

# **Florida Municipal Pension Trust Fund**

## **§ 401(a) Defined-Contribution Retirement Plan**

**amended and restated as of February 1, 2009**

Florida Municipal Pension Master Trust  
401(a) Defined Contribution Plan

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## **1. ESTABLISHMENT OF PLAN**

### **1.1 Establishment of Plan**

This Basic Plan Document together with the Participating Employer's Adoption Agreement states the provisions of this retirement Plan established and maintained by the Participating Employer(s).

### **1.2 Previous plan replaced**

To the extent of the Participating Employer's participation in the Florida Municipal Pension Master Trust 401(a) Defined Contribution Retirement Plan, this Plan shall amend and restate any similar plan previously in effect. The restated Plan is effective as of the Restatement Date, except as otherwise specified by the Adoption Agreement.

### **1.3 Plan type**

The Participating Employer intends to (but is not required to or obligated to) maintain the Plan as a plan that qualifies for favorable federal income tax treatment under IRC § 401(a).

### **1.4 Individual account plan**

The Plan is an individual account plan that provides for an individual Account for each Participant and for Benefits based solely upon the amount of Contributions, income and gains and losses, expenses, and Forfeitures allocated to the Participant's Account.

### **1.5 ERISA does not apply**

The United States Code provisions created by Title I of the *Employee Retirement Income Security Act of 1974* ["ERISA"] do not apply to this Plan.

### **1.6 Governmental plan rules**

The following Internal Revenue Code provisions do not apply to this Plan:

IRC § 401(a)(3)  
IRC § 401(a)(4)  
IRC § 401(a)(5)  
IRC § 401(a)(6)  
IRC § 401(a)(10)  
IRC § 401(a)(11)  
IRC § 401(a)(12)  
IRC § 401(a)(13)  
IRC § 401(a)(14)  
IRC § 401(a)(15)  
IRC § 401(a)(19)  
IRC § 401(a)(20)  
IRC § 401(a)(22)  
IRC § 401(a)(23)

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IRC § 401(a)(26)  
IRC § 401(a)(28)  
IRC § 401(a)(29)

The following Internal Revenue Code provisions apply with special rules for governmental plans:

IRC § 401(a)(16)  
IRC § 401(a)(17)  
IRC § 401(a)(25)

The following Internal Revenue Code provision applies as in effect on September 1, 1974:

IRC § 401(a)(7).

## **2. PARTICIPATING EMPLOYERS**

### **2.1 Adoption by Participating Employer**

An Employer may make the Plan available to its Employees if it takes the following actions:

- a) The Governing Authority of the Employer must pass an ordinance or resolution formally adopting this Plan for its Employees and approving the Adoption Agreement.
- b) The ordinance or resolution must indicate the date of adoption.
- c) The ordinance or resolution must commit to the terms of an Adoption Agreement as completed by the Employer.
- d) The ordinance or resolution must specify that the Employer shall abide by the terms of the Plan, including all investment, administrative, and service of the Plan, and all applicable provisions of the Code and other applicable law.
- e) The ordinance or resolution must acknowledge that the Master Trustees are only responsible for the Plan and have no responsibility for other employee benefit plans maintained by the Employer.

### **2.2 Participating Employer has same provisions**

Except as properly specified by the Adoption Agreement, each Participating Employer adopts the Plan. The Participating Employer's adoption of the Plan is stated by the Adoption Agreement.

### **2.3 Amendment binding upon all Participating Employers**

- a) Subject to the provision of any applicable law, the Master Trustees may at any time amend or modify this Plan without the consent of the Participating Employers or of Participants (or any Beneficiaries thereof). Any modification, alteration, or amendment

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of the Plan, made in accordance with this Section, may be made retroactively, if deemed necessary or appropriate by the Master Trustees. A certified copy of the resolution of the Master Trustees making such amendment shall be delivered to the Plan Administrator, and the Plan shall be amended in the manner and effective as of the date set forth in such resolution, and the Participating Employers, Employees, Participants, Beneficiaries, Trustees, and Plan Administrator shall be bound by the amendment. A Participating Employer may not amend the Plan in any way.

- b) Subject to the provisions of applicable law, the Master Trustees and the Administrator may at any time amend or modify the form of Adoption Agreement with the consent of the Participating Employers, unless otherwise required under Section 2.4.

**2.4 Amendment for Qualification of Plan.**

It is the intent of the Master Trustees that the Plan shall be and remain qualified for tax purposes under Code Section 401(a) and other applicable provisions. The Master Trustees are permitted (but not required) to submit the Plan to the Internal Revenue Service for a determination under the Internal Revenue Code and all expenses incident thereto shall be borne by the FMPTF. The Master Trustees may make any modifications, alterations, or amendments to the Plan or Adoption Agreement necessary to obtain and retain approval of the Secretary of the Treasury or his or her delegate as may be necessary to establish and maintain the status of the Plan as qualified under the provisions of the Internal Revenue Code, as now in effect or hereafter enacted, and the regulations issued thereunder. Any modification, alteration, or amendment of the Plan or Adoption Agreement, made in accordance with this Section, may be made retroactively, if necessary or appropriate. A copy of the resolution of the Master Trustees making such amendment shall be delivered to the Plan Administrator, and the Plan or Adoption Agreement shall be amended in the manner and effective as of the date set forth in such resolution, and the Participating Employers, Employees, Participants, Beneficiaries, Trustees, Plan Administrator, and all others having any interest under the Plan shall be bound thereby.

**2.5 Amendment of Adoption Agreement by Participating Employer.**

The Governing Authority shall have the right at any time to amend, in whole or in part, any or all of its elections under the Adoption Agreement without the consent of the Participants or any Beneficiaries. Provided, however, that no such amendment shall:

- a) Deprive any Participant or Beneficiary of any of the benefits to which the Participant or Beneficiary is entitled under this Plan with respect to amounts credited prior to the effective date of the amendment; or
- b) Authorize or permit any part of the Master Trust to be diverted to purposes other than the exclusive benefit of the Participants or their Beneficiaries; or
- c) If an amendment limits or otherwise restricts the deferral and distribution rights of the Participants, the amendment shall become effective on the first day of the month following the giving of not less than forty-five (45) days prior notice of the amendment to Participants. If the amendment was made by the Master Trustees, notice shall be deemed given when the amendment is sent to each Participating Employer. If the amendment was made by the Participating Employer, notice shall be deemed given when the amendment is sent to the

Plan Administrator. No amendment shall deprive any Participant of any of the benefits to which the Participant is entitled under this Plan with respects to amounts credited prior to the effective date of the amendment, and

- d) If the Plan is amended or modified, the Plan Administrator shall nonetheless be responsible for the supervision and the payment of benefits resulting from amounts contributed prior to the amendment or modifications in accordance with this Provision.

### **2.6 Contributions by Participating Employer**

Contributions made by a Participating Employer shall be determined separately by each Participating Employer and shall be paid to and held by individual Account(s) under the Investment(s) for the exclusive benefit of the Participants (and their Beneficiaries) who are Employees of the Participating Employer.

### **2.7 Transfer of Participant among Participating Employers**

The transfer of any Participant from or to any Participating Employer shall not affect the Participant's Benefit or rights under the Plan other than as provided by the Plan.

### **2.8 Discontinuance of Plan by Participating Employer**

Any Participating Employer is permitted to revoke and discontinue its participation in the Plan. At the time of the discontinuance, the Participating Employer shall deliver satisfactory evidence of the revocation to the Plan Administrator.

## **3. DEFINITIONS**

Whenever used in the Plan, each of the following terms has the meaning stated below:

### **3.1 "Account"**

means the total of the individual sub-Account(s) maintained on behalf of each Participant under the Investment(s) held pursuant to the Plan.

The Account balance is the total amount or value of the Account (or sub-Account as applicable) reduced by any security interest held by the Plan or by the Issuer(s) for an outstanding loan and reduced by any applicable Investment or Master Trust charges, fees, expenses, and taxes.

At any time, the amount or value of any Account or sub-Account is the applicable Account balance (as stated above) as of the last Valuation Date. At any time, the Account shall reflect the Vested portion [the Vested Account].

"Account" may also refer to each of the sub-Accounts.

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To the extent necessary or desirable to administer the Plan, a separate sub-Account shall be kept to receive each kind of Contributions (and attributable interest or investment earnings). However, the Plan Administrator, in its sole discretion, may combine any sub-Accounts if so doing does not impair the Plan Administrator's ability to operate this Plan according to its provisions. Except as otherwise permitted above, sub-Accounts that are fully Vested shall not be combined with sub-Accounts that are not fully Vested.

The sub-Accounts are:

Employer Contributions Account  
Employer Matching Contributions Account  
Employer Non-elective Contributions Account

Transfer Contributions Account  
Miscellaneous Account

If the Participant designates more than one Beneficiary, upon the written request of any Beneficiary or upon an approved claim payable to any Beneficiary and not all Beneficiaries, the Plan Administrator or the Issuer(s) shall, to the extent permitted by the Investment(s), maintain a separate account with respect to the interest of each Beneficiary, beginning as of the next Valuation Date that occurs after the Beneficiary's request or claim is received by the Plan Administrator or the Issuer (as applicable).

Each Account statement or confirmation furnished by (or on behalf of) the Plan Administrator or by an Issuer or the Agent is intended as a legally significant statement of the Participant's accrued (but not Vested) Benefit under the Plan. As to each Account statement, if, by the date that is 180 days after the date that the statement was mailed or otherwise sent or delivered (or the later date that is required under applicable Investment Law), the Participant has not delivered a written objection as to the accuracy of the statement, the accounting reported is then settled and conclusive and an account stated. If an objection to any Account statement or confirmation is withdrawn or is adjusted to the Participant's satisfaction, the accounting is then settled and conclusive and an account stated. To the extent that an Account statement or confirmation is an account stated, the Plan Administrator and every party acting under the instruction of the Plan Administrator is discharged from any liability that might otherwise arise out of the Account statement as fully as if the Account had been settled by an appropriate court proceeding. If a court finds that the application of this provision is void as against public policy, this provision shall apply to the extent not so found.

### **3.2 "Active Participant"**

means a Participant who received a Contribution allocated to his or her Account during the applicable Year.

**3.3 “Adoption Agreement”**

means the separate but related written agreement executed by the Participating Employer that states the establishment of the Participating Employer’s Plan and its adoption of this Basic Plan Document, The Florida Municipal Pension Trust Fund 401(a) Defined Contribution Plan Trust, and that states those conforming and elective provisions of this Plan specified by the Participating Employer.

**3.4 “Agent”**

means a person that the Plan Administrator appoints to perform services regarding the Plan.

**3.5 “Allocation Date”**

means the last day of the Year, unless otherwise specified by the Adoption Agreement.

**3.6 “Alternate Payee”**

means a person who is an alternate payee (within the meaning of IRC § 414(p)(8)) under an order directed to the Plan that has been determined to be a Qualified Domestic Relations Order.

**3.7 “Annuity Payout Option”**

means a Payout Option that includes a provision for payments based, in whole or in part, upon the life of a natural person.

**3.8 “Annuity Starting Date”**

has the meaning given by the applicable Investment.

If the Investment fails to define the relevant Annuity Starting Date, the Annuity Starting Date is the first day of the first period for which an amount is paid under any Payout Option.

**3.9 “Basic Plan Document”**

means this Plan document.

**3.10 “Beneficiary”**

means the person(s), whether natural or non-natural, including but not limited to a trustee or other fiduciary, designated by the Participant by a valid Beneficiary Designation in his or her Participation Agreement to receive any undistributed vested account balance payable upon or after the Participant’s death (the “primary” Beneficiary(s)), or upon or after the primary Beneficiary’s death (the “contingent” or “alternate” Beneficiary(s)).

The Participant’s right to designate his or her Beneficiary is limited by 3.11 and by all of the following provisions.

Notwithstanding any Beneficiary designation in the Participation Agreement or otherwise to the contrary, a person shall not be a Beneficiary unless he or she is living or in existence (and, to the extent that the Beneficiary is entitled to receive the vested account balance as a trustee or other fiduciary, the person or the entity that the person represents or acts for, is living or in existence)

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on the Distribution Commencement Date. Any right of a Beneficiary is strictly personal to that Beneficiary and lapses upon his or her death. Any undistributed Vested account balance that would have been distributable to a Beneficiary if he or she had lived is not distributable to the Beneficiary's heirs. Upon a Beneficiary's death, any undistributed Vested account balance with respect to that Beneficiary becomes distributable to the remaining primary Beneficiary(s) if any, or if none, to the remaining contingent Beneficiary(s), in each case to be distributable in equal shares to all living Beneficiaries of the applicable primary or contingent Beneficiary class.

The Participant must designate each Beneficiary by name. A Beneficiary(s) cannot be designated by relationship or by class, and any such attempted beneficiary designation is absolutely void.

Notwithstanding any law to the contrary, a change in marriage (whether statutory or common-law) or family status, including (but not limited to) a divorce, dissolution, annulment or declaration of non-marriage, separation, separate maintenance, revocation of a domestic partner registration, termination or revocation of any marriage or living-together contract, or any other interruption or termination of a spouse or quasi-spouse relationship, has no effect in any way concerning who is the Beneficiary under the Plan.

If the Participant designates as Beneficiary more than one person, all persons of the same Beneficiary Designation ("primary" or "contingent") have equal shares unless the Participant specifies otherwise.

If a Participant fails to designate a Beneficiary, or if for any reason (including the absence of a surviving designated beneficiary) the Participant's beneficiary designation is invalid or ineffective, the person(s) entitled to the residuary estate of the Participant's estate is (are) the Beneficiary(s), to the extent of the failure or invalid or ineffective designation, with the applicable share of the Plan Account divided among those Beneficiaries in the same shares as their shares of the residuary estate. For the purposes of this Provision, the Plan Administrator and Plan Sponsor may rely on an appropriate court order or the Personal Representative's written statement as to the identity (including name, address, and Taxpayer Identifying Number) of and shares allocable to the persons entitled to such residuary estate.

A named beneficiary who feloniously and intentionally kills the Participant or Beneficiary is not a Beneficiary and is not entitled to any Distribution or any other right under the Plan; and any Vested account balance is payable as though the killer had predeceased the Participant or Beneficiary.

### **3.11 "Beneficiary Designation"**

means the valid and effective Beneficiary Designation made by the Participant, designating the person(s) (which may be a non-natural person) who shall be his or her Beneficiary(s) entitled to receive any undistributed Vested account balance.

