



Nationwide®

Nationwide Retirement Solutions  
Employer Data Sheet

Plan Type

Please Select One:  NACo     USCM     IAFF-FC Program     Other  
Please Select One:  457(b)     401(a)     401(k)     403(b)     OBRA  
Select Only if Applicable to Plan:  Morningstar Investment Fiduciary Program

Employer Information (required)

Employer Name: Nassau County Board of County Commissioners

Nationwide Plan Number: 0037318001

Plan Name: Nassau County Board of County Commissioners 457(b) Deferred Compensation Plan

Physical Address:

Street Address: 96135 Nassau Place Suite 5

City: Yulee State: FL ZIP: 32097

Mailing Address (for priority/overnight):

Same as Physical Address (if not, complete below)

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ ZIP: \_\_\_\_\_

Employer Contact:

Name: Tina Keiter Title: Employee Services Manager

Phone: 904-530-6075 Email: tkeiter@nassaucountyfl.com

Number of Eligible Employees: \_\_\_\_\_ Employer Tax ID Number (from W-2): 59-1863042

Payroll Center Information

Provide information on page 2 if more than one payroll center exists and separate payroll confirmations are desired.

Asterisk (\*) Indicates that the field is required.

Payroll Center Contact:

Name\*: Sherrie Hansen Title: Payroll Specialist

Phone: 904-548-4813 Fax: \_\_\_\_\_ Email\*: shansen@nassauclerk.com

Is this person also a Loan Contact?  Yes  No If No, provide Loan Contact information (if applicable).

Loan Contact (if different from Payroll Center Contact):

Name\*: \_\_\_\_\_ Title: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email\*: \_\_\_\_\_

Payroll Center Address\*:

Street Address\*: 76347 Veterans Way Suite 456

City\*: Yulee State\*: FL ZIP\*: 32097

Frequency of Payroll Deductions\*:  Weekly  Bi-Weekly  Semi-Monthly  Monthly  Other: \_\_\_\_\_

Contribution Type\*:  Percentage  Dollar Amount Number of Payroll Centers\*: 1 (up to 4)

Will Payroll Center furnish detail on web-based app?  Yes  No

Contributions must be remitted to Nationwide as frequently as deductions are made. OBRA Payroll Data must be segregated from the payroll data for your voluntary 457 deferred compensation plans.

Unforeseeable Emergency/Hardship Requests (if permitted)

Who will review and make determinations for Unforeseeable Emergency requests?  Nationwide  The Employer

If the Employer will make these determinations, please indicate the names and titles of the individuals authorized to review.

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

**Additional Payroll Center Information**

Provide additional payroll center information when separate payroll confirmations are desired for each payroll center.

Asterisk (\*) indicates that the field is required.

**Payroll Center #2:**

Payroll Center Contact:

Name\*: \_\_\_\_\_ Title: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email\*: \_\_\_\_\_

Is this person also a Loan Contact?  Yes  No If No, provide Loan Contact information (if applicable).

Loan Contact (if different from Payroll Center Contact):

Name\*: \_\_\_\_\_ Title: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email\*: \_\_\_\_\_

Payroll Center Address\*:

Street Address\*: \_\_\_\_\_

City\*: \_\_\_\_\_ State\*: \_\_\_\_\_ ZIP\*: \_\_\_\_\_

Frequency of Payroll Deductions\*:  Weekly  Bi-Weekly  Semi-Monthly  Monthly  Other: \_\_\_\_\_

Contribution Type\*:  Percentage  Dollar Amount

Will Payroll Center furnish detail on web-based app?  Yes  No

**Payroll Center #3:**

Payroll Center Contact:

Name\*: \_\_\_\_\_ Title: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email\*: \_\_\_\_\_

Is this person also a Loan Contact?  Yes  No If No, provide Loan Contact information (if applicable).

Loan Contact (if different from Payroll Center Contact):

Name\*: \_\_\_\_\_ Title: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email\*: \_\_\_\_\_

Payroll Center Address\*:

Street Address\*: \_\_\_\_\_

City\*: \_\_\_\_\_ State\*: \_\_\_\_\_ ZIP\*: \_\_\_\_\_

Frequency of Payroll Deductions\*:  Weekly  Bi-Weekly  Semi-Monthly  Monthly  Other: \_\_\_\_\_

Contribution Type\*:  Percentage  Dollar Amount

Will Payroll Center furnish detail on web-based app?  Yes  No

**Payroll Center #4:**

Payroll Center Contact:

Name\*: \_\_\_\_\_ Title: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email\*: \_\_\_\_\_

Is this person also a Loan Contact?  Yes  No If No, provide Loan Contact information (if applicable).

Loan Contact (if different from Payroll Center Contact):

Name\*: \_\_\_\_\_ Title: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email\*: \_\_\_\_\_

Payroll Center Address\*:

Street Address\*: \_\_\_\_\_

City\*: \_\_\_\_\_ State\*: \_\_\_\_\_ ZIP\*: \_\_\_\_\_

Frequency of Payroll Deductions\*:  Weekly  Bi-Weekly  Semi-Monthly  Monthly  Other: \_\_\_\_\_

Contribution Type\*:  Percentage  Dollar Amount

Will Payroll Center furnish detail on web-based app?  Yes  No

**Departmental Information (if applicable)**

Use this page to establish Departments.

Asterisk (\*) indicates that the field is required.

Double Asterisk (\*\*) indicates that the field is required for Departmental Recordkeeping Plans.

Will Plan use Departmental Recordkeeping?  Yes  No

1. Department Name\*: \_\_\_\_\_ Department ID\*: \_\_\_\_\_

Department Contact:

Name\*: \_\_\_\_\_ Title: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email: \_\_\_\_\_

Department Physical Address\*:

Street Address\*: \_\_\_\_\_

City\*: \_\_\_\_\_ State\*: \_\_\_\_\_ ZIP\*: \_\_\_\_\_

Department Mailing Address:  Same as Physical Address (if not, complete below)

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ ZIP: \_\_\_\_\_

Associated Pay Center (If not indicated, default Pay Center will be used)\*: \_\_\_\_\_

Allow Department for all Plans?\*\*\*  Yes  No Default Department (limit one per Plan)?\*\*  Yes  No

Payroll Frequency (if Pay Center has multiple; select one)\*\*:

Weekly  Bi-Weekly  Semi-Monthly  Monthly  Other: \_\_\_\_\_

2. Department Name\*: \_\_\_\_\_ Department ID\*: \_\_\_\_\_

Department Contact:

Name\*: \_\_\_\_\_ Title: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email: \_\_\_\_\_

Department Physical Address\*:

Street Address\*: \_\_\_\_\_

City\*: \_\_\_\_\_ State\*: \_\_\_\_\_ ZIP\*: \_\_\_\_\_

Department Mailing Address:  Same as Physical Address (if not, complete below)

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ ZIP: \_\_\_\_\_

Associated Pay Center (If not indicated, default Pay Center will be used)\*: \_\_\_\_\_

Allow Department for all Plans?\*\*\*  Yes  No Default Department (limit one per Plan)?\*\*  Yes  No

Payroll Frequency (if Pay Center has multiple; select one)\*\*:

Weekly  Bi-Weekly  Semi-Monthly  Monthly  Other: \_\_\_\_\_

3. Department Name\*: \_\_\_\_\_ Department ID\*: \_\_\_\_\_

Department Contact:

Name\*: \_\_\_\_\_ Title: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email: \_\_\_\_\_

Department Physical Address\*:

Street Address\*: \_\_\_\_\_

City\*: \_\_\_\_\_ State\*: \_\_\_\_\_ ZIP\*: \_\_\_\_\_

Department Mailing Address:  Same as Physical Address (if not, complete below)

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ ZIP: \_\_\_\_\_

Associated Pay Center (If not indicated, default Pay Center will be used)\*: \_\_\_\_\_

Allow Department for all Plans?\*\*\*  Yes  No Default Department (limit one per Plan)?\*\*  Yes  No

Payroll Frequency (if Pay Center has multiple; select one)\*\*:

Weekly  Bi-Weekly  Semi-Monthly  Monthly  Other: \_\_\_\_\_



**Nationwide®**

**Nationwide Retirement Solutions**  
Plan Account Investment Option

Page 1 of 1

This form is used to select the Investment Option for your Plan Level Accounts. These accounts can include one or more of the following: Forfeiture Account, Revenue Account and Suspense/Retainer Account.

Please note that if your Plan is utilizing IRON Investment Fiduciary Service, this form should not be used, and you will need to work with your Relationship Consultant to select the investment option for your Plan.

**Plan Information**

Plan Name: Nassau County Board of County Commissioners 457(b) Deferred Compensation Plan Plan Number: 0037318001  
Employer Address: 96135 Nassau Place Suite 5  
City: Yulee State: FL ZIP: 32097  
Phone: 904-530-6075 Email: tkeiter@nassaucountyfl.com

**Internal Revenue Code (IRC) Selection**

401(a)  457(b)  401(k)  403(b)

**Investment Option Election (select one)**

Fund Name	Ticker
<input type="checkbox"/> Nationwide Government Money Market Fund - Investor	MIFXX
<input type="checkbox"/> Nationwide Government Money Market Fund - R6	GMIXX
<input type="checkbox"/> Vanguard Federal Money Market Fund - Investor	VMFXX
<input checked="" type="checkbox"/> Vanguard Treasury Money Market Fund	VUSXX
<input type="checkbox"/> Other*: _____	_____

\*Please work with your Relationship Consultant to select an appropriate investment option.

**Authorization**

I hereby authorize the above Investment Option to be used for amounts held in my Plan Level Accounts. I understand that the chosen Fund will not be available to the Plan's Participants as an investment option. I further understand that if no selection is made at the time the Plan is established, the Plan Accounts will automatically be invested in the Nationwide Government Money Market Fund - Investor Shares.

Full Name (please print): Klynt A. Farmer Title: Chairman, Nassau County BOCC  
Signature: [Signature] Date: July 10, 2023

**Form Return**

By mail: Nationwide Retirement Solutions  
Attn: Public Sector Client Services  
10 West Nationwide Blvd.  
Columbus, OH 43215

By fax: 1-877-677-4329

By email: rpublic@nationwide.com

This material is not a recommendation to buy, sell, hold, or rollover any asset, adopt an investment strategy, retain a specific investment manager or use a particular account type. It does not take into account the specific investment objectives, tax and financial condition or particular needs of any specific person. Investors should work with their financial professional to discuss their specific situation.

**ADMINISTRATIVE SERVICES AGREEMENT  
FOR THE GOVERNMENTAL 457(b) DEFERRED COMPENSATION PLAN OF  
NASSAU COUNTY, FLORIDA**

This Administrative Services Agreement (“Agreement”) is effective as of the date signed by the Plan Sponsor (the “Effective Date”) by and between Nationwide Retirement Solutions, Inc., a Delaware corporation (“Nationwide”) and an affiliate and subsidiary of Nationwide Financial Services, Inc. and Nassau County Board of County Commissioners, the Plan Sponsor (“Plan Sponsor”).

**WHEREAS**, Plan Sponsor, pursuant to and in compliance with the Internal Revenue Code of 1986, as amended (“Code”), established and sponsors the Nassau County Board of County Commissioners 457(b) Deferred Compensation Plan (“Plan”), a Section 457(b) Plan;

**WHEREAS**, Plan Sponsor desires to have Nationwide continue to perform the non-discretionary recordkeeping and administrative services described in this Agreement for the Plan (“Administrative Services”); and

**WHEREAS**, Nationwide desires to provide such Administrative Services subject to the terms and conditions set forth in this Agreement.

**NOW THEREFORE**, Nationwide and Plan Sponsor desire to enter into this Agreement and abide by the terms therein.

**1. DESIGNATION**

- a. Plan Sponsor designates Nationwide as a non-fiduciary, non-discretionary provider of Administrative Services for the Plan in accordance with the terms of this Agreement.
- b. Plan Sponsor represents that the selection and designation of Nationwide complies with any procurement statutes applicable to Plan Sponsor.
- c. Any duties or services not specifically described herein or delegated in the Plan’s documents as being provided by Nationwide are the responsibility of Plan Sponsor.
- d. Services in addition to those in this Agreement or delegated in the Plan’s documents may be added by mutual agreement of Nationwide and Plan Sponsor.

**2. CONTRACT REQUIREMENTS** – In addition to other contract requirements provided by law, each public agency contract for services entered into or amended on or after July 1, 2016 must include:

- a. The following statement, in substantially the following form, identifying the contract information of the public agency’s custodian of public records in at least 14-point boldfaced type: IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (telephone number, e-mail address, and mailing address).

### 3. ELIGIBLE EMPLOYER

Plan Sponsor has determined that it is an "eligible employer" and meets the requirements of Code Section 457(e)(1)(A).

### 4. TERM

This Agreement is effective until terminated in accordance with Section ~~21~~ 22 *RM*

### 5. GENERAL

- a. Plan Sponsor adopts Nationwide's established policies and procedures with respect to the administration of 457(b) Plan on its administrative system. Nationwide and Plan Sponsor shall mutually agree to any procedures which require customization, e.g., loan procedures.
- b. Plan Sponsor acknowledges and agrees that Nationwide is not responsible for monitoring deferrals to other Section 457, 403(b), 401(a), and/or 414(h) plans, or any defined benefit plans referenced by the Code.
- c. Plan Sponsor acknowledges and agrees that Nationwide is not responsible for monitoring inter-plan coordination between the Plan administered by Nationwide and any other plan which Plan Sponsor may have.
- d. This Agreement does not require, nor will this Agreement be construed as requiring, Nationwide to exercise any discretionary control or authority over the Plan or the assets of the Plan.
- e. This Agreement does not require, nor shall this Agreement be construed as requiring, Nationwide to provide investment, legal, or tax advice to Plan Sponsor or to Plan participants.

### 6. PLAN SPONSOR RESPONSIBILITIES

- a. Plan Sponsor is responsible for timely providing all information that Plan Sponsor and Nationwide mutually agree is necessary for Nationwide to perform the Administrative Services under this Agreement.
- b. Plan Sponsor is responsible for timely providing updated information regarding Plan participants.
- c. Plan Sponsor is responsible for ensuring that the provided information is accurate and complete. Nationwide is entitled to rely exclusively on the information provided by the Plan Sponsor or the Plan Sponsor's advisors, whether oral or in writing, and will have no responsibility to independently verify the accuracy of that information.
- d. Plan Sponsor acknowledges that inaccurate or late information could result in tax penalties, participant/beneficiary legal claims, or both. Nationwide assumes no responsibility for, and will not have any liability for, any consequences that result from Nationwide's inability to complete its work in the ordinary course of its business due to the failure of the Plan Sponsor to provide accurate and timely information to Nationwide.
- e. Plan Sponsor agrees to be responsible for all maximum deferral limit testing for this Plan.

**7. SERVICES RELATED TO PARTICIPANT ENROLLMENT**

- a. Plan Sponsor is responsible for determining employees eligible to participate in the Plan.
- b. Nationwide agrees to process the enrollment of employees eligible to participate in the Plan.
- c. Nationwide agrees to conduct enrollment meetings with Plan Sponsor's employees in such number and manner as determined by the parties.
- d. The Plan Sponsor agrees to allow and facilitate the periodic distribution of materials to Participants at the time and in the manner determined by the Plan Sponsor; provided, however, that all reasonable expenses associated with such distribution will be paid by Nationwide.

**8. SERVICES WITH RESPECT TO PARTICIPANT PLAN ACCOUNTS AND ACCOUNT ACCESS**

- a. Nationwide agrees to establish an account for each enrolled participant, beneficiary, and alternate payee of the Plan (for purposes of this Agreement only, hereinafter referred to as "Participants").
- b. For each Participant account, at a minimum, Nationwide will maintain the following information, if provided:
  - i. Name;
  - ii. Social Security number;
  - iii. Mailing address;
  - iv. Date of birth;
  - v. Current investment allocation direction;
  - vi. Contributions allocated and invested;
  - vii. Investment transfers;
  - viii. Benefit payments;
  - ix. Current account balance;
  - x. Transaction history since funding under the Agreement;
  - xi. Contributions since funding under the Agreement;
  - xii. E-mail address;
  - xiii. Beneficiary designation, if applicable;
  - xiv. Benefit tax withholding information; and

- xv. Such other information as agreed upon by the Plan Sponsor and Nationwide.
- c. Participants will have the unlimited ability to increase (within the limitations of Code Section 457(b)) or decrease contributions to the 457(b) Plan. Nationwide will process all requests to increase or decrease contribution amounts within five Business Days (The term "Business Day" means each Monday through Friday during the hours the New York Stock Exchange is open for business. No transactions can be completed on any Business Day after such time as the New York Stock Exchange closes.) of receipt of the request, but the request cannot be effective until the earliest date permissible under the Code or, if later, the date the contribution change can be processed by the Plan Sponsor given Plan Sponsor's payroll processing schedule.
- d. Participants will have the ability to exchange existing account balances, in full or in part, and to redirect future contributions from one available investment option to another on any Business Day subject to Nationwide policies and any applicable restrictions or penalties applied by the investment options.
- e. Nationwide will provide reports to the Plan Sponsor within thirty days following the end of each calendar quarter reporting period summarizing the following:
  - i. All Participant activity that transpired during the reporting period;
  - ii. Total contributions allocated to each investment or insurance option under the Plan; and
  - iii. Total withdrawals by Participant. This report shall include the amount, type and date of withdrawal.
- f. The County is a public agency subject to Chapter 119, Florida Statutes. IF NATIONWIDE HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO NATIONWIDE'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (904)530-6090, [RECORDS@NASSAUCOUNTYFL.COM](mailto:RECORDS@NASSAUCOUNTYFL.COM), 96135 NASSAU PLACE, SUITE 6, YULEE, FLORIDA 32097. Under this Agreement, to the extent that Nationwide is providing services to the County, and pursuant to Section 119.0701, Florida Statutes, Nationwide shall:
  - i. Keep and maintain public records required by the County to perform the service.
  - ii. Upon request from the County's custodian of public records, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.
  - iii. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if Nationwide does not transfer the records to the County.
  - iv. Upon completion of the Agreement, transfer, at no cost, to the County all public records in possession of Nationwide or keep and maintain public records required by the County to perform the service. If Nationwide transfers all public records to the County upon



completion of the Agreement, Nationwide shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Nationwide keeps and maintains public records upon completion of the Agreement, Nationwide shall meet all applicable requirements for retaining public records. All records stored electronically shall be provided to the County, upon request from the County's custodian of public records, in a format that is compatible with the information technology systems of the County.

- g. A request to inspect or copy public records relating to the County's Agreement for materials shall be made directly to the County. If the County does not possess the requested records, the County shall immediately notify Nationwide of the request, and Nationwide shall provide the records to the public agency or allow the records to be inspected or copied within a reasonable time.
- h. If Nationwide does not comply with the County's request for records, the County shall enforce the Agreement provisions in accordance with the Agreement.
- i. If Nationwide fails to provide the public records to the County within a reasonable time, Nationwide may be subject to penalties under Section 119.10, Florida Statutes.
- j. If a civil action is filed against Nationwide to compel production of public records relating to the Agreement, the Court shall assess and award against Nationwide the reasonable costs of enforcement, including reasonable attorney fees if:
  - i. The Court determines that Nationwide unlawfully refused to comply with the public records request within a reasonable time; and
  - ii. At least eight (8) business days before filing the action, the plaintiff provided written notice of the public records request, including a statement that Nationwide has not complied with the request, to the County and to Nationwide.
- k. A notice complies with Section (j) b. hereinabove, if it is sent to the County's custodian of public records and to Nationwide at Nationwide's address listed on its Agreement with the County or to Nationwide's registered agent. Such notices shall be sent pursuant to Section ~~33~~ hereinbelow. R M
- l. If Nationwide complies with a public records request within eight (8) business days after the notice is sent, Nationwide is not liable for the reasonable costs of enforcement.

## 9. SERVICES RELATED TO PLAN CONTRIBUTIONS

- a. Plan Sponsor agrees to send all Plan contribution information and related funds to Nationwide on a timely basis that complies with all applicable legal requirements.
- b. Plan Sponsor will provide all contribution allocation information with respect to Participant accounts to Nationwide in a mutually agreed upon format. Contribution allocation instructions include direction via electronic sources.
- c. Nationwide will allocate contribution amounts transmitted by Plan Sponsor to Participant accounts in accordance with the latest instructions from Participants or the Plan Sponsor (as applicable) on file with Nationwide, when such instructions are in good order.

- d. Nationwide agrees to post funds received in good order (as defined below) from Plan Sponsor in accordance with the separate funding arrangements between Plan Sponsor and Nationwide or any of its affiliates.
- e. Plan Sponsor may send funds by wire transfer, through an automated clearinghouse, or by check in accordance with written instructions provided by Nationwide. Failure to follow the written instructions provided by Nationwide may result in delay of posting to Participant accounts.
- f. The term “in good order” means the receipt of required information by Nationwide, in a form deemed reasonably acceptable to Nationwide, with respect to the processing of a request or the completion of a task by Nationwide that reasonably requires information from a third party. More specifically, Plan contributions and contribution allocation information must meet all of the following requirements in order to be deemed to be in good order:
  - i. All records must include the correct and complete Participant name, Social Security number (or other unique identifier), and the amount to be credited to the participant’s account(s);
  - ii. The source of funds must be identified (e.g., 457(b) salary reduction, employer contribution);
  - iii. The Plan name and Plan number must be clearly identified;
  - iv. Both the Participant allocation detail and the total contribution amount must be received, and these two totals must match each other; and
  - v. All Participants making or receiving a contribution must have an account established on the recordkeeping system.
- g. If Nationwide determines that the contribution or allocation detail is not in good order (“NIGO”), Nationwide will notify the Plan Sponsor. After such notification, the parties will continue to try to resolve the NIGO status. If the parties do not achieve resolution, Nationwide will return the funds to the Plan Sponsor within thirty Business Days. Nationwide will not be liable for any delay in posting if the Plan Sponsor fails to send the funds representing contribution amounts or contribution allocation information in accordance with Nationwide’s instructions to the central processing site designated by Nationwide, or for any delay in posting that results from the receipt of funds and/or contribution allocation that Nationwide determines to be NIGO.

## **10. SERVICES WITH RESPECT TO DISTRIBUTIONS**

- a. Nationwide shall make all distributions in accordance with the Plan documents.
- b. Except as provided in subsection d, below, Nationwide shall make all distributions as directed by a Participant or the Plan Sponsor. Participants are responsible for selecting a form of payment from those available under the terms of the Plan and making all other elections regarding available distribution options.
- c. All distributions will be made pro-rata from each of the Participant’s investment options and money sources unless directed otherwise by the participant.

- d. Nationwide will provide notice and a distribution form to each Participant attaining age 72 (or such other age as determined by current law) or older in the current calendar year. The notice will inform the Participant that required minimum distributions ("RMD") must begin no later than the April 1 of the calendar year following the later of attainment of age 72 (or such other age as determined by current law) or retirement (subject to the terms of the Plan). Nationwide will automatically distribute the RMD to the Participant if no direction is received from the Participant.

## **11. TAX REPORTING**

- a. For each Participant that has received a benefit payment, Nationwide shall furnish tax reporting forms. The forms will be provided in the manner and time prescribed by federal and state law.
- b. To the extent required by federal and state law, Nationwide will calculate and withhold from each benefit payment federal and state income taxes. Nationwide will report such withholding to the federal and state governments as required by applicable law.
- c. Plan Sponsor will be responsible for all tax reporting requirements for periods before the Effective Date of this Agreement, or after the termination date of this Agreement, unless otherwise agreed to in writing by the parties to this Agreement.

## **12. UNCLAIMED PROPERTY**

Nationwide shall administer Participant and beneficiary unclaimed property funds, including but not limited to uncashed distribution checks and death claims, in accordance with Nationwide's standard unclaimed property procedures.

## **13. SERVICES RELATED TO PARTICIPANT COMMUNICATION AND EDUCATION**

### **a. Communication and Education**

- i. Participant Statements
  1. Participants will receive consolidated quarterly statements detailing their account activity and account balances for the Plan.
  2. Nationwide agrees to deliver account statements (by U.S. mail or electronically) to Participants within thirty calendar days after the end of each calendar quarter. This timeframe is contingent upon Nationwide receiving fund returns from the mutual fund providers within four Business Days after the end of each quarter.

### **b. Website**

- i. Participants may access the website via a secured internet site at [www.nrsforu.com](http://www.nrsforu.com) to review and make changes to their accounts. The website complies with applicable data protection and privacy laws. The website is the exclusive property of Nationwide.
- ii. Using this site, Participants may: (i) obtain information regarding their accounts, and (ii) conduct certain routine transactions with respect to their accounts. The Plan Sponsor authorizes Nationwide to honor instructions regarding such transactions that a Participant

submits using the secure Internet site. Nationwide shall implement reasonable physical and technical safeguards to protect personal information made available on its Internet site. Such safeguards shall be no less rigorous than generally accepted industry practices.

- iii. The website is available twenty-four hours a day, except for routine maintenance of the system.
- iv. The Participant website experience will include access to an education library offering investment education. Content is delivered via multiple formats which can include short videos, print materials, and workshop modules.

**c. INTERACTIVE VOICE RESPONSE SYSTEM**

- i. Nationwide will provide an interactive voice response (IVR) toll free telephone number, which shall be operative twenty-four hours per day, seven days per week, except for routine maintenance of the system.
- ii. Participants will be able to conduct routine Plan transactions and obtain account balance information through the IVR.
- iii. The Plan Sponsor authorizes Nationwide to honor Participant instructions, which may be submitted using the toll-free number, either through the IVR or a live representative.

**d. CUSTOMER SERVICE**

Nationwide's customer service representatives will be available toll-free to answer Participant questions and process applicable transactions between the hours of 8:00 a.m. and 11:00 p.m. Eastern Time each Monday through Friday, and between the hours of 9:00 a.m. and 6:00 p.m. Eastern Time each Saturday, except for certain holidays as dictated by the New York Stock Exchange holiday trading schedule.

**14. SERVICES RELATED TO INVESTMENT OPTIONS**

- a. Plan Sponsor acknowledges that it has exercised its fiduciary duties in selecting the Plan's funding vehicles and the applicable investment line-up under such funding vehicles.
- b. Plan Sponsor agrees to accept the terms and conditions of the annuity contracts, mutual funds, any other investment products, and investment advice agreements after being provided with a copy of same.
- c. With respect to funding vehicles that engage an independent investment advisor to establish and maintain the investment line-up, Plan Sponsor agrees that failure to follow the independent investment advisor's recommendation in accordance with the terms of its agreement with the independent investment advisor will cause Plan Sponsor to become the investment fiduciary for the Plan.
- d. Nationwide agrees to accept contributions to the Plan for investment in the investment options selected by the Plan Sponsor, a product's independent investment advisor, or other responsible Plan fiduciary in its sole discretion and agreed to by Nationwide.

