

**CASE NUMBER: EZ02994**

**THE  
NASSAU COUNTY PREMIUM ONLY PLAN**

**Effective: January 1, 1998**

**Amendment & Restatement: March 15, 2005**

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## THE NASSAU COUNTY PREMIUM ONLY PLAN

### ARTICLE I. PURPOSE OF PLAN.

**Section 1.01. Purpose.** The purpose of this Plan is to furnish eligible Employees of the Employer with a choice of receiving certain taxable or non-taxable benefits. It is intended that this Plan qualify as a "cafeteria plan" within the meaning of Section 125(d) of the Code, and that certain benefits that an eligible Employee elects to receive be eligible for exclusion from such Employee's income under Section 125 of the Code.

### ARTICLE II. DEFINITIONS.

#### Section 2.01. Defined Terms.

- (a) "Administrator" means the Employer, or any other person or organization subsequently designated as such by NASSAU COUNTY with the authority and responsibility to manage and administer the Plan.
- (b) "Cash Option" means the option where the Employee receives his full compensation in cash forgoing the Premium Payment Option.
- (c) "COBRA" means the Consolidated Omnibus Budget Reconciliation Act of 1986, as amended.
- (d) "Code" means the Internal Revenue Code of 1986, as amended.
- (e) "Compensation" means W-2 wages and other taxable compensation from the Employer for any Plan Year.
- (f) "Effective Date" means January 1, 1998.
- (g) "Employee" means any common law Employee of the Employer. The term Employee shall not include any person employed by the Employer at a location outside the United States or an individual characterized by the Employer as an independent contractor.
- (h) "Employer" means NASSAU COUNTY or its successor(s). However, where appropriate, the term "Employer" shall also mean an Affiliate that is the employer of a particular Participant.
- (i) "Employer Credits" means dollars into the Plan with respect to a Participant made independently by the Employer, which may be used for purposes of purchasing benefits through the Plan.
- (j) "FMLA Leave" means a leave of absence provided to an Employee of the Employer under the Family and Medical Leave Act of 1993, as amended.
- (k) "Highly Compensated Individual" means a highly compensated individual as defined in Code Section 125 (e)(2).
- (l) "Highly Compensated Participant" means a highly compensated participant as defined in Code Section 125 (e)(1).

- (m) "Insurance Plan" means the plan(s) maintained by the Employer to provide accident and health benefits and/or group term life to the Employer's Employees, which is partially or fully insured by an independent third party.
- (n) "Key Employee" means a Key Employee as defined in Code Section 416 (i)(I).
- (o) "Participant" means any Employee of the Employer who, on or after the Effective Date applies to participate in the Plan and meets the requirements of Section 3.01.
- (p) "Premium Payment Option" means the option to pay Insurance Plan premiums on a pre-tax basis through the Plan.
- (q) "Plan" means the cafeteria plan herein contained, as amended from time to time, which shall be known as "THE NASSAU COUNTY PREMIUM ONLY PLAN."
- (r) "Plan Year" means the twelve- (12) month period beginning October 1 and ending September 30.

**Section 2.02. Construction.** Wherever appropriate, words used in the singular may include the plural, or the plural may be read as the singular; and the masculine may include the feminine.

### **ARTICLE III. ELIGIBILITY.**

#### **Section 3.01. Eligibility to Participate.**

- (a) An Employee who regularly works 30 hour(s) per week and has completed a period of 90 day(s) of consecutive employment with the Employer may become a Participant in the Plan, counting periods that an Employee is on leave required under FMLA or during an absence from work for duty in the uniformed service of the United States of America.
- (b) Any Employee whose employment is covered by a collective bargaining agreement shall become eligible to participate in this Plan only upon agreement between the Employer and the Employee's bargaining representative or written direction by the Employer after satisfaction of any collective bargaining obligation under the National Labor Relations Act. Any such Employee's date of participation shall be that determined through collective bargaining, or as may otherwise be lawfully determined by the Employer.