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At any time before his or her death, the Participant has the right to designate a Beneficiary(s), including a contingent Beneficiary(s), subject to the provisions of the Plan. The Participant shall have the right to change his or her Beneficiary Designation at any time, subject to the provisions of the Plan.

A Beneficiary Designation must be in writing, on the form(s) prescribed by the Plan Administrator. A Beneficiary Designation (or change) is not effective until the Plan Administrator receives it. Each Beneficiary Designation completely revokes and cancels any and every previous beneficiary designation.

The Participant must designate each Beneficiary by name. A Beneficiary(s) cannot be designated by relationship or by class, and any such attempted beneficiary designation is absolutely void.

Notwithstanding the rule that a Participant must designate each Beneficiary by name, if the Plan Sponsor, in its sole discretion, finds that a Beneficiary Designation sufficiently describes a trust, that Beneficiary Designation will be construed as naming the duly appointed and currently acting trustee of that trust.

Any beneficiary designation that, in whole or in part, designates the Participant's estate as beneficiary shall be construed as designating as Beneficiary(s), to the extent of the share of Vested account balance specified or otherwise provided for the estate, the Personal Representative of the Participant's estate.

Notwithstanding any law to the contrary, a change in marriage (whether statutory or common-law) or family status, including (but not limited to) a divorce, dissolution, annulment or declaration of non-marriage, separation, separate maintenance, revocation of a domestic partner registration, termination or revocation of any marriage or living-together contract, or any other interruption or termination of a spouse or quasi-spouse relationship, has no effect in any way concerning any Beneficiary Designation.

Any statement in a Beneficiary Designation referring to the Beneficiary's relationship to the Participant is for convenience or information only and has no effect in the construction or interpretation of the Beneficiary Designation.

Any statement in a Beneficiary designation attempting to state or create a condition or restriction upon the Beneficiary's receipt or enjoyment of any Vested account balance is invalid and the Beneficiary is entitled to the Vested account balance without regard to any attempted condition or restriction.

Notwithstanding anything to the contrary in any Beneficiary designation in the Participation Agreement or any other document or otherwise (including but not limited to any court order), any designation of a Beneficiary cannot be irrevocable and any such designation shall be construed as a revocable designation of that Beneficiary.

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If the Participant designates as Beneficiary more than one person, all persons of the same Beneficiary Designation (“primary” or “contingent”) have equal shares, unless the Participant specifies otherwise.

If a Beneficiary Designation divides a Benefit between or among two or more Beneficiaries, the “primary” Beneficiary Designation must allocate the share of each such Beneficiary solely by specifying a percentage of the Participant’s Account and the “contingent” Beneficiary Designation must allocate the share of each such Beneficiary solely by specifying a percentage of the Participant’s Account. Without limiting the comprehensive effect of the preceding sentence, any division of any Benefit under a Beneficiary Designation shall be ineffective to the extent that it would ask the Plan Sponsor to consider any fact other than the amount of the Participant’s Account.

A Beneficiary Designation shall be construed to dispose all the remaining Plan Account or Vested account balance.

Except as otherwise provided by the Plan, a Beneficiary Designation that uses a term or phrase that would have significance in construing or interpreting a conveyance or a disposition of a decedent’s estate shall, except as otherwise specified by the Participant, be construed or interpreted according to the *Uniform Probate Code* (without regard to the Participant’s domicile at the time he or she made the Beneficiary Designation or the Participant’s domicile at the time of his or her death). Likewise, if a Beneficiary Designation remains ambiguous after applying all provisions and construction rules stated by this Plan and can be resolved by applying the rules of construction and interpretation of the *Uniform Probate Code* for construing a beneficiary designation or conveyance, such rules shall apply to the Beneficiary Designation, except as otherwise provided by the Plan. Any provision of the *Uniform Probate Code* concerning the effect of divorce or marital separation shall not apply.

After the Participant’s death, no person has any right or power or discretion to change any Beneficiary (except to disclaim his or her or its Vested account balance as permitted by ¶ 18.14 [“Disclaimer by Beneficiary” at page 45]), and any such purported provision stated in a Beneficiary Designation or otherwise is ineffective.

**3.12 “Benefit”**

refers to the right under this Plan of the Participant (or Beneficiary or other payee) to receive a Distribution of all or any portion of the Participant’s Vested Account.

Any Benefit under the Plan shall not be paid or payable except as a:

- Retirement Distribution
- Death Distribution
- Hardship Distribution
- Permitted Distribution

Corrective Distribution  
Termination Distribution;

or according to the provisions of a Qualified Domestic Relations Order [all as defined and provided below].

All rights and Benefits, including elections, provided by the Plan shall be subject to and limited by the rights awarded to any Alternate Payee pursuant to a Qualified Domestic Relations Order.

Any Distribution may, to the extent that the Distribution is an Eligible Rollover Distribution, be paid as a Rollover Distribution.

### **3.13 “Benefit Compensation”**

means, except to the extent modified by an express statement in the Adoption Agreement, the total wages, salaries, fees, and other amounts paid (except as modified below) during each Plan Year to the Participant by the Employer for personal services actually rendered in the course of employment with the Employer, excluding compensation payable as bonuses or as overtime, and excluding compensation payable by reason of “call premium” or “shift differential” or “charge time” unless the Participant is permanently assigned to the unfavorable shift or duty, and excluding any compensation received in the form of non-taxable fringe benefits.

Benefit Compensation shall include the amount of the Participant’s elective salary reduction under an IRC § 132(f) qualified transportation fringe and any amounts of compensation deferred as “elective deferrals” (within the meaning of IRC § 402(g)(3) or similar provisions) under any other vested account balance plan, including but not limited to, plans in accordance with or under IRC §§ 125, 401(k), 402(a)(8), 403(b), 408(k), 457(b), 501(c)(18).

To the extent that Contributions are required or permitted to be made for a Disabled Participant, Benefit Compensation is determined on the basis of the Benefit Compensation the Participant would have received if he or she were or had been paid at the rate of compensation paid to the Participant immediately before the Participant became Disabled.

In addition to other applicable limits stated by the Plan and notwithstanding any other provision of the Plan to the contrary, for any Plan Year beginning after December 31, 1993 (except as otherwise provided by 3.13.2), the amount of Benefit Compensation determined for the purposes of the Plan shall not exceed the limit prescribed by IRC § 401(a)(17) as adjusted each year according to IRC § 401(a)(17)(B).

If the Plan Year or applicable period for determining Benefit Compensation contains fewer than 12 calendar months, then this Benefit Compensation limit is the amount equal to the annual IRC § 401(a)(17) limit for the applicable calendar Year during which the Benefit Compensation period begins multiplied by the ratio that is obtained by dividing the number of full months in the period by 12. If Benefit Compensation for any prior Year is taken into account in determining Contributions for the current Plan Year, the Benefit Compensation for the prior Year

is subject to the applicable annual Benefit Compensation limit in effect for that prior Year (and for this purpose the applicable annual Benefit Compensation limit for all Plan Years beginning before January 1, 1994 is \$150,000).

This definition of “Benefit Compensation” is not intended to control the definition of “compensation” for the purposes of applying the IRC § 415(c) annual additions limit or for any purpose other than determining the amount of an Employer Contribution.

### **3.13.1 Pre-1994 Plan Years**

In addition to other applicable limits stated by the Plan and notwithstanding any other provision of the Plan to the contrary, for any Plan Year beginning after December 31, 1988 and before January 1, 1994, the amount of Benefit Compensation determined for the purposes of the Plan shall not exceed the limit prescribed by IRC § 401(a)(17), as adjusted each year, without regard to the amendment of IRC § 401(a)(17) made by § 13212(a)(1) of the Omnibus Budget Reconciliation Act of 1993.

### **3.13.2 Governmental Plan**

Consistent with § 13212(d)(3)(A) of the Omnibus Budget Reconciliation Act of 1993, for an eligible participant (as defined below) in a Governmental Plan, the general IRC § 401(a)(17) limit stated above shall not apply to the extent that the amount of compensation that is allowed to be taken into account under the Plan would be reduced below the amount that was allowed to be taken into account under the Plan as in effect on July 1, 1993. For the purpose of the preceding sentence, an eligible participant is a natural person who first becomes or became a Participant in the Plan during a Plan Year that begins or began before the first Plan Year that begins or began after December 31, 1995. For any Plan Year that begins after December 31, 1995, the general IRC § 401(a)(17) limit stated above (without regard to the special rule stated by this paragraph) shall apply to each Participant other than an eligible participant.

### **3.14 “Business Day”**

means any day on which both the New York Stock Exchange [NYSE] is open for regular trading and the person that is required or permitted to act or that is entitled to receive notice is (or was) open for regular business at its principal office.

A Business Day ends at 4 p.m. New York Time, or, if earlier, the time that regular trading closes on the NYSE.

As required or permitted by applicable Investment Law, any Agent may make reasonable rules governing the time of the day after which investment instructions will be treated as received on the next Business Day. Without limiting the comprehensive effect of the preceding sentence, any investment direction that includes an instruction to buy or sell registered investment company shares that is received after the closing of the NYSE shall be treated as received on the next Business Day.

A day that is not a Business Day ends at 4 p.m. New York Time.

**3.15 “Compensation”**

means all wages, salaries, fees, and other amounts paid to the Employee by the Employer for personal services actually rendered in the course of employment with the Employer.

**3.16 “Contributions”**

means Contributions under the provisions of this Plan [as provided in the Adoption Agreement], including Employer Contributions and Rollover Contributions.

The Plan shall not accept employee contributions other than Employee Basic Contributions.

Contributions under the Plan shall not be reduced because of the Participant’s attainment of any age.

Each Participating Employer shall determine according to the provisions of the Plan the amount of Contributions to be made for each Participant.

To the extent required for this Plan to qualify under IRC § 401(a), the provisions of this Plan shall be construed, consistent with Treasury Reg. § 1.401-1(b)(1)(ii), to provide: a definite pre-determined formula for allocating Contributions, a definite pre-determined formula for allocating investment earnings (and losses) among Accounts, periodic [at least once each year] valuation of Plan assets (including Investments) and Plan-Trust assets, periodic [at least once each year] valuation of Accounts, and distribution of Plan Accounts after a fixed number of years (that is no less than 2 years) or the attainment of a specified age (that is not greater than age 65) or upon the occurrence of some event such as death or retirement or severance-from-employment.

**3.17 “Corrective Distribution”**

means a Distribution required or permitted to remedy a potential violation or correct a violation of Part 9 of this Plan. A Corrective Distribution includes (but is not limited to) a corrective disbursement under Treasury Reg. § 1.415-6(b)(6) or IRS Rev. Proc. 92-93.

**3.18 “Corrective Forfeiture”**

means a Forfeiture required or permitted under Part 9 of this Plan.

**3.19 “Custodian”**

means any Custodian duly appointed and currently serving regarding the Master Trust Agreement.

At all times, every Custodian shall be a directed trustee and (except as provided by the next sentence) shall be completely subject to the direction of the Plan Administrator, or the Participant or Beneficiary or Alternate Payee. The Custodian’s only duty is to ensure that all Investments, amounts, property, and rights held under the Master Trust and committed to the Custodian’s care are held for the exclusive benefit of Participants and their Beneficiaries.

**3.20 “Death Distribution”**

means any Distribution that does not begin before the death of the Participant (other than a Benefit paid or payable under a Qualified Domestic Relations Order).

**3.21 “Deemed Distribution”**

means a Distribution (of a Vested Account of not more than \$0) that is deemed distributed under ¶ 15.2.

This definition is limited and is not intended to include any other Distribution or distribution that is or may be a deemed distribution within the meaning of IRC § 3405 or otherwise for federal income tax reporting purposes.

**3.22 “Direct Rollover”**

means a payment under the Plan by the Custodian or Issuer to an Eligible Retirement Plan specified by the Distributee.

**3.23 “Disability” or “Disabled”**

means, consistent with IRC § 22(e)(3) or IRC § 37 or IRC § 72(m)(7) as applicable in the context, the inability of the Participant to engage in any substantial gainful activity by reason of any medically determined physical or mental impairment, which condition (according to a physician’s written medical opinion acceptable to the Plan Sponsor) can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. The permanence and degree of the impairment shall be supported by medical evidence acceptable to the Plan Sponsor. The Plan Sponsor has sole discretion to determine whether a Participant is Disabled or has a Disability.

**3.24 “Distributee”**

means any person who receives or but for his or her or its instruction to the Plan Sponsor is entitled to receive a Distribution.

For the purposes of Provision 12.1, a Distributee includes an Alternate Payee to whom the Plan Sponsor is directed to make a payment under a Qualified Domestic Relations Order.

**3.25 “Distribution”**

means, as appropriate in the context, any kind of Distribution or the particular kind of Distribution provided by the Plan, as follows:

Hardship Distribution  
Permitted Distribution  
Retirement Distribution  
Death Distribution  
Corrective Distribution.

Any Distribution may be made, in whole or in part, in cash, or by delivery of an Investment(s) (including any annuity contract or life insurance contract), Fund Shares, other securities, or other assets or property of any kind. Any Distribution of property other than cash shall be valued at fair market value as of the date of the Distribution.

If a payee does not as a part of his or her or its written claim specify that a Distribution is to be made in the form of a specified property(s), any Distribution is payable as a cash payment(s).

Any Distribution may, to the extent that the Distribution is an Eligible Rollover Distribution, be paid as a Direct Rollover.

**3.26 “Effective Date”**

means with respect to a Participating Employer’s participation the date so specified by its Adoption Agreement. If no date is so specified, the Effective Date shall be the date that the Adoption Agreement is executed.

**3.27 “Eligible Employee”**

means an Employee who meets the age and service requirements provided by the Adoption Agreement who is not otherwise excluded (by the Adoption Agreement) from participation in this Plan.

Eligible Employee shall not include an Employee who belongs to a classification of employees that is excluded from eligibility to participate in the Plan by any definition, term, or provision specified by the Adoption Agreement.

If the Adoption Agreement states any terms for employment classifications, these terms shall have the meaning given by the Participating Employer for other non-pension employment-related purposes.

If the Adoption Agreement specifies that “part-time” Employees are excluded and does not state or refer to a definition of “part-time”, a “part-time” Employee means an employee who normally works or, if a schedule applies, is regularly scheduled to work less than 20 hours per week.

An Employee who is a Leased Employee shall not be an Eligible Employee, unless otherwise specified by the Adoption Agreement.

An Employee shall not be excluded from participation in the Plan solely because of his or her attainment of any age, notwithstanding anything in the Adoption Agreement or otherwise to the contrary.

