizes such participation.

"Employee" means (i) any individual who is employed by the Employer and (ii) any independent contractor who performs services for the Employer within the meaning of Treas. Reg. 1.457-(2)(e).

"Employer" means the Company or any other employer required to be aggregated with the Company under Code sections 414(b), (c), (m) or (o); provided, however, that "Employer" shall not include any entity or unincorporated trade or business prior to the date on which such entity, trade or business satisfies the affiliation or control tests described above. An Employer is limited to an entity that is a State or a Tax-Exempt Entity. The term "Employer" does not include a church as defined in Code section 3121(w)(3)(A), a qualified church-controlled organization as defined in Code section 3121(w)(3)(B), or the Federal government or any agency or instrumentality thereof.

"ERISA" means the Employee Retirement Income Security Act of 1974, all amendments thereto and all federal regulations promulgated pursuant thereto.

"Governmental Plan" means a Plan maintained by a State. The Plan shall be considered to be a Governmental Plan only to the extent provided in the Adoption Agreement.

"Includible Compensation" means an Employee's actual wages in box 1 of Form W-2 for a year for services to the Employer and increased by any compensation reduction election under Code sections 125, 132(f), 401(k), 403(b), or 457(b) and any Deferral excludable from gross income under this Plan. Includible Compensation shall be determined without regard to any community property laws.

"Normal Retirement Age" shall have the meaning set forth in the Adoption Agreement. For purposes of the special Code section 457 catch-up in Section 5.02(c), an entity sponsoring more than one eligible plan may not permit a Participant to have more than one Normal Retirement Age under the eligible plans it sponsors.

"Participant" means an Eligible Employee who participates in the Plan in accordance with Articles 3 and 4.

"Plan Administrator" means the person(s) designated pursuant to the Adoption Agreement and Section 7.01.

"Plan Sponsor" means the entity described in the Adoption Agreement.

"Plan Year" means the 12-consecutive month period described in the Adoption Agreement.

"Required Beginning Date" means April 1st of the calendar year following the calendar year of a Participant's attainment of age 70-1/2 or Termination, whichever is later.

"State" means a state (treating the District of Columbia as a state as provided under Code section 7701(a)(10)), a political subdivision of a state, and any agency or instrumentality of a state.

"Tax-Exempt Entity" means includes any organization exempt from tax under subtitle A of the Internal Revenue Code, except that a governmental unit (including an international governmental organization) is not a tax-exempt entity.

"Termination" and "Termination of Employment" means:

- (a) Employee. The cessation of an Employee's active employment with an Employer.
- (b) Independent Contractor. An independent contractor is considered to have a Termination upon the expiration of the contract (or in the case of more than one contract, all contracts) under which services are performed if the expiration constitutes a good-faith and complete termination of the contractual relationship.

"Trust Agreement" means in the case of a Governmental Plan, the written agreement (or declaration) made by and between the Employer and the Trustee under which the Trust Fund is maintained.

"Trust Fund" means in the case of a Governmental Plan, the trust fund or custodial account (to the extent permitted under Code section 457(g) and Treas. Reg. section 1.457-8) created under and subject to the Trust Agreement.

"Trustee" means in the case of a Governmental Plan, the trustee or custodian duly appointed and currently serving under the Trust Agreement. In the case of a Plan maintained by a Tax-Exempt Entity, the trustee duly appointed and currently serving under the grantor trust.

"Valuation Date" shall have the meaning set forth in the Adoption Agreement.

ARTICLE 3
PARTICIPATION

Section 3.01 PARTICIPATION

Each Eligible Employee as of the Effective Date who was eligible to participate in the Plan immediately prior to the Effective Date shall be a Participant eligible to participate in the Plan pursuant to Article 4 on the Effective Date. Each other Eligible Employee who was not a Participant in the Plan prior to the Effective Date shall become a Participant eligible to participate pursuant to Article 4 on the date specified in the Adoption Agreement; provided that he is an Eligible Employee on such date.

Section 3.02 TRANSFERS/TERMINATIONS

If a change in job classification, Termination or a transfer results in an individual no longer qualifying as an Eligible Employee, such Employee shall cease to be a Participant for purposes of Articles 4 and 5 (or shall not become eligible to become a Participant) as of the first day of the month immediately succeeding such change of job classification or transfer; or in the case of a Termination, the effective date of the Termination. Should such Employee again qualify as an Eligible Employee or if an Employee who was not previously an Eligible Employee becomes an Eligible Employee, he shall become a Participant on the first day of the month following the later of the effective date of such subsequent change of status or the date the Employee meets the eligibility requirements of this Article 3.

Section 3.03 PROCEDURES FOR ADMISSION

The Plan Administrator shall prescribe such forms and may require such data from Participants as are reasonably required to enroll a Participant in the Plan or to effectuate any Participant elections. The Plan Administrator may impose other limitations and/or conditions with respect to participation in the Plan on Eligible Employees who commence or recommence participation in the Plan pursuant to Section 3.02.

ARTICLE 4
ELECTIONS

Section 4.01 DEFERRAL ELECTIONS

(a) Compensation. A Deferral Agreement shall become effective no earlier than the later of the Effective Date or first day of the calendar month following the month in which the agreement is made. A new Employee may defer Compensation payable in the calendar month during which the Participant first becomes an Employee if an agreement providing for the Deferral is entered into on or before the first day on which the Participant performs services for the Employer.