## 15. COMPENSATION

- a. The Plan Sponsor acknowledges that Nationwide and its affiliates receive payments in connection with the sale and servicing of investments allocated to participant Plan accounts ("Investment Option Payments"). As compensation for the services provided in this Agreement, the parties agree that Nationwide and its affiliates are entitled to receive the Investment Option Payments. In addition to the foregoing, the parties acknowledge and agree that Nationwide may receive revenue associated with annuity contracts, revenue from mutual fund providers, as well as fees associated with specific services or products. The Investment Option Payments include mutual fund payments as described in detail at [www.nrsforu.com](http://www.nrsforu.com), and other payments received from investment option providers.
- b. As compensation for the performance of the Administrative Services provided by Nationwide pursuant to this Agreement, the Plan Sponsor and Nationwide agree that Nationwide shall be entitled to receive an annualized compensation requirement of 0.50% (50 basis points) ("Compensation Requirement") on Variable Assets to be calculated and collected according to Nationwide's standard business practices. In calculating the 50 basis points, the total Plan assets will include Plan balances held in the Self-Directed Brokerage Account ("SDBA") and as outstanding participant loan balances.
- c. The Plan Sponsor acknowledges that it has received all information about compensation paid to Nationwide as the Plan Sponsor has reasonably requested and has determined that the total amount of compensation paid to Nationwide as described in this Section 15 is reasonable and appropriate for the services provided.
- d. To the extent offered under the Plan, in addition to the above described fees, Nationwide shall also receive fees with respect to a Participant's use of Participant loan administration, the Self-Directed Brokerage Account ("SDBA"), and Nationwide's managed account service ("ProAccount") as follows:
  - i. Loans – If requested by the Plan Sponsor and permitted under the terms of the Plan, Nationwide will assist the Plan Sponsor in processing Participant loan requests pursuant to Participant loan administrative procedures approved by the Plan Sponsor and Nationwide. All Participant loan fees are governed by Nationwide's Plan Loan Procedures document, a copy of which has been provided to the Plan Sponsor.
  - ii. Self-Directed Brokerage Account – The Plan offers an SDBA investment option for qualifying participants in the Plan. Initial and annual administrative fees may be charged as outlined in the separate fee agreement for the SDBA that will be provided to each Participant by Nationwide.
  - iii. Managed account services (Nationwide ProAccount) – Managed account services are offered by Nationwide Investment Advisors ("NIA"), an affiliate of Nationwide, and the Plan Sponsor must execute a separate agreement with NIA if the Plan Sponsor wants to add ProAccount to the Plan. Only participants who choose to utilize Nationwide's ProAccount managed account service are assessed fees. Such fees are authorized in a separate ProAccount agreement between the participant and NIA, and are assessed pursuant to the terms and conditions of such agreement.

- e. Plan Sponsor may request Nationwide and/or its affiliates to provide additional services not described in this Agreement by making such a request in writing, which Nationwide may decide to perform for compensation to be negotiated by the parties prior to the commencement of the additional services.

#### 16. FRAUD

- a. Nationwide will investigate suspected fraud in accordance with its standard procedures.
- b. Nationwide will report any fraud that is confirmed after performing its investigation to Plan Sponsor.
- c. Nationwide will work with Plan Sponsor to determine the appropriate action to mitigate or rectify any discovered fraud.
- d. If Nationwide suspects fraud with respect to an ACH transfer, Plan Sponsor agrees that Nationwide may issue a physical check to the Participant instead.

#### 17. ASSIGNABILITY AND PROVISION OF SERVICES

- a. Excepted as otherwise specifically provided for in this Agreement, Plan Sponsor acknowledges that the Administrative Services under this agreement will be performed by Nationwide or one of its affiliates.
- b. Except as provided for in Subsection "a", above, no party to the Agreement will assign the performance of services without the express written consent of the other party, which consent shall not be unreasonably withheld. Unless agreed to by the parties, such assignment shall not relieve any party to this Agreement of any duties or responsibilities herein. This provision does not restrict Nationwide's right to delegate certain services to an agents, affiliates, and vendors.

#### 18. CONFIDENTIALITY

- a.  Nationwide agrees to maintain all information obtained from or related to all Plan Participants as confidential.
- b.  Plan Sponsor authorizes Nationwide to disclose Plan and employee information to its agents, affiliates, vendors, brokers, registered representatives, and professional advisors (such as attorneys, accountants and actuaries) to enable or assist them in the performance of their duties hereunder and other plan-related activities.
- c.  Plan Sponsor agrees to allow the periodic distribution to its employees of materials prepared by Nationwide regarding products and services offered by Nationwide, or its affiliates, which Nationwide reasonably believes would be beneficial to such Plan Participants.
- d.  Except as provided for in Section ~~17~~(b), Plan Sponsor agrees that Plan and Participant information may also be used or disclosed by Nationwide to other third parties pursuant to a written authorization signed by Plan Sponsor.

- e.  Notwithstanding anything to the contrary contained herein, it is expressly understood that Nationwide retains the right to use any and all information in its possession in connection with its defense and/or prosecution of any litigation that may arise in connection with the Agreement, the investment arrangement funding the Plan, or the Plan; provided, however, in no event will Nationwide release any information to any person or entity except as permitted by applicable law.

## 19. INDEMNIFICATION

- a.  Nationwide agrees to indemnify, defend and hold harmless Plan Sponsor, its officers, directors, agents, and employees from and against any loss, damage or liability assessed against Plan Sponsor or incurred by Plan Sponsor arising out of or in connection with any claim, action, or suit brought or asserted against Plan Sponsor alleging or involving Nationwide's non-performance of the provisions of the Agreement under Nationwide's exclusive control, or negligence or willful misconduct in the performance of its services, duties and obligations under the Agreement. In addition, Nationwide represents, warrants and covenants that the indemnification in this paragraph is enforceable under applicable law and that Nationwide will not assert a position contrary to such representation in any judicial or administrative proceeding.
- b.  Subject to the limits set forth in Section 768.28 of the Florida Statutes, Plan Sponsor agrees to indemnify, defend and hold harmless Nationwide, its officers, directors, agents, and employees from and against any loss, damage or liability assessed against Nationwide or incurred by Nationwide arising out of or in connection with any claim, action, or suit brought or asserted against Nationwide alleging or involving Plan Sponsor's non-performance of the provisions of the Agreement under Plan Sponsor's exclusive control, or negligence or willful misconduct in the performance of its duties and obligations under this Agreement. In addition, Plan Sponsor represents, warrants and covenants that the indemnification in this paragraph is enforceable under applicable law and that Plan Sponsor will not assert a position contrary to such representation in any judicial or administrative proceeding.

## 20. PARTIES BOUND

This Agreement and the provisions thereof shall be binding upon and shall inure to the benefit of the successors and assigns of Nationwide and Plan Sponsor. This Agreement shall be enforceable only by the parties, not by Plan Participants or other third parties, and is intended to create no third-party beneficiaries.

## 21. MODIFICATION

- a. The parties intend this writing to be both the final expression of the Agreement between the parties and a complete statement of the terms of the Agreement. Notwithstanding anything contained herein to the contrary, the parties may amend the Agreement from time to time and as mutually agreed upon. Except as otherwise provided herein, no modification of the Agreement will be effective unless and until such modification is evidenced by a writing signed by both parties.
- b. Notwithstanding the above, if Nationwide determines that an amendment to the Agreement is necessary that affects more than one plan sponsor and this change is communicated in writing to all affected plan sponsors, Nationwide reserves the right to implement the amendment on a

prospective basis for any plan whose plan sponsor fails to respond to the request for written approval of the amendment in a timely fashion. Plan Sponsor hereby approves all such amendments unless a proper and timely response is made to Nationwide regarding any Agreement modification communicated to Plan Sponsor.

## 22. TERMINATION

- a.  Either the Plan Sponsor or Nationwide may terminate the Agreement for any reason upon providing 120 days written notice to the other party.
- b.  In the event either party fails to perform any or all of its obligations as defined in the Agreement, the non-defaulting party shall give the defaulting party written notice, specifying the particulars of the default. If such default is not cured within sixty days from the date in which notice of default is given, the non-defaulting party may terminate the Agreement upon 60 days written notice to the defaulting party.
- c.  Provision of such written notice of termination by Plan Sponsor to Nationwide does not relieve the Plan Sponsor of any termination requirements that may be associated with specific investment options.
- d.  Plan Sponsor further acknowledges and agrees that the Plan is responsible for any investment product liquidation fees, if applicable, and that neither Nationwide nor any of its affiliates assumes liability for any such fees.
- e.  Upon the effective date of termination of this Agreement the following shall occur:
  - i. Nationwide will no longer accept contributions to the Plan except by agreement of the parties.
  - ii. Nationwide will:
    1. Provide Plan Sponsor, or such other entity as the Plan Sponsor may designate in writing, with a copy of all Participant records in an electronic format and within a time frame as mutually agreed upon between Nationwide and Plan Sponsor.
    2. Transfer any periodic distribution amounts and schedules, continuing loan repayments, or other ongoing Participant transactional activity to the Plan Sponsor, or such other entity as the Plan Sponsor may designate in writing, in accordance with the time frame agreed to by the parties for the delivery of Participant records.
    3. Transfer all Plan assets under its control to the Plan Sponsor or to such other entity as the Plan Sponsor may designate in writing in accordance with the funding arrangement terms. Nationwide agrees to provide a final accounting of all Plan assets for which Nationwide provides recordkeeping.

## 23. CIRCUMSTANCES EXCUSING PERFORMANCE

- a.  Neither party to the Agreement will be in default by reason of failure to perform in accordance with its terms if such failure arises out of causes beyond their reasonable control and without



- fault or negligence on their part. Such causes may include, but are not limited to, Acts of God or public enemy, acts of the government in its sovereign or contractual capacity, severe malware or cyber-attack, fires, floods, epidemics, quarantine or restrictions, freight embargoes, and unusually severe weather.
- b. ~~ix~~ Neither party will be responsible for performing all of that portion of services precluded by the foregoing events for such period of time as Plan Sponsor or Nationwide are precluded from performing such services in the normal course of business. Neither Nationwide nor Plan Sponsor will be liable for lost profits, losses, damage or injury, including without limitation, special or consequential damages, resulting in whole or in part from the foregoing events.
  - c. ~~ix~~ "Acts of God" are defined as acts, events, happenings or occurrences due exclusively to natural causes and inevitable accident or disaster, exclusive from all human intervention.

#### **24. NO WAIVER**

The failure of either party to enforce any provision of the Agreement will not be construed as a waiver of that provision or of any other provision in the Agreement. Either party may, at any time, enforce a provision previously unenforced, unless a modification to the Agreement has been executed that makes such provision unenforceable.

#### **25. SEVERABILITY**

Any provision of the Agreement which is prohibited or unenforceable in any jurisdiction where performance is required will be ineffective to the extent such provision is prohibited or unenforceable without invalidating the remaining provisions. Any prohibited or unenforceable provision in any one jurisdiction will not prohibit or render unenforceable such provision in any other jurisdiction.

#### **26. AUTHORIZED PERSONS**

Plan Sponsor will furnish a list to Nationwide (and from time to time whenever there are changes therein) of the individuals authorized to transmit instruction to Nationwide concerning the Plan and/or assets in the Plan, and written direction regarding the form of such instructions.

#### **27. COMPLIANCE WITH LAWS**

Both Plan Sponsor and Nationwide agree to comply, in their respective roles under this Agreement, in all material respects with all applicable federal laws and regulations as they affect the Plan and the administration thereof. Nothing contained herein will be construed to prohibit either party from performing any act or not performing any act as either may be required by statute, court decision, or other authority having jurisdiction thereof.

#### **28. SURVIVAL OF REPRESENTATIONS, WARRANTIES, INDEMNITY, AND CONFIDENTIALITY**

- a. Notwithstanding anything to the contrary, any representations and warranties contained herein will survive termination of the Agreement for the full period of any applicable statute of limitations that may apply to the Agreement. Further, the party making any representation or

- warranty shall notify the other party in writing within five business days of any representation or warranty that is no longer valid.
- b. Notwithstanding anything to the contrary, any indemnity provisions contained herein will survive the termination of the Agreement for the full period of any applicable statute of limitations that may apply to the Agreement.
  - c. Notwithstanding anything to the contrary, any confidentiality provisions contained herein will survive the termination of the Agreement for the full period of any applicable statute of limitations that may apply to the Agreement.

**29. PRIVACY OF CONTRACT**

Plan Sponsor acknowledges and agrees that Nationwide and Participants of the Plan have no privity of contract with each other.

**30. APPLICABLE LAW AND VENUE**

This agreement will be construed in accordance with the laws operating within the State of Florida.

**31. ATTORNEY'S FEES**

Each party agrees that in the event of a claim, arbitration, or lawsuit filed by a party to this Agreement, each party will be responsible for its own attorneys' fees and/or any costs or expenses related to the bringing or defense of any such claim, arbitration, or lawsuit.

**32. HEADINGS**

The headings of articles, paragraphs, and sections are included for convenience only and will not be considered by either party in construing the meaning of the Agreement.

**33. NOTICES**

All notices and demands to be given by one party to another must be given by certified or United States mail, addressed to the party to be notified or upon whom a demand is being made, at the addresses set forth in this Agreement or such other place as either party may, from time to time, designate in writing to the other party. Notice will be deemed received on the earlier of: (1) three days from the date of mailing, or (2) the day the notice is actually received by the party to whom the notice was sent.

If to Nationwide:	Nationwide Retirement Solutions, Inc. 10 W. Nationwide Blvd., 05-04-101A Columbus, Ohio 43215
-------------------	---

If to Plan Sponsor:	Nassau County Board of County Commissioners 457(b) Deferred Compensation Plan 96135 Nassau PI STE 5 Yulee, FL 32097-8635
---------------------	---

**34. E-VERIFY**

- a. Nationwide shall comply with Section 448.095, Florida Statutes, and use the United States Department of Homeland Security's E-Verify system ("E-Verify") to verify the employment eligibility of all persons hired by Nationwide during the term of this Agreement to work in Florida. Additionally, if Nationwide uses subcontractors to perform any portion of the work (under this Agreement), Nationwide shall include a requirement in the subcontractor's contract that the subcontractor use E-Verify to verify the employment eligibility of all persons hired by subcontractor to perform any such portion of the work. Answers to questions regarding E-Verify as well as instructions on enrollment may be found at the E-Verify website: [www.uscis.gov/e-verify](http://www.uscis.gov/e-verify).
- b. Nationwide shall maintain records of its participation and compliance with the provisions of the E-Verify program, including participation by its subcontractors as provided above, and to make such records available to the County or other authorized entity consistent with the terms of Nationwide's enrollment in the program. This includes maintaining a copy of proof of Nationwide's and subcontractors' enrollment in the E-Verify program. If Nationwide enters into a contract with a subcontractor, the subcontractor shall provide Nationwide with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. Nationwide shall maintain a copy of such affidavit for the duration of the Agreement.
- c. Compliance with the terms of the E-Verify program provision is made an express condition of this Agreement and the County may treat a failure to comply as a material breach of the Agreement. If the County terminates the Agreement pursuant to Section 448.095(2)(c), Florida Statutes, Nationwide may not be awarded a public contract for at least one (1) year after the date on which the Agreement was terminated and Nationwide is liable for any additional costs incurred by the County as a result of the termination of this Agreement.

By executing this agreement, Plan Sponsor represents and warrants that it is an "eligible employer," as that term is defined in Code Section 457(e)(1)(A) which means "a State, political subdivision of a State, and any agency or instrumentality of a State or political subdivision of a State."

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement effective as of the date first written below.

Nationwide Retirement Solutions, Inc.

Nassau County Board of County Commissioners  
457(b) Deferred Compensation Plan  
Plan Sponsor

By: Katie Moore

By: 

Name: Katie Moore

Name: Klynt A. Farmer

Title: \_\_\_\_\_

Title: Chairman, Nassau County BOCC

Date: 6/29/2023

Date: July 10, 2023

ADOPTION AGREEMENT FOR ELIGIBLE GOVERNMENTAL 457 PLAN

The undersigned Employer, by executing this Adoption Agreement, establishes an Eligible 457 Plan ("Plan"). The Employer, subject to the Employer's Adoption Agreement elections, adopts fully the Plan provisions. This Adoption Agreement, the basic plan document and any attached Appendices, amendments, or agreements permitted or referenced therein, constitute the Employer's entire plan document. All "Election" references within this Adoption Agreement or the basic plan document are Adoption Agreement Elections. All "Article" or "Section" references are basic plan document references. Numbers in parentheses which follow election numbers are basic plan document references. Where an Adoption Agreement election calls for the Employer to supply text, the Employer may lengthen any space or line, or create additional tiers. When Employer-supplied text uses terms substantially similar to existing printed options, all clarifications and caveats applicable to the printed options apply to the Employer-supplied text unless the context requires otherwise. The Employer makes the following elections granted under the corresponding provisions of the basic plan document.

1. EMPLOYER (1.11).

Name: County of Nassau, FL
Address: 96135 Nassau Place, Suite 5
Street
Yulee City Florida 32097-8635
Zip
Telephone: (904) 321-5726
Taxpayer Identification Number (TIN): 59-1863042

2. PLAN NAME.

Name: Nassau County Board of County Commissioners 457(b) Deferred Compensation Plan

3. PLAN YEAR (1.25). Plan Year means the 12 consecutive month period (except for a short Plan Year) ending every (Choose one of a. or b. and choose c. if applicable): [Note: Complete any applicable blanks under Election c. with a specific date, e.g., "June 30" OR "the last day of February" OR "the first Tuesday in January." In the case of a Short Plan Year or a Short Limitation Year, include the year, e.g., "May 1, 2013."]

- a. [X] December 31.
b. [ ] Plan Year: ending:
c. [ ] Short Plan Year: commencing: and ending:

4. EFFECTIVE DATE (1.08). The Employer's adoption of the Plan is a (Choose one of a. or b. Complete c. if new plan OR complete c. and d. if an amendment and restatement. Choose e. if applicable):

- a. [ ] New Plan.
b. [X] Restated Plan. The Plan is a substitution and amendment of an existing 457 plan.

Initial Effective Date of Plan

c. [X] July 14, 1987 (enter month day, year; hereinafter called the "Effective Date" unless 4d is entered below)

Restatement Effective Date (If this is an amendment and restatement, enter effective date of the restatement.)

d. [X] April 28, 2023 (enter month day, year)

Special Effective Dates: (optional)

e. [ ] Describe:

5. CONTRIBUTION TYPES. (If this is a frozen Plan (i.e., all contributions have ceased), choose a. only):

Frozen Plan

- a. [ ] Contributions cease. All Contributions have ceased or will cease (Plan is frozen).
1. Effective date of freeze: [Note: Effective date is optional unless this is the amendment or restatement to freeze the Plan.]

## Eligible 457 Plan

**Contributions.** The Employer and/or Participants, in accordance with the Plan terms, make the following Contribution Types to the Plan (Choose one or more of b. through d. if applicable):

- b.  **Pre-Tax Elective Deferrals.** The dollar or percentage amount by which each Participant has elected to reduce his/her Compensation, as provided in the Participant's Salary Reduction Agreement (Choose one or more as applicable.):

And will Matching Contributions be made with respect to Elective Deferrals?

1.  **Yes.** See Question 16.  
2.  **No.**

And will **Roth Elective Deferrals** be made?

3.  **Yes.** [Note: The Employer may not limit Deferrals to Roth Deferrals only.]  
4.  **No.**

- c.  **Nonelective Contributions.** See Question 17.

- d.  **Rollover Contributions.** See Question 30.

6. **EXCLUDED EMPLOYEES (1.10).** The following Employees are Excluded Employees and are not eligible to participate in the Plan (Choose one of a. or b.):

- a.  **No exclusions.** All Employees are eligible to participate.  
b.  **Exclusions.** The following Employees are Excluded Employees (Choose one or more of 1. through 4.):  
1.  **Part-time Employees.** The Plan defines part-time Employees as Employees who normally work less than \_\_\_\_\_ hours per week.  
2.  **Hourly-paid Employees.**  
3.  **Leased Employees.** The Plan excludes Leased Employees.  
4.  **Specify:** \_\_\_\_\_

7. **INDEPENDENT CONTRACTOR (1.16).** The Plan (Choose one of a., b. or c.):

- a.  **Participate.** Permits Independent Contractors to participate in the Plan.  
b.  **Not Participate.** Does not permit Independent Contractors to participate in the Plan.  
c.  **Specified Independent Contractors.** Permits the following specified Independent Contractors to participate:  
\_\_\_\_\_

[Note: If the Employer elects to permit any or all Independent Contractors to participate in the Plan, the term Employee as used in the Plan includes such participating Independent Contractors.]

8. **COMPENSATION (1.05).** Subject to the following elections, Compensation for purposes of allocation of Deferral Contributions means:

**Base Definition** (Choose one of a., b., c. or d.):

- a.  Wages, tips and other compensation on Form W-2.  
b.  Code §3401(a) wages (wages for withholding purposes).  
c.  415 safe harbor compensation.  
d.  Alternative (general) 415 Compensation.

[Note: The Plan provides that the base definition of Compensation includes amounts that are not included in income due to Code §§401(k), 125, 132(f)(4), 403(b), SEP, 414(h)(2), & 457. Compensation for an Independent Contractor means the amounts the Employer pays to the Independent Contractor for services, except as the Employer otherwise specifies below.]

**Modifications to Compensation definition.** The Employer elects to modify the Compensation definition as follows (Choose one of e. or f.):

- e.  **No modifications.** The Plan makes no modifications to the definition.  
f.  **Modifications** (Choose one or more of 1. through 5.):  
1.  **Fringe benefits.** The Plan excludes all reimbursements or other expense allowances, fringe benefits (cash and noncash), moving expenses, deferred compensation and welfare benefits.  
2.  **Elective Contributions.** [1.05(E)] The Plan excludes a Participant's Elective Contributions.

## Eligible 457 Plan

3.  **Bonuses.** The Plan excludes bonuses.
4.  **Overtime.** The Plan excludes overtime.
5.  **Specify:** \_\_\_\_\_

**Compensation taken into account.** For the Plan Year in which an Employee first becomes a Participant, the Plan Administrator will determine the allocation of matching and nonelective contributions by taking into account *(Choose one of g. or h.):*

- g.  **Plan Year.** The Employee's Compensation for the entire Plan Year. *(N/A if no matching or nonelective contributions)*
- h.  **Compensation while a Participant.** The Employee's Compensation only for the portion of the Plan Year in which the Employee actually is a Participant. *(N/A if no matching or nonelective contributions)*

9. **POST-SEVERANCE COMPENSATION (1.05(F)).** Compensation includes the following types of Post-Severance Compensation paid within any applicable time period as may be required *(Choose one of a. or b.):*

- a.  **None.** The Plan does not take into account Post-Severance Compensation as to any Contribution Type except as required under the basic plan document.
- b.  **Adjustments.** The following Compensation adjustments apply *(Choose one or more):*
1.  **Regular Pay.** Post-Severance Compensation will include Regular Pay and it will apply to all Contribution Types.
  2.  **Leave-Cashouts.** Post-Severance Compensation will include Leave Cashouts and it will apply to all Contribution Types.
  3.  **Nonqualified Deferred Compensation.** Post-Severance Compensation will include Deferred Compensation and it will apply to all Contribution Types.
  4.  **Salary Continuation for Disabled Participants.** Post-Severance Compensation will include Salary Continuation for Disabled Participants and it will apply to all Contribution Types.
  5.  **Differential Wage Payments.** Post-Severance Compensation will include Differential Wage Payments (military continuation payments) and it will apply to all Contribution Types.
  6.  **Describe alternative Post-Severance Compensation definition, limit by Contribution Type, or limit by Participant group:** \_\_\_\_\_

10. **NORMAL RETIREMENT AGE (1.20).** A Participant attains Normal Retirement Age under the Plan *(Choose one of a. or b.):*

- a.  **Plan designation.** [Plan Section 3.05(B)] When the Participant attains age \_\_\_\_\_. *[Note: The age may not exceed age 70 1/2. The age may not be less than age 65, or, if earlier, the age at which a Participant may retire and receive benefits under the Employer's pension plan, if any.]*
- b.  **Participant designation.** [Plan Section 3.05(B) and (B)(1)] When the Participant attains the age the Participant designates, which may not be earlier than age 65 and may not be later than age 70 1/2. *[Note: The age may not exceed age 70 1/2.]*

**Special Provisions for Police or Fire Department Employees** *(Choose c. and/or d. as applicable):*

- c.  **Police department employees.** [Plan Section 3.05(B)(3)] *(Choose 1. or 2.):*
1.  **Plan designation.** [Plan Section 3.05(B)] When the Participant attains age \_\_\_\_\_. *[Note: The age may not exceed age 70 1/2 and may not be less than age 40.]*
  2.  **Participant designation.** [Plan Section 3.05(B) and (B)(1)] When the Participant attains the age the Participant designates, which may not be earlier than age 40 (no earlier than age 40) and may not be later than age 70 1/2. *[Note: The age may not exceed age 70 1/2.]*
- d.  **Fire department employees.** [Plan Section 3.05(B)(3)] *(Choose 1. or 2.):*
1.  **Plan designation.** [Plan Section 3.05(B)] When the Participant attains age \_\_\_\_\_. *[Note: The age may not exceed age 70 1/2 and may not be less than age 40.]*
  2.  **Participant designation.** [Plan Section 3.05(B) and (B)(1)] When the Participant attains the age the Participant designates, which may not be earlier than age 40 (no earlier than age 40) and may not be later than age 70 1/2. *[Note: The age may not exceed age 70 1/2.]*

11. **ELIGIBILITY CONDITIONS (2.01).** *(Choose one of a. or b.):*

- a.  **No eligibility conditions.** The Employee is eligible to participate in the Plan as of his/her first day of employment with the employer.
- b.  **Eligibility conditions.** To become a Participant in the Plan, an Eligible Employee must satisfy the following eligibility conditions *(Choose one or more of 1., 2. or 3.):*
1.  **Age.** Attainment of age \_\_\_\_\_.

## Eligible 457 Plan

2.  **Service.** Service requirement (*Choose one of a. or b.*):
- a.  **Year of Service.** One year of Continuous Service.
- b.  **Months of Service.** \_\_\_\_\_ month(s) of Continuous Service.
3.  **Specify:** \_\_\_\_\_
12. **PLAN ENTRY DATE (1.24).** "Plan Entry Date" means the Effective Date and (*Choose one of a. through d.*):
- a.  **Monthly.** The first day of the month coinciding with or next following the Employee's satisfaction of the Plan's eligibility conditions, if any.
- b.  **Annual.** The first day of the Plan Year coinciding with or next following the Employee's satisfaction of the Plan's eligibility conditions, if any.
- c.  **Date of hire.** The Employee's employment commencement date with the Employer.
- d.  **Specify:** \_\_\_\_\_
13. **SALARY REDUCTION CONTRIBUTIONS (1.30).** A Participant's Salary Reduction Contributions under Election 5b. are subject to the following limitation(s) in addition to those imposed by the Code (*Choose one of a. or b.*):
- a.  **No limitations.**
- b.  **Limitations.** (*Choose one or more of 1., 2. or 3.*):
1.  **Maximum deferral amount.** A Participant's Salary Reductions may not exceed: \_\_\_\_\_ (*specify dollar amount or percentage of Compensation*).
2.  **Minimum deferral amount.** A Participant's Salary Reductions may not be less than: \_\_\_\_\_ (*specify dollar amount or percentage of Compensation*).
3.  **Specify:** \_\_\_\_\_
- [*Note: Any limitation the Employer elects in b.1. through b.3. will apply on a payroll basis unless the Employer otherwise specifies in b.3.*]
- Special NRA Catch-Up Contributions (3.05).** The Plan (*Choose one of c. or d.*):
- c.  **Permits.** Participants may make NRA catch-up contributions.  
**AND, Special NRA Catch-Up Contributions** (*Choose one of 1. or 2.*): (*N/A if no matching contributions*)
1.  will be taken into account in applying any matching contribution under the Plan.
2.  will not be taken into account in applying any matching contribution under the Plan.
- d.  **Does not permit.** Participants may not make NRA catch-up contributions.
- Age 50 Catch-Up Contributions (3.06).** The Plan (*Choose one of e. or f.*):
- e.  **Permits.** Participants may make age 50 catch-up contributions.  
**AND, Age 50 Catch-Up Contributions** (*Choose one of 1. or 2.*): (*N/A if no matching contributions*)
1.  will be taken into account in applying any matching contribution under the Plan.
2.  will not be taken into account in applying any matching contribution under the Plan.
- f.  **Does not permit.** Participants may not make age 50 catch-up contributions.
14. **SICK, VACATION AND BACK PAY (3.02(A)).** The Plan (*Choose one of a. or b.*):
- a.  **Permits.** Participants may make Salary Reduction Contributions from accumulated sick pay, from accumulated vacation pay or from back pay.
- b.  **Does Not Permit.** Participants may not make Salary Reduction Contributions from accumulated sick pay, from accumulated vacation pay or from back pay.
15. **AUTOMATIC ENROLLMENT (3.02(B)).** Does the Plan provide for automatic enrollment (*Choose one of the following*) [*Note: if Eligible Automatic Contribution Arrangement (EACA), select 15c and complete Questions 31 & 32*):
- a.  **Does not apply.** Does not apply the Plan's automatic enrollment provisions.