**3.28 “Eligible Retirement Plan”**

has the meaning given by IRC § 402(c)(8)(B).

**3.29 “Eligible Rollover Distribution”**

has the meaning given by IRC § 402(f)(2)(A).

**3.30 “Eligible Rollover Distribution Notice”**

means the notice prescribed under Treasury Reg. § 1.411(a)-11(c) without regard to whether IRC § 411 applies to the Plan.

**3.31 “Employee”**

means, except as provided below, a person who performs services for the Employer on a regular basis as a common-law employee and not as an independent contractor, or as a Leased Employee who is deemed an Employee of an Employer according to the provisions below.

The fact that a natural person is or is determined to be an employee for the purpose of another employee benefit plan (including another pension plan or retirement plan) or any other legal purpose shall not be construed as any inference that the natural person is an Employee under this Plan.

**3.32 “Employee Basic Contributions”**

means those contributions made under a plan other than this Plan that are required under this Plan as a condition for receiving all or any portion of the Employer Matching Contributions that are provided under this Plan.

This Plan’s provisions concerning Employee Basic Contributions may be specified by the Adoption Agreement.

Employee Basic Contributions can be determined only upon Benefit Compensation paid after the date of eligibility as provided in the Adoption Agreement.

**3.33 “Employer”**

means the Participating Employer named in the Adoption Agreement, or any Employer that has adopted this Plan.

Unless the context of the Plan clearly indicates otherwise, the term “Employer” shall be deemed to refer only to each Participating Employer as related to its adoption of and participation in the Plan.

By adopting the Plan, each Participating Employer specifically agrees to Provision 2.1 and all Provisions of Part 2 of this Plan.

**3.34 “Employer Contributions”**

means those Contributions made by the Participating Employer and not under a salary reduction agreement, and which the Participant could not have elected to receive in the form of cash or other taxable benefit.

Employer Contributions includes Matching Contributions and Non-elective Contributions.

This Plan's provisions concerning Employer Contributions may be specified by the Adoption Agreement.

**3.35 “Enabling Statute”**

means the State statute or similar law that grants the Employer legal authority to maintain this Plan.

**3.36 “Entry Date”**

means the pay date of the next available pay period for Employee Contributions to be made after the Eligible Employee enrolls in the Plan (according to Provision 6.01 below).

The Plan Administrator may limit the Entry Dates in order to conform to the provisions of its agreement with the Agent.

**3.37 “Excess Elective Deferrals”**

means, for each taxable year of the Participant, those Elective Deferrals that are includible in the Participant's gross income under IRC § 402(g) to the extent that the Participant's Elective Deferrals for the taxable year exceed the dollar limit under any applicable part of IRC § 402(g) or IRC § 457(b)(2)-(3) or IRC § 457(c).

**3.38 “Fees”**

means any fees required or permitted to be charged against the Participant's (or Beneficiary's or Alternate Payee's) Plan Account according to (any one or more of the following): the Plan, the Master Trust Agreement, the Participation Agreement, an Investment, an investment advisory agreement, any other writing signed by the Participant (or, after the Participant's death, the Beneficiary), any written notice given by or behalf of the Plan Administrator or the Custodian that is accepted or deemed accepted by the Participant (or Beneficiary), or any court order.

**3.39 “Forfeiture”**

means that portion of the Participant's Account that is not Vested and that is added to the Forfeiture Account according to 3.40 below.

**3.40 “Forfeiture Account”**

means a special Plan account maintained by the Plan Sponsor for the purposes of holding Forfeiture amounts until reallocated as specified in the Adoption Agreement.

**3.41 “Fund”**

means a registered investment company, a collective investment fund, an insurance company separate account, or any similar pooled investment under which the value of an interest is calculated according to the number of shares or units held for the holder's account.

**3.42 “Governing Authority”**

means the entity authorized by law to act for the Employer and adopt this Plan and the Adoption Agreement.

**3.43 “Hardship Distribution”**

means a Distribution under ¶ 13.

**3.44 “Internal Revenue Code” or “IRC” or “Code”**

means the Internal Revenue Code of 1986, as amended, and including any Regulations and rulings (or other guidance of general applicability) under the Code.

Any reference to a Section of the Code shall be construed to also refer to any successor provision. Any reference to a Section of Treasury Regulations shall be construed to also refer to any successor provision of such Regulations. Any reference to a Revenue Ruling or Revenue Procedure or IRS Notice or IRS Announcement shall be construed to also refer to any guidance of general applicability that extends, amplifies, or modifies the Revenue Ruling or Revenue Procedure or IRS Notice or IRS Announcement.

**3.45 “Internal Revenue Service” or “IRS”**

means and refers to the Internal Revenue Service, a division of the Department of the Treasury of the United States, and thereby an agency of the government of the United States of America, and any related departments, divisions, or offices under the supervision of the Secretary of the Treasury of the United States of America.

**3.46 “Investment”**

means (any of the following): an annuity contract or custodial account that satisfies the requirements of IRC § 401(f); any annuity contract or life insurance contract that may be held by the Custodian; any Fund Shares that may be held by the Custodian; an interest under a group trust (as described in Rev. Rul. 81-100) that may be held by the Custodian; or any investment that may be held by the Custodian.

The Custodian shall not hold any Investment that has provisions (whether express or incorporated by reference or at law) that would preclude the correct application of the Plan or the Plan-Trust Agreement.

The Custodian or the Plan Administrator shall maintain (or cause to be maintained) the indicia of ownership of each Investment within the USA, except as otherwise permitted by 29 C.F.R. § 2550.404b-1(b) applied as if this Plan were a plan subject to 29 U.S.C. § 1104(b).

All Investments to be used under the Plan must be specified by the Master Trustees.

The provisions of each Investment (including any provisions stated by each Investment’s and each Fund’s prospectus and the statement of additional information) are to the extent not inconsistent with the Plan incorporated in the Plan by reference.

An Investment may also be referred to (in Plan documents, disclosure information, and forms) by other terms that are not misleading in the context.

**3.47 “Investment Law”**

means, as applicable or relevant in the context, any federal or Florida banking law, insurance law, securities law, or similar law.

**3.48 “Involuntary Distribution”**

refers to a Distribution described in ¶ 15.3 or ¶ 16.3.

**3.49 “IRA”**

means any IRC § 408(a) Individual Retirement Account or any IRC § 408(b) Individual Retirement Annuity.

**3.50 “Issuer”**

means the person who has issued or may issue an Investment held regarding the Plan.

An Issuer may be a bank, or an insurance company, or a registered investment company, or the issuer of any other instrument or indicia of ownership or beneficial ownership that is held as a Plan Investment. When appropriate in the context, the term Issuer also includes the definition of “issuer” provided by 15 U.S.C. § 77b(4).

**3.51 “Leased Employee”**

has the meaning given by IRC § 414(n).

**3.52 “Master Trust”**

means the trust created and maintained by the Master Trust Agreement.

**3.53 “Master Trust Agreement”**

means the Agreement made as of 16<sup>th</sup> day of December, 1983 as may amended and restated, by and between all parties that are now or may hereafter become Participating Employers of the Florida Municipal Pension Master Trust and the individuals named as Master Trustees pursuant to provisions of the Agreement.

**3.54 “Master Trustee”**

means the individuals who serve as trustees pursuant to the Master Trust Agreement.

**3.55 “Matching Contributions”**

means any Employer Contributions that are made to a Participant’s Account on account of the Participant’s Employee Basic Contributions.

**3.56 “Non-elective Contributions”**

means Employer Contributions other than Matching Contributions.

**3.57 “Notarial Officer”**

means a natural person who is authorized to take oaths under the law of the jurisdiction in which the relevant document is signed.

**3.58 “Participant”**

means the natural person for whom Contributions under the Plan have been made or accrued and whose Vested Account has not been fully distributed under the Plan.

**3.59 “Participating Employer”**

an Employer that has passed the Trust Joinder Agreement to participate in the Florida Municipal Pension Trust Fund, and has passed an Adoption Agreement to participate in this Plan.

**3.60 “Participation Agreement”**

means the agreement (in the form prescribed by the Plan Administrator), as amended from time to time, entered into by and between the Participant and the Participating Employer under which the Employee elects to participate in the Plan.

The Participation Agreement shall indicate the Investment(s) elected by the Participant, may designate the Participant’s Beneficiary(s), and shall incorporate by reference the provisions of the Plan.

**3.61 “Payout Option”**

means any, except as limited below, of the annuity options or other options for payment that are available under the applicable Plan Investment(s) or that are otherwise provided by the Plan.

The Plan Sponsor shall not permit the use of any payout option that is based on gender-distinct actuarial tables or that otherwise unlawfully discriminates against any person.

The Plan Sponsor shall not permit the Participant (or Beneficiary) to elect any Payout Option that does not satisfy all applicable provisions of the Plan, including (but not limited to) ¶ 15.3 or ¶ 16.3.

**3.62 “Permitted Distribution”**

means a Distribution under Part 14 of this Plan.

**3.63 “Plan”**

means the Plan specified by this Basic Plan Document together with the Participating Employer’s Adoption Agreement and, to the extent necessary to comply with IRC § 401(a), the Master Trust Agreement, and any executed amendments thereof, which together constitute the Plan of the Participating Employer specified by the Adoption Agreement.

**3.64 “Plan Administrator”**

means the Florida League of Cities, Inc. or any successor of it.

**3.65 “Plan Sponsor”**

means the Participating Employer or any successor to it.

**3.66 “Qualified Domestic Relations Order”**

means a domestic relations order lawfully directed to this Plan that creates or recognizes the existence of the right of an Alternate Payee to receive all or a portion of any Benefit payable to a Participant under the Plan and that is defined as and meets all the requirements for a “qualified domestic relations order” as stated by IRC § 414(p).

An order does not fail to be a Qualified Domestic Relations Order solely because the order directs a distribution or payment to be paid or payable to the Alternate Payee(s) at a time that is earlier than the Participant’s earliest retirement Age.

An order shall not be a Qualified Domestic Relations Order unless the Plan Sponsor determines that: the order does not require this Plan to provide any type or form of benefit or any option not otherwise provided under this Plan; the order does not require this Plan to provide increased Benefit; and the order does not require the payment of Benefits to an Alternate Payee that are required to be paid to another Alternate Payee under another order that was previously determined to be a Qualified Domestic Relations Order.

An order shall not be a Qualified Domestic Relations Order unless the Plan Sponsor determines that the order clearly specifies: the name and the last known mailing address (if any) of the Participant, and the name and the mailing address of each Alternate Payee; the amount or percentage, or the manner in which the amount or percentage is to be determined, of the Participant’s Vested Account to be paid (or payable) to each Alternate Payee; the form of payment, and the number of payments or period to which the order applies. The Plan Sponsor may assume that the Alternate Payee named by the court order is a proper payee and need not inquire into whether the person named is a spouse or former spouse of the Participant.

**3.67 “Registered Investment Adviser”**

means an Investment Adviser that is registered with the SEC pursuant to § 203(c) of the federal Investment Advisers Act of 1940, as amended.

An agreement to provide investment advice (or the giving of investment advice) to a Participant or Beneficiary or Alternate Payee does not constitute a Registered Investment Adviser as an Investment Manager as to the Plan or any Master Trust.

**3.68 “Required Beginning Date”**

has the meaning given by IRC § 401(a)(9).

**3.69 “Restatement Date”**

means the date so specified by the Adoption Agreement.

If no date is so specified, the Restatement Date shall be the date that the Participating Employer executes the Adoption Agreement.

**3.70 “Retirement Distribution”**

means any Distribution other than a Hardship Distribution or a Permitted Distribution or a Corrective Distribution that begins before the death of the Participant.

**3.71 “Rollover Contribution”**

means an amount or property received into this Plan according to Part 17.

**3.72 “Rollover Distribution”**

means any Eligible Rollover Distribution (within the meaning of IRC § 402(a)(1)) that is to be paid, directly or indirectly, into another plan or annuity contract as a rollover under IRC § 402(a).

**3.73 “SEC”**

means and refers to the Securities and Exchange Commission, an agency of the government of the United States of America, established by § 4(a) of the federal Securities Exchange Act of 1934.

**3.74 “Severance-from-employment”**

means the later of the last day that the Participant performed service for or was scheduled to perform service for the Employer (including any successor employer) with no obligation for and no particular expectation of future services to be performed by the Participant.

The Plan Administrator is entitled to rely upon the date of Severance-from-employment certified by the Employer.

**3.75 “Service”**

has the meaning given by Part 4.

**3.76 “Service Agreement”**

means the agreement between the Plan Administrator or any Participating Employer and the Agent or a Service Provider for services regarding the Plan.

**3.77 “Service Provider”**

means each Agent, each Issuer, any accountant or actuary or lawyer who performs services regarding the Plan in his or her professional capacity and each other person that the Plan Administrator or any Participating Employer hires or retains or appoints or authorizes or permits to perform services regarding the Plan.

Every Service Provider is not a fiduciary.

**3.78 “Shares”**

means shares or similar units of interest in a Fund.

**3.79 “Signature Guarantee”**

means a written guarantee of the signature of the person endorsing a writing that is made by a corporation that is an “eligible guarantor institution” (including but not limited to a Transfer Agent or Securities Broker or Securities Dealer or Bank) as defined by Rule 17Ad-15(a)(2) under the federal Securities Exchange Act of 1934, as amended [the “Rule”] that is not otherwise excluded under the Rule and that is a member of the Securities Transfer Agent Medallion Program [“STAMP”].

**3.80 “Spouse” or “surviving Spouse”**

means:

for the purposes of minimum distribution provisions,

a Beneficiary who is the surviving spouse of the Participant within the meaning of IRC § 401(a)(9)(B)(iv);

for any other purpose,

the individual that is the Participant’s spouse under applicable law.

The Plan Sponsor may rely on any written statement concerning the existence or non-existence of a Spouse, unless it has actual knowledge to the contrary, and if it in good faith relies shall be discharged from liability concerning any Distribution or Benefit.

**3.81 “State”**

includes the meaning given by IRC § 7701(a)(10).

**3.82 “Taxpayer Identifying Number”**

has the meaning given by IRC § 6109.

**3.83 “USA”**

means the United States of America.

To the extent that any provision of the Plan is intended to state a provision that meets a requirement of or by reference to IRC § 401(a) or IRC § 501(a), USA shall be construed according to IRC § 7701(a)(9), except as otherwise required or permitted by the Internal Revenue Code for the applicable requirement.