(b) Sick, Vacation and Back Pay. To the extent provided in the Adoption Agreement, a Participant may also defer accumulated sick pay, accumulated vacation pay, and back pay. Such elections shall become effective no earlier than the later of the Effective Date or the beginning of the month in which the amounts would otherwise be paid or made available and the Participant is an Employee in that month. In the case of accumulated sick pay, vacation pay, or back pay that is payable before the Participant has a Termination, the requirements of the preceding sentence are deemed to be satisfied if the agreement providing for the Deferral is entered into before the amount is currently available (as defined in regulations under Code section 401(k)).

Section 4.02 ELECTION PROCEDURES

Each Participant may execute elections pursuant to this Article 4 in the form and manner prescribed by the Plan Administrator. The Plan Administrator shall provide each Participant with the forms necessary to make such elections. Notwithstanding the foregoing, a Participant shall be eligible to make elections only to the extent such elections are permitted in the Adoption Agreement and relate to contributions and/or benefits for which the Participant has met the eligibility requirements of Article 3. The Adoption Agreement may provide additional conditions and/or limitations on Participant elections.

ARTICLE 5
ACCOUNTS/BENEFITS

Section 5.01 ESTABLISHMENT OF ACCOUNTS

(a) Accounts. The Plan Administrator shall establish and maintain a book entry account on behalf of each Participant to the extent necessary to account for benefits provided hereunder. Each such book entry account shall reflect the aggregate of Participant and/or Company contributions and investment experience attributable to each such book entry account based upon the investment experience/plan expenses described in Section 5.05 below. Each book entry account shall also reflect any reductions due to expense charges applied to, and distributions made from, each such account. If the Plan is not a Governmental Plan, such account(s) shall be simply an unsecured claim against the general assets of the Company and a Participant shall have no interest in such account, which is established merely as an accounting convenience. For purposes of this Subsection, "Participant" shall mean an Eligible Employee who has met the eligibility requirements of Article 3.

(b) Employer Contributions. To the extent provided in the Adoption Agreement, the Company may, in its sole discretion, make additional credits to the Account of any Participant either as matching or other non-elective contributions. Except as otherwise provided, any such additional credits shall be treated as Deferrals for all purposes of the Plan.

(c) Contribution to Trust Fund. If the Plan is a Governmental Plan, Deferrals by the Participant under the Plan shall be transferred to the Trust Fund within a period that is not longer than is reasonable for the proper administration of the Participant's Account. For this purpose, Deferrals shall be treated as contributed within a period that is not longer than is reasonable for the proper administration if the contribution is made to the Trust Fund within 15 business days following the end of the month in which the amount would otherwise have been paid to the Participant.

(d) 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 elect to make additional Deferrals and receive allocations of Company contributions, if any, upon resumption of employment with the Employer equal to the maximum Deferrals that the Employee could have elected during that period (or received if Company contributions) if the Employee's employment with the Employer had continued (at the same level of Compensation) without the interruption or leave, reduced by the Deferrals, if any, actually made for the Employee 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).

Section 5.02 LIMITATIONS

(a) General Limitation. Except as provided in Subsection (b) and (c), a Participant's Deferrals for a calendar year shall not exceed the lesser of:

- (1) \$15,000 (or such greater dollar limit as may be in effect under Code section 457(e)); or
- (2) One hundred percent (100%) of the Participant's Includible Compensation for the calendar year.

(b) Age 50 Catch-Up. If the Plan is a Governmental Plan, a Participant who will attain age 50 or more by the end of the calendar year is permitted to elect an additional amount of Deferrals pursuant to Code section 414(v), up to the maximum age 50 catch-up amount for the year. The maximum dollar amount of the age 50 catch-up Deferrals for a year is \$5,000, adjusted for cost-of-living after 2006 to the extent provided under the Code. The Age 50 Catch-up described in this Subsection does not apply for any taxable year for which a higher limitation applies under the special Code section 457 catch-up under Section 5.02(c).

(c) Catch-up Limitation. If the applicable year is one of a Participant's last 3 calendar years ending before the year in which the Participant attains Normal Retirement Age and the amount determined under this

Subsection (c) exceeds the amount computed under Subsection (a) and if a Governmental Plan Subsection (b), then the annual Deferral limit under this Section 5.02 shall be the lesser of:

(1) An amount equal to 2 times the Subsection (a)(1) applicable dollar amount for such year;
or

(2) The sum of:

(A) An amount equal to (x) the aggregate Subsection (a) limit for the current year plus each prior calendar year beginning after December 31, 2001 during which the Participant was an Eligible Employee under the Plan, minus (y) the aggregate amount of Compensation that the Participant deferred under the Plan during such years, plus

(B) An amount equal to (x) the aggregate limit referred to in Code section 457(b)(2) for each prior calendar year beginning after December 31, 1978 and before January 1, 2002 during which the Participant was an Eligible Employee, minus (y) the aggregate contributions to Pre-2002 Coordination Plans for such years.

The amounts under this Subsection 5.02(c) shall be determined in accordance with Treas. Reg. section 1.457-4(c)(3).

(d) Participant Covered By More Than One Eligible Plan. If the Participant is or has been a participant in one or more other eligible plans within the meaning of section 457(b) of the Code, then this Plan and all such other plans shall be considered as one plan for purposes of applying the foregoing limitations of this Section 5.02. For this purpose, the Plan Administrator shall take into account any other such eligible plan maintained by the Employer and shall also take into account any other such eligible plan for which the Administrator receives from the Participant sufficient information concerning his or her participation in such other plan.

(e) Pre-Participation Years. In applying Subsection (c), a year shall be taken into account only if (i) the Participant was eligible to participate in the Plan during all or a portion of the year and (ii) Compensation deferred, if any, under the Plan during the year was subject to the basic annual limitation described in Subsection (a) or any other plan ceiling required by section 457(b) of the Code.