**Eligible 457 Plan**

- b.  **Applies.** Applies the Plan's automatic enrollment provisions. The Employer as a Pre-Tax Elective Deferral will withhold \_\_\_\_\_% from each Participant's Compensation unless the Participant elects a different percentage (including zero) under his/her Salary Reduction Agreement. The automatic election will apply to *(Choose one of 1. through 3.)*:
  - 1.  **All Participants.** All Participants who as of \_\_\_\_\_ are not making Pre-Tax Elective Deferrals at least equal to the automatic amount.
  - 2.  **New Participants.** Each Employee whose Plan Entry Date is on or following: \_\_\_\_\_.
  - 3.  **Describe Application of Automatic Deferrals:** \_\_\_\_\_.

c.  **EACA.** The Plan will provide an Eligible Automatic Contribution Arrangement (EACA). Complete Questions 31 & 32.

16. **MATCHING CONTRIBUTIONS (3.03).** The Employer Matching Contributions under Election 5.b.1. are made as follows *(Choose one or more of a. through d.)*:

- a.  **Fixed formula.** An amount equal to \_\_\_\_\_ of each Participant's Salary Reduction Contributions.
- b.  **Discretionary formula.** An amount (or additional amount) equal to a matching percentage the Employer from time to time may deem advisable of each Participant's Salary Reduction Contributions.
- c.  **Tiered formula.** The Employer will make matching contributions equal to a uniform percentage of each tier of each Participant's Salary Reduction Contributions, determined as follows:

**NOTE:** Fill in only percentages or dollar amounts, but not both. If percentages are used, each tier represents the amount of the Participant's applicable contributions that equals the specified percentage of the Participant's Compensation (add additional tiers if necessary):

Tiers of Contributions (indicate \$ or %)	Matching Percentage
First _____	_____ %
Next _____	_____ %
Next _____	_____ %
Next _____	_____ %

d.  **Specify:** \_\_\_\_\_.

**Time Period for Matching Contributions.** The Employer will determine its Matching Contribution based on Salary Reduction Contributions made during each *(Choose one of e. through h.)*:

- e.  **Plan Year.**
- f.  **Plan Year quarter.**
- g.  **Payroll period.**
- h.  **Specify:** \_\_\_\_\_.

**Salary Reduction Contributions Taken into Account.** In determining a Participant's Salary Reduction Contributions taken into account for the above-specified time period under the Matching Contribution formula, the following limitations apply *(Choose one of i. through l.)*:

- i.  **All Salary Reduction Contributions.** The Plan Administrator will take into account all Salary Reduction Contributions.
- j.  **Specific limitation.** The Plan Administrator will disregard Salary Reduction Contributions exceeding \_\_\_\_\_% of the Participant's Compensation.
- k.  **Discretionary.** The Plan Administrator will take into account the Salary Reduction Contributions as a percentage of the Participant's Compensation as the Employer determines.
- l.  **Specify:** \_\_\_\_\_.

**Allocation Conditions.** To receive an allocation of Matching Contributions, a Participant must satisfy the following allocation condition(s) *(Choose one of m. or n.)*:

- m.  **No allocation conditions.**
- n.  **Conditions.** The following allocation conditions apply to Matching Contributions *(Choose one or more of 1. through 4.)*:
  - 1.  **Service condition.** The Participant must complete the following number of months of Continuous Service during the Plan Year: \_\_\_\_\_.

**Eligible 457 Plan**

- 2.  **Employment condition.** The Participant must be employed by the Employer on the last day of the Plan Year.
- 3.  **Limited Severance Exception.** Any condition specified in 1. or 2. does not apply if the Participant incurs a Severance from Employment during the Plan Year on account of death, disability or attainment of Normal Retirement Age in the current Plan Year or in a prior Plan Year.
- 4.  **Specify:** \_\_\_\_\_

17. **NONELECTIVE CONTRIBUTIONS (1.19)**. The Nonelective Contributions under Election 5.c. are made as follows: *(Choose one)*:

- a.  **Discretionary - Pro-Rata.** An amount the Employer in its sole discretion may determine.
- b.  **Fixed - Pro Rata.** \_\_\_\_\_% of Compensation.
- c.  **Other.** A Nonelective Contribution may be made as follows:  
\_\_\_\_\_

**Allocation Conditions. (3.08).** To receive an allocation of Nonelective Contributions, a Participant must satisfy the following allocation condition(s) *(Choose one of d. or e.)*:

- d.  **No allocation conditions.**
- e.  **Conditions.** The following allocation conditions apply to Nonelective Contributions *(Choose one or more of 1. through 4.)*:
  - 1.  **Service condition.** The Participant must complete the following number of months of Continuous Service during the Plan Year: \_\_\_\_\_.
  - 2.  **Employment condition.** The Participant must be employed by the Employer on the last day of the Plan Year.
  - 3.  **Limited Severance Exception.** Any condition specified in 1. or 2. does not apply if the Participant incurs a Severance from Employment during the Plan Year on account of death, disability or attainment of Normal Retirement Age in the current Plan Year or in a prior Plan Year.
  - 4.  **Specify:** \_\_\_\_\_

18. **TIME AND METHOD OF PAYMENT OF ACCOUNT (4.02)**. The Plan will distribute to a Participant who incurs a Severance from Employment his/her Vested Account as follows:

**Timing.** The Plan, in the absence of a permissible Participant election to commence payment later, will pay the Participant's Account *(Choose one of a. through e.)*:

- a.  **Specified Date.** \_\_\_\_\_ days after the Participant's Severance from Employment.
- b.  **Immediate.** As soon as administratively practicable following the Participant's Severance from Employment.
- c.  **Designated Plan Year.** As soon as administratively practicable in the \_\_\_\_\_ Plan Year beginning after the Participant's Severance from Employment.
- d.  **Normal Retirement Age.** As soon as administratively practicable after the close of the Plan Year in which the Participant attains Normal Retirement Age.
- e.  **Specify:** The Plan will commence distribution in the absence of a Participant's election to commence payment earlier, no later than the Participant's required beginning date as defined under Plan Section 4.03 \_\_\_\_\_

**Method.** The Plan, in the absence of a permissible Participant election, will distribute the Participant's Account under one of the following method(s) of distribution *(Choose one or more of f. through j. as applicable)*:

- f.  **Lump sum.** A single payment.
- g.  **Installments.** Multiple payments made as follows: \_\_\_\_\_
- h.  **Installments for required minimum distributions only.** Annual payments, as necessary under Plan Section 4.03.
- i.  **Annuity distribution option(s):** \_\_\_\_\_
- j.  **Specify:** \_\_\_\_\_

**Participant Election.** [Plan Sections 4.02(A) and (B)] The Plan *(Choose one of k., l. or m.)*:

- k.  **Permits.** Permits a Participant, with Plan Administrator approval of the election, to elect to postpone distribution beyond the time the Employer has elected in a. through e. and also to elect the method of distribution (including a method not described in f. through j. above).
- l.  **Does not permit.** Does not permit a Participant to elect the timing and method of Account distribution.
- m.  **Specify:** A Participant, with Plan Administrator approval of the election, may elect the method of distribution from the following choices: lump sum, installments or partial distribution \_\_\_\_\_

## Eligible 457 Plan

**Mandatory Distributions.** Notwithstanding any other distribution election, following Severance from Employment (*Choose n. or o.*):

- n.  **No Mandatory Distributions.** The Plan will not make a Mandatory Distribution.
- o.  **Mandatory Distribution.** If the Participant's Vested Account is not in excess of \$5,000 (unless a different amount selected below) as of the date of distribution, the Plan will make a Mandatory Distribution following Severance from Employment.
1.  **Mandatory Distribution.** If the Participant's Vested Account is not in excess of \$ 1,000 as of the date of distribution, the Plan will make a Mandatory Distribution following Severance from Employment.

**Rollovers in determination of \$5,000 threshold.** Unless otherwise elected below, amounts attributable to rollover contributions (if any) will be **included** in determining the \$5,000 threshold for timing of distributions, form of distributions or consent rules.

- p.  Exclude rollovers (rollover contributions will be **excluded** in determining the \$5,000 threshold)

**NOTE:** Regardless of the above election, if the Participant consent threshold is \$1,000 or less, then the Administrator must include amounts attributable to rollovers for such purpose. In such case, an election to exclude rollovers above will apply for purposes of the timing and form of distributions.

19. **BENEFICIARY DISTRIBUTION ELECTIONS.** Distributions following a Participant's death will be made as follows (*Choose one of a. through d.*):

- a.  **Immediate.** As soon as practical following the Participant's death.
- b.  **Next Calendar Year.** At such time as the Beneficiary may elect, but in any event on or before the last day of the calendar year which next follows the calendar year of the Participant's death. (*N/A if participant is restricted*)
- c.  **As Beneficiary elects.** At such time as the Beneficiary may elect, consistent with Section 4.03. (*N/A if participant is restricted*)
- d.  **Describe:** \_\_\_\_\_

[*Note: The Employer under Election 19d. may describe an alternative distribution timing or afford the Beneficiary an election which is narrower than that permitted under Election 19c., or include special provisions related to certain beneficiaries, (e.g. a surviving spouse). However, any election under Election 19d. must require distribution to commence no later than the Section 4.03 required date.*]

20. **DISTRIBUTIONS PRIOR TO SEVERANCE FROM EMPLOYMENT (4.05).** A Participant prior to Severance from Employment may elect to receive a distribution of his/her Vested Account under the following distribution options (*Choose one of a. or b.*):

- a.  **None.** A Participant may not receive a distribution prior to Severance from Employment.
- b.  **Distributions.** Prior to Severance from Employment are permitted as follows (*Choose one or more of 1. through 4.*):
1.  **Unforeseeable emergency.** A Participant may elect a distribution from his/her Account in accordance with Plan Section 4.05(A) (for the Participant, spouse, dependents or beneficiaries)
2.  **De minimis exception.** [Plan Section 4.05(B)] If the Participant: (i) has an Account that does not exceed \$5,000; (ii) has not made or received an allocation of any Deferral Contributions under the Plan during the two-year period ending on the date of distribution; and (iii) has not received a prior Plan distribution under this de minimis exception, then (*Choose one of a., b. or c.*):
- a.  **Participant election.** The Participant may elect to receive all or any portion of his/her Account.
- b.  **Mandatory distribution.** The Plan Administrator will distribute the Participant's entire Account.
- c.  **Hybrid.** The Plan Administrator will distribute a Participant's Account that does not exceed \$ \_\_\_\_\_ and the Participant may elect to receive all or any portion of his/her Account that exceeds \$ \_\_\_\_\_ but that does not exceed \$5,000.
3.  **Age 70 1/2.** A Participant who attains age 70 1/2 prior to Severance from Employment may elect distribution of any or all of his/her Account.
4.  **Specify:** \_\_\_\_\_

[*Note: An Employer need not permit any in-service distributions. Any election must comply with the distribution restrictions of Code Section 457(d).*]

21. **QDRO (4.06).** The QDRO provisions (*Choose one of a., b. or c.*):

- a.  **Apply.**
- b.  **Do not apply.**
- c.  **Specify:** \_\_\_\_\_

Eligible 457 Plan

22. ALLOCATION OF EARNINGS (5.07(B)). The Plan allocates Earnings using the following method (Choose one or more of a. through f.):

- a.  **Daily**. See Section 5.07(B)(4)(a).
- b.  **Balance forward**. See Section 5.07(B)(4)(b).
- c.  **Balance forward with adjustment**. See Section 5.07(B)(4)(c). Allocate pursuant to the balance forward method, except treat as part of the relevant Account at the beginning of the Valuation Period \_\_\_\_\_% of the contributions made during the following Valuation Period: \_\_\_\_\_.
- d.  **Weighted average**. See Section 5.07(B)(4)(d). If not a monthly weighting period, the weighting period is \_\_\_\_\_.
- e.  **Directed Account method**. See Section 5.07(B)(4)(e).
- f.  **Describe Earnings allocation method:** \_\_\_\_\_.

[Note: The Employer under Election 22f. may describe Earnings allocation methods from the elections available under Election 22 and/or a combination thereof as to any: (i) Participant group (e.g., Daily applies to Division A Employees OR to Employees hired after "x" date. Balance forward applies to Division B Employees OR to Employees hired on/before "x" date.); (ii) Contribution Type (e.g., Daily applies as to Discretionary Nonelective Contribution Accounts. Participant-Directed Account applies to Fixed Nonelective Contribution Accounts); (iii) investment type, investment vendor or Account type (e.g., Balance forward applies to investments placed with vendor A and Participant-Directed Account applies to investments placed with vendor B OR Daily applies to Participant-Directed Accounts and balance forward applies to pooled Accounts).]

23. HEART ACT PROVISIONS (1.31(C)(3)/3.13). The Employer elects to (Choose one of a. or b. and c. or d.):

**Continued Benefit Accruals.**

- a.  **Not apply the benefit accrual provisions of Section 3.13.**
- b.  **Apply the benefit accrual provisions of Section 3.13.**

**Distributions for deemed severance of employment (1.31(C)(3))**

- c.  **The Plan does NOT permit distributions for deemed severance of employment.**
- d.  **The Plan permits distributions for deemed severance of employment.**

24. VESTING/SUBSTANTIAL RISK OF FORFEITURE (5.11). A Participant's Deferral Contributions are [Note: If a Participant incurs a Severance from Employment before the specified events or conditions, the Plan will forfeit the Participant's non-vested Account. Caution: if a Deferral is subject to vesting schedule or other substantial risk of forfeiture, it does not count as a deferral for purposes of the annual deferral limit until the year it is fully vested.] (Choose all that apply of a. through d.):

- a.  **100% Vested/No Risk of Forfeiture**. Immediately Vested without regard to additional Service and no Substantial Risk of Forfeiture. The following contributions are 100% Vested:
  - 1.  **All Contributions**. (skip to 25.)
  - 2.  **Only the following contributions**. (select all that apply):
    - a.  **Salary Reduction Contributions**.
    - b.  **Nonelective Contributions**.
    - c.  **Matching Contributions**.
- b.  **Forfeiture under Vesting Schedule**. Vested according to the following:

**Contributions affected.** The following contributions are subject to the vesting schedule (Choose one or more of 1., 2. or 3.):

- 1.  **Salary Reduction Contributions**.
- 2.  **Nonelective Contributions**.
- 3.  **Matching Contributions**.
- 4.  **Vesting Schedule**.

Years of Service	Vested Percentage
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %

Eligible 457 Plan

For vesting purposes, a "Year of Service" means:

5. \_\_\_\_\_

[Note: It is extremely rare to apply a vesting schedule to Salary Reduction Contributions.]

c.  **Substantial Risk of Forfeiture.** Vested only when no longer subject to the following Substantial Risk of Forfeiture as follows:

**Contributions affected.** The following contributions are subject to the substantial risk of forfeiture under c. (Choose one or more of 1., 2. or 3.):

- 1.  **Salary Reduction Contributions.**
- 2.  **Nonelective Contributions.**
- 3.  **Matching Contributions.**

**Risk Provisions:** Vested only when no longer subject to the following Substantial Risk of Forfeiture as follows (Choose one of 4. or 5.):

- 4.  The Participant must remain employed by the Employer until \_\_\_\_\_, unless earlier Severance from Employment occurs on account of death or disability, as the Plan Administrator shall establish.
- 5.  **Specify:** \_\_\_\_\_

**Additional Provisions** (Choose d. if applicable)

d.  **Specify:** \_\_\_\_\_

**FORFEITURE ALLOCATION.** [Plan Sections 5.11(A) and 5.14] The Plan Administrator will allocate any Plan forfeitures as selected below. The Employer has the option to use forfeitures to pay plan expenses first and then allocate the remaining forfeitures in accordance with the selections below: (Choose one of the following):

c.  **Additional Contributions.** As the following contribution type (Choose one of 1. or 2.):

- 1.  **Nonelective.** As an additional Nonelective Contribution.
- 2.  **Matching.** As an additional Matching Contribution.

f.  **Reduce Fixed Contributions.** To reduce the following fixed contribution (Choose one of 1. or 2.):

- 1.  **Nonelective.** To reduce the Employer's fixed Nonelective Contribution.
- 2.  **Matching.** To reduce the Employer's fixed Matching Contribution.

g.  **Specify:** \_\_\_\_\_

25. **TRUST PROVISIONS.** The following provisions apply to Article VIII of the Plan (Choose as applicable; leave blank if not applicable):

- a.  **Modifications.** The Employer modifies the Article VIII Trust provisions as follows: \_\_\_\_\_. The remaining Article VIII provisions apply.
- b.  **Substitution.** The Employer replaces the Trust with the Trust Agreement attached to the Plan.

26. **CUSTODIAL ACCOUNT/ANNUITY CONTRACT (8.16).** The Employer will hold all or part of the Deferred Compensation in one or more custodial accounts or annuity contracts which satisfy the requirements of Code §457(g) (Choose a. or b., c. if applicable):

- a.  **Custodial account(s).**
- h.  **Annuity contract(s).**
- c.  **Specify:** \_\_\_\_\_

[Note: The Employer under c. may wish to identify the custodial accounts or annuity contracts or to designate a portion of the Deferred Compensation to be held in such vehicles versus held in the Trust.]

27. **VALUATION.** In addition to the last day of the Plan Year, the Trustee (or Plan Administrator as applicable) must value the Trust Fund (or Accounts) on the following Valuation Date(s) (Choose one of a. or b.):

- a.  **No additional Valuation Dates.**
- b.  **Additional Valuation Dates.** (Choose one or more of 1., 2. or 3.):
  - 1.  **Daily Valuation Dates.** Each business day of the Plan Year on which Plan assets for which there is an established market are valued and the Trustee or Employer is conducting business.
  - 2.  **Last day of a specified period.** The last day of each \_\_\_\_\_ of the Plan Year.

Eligible 457 Plan

3.  Specified Valuation Dates: \_\_\_\_\_

[Note: The Employer under Election 26b.3. may describe Valuation Dates from the elections available under Election 26b. and/or a combination thereof as to any: (i) Participant group (e.g., No additional Valuation Dates apply to Division A Employees OR to Employees hired after "x" date. Daily Valuation Dates apply to Division B Employees OR to Employees hired on/before "x" date.); (ii) Contribution Type (e.g., No additional Valuation Dates apply as to Discretionary Nonelective Contribution Accounts. The last day of each Plan Year quarter applies to Fixed Nonelective Contribution Accounts); (iii) investment type, investment vendor or Account type (e.g., No additional Valuation Dates apply to investments placed with vendor A and Daily Valuation Dates apply to investments placed with vendor B OR Daily Valuation Dates apply to Participant-Directed Accounts and no additional Valuation Dates apply to pooled Accounts).]

28. TRUSTEE (Select all that apply; leave blank if not applicable.):

a.  Individual Trustee(s) who serve as Trustee(s) over assets not subject to control by a corporate Trustee. (Add additional Trustees as necessary.)

Name(s)	Title(s)
_____	_____
_____	_____
_____	_____
_____	_____

**Address and Telephone number** (Choose one of 1. or 2.):

1.  Use Employer address and telephone number.

2.  Use address and telephone number below:

Address: \_\_\_\_\_  
Street

\_\_\_\_\_

City

State

Zip

Telephone: \_\_\_\_\_

b.  Corporate Trustee

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
Street

\_\_\_\_\_

City

State

Zip

Telephone: \_\_\_\_\_

**AND**, the Corporate Trustee shall serve as:

c.  a Directed (nondiscretionary) Trustee over all Plan assets except for the following:

\_\_\_\_\_

d.  a Discretionary Trustee over all Plan assets except for the following:

\_\_\_\_\_

29. PLAN LOANS (5.02(A)). The Plan permits or does not permit Participant Loans (Choose one of a. or b.):

a.  Does not permit.

b.  Permitted pursuant to the Loan Policy.

30. ROLLOVER CONTRIBUTIONS (3.09). The Rollover Contributions under Election 5.d. are made as follows:

**Who may roll over** (Choose one of a. or b.):

a.  Participants only.

b.  Eligible Employees or Participants.

## Eligible 457 Plan

**Sources/Types.** The Plan will accept a Rollover Contribution (*Choose one of c. or d.*):

- c.  **All.** From any Eligible Retirement Plan and as to all Contribution Types eligible to be rolled into this Plan.
- d.  **Limited.** Only from the following types of Eligible Retirement Plans and/or as to the following Contribution Types:

**Distribution of Rollover Contributions** (*Choose one of e., f. or g.*):

- e.  **Distribution without restrictions.** May elect distribution of his/her Rollover Contributions Account in accordance with Plan Section 4.05(C) at any time.
- f.  **No distribution.** May not elect to receive distribution of his/her Rollover Contributions Account until the Plan has a distributable event under Plan Section 4.01.
- g.  **Specify:** \_\_\_\_\_

31. **EACA Automatic Deferral Provisions (3.14).**

**Participants subject to the Automatic Deferral Provisions.** The Automatic Deferral Provisions apply to Employees who become Participants after the Effective Date of the EACA (except as provided in d. below). Employees who became Participants prior to such Effective Date are subject to the following (a. – d. are optional):

- a.  **All Participants.** All Participants, regardless of any prior Salary Reduction Agreement, unless and until a Participant makes an Affirmative Election after the Effective Date of the EACA.
- b.  **Election of at least Automatic Deferral amount.** All Participants, except those who, on the Effective Date of the EACA, are deferring an amount which is at least equal to the Automatic Deferral Percentage.
- c.  **No existing Salary Reduction Agreement.** All Participants, except those who have in effect a Salary Reduction Agreement on the effective date of the EACA regardless of the Salary Reduction Contribution amount under the Agreement.
- d.  **Describe:** \_\_\_\_\_

**Automatic Deferral Percentage.** Unless a Participant makes an Affirmative Election, the Employer will withhold the following Automatic Deferral Percentage (select e. or f.):

- e.  **Constant.** The Employer will withhold \_\_\_\_\_% of Compensation each payroll period.

**Escalation** of deferral percentage (select one or leave blank if not applicable)

1.  **Scheduled increases.** This initial percentage will increase by \_\_\_\_\_% of Compensation per year up to a maximum of \_\_\_\_\_ of Compensation.
2.  **Other** (described Automatic Deferral Percentage): \_\_\_\_\_

**Automatic Deferral Optional Elections**

- f.  **Optional elections** (select all that apply or leave blank if not applicable)

**Suspended Salary Reduction Contributions.** If a Participant's Salary Reduction Contributions are suspended pursuant to a provision of the Plan (e.g., distribution due to military leave covered by the HEART Act), then a Participant's Affirmative Election will expire on the date the period of suspension begins unless otherwise elected below.

1.  A Participant's Affirmative Election will resume after the suspension period.

**Special Effective Date.** Provisions will be effective as of the earlier of the Effective Date of the EACA provisions unless otherwise specified below.

2.  Special Effective Date: \_\_\_\_\_

32. **In-Plan Roth Rollover Contributions.**

- a.  **Yes, allowed.**

**Effective Date** (enter date)

1.  In-Plan Roth Rollover Effective Date: \_\_\_\_\_

33. **In-Plan Roth Rollover Transfers.**

- a.  **Yes, allowed.**

**Effective Date** (enter date)

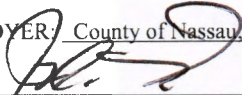
1.  In-Plan Roth Rollover Transfers Effective Date: \_\_\_\_\_

**Eligible 457 Plan**

This Plan is executed on the date(s) specified below:

**Use of Adoption Agreement.** Failure to complete properly the elections in this Adoption Agreement may result in disqualification of the Employer's Plan. The Employer only may use this Adoption Agreement only in conjunction with the corresponding basic plan document.

EMPLOYER: County of Nassau, FL

By:   
Klynt A. Farmer  
Chairman, Nassau County BOCC

July 10, 2023  
DATE SIGNED





## Nationwide Retirement Solutions Non-ERISA Plan Loan Program

Page 1 of 5

Nationwide Retirement Solutions, Inc. ("Nationwide") agrees as the Administrative Service Provider to administer loans pursuant to the terms of the Nassau County Board of County Commissioners 457(b) Deferred Compensation Plan ("Plan") and in accordance with the terms of the Plan Loan Program (including the attached Addendum A - Plan Election Worksheet) as approved by the Employer/Plan Administrator/Plan Sponsor, herein collectively referred to as "Plan Sponsor".

The Plan Sponsor directs Nationwide to administer loans in accordance with this document. The Plan Sponsor may amend or terminate the Plan Loan Program at any time within any constraints placed by Nationwide. The Plan Sponsor is encouraged to consult with its legal counsel and/or its tax advisors in determining whether the procedures identified herein are appropriate for the Plan.

The Plan Sponsor acknowledges that Nationwide may need to make changes from time-to-time to the procedures set forth herein and may request amendments to the Plan documents to maintain compliance of the Plan's Loan Program with Internal Revenue Service ("IRS") guidelines. In such a case, Nationwide will provide Plan Sponsor with timely notice of such changes as they become necessary.

- 1. Loan Administration** - Plan Sponsor delegates to Nationwide certain administrative duties and responsibilities, as a non-discretionary third-party administrator and record keeper for the Plan Sponsor regarding the administration of loans from the Plan, which are set forth herein and which may be modified by Nationwide upon timely notice to and acceptance by the Plan Sponsor.
- 2. Loan Eligibility** - Any Plan participant, who falls into one of the employee statuses that the Plan Sponsor has elected in Addendum A, may apply for a loan from the Plan. Each participant is entitled to one outstanding loan from the Plan at any time. Nationwide will process or deny the participant's loan request based on the terms of the Plan Loan Program.
- 3. Loan Initiation and Loan Application** - To receive a loan from the Plan, an eligible participant must complete all required documents provided in the Loan Packet and return them to Nationwide. Before a loan is issued, the participant must enter into a legally enforceable Loan Agreement as provided by Nationwide in the Loan Packet. A loan initiation fee will be deducted from the participant's account after the loan has been funded by the participant's account. Loan Repayment information will be supplied to the Employer Plan Sponsor via electronic file for Payroll Deduct Loans.
- 4. Loan Security** - The Plan will require that adequate security be provided by the participant before a loan is granted. For this purpose, the Plan will only consider a participant's interest under the Plan to be adequate security. By accepting a loan, the participant is giving the Plan a security interest in his or her vested account balance equal to the total loan amount, but not to exceed 50% of the participant's vested account balance.
- 5. Loan Money Source** - A loan shall be modeled considering the participant's vested Plan account balance. Loans shall be funded pro-rata from all available participant account money sources within the Plan. To the extent a participant has a self-directed brokerage account, no funding from such self-directed brokerage account shall be permitted.
- 6. Minimum and Maximum Loan Term** - The minimum and maximum loan term over which a general-purpose loan may be repaid is the term elected by the Plan Sponsor in Addendum A. Except as otherwise provided herein, the maximum loan term shall not exceed five years for a general-purpose loan or, if elected by the Plan Sponsor in Addendum A, for the purchase of the participant's principal residence.
- 7. Minimum/Maximum Loan Amount** - The minimum loan amount permitted shall be the amount elected by the Plan Sponsor in Addendum A. The maximum amount of any loan permitted under the Plan shall comply with Section 72(p) of the Internal Revenue Code ("IRC") and (when added to the outstanding balance of all other loans from all plans sponsored by the same employer) is the lesser of (i) \$50,000, reduced by the excess (if any) of (A) the highest outstanding balance of loans from all plans sponsored by the same employer, during the one-year period ending on the day before the date on which the loan was made over (B) the outstanding balance of loans from all plans sponsored by the same employer, on the date on which the loan is made, or (ii) one half of the present value of the participant's vested account balance.
- 8. Loan Amortization** - Each loan shall be amortized with interest accruing immediately, with repayments beginning approximately 30 days from the date the loan is processed, in substantially equal repayments consisting of principal and interest during the term of the loan. Repayments of principal and interest shall be made in a manner and pursuant to the terms set forth in the Loan Agreement. The amount of the final payment may be higher or lower depending upon the participant's repayment history.