**3.84 “Valuation Date”**

means -

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for any “unallocated” Investment

each valuation date or the last day of each valuation period as provided by the Investment, or as provided by the Plan Administrator’s agreement with the Agent.

for any “allocated” Investment

each regular Business Day on which the Issuer values the accounts under the Investment.

for any Trust account

each valuation date or the last day of each valuation period as provided by the Master Trust Agreement, or as provided by the Plan Administrator’s agreement with the Custodian or the Agent.

Each Investment or Master Trust account shall provide that the Allocation Date (or, if for any Year the Allocation Date is not a regular Business Day, the regular Business Day that immediately precedes the Allocation Date) is a Valuation Date.

A Valuation Date that is a Business Day ends at the same time that the Business Day ends. A Valuation Date that is not a Business Day ends at 4 p.m. New York Time.

**3.85 “Valuation Period”**

means the time after the end of a Valuation Date to the end of the next Valuation Date.

**3.86 “Vested”**

refers to the portion of the Participant’s Account that is currently non-forfeitable under the Plan.

**3.87 “Vested Account”**

means the portion of the Participant’s Account that is currently non-forfeitable or Vested under the Plan.

**3.88 “Vesting Break-in-Service”**

means a 12-month Vesting Computation Period during which the Participant fails to complete a Year of Vesting Service under the elapsed time method of crediting service.

**3.89 “Year”**

means the Employers Plan Year, as specified by the Adoption Agreement.

The limitation year is the calendar Year.

The Plan Sponsor shall be entitled to rely on the assumption that a Participant’s taxable year is the calendar Year, unless the Participant gives written notice specifying his or her taxable year.

#### **4. SERVICE CREDITING**

##### **4.1 Service crediting procedure**

A year of vesting service shall be measured from the Participant's date of hire. The completion of twelve calendar months from the date of hire shall count as a year of vesting service. Any years of service credited from prior years, shall remain credited, regardless of revised provisions,

##### **4.2 USERRA service crediting**

To the extent required by Part 11, the Plan Sponsor shall count service consistent with Part 11.

#### **5. ELIGIBILITY**

##### **5.1 Eligibility requirements**

Except as otherwise provided by the Plan, any Eligible Employee is eligible to receive an allocation of any Employer Matching Contributions (if Employee Basic Contributions are made) or receive an allocation of any Employer Non-elective Contributions (or both).

##### **5.2 Immediate eligibility for existing Employees**

If the Adoption Agreement specifies that this Plan is an amended and restated plan, any Employee who was a Participant on the day before the Restatement Date shall be an Eligible Employee, notwithstanding any age and service requirements or other eligibility conditions that are specified by the Adoption Agreement, unless otherwise specified by the Adoption Agreement.

##### **5.3 Decision as to eligibility**

The Plan Sponsor shall decide all questions of eligibility for participation in the Plan.

##### **5.4 Changes in eligibility**

If a Participant shall go from a classification of an Eligible Employee to a non-eligible classification, the Participant shall continue to have his or her interest in the Plan, but no Employer Contributions or Employee Basic Contributions shall be made for the Employee during the time that he or she is employed in a non-eligible classification. If the Participant is then later employed in an eligible classification, Contributions shall resume immediately for any Employer Non-elective Contributions, or upon the effective time (including any recommencement) of the Eligible Employee's salary reduction agreement to make Employee Basic Contributions if the Employer Contributions are Matching Contributions.

If an Employee who was not an Eligible Employee becomes an Eligible Employee, the Eligible Employee shall be eligible for the applicable participation in the Plan (as stated by Provision 5.01) immediately upon becoming an Eligible Employee.

## **6. PARTICIPATION IN THE PLAN**

### **6.1 Enrollment**

An Eligible Employee or Employee shall enroll in the Plan by completing and executing and delivering all instruments or forms required by the Plan.

### **6.2 Employee responsible to enroll**

If the Eligible Employee or Employee fails to complete and execute and deliver any enrollment forms required according to Provision 6.01, he or she shall not be entitled to receive an allocation of any Contributions under the Plan.

The Employer or the Plan Administrator shall not be responsible to notify or advise any Eligible Employee or Employee that he or she has become eligible to participate in the Plan. The Eligible Employee or Employee shall be responsible to know when he or she becomes eligible to participate in the Plan, and shall be responsible to take any action necessary to enroll in the Plan. The Employer shall not be liable for any missed Contributions.

### **6.3 Enrollment date**

An Eligible Employee who has become eligible to participate in this Plan shall be eligible to enroll as a Participant (or to receive Employer Contributions) as of the date on which the Eligible Employee satisfies this Plan's eligibility requirements; provided the Eligible Employee is still employed as of that date, or, if not employed on that date, as of the date of rehire (if he or she then satisfies this Plan's eligibility requirements).

## **7. INVESTMENT DIRECTION**

### **7.1 Participant's duty of investment direction**

Each Participant (and, when applicable, each Beneficiary or Alternate Payee) shall, subject to the requirements of any applicable Investment Law and of any procedures established by the Plan Administrator and the Agent, direct the investment of his or her or its Account(s).

### **7.2 Procedure for giving investment direction**

The Participant, Beneficiary, or Alternate Payee must give his or her or its investment direction according to the provisions of this Plan, including any procedure or form required by the Plan Administrator or the Agent or the Issuer.

### **7.3 Reasonable frequency**

The Plan Administrator, Issuer or Investment may, but only on a uniform and consistent basis, impose reasonable restrictions on the frequency with which all Participant, Beneficiary, or Alternate

Payees may give investment directions. In addition to (and not by limitation upon) such restrictions, the Participant, Beneficiary, or Alternate Payee cannot give more than one investment direction in any Valuation Period and the latest investment direction in a Valuation Period cancels all earlier inconsistent investment directions in that Valuation Period.

#### **7.4 Who directs investment**

During the Participant's life, the Participant shall direct the investment of his or her Account. During the Participant's disability or incompetence, the person who has authority to act for the Participant under a power-of-attorney accepted by the Plan Sponsor or the Agent according to Provision 20.16 ["Power-of-attorney"] or, if there is no such agent, the person that is the duly appointed and currently serving conservator or guardian of the estate of the Participant shall direct the investment of the Participant's Account. After the Participant's death, the Beneficiary shall direct the investment of his or her or its Account or each Beneficiary shall direct the investment of his or her or its segregated Account. A Participant, Beneficiary, or Alternate Payee may authorize an agent or attorney-in-fact to direct investment for all of his or her or its Account to by giving written notice acceptable to the Plan Sponsor and furnishing a power-of-attorney that is accepted by the Plan Sponsor according to Provision 20.16. A Participant, Beneficiary, or Alternate Payee cannot delegate investment responsibility for part of his or her or its Account.

#### **7.5 Investment direction must be in writing**

Each investment direction shall be in writing and shall not be proper unless the writing is signed by the Participant, Beneficiary, or Alternate Payee. Except as otherwise specified by the Agent's investment direction procedure, "writing" and "signed" as outlined in Provision 20.24, subject to any security procedures required by the Agent or the Issuer. Without limiting the comprehensive effect of the above, a signed writing includes, to the extent permitted by the applicable Investment(s), a proper telephone communication made in the manner prescribed by the Agent and the Issuer.

#### **7.6 Proper person to receive investment direction**

The Participant, Beneficiary, or Alternate Payee shall give his or her or its investment direction only to the Plan Administrator, except as otherwise permitted by a uniform written procedure adopted by the Plan Administrator.

For any Investment, notwithstanding any service or assistance that may be provided by the Agent, only the Issuer(s) has authority to accept an investment direction and any direction is effective only when and as so received. Nothing in this Plan or otherwise shall be construed to enlarge or augment any legal obligation of the Agent.

#### **7.7 Plan Administrator not responsible**

Except as provided by Provision 7.8, the Plan Administrator must accept every proper investment direction and the Plan Administrator is obligated to comply with such proper investment direction. Without limiting the comprehensive effect of the above, the Plan Administrator is not under any duty to question any investment direction of a Participant, Beneficiary, or Alternate Payee (or his or her or its agent), or to make any investment recommendations, or to provide to any person any investment advice or investment education, or to provide any investment information.

If the Employer or the Plan Administrator or the Custodian or the Master Trust provides any investment education or investment information or investment advice of any kind, the Employer and the Plan Administrator and the Custodian and the Master Trust shall not be liable for any loss or liability arising out of such investment education or investment information or investment advice.

### **7.8 Investment direction refused**

The Plan Sponsor, Plan Administrator or any person may decline to implement any investment direction if:

- the person receiving the investment direction knows (or a court order has determined) that the Participant, Beneficiary, or Alternate Payee is legally incompetent
- (under a reasonable written procedure uniformly applied to all Participant, Beneficiary, or Alternate Payees) the investment direction could result in a loss in excess of the applicable Account (or sub-Account) balance
- the investment direction would be contrary to this Plan
- the investment direction would be contrary to a court order, even if the court order is not a Plan-approved Qualified Domestic Relations Order.
- the investment direction would jeopardize the Plan's (or the Plan-Trust's) tax qualified status
- the investment direction would generate income that would be taxable to the Plan-Trust
- the investment direction would result in a prohibited transaction within the meaning of IRC § 503, or
- the investment direction would cause the Custodian or any person to maintain the indicia of ownership of an Investment or any assets of the Plan outside the jurisdiction of the district courts of the USA or outside the jurisdiction specified by the Plan-Trust Agreement.

### **7.9 Failure to give investment direction**

If at any time a Participant, Beneficiary, or Alternate Payee fails to exercise his or her or its duty of investment direction (or an investment direction is refused), the Master Trustee shall, to the extent of the failure of proper investment direction, cause the Account or applicable sub-Account(s) or segregated Account to be invested as specified under a written procedure adopted by the Master Trustee.

### **7.10 Investment direction during domestic relations or bankruptcy matter**

Notwithstanding any notice to the Plan Sponsor (or to any other person dealing with or performing services regarding the Plan) that a domestic relations order or bankruptcy demand or court order or

similar court order relating to the Plan is or may be presented, the Participant shall continue to exercise his or her duty of investment direction as required by the Plan unless a final court order expressly provides otherwise and the Plan Sponsor does not challenge, contest, or appeal the court order.

If such a court order provides for an Alternate Payee (or any person other than the Participant) to have a right of investment direction under the Plan, the Plan Sponsor shall give effect to that court order to the extent permitted by the Plan, and the Plan Sponsor may give effect to that court order even contrary to the Plan if the Plan Sponsor does not challenge, contest, or appeal the court order.

#### **7.11 Expenses of investment direction**

The Plan may charge the Participant's or Beneficiary's Account for the expenses of executing his or her or its investment direction. If such expenses are so charged, the Plan Administrator shall maintain reasonable procedures to inform Participant, Beneficiary, or Alternate Payees that such charges are made and to inform each Participant, Beneficiary, or Alternate Payee as to the actual expenses charged to the Participant's or Beneficiary's individual Account.

If the execution of an investment direction would incur an unusual charge or any tax under the Investment or otherwise under applicable law, any person receiving the investment direction may (but is not required to) require the Participant, Beneficiary, or Alternate Payee to acknowledge in writing that he or she or it understands each charge or tax and how the charge or tax is calculated or determined.

#### **7.12 Relief from fiduciary responsibility**

To the extent of the Participant's or Beneficiary's investment direction, the Employer and the Plan Administrator and the Custodian and the Master Trustee and the Agent and each Issuer and each person performing services regarding the Plan is relieved of any fiduciary responsibility and every kind of liability, and is not responsible for or liable for any damage or loss or expense or other claim which may arise from that Participant's or Beneficiary's investment direction or exercise of control (or from that Participant's or Beneficiary's failure to exercise his or her or its duty of investment direction and control).

#### **7.13 Employer and Plan Administrator not responsible for Plan Investment selection**

Except as otherwise required by the Enabling Statute, neither the Employer nor the Plan Administrator has or had any responsibility and shall not have any liability relating to the selection of Plan Investments. Without limiting the comprehensive effect of the above, the Employer and Plan Administrator are not liable for losses or damages arising out of: any action in approving or purchasing any Plan Investment(s), any bankruptcy or insolvency or impairment or liquidation or rehabilitation or supervision of any Issuer(s), any other impairment of any Issuer's ability to meet its obligations, or the performance of any Plan Investments.

## **8. ALLOCATION METHODS**

### **8.1 Employer Contributions are discretionary**

Employer Contributions under this Plan shall be allocated as defined in the Adoption Agreement.

### **8.2 Non-elective Contributions**

Each Participating Employer shall allocate Employer Non-elective Contributions among Participants who had Benefit Compensation during the Year, unless otherwise specified by the Adoption Agreement.

### **8.3 Matching Contributions**

Each Participating Employer shall allocate Employer Matching Contributions among Participants who made Employee Basic Contributions during the Year and had Benefit Compensation during the Year, unless otherwise specified by the Adoption Agreement.

### **8.4 Contributions during Disability**

Unless otherwise specified by the Adoption Agreement, each Participating Employer shall continue to make Employer Contributions for a Disabled Participant on the basis of the Benefit Compensation the Participant would have received if he or she were or had been paid at the rate of compensation paid to the Participant immediately before the Participant became Disabled. However, the Participating Employer shall continue Matching Contributions only to the extent that the Disabled Participant actually makes Employee Basic Contributions. Any Employer Contributions made under this paragraph are non-forfeitable when made.

## **9. CONTRIBUTION LIMIT**

### **9.1 Plan to satisfy annual additions limit**

Notwithstanding any other provision of this Plan, if IRC § 415(c)(1) applies to Contributions under this Plan, and solely to the extent that IRC § 401(a)(16) applies to this Plan, the Contributions credited to a Participant's Account for any Limitation Year shall not exceed the limit prescribed by IRC § 415(c). The provisions of IRC § 415 are incorporated by reference and made a part of the Plan.

## **10. VESTING**

### **10.1 Vesting in Employer Contributions**

The Participant's Vested Employer Contributions Account shall be determined on the basis of the vesting provisions specified by the Adoption Agreement to the extent not inconsistent with this Basic Plan Document. If no vesting provision is so specified, Provision 10.2 applies.

### **10.2 Immediate vesting**

If the Adoption Agreement specifies (or is deemed to specify) immediate vesting, a Participant's interest in his or her Employer Contributions Account shall immediately become and shall at all times remain fully vested and non-forfeitable.

### **10.3 Vesting rules**

Except as otherwise specified, the Plan shall be construed to state provisions consistent with IRC § 401(a)(7) as in effect on September 1, 1974.