(f) Pre-2002 Coordination Plans. For purposes of Subsection (c)(2)(B)(y), "contributions to Pre-2002 Coordination Plans" means any employer contribution, salary reduction or elective contribution under any other eligible Code section 457(b) plan, or a salary reduction or elective contribution under any Code section 401(k) qualified cash or deferred arrangement, Code section 402(h)(1)(B) simplified employee pension (SARSEP), Code section 403(b) annuity contract, and Code section 408(p) simple retirement account, or under any plan for which a deduction is allowed because of a contribution to an organization described in section 501(c)(18) of the Code, including plans, arrangements or accounts maintained by the Employer or any employer for whom the Participant performed services. However, the contributions for any calendar year are only taken into account for purposes of Subsection (c)(2)(B)(y) to the extent that the total of such contributions does not exceed the aggregate limit referred to in section 457(b)(2) of the Code for that year.

(g) Disregard Excess Deferral. For purposes of Subsections (a), (b) and (c), an individual is treated as not having deferred compensation under a plan for a prior taxable year to the extent excess Deferrals under the Plan are distributed, as described in Subsection (h). To the extent that the combined deferrals for pre-2002 years exceeded the maximum deferral limitations, the amount is treated as an excess Deferral for those prior years.

(h) Correction of Excess Deferrals. If the annual Deferral on behalf of a Participant for any calendar year exceeds the limitations described above, or the annual Deferral on behalf of a Participant for any calendar year exceeds the limitations described above when combined with other amounts deferred by the Participant under another eligible deferred compensation plan under Code section 457(b) for which the Participant provides information that is accepted by the Plan Administrator, then the annual Deferral, to the extent in excess of the applicable limitation (adjusted for any income or loss in value, if any, allocable thereto), shall be distributed to the Participant as soon as administratively feasible. If the annual Deferral made on behalf of a Participant for any

calendar year exceeds the limitations described above and the Plan is not a Governmental Plan the excess (adjusted for any income or loss in value, if any, allocable thereto), shall be distributed to the Participant no later than April 15 of the subsequent taxable year. If the vesting of a Participant's Account pursuant to Section 5.06 may cause the limitations of this Section to be exceeded, the Plan Administrator may elect to defer such vesting and/or refund or reduce Deferrals.

Section 5.03 TRANSFERS

This Section shall apply to the extent that the Adoption Agreement permits transfers from Eligible Deferred Compensation Plans. At the direction of the Company, the Plan Administrator may accept a transfer of assets to the Plan as provided in this Section. Such a transfer is permitted only if the other plan provides for such direct transfer. The Plan Administrator may require in its sole discretion that the transfer be in cash or other property acceptable to the Plan Administrator and may require such documentation from the other plan as it deems necessary to effectuate the transfer. A transfer shall only be permitted to the extent that it is permissible in accordance with Code section 457(e)(10) and Treas. Reg. section 1.457-10(b).

Section 5.04 GOVERNMENTAL PLAN ROLLOVERS

This Section shall apply only to the extent that the Plan is a Governmental Plan and the Adoption Agreement permits rollovers.

(a) In General. A Participant (or in the discretion of the Plan Administrator an Eligible Employee) who is an Employee and who is entitled to receive an eligible rollover distribution from another eligible retirement plan may request to have all or a portion of the eligible rollover distribution paid to the Plan. The Plan Administrator may require such documentation from the distributing plan as it deems necessary to effectuate the rollover in accordance with Code section 402 and to confirm that such plan is an eligible retirement plan within the meaning of Code section 402(c)(8)(B).

(b) Eligible Rollover Distribution. For purposes of Subsection (a), an eligible rollover distribution means any distribution of all or any portion of a Participant's benefit under another eligible retirement plan, except that an eligible rollover distribution does not include (1) any installment payment for a period of 10 years or more, (2) any distribution made as a result of an unforeseeable emergency or other distribution which is made upon hardship of the employee, or (c) for any other distribution, the portion, if any, of the distribution that is a required minimum distribution under Code section 401(a)(9). In addition, an eligible retirement plan means an individual retirement account described in Code section 408(a), an individual retirement annuity described in Code section 408(b), a qualified trust described in Code section 401(a), an annuity plan described in Code section 403(a) or 403(b), or an eligible governmental plan described in Code section 457(b), that accepts the eligible rollover distribution.

(c) Separate Accounting. 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 any eligible retirement plan that is an eligible governmental plan under Code section 457(b).

Section 5.05 EARNINGS/EXPENSES

(a) Earnings. A Participant's Accounts shall be credited with earnings in the manner specified in the Adoption Agreement. The Plan Administrator shall credit investment experience to each Participant's Account as of each Valuation Date specified in the Adoption Agreement. Except as provided in Subsection (c), if the Adoption Agreement provides for predetermined investments, such investments are to be used for measurement purposes only and there is no obligation for the Plan Administrator or Company to set aside, fund or actually purchase any investments.

(b) Expenses. The expenses of administering the Plan, including (i) expenses incurred by the Plan Administrator in the administration of the Plan, (ii) fees and expenses approved by the Plan Administrator for

investment advisory, custodial, recordkeeping, and other plan administration and communication services, and (iii) any other expenses or charges allocable to the Plan that have been approved by the Plan Administrator may be charged, at the discretion of the Plan Administrator, to Participants' Account balances. If amounts are deposited into an account or trust owned by the Employer, brokerage fees, transfer taxes, and any other costs incident to the purchase or sale of securities or other investments shall be deemed to be part of the cost of such securities or investments or deducted in computing the sales proceeds therefrom and shall be accounted for accordingly.

(c) Governmental Plan. If the Plan is a Governmental Plan, the earnings/losses shall be determined with respect to the Participant's allocable share of the earnings and losses of the Trust Fund.