#### **3.02. Participation Requirements**

- (a) An Employee of the Employer who makes an election to allocate contributions to the Plan shall become a Participant on the later of:
  - (i) The Effective Date; or
  - (ii) The first day of the month coincidental with or next following the date the Employee completes the standards of Section 3.01.
- (b) Any Participant whose employment with the Employer terminates because of a bona fide termination, and who is rehired, may be reinstated as a Participant, on the first day of the month coincidental with or next following the date the Employee completes 90 day(s) of consecutive

employment.

- (c) Notwithstanding anything in this Section 3.02 to the contrary, the Administrator may, at any time, exclude one or more Highly Compensated Individuals or Key Employees from participation in the Plan if such exclusion is necessary to maintain the statutory non-taxable status of benefits received under this Plan by other Key Employees. Such exclusion shall be accomplished in a nondiscriminatory manner and shall be based on such facts and circumstances as the Administrator deems to be appropriate.

#### **ARTICLE IV. BENEFITS.**

**Section 4.01. Benefit Options.** A Participant may, pursuant to the procedures described in Article V:

- (a) Elect to receive the Cash Option, or to have a portion of it applied by the Employer toward the cost of the Premium Payment Option described below:
- (b) Elect to have any Employer Credits allocated under this Plan applied by the Employer toward the cost of the Premium Payment Option described below:
  - (i) The amount of Employer Credits shall be determined annually by the Employer and communicated to Participants and Eligible Employees during the enrollment period in a timely fashion. Employer Credits will be available for application under the Plan ratably with respect to each payroll period during a Plan Year.
  - (ii) Employer Credits may be applied with respect to the Premium Payment Option toward the cost of premiums for the Insurance Plan(s) for the coverage elected by the Participant. Employer Credits may be applied with respect to any of the Insurance Plans providing accident or health benefits and/or group term life benefits.

**Section 4.02. Premium Payment Option.** Benefits shall be provided through, and in accordance with the provisions of, the Insurance Plan(s). The maximum amount of Employer Credits and Compensation a Participant may elect to have applied on a pre-tax basis toward the cost of the Premium Payment Option for any Plan Year or a portion thereof is the cost of premiums under the most expensive Insurance Plan(s) available to the Participant.

#### **ARTICLE V. BENEFIT ELECTION PROCEDURES.**

**Section 5.01. Benefit Elections.**

- (a) The Administrator shall prescribe suitable forms to be utilized by Participants in electing benefit options under the Plan.
- (b) The benefit period under the Plan shall be the Plan Year. Benefit elections for any Plan Year shall be made, in accordance with procedures prescribed by the Administrator, prior to or, in the case of a new Participant, prior to his effective date of participation in the Plan.
- (c) There will be an enrollment period during which the Employees can enroll in and select benefits available under the Plan prior to
  - (i) The first day of a Plan Year during which an Employee is eligible to participate in the Plan;

or

- (ii) The first day, during a Plan Year, of the month after the date that a new Employee becomes eligible to participate in the Plan, in accordance with the standards of Section 3.01.
- (d) An enrollment form must be completed and returned to the Administrator prior to the end of the enrollment period for an election to be effective.
- (e) Prior to the beginning of each subsequent Plan Year with respect to which this Plan continues in effect, there will be an enrollment period during which a Participant will have the opportunity to elect a different or new benefit election under the Plan effective for the subsequent Plan Year.
- (f) A Participant's benefit election for any Plan Year shall be irrevocable; provided, a Participant may revoke or modify a benefit election during a current Plan Year if the revocation or modification is on account of a change in the Participant's status. A change in status shall be determined in accordance with regulations promulgated by the Internal Revenue Service under Code Section 125. Any revocation or modification must be consistent with the reason such revocation or modification was permitted. Any such revocation or modification shall be on a form prescribed by the Administrator and shall be effective as of the first pay period after such form is completed and returned to the Administrator.
- (g) A Participant may revoke or modify a benefit election during a current Plan Year if the revocation or modification is on account of a Qualified Medical Child Support Order (QMCSO) or other Judgments or Orders under 29 USC Section 1169(a); on account of the special enrollment rights of the Health Insurance Portability and Accountability Act of 1996 (HIPAA); on account of an employee, spouse or dependent becomes entitled to coverage under Part A or Part B of Medicare or Medicaid or on account of a COBRA Qualifying Event.
- (h) A Participant, on account of an FMLA Leave, may revoke his benefit election. When he returns from FMLA Leave after having revoked his benefit elections on account of taking FMLA Leave he may have his benefit elections reinstated on the same terms as prior to taking FMLA Leave, to the extent that reinstatement is required under the FMLA Leave. A reinstated Participant shall not have a greater right to benefits for the remainder of the Plan Year than a Participant who is continuously working during the Plan Year.