### **10.4 Segregating a forfeiture**

Notwithstanding anything in the Plan to the contrary, the Plan Sponsor may, without waiting for a Participant to have any break in service, segregate a forfeiture whenever a Participant, Beneficiary, or Alternate Payee receives a Distribution (including an Involuntary Distribution) from an Account that is less than 100% Vested. Likewise, the Plan Sponsor may segregate a forfeiture whenever a Participant has a Severance-from-Employment.

## **11. Reemployment after Uniformed Service**

### **11.1 Reemployment after Uniformed Service**

To the extent required by 38 U.S.C. § 4318, a person who is a member of, applies to be a member of, has performed, applies to perform, or has an obligation to perform service in a Uniformed Service shall not be denied any Benefit or right under this Plan on the basis of such membership, performance of service, application for service, or obligation.

Consistent with all provisions of USERRA, any provision of this Part and any other right under the Plan arising out of or related to reemployment after Service in the Uniformed Services does not apply unless and until: the person is eligible for reemployment under 38 U.S.C. § 4304 [honorable discharge], the person applied for reemployment in compliance with 38 U.S.C. § 4312, and the Participant or Employee furnishes to the Plan Sponsor satisfactory documentation concerning the Service in the Uniformed Services consistent with 38 U.S.C. § 4312(e)(3)(B).

The provisions of IRC § 414(u) are incorporated by reference and made a part of the Plan.

### **11.1.1 Effective dates**

Consistent with USERRA § 8, the provisions of United States Code title 38 chapter 43, as in effect on the day before the date of enactment of USERRA, apply to reemployments before December 12, 1994. Consistent with USERRA § 8, the provisions stated in this Part apply to reemployments on or after December 12, 1994, except that any obligation under this Part shall not commence until October 13, 1996.

### **11.2 Definitions**

Solely for the purposes of this Part (including any Provision or Definition that refers to this Part), each of the following terms has the meaning stated below.

#### **11.2.1 “Qualified Military Service”**

means, consistent with IRC § 414(u)(5), any Service in the Uniformed Services (as defined below) if the individual is entitled to reemployment rights under USERRA with respect to such service.

#### **11.2.2 “Service in the Uniformed Services”**

means, consistent with 38 U.S.C. § 4303(13), the performance of duty on a voluntary or involuntary basis in a Uniformed Service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, and a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty.

#### **11.2.3 “Uniformed Service”**

means, consistent with 38 U.S.C. § 4303(16), any one or more of the Armed Forces, the Army National Guard or the Air National Guard when engaged in active duty for training or inactive duty training or full-time National Guard duty, the commissioned corps of the Public Health Service, or any other category of persons designated by the President of the USA in time of war or emergency.

#### **11.2.4 “USERRA”**

means the *Uniformed Services Employment and Reemployment Rights Act of 1994* (Public Law No. 103-353) [October 13, 1994] codified at 38 U.S.C. § 4301 et seq..

### **11.3 Service crediting**

Consistent with 38 U.S.C. § 4318(a)(2)(A) and IRC § 414(u)(8)(A), a person reemployed under 38 U.S.C. § 4301 et seq. shall be treated as not having incurred a break-in-service by reason of such person’s period(s) of Qualified Military Service.

Consistent with 38 U.S.C. § 4318(a)(2)(B) and IRC § 414(u)(8)(B), upon reemployment under 38 U.S.C. § 4301 et seq., each period of Qualified Military Service shall constitute service under this Plan for the purpose of determining the nonforfeitability of the Participant’s accrued benefits under this Plan and for the purpose of determining the accrual of benefits under this Plan.

#### **11.4 Compensation**

Consistent with 38 U.S.C. § 4318(b)(3) and IRC § 414(u)(7) and IRC § 457(e)(5), for the purposes of computing any Contributions required or permitted under this Part, the reemployed Participant's Compensation during the period of Qualified Military Service shall be either the Compensation the Participant would have received during such period if the Participant were not in Qualified Military Service, determined based on the rate of pay the Participant would have received from the Employer but for absence during the period of Qualified Military Service, or, if the Compensation the Participant would have received during the period of absence for Qualified Military Service was not reasonably certain, the Participant's average Compensation from the Employer during the 12-month period (or, if shorter, the entire period of employment) immediately preceding the Qualified Military Service.

#### **11.5 Non-elective Employer Contributions**

Consistent with 38 U.S.C. § 4318(b)(1) and IRC § 414(u), if a person is reemployed under 38 U.S.C. § 4301 et seq., with respect to the period(s) of Service in the Uniformed Services, the Employer shall pay (if it has not already done so) and direct the Plan Administrator to allocate to the reemployed Participant's Account any Employer Non-elective Contribution for the Participant in the amount (without investment income or earnings of any kind) that would have been allocated to the Participant's Account if the Participant had been actively at work for the Employer.

#### **11.6 Matching Employer Contributions**

Consistent with 38 U.S.C. § 4318(b)(2), if a person is reemployed under 38 U.S.C. § 4301 et seq. and makes Employee Contributions as permitted by ¶ 11.7, with respect to the period(s) of Service in the Uniformed Services, the Employer shall pay (if it has not already done so) and direct the Plan Administrator to allocate to the reemployed Participant's Account any Employer Matching Contribution for the Participant in the amount (without investment income or earnings of any kind) that would have been allocated to the Participant's Account if the Participant had been actively at work for the Employer to the extent that the reemployed Participant makes payment to the Plan for Employee Contributions. Consistent with IRC § 414(u)(2)(A)(ii), the Employer has no obligation to pay the Matching Contribution until and its obligation is only to the extent that the reemployed Participant pays his or her Employee Contribution.

#### **11.7 Employee Contributions**

Consistent with 38 U.S.C. § 4318(b)(2) and IRC § 414(u)(2), if a person is reemployed under 38 U.S.C. § 4301 et seq., with respect to the period(s) of Service in the Uniformed Services, the Participant may pay (if he or she has not already done so) and the Employer shall direct the Plan Administrator to allocate to the reemployed Participant's Account any Employee Contributions in the amount required or any amount permitted that would have been required or permitted to be made and then allocated to the Participant's Account if the Participant had been actively at work for the Employer. No such payment shall exceed the amount the reemployed person would have been permitted to contribute had the person remained continuously employed by the Employer throughout his or her Service in the Uniformed Services. Consistent with IRC § 414(u)(2)(A)(i), any such payment to the Plan may be made during the period beginning with the date of reemployment and

whose duration is the lesser of five years or three times the period of the reemployed person's Service in the Uniformed Services.

#### **11.8 Plan Loan repayment**

**To the extent permitted by IRC § 414(u)(4), a Plan Loan may suspend the Participant's repayment obligation for any part of the period during which the Participant performs Service in the Uniformed Services, even if such service is not Qualified Military Service.**

### **12. QUALIFIED DOMESTIC RELATIONS ORDER**

#### **12.1 QDRO procedures**

The Plan Sponsor may establish written procedures (consistent with IRC § 414(p)(6)), which may be the procedures stated by Provision 12.7, for determining whether an order directed to the Plan is a Qualified Domestic Relations Order.

#### **12.2 Determination as to order's status**

The Plan Sponsor may make a determination on whether a court order directed to the Plan is a Qualified Domestic Relations Order.

The Plan Sponsor may delay its consideration of any order until 30 days after the date of the order. However, upon the request of either the Participant or the proposed Alternate Payee, the Plan Sponsor may (but is not required to) expedite consideration of an order if the party requesting expedited consideration delivers to the Plan Sponsor a written legal opinion (which states that the Plan Sponsor may rely on the opinion) to the effect that all rehearing and appeal rights with respect to the order have expired.

#### **12.3 Notice of determination**

The Plan Sponsor may notify the Participant and any Alternate Payee, or their attorneys, of its determination on any order.

#### **12.4 Investment direction during domestic relations matter**

Notwithstanding any notice to the Plan Sponsor (or to any other person dealing with or performing services regarding the Plan) that a domestic relations order is or may be presented to be determined as a Qualified Domestic Relations Order, the Participant shall continue to exercise his or her duty of investment direction as required by the Plan unless a court order expressly provides otherwise and the Plan Sponsor determines that the court order is a Qualified Domestic Relations Order. If a Qualified Domestic Relations Order provides for an Alternate Payee (or any person other than the Participant) to have a right of investment direction under the Plan, the Plan Sponsor shall give effect to that court order to the extent permitted by the Plan.

#### **12.5 Giving effect to a Qualified Domestic Relations Order**

If the Plan Sponsor determines that an order is a Qualified Domestic Relations Order, the Plan Sponsor may instruct the Plan Administrator to instruct the Custodian or the Issuer(s) to cause the payment of amounts pursuant to (and to prevent any payment or act which might be

inconsistent with) the Qualified Domestic Relations Order, notwithstanding any contrary provision of the Plan.

### **12.6 Inability to locate payee**

If any payment under a Qualified Domestic Relations Order cannot be paid because the Alternate Payee cannot be located upon reasonable efforts [including services available from the Social Security Administration], the Plan Sponsor may (but is not required to) instruct the Plan Administrator to direct the Issuer(s) or Custodian(s) to pay the Benefit into an interest-bearing FDIC-insured bank account or IRA opened in the Alternate Payee's name.

### **12.7 QDRO procedures**

Unless the Plan Sponsor adopts a different written procedure, the procedure for administering Qualified Domestic Relations Orders shall be as follows:

The Plan Sponsor shall promptly notify the Participant and each Alternate Payee of receipt of such order and the Plan's procedures for determining the qualified status of domestic relations orders.

The Plan Sponsor will then determine if the order meets the requirements of the Plan.

If the Plan Sponsor determines the order to be a Qualified Domestic Relations Order, it will send a written determination to the named Issuer(s) of the Investment(s), and give notice to the Plan Administrator, Plan Participant, the Alternate Payee(s), and their attorneys, so that they may act according to the provisions of the order.

If the Plan Sponsor determines that the order is not a Qualified Domestic Relations Order, it must ensure that the Plan does not make any distribution from the Participant's Account for a period of 18 months, unless the Alternate Payee either releases a claim to the Benefits or the parties obtain an amended order which is determined by the Plan Sponsor to be a QDRO.

## **13. HARDSHIP DISTRIBUTION**

### **13.1 Hardship Distribution**

A Participant shall be permitted to make a hardship withdrawal from the vested amount (as determined by this Plan) credited to his Employer Contributions Account if the Participant certifies that he has incurred an immediate and heavy financial need for funds. For these purposes, an immediate and heavy financial need shall include a need : (1) to pay medical expenses described in Section 213(d) of the Code incurred by the Participant, his spouse, or his dependents; or (2) to prevent the eviction of the Participant from his principal residence or foreclosure on the mortgage of the Participant's principal residence.

### **13.2 Hardship**

The Amount of any hardship withdrawal by a Participant under Provision 13.1 shall not exceed the amount necessary to satisfy the immediate and heavy financial need and not reasonably available from other resources of the participant. For these purposes, a hardship withdrawal will be treated as necessary to satisfy an immediate and heavy financial need under Provision 13.1 above if the Participant certifies that the need cannot be relieved; (1) through reimbursement or compensation by insurance or otherwise; (2) by reasonable liquidation of the Participant's assets to the extent such liquidation would not itself cause an immediate and heavy financial need; o (3) by other distributions from the Plan or by borrowing from commercial sources on reasonable commercial terms.

### **13.3 Manner of Making Hardship Withdrawals**

Any withdrawals by a Participant under the Plan shall be made only after the Participant files a written request with the Plan Sponsor specifying the nature of the withdrawal (and reasons therefore, if a hardship withdrawal) and the amount of funds requested to be withdrawn. Upon approving any withdrawal, the Plan Sponsor shall furnish the Plan Administrator and the Custodian with written instructions direction the Custodian to make the withdrawal in a lump-sum payment to the Participant.

## **14. PERMITTED DISTRIBUTION**

### **14.1 Permitted Distribution**

Unless otherwise specified by the Adoption Agreement, in addition to Provision 13.1, a Participant at any time before becoming eligible for a Retirement Distribution is entitled to a Distribution upon the Participant's Disability or as otherwise required by applicable law.

## **15. RETIREMENT DISTRIBUTION**

### **15.1 Retirement Distribution**

Upon Severance-from-employment, the Participant is entitled to apply to receive his or her Benefit payable under any Payout Option that satisfies the provisions of the Plan, including (but not limited to) ¶ 15.3.

### **15.2 Deemed Distribution**

Upon Severance-from-employment, if the Participant's Vested Account is \$0 (as of the date of his or her Severance-from-employment), the Participant shall be deemed to have received a Deemed Distribution of his or her Vested Account.

### **15.3 Involuntary Distribution**

On his or her Severance-from-employment, a Participant will receive an Involuntary Distribution if as of a Valuation Day on or after the date of his or her Severance-from-employment his or her Account is no more than \$5,000. If the Involuntary Distribution is more than \$1,000, the Involuntary Distribution will be paid as a direct rollover to an IRA designated by the Plan Sponsor. If the Involuntary Distribution is \$1,000 or less, it will be paid in money as a single sum.

### **15.4 Minimum distribution**

For any Distribution that commences on or after the Required Beginning Date or with respect to a Distribution that commences before the Required Beginning Date to the extent of payments to be made after the Required Beginning Date, the Payout Option must meet the requirements of IRC § 401(a)(9), including IRC § 401(a)(9)(G).

### **15.5 Required Beginning Date Distribution**

A Retirement Distribution shall commence not later than the Required Beginning Date.

### **15.6 Default Retirement Distribution**

If a Retirement Distribution is required to begin according to Provision 15.5 and the Participant has not filed an application for payment by the date that is 90 days before the Participant's Required Beginning Date or Normal Retirement Age (or if the Plan Sponsor or Plan Administrator has denied an application and an acceptable re-application has not been filed before the applicable date), the Plan Sponsor or Plan Administrator shall direct payment (or, if provided by the Investment, the Issuer may without instruction make payment) according to the automatic Payout Option provided by the applicable Investment(s), or, to the extent not so provided, as a lump sum distribution.

## **16. DEATH DISTRIBUTION**

### **16.1 Death Distribution**

Upon the Participant's death before a Retirement Distribution has begun (and before the Participant has otherwise received a total distribution of his or her Vested Account), the Beneficiary(s) is entitled to receive a Death Distribution under any Payout Option that satisfies the requirements of Provision 16. 2-16. 3 below.