Section 5.06 VESTING

(a) A Participant shall have a fully vested and nonforfeitable interest in his Accounts relating to Participant contributions.

(b) Subject to the provisions of Section 5.02(h), the Participant's interest in his Accounts relating to Company contributions shall vest based on his years of vesting service in accordance with the terms of the Adoption Agreement.

For purposes of the Adoption Agreement, "3-7 Year Graded", "2-6 Year Graded", "1-5 Year Graded", "1-4 Year Graded", "5 Year Cliff", "3 Year Cliff" and "2 Year Cliff" shall be determined in accordance with the following schedules:

Years of vesting service	Vesting Percentage
"3-7 Year Graded":	
Less than Three Years	0%
Three Years but less than Four Years	20%
Four Years but less than Five Years	40%
Five Years but less than Six Years	60%
Six Years but less than Seven Years	80%
Seven or More Years	100%
"2-6 Year Graded":	
Less than Two Years	0%
Two Years but less than Three Years	20%
Three Years but less than Four Years	40%
Four Years but less than Five Years	60%
Five Years but less than Six Years	80%
Six or More Years	100%
"1-5 Year Graded":	
Less than One Year	0%
One Year but less than Two Years	20%
Two Years but less than Three Years	40%
Three Years but less than Four Years	60%
Four Years but less than Five Years	80%
Five or More Years	100%

"1-4 Year Graded":	
Less than One Year	0%
One Year but less than Two Years	25%
Two Years but less than Three Years	50%
Three Years but less than Four Years	75%
Four or More Years	100%
"5 Year Cliff":	
Less than Five Years	0%
Five or More Years	100%
"3 Year Cliff":	
Less than Three Years	0%
Three or More Years	100%
"2 Year Cliff":	
Less than Two Years	0%
Two or More Years	100%

In addition, the Adoption Agreement may provide that a Participant will become fully (100%) vested upon: (i) his attainment of Normal Retirement Age while an Employee, (ii) his death while an Employee, (iii) his suffering a disability while an Employee, or (iv) other event as specified in the Adoption Agreement.

(c) Special Forfeitures. Notwithstanding any provision to the contrary, a Participant shall also forfeit his or her Account pursuant to any special forfeiture provisions in the Adoption Agreement. Such special forfeiture provisions may include, without limitation, a provision requiring complete forfeiture of Participant's Account upon the occurrence of a specified event.

Section 5.07 FORFEITURES

(a) Non Governmental Plan. If the Plan is not a Governmental Plan, all forfeitures shall revert to the Company.

(b) Governmental Plan. If the Plan is a Governmental Plan, forfeitures shall be used to reduce Company contributions or to pay Plan expenses.

ARTICLE 6
DISTRIBUTIONS

Section 6.01 TIME OF DISTRIBUTION

(a) Non Governmental Plan. If the Plan is not a Governmental Plan and except as provided in Sections 6.03 and 6.04, benefits shall commence no earlier than the sixty-first (61st) day following: (i) the date of the Participant's Termination or, (ii) if earlier and so provided in the Adoption Agreement, the date the Participant attains age 70-1/2. Not later than sixty (60) days following the date the Participant becomes eligible to commence distributions, the Participant may elect a commencement date for all of the Participant's Account balance. A Participant's election of a benefit commencement date under this Section shall be irrevocable, provided, however, the Participant may, at least 30 days prior to such commencement date, elect a deferred commencement date as permitted under Code section 457(e)(9)(B). Any Participant who has made such a second election of a deferred commencement date may not thereafter revoke or modify that election. Benefits may not commence later than the date specified in the Adoption Agreement.

(b) Governmental Plan. If the Plan is a Governmental Plan and except as provided in Sections 6.03, 6.04 and 6.07, upon Termination, a Participant shall be entitled to receive a distribution of his or her Account under any form of distribution permitted under Section 6.02 commencing at the date elected by the Participant. Benefits may not commence later than the date specified in the Adoption Agreement.

Section 6.02 FORM OF DISTRIBUTION

(a) In General. A Participant's benefit under the Plan may only be paid in the forms and medium specified in the Adoption Agreement and permitted under Code section 457 and regulations promulgated thereunder. No election of a distribution form under this Section may be made or changed after the commencement date for such distribution form. If an election is not made prior to the date benefits commence under Section 6.01, distributions shall be made in a single lump sum payment as soon as practicable thereafter.

(b) Limitations. No distribution option may be selected by a Participant or Beneficiary under this Article 5 unless it satisfies the requirements of Code sections 401(a)(9) and 457(d).

(c) Cash Outs. The Plan Administrator reserves the right to adopt guidelines under which Account balances below a specified level may be distributed in a lump sum upon Termination or at a deferred commencement date and to establish minimum amounts of installment payments.

Section 6.03 SMALL DISTRIBUTIONS

To the extent provided in the Adoption Agreement, the Plan Administrator reserves the right, subject to the limitations of Code section 457(e)(9)(A), to establish uniform guidelines under which all or a portion of a Participant's Account balances may be distributed in a lump sum before the Participant's Termination, and either with or without the Participant's consent, provided that (i) the amount of the distribution does not exceed \$5,000 (or the dollar limit under Code section 411(a)(11), if greater), (ii) no Deferral has been credited to the Participant's Account in the preceding twenty-four (24) months, and (iii) no prior payment has been made to the Participant under this Section.

Section 6.04 UNFORESEEABLE EMERGENCIES

(a) In General. If the Participant has an unforeseeable emergency before retirement or other Termination, the Participant may elect to receive a lump sum distribution equal to the amount requested or, if less, the maximum amount determined by the Plan Administrator to be permitted to be distributed under this Section.