**9. Loan Repayment** - Repayment of any loan made to a participant shall be made in a manner and pursuant to the terms set forth in the Loan Agreement. Loans must be repaid according to the repayment method elected by the Plan Sponsor in Addendum A. If payroll deduction is selected as the repayment method, then the Plan Sponsor will ensure the timely set-up of payroll deduction for loan repayments in accordance with the loan amortization schedule. A participant receiving a loan that is being repaid via ACH shall be required to furnish the information and authorization necessary to effectuate the foregoing repayments prior to the commencement of a loan. In the event that an employed participant with an outstanding loan takes a distribution from the Plan, the distribution event does not alleviate the requirement to continue to repay on the outstanding loan balance.

**10. Loan Prepayment** - The entire amount of a loan, including outstanding principal and any accrued interest, may be paid without penalty prior to the end of the term of the loan in the manner prescribed by Nationwide.

**11. Loan Overpayment** - In the event Nationwide receives a loan overpayment, any amount over the repayment amount due will be applied or refunded according to the administrative policies of Nationwide.

**12. Cure Period** - If a participant fails to make a loan repayment when due, the missed repayment must be made within the cure period elected by the Plan Sponsor in Addendum A.

**13. Default/Deemed Distribution** - If the participant fails to make up a missed loan repayment within the cure period the outstanding loan balance, including accrued interest, will be defaulted and treated as a deemed distribution, effective as of the end of the cure period elected by the Plan Sponsor. A deemed distribution is treated as a distribution from the Plan for federal (and possibly state or local) income tax purposes. Therefore, amounts treated as a deemed distribution will be subject to federal, state and/or local income taxes, and may be subject to an additional 10% early withdrawal tax. A Form 1099-R will be issued to the participant reflecting the deemed distribution. The participant shall remain obligated to repay the loan, including accrued interest, even after a deemed distribution has occurred. Any payment made on a defaulted loan will be applied to the outstanding balance of the loan including accrued interest. Such repayment(s), following the date of default, will be treated as after-tax amounts and the participant will receive tax basis in his or her Plan account for such amounts. The outstanding loan balance will be offset upon notification to Nationwide of the death of such participant.

A participant who has defaulted on a previous loan shall not be eligible for another loan from the Plan until all such defaulted loans are repaid in full, including accrued interest. In addition, a Plan loan which is in default, even if the defaulted loan was treated as a "deemed distribution" under federal regulations, shall be treated as an outstanding loan until such outstanding loan is repaid in full including accrued interest.

**14. Loan Offset** - A loan offset is a reduction of the participant's account balance by the outstanding loan balance and represents an actual distribution from the participant's account. A loan offset which does not follow a deemed distribution will be subject to ordinary income tax and maybe subject to an additional 10% early withdrawal tax. A Form 1099-R will be issued to the participant reflecting the loan offset. A loan offset which follows a deemed distribution will not be subject to taxation.

For Plans who have elected to make repayments via Payroll Deduct, upon severance of employment, the entire amount of the outstanding loan balance, including accrued interest, will become due and payable. If the loan is not repaid in full prior to the end of the cure period in which the severance of employment occurred, the loan will be treated as a loan offset.

**15. Loans Offered from Other Administrative Service Providers/Multiple Vendor Arrangements** - The IRC requires the maximum loan amount be applied in the aggregate to all loans made under any plan sponsored by an employer. In the event the employer offers this Plan through multiple service providers or has other Plans at multiple vendors, the Plan Sponsor and/or participant and not Nationwide shall at all times remain responsible for ensuring that any loan received under this Plan is in accordance with the limits defined above in 7. Nationwide shall apply the maximum loan amount limit and any other limits imposed under the IRC without regard to any other loans received by the participant from any other administrative service provider(s) under this Plan or any other plan maintained by the Plan Sponsor.

Any tax reporting required as a result of the receipt by a participant of a loan that exceeds the limits imposed by federal regulations shall not be the responsibility of Nationwide, unless it is determined that such limits were exceeded solely as a result of a loan made through Nationwide as the sole service provider. Consequently, Nationwide shall not be required to account for loans made pursuant to a plan other than this Plan or loans made under this Plan that are made by another provider.

#### **16. Suspension of Loan Repayments**

a. **Military Leave of Absence** - A participant's obligation to repay any loan under the Plan may be suspended, as may be required by law, during the period in which the participant is performing service in the United States military. A participant may elect to continue making repayments during the suspension period by submitting a check for the regularly scheduled repayment amount. The participant must resume repayment of the loan upon his or her completion of military service and the outstanding loan balance, including any accrued interest and fees, must be repaid and may be re-amortized over a period that does not exceed the latest permissible term for a loan under the regulations plus the period of the military service. While the participant is on active duty in the United States military, the interest rate on the loan shall not exceed 6%, compounded annually unless the participant elects in writing during or after his or her military leave of absence to have the loan's higher existing interest rate, if applicable, apply to the loan. The Plan Sponsor assumes responsibility to notify Nationwide when a participant begins and returns from a military leave of absence.

b. **Non-Military Leave of Absence** - A participant's obligation to repay any loan under the Plan may be suspended during the period (not to exceed one (1) year) while the participant is on an approved non-military leave of absence and the participant provides requested documentation regarding the non-military leave of absence. A participant may elect to continue making repayments during the suspension period by submitting a check for the regularly scheduled repayment amount. The participant must resume repayment of the loan upon the earlier of his or her return from approved non-military leave of absence, or one (1) year of suspension. At such point the outstanding loan balance, including any accrued interest and fees, must be repaid or may be re-amortized over a period that does not exceed the latest permissible term for a loan under the regulations. The Plan Sponsor assumes responsibility to notify Nationwide when a participant begins and returns from an approved non-military leave of absence.

17. **Loan Interest Rate** - The interest rates for a loan shall be commensurate with interest rates being charged by entities in the business of lending money under similar circumstances. The loan interest rate will be the Prime Rate plus an additional amount expressed as a percentage elected by the Plan Sponsor in Addendum A, plus any other administrative and/or asset fees, as applicable. The Prime Rate shall be the prime rate published by the Wall Street Journal two weeks prior to the end of the most current calendar-year quarter and the new rate will be effective on the first day of the new calendar quarter and the new rate will be effective on the first day of the new calendar quarter. The loan interest rate may be adjusted for participants performing service in the United States military as may be required by law (See Section 16a.)

18. **Fees** - Fees described in these loan procedures will appear as administrative charges on participant statements. These fees are subject to change by Nationwide upon reasonable notice to the Plan Sponsor.

a. **Loan Initiation Fee** - A loan initiation fee of \$50 will be deducted from the participant's account at the time the loan is funded.

b. **Annual Maintenance Fee** - An annual loan maintenance fee of \$50 will be deducted from the participant's account on the anniversary date of the original loan initiation, until the loan is repaid in full or the loan has defaulted. In the event that the loan defaults, the annual loan maintenance fee will no longer be assessed, and the annual loan default fee described below (See Section 18f) will be applied.

c. **Asset Fees** - The amount of the outstanding loan balance will be subject to the maximum asset fee, administrative charge or such other fees Nationwide is entitled to receive under its separate agreement with the Plan Sponsor.

d. **Insufficient Funds Fee** - If Nationwide is unable to process an ACH debit repayment or personal check on the date due, through no fault of Nationwide, a fee of \$25 will be deducted from the participant's account.

e. **Loan Default Fee** - At the time a loan is treated as a deemed distribution, a \$50 fee will be deducted from the participant's account.

f. **Annual Loan Default Fee** - An annual loan default fee of \$50 will be deducted from the participant's account on the anniversary date of the original loan default until the loan is repaid in full or offset.

19. **Loan Correction** - In the event an error occurs in the administration of a loan, at the Plan Sponsor's direction, Nationwide may undertake corrections of the error in accordance with methods prescribed by the IRS or through any IRS correction program.

20. **Adoption of Plan Loan Procedures** - The undersigned Plan Sponsor hereby adopts these procedures effective for loans issued on or after the Effective Date set forth below and instructs Nationwide to administer loans made to Plan participants in accordance with these terms and the elections made on the attached "Plan Election Worksheet" (See Addendum A).

The Plan Sponsor acknowledges the following: (i) that the Plan Sponsor has decided to offer loans under the Plan and is instructing Nationwide to administer loans under the Plan in a nondiscriminatory manner; (ii) it understands that, as a result of offering loans under the Plan, the Plan participants could be subject to adverse tax consequences upon default of the loan; (iii) the Plan Sponsor has independently weighed these risks, and despite the risks has determined that offering loans under the Plan is in the best interest of Plan participants; (iv) any previous loan procedures or loan reference documents, are hereby superseded by these procedures; and (v) Nationwide shall not be liable for any adverse tax consequences described in (ii), except as specifically stated under paragraph 15 herein, resulting from the Plan Sponsor's decision to offer loans under the Plan.

**Plan Sponsor Name ("Sponsor")**(please print): County of Nassau, FL

Street Address: 96135 Nassau PI STE 5

City: Yulee State: FL Zip: 32097-8635

Plan Name ("Plan"): Nassau County Board of County Commissioners 457(b) Deferred Compensation Plan

Plan Number: 0037318001

Signature: Klynt A. Farmer Title: Chairman, Nassau County BOCC

Date of Adoption: July 10, 2023 Effective Date: N/A

(If different than Date of Adoption)

**An executed copy of this Program (including the attached Addendum A - Plan Election Worksheet) should be returned to Nationwide Retirement Solutions.**

b. **Non-Military Leave of Absence** - A participant's obligation to repay any loan under the Plan may be suspended during the period (not to exceed one (1) year) while the participant is on an approved non-military leave of absence and the participant provides requested documentation regarding the non-military leave of absence. A participant may elect to continue making repayments during the suspension period by submitting a check for the regularly scheduled repayment amount. The participant must resume repayment of the loan upon the earlier of his or her return from approved non-military leave of absence, or one (1) year of suspension. At such point the outstanding loan balance, including any accrued interest and fees, must be repaid or may be re-amortized over a period that does not exceed the latest permissible term for a loan under the regulations. The Plan Sponsor assumes responsibility to notify Nationwide when a participant begins and returns from an approved non-military leave of absence.

17. **Loan Interest Rate** - The interest rates for a loan shall be commensurate with interest rates being charged by entities in the business of lending money under similar circumstances. The loan interest rate will be the Prime Rate plus an additional amount expressed as a percentage elected by the Plan Sponsor in Addendum A, plus any other administrative and/or asset fees, as applicable. The Prime Rate shall be the prime rate published by the Wall Street Journal two weeks prior to the end of the most current calendar-year quarter and the new rate will be effective on the first day of the new calendar quarter and the new rate will be effective on the first day of the new calendar quarter. The loan interest rate may be adjusted for participants performing service in the United States military as may be required by law (See Section 16a.)

18. **Fees** - Fees described in these loan procedures will appear as administrative charges on participant statements. These fees are subject to change by Nationwide upon reasonable notice to the Plan Sponsor.

a. **Loan Initiation Fee** - A loan initiation fee of \$50 will be deducted from the participant's account at the time the loan is funded.

b. **Annual Maintenance Fee** - An annual loan maintenance fee of \$50 will be deducted from the participant's account on the anniversary date of the original loan initiation, until the loan is repaid in full or the loan has defaulted. In the event that the loan defaults, the annual loan maintenance fee will no longer be assessed, and the annual loan default fee described below (See Section 18f) will be applied.

c. **Asset Fees** - The amount of the outstanding loan balance will be subject to the maximum asset fee, administrative charge or such other fees Nationwide is entitled to receive under its separate agreement with the Plan Sponsor.

d. **Insufficient Funds Fee** - If Nationwide is unable to process an ACH debit repayment or personal check on the date due, through no fault of Nationwide, a fee of \$25 will be deducted from the participant's account.

e. **Loan Default Fee** - At the time a loan is treated as a deemed distribution, a \$50 fee will be deducted from the participant's account.

f. **Annual Loan Default Fee** - An annual loan default fee of \$50 will be deducted from the participant's account on the anniversary date of the original loan default until the loan is repaid in full or offset.

19. **Loan Correction** - In the event an error occurs in the administration of a loan, at the Plan Sponsor's direction, Nationwide may undertake corrections of the error in accordance with methods prescribed by the IRS or through any IRS correction program.

20. **Adoption of Plan Loan Procedures** - The undersigned Plan Sponsor hereby adopts these procedures effective for loans issued on or after the Effective Date set forth below and instructs Nationwide to administer loans made to Plan participants in accordance with these terms and the elections made on the attached "Plan Election Worksheet" (See Addendum A).

The Plan Sponsor acknowledges the following: (i) that the Plan Sponsor has decided to offer loans under the Plan and is instructing Nationwide to administer loans under the Plan in a nondiscriminatory manner; (ii) it understands that, as a result of offering loans under the Plan, the Plan participants could be subject to adverse tax consequences upon default of the loan; (iii) the Plan Sponsor has independently weighed these risks, and despite the risks has determined that offering loans under the Plan is in the best interest of Plan participants; (iv) any previous loan procedures or loan reference documents, are hereby superseded by these procedures; and (v) Nationwide shall not be liable for any adverse tax consequences described in (ii), except as specifically stated under paragraph 15 herein, resulting from the Plan Sponsor's decision to offer loans under the Plan.

Plan Sponsor Name ("Sponsor")(please print): County of Nassau, FL

Street Address: 96135 Nassau PI STE 5

City: Yulee State: FL Zip: 32097-8635

Plan Name ("Plan"): Nassau County Board of County Commissioners 457(b) Deferred Compensation Plan

Plan Number: 0037318001

Signature: Klynt A. Farmer Title: Chairman, Nassau County BOCC

Date of Adoption: \_\_\_\_\_ Effective Date: N/A

(If different than Date of Adoption)

**An executed copy of this Program (including the attached Addendum A - Plan Election Worksheet) should be returned to Nationwide Retirement Solutions.**

**Addendum A - Plan Election Worksheet**Plan Name: Nassau County Board of County Commissioners 457(b) Deferred Compensation Plan

The following sections identify Plan elections which are incorporated and made a part of the attached "Plan Loan Program." In the event that an election is not made within any section, Nationwide Retirement Solutions will administer the loan program according to current Nationwide policies as listed under each section below. The current Nationwide policies may be changed by Nationwide at any time. If Nationwide policies change, the Plan Sponsor will be notified in a timely manner. Unless otherwise specified, only one election is allowed per section.

The elections contained herein apply solely to the Plan. Any sections, including limitations, do not extend to any other plans offered by the Plan Sponsor.

**1. Loan Eligibility:**

Plan Sponsor elects to allow the following participants the ability to initiate a loan under the Plan. The Plan Sponsor is solely responsible for informing Nationwide of any future changes in the participant's employment status (check all that apply).

- Employed  
 Approved Non-Military Leave of Absence  
 Military Leave of Absence  
 Disabled (only available for ACH)  
 Retired (only available for ACH)  
 Terminated (only available for ACH)

**Current Nationwide Policy:** All listed participant employment statuses are eligible to initiate a loan if ACH is the elected repayment method. If the repayment method elected is Payroll Deduction, the only eligible participant employment status is Employed, Approved Non-Military Leave of Absence and Military Leave of Absence.

**2. General Purpose Loan Terms:**

a. **Minimum Loan Term** - Plan elects the following minimum loan term:

- One year  
 Other - Specify minimum loan term: 6 months (not to be less than six months)

**Current Nationwide Policy:** The minimum loan term is one year

b. **Maximum Loan Term** - Plan elects the following maximum loan term:

- Five years  
 Other - Specify maximum loan term: \_\_\_\_\_ (not to exceed a term of five years)

**Current Nationwide Policy:** The maximum loan term is five years

**3. Minimum Loan Amount:**

Plan elects to have a minimum loan amount of:

- \$1,000  
 Other - Specify minimum loan amount: \$\_\_\_\_\_ (not to be less than \$500)

**Current Nationwide Policy:** The minimum loan amount is \$1,000.

**4. Repayment Method:**

Plan elects to provide participants with one of the following loan repayment methods:

- Monthly Automated Clearing House ("ACH")  
 Payroll Deduction (Plan Sponsor will be required to provide a payroll calendar.)

(This repayment method is limited to Employed status - see Section 1)

**Current Nationwide Policy:** Monthly ACH is the repayment method.

**5. Cure Period:**

If a participant misses a scheduled loan repayment, the missed repayment must be received by the end of the specified cure period. Plan elects to apply a cure period with the following length:

- 31 Days  
 62 Days  
 93 Days  
 Calendar quarter following the calendar quarter in which the scheduled repayment was missed

**Current Nationwide Policy:** The cure period is 31 days when ACH is the elected repayment method. The cure period is Calendar quarter following the calendar quarter in which the scheduled repayment was missed when the repayment method elected is Payroll Deduction.

**6. Loan Interest Rate:**

Plan elects the following interest rate for participant loans:

- Prime Rate plus 2% plus applicable fees  
 Prime Rate plus 1% plus applicable fees  
 Prime Rate plus \_\_\_\_\_% (not to be lower than 0%) plus applicable fees

**Current Nationwide Policy:** Prime Rate plus 2% plus applicable fees

**7. Loans for the Purchase of a Principal Residence:**

a. Plan elects to permit loans for the purchase of the participant's principal residence:

- Yes  
 No

In the event Plan elects to allow Principal Residence loans, only one Principal Residence loan outstanding at a time is permitted. The Principal Residence loan is included in the maximum number of outstanding loans (See Section 2 of the Plan Loan Program). Additionally, the participant will be required to sign a Principal Residence Certificate and provide Nationwide with sufficient additional documents to support the purchase of a principal residence. Internet initiation is not available for Principal Residence loans.

**Current Nationwide Policy:** Principal Residence loans are not allowed

b. Minimum Loan term: Plan elects to have a minimum loan term for Principal Residence loans of:

- Five years  
 Other - Specify minimum loan term: \_\_\_\_\_ (not to be less than one year)

**Current Nationwide Policy:** Principal Residence loans have a minimum term of five years.

c. Maximum Loan Term: Plan elects to have a maximum loan term for Principal Residence loans of:

- 15 years  
 Other - Specify maximum loan term: \_\_\_\_\_ (not to exceed a term of 30 years)

**Current Nationwide Policy:** Principal Residence loans have a maximum term of 15 years.

**8. Internet Utilization:**

Plan elects to allow participants to use Internet for:

- Only the modeling of loans  
 Both modeling and initiation of loans  
 Plan declines the use of the Internet for either the modeling or initiation of loans

**Current Nationwide Policy:** Participants can use the Internet for modeling and initiation of loans. Loan initiation on the Internet is limited to General Purpose loans. Principal Residence loans will not be initiated electronically.

**CERTIFICATE OF ADOPTING RESOLUTION**

The undersigned authorized representative of County of Nassau, FL (the Employer) hereby certifies that the following resolution was duly adopted by Employer on July 10, 2023, and that such resolution has not been modified or rescinded as of the date hereof:

RESOLVED, the Amendment to the Nassau County Board of County Commissioners 457(b) Deferred Compensation Plan for the CARES Act (the Amendment) is hereby approved and adopted and that an authorized representative of the Employer is hereby authorized and directed to execute and deliver to the Plan Administrator the Amendment and to take any and all actions as it may deem necessary to effectuate this resolution.

The undersigned further certifies that attached hereto is a copy of the Amendment approved and adopted in the foregoing resolution.

Date: July 10, 2023

Signed: 

Klynt A. Farmer, Chairman, Nassau County BOCC

[print name/title]

**AMENDMENT FOR CARES ACT****ARTICLE 1  
PREAMBLE; DEFINITIONS**

- 1.1 **Adoption of Amendment.** The Employer adopts this Amendment to implement provisions of the Act which affect the Plan. All references to the Plan include the Plan's loan program, policy, or procedure to the extent applicable.
- 1.2 **Superseding of inconsistent provisions.** This Amendment supersedes the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Amendment.
- 1.3 **Construction.** Except as otherwise provided in this Amendment, any Article or Section reference in this Amendment refers only to this Amendment and is not a reference to the Plan. The Article and Section numbering in this Amendment is solely for purposes of this Amendment and does not relate to the Plan article, section, or other numbering designations.
- 1.4 **Effect of restatement of Plan.** If the Employer restates the Plan then this Amendment shall remain in effect after such restatement unless the provisions in this Amendment are restated or otherwise become obsolete (e.g., if the Plan is restated onto a plan document which incorporates these provisions).
- 1.5 **Definitions.** Except as otherwise provided in this Amendment, terms defined in the Plan will have the same meaning in this Amendment. The following definitions apply specifically to this Amendment:
- A. The "**Act**" is the Coronavirus Aid, Relief, and Economic Security Act, also known as the CARES Act. This Amendment shall be interpreted and applied to comply with the Act.
- B. A "**Qualified Individual**" means any individual who meets one or more of the criteria described in paragraphs (1), (2), (3), or (4). Participants, alternate payees and beneficiaries of deceased participants can be treated as Qualified Individuals. The Plan Administrator may rely on an individual's certification that the individual satisfies a condition to be a Qualified Individual unless the Plan Administrator has actual knowledge to the contrary. In applying the criteria, "COVID-19" means either the virus SARS-CoV-2 or coronavirus disease 2019; "an approved test" means a test approved by the Centers for Disease Control and Prevention (including a test authorized under the Federal Food, Drug, and Cosmetic Act); and a "member of the individual's household" means someone who shares the individual's principal residence. The criteria are as follows:
- (1) The individual was diagnosed with COVID-19 by an approved test;
  - (2) The individual's spouse or dependent (as defined in Code §152) was diagnosed with COVID-19 by an approved test;
  - (3) The individual has experienced adverse financial consequences because: (a) the individual or the individual's spouse, or a member of the individual's household was quarantined, furloughed or laid off, or had work hours reduced due to COVID-19; (b) the individual, the individual's spouse, or a member of the individual's household was unable to work due to lack of childcare due to COVID-19; (c) A business owned or operated by the individual, the individual's spouse, or a member of the individual's household closed or reduced hours due to COVID-19; or (d) the individual, the individual's spouse, or a member of the individual's household had a reduction in pay (or self-employment income) due to COVID-19 or had a job offer rescinded or start date for a job delayed due to COVID-19; or
  - (4) The individual satisfies any other criteria determined by the Treasury or the IRS.

**ARTICLE 2**



**IDENTIFYING INFORMATION; EMPLOYER ELECTIONS**

2.1 **Reserved.**

2.2 **Employer identifying information.**

A. Name of Employer: County of Nassau, FL

B. Name of Plan: Nassau County Board of County Commissioners 457(b) Deferred Compensation Plan

C. Type of Plan (check one)

- (1)  401(k) Plan
- (2)  Profit-Sharing Plan (other than a 401(k) plan)
- (3)  Money Purchase Pension Plan
- (4)  Defined Benefit Plan (including a cash balance plan)
- (5)  403(b) Plan
- (6)  457(b) Plan sponsored by a governmental employer

2.3 **Relief for Qualified Individuals.** Will the Plan provide any or all of the following relief for Qualified Individuals: (1) Coronavirus-Related Distributions described in Article 3, (2) increased loan limits described in Section 4.2, (3) the loan repayment extension described in Section 4.3. *(Select one of (a), (b), or (c). If (c) is selected, then select one or more of (d), (e), and/or (f))*

- (a)  **No.** The Plan will not provide any of these relief provisions.
- (b)  **Yes.** The Plan will provide all of these relief provisions. The limitations on distributions described in Sections 2.3(d)(1) – (4) and the limitations on loans in Section 2.3(c)(1) – (3) and 2.3(f)(1)–(3) do not apply.
- (c)  **Some.** The Plan will provide those relief provisions selected in (d), (e), or (f) below.
- (d)  **The Coronavirus-Related Distribution provisions described in Article 3** *(If (d) is selected, the Employer may optionally select one or more of (1), (2), (3), (4), or (5).)*
  - (1)  Coronavirus-Related Distributions are not available from an account in which the Participant is not 100% vested.
  - (2)  Coronavirus-Related Distributions may be made only from the following accounts: \_\_\_\_\_
  - (3)  The maximum amount of Coronavirus-Related Distributions from the Plan to a Qualified Individual will not exceed: \$ \_\_\_\_\_. *(Enter amount less than \$100,000.)*
  - (4)  The following additional provisions apply to Coronavirus-Related Distributions: \_\_\_\_\_  
*(Enter limitations or restrictions which are nondiscriminatory and not subject to Employer discretion.)*
- (e)  **The increased loan limit described in Section 4.2** *(If (e) is selected, the Employer may optionally select any one or more of (1), (2), or (3).)*
  - (1)  The maximum dollar amount of loans pursuant to Section 4.2 will not exceed: \$ \_\_\_\_\_. *(Enter amount less than \$100,000.)*
  - (2)  The maximum percentage of the present value of the nonforfeitable accrued benefit that may be loaned pursuant to Section 4.2 will not exceed: \_\_\_\_\_%. *(Enter percentage less than 100%.)*
  - (3)  The following additional provisions apply to the increased loan limit: \_\_\_\_\_  
*(Enter limitations or restrictions which are nondiscriminatory.)*
- (f)  **The loan repayment extension described in Section 4.3** *(If (f) is selected, the Employer may optionally select and one or more of (1), (2), or (3).)*
  - (1)  The Suspension Period will begin \_\_\_\_\_ *(Enter date not before March 27, 2020)* and end \_\_\_\_\_. *(Enter date not later than December 31, 2020.)*
  - (2)  The Extension Period will be \_\_\_\_\_. *(Enter period, up to one year, the due date of the loan will be extended, such as "six months.")*

- (3)  The following additional provisions apply to the loan repayment extension:

*(Enter limitations or restrictions which are nondiscriminatory.)*

- 2.4 **RMD waivers for 2020.** Unless the Employer elects otherwise below, the provisions of Section 5.2 apply and a Participant or Beneficiary who would have been required to receive a 2020 RMD or Extended 2020 RMD will receive the distribution unless the Participant or Beneficiary chooses not to receive the distribution.
- (a)  The provisions of Section 5.2 apply and a Participant or Beneficiary who would have been required to receive a 2020 RMD or Extended 2020 RMD will not receive the distribution unless the Participant or Beneficiary chooses to receive the distribution.
- (b)  Payment of RMDs or Extended 2020 RMDs will be governed by the terms of the Plan without regard to this Amendment (i.e., no election is available to Participants or Beneficiaries).
- (c)  Other: \_\_\_\_\_

For purposes of Section 5.3, the Plan will also treat the following as eligible rollover distributions in 2020: *(Choose one or none of (d), (e), or (f)): If no election is made, then a direct rollover will be offered only for distributions that would be eligible rollover distributions without regard to Code §401(a)(9)(I):*

- (d)  2020 RMDs.
- (e)  2020 RMDs and Extended 2020 RMDs.
- (f)  2020 RMDs but only if paid with an additional amount that is an eligible rollover distribution without regard to Code §401(a)(9)(I).