### **16.2 Continuing Retirement Distribution after death**

If the distribution of the Participant's Benefit has begun under a Retirement Distribution, and the Participant dies before the entire interest has been distributed according to the terms of the Payout Option, the remaining interest shall be distributed according to the terms of the Payout Option. In any such case, to the extent required by IRC § 401(a)(9) the remaining interest shall be distributed at least as rapidly as under the Payout Option or other method of distribution being used as of the date of the Participant's death.

### **16.3 Involuntary Distribution**

On a Participant's death before a Retirement Distribution commenced, a Beneficiary who is the Participant's surviving spouse will receive an Involuntary Distribution if as of a Valuation Day on or after the date of the Participant's death the Beneficiary's Account is no more than \$5,000. If the Involuntary Distribution is more than \$1,000, the Involuntary Distribution will be paid as a direct rollover to an IRA designated by the Plan Sponsor. If the Involuntary Distribution is \$1,000 or less, it will be paid in money as a single sum.

### **16.4 Minimum distribution**

For any Distribution that commences on or after the Required Beginning Date or with respect to a Distribution that commences before the Required Beginning Date to the extent of payments to be made after the Required Beginning Date, the Payout Option must meet the requirements of IRC § 401(a)(9), including IRC § 401(a)(9)(G).

### **16.5 Required Beginning Date Distribution**

A Death Distribution shall commence not later than the Required Beginning Date.

### **16.6 Default Death Distribution**

If a Death Distribution is required to begin according to Provision 16.5 and the Beneficiary has not filed an application for payment by the date that is 90 days before the Participant's Required Beginning Date or Normal Retirement Age (or if the Plan Sponsor or Plan Administrator has denied an application and an acceptable re-application has not been filed before the applicable date), the Plan Sponsor or Plan Administrator shall direct payment (or, if provided by the Investment, the Issuer may without instruction make payment) according to the automatic Payout Option provided by the applicable Investment(s), or, to the extent not so provided, as a lump sum distribution.

## **17. DIRECT ROLLOVER**

### **17.1 Direct Rollover**

Consistent with IRC § 401(a)(31), for any Distribution paid after December 31, 1992 that is an Eligible Rollover Distribution, the Distributee may elect, at the time and in the manner

prescribed by the Plan Sponsor, to instruct the Plan Sponsor (and the Issuer) to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee.

### **17.2 Eligible Rollover Distribution payable without delay**

The Plan Sponsor may (but is not required to) commence the Distribution less than 30 days after the Eligible Rollover Distribution Notice is given only if the following requirements are met.

Consistent with Treasury Reg. § 1.402(c)-2, the Plan Sponsor must inform the Distributee (in the Eligible Rollover Distribution Notice or otherwise) that the Distributee has a right to a period of at least 30 days after receiving the Eligible Rollover Distribution Notice to consider the decision of whether or not to elect a Distribution and any available Payout Option, and the Distributee after receiving the Eligible Rollover Distribution Notice must affirmatively elect a Distribution.

## **18. ADMINISTRATION OF DISTRIBUTION PROCEDURES**

### **18.1 Claim for Distribution**

Any Distribution shall be paid only upon a completed and properly executed written claim made in a form acceptable to the Plan Sponsor that states under penalties of perjury all facts and authorizations necessary or appropriate to the Distribution, including but not limited to:

- if the Distribution is a Retirement Distribution, appropriate evidence that the Participant has a Severance-from-employment;
- if the Distribution is an Eligible Rollover Distribution, the Distributee's instruction as to whether the Distribution (or a portion of the Distribution) is to be paid directly to an Eligible Retirement Plan, and if any amount is to be paid directly to an Eligible Retirement Plan, the name and address of the trustee or issuer of that Eligible Retirement Plan together with any other information that the Plan Sponsor or Issuer reasonably requests pursuant to Treasury Reg. § 1.401(a)(31)-1T.
- if the Distribution is a Death Distribution, appropriate evidence of the Participant's death;
- if the Distribution is a Hardship Distribution, an appropriate certificate or evidence of the facts constituting the Participant's unforeseeable emergency;
- if the Participant has a designated Beneficiary, the date-of-birth of the Designated Beneficiary;
- if the Distribution is in the form of an Annuity Payout Option, the date-of-birth of any annuitant designated under the Annuity Payout Option; and

- whenever required by the Plan Sponsor, the date-of-birth of any person as relevant to the Distribution; and
- if the Account consists of more than one Investment, the order in which any Investments are to be charged or liquidated to pay the Distribution; and
- if the amount of the Distribution is greater than a uniform amount established by the Plan Sponsor, appropriate assurance (including a Signature Guarantee) that the Participant's or Beneficiary's signature is genuine; and
- any other evidence or information that the Plan Sponsor finds is relevant to administer a provision of the Plan in the Participant's or Beneficiary's and the Distributee's circumstances.

Absent contrary evidence actually known to the Plan Sponsor, an appropriate death certificate or a court order stating that the Participant is found to be absent and presumed dead shall constitute appropriate evidence of the Participant's death.

If the Distributee fails to submit proper instructions, the Plan Sponsor may, at its discretion, deny the claim; or may determine which Plan Investment(s) and investment options are to be charged.

### **18.2 Time for Distribution**

The Plan Sponsor may require for payment of any Distribution a minimum advance notice, uniformly determined and consistently applied. In addition to the above, no payment can be made before the Distribution Commencement Date.

### **18.3 Plan Sponsor to approve**

Payments shall not begin until the Plan Sponsor has approved: the Distribution, and the claim for payment, and the Payout Option as satisfying the provisions of the Plan.

### **18.4 Payout Option**

The election of a payout option by a Participant or a Beneficiary must be made no later than thirty (30) days before the commencement of such benefits. Subject to restrictions established by the Plan Sponsor, the Plan shall permit payout options in the form of lump sums, periodic payments of a fixed amount or fixed duration, or life contingent annuities. Absent such election, the Account will be paid in a lump sum.

### **18.5 Payor may rely on apparent entitlement**

The Employer and the Plan Administrator and the Master Trustee and the Issuer and the Agent [a "payor"] is not liable for having made a payment under an unclear Beneficiary designation or Participation Agreement to a person not entitled to the payment, or for having taken or omitted any other action in good faith reliance on a person's apparent entitlement under the Plan, before the payor actually received written notice of a claimed lack of entitlement under this Plan.

Any payor of any Distribution is not liable for having made a payment or having transferred an item of property to a beneficiary designated in a beneficiary designation (or in a similar writing reasonably believed to constitute a beneficiary designation) who is not entitled to the Distribution, or for having taken any other action in good faith reliance on the beneficiary's apparent entitlement under the terms of the beneficiary designation before the payor received written actual notice alleging that the beneficiary was not entitled to the Distribution.

#### **18.6 Instruction to Issuer**

Any Distribution is payable by or on behalf of the Custodian or Issuer only upon the Custodian's or Issuer's receipt in good order of the Plan Sponsor's approval of the Distributee's claim.

Except to the extent otherwise expressly provided by the Investment(s), any payment or Payout Option shall be determined as of the Valuation Date requested by the Participant or Beneficiary, or if later, as of the Valuation Date that next follows the Issuer's or Custodian's receipt in good order (within the meaning of the Investment(s) or applicable law) the approved claim.

#### **18.7 Delay of payment**

The Plan Sponsor, in its sole discretion, may delay payment of an approved Distribution:

- to receive any necessary information,
- to permit a valuation of the Account,
- to permit any necessary or appropriate liquidation of assets,
- if a dispute arises as to the proper payee (refer to Provision 18.8 below),
- if the Plan Sponsor has notice of a domestic relations case or petition that may involve the applicable Account,
- if the Plan Sponsor has notice of a bankruptcy case or petition that may involve the applicable Account,
- if the Plan Sponsor has notice of any legal proceeding or petition that may involve the applicable Account, or
- for any reason described elsewhere in this Plan, or
- for any other lawful purpose.

Without limiting the comprehensive effect of the above, to the extent that any Distribution requires a redemption or transfer of Fund shares, the Plan Sponsor shall delay the Distribution during any period: when the NYSE is closed other than for a weekend or a holiday, or when trading on the

NYSE is restricted (as determined by the SEC), or when an emergency exists making disposal of a Fund's securities or valuation of a Fund's net assets not reasonably practicable, or when the SEC has required or permitted the suspension of redemptions or transfers by order, or during any period otherwise described by § 22(e)(1)-(3) of the *Investment Company Act of 1940*, as amended [15 U.S.C. § 80a-22(e)(1)-(3)].

If the Participant received an allocation of Employer Contributions for a period that included his or her absence under a federal or state *Family and Medical Leave Act*, the Plan Sponsor shall delay payment of any Distribution until the Plan Sponsor is satisfied that the Participant has returned to work from such absence or that the Participant will not or did not return to work from such absence.

**18.8 Dispute as to proper recipient**

If a dispute arises as to the proper recipient of any payment(s) under the Plan, the Plan Sponsor, in its sole discretion, may instruct the Issuer(s) to withhold payment until the dispute is determined by a court of competent jurisdiction or is settled by the parties concerned.

**18.9 Doubt as to proper payee**

If the Plan Sponsor determines that there is doubt as to the proper construction of the Plan with respect to determining the Beneficiary(s) or other proper payee(s) under the Plan, the Plan Sponsor shall construe the Plan to state provisions consistent with the Uniform Probate Code applied as though the interest under the Plan were an interest to a commercial annuity contract, to the extent that any such construction is not inconsistent with any requirement of IRC § 457(b).

**18.10 Distribution to minor Beneficiary**

If a Distribution is to be made to a minor Beneficiary, any payment(s) may, except to the extent prohibited by applicable law, be paid to a responsible person according to the following order:

- as instructed by an appropriate court,
- to the duly appointed and currently acting guardian or conservator of the Beneficiary,
- to the custodial parent of the Beneficiary,
- to a responsible adult with whom the Beneficiary maintains his or her residence,
- to a responsible adult who is a relative of the Beneficiary,
- to a custodian for the Beneficiary under the *Uniform Transfers to Minors Act* or *Uniform Gifts to Minors Act*,
- to the court having jurisdiction over the estate of the Beneficiary,
- to any person determined by the Plan Sponsor to be a proper recipient for the Beneficiary.

This payment shall be in full satisfaction of all claims. The Plan Sponsor has no duty to supervise or inquire into the application of any amount(s) so paid.

If at the time a Distribution begins the Beneficiary is a minor and the Plan Sponsor begins payments to another person under this Provision, the Plan Sponsor may continue all payments under the Distribution to the other person notwithstanding that the Beneficiary may have attained full age, unless the Beneficiary files a written claim according to all of the requirements of the Plan, including furnishing satisfactory evidence that he or she is of full age.

**18.11 Distribution to incompetent Participant or Beneficiary**

If a Distribution is to be made to a Participant or Beneficiary that the Plan Sponsor finds to be unable to manage property effectively for any reason including (but not limited to) mental illness, mental deficiency, physical illness, physical disability, chronic use of drugs, chronic intoxication, confinement, detention by a foreign power, or disappearance, any payment may be paid according to the terms of the applicable Investment(s) (if any) or according to applicable Investment Law (if any), or the Plan Sponsor may direct payment(s) according to the following order:

- as instructed by an appropriate court,
- to the duly appointed and currently acting legal guardian of the estate of the Participant or Beneficiary,
- to the duly appointed and currently acting conservator of the Participant or Beneficiary,
- to the duly appointed and currently acting attorney-in-fact under a durable power-of-attorney if the Plan Sponsor finds that the power-of-attorney provides sufficient power to authorize the attorney-in-fact to receive the Vested account balance,
- to a responsible adult with whom the Participant or Beneficiary maintains his or her residence,
- to a responsible adult who is a relative of the Participant or Beneficiary,
- to any person determined by the Plan Sponsor to be a proper recipient for the Participant or Beneficiary,
- to the court having jurisdiction over the estate of the Participant or Beneficiary.

This payment shall be in full satisfaction of all claims. The Plan Sponsor has no duty to supervise or inquire into the application of any amount(s) so paid.

If at the time a Distribution begins the Participant or Beneficiary is an incompetent or incapacitated (as described above) and the Plan Sponsor begins payments to another person under this Provision,

the Plan Sponsor may continue all payments under the Distribution to the other person notwithstanding that the Participant or Beneficiary may have become competent or may have been adjudicated as competent, unless the Participant or Beneficiary files a written claim according to all of the requirements of the Plan, including furnishing a satisfactory court order that he or she is competent to manage his or her Vested account balance.

#### **18.12 Inability to locate payee**

If, at a time when a Distribution other than an Involuntary Distribution is required to be paid, the Distribution cannot be paid because the payee cannot be located upon reasonable efforts, the Plan Sponsor may (but is not required to) direct each Issuer or the Agent to pay the Vested account balance into an interest-bearing FDIC-insured bank account opened in the payee's name, Taxpayer Identifying Number, and then-current address of record according to the Plan; and such deposit shall discharge the Employer's obligation to pay Vested account balance.

#### **18.13 Payment to Personal Representative**

Any payment (or delivery of property) to the duly appointed Personal Representative of the Participant shall, to the extent of the payment (or delivery of property), bar recovery by any other person or entity, including every Beneficiary, and shall, to the extent of the payment (or delivery of property), discharge any obligation under the Plan.

#### **18.14 Disclaimer by Beneficiary**

Any Beneficiary may renounce or disclaim all or any part of any Vested account balance by filing a written irrevocable disclaimer not later than 31 days before the Distribution begins or any payment is otherwise to be made and before acceptance of any Vested account balance. An acceptance may be express or may be inferred from actions or facts and circumstances, including (but not limited to) those actions described in the *Uniform Probate Code* as establishing an inference of acceptance. In addition to any requirements under State law, the disclaimer is not effective unless the disclaimer describes the Vested account balance renounced, expressly declares the renunciation and the extent of it, expressly states the Beneficiary's belief upon reasonably diligent examination that no creditor of the Beneficiary (or, if the Beneficiary is an executor or trustee or guardian or other fiduciary, of any current or reasonably anticipated beneficiary of the estate or trustee or guardianship or other fiduciary relationship or entity) would be adversely affect by the disclaimer, expressly states that the disclaimer is irrevocable, is signed by the Beneficiary, meets all requirements of IRC § 2518 such that the disclaimer would be treated as effective for federal gift and estate tax purposes, and otherwise is made in a form that is acceptable to the Plan Sponsor. Notwithstanding any State law that would permit otherwise, if the Beneficiary is a minor or an incapacitated person, any disclaimer cannot have any effect regarding the Plan until the court having jurisdiction of the minor's or incapacitated person's estate authorizes the disclaimer after finding that it is advisable and will not materially prejudice the rights of any interested person. Any Vested account balance disclaimed shall be payable as if the Beneficiary who submitted the disclaimer died before the Participant.