(b) Unforeseeable Emergency Defined. An unforeseeable emergency is defined as a severe financial hardship of the Participant resulting from:

- (1) an illness or accident of the Participant, the Participant's spouse, or the Participant's dependent (as defined in Code section 152 determined without regard to Code section 152(b)(1), (b)(2) and (d)(1)(B));
- (2) 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);
- (3) the need to pay for the funeral expenses of the Participant's spouse or dependent (as defined in Code section 152 determined without regard to Code section 152(b)(1), (b)(2) and (d)(1)(B));
- (4) 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 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, neither the purchase of a home nor the payment of college tuition is an unforeseeable emergency.

(c) **Unforeseeable Emergency Distribution Standard.** A distribution on account of 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.

(d) **Distribution Necessary to Satisfy Emergency Need.** 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).

Section 6.05 DEATH

Payments to the Participant's Beneficiary shall be subject to the election procedures in Section 6.01 and shall be made in the time and form specified in the Adoption Agreement.

Section 6.06 WITHHOLDING

To the extent required by applicable law, income and other taxes shall be withheld from each payment, and payments shall be made reported to the appropriate governmental agency or agencies.

Section 6.07 DISTRIBUTIONS FROM ROLLOVER ACCOUNT

If the Plan is a Governmental Plan and a Participant has a separate Account attributable to rollover contributions to the Plan, the Participant may at any time elect to receive a distribution of all or any portion of the amount held in the rollover Account to the extent provided in the Adoption Agreement.

Section 6.08 TRANSFERS

This Section shall apply to the extent that the Adoption Agreement permits transfers to another Eligible Deferred Compensation Plan. At the direction of the Company, the Plan Administrator may transfer assets to the other Plan as provided in this Section. Such a transfer is permitted only if the other plan provides for such direct transfer. The Plan Administrator may require such documentation from the other plan as it deems necessary to effectuate the transfer. A transfer shall only be permitted to the extent that it is permissible in accordance with Code section 457(e)(10) and Treas. Reg. section 1.457-10(b).

Section 6.09 DIRECT ROLLOVERS - GOVERNMENTAL PLANS

(a) In General. This Section shall only apply to a Governmental Plan. A Participant or the surviving spouse of a Participant (or a Participant's former spouse who is the alternate payee under a domestic relations order, as defined in Code section 414(p)) who is entitled to an eligible rollover distribution may elect, at the time and in the manner prescribed by the Plan Administrator, to have all or any portion of the distribution paid directly to an eligible retirement plan specified by the Participant in a direct rollover.

(b) Eligible Rollover Distribution. For purposes of this Section, an eligible rollover distribution means any distribution of all or any portion of a Participant's Account, except that an eligible rollover distribution does not include (a) any installment payment for a period of 10 years or more (b) any distribution made as a result of an unforeseeable emergency, or (c) for any other distribution, the portion, if any, of the distribution that is a required minimum distribution under Code section 401(a)(9). In addition, an eligible retirement plan means an individual retirement account described in Code section 408(a), an individual retirement annuity described in Code section 408(b), a qualified trust described in Code section 401(a), an annuity plan described in Code section 403(a) or 403(b), or an eligible governmental plan described in Code section 457(b), that accepts the eligible rollover distribution.

(c) Mandatory Rollover. In the event of a mandatory distribution greater than \$1,000 in accordance with the provisions of Sections 6.02 and 6.03, if the Participant does not elect to have such distribution paid directly to an eligible retirement plan specified by the Participant in a direct rollover or to receive the distribution directly, then the Plan Administrator will pay the distribution in a direct rollover to an individual retirement plan designated by the Plan Administrator.

Section 6.10 SERVICE CREDIT TRANSFERS

(a) This Section shall only apply to a Governmental Plan. If permitted in the Adoption Agreement and 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 may be made before the Participant has Terminated.

(b) A transfer may be made under Section (b) 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).

Section 6.11 LOANS

(a) In General. If the Plan is a Governmental Plan and if the Adoption Agreement so provides, a Participant who is an Employee may apply for and receive a loan from his or her Account as provided in this Section. Any such loan may not be for an amount less than the minimum amount specified by the Administrator. If not specified by the Plan Administrator, the minimum loan amount shall be \$1,000.

(b) Maximum Loan Amount. No loan to a Participant hereunder may exceed the lesser of: (x) \$50,000, reduced by the greater of (i) the outstanding balance on any loan from the Plan to the Participant on the date the loan is made or (ii) the highest outstanding balance on loans from the Plan to the Participant during the one-year period ending on the day before the date the loan is approved by the Plan Administrator (not taking into account any payments made during such one-year period), or (y) one half of the value of the Participant's vested Account (as of the Valuation Date immediately preceding the date on which such loan is approved by the Plan Administrator). For purposes of this Subsection, any loan from any other plan maintained by a participating employer shall be treated as if it were a loan made from the Plan, and the Participant's vested interest under any such other plan shall be considered a vested interest under this Plan; provided, however, that the provisions of this Subsection shall not be applied so as to allow the amount of a loan under this Section to exceed the amount that would otherwise be permitted in the absence of this Subsection.

(c) Terms of Loan. The terms of the loan shall:

(1) require level amortization with payments not less frequently than quarterly throughout the repayment period, except that alternative arrangements for repayment may apply in the event that the borrower is on a bona fide unpaid leave of absence for a period not to exceed one year for leaves other than a qualified military leave within the meaning of Code section 414(u) or for the duration of a leave which is due to qualified military service;

(2) require that the loan be repaid within five years unless the Participant certifies in writing to the Plan Administrator that the loan is to be used to acquire any dwelling unit which within a reasonable time is to be used (determined at the time the loan is made) as a principal residence of the Participant; and

(3) provide for interest at a rate equal to one percentage point above the prime rate as published in the *Wall Street Journal* on the first business day of the month in which the loan is approved by the Plan Administrator.