The provisions of Article 5, and the election in this Section 2.4, will be effective on the date specified in Section 2.5, unless a different date is entered here: \_\_\_\_\_ *(Optional. Enter a date between March 27, 2020 and December 31, 2020. RMD distributions before the selected effective date should have followed plan terms in effect before this amendment.)*

- 2.5 **Effective Date.** This Amendment is effective March 27, 2020, or as soon as practical thereafter, or, if later, the following date: \_\_\_\_\_. *(Optional. Enter a date not later than December 31, 2020.)*

### ARTICLE 3 CORONAVIRUS-RELATED DISTRIBUTIONS

- 3.1 **Application.** This Article 3 will apply if Section 2.3(b) or Section 2.3(d) is selected.
- 3.2 **Coronavirus-Related Distribution(s).** Subject to the provisions described in Section 2.3(d)(4), if any, a Qualified Individual may take one or more Coronavirus-Related Distributions. The accounts from which the amount may be distributed shall be limited if selected in Sections 2.3(d)(1) and (2). However, if the Plan is a Money Purchase Pension Plan or a Defined Benefit Plan, and the Qualified Individual has not separated from service, the Qualified Individual may not take a Coronavirus-Related Distribution prior to attaining the earlier of Normal Retirement Age or age 59½. The provisions of this Section will apply notwithstanding any limitation in the Plan on partial distributions or any otherwise applicable plan or administrative limits on the number of allowable distributions.
- 3.3 **Repayment of distribution.** If the Plan permits rollover contributions, then a Participant who receives a Coronavirus-Related Distribution (from this Plan and/or another eligible retirement plan as defined in Code §402(c)(8)(B)), at any time during the 3-year period beginning on the day after receipt of the distribution, may make one or more contributions to the Plan, as rollover contributions, in an aggregate amount not to exceed the amount of such distribution.
- 3.4 **Definition of Coronavirus-Related Distribution.** A "Coronavirus-Related Distribution" means a distribution to a Qualified Individual during the period beginning January 1, 2020 and ending December 30, 2020. The total amount of Coronavirus-Related Distributions to a Qualified Individual pursuant to this Amendment from all plans maintained by the Employer, or any related employer described in Code §414(b), (c), (m), or (o), shall not exceed \$100,000, (or such lesser amount specified in Section 2.3(d)(3)). The

Coronavirus-Related Distributions from the Plan to a Qualified Individual will not exceed the amount of the individual's vested account balance or the present value of the individual's vested accrued benefit.

#### **ARTICLE 4 PARTICIPANT LOAN RELIEF**

- 4.1 **Application.** This Article 4 will apply only if the Plan permits participant loans. Section 4.2 will apply if Section 2.3(b) or Section 2.3(e) is selected. Section 4.3 will apply if Section 2.3(b) or Section 2.3(f) is selected.
- 4.2 **Increased loan limit.** Notwithstanding the loan limitation that otherwise would apply, the Plan will determine the loan limit under Code §72(p)(2)(A) for a loan to a Qualified Individual, made during the period beginning March 27, 2020 and ending September 22, 2020, by substituting "\$100,000" (or such lesser amount specified in Section 2.3(e)(1)) for "\$50,000," and by substituting "100% (or such lesser percentage specified in Section 2.3(e)(2)) of the present value of the nonforfeitable accrued benefit of the employee under the Plan" for "one-half of the present value of the nonforfeitable accrued benefit of the employee under the Plan" (or its equivalent). The provisions described in Section 2.3(e)(3), if any, will apply in connection with loans to Qualified Individuals.
- 4.3 **Extension of certain repayments.** If a Qualified Individual has an outstanding loan from the Plan on or after March 27, 2020, then: (1) if the date for any repayment of such loan occurs during the Suspension Period, the due date is extended for the Extension Period; (2) the due date of the loan will be extended by the Extension Period; (3) the Plan will adjust any subsequent repayments to reflect the extension of the due date and any interest accrued during the Suspension Period; and (4) the Plan will disregard the Extension Period in determining the 5-year period and the loan term under Code §72(p)(2)(B) or (C). The provisions described in Section 2.3(f)(3), if any, will apply in connection with the suspension and extension described in this Section. The Suspension Period, unless otherwise specified in Section 2.3(f)(1), will begin March 27, 2020 and end December 31, 2020. The Extension Period, unless otherwise specified in Section 2.3(f)(2) will be one year. The provisions of this Section 4.3 will be applied in accordance with Section 5.B. of Notice 2050-50, or any subsequent applicable guidance, and the adjustment described in (3) may reflect the "safe harbor" described therein.

#### **ARTICLE 5 WAIVER OF 2020 REQUIRED MINIMUM DISTRIBUTIONS (RMDs)**

- 5.1 **Application.** This Article 5 will apply only to defined contribution plans, including 401(k) Plans, Profit-Sharing Plans, Money Purchase Pension Plans, 403(b) Plans, and 457(b) Plans sponsored by governmental employers. The definitions in Section 5.4 will apply in interpreting Section 2.4.
- 5.2 **Waiver; default provision.** This Section 5.2 will apply unless the Employer has selected Section 2.4(b) or (c). Notwithstanding the provisions of the Plan relating to RMDs, whether a Participant or Beneficiary who would have been required to receive 2020 RMDs, and who would have satisfied that requirement by receiving distributions that are (1) equal to the 2020 RMDs, or (2) Extended 2020 RMDs will receive those distributions is determined in accordance with the option chosen by the Employer in Section 2.4. Notwithstanding the option chosen by the employer in Section 2.4, a Participant or Beneficiary will be given an opportunity to make an election as to whether or not to receive those distributions. If the Plan permits a Beneficiary of a deceased Participant to make the election to use the 5-year rule or the life expectancy rule, the deadline to make the election shall be extended to reflect the adoption of Code §401(a)(9)(I).
- 5.3 **Direct rollovers.** Notwithstanding the provisions of the Plan relating to required minimum distributions under Code §401(a)(9), and solely for purposes of applying the direct rollover provisions of the Plan, certain additional distributions in 2020, as elected by the Employer in Section 2.4, will be treated as eligible rollover distributions. If no election is made by the Employer in Section 2.4, then a direct rollover will be

offered only for distributions that would be eligible rollover distributions without regard to Code §401(a)(9)(I).

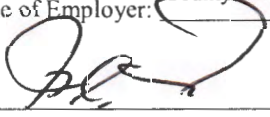
- 5.4 **Definitions. "RMDs"** means required minimum distributions described in Code §401(a)(9). **"2020 RMDs"** means required minimum distributions the Plan would have been required to distribute in 2020 (or permitted to pay in 2021 for the 2020 calendar year for a Participant with a required beginning date of April 1, 2021) but for the enactment of Code §401(a)(9)(I). **"Extended 2020 RMDs"** means one or more payments in a series of substantially equal distributions (that include the 2020 RMDs) made at least annually and expected to last for the life (or life expectancy) of the Participant, the joint lives (or joint life expectancy) of the Participant and the Participant's designated Beneficiary, or for a period of at least 10 years.
- 5.5 **Installment payments.** A Participant or Beneficiary receiving payment of 2020 RMDs or 2020 Extended RMDs pursuant to this Article 5 may receive them in any method (including installments or partial distributions) which would have been permitted under the terms of the Plan if the amounts would have been RMDs but for the enactment of Code §401(a)(9)(I).

\* \* \* \* \*

This Amendment has been executed this 10th day of July, 2023.

Name of Plan: Nassau County Board of County Commissioners 457(b) Deferred Compensation Plan

Name of Employer: County of Nassau, FL

By: 

EMPLOYER

Klynt A. Farmer  
Chairman, Nassau County BOCC

**NASSAU COUNTY BOARD OF COUNTY COMMISSIONERS  
457(B) DEFERRED COMPENSATION PLAN**

**TABLE OF CONTENTS**

**ARTICLE I, DEFINITIONS**

1.01 Account..... 1  
 1.02 Accounting Date ..... 1  
 1.03 Beneficiary..... 1  
 1.04 Code..... 1  
 1.05 Compensation ..... 1  
 1.06 Deferral Contributions ..... 2  
 1.07 Deferred Compensation ..... 3  
 1.08 Effective Date ..... 3  
 1.09 Elective Deferrals ..... 3  
 1.10 Employee ..... 3  
 1.11 Employer ..... 3  
 1.12 Employer Contribution ..... 3  
 1.13 ERISA ..... 3  
 1.14 Excess Deferrals ..... 3  
 1.15 Includible Compensation ..... 3  
 1.16 Independent Contractor ..... 3  
 1.17 Leased Employee ..... 3  
 1.18 Matching Contribution ..... 3  
 1.19 Nonelective Contribution ..... 3  
 1.20 Normal Retirement Age ..... 3  
 1.21 Participant ..... 3  
 1.22 Plan ..... 3  
 1.23 Plan Administrator ..... 3  
 1.24 Plan Entry Date ..... 3  
 1.25 Plan Year ..... 3  
 1.26 Pre-Tax Elective Deferrals ..... 3  
 1.27 Rollover Contribution ..... 3  
 1.28 Roth Elective Deferrals ..... 3  
 1.29 Salary Reduction Agreement ..... 3  
 1.30 Salary Reduction Contribution ..... 4  
 1.31 Service ..... 4  
 1.32 State ..... 4  
 1.33 Substantial Risk of Forfeiture ..... 4  
 1.34 Tax-Exempt Organization ..... 4  
 1.35 Taxable Year ..... 4  
 1.36 Transfer ..... 4  
 1.37 Trust ..... 4  
 1.38 Trustee ..... 4  
 1.39 Type of 457 Plan ..... 4  
 1.40 Vested ..... 5

**ARTICLE II, ELIGIBILITY AND PARTICIPATION**

2.01 Eligibility ..... 6  
 2.02 Participation upon Re-Employment ..... 6  
 2.03 Change in Employment Status ..... 6

**ARTICLE III, DEFERRAL CONTRIBUTIONS/LIMITATIONS**

3.01 Amount ..... 7  
 3.02 Salary Reduction Contributions ..... 7  
 3.03 Matching Contributions ..... 7  
 3.04 Normal Limitation ..... 7  
 3.05 Normal Retirement Age Catch-Up Contribution ..... 7  
 3.06 Age 50 Catch-Up Contribution ..... 8  
 3.07 Contribution Allocation ..... 8  
 3.08 Allocation Conditions ..... 8  
 3.09 Rollover Contributions ..... 8  
 3.10 Distribution of Excess Deferrals ..... 9  
 3.11 Deemed IRA Contributions ..... 9  
 3.12 Roth Elective Deferrals ..... 9  
 3.13 Benefit Accrual ..... 10  
 3.14 Eligible Automatic Contribution Arrangement

(EACA) ..... 10  
 3.15 In-Plan Roth Rollover Contribution ..... 11

**ARTICLE IV, TIME AND METHOD OF PAYMENT OF BENEFITS**

4.01 Distribution Restrictions ..... 13  
 4.02 Time and Method of Payment of Account ..... 13  
 4.03 Required Minimum Distributions ..... 13  
 4.04 Death Benefits ..... 15  
 4.05 Distributions Prior to Severance from Employment ..... 15  
 4.06 Distributions Under Qualified Domestic Relations Orders (QDROs) ..... 15  
 4.07 Direct Rollover of Eligible Rollover Distributions – Governmental Plan ..... 16  
 4.08 Election to Deduct from Distribution ..... 17

**ARTICLE V, PLAN ADMINISTRATOR - DUTIES WITH RESPECT TO PARTICIPANTS' ACCOUNTS**

5.01 Term/Vacancy ..... 18  
 5.02 Powers and Duties ..... 18  
 5.03 Compensation ..... 18  
 5.04 Authorized Representative ..... 18  
 5.05 Individual Accounts/Records ..... 18  
 5.06 Value of Participant's Account ..... 18  
 5.07 Account Administration, Valuation and Expenses ..... 18  
 5.08 Account Charged ..... 20  
 5.09 Ownership of Fund/Tax-Exempt Organization ..... 20  
 5.10 Participant Direction of Investment ..... 20  
 5.11 Vesting/Substantial Risk of Forfeiture ..... 20  
 5.12 Preservation of Eligible Plan Status ..... 21  
 5.13 Limited Liability ..... 21  
 5.14 Lost Participants ..... 21  
 5.15 Plan Correction ..... 21

**ARTICLE VI, PARTICIPANT ADMINISTRATIVE PROVISIONS**

6.01 Beneficiary Designation ..... 22  
 6.02 No Beneficiary Designation ..... 22  
 6.03 Salary Reduction Agreement ..... 22  
 6.04 Personal Data to Plan Administrator ..... 22  
 6.05 Address for Notification ..... 22  
 6.06 Participant or Beneficiary Incapacitated ..... 22

**ARTICLE VII, MISCELLANEOUS**

7.01 No Assignment or Alienation ..... 23  
 7.02 Effect on Other Plans ..... 23  
 7.03 Word Usage ..... 23  
 7.04 State Law ..... 23  
 7.05 Employment Not Guaranteed ..... 23  
 7.06 Notice, Designation, Election, Consent and Waiver ..... 23

**ARTICLE VIII, TRUST PROVISIONS—GOVERNMENTAL ELIGIBLE 457 PLAN**

8.01 Governmental Eligible 457 Plan ..... 24  
 8.02 Acceptance/Holding ..... 24  
 8.03 Receipt of Contributions ..... 24  
 8.04 Full Investment Powers ..... 24  
 8.05 Records and Statements ..... 25  
 8.06 Fees and Expenses from Fund ..... 25  
 8.07 Professional Agents ..... 25  
 8.08 Distribution of Cash or Property ..... 25  
 8.09 Resignation and Removal ..... 25  
 8.10 Successor Trustee ..... 25  
 8.11 Valuation of Trust ..... 25

**Eligible 457 Plan**

8.12 Participant Direction of Investment ..... 25  
8.13 Third Party Reliance ..... 25  
8.14 Invalidity of Any Trust Provision ..... 25  
8.15 Exclusive Benefit ..... 25  
8.16 Substitution of Custodial Account or Annuity  
Contract ..... 26  
8.17 Group Trust Authority ..... 26

**ARTICLE IX, AMENDMENT, TERMINATION,  
TRANSFERS**

9.01 Amendment by Employer/Sponsor ..... 27  
9.02 Termination/Freezing of Plan ..... 27  
9.03 Transfers ..... 27  
9.04 Purchase of Permissive Service Credit ..... 27

## ARTICLE I DEFINITIONS

1.01 "**Account**" means the separate Account(s) which the Plan Administrator or the Trustee maintains under the Plan for a Participant's Deferred Compensation. The Plan Administrator or Trustee may establish separate Accounts for multiple Beneficiaries of a Participant to facilitate required minimum distributions under Section 4.03 based on each Beneficiary's life expectancy.

1.02 "**Accounting Date**" means the last day of the Plan Year. The Plan Administrator will allocate Employer contributions and forfeitures for a particular Plan Year as of the Accounting Date of that Plan Year, and on such other dates, if any, as the Plan Administrator determines, consistent with the Plan's allocation conditions and other provisions.

1.03 "**Beneficiary**" means a person who the Plan or a Participant designates and who is or may become entitled to a Participant's Account upon the Participant's death. A Beneficiary who becomes entitled to a benefit under the Plan remains a Beneficiary under the Plan until the Plan Administrator or Trustee has fully distributed to the Beneficiary his or her Plan benefit. A Beneficiary's right to (and the Plan Administrator's or a Trustee's duty to provide to the Beneficiary) information or data concerning the Plan does not arise until the Beneficiary first becomes entitled to receive a benefit under the Plan.

1.04 "**Code**" means the Internal Revenue Code of 1986, as amended.

### 1.05 "Compensation"

**(A) Uses and Context.** Any reference in the Plan to Compensation is a reference to the definition in this Section 1.05, unless the Plan reference, or the Employer in the Adoption Agreement, modifies this definition. Except as the Plan otherwise specifically provides, the Plan Administrator will take into account only Compensation actually paid during (or as permitted under the Code, paid for) the relevant period. A Compensation payment includes Compensation paid by the Employer through another person under the common paymaster provisions in Code §§3121 and 3306. In the case of an Independent Contractor, Compensation means the amounts the Employer pays to the Independent Contractor for services, except as the Employer otherwise specifies in the Adoption Agreement. The Employer in the Adoption Agreement may elect to allocate contributions based on a Compensation within specified 12 month period which ends within a Plan Year.

**(B) Base Definitions and Modifications.** The Employer in the Adoption Agreement must elect one of the following base definitions of Compensation: W-2 Wages, Code §3401(a) Wages, or 415 Compensation. The Employer may elect a different base definition as to different Contribution Types. The Employer in the Adoption Agreement may specify any modifications thereto, for purposes of contribution allocations under Article III. If the Employer fails to elect one of the above-referenced definitions, the Employer is deemed to have elected the W-2 Wages definition.

**(1) W-2 Wages.** W-2 Wages means wages for federal income tax withholding purposes, as defined under Code §3401(a), plus all other payments to an Employee in the course of the Employer's trade or business, for which the Employer must furnish the Employee a written statement under Code §§6041, 6051, and 6052, but determined without regard to any rules that limit the remuneration included in wages based on the

nature or location of the employment or services performed (such as the exception for agricultural labor in Code §3401(a)(2)).

**(2) Code §3401(a) Wages (income tax wage withholding).** Code §3401(a) Wages means wages within the meaning of Code §3401(a) for the purposes of income tax withholding at the source, but determined without regard to any rules that limit the remuneration included in wages based on the nature or the location of the employment or the services performed (such as the exception for agricultural labor in Code §3401(a)(2)).

**(3) Code §415 Compensation (current income definition/simplified compensation under Treas. Reg. §1.415(c)-2(d)(2)).** Code §415 Compensation means the Employee's wages, salaries, fees for professional service and other amounts received (without regard to whether or not an amount is paid in cash) for personal services actually rendered in the course of employment with the Employer maintaining the Plan to the extent that the amounts are includible in gross income (including, but not limited to, commissions paid salespersons, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips, bonuses, fringe benefits and reimbursements or other expense allowances under a nonaccountable plan as described in Treas. Reg. §1.62-2(c)).

Code §415 Compensation does not include:

**(a) Deferred compensation/SEP/SIMPLE.** Employer contributions (other than Elective Deferrals) to a plan of deferred compensation (including a simplified employee pension plan under Code §408(k) or to a simple retirement account under Code §408(p)) to the extent the contributions are not included in the gross income of the Employee for the Taxable Year in which contributed, and any distributions from a plan of deferred compensation (whether or not qualified), regardless of whether such amounts are includible in the gross income of the Employee when distributed.

**(b) Option exercise.** Amounts realized from the exercise of a non-qualified stock option (an option other than a statutory option under Treas. Reg. §1.421-1(b)), or when restricted stock or other property held by an Employee either becomes freely transferable or is no longer subject to a substantial risk of forfeiture under Code §83.

**(c) Sale of option stock.** Amounts realized from the sale, exchange or other disposition of stock acquired under a statutory stock option as defined under Treas. Reg. §1.421-1(b).

**(d) Other amounts that receive special tax benefits.** Other amounts that receive special tax benefits, such as premiums for group term life insurance (but only to the extent that the premiums are not includible in the gross income of the Employee and are not salary reduction amounts under Code §125).

**(e) Other similar items.** Other items of remuneration which are similar to any of the items in Sections 1.11(B)(3)(a) through (d).



## Eligible 457 Plan

**(4) Alternative (general) 415 Compensation.** Under this definition, Compensation means as defined in Section 1.05(B)(3) but with the addition of: (a) amounts described in Code §§ 104(a)(3), 105(a), or 105(h) but only to the extent that these amounts are includible in Employee's gross income; (b) amounts paid or reimbursed by the Employer for moving expenses incurred by the Employee, but only to the extent that at the time of payment it is reasonable to believe these amounts are not deductible by the Employee under Code § 217; (c) the value of a nonstatutory option (an option other than a statutory option under Treas. Reg. § 1.421-1(b)) granted by the Employer to the an Employee, but only to the extent that the value of the option is includible in the Employee's gross income for the Taxable Year of the grant; (d) the amount includible in the Employee's gross income upon the Employee's making of an election under Code § 83(b); and (e) amounts that are includible in the Employee's gross income under Code § 409A or Code § 457(f)(1)(A) or because the amounts are constructively received by the Participant. [Note if the Plan's definition of Compensation is W-2 Wages or Code § 3401(a) Wages, then Compensation already includes the amounts described in clause (e).]

**(C) Deemed 125 Compensation.** Deemed 125 Compensation means, in the case of any definition of Compensation which includes a reference to Code § 125, amounts under a Code § 125 plan of the Employer that are not available to a Participant in cash in lieu of group health coverage, because the Participant is unable to certify that he/she has other health coverage.

**(D) Modification to Compensation.** The Employer must specify in the Adoption Agreement the Compensation the Plan Administrator is to take into account in allocating Deferral Contributions to a Participant's Account. For all Plan Years other than the Plan Year in which the Employee first becomes a Participant, the Plan Administrator will take into account only the Compensation determined for the portion of the Plan Year in which the Employee actually is a Participant.

**(E) Elective Contributions.** Compensation under Section 1.05 includes Elective Contributions unless the Employer in the Adoption Agreement elects to exclude Elective Contributions. "Elective Contributions" are amounts excludible from the Employee's gross income under Code §§ 125, 132(f)(4), 402(e)(3), 402(h)(1)(B), 403(b), 408(p) or 457, and contributed by the Employer, at the Employee's election, to a cafeteria plan, a qualified transportation fringe benefit plan, a 401(k) arrangement, a SARSEP, a tax-sheltered annuity, a SIMPLE plan or a Code § 457 plan.

**(F) Post-Severance Compensation.** Compensation includes Post-Severance Compensation to the extent the Employer elects in the Adoption Agreement or as the Plan otherwise provides. Post-Severance Compensation is Compensation paid after a Participant's Severance from Employment from the Employer, as further described in this Section 1.05(F). As the Employer elects, Post-Severance Compensation may include any or all of regular pay, leave cash-outs, or deferred compensation paid within the time period described in Section 1.05(F)(1), and may also include salary continuation for disabled Participants, all as defined below. Any other payment paid after Severance from Employment that is not described in this Section 1.05(F) is not Compensation even if payment is made within the time period described below. Post-Severance Compensation does not include severance pay, parachute payments under Code § 280G(b)(2) or payments under a nonqualified unfunded deferred compensation plan unless the payments would have

been paid at that time without regard to Severance from Employment.

**(1) Timing.** Post-Severance Compensation includes regular pay, leave cashouts, or deferred compensation only to the extent the Employer pays such amounts by the later of 2 1/2 months after Severance from Employment or by the end of the Limitation Year that includes the date of such Severance from Employment.

**(a) Regular pay.** Regular pay means the payment of regular Compensation for services during the Participant's regular working hours, or Compensation for services outside the Participant's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments, but only if the payment would have been paid to the Participant prior to a Severance from Employment if the Participant had continued in employment with the Employer.

**(b) Leave cash-outs.** Leave cash-outs means payments for unused accrued bona fide sick, vacation, or other leave, but only if the Employee would have been able to use the leave if employment had continued and if Compensation would have included those amounts if they were paid prior to the Participant's Severance from Employment.

**(c) Deferred compensation.** As used in this Section 1.05(F), deferred compensation means the payment of deferred compensation pursuant to an unfunded deferred compensation plan, if Compensation would have included the Deferred Compensation if it had been paid prior to the Participant's Severance from Employment, but only if the payment would have been paid at the same time if the Participant had continued in employment with the Employer and only to the extent that the payment is includible in the Participant's gross income.

**(2) Salary continuation for disabled Participants.** Salary continuation for disabled Participants means Compensation paid to a Participant who is permanently and totally disabled (as defined in Code § 22(e)(3)).

**(3) Differential Wage Payments.** An individual receiving a Differential Wage Payment, as defined by Code § 3401(h)(2), shall be treated as an employee of the employer making the payment and the Differential Wage Payment shall be treated as compensation for purposes of Code § 457(b) and any other Internal Revenue Code section that references the definition of compensation under Code § 415, including the definition of Includible Compensation as provided in Section 1.15.

**1.06 "Deferral Contributions"** means as the Employer elects on the Adoption Agreement, Salary Reduction Contributions, Nonselective Contributions and Matching Contributions. The Plan Administrator in applying the Code § 457(b) limit will take into account Deferral Contributions in the Taxable Year in which deferred, or if later, in the Taxable Year in which the Deferral Contributions are no longer subject to a Substantial Risk of Forfeiture. The Plan Administrator in determining the amount of a Participant's Deferral Contributions disregards the net income, gain and loss attributable to Deferral Contributions unless the Deferral Contributions are subject to a Substantial Risk of Forfeiture. If a Deferral Contribution is subject to a Substantial Risk of Forfeiture, the Plan Administrator takes into the Deferral Contribution as adjusted for allocable net income, gain or loss in the Taxable Year in which the Substantial Risk of Forfeiture lapses.

**Eligible 457 Plan**

1.07 "**Deferred Compensation**" means as to a Participant the amount of Deferral Contributions, Rollover Contributions and Transfers adjusted for allocable net income, gain or loss, in the Participant's Account.

1.08 "**Effective Date**" of this Plan is the date the Employer specifies in the Adoption Agreement. The Employer in the Adoption Agreement may elect special effective dates for Plan provisions the Employer specifies provided any such date(s) are permitted by the Code, by Treasury regulations, or by other applicable guidance.

1.09 "**Elective Deferrals**" means a contribution the Employer makes to the Plan pursuant to a Participant's Salary Reduction Agreement, as described in Section 3.02. The term "Elective Deferrals" includes Pre-Tax Elective Deferrals and Roth Elective Deferrals.

1.10 "**Employee**" means an individual who provides services for the Employer, as a common law employee of the Employer. The Employer in the Adoption Agreement must elect or specify any Employee, or class of Employees, not eligible to participate in the Plan (an "Excluded Employee"). See Section 1.16 regarding potential treatment of an Independent Contractor as an Employee.

1.11 "**Employer**" means the entity specified in the Adoption Agreement, any successor which shall maintain this Plan; and any predecessor which has maintained this Plan. In addition, where appropriate, the term Employer shall include any Participating Employer.

1.12 "**Employer Contribution**" means Nonelective Contributions or Matching Contributions.

1.13 "**ERISA**" means the Employee Retirement Income Security Act of 1974, as amended.

1.14 "**Excess Deferrals**" means Deferral Contributions to a Governmental Eligible 457 Plan or to a Tax-Exempt Organization Eligible 457 Plan for a Participant that exceed the Taxable Year maximum limitation of Code §§457(b) and (e)(18).

1.15 "**Includible Compensation**" means, for the Employee's Taxable Year, the Employee's total Compensation within the meaning of Code §415(c)(3) paid to an Employee for services rendered to the Employer. Includible Compensation includes Deferral Contributions under the Plan, compensation deferred under any other plan described in Code §457, and any amount excludible from the Employee's gross income under Code §§401(k), 403(b), 125 or 132(f)(4) or any other amount excludible from the Employee's gross income for Federal income tax purposes. The Employer will determine Includible Compensation without regard to community property laws.