**Section 5.02. Failure to Enroll.**

- (a) If an Employee fails to return an initial election form prior to the end of the enrollment period, the Employee will be deemed to have elected the Cash Option. However, an eligible Employee will be allowed to make an election to participate in the Plan during a succeeding enrollment period if he or she wishes.
- (b) If a Participant does not return an election form for a subsequent Plan Year, then that Participant shall be considered to have made the same elections as in the prior Plan Year, subject to the current terms, conditions, and limitations of each benefit option available at that time.

**Section 5.03. Automatic Termination of Participation.** Participation under this Plan shall automatically terminate on the date on which the Participant's employment with the Employer terminates.

**Section 5.04. Election Modifications Required by Administrator.**

- (a) Notwithstanding anything in this Plan to the contrary, the Administrator may, at any time, require all or any class of Employees to amend the amount of any Premium Payment Option authorization by them for a Plan Year or the Administrator may take such other actions as it deems appropriate in the event the Administrator determines that such amendments or other actions are necessary or advisable in order to:
- (i) Satisfy the nondiscrimination requirements imposed on this Plan by any provision of the Code and any rules or regulations issued pursuant thereto
  - (ii) Prevent any Participant or class of Participants from having to recognize more income for Federal income tax purposes from the receipt of optional benefits hereunder than would otherwise be recognized due to the application of any provision of the Code, or rules or regulations issued pursuant thereto; or
  - (iii) Maintain the statutory nontaxable status of benefits received under this Plan pursuant to the requirements of the applicable provisions of the Code, including, without limitation, a modification of elections by Highly Compensated Participants or Key Employees, with or without the consent of such Employees.
- (b) The Administrator may divide Employees into two or more classes for purposes of this Section 5.04 provided that such classification shall be nondiscriminatory, based on such facts and circumstances as the Administrator determines to be appropriate including, but not limited to, scheduled hours or other relevant considerations. Any required amendment of elections as permitted by this Section 5.04 shall be made pursuant to and in accordance with such rules, regulations and procedures as the Administrator may from time to time adopt in the exclusive exercise of its discretion.

## **ARTICLE VI. PREMIUM PAYMENT.**

### **Section 6.01. Premium Payment Option Authorization.**

- (a) Each Participant who timely elects the Premium Payment Option under Article IV must authorize the Employer to reduce his Compensation for the Plan Year or allocate Employer Credits under this Plan in an amount equal to the Participant's cost of premiums under the Insurance Plan(s) for coverage elected by the Participant, subject to automatic adjustment in the event of an insignificant change in the Participant's cost of premiums under the Insurance Plan(s).
- (b) Premium Payment Option authorizations for any Plan Year shall be entered into, in accordance with procedures prescribed by the Administrator, prior to the first day of the Plan Year or, in the case of a new Participant, prior to his effective date of participation in the Plan.
- (c) A Premium Payment Option authorization for any Plan Year shall be irrevocable as provided in Section 5.01(f). A Participant may, however, revoke or modify a Premium Payment Option authorization during a current Plan Year if the revocation or modification is on account of a change in the Participant's status. Additionally, if the premium amount of an Insurance Plan significantly increases or the coverage of an Insurance Plan is significantly curtailed or modified, a Participant may revoke a Premium Payment Option authorization during a current Plan Year and, in lieu thereof, receive on prospective basis coverage under another Insurance Plan with similar coverage, if similar coverage is available. A change in status shall be determined in accordance with

regulations promulgated by the Internal Revenue Service under Code Section 125.

- (d) Any such revocation or modification shall be on a form prescribed by the Administrator and shall be effective as of the first pay period after such form is completed and returned to the Administrator.