(d) Security for Loan; Default.

(1) Security. Any loan to a Participant under the Plan shall be secured by the pledge of the portion of the Participant's interest in the Plan invested in such loan.

(2) Default. In the event that a Participant fails to make a loan payment under this Section within 90 days after the date such payment is due, a default on the loan shall occur. In the event of such default, (i) all remaining payments on the loan shall be immediately due and payable, (ii) effective as of the first day of the calendar month next following the month in which any such loan default occurs, the interest rate for such loan shall be (if higher than the rate otherwise applicable) the rate being charged on loans from the Plan that are approved by the Plan Administrator in the month in which such default occurs, (iii) no contributions shall be made on such Participant's behalf prior to the first payroll period that follows by 12 calendar months the date of repayment in full of such loan, and (iv) the Participant shall be permanently ineligible for any future loans from the Plan. In the case of any default on a loan to a Participant, the Plan Administrator shall apply the portion of the Participant's interest in the Plan held as security for the loan in satisfaction of the loan on the date of Termination. In addition, the Plan Administrator shall take any legal action it shall consider necessary or appropriate to enforce collection of the unpaid loan, with the costs of any legal proceeding or collection to be charged to the Account of the Participant.

(e) Death. Notwithstanding anything elsewhere in the Plan to the contrary, in the event a loan is outstanding hereunder on the date of a Participant's death, his or her estate shall be his or her Beneficiary as to the portion of his or her interest in the Plan invested in such loan (with the Beneficiary or Beneficiaries as to the remainder of his or her interest in the Plan to be determined in accordance with otherwise applicable provisions of the Plan).

(f) Repayment. The Participant may be required, as a condition to receiving a loan, to enter into an irrevocable agreement authorizing the Employer to make payroll deductions from his or her Compensation as long as the Participant is an Employee and to transfer such payroll deduction amounts to the Trustee in payment of such loan plus interest. Repayments of a loan shall be made by payroll deduction of equal amounts (comprised of both principal and interest) from each paycheck, with the first such deduction to be made as soon as practicable after the loan funds are disbursed; provided however, that a Participant may prepay the entire outstanding balance of his loan at any time (but may not make a partial prepayment); and provided, further, that if any payroll deductions cannot be made in full because a Participant is on an unpaid leave of absence or is no longer employed by a participating employer (that has consented to make payroll deductions for this purpose) or the Participant's paycheck is insufficient for any other reason, the Participant shall pay directly to the Plan the full amount that would have been deducted from the Participant's paycheck, with such payment to be made by the last business day of the calendar month in which the amount would have been deducted.

Section 6.12 REFUNDS/INDEMNIFICATION

If the Plan Administrator determines that any person has directly or indirectly received excess payments under the Plan, the Plan Administrator shall notify such person and such person shall repay such excess amount as soon as possible, but in no event later than 30 days after the date of notification. A person receiving excess payments shall indemnify and reimburse the Company for any liability the Company may incur for making such payments. If a person fails to timely repay an excess amount and/or make sufficient indemnification, the Plan Administrator may:

(i) to the extent permitted by applicable law, offset the person's salary or wages, and/or (ii) offset other benefits payable hereunder.

Section 6.13 CLAIMS PROCEDURE

(a) **Timing of Notice of Denied Claim.** The Plan Administrator shall notify a person claiming benefits hereunder ("Claimant") of any adverse benefit determination within a reasonable period of time, but not later than 90 days after receipt of the claim. This period may be extended one time by the Plan for up to 90 days, provided that the Plan Administrator both determines that such an extension is necessary due to matters beyond the control of the Plan and notifies the Claimant, prior to the expiration of the initial 90-day period, of the circumstances requiring the extension of time and the date by which the Plan expects to render a decision.

(b) **Content of Notice of Denied Claim.** If a claim is wholly or partially denied, the Plan Administrator shall provide the Claimant with a written notice identifying (1) the reason or reasons for such denial, (2) the pertinent Plan provisions on which the denial is based, (3) any material or information needed to grant the claim and an explanation of why the additional information is necessary, and (4) an explanation of the steps that the Claimant must take if he wishes to appeal the denial including a statement that the Claimant may bring a civil action under ERISA.

(c) **Appeal of Denied Claim.** If a Claimant wishes to appeal the denial of a claim, he shall file a written appeal with the Plan Administrator on or before the 60th day after he receives the Plan Administrator's written notice that the claim has been wholly or partially denied. The written appeal shall identify both the grounds and specific Plan provisions upon which the appeal is based. The Claimant shall be provided, upon request and free of charge, documents and other information relevant to his claim. A written appeal may also include any comments, statements or documents that the Claimant may desire to provide. The Plan Administrator shall consider the merits of the Claimant's written presentations, the merits of any facts or evidence in support of the denial of benefits, and such other facts and circumstances as the Plan Administrator may deem relevant. The Claimant shall lose the right to appeal if the appeal is not timely made. The Plan Administrator shall ordinarily rule on an appeal within 60 days. However, if special circumstances require an extension and the Plan Administrator furnishes the Claimant with a written extension notice during the initial period, the Plan Administrator may take up to 120 days to rule on an appeal.

(d) **Denial of Appeal.** If an appeal is wholly or partially denied, the Plan Administrator shall provide the Claimant with a notice identifying (1) the reason or reasons for such denial, (2) the pertinent Plan provisions on which the denial is based, (3) a statement that the Claimant is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the Claimant's claim for benefits, and (4) a statement describing the Claimant's right to bring an action under section 502(a) of ERISA. The determination rendered by the Plan Administrator shall be binding upon all parties.