#### **18.15 Receipt and release**

Any Distribution or payment or any agreement to make a payment(s), or any transfer of Vested account balance to another eligible vested account balance plan, shall, to the extent of the

Distribution or payment(s) or the agreement, be in full satisfaction of all claims. The Plan Sponsor, in its sole discretion, may require any Distributee or payee, as a condition precedent to making or causing to be made any payment(s) or agreement, to execute a receipt and release.

## **19. PLAN SPONSOR AND PLAN ADMINISTRATOR**

### **19.1 Plan Sponsor has full authority**

The Plan Sponsor has full and complete authority and discretion to control and manage the operation of and shall decide all matters under the Plan. The Plan Sponsor has any and all powers as may be necessary or advisable to discharge its duties under the Plan, and has complete discretionary authority to decide all matters and questions under the Plan.

### **19.2 Plan Sponsor must decide all matters**

The Plan Sponsor must decide all matters under the Plan. The discretionary decisions of the Plan Sponsor are final, binding, and conclusive on all interested persons for all purposes.

Without limiting the comprehensive effect of the above, the Plan Sponsor's discretionary decisions may include, but shall not be limited to, any decision as to: whether a natural person is an Employee, whether an Employee belongs to a particular employment classification, whether an Employee is an eligible Employee, the amount of a Participant's Compensation, the amount of Contributions to be made, whether an amount of Contributions exceeds the limits prescribed by the Plan, whether a court order shall be recognized, whether a Participant (or any other person) has established the presence or absence of a Spouse, whether a Payout Option is an Annuity Payout Option, whether a Participant has incurred a hardship, whether a Participant has a Severance-from-employment, whether a Beneficiary Designation is valid or effective, who is the proper Beneficiary, whether a Participant or Beneficiary is a minor or is of full age, whether a Participant or Beneficiary is an incompetent, the person who is a proper recipient for a Participant or Beneficiary who is a minor or an incompetent, whether any power-of-attorney is effective and acceptable to act with respect to the Plan, whether a Signature Guarantee is required, whether a Signature Guarantee is acceptable for any purpose under the Plan.

### **19.3 Determinations to be uniformly made**

To the extent required by the Enabling Statute, any determination or decision required or permitted to be made for the purposes of the Plan by the Plan Sponsor shall be uniformly and consistently made according to reasonable procedures established and maintained by the Plan Sponsor.

### **19.4 Plan Administrator is responsible**

The Plan Administrator is responsible for performing all duties agreed to regarding the operation of the Plan, and is responsible for supervising the performance of every other person that may assist in the performance of the Plan Administrator's responsibilities. The Plan Administrator does not have the authority or discretion to perform activities or decide any matter or question not provided for under the Plan, such as, but not limited to, forfeiture of retirement benefits determinations under

Section 112.3173, Florida Statutes, and any such activities or decisions shall be the sole responsibility of the Plan Sponsor.

### **19.5 Information from Employer**

To enable the Plan Administrator to perform its responsibilities, the Employer(s) shall promptly provide to the Plan Administrator complete and accurate information on any matter under the Plan. The Plan Administrator shall rely upon this information as supplied by the Employer, and shall have no duty or responsibility to verify this information.

### **19.6 Plan Administrator may delegate or contract**

Except as prohibited by the Enabling Statute or other State law, the Plan Administrator may, except when expressly prohibited by this Plan, delegate any of its duties to any Employer, or to any officers, employees, or agents of any kind. Except as prohibited by the Enabling Statute or other State or local law, the Plan Administrator may, except when expressly prohibited by this Plan, contract any of its duties to the Agent, a Service Provider, or otherwise.

### **19.7 Plan services**

The Plan Administrator may contract with any person to provide services to assist in the administration of the Plan. The Plan Administrator must make such contracts in compliance with the Enabling Statute and other applicable State and local law.

Any person other than the Plan Administrator who performs services regarding the Plan (including but not limited to the Agent) is subject to the supervision and direction of the Plan Administrator, and does not have authority to control the operation of the Plan.

Any person other than the Plan Administrator who performs services regarding the Plan (including but not limited to the Agent) is entitled to rely upon any direction, instruction, information, or action (or failure to act) of the Plan Sponsor or Plan Administrator as being proper under this Plan, and is not required to inquire into the propriety or correctness of any such direction, instruction, information, or action.

### **19.8 Plan Sponsor official may not decide personal benefit**

An individual shall recuse himself or herself from and shall take no part in any Plan Sponsor determination or decision specifically relating to his or her own participation or Benefit, unless his or her abstention would render the Plan Sponsor committee or organization incapable of acting on the matter.

## **20. GENERAL PROVISIONS**

### **20.1 Anti-alienation**

In addition to (and not by limitation upon) the provisions of the Plan and any provision of applicable law, any benefit or interest available under the Plan, or any right to receive or instruct

payments under the Plan, or any Distribution or payment made under the Plan shall not be subject to assignment, alienation, garnishment, attachment, transfer, anticipation, sale, mortgage, pledge, hypothecation, commutation, execution, or levy, whether by the voluntary or involuntary act of any interested person under the Plan, except for an interest which becomes payable pursuant to a Qualified Domestic Relations Order (or a domestic relations order that was entered before January 1, 1985). However, the preceding sentence shall not be construed to preclude the payment of any Fees or expenses (including taxes) of the Issuer(s) or the Plan-Trust.

## **20.2 Audit**

The Plan Sponsor may engage a public accountant to audit or review the financial statements or internal-control procedures with respect to the Plan, and any fees paid or incurred for such audit or review and related accounting and auditing services shall be an expense charged to all Participants' Accounts in an equitable manner determined by the Plan Sponsor.

## **20.3 Claims procedure**

By the terms of the Plan, the claimant (or other aggrieved person) shall not be entitled to take any legal action (including but not limited to instituting any arbitration procedure) or otherwise seek to enforce a claim to benefits or rights under the Plan until he or she or it has exhausted all claims and appeals procedures provided by the Plan.

In considering claims under the Plan, the Plan Sponsor has full power and discretionary authority to construe and interpret the provisions of the Plan, and of any law governing or applying to or relating to the Plan.

Notwithstanding any statement to the contrary in any collective bargaining agreement, any determination under or arising out of the Plan is not subject to any arbitration procedure of any kind.

## **20.4 Exclusive benefit**

The Plan is established for the exclusive benefit of the Participants and their Beneficiaries. Except as otherwise provided by the Plan, or otherwise permitted by IRC § 401(a)(2), no amounts held under the Plan shall ever inure to the benefit of the Employer or any successor. All amounts held under the Plan shall be held for the exclusive purpose of providing Benefits to the Plan's Participants and their Beneficiaries.

## **20.5 Expenses**

Upon the Plan Sponsor's written instruction, the Plan Sponsor (or any party acting for it) shall be reimbursed from the Plan assets for any reasonable expense (including attorneys' or counsel fees) incurred in performing services with respect to the Plan. Except as otherwise provided or permitted by the Plan, the reimbursement shall be effected by deducting a charge against all Accounts according to an equitable method determined by the Plan Sponsor.

If the Internal Revenue Service [IRS] determines, and the determination is not contested, or if contested, is finally upheld (or otherwise finally determined), or if a final court order (that is not

appealed) decides that any payment of expenses is a violation of IRC § 401(a)(2), the Plan Sponsor shall pay full restoration into the Plan to the extent of the improperly paid expense (including fair interest from the date the expense was improperly paid to the date that restoration is made).

#### **20.6 Fiduciary responsibility**

The Custodian (if any) shall act solely according to the provisions of the Plan-Trust Agreement, and the Custodian has no duty of any kind to read or have any knowledge of the Plan. Every person other than the Plan Sponsor has no duty of any kind to read or have any knowledge of the Plan.

#### **20.7 Governing law**

The Plan, and actions under or with respect to the Plan, and the statute of limitations for such actions (refer to Provision 20.23 [statute of limitations]) shall be governed by and enforced by the laws of the State of Florida and shall be construed, to the extent that any construction beyond the written provisions of the Plan (including Part 23 [construction]) is necessary, according to the laws of the State of Florida.

#### **20.8 Levy**

Notwithstanding any other provision of the Plan, the Plan Sponsor may pay to the IRS from a Participant's (or Beneficiary's) Account the amount(s) that the Plan Sponsor determines is demanded under a levy issued by the IRS with respect to that Participant (or Beneficiary) or is sought to be collected by the United States under a judgment resulting from an unpaid tax assessment against the Participant (or Beneficiary).

#### **20.9 Litigation**

If the Participant or a Beneficiary or the Participant's Spouse (or putative spouse) or any other person claiming through the Participant or a Beneficiary brings any kind of legal action or proceeding regarding the Plan against the Plan Sponsor or any Participating Employer or the Plan Administrator or the Master Trustee or any Agent or any Service Provider or any Custodian, or any shareholder or member, any director or trustee, officer, employee, or agent of any of them [each an "indemnified party"] is brought by a Participant or Beneficiary or Spouse or by a person or entity claiming through a Participant or Beneficiary or Spouse, and the legal action or proceeding is resolved in favor of the indemnified party, each party participating in or contributing to the defense of the legal action or proceeding shall be entitled to be reimbursed from the Participant's Account for any and all actual fees of lawyers and legal assistants and other expenses reasonably paid or incurred in the defense of the legal action or proceeding.

If the amount(s) of the litigation expense is greater than the amount of the Participant's Account, the full Account must be paid to the indemnified party(s), and any obligation to that Participant and his or her Beneficiary(s) is then completely discharged.

If there is more than one indemnified party entitled to a reimbursement of litigation expense and the total amounts of litigation expense are greater than the amount of the Participant's Account,

each indemnified party shall be paid a pro rata portion of the Participant's total Account, and each portion shall be determined by applying to the Participant's Account the percentage that is the ratio of the indemnified party's litigation expense to the litigation expense of all indemnified parties.

However, nothing in this Provision shall diminish or impair any indemnified party's claim at law or in equity for further indemnification or contribution from the Participant (or Beneficiary).

#### **20.10 Mistaken contributions**

If any Contribution (or any portion of a Contribution) is made by the Employer by a good faith mistake of fact, upon receipt in good order (within the meaning of the Investment(s) or applicable law) of a proper request by the Plan Sponsor or by the Participant to the extent required or permitted by the Investment(s), the Custodian or the Issuer(s) shall, to the extent permitted by the Investment(s), return the amount of the mistaken Contribution(s), except as limited below, to the Employer or to the extent required or permitted by the Investment(s) directly to the Participant to the extent of any mistaken Employee Contribution(s). The Participant's exercise of a "free look" or right-to-return or similar cancellation provision under applicable Investment Law is deemed to cause a Contribution to be by a good faith mistake of fact. A return of a mistaken Contribution shall not be demanded or made if the return will not be made within 1 year from the date of the mistaken payment of the Contribution. Upon any return of a mistaken Contribution, earnings attributable to the mistaken Contribution shall not be returned and losses attributable to the mistaken Contribution shall reduce the amount to be returned. If the return of any amount of mistaken Contribution would cause the Participant's Vested account balance to be reduced to less than the Vested account balance would be if the mistaken Contribution had not been contributed, then the amount to be returned to the Employer shall be limited to the extent needed so that any such reduction of the Participant's Vested account balance shall not occur.

#### **20.11 Necessary information**

The Participant (or Beneficiary) shall provide upon any request of the Plan Sponsor or of the Agent or of the Custodian or any Issuer any information that may be needed for the proper and lawful operation and administration of the Plan; including but not limited to, his or her or its full legal name, his or her or its Social Security Number [SSN] or other Taxpayer Identification Number [TIN], his or her or its current address and the current address of his or her or its Spouse and of any Beneficiary(s), evidence of his or her age, evidence of his or her marital status. The Participant shall promptly respond to and fully answer any reasonable inquiry related to these purposes. A failure to provide any information described above or which otherwise may be necessary or appropriate for the lawful operation of the Plan may result in a delay of eligibility for participation, in a delay of the payment of Contributions, or in a delay or refusal by the Plan Sponsor, in its discretion, to authorize or permit any payment to be made.

The Plan Sponsor or Plan Administrator (and any party acting for it) shall have the right to rely on any information or representation given by any Participant or Beneficiary or other party interested in the Plan. The Plan Sponsor or Plan Administrator shall have no duty to inquire into

the accuracy or adequacy or truth of any such information or representation. Any such representation shall be binding upon any party seeking to claim a Benefit through the Participant.

**20.12 No contract of employment**

Under no circumstances shall the Plan constitute or modify a contract of employment or in any way obligate the Employer to continue the services of any Employee.

**20.13 No right other than provided by Plan**

The establishment of the Plan and the purchase of any Investment(s) under the Plan shall not be construed as giving to any Participant or Beneficiary or any other person any legal or equitable right against the Employer or the Plan Sponsor or the Plan Administrator or their representatives, except as is expressly provided by the Plan.

**20.14 Notices**

Each Participant or Beneficiary shall be responsible for furnishing the Plan Sponsor (and the Agent and the applicable Issuer(s)) with his or her or its current address at all times. Any notice required or permitted to be given under the Plan shall be deemed given if directed to the proper person at the current address in any Plan (or Investment) record and mailed or otherwise delivered to that address. This Provision shall be construed and applied consistently. This Provision shall not be construed to require the mailing or delivery of any notice otherwise permitted to be given by posting or by publication.

**20.15 Plan is binding**

The Plan, and all acts and decisions taken under it, is binding and conclusive, for all purposes, upon all interested persons, and upon the heirs, executors, administrators, successors and assigns of any and all such persons.

The Plan shall not affect contracts or other dealings with a person who is not an interested person, unless a written agreement executed by that person expressly so provides.

**20.16 Power-of-attorney**

A power-of-attorney cannot be effective to permit the attorney-in-fact to submit any claim or to give any instruction or direction or consent under the Plan unless the Plan Sponsor determines that the power-of-attorney is acceptable. The Plan Sponsor shall not accept a power-of-attorney until the Plan Sponsor determines that the power-of-attorney appears on its face to have been made in a form and manner that is legally enforceable under applicable law, to indemnify the Plan Sponsor and every person who may rely on the power-of-attorney against any liability that may arise out of the Plan Sponsor's acceptance of the power-of-attorney, to expressly refer to this Plan and unambiguously provide one or more powers to act regarding this Plan, to meet any further requirements stated below in this Provision or otherwise under the Plan, and to meet any other requirements requested by the Plan Sponsor.