**Section 6.02. Automatic Termination of Authorization.** Premium Payment Option authorizations made under this Article shall automatically terminate on the date on which the Participant's employment with the Employer terminates.

**Section 6.03. Payment During Leave.** With respect to Participants who go on leave which is Employer-approved or FMLA Leave, contributions required or permitted to be made by them under the Plan may be made by one of the following methods, which must be nondiscriminatory, as agreed between the Employee on leave and the Employer before the commencement of the leave of absence or the applicable coverage period:

- (a) Contributions may be made by the Employee on leave on a regular basis (generally on an after-tax basis);
- (b) Contributions may be made by the Employee on leave by pre-payment (generally on a pre-tax basis with respect to the same Plan Year during which the leave occurs); or
- (c) Contributions advanced by the Employer on behalf of the Employee on leave may be re-paid by the Participant when he returns from leave on either a pre-tax basis with respect to the same Plan Year during which the leave occurs or on an after-tax basis.
- (d) Contributions may be revoked by the Employee on FMLA Leave and when he returns from leave, he may reinstate those contributions according to Section 5.01(h)

## **ARTICLE VII. NONDISCRIMINATION.**

**Section 7.01. Nondiscrimination.**

- (a) Notwithstanding anything in this Plan to the contrary, this Plan shall not discriminate in favor of Highly Compensated Individuals as to eligibility to participate.
- (b) Notwithstanding anything in this Plan to the contrary, this Plan shall not discriminate in favor of Highly Compensated Participants as to contributions or benefits.
- (c) The statutory non-taxable benefits provided to Key Employees under the Plan shall not exceed 25% of the aggregate of such statutory non-taxable benefits provided for all Employees under the Plan.

- (d) All Employees who are treated as employed by a single employer under subsections (b), (c) or (m) of Section 414 of the Code shall be treated as employed by a single employer for purposes of this Article VII.

## ARTICLE VIII. GENERAL PROVISIONS.

### Section 8.01. Administration.

- (a) The Administrator shall serve at the pleasure of the Employer or designated officer of the Employer. The Administrator shall construe and interpret this Plan, and shall decide all questions of eligibility and benefits.

Any such determination and decision of the Administrator shall be final, conclusive, and binding upon all parties affected thereby, unless arbitrary and capricious. This Plan is intended to be interpreted in accordance with and qualify as a "cafeteria plan" under Section 125 of the Code. To the extent any provisions contained herein are inconsistent with this Code section, such provisions are hereby modified to conform therewith.

- (b) The Administrator shall establish uniform rules, procedures and interpretations as appropriate for the administration of the Plan, to be consistently applied to all Participants in like circumstances.
- (c) Any administrative discretion under the Plan shall be based solely on clearly defined and ascertainable criteria set forth in the Plan.

**Section 8.02. Amendment and Termination.** This Plan may be amended or terminated at any time by the Employer. Upon termination of the Plan, Participant's benefits shall become payable as the Employer may direct. The Employer shall inform the Participants of any changes, amendments or termination of this Plan.

**Section 8.03. Termination of Employment.** If a Participant has authorized the Premium Payment Option and that Participant's employment terminates for any reason, the Participant shall continue to receive such benefits to the extent provided for by the terms of the Insurance Plan(s).

**Section 8.04. Exclusive Benefit.** Amounts available for elective use under this Plan shall be used for the exclusive benefits of Employees and their dependents. The Plan, however, does not grant any Employee the right to be retained in the service of the Employer.

**Section 8.05. Spendthrift Clause.** Benefits payable under this Plan may not be assigned, alienated, transferred, pledged or encumbered, nor shall any such benefit be subject to claims of or seizure by legal process by creditors.

### Section 8.06. Employer Liability.

- (a) Benefits payable under this Plan will be paid solely from the general assets of the Employer, without interest or earned credit of any kind.
- (b) No Employee, Participant, dependent or beneficiary shall have any right or interest in any assets of the Employer upon termination of this Plan, their employment or otherwise, except as specifically provided under this Plan, and then only to the extent of the benefits payable under this Plan.