1.16 "**Independent Contractor**" means any individual who performs service for the Employer and who the Employer does not treat as an Employee or a Leased Employee. The Employer in the Adoption Agreement may elect to permit Independent Contractors to participate in the Plan. To the extent that the Employer permits Independent Contractor participation, references to Employee in the Plan include Independent Contractors and Compensation means the amounts the Employer pays to the Independent Contractor for services, except as the Employer otherwise specifies in the Adoption Agreement.

1.17 "**Leased Employee**" means an Employee within the meaning of Code §414(n).

1.18 "**Matching Contribution**" means an Employer fixed or discretionary contribution made or forfeiture allocated on account of Salary Reduction Contributions.

1.19 "**Nonelective Contribution**" means an Employer fixed or discretionary contribution not made as a result of a Salary Reduction Agreement and which is not a Matching Contribution.

1.20 "**Normal Retirement Age**" means the age the Employer specifies in the Adoption Agreement consistent with Section 3.05(B).

1.21 "**Participant**" is an Employee other than an Excluded Employee who becomes a Participant in accordance with the provisions of Section 2.01.

1.22 "**Plan**" means the 457 plan established or continued by the Employer in the form of this basic Plan and (if applicable) Trust Agreement, including the Adoption Agreement. The Employer in the Adoption Agreement must designate the name of the Plan. All section references within the Plan are Plan section references unless the context clearly indicates otherwise.

1.23 "**Plan Administrator**" is the Employer unless the Employer designates another person to hold the position of Plan Administrator. The Plan Administrator may be a Participant.

1.24 "**Plan Entry Date**" means the dates the Employer elects in Adoption Agreement.

1.25 "**Plan Year**" means the consecutive 12-month period the Employer elects in the Adoption Agreement.

1.26 "**Pre-Tax Elective Deferrals**" means a Participant's Salary Reduction Contributions which are not includible in the Participant's gross income at the time deferred and have been irrevocably designated as Pre-Tax Elective Deferrals by the Participant in his or her Salary Reduction Agreement. A Participant's Pre-Tax Elective Deferrals will be separately accounted for, as will gains and losses attributable to those Pre-Tax Elective Deferrals.

1.27 "**Rollover Contribution**" means the amount of cash or property which an eligible retirement plan described in Code §402(c)(8)(B) distributes to an eligible Employee or to a Participant in an eligible rollover distribution under Code §402(e)(4) and which the eligible Employee or Participant transfers directly or indirectly to a Governmental Eligible 457 Plan. A Rollover Contribution includes net income, gain or loss attributable to the Rollover Contribution. A Rollover Contribution excludes after-tax Employee contributions, as adjusted for net income, gain or loss.

1.28 "**Roth Elective Deferrals**" means a Participant's Salary Reduction Contributions that are includible in the Participant's gross income at the time deferred and have been irrevocably designated as Roth Elective Deferrals by the Participant in his or her Salary Reduction Agreement. A Participant's Roth Elective Deferrals will be separately accounted for, as will gains and losses attributable to those Roth Elective Deferrals. However, forfeitures may not be allocated to such account. The Plan must also maintain a record of a Participant's investment in the contract (i.e., designated Roth contributions that have not been distributed) and the year in which the Participant first made a Roth Elective Deferral.

1.29 "**Salary Reduction Agreement**" means a written agreement between a Participant and the Employer, by which

**Eligible 457 Plan**

the Employer reduces the Participant's Compensation for Compensation not available as of the date of the election and contributes the amount as a Salary Reduction Contribution to the Participant's Account.

1.30 "**Salary Reduction Contribution**" means a contribution the Employer makes to the Plan pursuant to a Participant's Salary Reduction Agreement.

1.31 "**Service**" means any period of time the Employee is in the employ of the Employer. In the case of an Independent Contractor, Service means any period of time the Independent Contractor performs services for the Employer on an independent contractor basis. An Employee or Independent Contractor terminates Service upon incurring a Severance from Employment.

(A) **Qualified Military Service.** Service includes any qualified military service the Plan must credit for contributions and benefits in order to satisfy the crediting of Service requirements of Code §414(u). A Participant whose employment is interrupted by qualified military service under Code §414(u) or who is on a leave of absence for qualified military service under Code §414(u) may elect to make additional Salary Reduction Contributions upon resumption of employment with the Employer equal to the maximum Deferral Contributions that the Participant could have elected during that period if the Participant's employment with the Employer had continued (at the same level of Compensation) without the interruption of leave, reduced by the Deferral Contributions, if any, actually made for the Participant during the period of the interruption or leave. This right applies for five years following the resumption of employment (or, if sooner, for a period equal to three times the period of the interruption or leave). The Employer shall make appropriate make-up Nonelective Contributions and Matching Contributions for such a Participant as required under Code §414(u). The Plan shall apply limitations of Article III to all Deferral Contributions under this paragraph with respect to the year to which the Deferral Contribution relates.

(B) "**Continuous Service**" as the Adoption Agreement describes means Service with the Employer during which the Employee does not incur a Severance from Employment.

(C) "**Severance from Employment.**"

(1) **Employee.** An Employee has a Severance from Employment when the Employee ceases to be an Employee of the Employer. A Participant does not incur a Severance from Employment if, in connection with a change in employment, the Participant's new employer continues or assumes sponsorship of the Plan or accepts a Transfer of Plan assets as to the Participant.

(2) **Independent Contractor.** An Independent Contractor has a Severance from Employment when the contract(s) under which the Independent Contractor performs services for the Employer expires (or otherwise terminates), unless the Employer anticipates a renewal of the contractual relationship or the Independent Contractor becoming an Employee. The Employer anticipates renewal if it intends to contract for the services provided under the expired contract and neither the Employer nor the Independent Contractor has eliminated the Independent Contractor as a potential provider of such services under the new contract. Further, the Employer intends to contract for services conditioned only upon the Employer's need for the services provided under the expired contract or the Employer's availability of funds. Notwithstanding the preceding provisions of this Section 1.31, the Plan Administrator will consider an Independent Contractor to have incurred a Severance from Employment: (a) if the Plan Administrator or Trustee will not pay any Deferred Compensation to an

Independent Contractor who is a Participant before a date which is at least twelve months after the expiration of the Independent Contractor's contract (or the last to expire of such contracts) to render Services to the Employer; and (b) if before the applicable twelve-month payment date, the Independent Contractor performs Service as an Independent Contractor or as an Employee. The Plan Administrator or Trustee will not pay to the Independent Contractor his or her Deferred Compensation on the applicable date.

(3) **Deemed Severance.** Notwithstanding Section 1.05(F), if the Employer elects in the Adoption Agreement, then if a Participant performs service in the uniformed services (as defined in Code §414(u)(12)(B)) on active duty for a period of more than 30 days, the Participant will be deemed to have a severance from employment solely for purposes of eligibility for distribution of amounts not subject to Code §412. However, the Plan will not distribute such a Participant's Account on account of this deemed severance unless the Participant specifically elects to receive a benefit distribution hereunder. If a Participant elects to receive a distribution on account of this deemed severance, then no Deferral Contributions may be made for the Participant during the 6-month period beginning on the date of the distribution. If a Participant would be entitled to a distribution on account of a deemed severance, and a distribution on account of another Plan provision, then the other Plan provision will control and the 6-month suspension will not apply.

1.32 "**State**" means (a) one of the 50 states of the United States or the District of Columbia, or (b) a political subdivision of a State, or any agency or instrumentality of a State or its political subdivision. A State does not include the federal government or any agency or instrumentality thereof.

1.33 "**Substantial Risk of Forfeiture**" exists if the Plan expressly conditions a Participant's right to Deferred Compensation upon the Participant's future performance of substantial Service for the Employer.

1.34 "**Tax-Exempt Organization**" means any tax-exempt organization other than a governmental unit or a church or qualified church-controlled organization within the meaning of Code §3121(w)(3).

1.35 "**Taxable Year**" means the calendar year or other taxable year of a Participant.

1.36 "**Transfer**" means a transfer of Eligible 457 Plan assets to another Eligible 457 Plan which is not a Rollover Contribution and which is made in accordance with Section 9.03.

1.37 "**Trust**" means the Trust created under the adopting Employer's Plan. A Trust required under a Governmental Eligible 457 Plan is subject to Article VIII. Any Trust under a Tax-Exempt Organization Eligible 457 Plan is subject to Section 5.09.

1.38 "**Trustee**" means the person or persons who as Trustee execute the Employer's Adoption Agreement, or any successor in office who in writing accepts the position of Trustee.

1.39 **Type of 457 Plan.** This Plan is an Eligible 457 Plan, which is a plan which satisfies the requirements of Code §457(b) and Treas. Reg. §§1.457-3 through -10. The Employer in the Adoption Agreement must specify whether the plan is either a Governmental Eligible 457 Plan or a Tax-Exempt Organization Eligible 457 Plan, as defined below:

**Eligible 457 Plan**

**(A) "Governmental Eligible 457 Plan"** means an Eligible 457 Plan established by a State.

**(B) "Tax-Exempt Organization Eligible 457 Plan"** means an Eligible 457 Plan established by a Tax-Exempt Organization.

1.40 **"Vested"** means a Participant's Deferral Contributions that are not subject to a Substantial Risk of Forfeiture, including a vesting schedule.

## ARTICLE II ELIGIBILITY AND PARTICIPATION

2.01 ELIGIBILITY. Each Employee who is not an Excluded Employee becomes a Participant in the Plan in accordance with the eligibility conditions and as of the Plan Entry Date the Employer elects in the Adoption Agreement. If this Plan is a restated Plan, each Employee who was a Participant in the Plan on the day before the Effective Date continues as a Participant in the Plan, irrespective of whether he/she satisfies the eligibility conditions in the restated Plan, unless the Employer indicates otherwise in the Adoption Agreement.

2.02 PARTICIPATION UPON RE-EMPLOYMENT. A Participant who incurs a Severance from Employment will re-enter the Plan as a Participant on the date of his or her re-employment. An Employee who satisfies the Plan's eligibility conditions but who incurs a Severance from Employment prior to becoming a Participant will become a Participant on the later of the Plan Entry Date on which he/she would have entered the Plan had he/she not incurred a Severance from Employment or the date of his or her re-employment. Any Employee who incurs a Severance from Employment prior to satisfying the Plan's eligibility conditions becomes a Participant in accordance with the Adoption Agreement.

2.03 CHANGE IN EMPLOYMENT STATUS. If a Participant has not incurred a Severance from Employment but ceases to be eligible to participate in the Plan, by reason of becoming an Excluded Employee, the Plan Administrator must treat the Participant as an Excluded Employee during the period such a Participant is subject to the Adoption Agreement exclusion. The Plan Administrator determines a Participant's sharing in the allocation of Employer Contributions by disregarding his or her Compensation paid by the Employer for services rendered in his or her capacity as an Excluded Employee. However, during such period of exclusion, the Participant, without regard to employment classification, continues to share fully in Plan income allocations under Section 5.07 and to accrue vesting service if applicable.

### ARTICLE III DEFERRAL CONTRIBUTIONS/LIMITATIONS

#### 3.01 AMOUNT.

**(A) Contribution Formula.** For each Plan Year, or other period the Employer specifies in the Adoption Agreement, the Employer will contribute to the Plan the type and amount of Deferral Contributions the Employer elects in the Adoption Agreement.

**(B) Return of Contributions.** The Employer contributes to this Plan on the condition its contribution is not due to a mistake of fact. If the Plan has a Trust, the Trustee, upon written request from the Employer, must return to the Employer the amount of the Employer's contribution (adjusted for net income, gain or loss) made by the Employer on account of a mistake of fact. The Trustee will not return any portion of the Employer's contribution under the provisions of this paragraph more than one year after the Employer made the contribution on account of a mistake of fact. In addition, if any Participant Salary Reduction Contribution is due to a mistake of fact, the Employer or the Trustee upon written request from the Employer shall return the Participant's contribution (adjusted for net income, gain or loss), within one year after payment of the contribution.

The Trustee will decrease the Employer contribution returnable for any losses attributable to it. The Trustee may require the Employer to furnish it whatever evidence the Trustee deems necessary to enable the Trustee to confirm the amount the Employer has requested be returned is properly returnable.

**(C) Time of Payment of Contribution.** If the Plan has a Trust, the Employer may pay its contributions for each Plan Year to the Trust in one or more installments and at such time(s) as the Employer determines, without interest. A Governmental Employer shall deposit Salary Reduction Contributions to the Trust within a period that is not longer than is reasonable for the administration of Participant Accounts.

**3.02 SALARY REDUCTION CONTRIBUTIONS.** The Employer in the Adoption Agreement must elect whether the Plan permits Salary Reduction Contributions, and also the Plan limitations, if any, which apply to Salary Reduction Contributions. Unless the Employer elects otherwise in the Adoption Agreement, all such limitations apply on a payroll basis.

**(A) Deferral from Sick, Vacation and Back Pay.** The Employer in the Adoption Agreement must elect whether to permit Participants to make Salary Reduction Contributions from accumulated sick pay, from accumulated vacation pay or from back pay.

**(B) Automatic Enrollment.** The Employer in the Adoption Agreement may provide for automatic Salary Reduction Contributions of a specified amount, subject to giving notice to affected Participants of the automatic election and of their right to make a contrary election.

A Governmental Employer under an Eligible 457 Plan may elect to provide an Eligible Automatic Contribution Arrangement ("EACA"). If the Employer elects to provide an EACA, the Employer will amend the Plan to add necessary language.

**(C) Application to Leave of Absence and Disability.** Unless a Participant in his or her Salary Reduction Agreement elects otherwise, the Participant's Salary Reduction Agreement shall continue to apply during the Participant's leave of absence or the Participant's disability (as the Plan Administrator shall

establish), if the Participant has Compensation other than imputed compensation or disability benefits.

**(D) Post-severance deferrals limited to Post-Severance Compensation.** Deferrals are permitted from an amount received following Severance from Employment only if the amount is Post-Severance Compensation.

**3.03 MATCHING CONTRIBUTIONS.** The Employer in the Adoption Agreement must elect whether the Plan permits Matching Contributions and, if so, the type(s) of Matching Contributions, the time period applicable to any Matching Contribution formula, and as applicable, the amount of Matching Contributions and the Plan limitations, if any, which apply to Matching Contributions. Any Matching Contributions apply to age 50 catch-up contributions, if any, and to any Normal Retirement Age catch-up contributions unless the Employer elects otherwise in the Adoption Agreement.

**3.04 NORMAL LIMITATION.** Except as provided in Sections 3.05 and 3.06, a Participant's maximum Deferral Contributions (excluding Rollover Contributions and Transfers) under this Plan for a Taxable Year may not exceed the lesser of:

(a) The applicable dollar amount as specified under Code §457(c)(15) (or such larger amount as the Commissioner of the Internal Revenue may prescribe), or

(b) 100% of the Participant's Includible Compensation for the Taxable Year.

**3.05 NORMAL RETIREMENT AGE CATCH-UP CONTRIBUTION.** If selected in the Adoption Agreement, a Participant may elect to make this catch-up election. For one or more of the Participant's last three Taxable Years ending before the Taxable Year in which the Participant attains Normal Retirement Age, the Participant's maximum Deferral Contributions may not exceed the lesser of:

(a) Twice the dollar amount under Section 3.04(a) Normal Limitation, or (b) the underutilized limitation.

**(A) Underutilized Limitation.** A Participant's underutilized limitation is equal to the sum of: (i) the normal limitation for the Taxable Year, and (ii) the normal limitation for each of the prior Taxable Years of the Participant commencing after 1978 during which the Participant was eligible to participate in the Plan and the Participant's Deferral Contributions were subject to the Normal Limitation or any other Code §457(b) limit, less the amount of Deferral Contributions for each such prior Taxable Year, excluding age 50 catch-up contributions.

**(B) Normal Retirement Age.** Normal Retirement Age is the age the Employer specifies in the Adoption Agreement provided that the age may not be: (i) earlier than the earliest of age 65 or the age at which Participants have the right to retire and receive under the Employer's defined benefit plan (or money purchase plan if the Participant is not eligible to participate in a defined benefit plan) immediate retirement benefits without actuarial or other reduction because of retirement before a later specified age; or (ii) later than age 70 1/2.

**(1) Participant Designation.** The Employer in the Adoption Agreement may permit a Participant to designate his or her Normal Retirement Age as any age including or between the foregoing ages.

**Eligible 457 Plan**

**(2) Multiple 457 Plans.** If the Employer maintains more than one Eligible 457 Plan, the Plans may not permit any Participant to have more than one Normal Retirement Age under the Plans.

**(3) Police and Firefighters.** In a Governmental Eligible 457 Plan with qualified police or firefighter Participants within the meaning of Code §415(b)(2)(H)(ii)(I), the Employer in the Adoption Agreement may elect (or permit the qualified Participants to elect) a Normal Retirement Age as early as age 40 and as late as age 70 1/2.

**(C) Pre-2002 Coordination.** In determining a Participant's underutilized limitation, the Plan Administrator, in accordance with Treas. Reg. §1.457-4(c)(3)(iv), must apply the coordination rule in effect under now repealed Code §457(c)(2). The Plan Administrator also must determine the Normal Limitation for pre-2002 Taxable Years in accordance with Code §457(b)(2) as then in effect.

**3.06 AGE 50 CATCH-UP CONTRIBUTION.** An Employer sponsoring a Governmental Eligible 457 Plan must specify in the Adoption Agreement whether the Participants are eligible to make age 50 catch-up contributions.

If an Employer elects to permit age 50 catch-up contributions, all Employees who are eligible to make Salary Reduction Contributions under this Plan and who have attained age 50 before the close of the Taxable Year are eligible to make age 50 catch-up contributions for that Taxable Year in accordance with, and subject to the limitations of, Code §414(v). Such catch-up contributions are not taken into account for purposes of the provisions of the Plan implementing the required limitations of Code §457. If, for a Taxable Year, an Employee makes a catch-up contribution under Section 3.05, the Employee is not eligible to make age 50 catch-up contributions under this Section 3.06. A catch-up eligible Participant in each Taxable Year is entitled to the greater of the amount determined under Section 3.05 or Section 3.06 Catch-Up Amount plus the Section 3.04 Normal Limitation.

**3.07 CONTRIBUTION ALLOCATION.** The Plan Administrator will allocate to each Participant's Account his or her Deferral Contributions. The Employer will allocate Employer Nonelective and Matching Contributions to the Account of each Participant who satisfies the allocation conditions in the Adoption Agreement in the following manner:

**(a) Fixed match.** To the extent the Employer makes Matching Contributions under a fixed Adoption Agreement formula, the Plan Administrator will allocate the Matching Contribution to the Account of the Participant on whose behalf the Employer makes that contribution. A fixed Matching Contribution formula is a formula under which the Employer contributes a specified percentage or dollar amount on behalf of a Participant based on that Participant's Salary Reduction Contributions.

**(b) Discretionary match.** To the extent the Employer makes Matching Contributions under a discretionary Adoption Agreement formula, the Plan Administrator will allocate the Matching Contributions to a Participant's Account in the same proportion that each Participant's Salary Reduction Contributions taken into account under the formula bear to the total Salary Reduction Contributions of all Participants.

**(c) Tiered match.** If the Matching Contribution formula is a tiered formula, the Plan Administrator will allocate separately the Matching Contributions with respect to each tier of Salary Reduction Contributions, in accordance with the tiered formula.

**(d) Discretionary nonelective.** The Plan Administrator will allocate discretionary Nonelective Contributions for a Plan Year in the same ratio that each Participant's Compensation for the Plan Year bears to the total Compensation of all Participants for the Plan Year, unless the Employer elects otherwise in the Adoption Agreement.

**(e) Fixed nonelective.** The Plan Administrator will allocate fixed Nonelective Contributions for a Plan Year in the same ratio that each Participant's Compensation for the Plan Year bears to the total Compensation of all Participants for the Plan Year, unless the Employer elects otherwise in the Adoption Agreement.

**(f) Other nonelective.** The Plan Administrator will allocate Nonelective Contributions for a Plan Year as specified in the Adoption Agreement.

**3.08 ALLOCATION CONDITIONS.** The Plan Administrator will determine the allocation conditions applicable to Nonelective Contributions or to Matching Contributions (or to both) in accordance with the Employer's elections in the Adoption Agreement. The Plan Administrator will not allocate to a Participant any portion of an Employer Contribution (or forfeiture if applicable) for a Plan Year or applicable portion thereof in which the Participant does not satisfy the applicable allocation condition(s).

**3.09 ROLLOVER CONTRIBUTIONS.** If elected in the Adoption Agreement, an Employer sponsoring a Governmental Eligible 457 Plan may permit Rollover Contributions.

**(A) Operational Administration.** The Employer, operationally and on a nondiscriminatory basis, may elect to limit an eligible Employee's right or a Participant's right to make a Rollover Contribution. Any Participant (or as applicable, any eligible Employee), with the Employer's written consent and after filing with the Trustee the form prescribed by the Plan Administrator, may make a Rollover Contribution to the Trust. Before accepting a Rollover Contribution, the Trustee may require a Participant (or eligible Employee) to furnish satisfactory evidence the proposed transfer is in fact a "Rollover Contribution" which the Code permits an employee to make to an eligible retirement plan. The Trustee, in its sole discretion, may decline to accept a Rollover Contribution of property which could: (1) generate unrelated business taxable income; (2) create difficulty or undue expense in storage, safekeeping or valuation; or (3) create other practical problems for the Trust.

**(B) Pre-Participation Rollover.** If an eligible Employee makes a Rollover Contribution to the Trust prior to satisfying the Plan's eligibility conditions, the Plan Administrator and Trustee must treat the Employee as a limited Participant (as described in Rev. Rul. 96-48 or in any successor ruling). A limited Participant does not share in the Plan's allocation of any Employer Contributions and may not make Salary Reduction Contributions until he/she actually becomes a Participant in the Plan. If a limited Participant has a Severance from Employment prior to becoming a Participant in the Plan, the Trustee will distribute his or her Rollover Contributions Account to the limited Participant in accordance with Article IV.

**(C) Separate Accounting.** If an Employer permits Rollover Contributions, the Plan Administrator must account separately for: (1) amounts rolled into this Plan from an eligible retirement plan (other than from another Governmental Eligible 457 plan); and (2) amounts rolled into this Plan from another Governmental Eligible 457 Plan. The Plan Administrator for purposes of ordering any subsequent distribution from this Plan,

**Eligible 457 Plan**

may designate a distribution from a Participant's Rollover Contributions as coming first from either of (1) or (2) above if the Participant has both types of Rollover Contribution Accounts.

**(D) May Include Roth Deferrals.** If this Plan is an eligible governmental 457(b) plan which accepts Roth Elective Deferrals, then a Rollover Contribution may include Roth Deferrals made to another plan, as adjusted for Earnings. Such amounts must be directly rolled over into this Plan from another plan which is qualified under Code §401(a), from a 403(b) plan, or from an eligible governmental 457 plan. The Plan must account separately for the Rollover Contribution, including the Roth Deferrals and the Earnings thereon.

**(E) In-Plan Roth Rollover Contributions.** A Governmental Employer under an Eligible 457 Plan may elect to permit In-Plan Roth Rollover Contribution. If the Employer decides to permit In-Plan Roth Rollover Contributions, the Employer will amend the Plan to add necessary language.

**3.10 DISTRIBUTION OF EXCESS DEFERRALS.** In the event that a Participant has Excess Deferrals, the Plan will distribute to the Participant the Excess Deferrals and allocable net income, gain or loss, in accordance with this Section 3.10.

**(A) Governmental Eligible 457 Plan.** The Plan Administrator will distribute Excess Deferrals from a Governmental Eligible 457 Plan as soon as is reasonably practicable following the Plan Administrator's determination of the amount of the Excess Deferral.

**(B) Tax-Exempt Organization Eligible 457 Plan.** The Plan Administrator will distribute Excess Deferrals from a Tax-Exempt Organization Eligible 457 Plan no later than April 15 following the Taxable Year in which the Excess Deferral occurs.

**(C) Plan Aggregation.** If the Employer maintains more than one Eligible 457 Plan, the Employer must aggregate all such Plans in determining whether any Participant has Excess Deferrals.

**(D) Individual Limitation.** If a Participant participates in another Eligible 457 Plan maintained by a different employer, and the Participant has Excess Deferrals, the Plan Administrator may, but is not required, to correct the Excess Deferrals by making a corrective distribution from this Plan.

**3.11 DEEMED IRA CONTRIBUTIONS.** A Governmental Employer under an Eligible 457 Plan may elect to permit Participants to make IRA contributions to this Plan in accordance with the Code §408(q) deemed IRA rules. If the Employer elects to permit deemed IRA contributions to the Plan, the Employer will amend the Plan to add necessary IRA language and either the Rev. Proc. 2003-13 sample deemed IRA language or an appropriate substitute.

**3.12 ROTH ELECTIVE DEFERRALS.** The Employer may elect in the Adoption Agreement to permit Roth Elective Deferrals. Unless elected otherwise, Roth Elective Deferrals shall be treated in the same manner as Elective Deferrals. The Employer may, in operation, implement deferral election procedures provided such procedures are communicated to Participants and permit Participants to modify their elections at least once each Plan Year.

**(A) Elective Deferrals.** "Elective Deferral" means a contribution the Employer makes to the Plan pursuant to a Participant's Salary Reduction Agreement, as described in

Section 3.02. The term "Elective Deferrals" includes Pre-tax Elective Deferrals and Roth Elective Deferrals.

**(B) Pre-Tax Elective Deferrals.** "Pre-Tax Elective Deferrals" means a Participant's Salary Reduction Contributions which are not includible in the Participant's gross income at the time deferred and have been irrevocably designated as Pre-Tax Elective Deferrals by the Participant in his or her Salary Reduction Agreement. A Participant's Pre-Tax Elective Deferrals will be separately accounted for, as will gains and losses attributable to those Pre-Tax Elective Deferrals.

**(C) Roth Elective Deferrals.** "Roth Elective Deferrals" means a Participant's Salary Reduction Contributions that are includible in the Participant's gross income at the time deferred and have been irrevocably designated as Roth Elective Deferrals by the Participant in his or her Salary Reduction Agreement. A Participant's Roth Elective Deferrals will be separately accounted for, as will gains and losses attributable to those Roth Elective Deferrals. However, forfeitures may not be allocated to such account. The Plan must also maintain a record of a Participant's investment in the contract (i.e., designated Roth contributions that have not been distributed) and the year in which the Participant first made a Roth Elective Deferral.

**(D) Ordering Rules for Distributions.** The Administrator operationally may implement an ordering rule procedure for withdrawals (including, but not limited to, withdrawals on account of an unforeseeable emergency) from a Participant's accounts attributable to Pre-Tax Elective Deferrals or Roth Elective Deferrals. Such ordering rules may specify whether the Pre-Tax Elective Deferrals or Roth Elective Deferrals are distributed first. Furthermore, such procedure may permit the Participant to elect which type of Elective Deferrals shall be distributed first.

**(E) Corrective distributions attributable to Roth Elective Deferrals.** For any Plan Year in which a Participant may make both Roth Elective Deferrals and Pre-Tax Elective Deferrals, the Administrator operationally may implement an ordering rule procedure for the distribution of Excess Deferrals (Treas. Reg. §1.457-4(e)). Such an ordering rule may specify whether the Pre-Tax Elective Deferrals or Roth Elective Deferrals are distributed first, to the extent such type of Elective Deferrals was made for the year. Furthermore, such procedure may permit the Participant to elect which type of Elective Deferrals shall be distributed first.