Without limiting the comprehensive effect of the above, any power-of-attorney, including even a general power-of-attorney, cannot be effective to submit any claim or to give any instruction or

direction or consent under the Plan unless the document, in the Plan Sponsor's sole opinion, expressly grants power to act regarding this Plan and refers to this Plan with sufficient clarity so that the Plan Sponsor determines that there is no confusion or ambiguity concerning whether an express power to act regarding this Plan was intended.

Without limiting the comprehensive effect of the above, any power-of-attorney, including even a general power-of-attorney, cannot be effective to exercise any right or privilege of investment direction under the Plan unless the document, in the sole opinion of the person that is requested to give effect to an investment instruction, expressly grants power to act regarding investment direction under this Plan and expresses the principal's (Participant's or Beneficiary's or Alternate Payee's) knowledge as to whether the attorney-in-fact is or is not a Registered Investment Adviser and refers to this Plan with sufficient clarity so that the Issuer determines that there is no confusion or ambiguity concerning whether an express power to act regarding investment direction under this Plan was intended. For the purpose of the preceding sentence, an investment advisory agreement that conforms to the requirements of the federal Investment Advisers Act of 1940, as amended is deemed to constitute an acceptable power-of-attorney if it refers to the Plan or to the Investment held for the Participant's Plan Account.

#### **20.17 Protection of Issuers**

Any Issuer shall not be liable or imprudent in acting according to any direction, if in writing or otherwise reasonably believed to be genuine, of its contract owner or the Plan Sponsor or any other authorized person, and shall not be required to question (unless otherwise provided by the applicable Investment) any action so directed by any of them. However, the Issuer shall not be required to take or permit any action or allow any benefit or privilege contrary to the provisions of any Investment.

#### **20.18 Release**

Any payment or any agreement to make payments under a Payout Option selected by the proper payee, shall, to the extent of the payment(s) or agreement, be in full satisfaction of all claims. The Plan Sponsor may require any person, as a condition precedent to making or causing to be made any payment, or agreement for a Payout Option, to execute a receipt and release. If a dispute arises as to the proper payee of any payment(s), the Plan Sponsor, in its sole discretion, may withhold or cause to be withheld any payment(s) until the dispute shall have been determined by a court of competent jurisdiction or shall have been settled by all the parties concerned.

#### **20.19 Service of legal process**

Requests for information, claims or demands, legal process, and court orders are properly made when addressed to the Plan Sponsor at the address stated in the Adoption Agreement.

#### **20.20 Severability**

If a court finds that any provision of the Plan is invalid, that holding shall not affect the remaining provisions of the Plan which shall be construed and enforced as if the invalid

provision had not been included in the Plan, unless such a construction of the Plan would be clearly contrary to the intent of the Plan.

#### **20.21 Signature**

If a Participant or Beneficiary (or other person claiming through a Participant or Beneficiary) must submit any writing of any kind required or permitted under the Plan, the maker's signature must be complete and formal. However, if a Participant or Beneficiary has a disability that precludes him or her from making a complete and formal signature, a writing is signed if it bears or includes or incorporates any symbol executed or adopted by the maker with a present intention to authenticate the writing, or it is otherwise demonstrated to the satisfaction of the Plan Sponsor that the maker had (at the relevant time) a present intention to adopt the writing.

#### **20.22 Signature Guarantee**

In addition to (and not by limitation of) any other provision of the Plan, for any claim or instruction of any kind the Plan Sponsor may require the person submitting the claim or instruction to include on the written claim or instruction a Signature Guarantee when required under a uniform written procedure of the Plan Sponsor.

#### **20.23 Statute of limitations**

As to any action at law or in equity under or with respect to this Plan, the action shall be governed by (or precluded by) the relevant statute of limitations for actions upon a written contract according to the internal laws (without regard to the law of conflicts) of the State of Florida.

#### **20.24 Unemployment compensation**

For the purposes of any unemployment compensation law, a Distribution in one sum or as installments for a period of not more than one year, to the extent attributable to Employer Contributions, is deemed a severance payment and shall be so allocated (for the purposes of the applicable unemployment compensation law) over a period of weeks equal to the amount of the Distribution divided by the Participant's regular weekly pay before the Severance-from-employment with this period beginning on the first week that begins after the Severance-from-employment.

#### **20.25 Uniformity**

To the extent required by applicable State law, provisions of the Plan shall be construed and applied in a uniform or non-discriminatory manner.

#### **20.26 Venue**

If any Participant or Beneficiary (or any person claiming through a Participant or Beneficiary) brings a suit against the Plan Administrator or Master Trustee, the plaintiff or claimant hereby submits to venue in the courts sitting in Leon County, Florida or in which the Plan Administrator has its principal place of business.

## **21. AMENDMENT**

### **21.1 Master Trustee's right to amend the Plan**

The Master Trustee has the right to amend the Plan at any time.

Any Participating Employer has the right to discontinue the Plan at any time, except as otherwise expressly provided by a collective bargaining agreement that is enforceable under 29 U.S.C. § 151 et seq. [the National Labor Relations Act].

Any amendment of the Plan has no effect on any Master Trust Agreement.

### **21.2 Amendment can't change exclusive benefit**

Any amendment or termination of the Plan shall not be effective to the extent that the amendment has the effect of causing any Plan assets to be diverted to or inure to the benefit of the Plan Sponsor or any Employer, or to be used for any purpose other than providing Benefits to Participants and Beneficiaries and defraying reasonable expenses of administering the Plan.

### **21.3 Retroactive effect**

Any amendment of the Plan may be given immediate or retroactive effect to the extent determined by the Master Trustee; provided that such immediate or retroactive effect is permitted under the Code.

## **22. TERMINATION**

### **22.1 Plan Termination by Participating Employer**

A Participating Employer may terminate its participation in the Plan, including but not limited to, its contribution requirements, if it takes the following actions:

- a) The Governing Authority of the Participating Employer must adopt an ordinance or resolution terminating its participation in the Plan.
- b) The ordinance or resolution must specify when the Plan will be closed to any additional participation by Eligible Employees, which must be a date at least sixty (60) days after the adoption of the ordinance or resolution.
- c) The ordinance or resolution must be submitted to the Master Trustees, or its designee.

The Master Trustees, or its designee, shall determine whether the ordinance or resolution complies with this section, and all applicable federal and state laws, and shall determine an appropriate effective date for the termination of Employer participation, which shall be no later than twelve (12) months from the Trustee's receipt of the ordinance or resolution. The Plan

Administrator shall provide appropriate forms to the Participating Employer to terminate ongoing participation. Distributions under the Plan of existing accounts to the Participants and Beneficiaries affected by the termination are subject to the distribution provisions in this document. However, if the Participating Employer requests a plan-to-plan transfer of Plan assets with respect to the Participating Employer's Employees who are Participants, the Master Trustees may in their discretion make the transfer.

### **22.2 Discontinuance of Contributions**

At the discretion of the Master Trustees, a Participating Employer who fails to make contributions for a period of one (1) year or who fails to make timely contributions over a period of one (1) year shall be considered to have terminated participation in the Plan.

### **22.3 Effect of Termination by Participating Employer**

In the case of the complete or partial termination of the Plan as to one (1) or more Participating Employers, including a termination arising from the discontinuance and/or delinquency of contributions, the affected portion of the Master Trust shall continue to be held pursuant to the direction of the Master Trustees, for the benefit of affected Participants pursuant to the benefit provisions of this Plan. The Plan shall remain in full effect with respect to each Participating Employer that does not terminate its participation in the Plan on behalf of its Employees, or whose participation is not terminated by the Master Trustees.

### **22.4 Termination of Entire Plan**

This Plan in its entirety may be terminated at any time by official action of the Master Trustees, with notice to all Participating Employers and Participants. The last date for contributions and earnings to be credited to Participants Accounts must be specified in the Master Trustees official action and must be no sooner than ninety (90) days after the adoption of the official action. All actions associated with the termination of the Plan, including a final accounting, must be completed within twelve (12) months after the adoption of official action. In the event of a complete Plan termination, the Master Trustees must take all steps reasonable to avoid a distribution to the Participants and Beneficiaries, except pursuant to benefit options under the provisions of this Plan, including identifying successor plan(s). However, if distributions must be made, the Plan Administrator shall be responsible for directing distribution of all assets of the Master Trust to Participants and Beneficiaries.

## **23. Construction**

### **23.1 Construction**

The provisions of this Part govern the construction or interpretation of this Plan. These rules of construction and interpretation shall apply for all provisions, and shall supersede any other construction or interpretation rules.

### **23.2 Construction as a qualified plan**

The Plan is established and maintained with the intent that the Plan always be a qualified plan within the meaning of IRC § 401(a) and conform to the Internal Revenue Code's requirements for treatment or recognition as such a plan. Therefore, the provisions of the Plan shall be interpreted whenever possible to state provisions that conform to the applicable requirements of the Internal Revenue Code. When the Internal Revenue Code is amended or interpreted through subsequent legislation or regulations or other guidance of general applicability, the Plan should be construed as stating provisions consistent with such amendment or interpretation of the applicable law.

### **23.3 Construction with Enabling Statute**

The Plan is established and maintained with the intent that the Plan conform to the applicable requirements of the Enabling Statute. The provisions of the Plan shall be interpreted whenever possible to state provisions that conform to the applicable requirements of the Enabling Statute. When the Enabling Statute is amended or interpreted through subsequent legislation or regulations, the Plan should be construed as stating provisions consistent with such amendment or interpretation of the applicable law.

### **23.4 Construction of statutes and regulations**

Any reference to a Section of the Internal Revenue Code shall be construed to also refer to any successor provision. Any reference to a Section of Treasury Regulations shall be construed to also refer to any successor provision of such Regulations. Any reference to a Revenue Ruling or Revenue Procedure or IRS Notice or IRS Announcement shall be construed to also refer to any guidance of general applicability that extends, amplifies, or modifies the Revenue Ruling or Revenue Procedure or IRS Notice or IRS Announcement.

The Plan refers to relevant regulations, including (but not limited to) Treasury regulations under the Internal Revenue Code, without regard to whether the regulations are substantive or interpretive and without regard to whether the regulations are proposed or temporary or final; but it is intended that any provision that refers to a regulation shall be construed to refer to the regulation in the sense of the appropriate legal effect (under administrative procedure law and otherwise) that the regulation currently has at the time the construction is made.

To the extent that a provision states a duty owed to any government (rather than a duty to a Participant or Beneficiary or other person or entity having an interest under the Plan), the provision shall be construed as directory and shall be enforced only by the government. However, a provision that is necessary for the Plan to meet the requirements of a qualified plan within the meaning of IRC § 401(a) includes a duty owed to Participants and Beneficiaries and is not directory.

To the extent that a construction or interpretation of the Plan involves a construction of a statute or regulation, the Plan Sponsor may (but is not required to) construe the statute or regulation according to the *Uniform Statutory Construction Act*.

### **23.5 Investment Law**

Whenever, after applying the specific construction rules of any Definition or Provision or Part and the general construction rules stated in this Part, the Plan may be susceptible to more than one construction or interpretation, a construction or interpretation that is consistent with or that is not inconsistent with applicable Investment Law is preferred over a construction or interpretation that is inconsistent with applicable Investment Law.

### **23.6 Construction of words and phrases**

The headings and numbering of provisions in the Plan and text that is stated within brackets, excluding text in parenthesis are included solely for convenience of reference and are not intended to limit or amplify or control the meaning or interpretation or construction of any provision of this Plan.

The phrase “under the Plan” or “under this Plan” refers to the entire Plan (and any Master Trust Agreement) as a whole and not merely to any part of any document or Provision in which the phrase appears. Any reference to a Part of the Plan refers to the whole Part. Any reference to a Definition or Provision of the Plan refers to the whole Definition or Provision, unless the reference specifies a particular portion or paragraph of the Provision.

The singular shall be construed to include the plural, unless the context clearly indicates otherwise.

The words “as” or “if” shall be construed to mean the phrase, “to the extent that”, as appropriate in the context.

Any reference to the Plan Administrator shall be construed to refer also to the Agent and the Issuer(s) and any other party acting for or at the instruction of the Plan Administrator.

Unless the provision states otherwise, any reference to a person or party shall be construed to refer also to any non-natural person or any entity (including but not limited to, any trust or estate).

To the extent that a provision states a duty owed to any government (rather than a duty to a Participant or Beneficiary or other person or entity having an interest under the Plan), the provision shall be construed as directory and shall be enforced only by the government.

Any reference to a corporation or similar organization shall be construed to include any successor to the corporation or similar organization.

All provisions of the Master Trust Agreement that do not conflict with the Plan are incorporated by reference and are a part of the Plan as if fully set forth by this document.

All provisions of a prospectus and statement of additional information or statement of operation of a Fund that do not conflict with the Plan are incorporated by reference and are a part of the Plan as if fully set forth by this document.

If any provision concerning a benefit under the Plan is ambiguous, a construction or interpretation of the provision that would provide that such benefit is available in a non-discriminatory manner shall take precedence over a construction or interpretation that would not so provide.

### **23.7 Construction by reference to model laws**

To the extent that any construction beyond the written provisions of the Plan is necessary, the Plan shall be construed (except as otherwise provided by the Plan) according to any then-current Restatement of law published or promulgated by the American Law Institute or any then-current Uniform Act or Model Act published or recommended by the National Conference of Commissioners on Uniform State Laws. The Plan Sponsor may consider a withdrawn Uniform Act or Model Act if no successor has been promulgated. Among these sources, the Plan Sponsor in its sole discretion may select any order of reference and if more than one source is relevant may decide which source it considers controlling or appropriate.

### **23.8 USA Constitution and Florida Constitution**

When applying any of the preceding construction rules relating to the Internal Revenue Code or the Enabling Statute or Employment Laws or Government Contracts Laws, the Plan Sponsor or Plan Administrator need not consider any statute or regulation or order to the extent that its application is contrary to the Constitution of the USA or is contrary to the Constitution of Florida ; however, the Plan Sponsor or Plan Administrator may presume that any statute or regulation or order is not unconstitutional until a published controlling court decision expressly holds that such law is contrary to a Constitution.

Florida Municipal Pension Master Trust  
401(a) Defined Contribution Plan

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The Plan Document is not signed here.

This Plan is not complete without the Participating Employer's Adoption Agreement, by which the Participating Employer must specify the conforming and elective provisions of the Plan.

The Participating Employer will sign the Adoption Agreement to indicate adoption of the Plan.