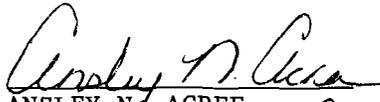
**Section 8.07. Related Employers.** If the Employer is a member of a controlled group of corporations, the

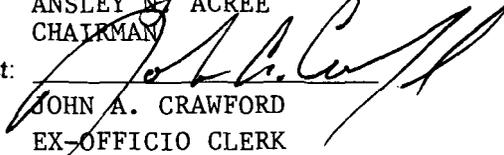
Employer may, by resolution, authorize other members of the controlled group to adopt this Plan.

**Section 8.08. Governing Law.** To the extent the laws of any State shall apply, this Plan shall be construed, administered and enforced in accordance with the laws of the State of FLORIDA.

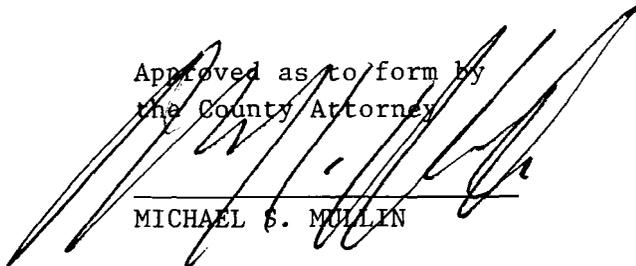
IN WITNESS WHEREOF, the Employer has caused this Plan to be executed as of the Effective Date.

Date: October 24, 2005

By:   
ANSLEY N. ACREE  
CHAIRMAN

Attest:   
JOHN A. CRAWFORD  
EX-OFFICIO CLERK

Approved as to form by  
the County Attorney

  
MICHAEL S. MULLIN

RESOLUTION NO. 2005-158  
CONSENT RESOLUTION OF  
BOARD OF COUNTY COMMISSIONERS  
NASSAU COUNTY, FLORIDA

The undersigned, being all of the members of the Board of County Commissioners of Nassau County, Florida, a political subdivision of the State of Florida, (the "Board"), in accordance with and pursuant to the Statutes do hereby unanimously authorize and adopt the following resolution(s):

WHEREAS, it is desirable to establish a "cafeteria plan" within the meaning of Section 125 of the Internal Revenue Code, as amended from time to time, to provide certain benefits to the Employees of the Board.

NOW, THEREFORE be it resolved this 24th day of October, 2005 by the Board of County Commissioners of Nassau County, Florida, that the plan be and hereby is established and adopted effective as of 3/15/2005 to read substantially in the form presented to this Board.

BE IT FURTHER RESOLVED that the appropriate officers of the Board are authorized and directed to execute such plan documents.

BE IT FURTHER RESOLVED that the officers of the Board are authorized and directed to perform any acts and execute any documents necessary or appropriate to effectuate this Resolution.

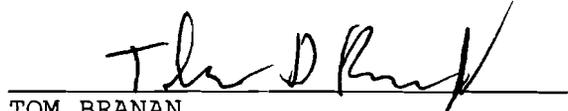
BOARD OF COUNTY COMMISSIONERS  
NASSAU COUNTY, FLORIDA

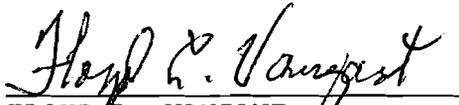
  
\_\_\_\_\_  
ANSLEY N. ACREE  
Its: Chairman

ATTEST:

  
\_\_\_\_\_  
JOHN A. CRAWFORD  
Its: Ex-Officio Clerk

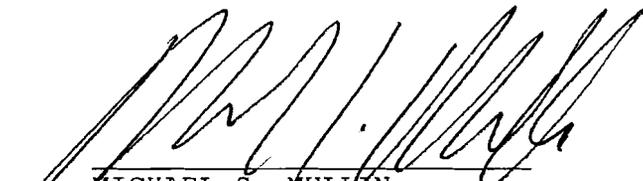
  
JIM B. HIGGINBOTHAM

  
TOM BRANAN

  
FLOYD L. VANZANT

  
MARIANNE MARSHALL

Approved as to form by the  
Nassau County Attorney:

  
MICHAEL S. MULLIN