**(F) Loans.** If Participant loans are permitted under the Plan, then the Administrator may modify the loan policy or program to provide limitations on the ability to borrow from, or use as security, a Participant's Roth Elective Deferral account. Similarly, the loan policy or program may be modified to provide for an ordering rule with respect to the default of a loan that is made from the Participant's Roth Elective Deferral account and other accounts under the Plan.

**(G) Rollovers.** A direct rollover of a distribution from Roth Elective Deferrals shall only be made to a Plan which includes Roth Elective Deferrals as described in Code §402A(c)(1) or to a Roth IRA as described in Code §408A, and only to the extent the rollover is permitted under the rules of Code §402(c).

The Plan shall accept a rollover contribution of Roth Elective Deferrals only if it is a direct rollover from another Plan which permits Roth Elective Deferrals as described in Code



**Eligible 457 Plan**

§402A(e)(1) and only to the extent the rollover is permitted under the rules of Code §402(c). The Employer, operationally and on a uniform and nondiscriminatory basis, may decide whether to accept any such rollovers.

The Plan shall not provide for a direct rollover (including an automatic rollover) for distributions from a Participant's Roth Elective Deferral account if the amount of the distributions that are eligible rollover distributions are reasonably expected to total less than \$200 during a year. In addition, any distribution from a Participant's Roth Elective Deferrals are not taken into account in determining whether distributions from a Participant's other accounts are reasonably expected to total less than \$200 during a year. Furthermore, the Plan will treat a Participant's Roth Elective Deferral account and the Participant's other accounts as held under two separate plans for purposes of applying the automatic rollover rules. However, eligible rollover distributions of a Participant's Roth Elective Deferrals are taken into account in determining whether the total amount of the Participant's account balances under the Plan exceed the Plan's limits for purposes of mandatory distributions from the Plan.

The provisions of the Plan that allow a Participant to elect a direct rollover of only a portion of an eligible rollover distribution but only if the amount rolled over is at least \$500 is applied by treating any amount distributed from a Participant's Roth Elective Deferral account as a separate distribution from any amount distributed from the Participant's other accounts in the Plan, even if the amounts are distributed at the same time.

**(H) Automatic Enrollment.** If the Plan utilizes an automatic enrollment feature as described in Section 3.02(B), then any such automatic contribution shall be a Pre-Tax Elective Deferral.

**(I) Operational Compliance.** The Plan Administrator will administer Roth Elective Deferrals in accordance with applicable regulations or other binding authority.

**3.13 BENEFIT ACCRUAL.** If the Employer elects to apply this Section, then effective as of the date adopted, for benefit accrual purposes, the Plan treats an individual who dies or becomes disabled (as defined under the terms of the Plan) while performing qualified military service with respect to the Employer as if the individual had resumed employment in accordance with the individual's reemployment rights under USERRA, on the day preceding death or disability (as the case may be) and terminated employment on the actual date of death or disability.

**(A) Determination of benefits.** The amount of Matching Contributions to be made pursuant to this Section 3.13 shall be determined as though the amount of Salary Reduction Contributions of an individual treated as reemployed under this Section on the basis of the individual's average actual Salary Reduction Contributions for the lesser of: (i) the 12-month period of service with the Employer immediately prior to qualified military service; or (ii) the actual length of continuous service with the Employer.

**3.14 ELIGIBLE AUTOMATIC CONTRIBUTION ARRANGEMENT (EACA).** As elected in the Adoption Agreement, the Employer maintains a Plan with automatic enrollment provisions as an Eligible Automatic Contribution Arrangement ("EACA"). Accordingly, the Plan will satisfy the (1) uniformity requirements, and (2) notice requirements under this Section.

**(A) Uniformity.** The Automatic Deferral Percentage must be a uniform percentage of Compensation. All Participants in the EACA, are subject to Automatic Deferrals, except to the extent otherwise provided in this Plan. If a Participant's Affirmative Election expires or otherwise ceases to be in effect, the Participant will immediately thereafter be subject to Automatic Deferrals, except to the extent otherwise provided in this Plan. However, the Plan does not violate the uniform Automatic Deferral Percentage merely because the Plan applies any of the following provisions:

**(a) Years of participation.** The Automatic Deferral Percentage varies based on the number of plan years the Participant has participated in the Plan while the Plan has applied EACA provisions;

**(b) No reduction from prior default percentage.** The Plan does not reduce an Automatic Deferral Percentage that, immediately prior to the EACA's effective date was higher (for any Participant) than the Automatic Deferral Percentage;

**(c) Applying statutory limits.** The Plan limits the Automatic Deferral amount so as not to exceed the limits of Code Section 457(b)(2) (determined without regard to Age 50 Catch-Up Deferrals).

**(B) EACA notice.** The Plan Administrator annually will provide a notice to each Participant a reasonable period prior to each plan year the Employer maintains the Plan as an EACA ("EACA Plan Year").

**(a) Deemed reasonable notice/new Participant.** The Plan Administrator is deemed to provide timely notice if the Plan Administrator provides the EACA notice at least 30 days and not more than 90 days prior to the beginning of the EACA Plan Year.

**(b) Mid-year notice/new Participant or Plan.** If: (a) an Employee becomes eligible to make Salary Reduction Contributions in the Plan during an EACA Plan Year but after the Plan Administrator has provided the annual EACA notice for that plan year; or (b) the Employer adopts mid-year a new Plan as an EACA, the Plan Administrator must provide the EACA notice no later than the date the Employee becomes eligible to make Salary Reduction Contributions. However, if it is not practicable for the notice to be provided on or before the date an Employee becomes a Participant, then the notice will nonetheless be treated as provided timely if it is provided as soon as practicable after that date and the Employee is permitted to elect to defer from all types of Compensation that may be deferred under the Plan earned beginning on that date.

**(c) Content.** The EACA notice must provide comprehensive information regarding the Participants' rights and obligations under the Plan and must be written in a manner calculated to be understood by the average Participant in accordance with applicable guidance.

**(C) EACA permissible withdrawal.** If elected in in the Adoption Agreement, a Participant who has Automatic Deferrals under the EACA may elect to withdraw all the Automatic Deferrals (and allocable earnings) under the provisions of this Section 3.14. Any distribution made pursuant to this Section will be processed in accordance with normal distribution provisions of the Plan.

**(a) Amount.** If a Participant elects a permissible withdrawal under this Section, then the Plan must make a

## Eligible 457 Plan

distribution equal to the amount (and only the amount) of the Automatic Deferrals made under the EACA (adjusted for allocable gains and losses to the date of the distribution). The Plan may separately account for Automatic Deferrals, in which case the entire account will be distributed. If the Plan does not separately account for the Automatic Deferrals, then the Plan must determine earnings or losses in a manner similar to the rules of Treas. Reg. §1.401(k)-2(b)(2)(iv) for distributions of excess contributions.

**(b) Fees.** Notwithstanding the above, the Plan Administrator may reduce the permissible distribution amount by any generally applicable fees. However, the Plan may not charge a greater fee for distribution under this Section than applies to other distributions. The Plan Administrator may adopt a policy regarding charging such fees consistent with this paragraph.

**(c) Timing.** The Participant may make an election to withdraw the Automatic Deferrals under the EACA no later than 90 days, or such shorter period as specified in the Adoption Agreement, after the date of the first Automatic Deferral under the EACA. For this purpose, the date of the first Automatic Deferral is the date that the Compensation subject to the Automatic Deferral otherwise would have been includible in the Participant's gross income. Furthermore, a Participant's withdrawal right is not restricted due to the Participant making an Affirmative Election during the 90 day period (or shorter period as specified in Adoption Agreement.).

**(d) Rehired Employees.** For purposes of this Section, an Employee who for an entire Plan Year did not have contributions made pursuant to a default election under the EACA will be treated as having not had such contributions for any prior Plan Year as well.

**(e) Effective date of the actual withdrawal election:** The effective date of the permissible withdrawal will be as soon as practicable, but in no event later than the earlier of (1) the pay date of the second payroll period beginning after the election is made, or (2) the first pay date that occurs at least 30 days after the election is made. The election will also be deemed to be an Affirmative Election to have no Salary Reduction Contributions made to the Plan.

**(f) Related matching contributions.** The Plan Administrator will not take any deferrals withdrawn pursuant to this section into account in computing the contribution and allocation of matching contributions, if any. If the Employer has already allocated matching contributions to the Participant's account with respect to deferrals being withdrawn pursuant to this Section, then the matching contributions, as adjusted for gains and losses, must be forfeited. Except as otherwise provided, the Plan will use the forfeited contributions to reduce future contributions or to reduce plan expenses.

**(D) Compensation.** Compensation for purposes of determining the amount of Automatic Deferrals has the same meaning as Compensation with regard to Salary Reduction Contributions in general.

**(E) Definitions.**

**(a) Definition of Automatic Deferral.** An Automatic Deferral is a Salary Reduction Contribution that results from the operation of this Article III. Under the Automatic Deferral, the Employer automatically will reduce by the Automatic Deferral Percentage as elected the Compensation of each Participant subject to the EACA. The Plan Administrator will cease to apply the Automatic Deferral to a Participant who makes an Affirmative Election as defined in this Section.

**(b) Definition of Automatic Deferral**

**Percentage/Increases.** The Automatic Deferral Percentage is the percentage of Automatic Deferral (including any scheduled increase to the Automatic Deferral Percentage the Employer may elect).

**(c) Effective date of EACA Automatic Deferral.** The effective date of an Employee's Automatic Deferral will be as soon as practicable after the Employee is subject to Automatic Deferrals under the EACA, consistent with (a) applicable law, and (b) the objective of affording the Employee a reasonable period of time after receipt of the notice to make an Affirmative Election (and, if applicable, an investment election).

**(d) Definition of Affirmative Election.** An Affirmative Election is a Participant's election made after the EACA's Effective Date not to defer any Compensation or to defer more or less than the Automatic Deferral Percentage.

**(e) Effective Date of Affirmative Election.** A Participant's Affirmative Election generally is effective as of the first payroll period which follows the payroll period in which the Participant made the Affirmative Election. However, a Participant may make an Affirmative Election which is effective: (a) for the first payroll period in which he or she becomes a Participant if the Participant makes an Affirmative Election within a reasonable period following the Participant's entry date and before the Compensation to which the Election applies becomes currently available; or (b) for the first payroll period following the EACA's effective date, if the Participant makes an Affirmative Election not later than the EACA's effective date.

**3.15 IN-PLAN ROTH ROLLOVER CONTRIBUTION**

**(a) Employer Election.** The Employer in its Adoption Agreement in which the Employer has elected to permit Roth Deferrals also will elect whether to permit an In-Plan Roth Rollover Contribution in accordance with this Section with regard to otherwise distributable amounts and/or otherwise nondistributable amounts. If the Employer elects to permit such contributions, the Employer in its Adoption Agreement will specify the Effective Date thereof which may not be earlier than distributions made after September 27, 2010, and may not be earlier than January 1, 2013 in the case of rollovers of otherwise nondistributable amounts. An In-Plan Roth Rollover Contribution means a Rollover Contribution to the Plan that consists of a distribution or transfer from a Participant's Plan Account, other than a Roth Deferral Account, that the Participant transfers to the Participant's In-Plan Roth Rollover Contribution Account in the Plan, in accordance with Code §402(c)(4). In-Plan Roth Rollover Contributions will be subject to the Plan rules related to Roth Deferral Accounts, subject to preservation of protected benefits.

**(b) Eligibility for Distribution and Rollover.** A Participant may not make an In-Plan Roth Rollover Contribution with regard to an otherwise distributable amount which is not an Eligible Rollover Distribution.

**(1) Parties eligible to elect.** For purposes of eligibility for an In-Plan Roth Rollover, the Plan will treat a Participant's surviving spouse Beneficiary or alternate payee spouse or alternate payee former spouse as a Participant. A non-spouse Beneficiary may not make an In-Plan Roth Rollover.

**(2) Distribution from partially Vested account.** In-Plan Roth Rollovers are permitted only from Vested amounts allocated to a qualifying source but may be made from partially Vested Accounts. If a distribution is made to a Participant who

**Eligible 457 Plan**

has not incurred a Severance from Employment and who is not fully Vested in the Participant's Account from which the In-Plan Roth Rollover Contribution is to be made, and the Participant may increase the Vested percentage in such Account.

**(c) Form and Source of Rollover.**

**(1) Direct Rollover.** An In-Plan Roth Rollover Contribution may be made only by a Direct Rollover.

**(2) Account source.** A Participant may make an In-Plan Roth Rollover from any account (other than a Roth account).

**(3) Cash or in-kind.** The Plan Administrator will effect an In-Plan Roth Rollover Contribution by rolling over the Participant's current investments to the In-Plan Roth Rollover Account. A Plan loan so rolled over without changing the repayment schedule is not treated as a new loan. However the Employer may provide that loans cannot be rolled over in an In-Plan Roth Rollover.

**(4) No Rollover or Distribution Treatment.** Notwithstanding any other Plan provision, an In-Plan Roth Rollover Contribution is not a Rollover Contribution for

purposes of the Plan. Accordingly: (a) if the Employer in its Adoption Agreement has elected \$5,000 as the Plan limit on Mandatory Distributions, the Plan Administrator will take into account amounts attributable to an In-Plan Roth Rollover Contribution, in determining if the \$5,000 limit is exceeded, regardless of the Employer's election as to whether to count Rollover Contributions for this purpose; (b) no spousal consent is required for a Participant to elect to make an In-Plan Roth Rollover Contribution; (c) protected benefits with respect to the amounts subject to the In-Plan Roth Rollover are preserved; and (d) mandatory 20% federal income tax withholding does not apply to the In Plan Roth Rollover Contribution.

**(5) In-Plan Roth Rollover Contribution Account.**

An In-Plan Roth Rollover Contribution Account is a sub-account the Plan Administrator may establish to account for a Participant's Rollover Contributions attributable to the Participant's In-Plan Roth Rollover Contributions. The Plan Administrator has authority to establish such a sub-account, and to the extent necessary, may establish sub-accounts based on the source of the In-Plan Roth Rollover Contribution. The Plan Administrator will administer an In-Plan Roth Rollover Contribution Account in accordance with Code and the Plan provisions.

**ARTICLE IV  
TIME AND METHOD OF  
PAYMENT OF BENEFITS**

**4.01 DISTRIBUTION RESTRICTIONS.** Except as the Plan provides otherwise, the Plan Administrator or Trustee may not distribute to a Participant the amounts in his or her Account prior to one of the following events:

- (a) The Participant's attaining age 70 1/2;
- (b) The Participant's Severance from Employment; or
- (c) The Participant's death.

**4.02 TIME AND METHOD OF PAYMENT OF ACCOUNT.** The Plan Administrator, or Trustee at the direction of the Plan Administrator, will distribute to a Participant who has incurred a Severance from Employment the Participant's Vested Account under one or any combination of payment methods and at the time(s) the Adoption Agreement specifies. If the Adoption Agreement permits more than one time or method, the Plan Administrator, in the absence of a Participant election described below, will determine the time and method applicable to a particular Participant. In no event will the Plan Administrator direct (or direct the Trustee to commence) distribution, nor will the Participant elect to have distribution commence, later than the Participant's required beginning date, or under a method that does not satisfy Section 4.03.

**(A) Participant Election of Time and Method.** The Employer in the Adoption Agreement must elect whether to permit Participants to elect the timing and method of distribution of their Account in accordance with this Section 4.02. The Plan Administrator must consent to the specific terms of any such Participant election and the Plan Administrator in its sole discretion may withhold consent. Subject to the foregoing conditions, a Participant: (1) may elect to postpone distribution of his or her Account beyond the time the Employer has elected in the Adoption Agreement, to any fixed or determinable date including, but not beyond, the Participant's required beginning date; and (2) may elect the method of payment. A Participant in a Tax Exempt Organization Eligible 457 Plan may elect the timing and method of payment of his or her Account no later than 30 days before the date the Plan Administrator or Trustee first would commence payment of the Participant's Account in accordance with the Adoption Agreement. The Plan Administrator must furnish to the Participant a form for the Participant to elect the time and a method of payment. A Participant in a Governmental Eligible 457 Plan is not subject to any such requirement in election the timing or method of payment.

**(B) Number of Initial Elections/Subsequent Elections.** A Participant in a Tax-Exempt Organization Eligible 457 Plan may make any number of elections or revoke any prior election under Section 4.02(A) within the election period. Once the initial election period expires, a Participant, before payment would commence under the Participant's initial election, may make one additional election to defer (but not to accelerate) the timing of payment of his or her Account and also as to the method of payment.

**(C) No Election/Default.** If the Participant does not make a timely election regarding the time and method of payment, the Plan Administrator will pay or direct the Trustee to pay the Participant's Account in accordance with the Adoption Agreement.

**(D) Mandatory Distribution.** The Employer in the Adoption Agreement will elect whether the Plan will make Mandatory

Distributions. If the Employer elects Mandatory Distributions, the Employer may determine operationally whether to include Rollover Contributions in determining whether the Participant is subject to Mandatory Distributions.

**4.03 REQUIRED MINIMUM DISTRIBUTIONS.** The Plan Administrator may not distribute nor direct the Trustee to distribute the Participant's Account, nor may the Participant elect any distribution his or her Account, under a method of payment which, as of the required beginning date, does not satisfy the minimum distribution requirements of Code §401(a)(9) or which is not consistent with applicable Treasury regulations.

**(A) General Rules.**

**(1) Precedence.** The requirements of this Section 4.03 will take precedence over any inconsistent provisions of the Plan.

**(2) Requirements of Treasury Regulations Incorporated.** All distributions required under this Section 4.03 will be determined and made in accordance with the Treasury regulations under Code §401(a)(9).

**(B) Time and Manner of Distribution.**

**(1) Required Beginning Date.** The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's required beginning date.

**(2) Death of Participant Before Distribution Begins.** If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

**(a) Spouse Designated Beneficiary.** If the Participant's surviving spouse is the Participant's sole designated Beneficiary, then, except as the Employer may elect in the Adoption Agreement, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant dies, or by December 31 of the calendar year in which the Participant would have attained age 70 1/2, if later.

**(b) Non-Spouse Designated Beneficiary.** If the Participant's surviving spouse is not the Participant's sole designated Beneficiary, then, except as the Employer may elect in the Adoption Agreement, distributions to the designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.

**(c) No Designated Beneficiary.** If there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

**(d) Death of Spouse.** If the Participant's surviving spouse is the Participant's sole designated Beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this Section 4.03(B)(2) other than Section 4.03(B)(2)(a), will apply as if the surviving spouse were the Participant.

**Eligible 457 Plan**

For purposes of this Section 4.03(B) and Section 4.03(D), unless Section 4.03(B)(2)(d) applies, distributions are considered to begin on the Participant's required beginning date. If Section 4.03(B)(2)(d) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under Section 4.03(B)(2)(a). If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's required beginning date or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under Section 4.03(B)(2)(a), the date distributions are considered to begin is the date distributions actually commence.

**(3) Forms of Distribution.** Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with Sections 4.03(C) and 4.03(D). If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Code §401(a)(9) and the Treasury regulations.

**(C) Required Minimum Distributions during Participant's Lifetime.**

**(1) Amount of Required Minimum Distribution for Each Distribution Calendar Year.** During the Participant's lifetime, the minimum amount that will be distributed for each distribution calendar year is the lesser of:

**(a) ULT.** The quotient obtained by dividing the Participant's account balance by the number in the Uniform Life Table set forth in Treas. Reg. §1.401(a)(9)-9, using the Participant's attained age as of the Participant's birthday in the distribution calendar year; or

**(b) Younger Spouse.** If the Participant's sole designated Beneficiary for the distribution calendar year is the Participant's spouse, the quotient obtained by dividing the Participant's account balance by the number in the Joint and Last Survivor Table set forth in Treas. Reg. §1.401(a)(9)-9, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the distribution calendar year.

**(2) Lifetime Required Minimum Distributions Continue Through Year of Participant's Death.** Required minimum distributions will be determined under this Section 4.03(C) beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the Participant's date of death.

**(D) Required Minimum Distributions after Participant's Death.**

**(1) Death On or After Distributions Begin.**

**(a) Participant Survived by Designated Beneficiary.** If the Participant dies on or after the date distributions begin and there is a designated Beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the longer of the remaining life expectancy of the Participant or the remaining life expectancy of the Participant's designated Beneficiary, determined as follows:

**(i) Participant's Life Expectancy.** The Participant's remaining life expectancy is calculated using the attained age of the Participant as of the Participant's birthday in

the calendar year of death, reduced by one for each subsequent calendar year.

**(ii) Spouse's Life Expectancy.** If the Participant's surviving spouse is the Participant's sole designated Beneficiary, the remaining life expectancy of the surviving spouse is calculated for each distribution calendar year after the year of the Participant's death using the surviving spouse's age as of the spouse's birthday in that year. For distribution calendar years after the year of the surviving spouse's death, the remaining life expectancy of the surviving spouse is calculated using the attained age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.

**(iii) Non-Spouse's Life Expectancy.** If the Participant's surviving spouse is not the Participant's sole designated Beneficiary, the designated Beneficiary's remaining life expectancy is calculated using the attained age of the Beneficiary as of the Beneficiary's birthday in the calendar year following the calendar year of the Participant's death, reduced by one for each subsequent calendar year.

**(b) No Designated Beneficiary.** If the Participant dies on or after the date distributions begin and there is no designated Beneficiary as of September 30 of the calendar year after the calendar year of the Participant's death, the minimum amount that will be distributed for each distribution calendar year after the calendar year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the Participant's remaining life expectancy calculated using the attained age of the Participant as of the Participant's birthday in the calendar year of death, reduced by one for each subsequent calendar year.

**(2) Death before Date Distributions Begin.**

**(a) Participant Survived by Designated Beneficiary.** Except as the Employer may elect in the Adoption Agreement, if the Participant dies before the date distributions begin and there is a designated Beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the remaining life expectancy of the Participant's designated Beneficiary, determined as provided in Section 4.03(D)(1).

**(b) No Designated Beneficiary.** If the Participant dies before the date distributions begin and there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

**(c) Death of Surviving Spouse Before Distributions to Surviving Spouse Are Required to Begin.** If the Participant dies before the date distributions begin, the Participant's surviving spouse is the Participant's sole designated Beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under Section 4.03(B)(2)(a), this Section 4.03(D)(2) will apply as if the surviving spouse were the Participant.

**(d) 5-year or Life Expectancy rule; possible election.** The Employer in its Adoption Agreement will elect whether distribution of the Participant's Account will be made in accordance with the life expectancy rule under Section 4.03(D)(2)(a) or the 5-year rule under Section 4.03(D)(2)(b). The Employer's election may permit a Designated Beneficiary to elect which of these rules will apply or may specify which rule applies. However, the life expectancy rule (whether subject to

**Eligible 457 Plan**

election or not) applies only in the case of a Designated Beneficiary. The 5-year rule applies as to any Beneficiary who is not a Designated Beneficiary. A permitted election under this Section must be made no later than the earlier of September 30 of the calendar year in which distribution would be required to begin under Section 4.03(D)(2)(a), or by September 30 of the calendar year which contains the fifth anniversary of the Participant's (or, if applicable, surviving spouse's) death.

**(E) Definitions.**

**(1) Designated Beneficiary.** The individual who is designated as the Beneficiary under the Plan and is the designated beneficiary under Code §401(a)(9) and Treas. Reg. §1.401(a)(9)-1, Q&A-4.

**(2) Distribution calendar year.** A calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's required beginning date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which the distributions are required to begin under Section 4.03(B)(2). The required minimum distribution for the Participant's first distribution calendar year will be made on or before the Participant's required beginning date. The required minimum distribution for other distribution calendar years, including the required minimum distribution for the distribution calendar year in which the Participant's required beginning date occurs, will be made on or before December 31 of that distribution calendar year.

**(3) Life expectancy.** Life expectancy as computed by use of the Single Life Table in Treas. Reg. §1.401(a)(9)-9.

**(4) Participant's account balance.** The account balance as of the last valuation date in the calendar year immediately preceding the distribution calendar year (valuation calendar year) increased by the amount of any contributions made and allocated or forfeitures allocated to the account balance as of dates in the valuation calendar year after the valuation date and decreased by distributions made in the valuation calendar year after the valuation date. The account balance for the valuation calendar year includes any Rollover Contributions or Transfers to the Plan either in the valuation calendar year or in the distribution calendar year if distributed or transferred in the valuation calendar year.

**(5) Required beginning date.** A Participant's required beginning date is the April 1 of the calendar year following the later of: (1) the calendar year in which the Participant attains age 70 1/2, or (2) the calendar year in which the Participant retires or such other date under Code §401(a)(9) by which required minimum distributions must commence.

**4.04 DEATH BENEFITS.** Upon the death of the Participant, the Plan Administrator must pay or direct the Trustee to pay the Participant's Account in accordance with Section 4.03. Subject to Section 4.03, a Beneficiary may elect the timing and method of payment in the same manner as a Participant may elect under Section 4.02, if such elections apply.

If a Participant dies while performing qualified military service (as defined in Code §414(u)), the survivors of the Participant are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the Plan as if the Participant had resumed and then terminated employment on account of death.

**4.05 DISTRIBUTIONS PRIOR TO SEVERANCE FROM EMPLOYMENT.** The Employer must elect in the Adoption Agreement whether to permit in-service distributions of a Participant's Vested Account under this Section 4.05, notwithstanding the Section 4.01 distribution restrictions.

**(A) Unforeseeable Emergency.** In the event of a Participant's or the Participant's spouse, dependents or beneficiaries' unforeseeable emergency, the Plan Administrator may make a distribution to a Participant who has not incurred a Severance from Employment (or who has incurred a Severance but will not begin to receive payments until some future date). In the event of an unforeseeable emergency, the Plan Administrator also may accelerate payments to a Participant or to a Beneficiary. The Plan Administrator will establish a policy for determining whether an unforeseeable emergency exists. An unforeseeable emergency is a severe financial hardship of a Participant or Beneficiary resulting from: (1) illness or accident of the Participant, the Beneficiary, or the Participant's or Beneficiary's spouse or dependent (as defined in Code §152(a)); (2) loss of the Participant's or Beneficiary's property due to casualty; (3) the need to pay for the funeral expenses of the Participant's or Beneficiary's spouse or dependent (as defined in Code §152(a)); or (4) other similar extraordinary and unforeseeable circumstances arising from events beyond the Participant's or Beneficiary's control, or which applicable law may define as an unforeseeable emergency. The Plan Administrator will not pay the Participant or the Beneficiary more than the amount reasonably necessary to satisfy the emergency need, which may include amounts necessary to pay taxes or penalties on the distribution. The Plan Administrator will not make payment to the extent the Participant or Beneficiary may relieve the financial hardship by cessation of deferrals under the Plan, through insurance or other reimbursement, or by liquidation of the individual's assets to the extent such liquidation would not cause severe financial hardship.

The Participant's Beneficiary is a person who a Participant designates and who is or may become entitled to a Participant's Plan Account upon the Participant's death.

**(B) De minimis distribution.** In accordance with the Employer's Adoption Agreement elections, the Plan Administrator may allow a Participant to elect to receive a distribution or the Plan Administrator will distribute (without a Participant election) any amount of the Participant's Account where: (1) the Participant's Account (disregarding Rollover Contributions) does not exceed \$5,000 (or such other amount as does not exceed the Code §411(a)(11)(A) dollar amount); (2) the Participant has not made or received an allocation of any Deferral Contributions under the Plan during the two-year period ending on the date of distribution; and (3) the Participant has not received a prior distribution under this Section 4.05(B).