Section 6.14 MINOR OR LEGALLY INCOMPETENT PAYEE

If a distribution is to be made to an individual who is either a minor or legally incompetent, the Plan Administrator may direct that such distribution be paid to the legal guardian. If a distribution is to be made to a minor and there is no legal guardian, payment may be made to a parent of such minor or a responsible adult with whom the minor maintains his residence, or to the custodian for such minor under the Uniform Transfer to Minors Act, if such is permitted by the laws of the state in which such minor resides. Such payment shall fully discharge the Plan Administrator and the Company from further liability on account thereof.

Section 6.15 MISSING PAYEE

If the Plan Administrator is unable to make payment to any Participant or other person to whom a payment is due under the Plan because it cannot ascertain the identity or whereabouts of such Participants or other person after reasonable efforts have been made to identify or locate such person, such payment and all subsequent payments otherwise due to such Participant or other person shall be forfeited one year after the date any such payment first became due.

ARTICLE 7
PLAN ADMINISTRATION

Section 7.01 PLAN ADMINISTRATOR

(a) Designation. The Plan Administrator shall be specified in the Adoption Agreement. In the absence of a designation in the Adoption Agreement, the Plan Sponsor shall be the Plan Administrator. If a Committee is designated as the Plan Administrator, the Committee shall consist of one or more individuals who may be Employees appointed by the Plan Sponsor and the Committee shall elect a chairman and may adopt such rules and procedures as it deems desirable. The Committee may also take action with or without formal meetings and may authorize one or more individuals, who may or may not be members of the Committee, to execute documents in its behalf.

(b) Authority and Responsibility of the Plan Administrator. The Plan Administrator shall be the Plan "administrator" as such term is defined in section 3(16) of ERISA, and as such shall have total and complete discretionary power and authority:

- (i) to make factual determinations, to construe and interpret the provisions of the Plan, to correct defects and resolve ambiguities and inconsistencies therein and to supply omissions thereto. Any construction, interpretation or application of the Plan by the Plan Administrator shall be final, conclusive and binding;
- (ii) to determine the amount, form or timing of benefits payable hereunder and the recipient thereof and to resolve any claim for benefits in accordance with Article 6;
- (iii) to determine the amount and manner of any allocations and/or benefit accruals hereunder;
- (iv) to maintain and preserve records relating to Participants, former Participants, and their Beneficiaries and alternate payees;
- (v) to prepare and furnish to Participants, Beneficiaries and alternate payees all information and notices required under applicable law or the provisions of this Plan;
- (vi) to prepare and file or publish with the Secretary of Labor, the Secretary of the Treasury, their delegates and all other appropriate government officials all reports and other information required under law to be so filed or published;
- (vii) to approve and enforce any loan hereunder including the repayment thereof;
- (viii) to provide directions to the trustee of a trust established in conjunction with this Plan (if any) with respect to timing and methods of benefit payment, valuations at dates other than regular valuation dates and on all other matters where called for in the Plan or requested by the trustee;
- (ix) to hire such professional assistants and consultants as it, in its sole discretion, deems necessary or advisable; and shall be entitled, to the extent permitted by law, to rely conclusively on all tables, valuations, certificates, opinions and reports which are furnished by same;
- (x) to determine all questions of the eligibility of Employees and of the status of rights of Participants, Beneficiaries and alternate payees;
- (xi) to adjust Accounts in order to correct errors or omissions;
- (xii) to determine the status and effect of any domestic relations order and to take such action as the Plan Administrator deems appropriate in light of such domestic relations order;

(xiii) to retain records on elections and waivers by Participants, their spouses and their Beneficiaries and alternate payees:

(c) Procedures. The Plan Administrator may adopt such rules and procedures as it deems necessary, desirable, or appropriate for the administration of the Plan, including but not limited to, procedures relating to requirements for advance notice of any election or modification of an election, minimum and maximum amount of contributions, the types of compensation that may be deferred, the minimum amounts or percentages that may be allocated among investment options, and the timing and frequency of changes to investment elections. When making a determination or calculation, the Plan Administrator shall be entitled to rely upon information furnished to it. The Plan Administrator's decisions shall be binding and conclusive as to all parties.

(d) Allocation of Duties and Responsibilities. The Plan Administrator may designate other persons to carry out any of his duties and responsibilities under the Plan.

(e) Compensation. The Plan Administrator shall serve without compensation for its services.

(f) Expenses. All direct expenses of the Plan, the Plan Administrator and any other person in furtherance of their duties hereunder shall be paid or reimbursed by the Company.

(g) Allocation of Fiduciary Duties. A Plan fiduciary shall have only those specific powers, duties, responsibilities and obligations as are explicitly given him under the Plan. It is intended that each fiduciary shall not be responsible for any act or failure to act of another fiduciary. A fiduciary may serve in more than one fiduciary capacity with respect to the Plan.

Section 7.02 FUNDED STATUS

(a) Unfunded Plan. This Subsection applies if the Plan is not a Governmental Plan. The Plan is intended to constitute an unfunded plan. Any amount due and payable pursuant to the terms of the Plan shall be paid out of the general assets of the Company except to the extent that it is paid from a grantor trust. All assets of the Plan shall be subject to the claims of creditors of the Company. Participants and Beneficiaries shall not have an interest in any specific asset of the Company or in any specific asset held in a grantor trust or a Company account established as a result of participation in this Plan. Except as may be provided under the terms of a grantor trust, the Company shall have no obligation to set aside any funds for the purpose of making any benefit payments under this Plan. Nothing contained herein shall give any Participant any rights that are greater than those of an unsecured creditor of the Company with respect to any unpaid amount as to which the Participant has a vested interest. No action taken pursuant to the terms of this Plan shall be construed to create a funded arrangement, a plan asset, or fiduciary relationship among the Company, its designee and a Participant or Beneficiary.

(b) Trust Fund. This Subsection applies if the Plan is a Governmental Plan.

(1) Assets Held in Trust. All contributions, all property and rights purchased with such amounts, and all income attributable to such amounts, property, or rights shall be held and invested in the Trust Fund in accordance with this Plan and the Trust Agreement. The Trust Fund, and any subtrust established under the Plan, shall be established pursuant to a written agreement. The Trustee shall ensure that all investments, amounts, property, and rights held under the Trust Fund are held for the exclusive benefit of Participants and their Beneficiaries. The Trust Fund shall be held in trust pursuant to the Trust Agreement for the exclusive benefit of Participants and their Beneficiaries and defraying reasonable expenses of the Plan and of the Trust Fund. It shall be 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 Trust Fund to be used for, or diverted to, purposes other than for the exclusive benefit of Participants and their Beneficiaries.

(2) Custodial Accounts and Annuity Contracts. For purposes of the trust requirement of this Subsection (b), custodial accounts and annuity contracts described in Code section 401(f) that satisfy the requirements of Treas. Reg. 1.457-8(a)(3) are treated as trusts under rules similar to the rules of Code section 401(f).

(3) Creditors. Except as expressly provided in the Plan, the interests of each Participant or Beneficiary under the Plan are not subject to the claims of the Participant's or Beneficiary's creditors.

(4) IRS Levy. the Plan Administrator may pay from a Participant's or Beneficiary's Account balance the amount that the Plan Administrator 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.

(5) 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 Administrator, 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 or permitted by the Plan Administrator, to the Employer.

Section 7.03 INDEMNIFICATION

Unless otherwise provided in the Adoption Agreement, the Company shall indemnify and hold harmless any person serving as the Plan Administrator and, if applicable, the Trustee (and their delegates) from all claims, liabilities, losses, damages and expenses, including reasonable attorneys' fees and expenses, incurred by such persons in connection with their duties hereunder to the extent not covered by insurance, except when the same is due to such person's own gross negligence, willful misconduct, lack of good faith, or breach of its fiduciary duties under this Plan or ERISA.

Section 7.04 COMMUNICATIONS

All enrollments, elections, designations, applications and other communications by or from an employee, Participant, Beneficiary or legal representative of any such person regarding that person's rights under the Plan shall be made in the form and manner established by the Plan Administrator. Neither the Plan Administrator nor the Company shall be required to give effect to any such communication that is not made on the prescribed form and in the prescribed manner and that does not contain all information called for on the prescribed form.

ARTICLE 8
AMENDMENT AND TERMINATION

Section 8.01 AMENDMENT/TERMINATION

The provisions of the Plan may be amended and or terminated in writing at any time and from time to time by the Plan Sponsor. Notwithstanding the foregoing, an amendment/termination shall have no effect to the extent that it impermissibly accelerates a benefit payment or otherwise does not comply with Code section 457 and the regulations promulgated thereunder. Distributions may be made upon termination of the Plan to the extent such payments comply with Treas. Reg. section 1.457-10(a). No amendment or termination specified in this Article 8 shall result in a reduction or forfeiture of a Participant's Account unless such reduction or forfeiture is expressly provided under the terms of the Plan.

ARTICLE 9
MISCELLANEOUS

Section 9.01 NONALIENATION OF BENEFITS

No Participant or Beneficiary shall have the right to alienate, anticipate, commute, pledge, encumber or assign any of the benefits or payments which he may expect to receive, contingently or otherwise, under the Plan.

Section 9.02 QDRO

Notwithstanding Section 9.01, 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 the domestic relations law of any state ("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 Administrator shall establish reasonable procedures for determining the status of any such decree or order and for effectuating distribution pursuant to the domestic relations order.

Section 9.03 NO RIGHT TO EMPLOYMENT

Nothing contained in this Plan shall be construed as a contract of employment between the Company and the Participant, or as a right of any Employee to continue in the employment of the Company, or as a limitation of the right of the Company to discharge any of its Employees, with or without cause.

Section 9.04 GOVERNING LAW

The Plan shall be construed in accordance with and governed by the laws of the state or commonwealth of organization of the Plan Sponsor to the extent not preempted by Federal law.

Section 9.05 TAX EFFECT

The Company does not represent or guarantee that any particular federal, state or local income, payroll, personal property or other tax consequence will result from participation in this Plan. A Participant should consult with professional tax advisors to determine the tax consequences of his or her participation. Furthermore, the Company does not represent or guarantee investment returns with respect to any predetermined investment options and shall not be required to restore any loss which may result from such investment or lack of investment.

Section 9.06 ASSIGNMENT

The Company may transfer, assign or encumber any of its rights, privileges, duties or obligations under this Agreement.

Section 9.07 SEVERABILITY OF PROVISIONS

If any provision of the Plan shall be held invalid or unenforceable, such invalidity or unenforceability shall not affect any other provisions hereof, and the Plan shall be construed and enforced as if such provisions had not been included.

Section 9.08 HEADINGS AND CAPTIONS

The headings and captions herein are provided for reference and convenience only, shall not be considered part of the Plan, and shall not be employed in the construction of the Plan.

Section 9.09 GENDER AND NUMBER

Except where otherwise clearly indicated by context, the masculine and the neuter shall include the feminine and the neuter, the singular shall include the plural, and vice-versa.