**(C) Distribution of Rollover Contributions.** The Employer in the Adoption Agreement may elect to permit a Participant to request and to receive distribution of the Participant's Account attributable to Rollover Contributions (but not to Transfers) before the Participant has a distributable event under Section 4.01.

**4.06 DISTRIBUTIONS UNDER QUALIFIED DOMESTIC RELATIONS ORDERS (QDROs).** Notwithstanding any other provision of this Plan, the Employer in the Adoption Agreement may elect to apply the QDRO provisions of this Section 4.06. If Section 4.06 applies, the Plan Administrator (and any Trustee) must comply with the terms of a QDRO, as defined in Code §414(p), which is issued with respect to the Plan.

**Eligible 457 Plan**

**(A) Time and Method of Payment.** This Plan specifically permits distribution to an alternate payee under a QDRO at any time, notwithstanding any contrary Plan provision and irrespective of whether the Participant has attained his or her earliest retirement age (as defined under Code §414(p)) under the Plan. A distribution to an alternate payee prior to the Participant's attainment of earliest retirement age is available only if the QDRO specifies distribution at that time or permits an agreement between the Plan and the alternate payee to authorize an earlier distribution. Nothing in this Section 4.06 gives a Participant a right to receive distribution at a time the Plan otherwise does not permit nor authorizes the alternate payee to receive a form of payment the Plan does not permit.

**(B) QDRO Procedures.** The Plan Administrator must establish reasonable procedures to determine the qualified status of a domestic relations order. Upon receiving a domestic relations order, the Plan Administrator promptly will notify the Participant and any alternate payee named in the order, in writing, of the receipt of the order and the Plan's procedures for determining the qualified status of the order. Within a reasonable period of time after receiving the domestic relations order, the Plan Administrator must determine the qualified status of the order and must notify the Participant and each alternate payee, in writing, of the Plan Administrator's determination. The Plan Administrator must provide notice under this paragraph by mailing to the individual's address specified in the domestic relations order.

**(C) Accounting.** If any portion of the Participant's Account Balance is payable under the domestic relations order during the period the Plan Administrator is making its determination of the qualified status of the domestic relations order, the Plan Administrator must maintain a separate accounting of the amounts payable. If the Plan Administrator determines the order is a QDRO within 18 months of the date amounts first are payable following receipt of the domestic relations order, the Plan Administrator will distribute or will direct the Trustee to distribute the payable amounts in accordance with the QDRO. If the Plan Administrator does not make its determination of the qualified status of the order within the 18-month determination period, the Plan Administrator will distribute or will direct the Trustee to distribute the payable amounts in the manner the Plan would distribute if the order did not exist and will apply the order prospectively if the Plan Administrator later determines the order is a QDRO.

To the extent it is not inconsistent with the provisions of the QDRO, the Plan Administrator may segregate or may direct the Trustee to segregate the QDRO amount in a segregated investment account. The Plan Administrator or Trustee will make any payments or distributions required under this Section 4.06 by separate benefit checks or other separate distribution to the alternate payee(s).

**(D) Permissible QDROs.** A domestic relations order that otherwise satisfies the requirements for a qualified domestic relations order ("QDRO") will not fail to be a QDRO: (i) solely because the order is issued after, or revises, another domestic relations order or QDRO; or (ii) solely because of the time at which the order is issued, including issuance after the annuity starting date or after the Participant's death.

**4.07 DIRECT ROLLOVER OF ELIGIBLE ROLLOVER DISTRIBUTIONS – GOVERNMENTAL PLAN.**

**(A) Participant Election.** A Participant (including for this purpose, a former Employee) in a Governmental Eligible 457 Plan may elect, at the time and in the manner the Plan

Administrator prescribes, to have any portion of his or her eligible rollover distribution from the Plan paid directly to an eligible retirement plan specified by the Participant in a direct rollover election. For purposes of this election, a "Participant" includes as to their respective interests, a Participant's surviving spouse and the Participant's spouse or former spouse who is an alternate payee under a QDRO.

**(B) Rollover and Withholding Notice.** At least 30 days and not more than 180 days prior to the Trustee's distribution of an eligible rollover distribution, the Plan Administrator must provide a written notice (including a summary notice as permitted under applicable Treasury regulations) explaining to the distributee the rollover option, the applicability of mandatory 20% federal withholding to any amount not directly rolled over, and the recipient's right to roll over within 60 days after the date of receipt of the distribution ("rollover notice").

**(C) Default distribution or rollover.** Except as provided in Paragraph (D), in the case of a Participant who does not elect timely to roll over or to receive distribution of his or her Account, the Plan Administrator or the Trustee, at the Plan Administrator's direction, may distribute to the Participant or may directly roll over the Participant's Account in accordance with the Plan's rollover notice.

**(D) Mandatory default rollover.** If (1) the Plan is a Governmental Eligible 457 Plan, (2) the Plan makes a mandatory distribution after the Code §401(a)(31)(B) Effective Date, greater than \$1,000, and (3) the Participant does not elect to have such distribution paid directly to an eligible retirement plan specified by the Participant in a direct rollover or to receive the distribution directly, then the Plan Administrator will pay the distribution in a direct rollover to an individual retirement plan designated by the Plan Administrator.

**(E) Non-spouse beneficiary rollover right.** A non-spouse beneficiary who is a "designated beneficiary" under Section 4.03(E)(1), by a direct trustee-to-trustee transfer ("direct rollover"), may roll over all or any portion of his or her distribution to an individual retirement account the beneficiary establishes for purposes of receiving the distribution. In order to be able to roll over the distribution, the distribution otherwise must satisfy the definition of an eligible rollover distribution.

**(1) Certain requirements not applicable.** Although a non-spouse beneficiary may roll over directly a distribution as provided in Section 4.07(E), the distribution is not subject to the direct rollover requirements of Code §401(a)(31) (including the automatic rollover provisions of Code §401(a)(31)(B)), the notice requirements of Code §402(f) or the mandatory withholding requirements of Code §3405(c). If a non-spouse beneficiary receives a distribution from the Plan, the distribution is not eligible for a "60-day" rollover.

**(2) Trust beneficiary.** If the Participant's named beneficiary is a trust, the Plan may make a direct rollover to an individual retirement account on behalf of the trust, provided the trust satisfies the requirements to be a designated beneficiary within the meaning of Code §401(a)(9)(E).

**(3) Required minimum distributions not eligible for rollover.** A non-spouse beneficiary may not roll over an amount which is a required minimum distribution, as determined under applicable Treasury regulations and other Revenue Service guidance. If the Participant dies before his or her required beginning date and the non-spouse beneficiary rolls over to an IRA the maximum amount eligible for rollover, the beneficiary may elect to use either the 5-year rule or the life expectancy rule, pursuant to Treas. Reg. §1.401(a)(9)-3, A-4(c), in

**Eligible 457 Plan**

determining the required minimum distributions from the IRA that receives the non-spouse beneficiary's distribution.

**(F) Definitions.** The following definitions apply to this Section:

**(1) Eligible rollover distribution.** An eligible rollover distribution is any distribution of all or any portion of a Participant's Account, except an eligible rollover distribution does not include: (a) any distribution which is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Participant or the joint lives (or joint life expectancies) of the Participant and the Participant's designated Beneficiary, or for a specified period of ten years or more; (b) any Code §401(a)(9) required minimum distribution; (c) any unforeseeable emergency distribution; and (d) any distribution which otherwise would be an eligible rollover distribution, but where the total distributions to the Participant during that calendar year are reasonably expected to be less than \$200.

**(2) Eligible retirement plan.** An eligible retirement plan is an individual retirement account described in Code §408(a), an individual retirement annuity described in Code §408(b), an annuity plan described in Code §403(a), a qualified plan described in Code §401(a), an annuity contract (or custodial agreement) described in Code §403(b), or an eligible deferred compensation plan described in Code §457(b) and maintained by an Employer described in Code §457(c)(1)(A), which accepts the Participant's, the Participant's spouse or alternate payee's eligible rollover distribution.

A Participant or beneficiary may elect to roll over directly an eligible rollover distribution to a Roth IRA described in Code §408A(b). For this purpose, the term "eligible rollover distribution" includes a rollover distribution described in this Section.

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

**(4) Mandatory distribution.** A mandatory distribution is an eligible rollover distribution without the Participant's consent before the Participant attains the later of age 62 or Normal

Retirement Age (see paragraph 3.05 (B)). A distribution to a beneficiary is not a mandatory distribution.

**(5) 401(a)(31)(B) Effective Date.** The 401(a)(31)(B) Effective Date is the date of the close of the first regular legislative session of the legislative body with the authority to amend the Plan that begins on or after January 1, 2006.

**4.08 ELECTION TO DEDUCT FROM DISTRIBUTION.** An Eligible Retired Public Safety Officer may elect annually for that taxable year to have the Plan deduct an amount from a distribution which the Eligible Retired Public Safety Officer otherwise would receive and include in income. The Plan will pay such deducted amounts directly to pay qualified health insurance premiums.

**(A) Direct payment.** The Plan will pay directly to the provider of the accident or health insurance plan or qualified long-term care insurance contract the amounts the Eligible Retired Public Safety Officer has elected to have deducted from the distribution. Such amounts may not exceed the lesser of \$3,000 or the amount the Participant paid for such taxable year for qualified health insurance premiums, and which otherwise complies with Code §402(l).

**(B) Definitions.**

**(1) Eligible retired public safety officer.** An "Eligible Retired Public Safety Officer" is an individual who, by reason of disability or attainment of Normal Retirement Age, is separated from service as a Public Safety Officer with the Employer.

**(2) Public safety officer.** A "Public Safety Officer" has the same meaning as in Section 1204(9)(A) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b(9)(A)).

**(3) Qualified health insurance premiums.** The term "qualified health insurance premiums" means premiums for coverage for the Eligible Retired Public Safety Officer, his or her spouse, and dependents, by an accident or health insurance plan or qualified long-term care insurance contract (as defined in Code §7702B(b)).



## Eligible 457 Plan

**ARTICLE V**  
**PLAN ADMINISTRATOR - DUTIES WITH RESPECT TO PARTICIPANTS' ACCOUNTS**

5.01 TERM/VACANCY. The Plan Administrator will serve until his or her successor is appointed. In case of a vacancy in the position of the Plan Administrator, the Employer will exercise any and all of the powers, authority, duties and discretion conferred upon the Plan Administrator pending the filling of the vacancy.

5.02 POWERS AND DUTIES. The Plan Administrator will have the following powers and duties:

- (a) To select a committee to assist the Plan Administrator;
- (b) To select a secretary for the committee, who need not be a member of the committee;
- (c) To determine the rights of eligibility of an Employee to participate in the Plan and the value of a Participant's Account;
- (d) To adopt rules and procedures and to create administrative forms necessary for the proper and efficient administration of the Plan provided the rules, procedures and forms are not inconsistent with the terms of the Plan;
- (e) To construe and enforce the terms of the Plan and the rules and regulations the Plan Administrator adopts, including interpretation of the Plan documents and documents related to the Plan's operation;
- (f) To direct the distribution of a Participant's Account;
- (g) To review and render decisions respecting a claim for (or denial of a claim for) a benefit under the Plan;
- (h) To furnish the Employer with information which the Employer may require for tax or other purposes;
- (i) To establish a policy in making distributions for unforeseeable emergencies;
- (j) To establish under a Governmental Eligible 457 Plan, policies regarding the receipt of Rollover Contributions and default rollover distributions;
- (k) To establish a policy regarding the making and the receipt of Transfers;
- (l) To establish a policy regarding Participant or Beneficiary direction of investment;
- (m) To engage the services of any person to invest any Account under this Plan and to direct such person to make payment to a Participant of his or her Vested Account;
- (n) To establish under a Governmental Eligible 457 Plan, a policy (see Section 5.02(A)) which the Trustee must observe in making loans, if any, to Participants and Beneficiaries;
- (o) To undertake correction of any Plan failures as necessary to preserve eligible Plan status; and
- (p) To undertake any other action the Plan Administrator deems reasonable or necessary to administer the Plan.

The Plan Administrator shall have total and complete discretion to interpret and construe the Plan and to determine all questions arising in the administration, interpretation and application of the Plan. Any determination the Plan

Administrator makes under the Plan is final and binding upon any affected person.

**(A) Loan Policy.** In a Governmental Eligible 457 Plan, the Plan Administrator, in its sole discretion, may establish, amend or terminate from time to time, a nondiscriminatory policy which the Trustee must observe in making Plan loans, if any, to Participants and to Beneficiaries. If the Plan Administrator adopts a loan policy, the loan policy must be a written document and must include: (1) the identity of the person or positions authorized to administer the participant loan program; (2) the procedure for applying for a loan; (3) the criteria for approving or denying a loan; (4) the limitations, if any, on the types and amounts of loans available; (5) the procedure for determining a reasonable rate of interest; (6) the types of collateral which may secure the loan; and (7) the events constituting default and the steps the Plan will take to preserve Plan assets in the event of default. A loan policy the Plan Administrator adopts under this Section 5.02(A) is part of the Plan, except that the Plan Administrator may amend or terminate the policy without regard to Section 9.01.

**(B) QDRO Policy.** If the QDRO provisions of Section 4.06 apply, the Plan Administrator will establish QDRO procedures.

5.03 COMPENSATION. The Plan Administrator and the members of the Committee will serve without compensation for services, but the Employer will pay all expenses of the Plan Administrator and Committee.

5.04 AUTHORIZED REPRESENTATIVE. The Plan Administrator may authorize any one of the members of the Committee, if any, or the Committee's Secretary, to sign on the Plan Administrator's behalf any Plan notices, directions, applications, certificates, consents, approvals, waivers, letters or other documents.

5.05 INDIVIDUAL ACCOUNTS/RECORDS. The Plan Administrator will maintain a separate Account in the name of each Participant to reflect the value of the Participant's Deferred Compensation under the Plan. The Plan Administrator will maintain records of its activities.

5.06 VALUE OF PARTICIPANT'S ACCOUNT. The value of each Participant's Account consists of his or her accumulated Deferred Compensation, as of the most recent Accounting Date or any later date as the Plan Administrator may determine.

**5.07 ACCOUNT ADMINISTRATION, VALUATION AND EXPENSES.**

**(A) Individual Accounts.** The Plan Administrator, as necessary for the proper administration of the Plan, will maintain, or direct the Trustee to maintain, a separate Account, or multiple Accounts, in the name of each Participant to reflect the Participant's Account Balance under the Plan. The Plan Administrator will make its allocations of Employer Contributions and of Earnings, or will request the Trustee to make such allocations, to the Accounts of the Participants as necessary to maintain proper Plan records and in accordance with the applicable: (i) Contribution Types; (ii) allocation conditions; (iii) investment account types; and (iv) Earnings allocation methods. The Plan Administrator may also maintain, or direct the Trustee to maintain, a separate temporary Account for Participant forfeitures which occur during a Plan Year, pending their accrual and allocation in accordance with the Plan terms, or for other special items as the Plan Administrator

**Eligible 457 Plan**

determines is necessary and appropriate for proper plan administration.

**(1) By Contribution Type.** The Plan Administrator will establish Plan Accounts for each Participant as necessary to reflect his or her Accounts attributable to the following Contribution Types and the Earnings attributable thereto: Pre-Tax Deferrals, Roth Deferrals, Matching Contributions, Nonelective Contributions, Rollover Contributions (including Roth versus pre-tax amounts), and Transfers.

**(2) By investment account type.** The Plan Administrator will establish separate Accounts for each Participant as necessary to reflect his or her investment account types as described below:

**(a) Pooled Accounts.** A Pooled Account is an Account which for investment purposes is not a Segregated Account or a Participant-Directed Account. If any or all Plan investment Accounts are Pooled Accounts, each Participant's Account has an undivided interest in the assets comprising the Pooled Account. In a Pooled Account, the value of each Participant's Account Balance consists of that proportion of the net worth (at fair market value) of the Trust Fund which the net credit balance in his or her Account (exclusive of the cash value of incidental benefit insurance contracts) bears to the total net credit balance in the Accounts of all Participants plus the cash surrender value of any insurance contracts held by the Trustee on the Participant's life. As of each Valuation Date, the Plan Administrator must reduce a Participant-Directed Account for any forfeiture arising from Section 5.07 after the Plan Administrator has made all other allocations, changes or adjustments to the Account (excluding Earnings) for the valuation period.

**(b) Participant-Directed Accounts.** A Participant-Directed Account is an Account that the Plan Administrator establishes and maintains or directs the Trustee to establish and maintain for a Participant to invest in one or more assets that are not pooled assets held by the Trust, such as assets in a brokerage account or other property in which other Participants do not have any interest. As the Plan Administrator determines, a Participant-Directed Account may provide for a limited number and type of investment options or funds, or may be open-ended and subject only to any limitations imposed by applicable law. A Participant may have one or more Participant-Directed Accounts in addition to Pooled or Segregated Accounts. A Participant-Directed Account is credited and charged with the Earnings. As of each Valuation Date, the Plan Administrator must reduce a Participant-Directed Account for any forfeiture arising from Section 5.07 after the Plan Administrator has made all other allocations, changes or adjustments to the Account (excluding Earnings) for the valuation period.

**(c) Segregated Accounts.** A Segregated Account is an Account the Plan Administrator establishes and maintains or directs the Trustee to establish and maintain for a Participant: (i) to facilitate installment payments; (ii) to hold a QDRO amount; (iii) to prevent a distortion of Plan Earnings allocations; or (iv) for such other purposes as the Plan Administrator may direct. A Segregated Account receives all income it earns and bears all expense or loss it incurs. The Trustee will invest the assets of a Segregated Account consistent with the purpose for which the Plan Administrator or Trustee established the Account. As of each Valuation Date, the Plan Administrator must reduce a Segregated Account for any forfeiture arising after the Plan

Administrator has made all other allocations, changes or adjustments to the Account (excluding Earnings) for the Valuation Period. Notwithstanding anything in this Section to the contrary, transferred amounts are not required to be separately accounted for and may be combined with the corresponding Account maintained in this Plan provided all rights, benefits and features and other attributes are identical with respect to each account, or are identical after the combination and such combination does not result in the impermissible elimination of any Code §411(d)(6) protected benefits.

**(3) Amount of Account/distributions.** The amount of a Participant's Account, as determined by the Plan Administrator, is equal to the sum of all contributions, Earnings and other additions credited to the Account, less all distributions (including distributions to Beneficiaries and to alternate payees and also including disbursement of Plan loan proceeds), expenses and other charges against the Account as of a Valuation Date or other relevant date. For purposes of a distribution under the Plan, the amount of a Participant's Account Balance is determined based upon its value on the Valuation Date immediately preceding or coinciding with the date of the distribution. If any or all Plan investment Accounts are Participant-Directed Accounts, the directing Participant's Account Balance consists of the assets held within the Participant-Directed Account and the value of the Account is determined based upon the fair market value of such assets.

**(4) Account statements.** As soon as practicable after the Accounting Date of each Plan Year, the Plan Administrator will deliver to each Participant (and to each Beneficiary) a statement reflecting the amount of his or her Account Balance in the Trust as of the statement date or most recent Valuation Date. No Participant, except the Plan Administrator/Participant or Trustee/Participant, has the right to inspect the records reflecting the Account of any other Participant.

**(B) Allocation of Earnings.** This Section 5.07(B) applies solely to the allocation of Earnings of the Trust Fund. The Plan Administrator will allocate Employer Contributions and Participant forfeitures, if any, in accordance with Article III. Earnings means the net income, gain or loss earned by a particular Account, by the Trust, or with respect to a contribution or to a distribution, as the context requires.

**(1) Allocate as of Valuation Date.** As of each Valuation Date, the Plan Administrator must adjust Accounts to reflect Earnings for the Valuation Period since the last Valuation Date.

**(2) Definition of Valuation Date.** A Valuation Date under this Plan is each: (a) Accounting Date; (b) Valuation Date the Employer elects in the Adoption Agreement; or (c) Valuation Date the Plan Administrator establishes. The Employer in the Adoption Agreement or the Plan Administrator may elect alternative Valuation Dates for the different Contribution Types which the Plan Administrator maintains under the Plan.

**(3) Definition of Valuation Period.** The Valuation Period is the period beginning on the day after the last Valuation Date and ending on the current Valuation Date.

**(4) Allocation methods.** The Plan Administrator will allocate Earnings to the Participant Accounts in accordance with the daily valuation method, balance forward method, balance

**Eligible 457 Plan**

forward with adjustment method, weighted average method, Participant-Directed Account method, or other method the Employer elects under the Adoption Agreement. The Employer in the Adoption Agreement may elect alternative methods under which the Plan Administrator will allocate the Earnings to the Accounts reflecting different Contribution Types or investment Account types which the Plan Administrator maintains under the Plan. The Plan Administrator first will adjust the Participant Accounts, as those Accounts stood at the beginning of the current Valuation Period, by reducing the Accounts for any forfeitures, distributions, and loan disbursement payments arising under the Plan, for expenses charged during the Valuation Period to the Accounts (expenses directly related to a Participant's Account). The Plan Administrator then, subject to the restoration allocation requirements of the Plan, will allocate Earnings under the applicable valuation method.

**(a) Daily valuation method.** If the Employer in the Adoption Agreement elects to apply the daily valuation method, the Plan Administrator will allocate Earnings on each day of the Plan Year for which Plan assets are valued on an established market and the Trustee is conducting business. Under the daily valuation method, all assets subject to such method are subject to daily valuation. The assets may be held in Participant-Directed Accounts or in Accounts which are subject to Trustee or other fiduciary investment direction.

**(b) Balance forward method.** If the Employer in the Adoption Agreement elects to apply the balance forward method, the Plan Administrator will allocate Earnings pro rata to the adjusted Participant Accounts, since the last Valuation Date.

**(c) Balance forward with adjustment method.** If the Employer in the Adoption Agreement elects to apply the balance forward with adjustment method, the Plan Administrator will allocate pursuant to the balance forward method, except it will treat as part of the relevant Account at the beginning of the Valuation Period the percentage of the contributions made as the Employer elects in the Adoption Agreement, during the Valuation Period the Employer elects in the Adoption Agreement.

**(d) Weighted average method.** If the Employer in the Adoption Agreement elects to apply a weighted average allocation method, the Plan Administrator will allocate pursuant to the balance forward method, except it will treat a weighted portion of the applicable contributions as if includible in the Participant's Account as of the beginning of the Valuation Period. The weighted portion is a fraction, the numerator of which is the number of months in the Valuation Period, excluding each month in the Valuation Period which begins prior to the contribution date of the applicable contributions, and the denominator of which is the number of months in the Valuation Period. The Employer in the Adoption Agreement may elect to substitute a weighting period other than months for purposes of this weighted average allocation.

**(e) Participant-Directed Account method.** The Employer in the Adoption Agreement must elect to apply the Participant-Directed Account method to any Participant-Directed Account under the Plan. Under the Participant-Directed Account method: (i) each Participant-Directed Account is credited and charged with the Earnings such Account generates; (ii) the Employer's election, if any, in the Adoption Agreement of another method for the allocation of Earnings will not apply to any Participant-Directed Account; and (iii) the Participant-

Directed Account may be valued as often as daily, but will be valued at least annually, and all assets in the Account are not necessarily valued on the same frequency. An Account which is subject to the Participant-Directed Account method includes an individual brokerage account or similar account in title to the Trustee for the benefit of the Participant.

**(C) Allocation of Net Income, Gain or Loss (No Trust).** In a Tax-Exempt Eligible 457 Plan that does not maintain a trust the Plan Administrator will allocate net income, gain or loss in accordance with this provision. As of each Accounting Date (and each other valuation date determined under the Adoption Agreement), the Plan Administrator will adjust Accounts to reflect net income, gain or loss, if any, since the last Accounting Date or Account valuation. The Employer in the Adoption Agreement will elect the method for allocating net income gain or loss. The Plan Administrator will continue to allocate net income, gain and loss to a Participant's Account subject to an installment distribution, until the Account is fully distributed.

**5.08 ACCOUNT CHARGED.** The Plan Administrator will charge all distributions made to a Participant or to his or her Beneficiary, or transferred under Section 9.03 from his or her Account, against the Account of the Participant when made.

**5.09 OWNERSHIP OF FUND/TAX-EXEMPT ORGANIZATION.** If the Employer is a Tax-Exempt Organization, the Plan is an unfunded plan and all Deferred Compensation, property and rights to property purchased by Deferred Compensation and all income attributable thereto remain, until paid or made available under the Plan, the sole property and rights of the Employer, subject only to the claims of the Employer's general creditors. No Participant or Beneficiary will have any vested interest or secured or preferred position with respect to an Account or have any claim against the Employer except as a general creditor. No Participant or Beneficiary shall have any right to sell, assign, transfer or otherwise convey his or her Account or any interest in his or her Deferred Compensation. The Employer or the Plan Administrator, acting as the Employer's agent, may enter into a trust agreement solely for the purpose of investing all or part of the Accounts, which will be subject to the claims of the Employer's general creditors, and in which the Participants or Beneficiaries will not have a vested interest nor a secured or preferred position or have any claim except as the Employer's general creditor. The Employer may not purchase life insurance contracts under this Plan unless the Employer retains all incidents of ownership in such contracts, the Employer is the sole beneficiary of such contracts and the Employer is not under any obligation to transfer the contracts or pass through the proceeds to any Participant or to his or her Beneficiary. The Employer may adopt and attach to the Plan as "Appendix A," the Internal Revenue Service Model Rabbi Trust under Rev. Proc. 92-64 (as amended) to hold the assets of a Tax-Exempt Organization Eligible 457 Plan. If the Employer adopts the Model Rabbi Trust, the Plan incorporates by reference the provisions of the Model Rabbi Trust as if fully set forth herein.

**5.10 PARTICIPANT DIRECTION OF INVESTMENT.** Subject to the terms of the Plan Administrator's adopted policy, if any, and also to written consent of the Trustee, if the Plan has a Trust, a Participant will have the right to direct the investment or re-investment of the assets comprising the Participant's Account. The Plan Administrator will account separately for the Participant-Directed Accounts. The Participant's right to direct investment does not give the Participant any vested interest or secured or preferred position with respect to assets over which he/she has investment responsibility.

**5.11 VESTING/SUBSTANTIAL RISK OF FORFEITURE.** The Employer in the Adoption Agreement may

**Eligible 457 Plan**

elect to apply a vesting schedule or to specify any other Substantial Risk of Forfeiture applicable to any or all Deferral Contributions.

**(A) Forfeiture Allocation.** The Employer in the Adoption Agreement must elect the method the Plan Administrator will use to allocate any Participant forfeitures, including those related to lost Participants under Section 5.14. However, if a forfeiture allocation method is not selected in the adoption agreement, forfeitures are allocated as an Employer Contribution. The Plan Administrator will allocate a forfeiture in the Plan Year in which the forfeiture occurs or in the next following Plan Year.

**5.12 PRESERVATION OF ELIGIBLE PLAN STATUS.** The Plan Administrator may elect to sever from this Plan and to treat as a separate 457 plan, the Accounts of any Participants who have Excess Deferrals that the Plan Administrator has not corrected in accordance with Section 3.10 or in the case of any other Code §457(b) failure that the Employer may not otherwise correct, and which failure would result in the Plan ceasing to be an Eligible 457 Plan. In such event, the Plan Administrator will take any necessary or appropriate action consistent with the Employer's maintenance of separate 457 plans and with preservation of Eligible 457 Plan status of this Plan.

**5.13 LIMITED LIABILITY.** The Employer will not be liable to pay plan benefits to a Participant in excess of the value of the Participant's Account as the Plan Administrator determines in accordance with the Plan terms. Neither the Employer nor the Plan Administrator will be liable for losses arising from depreciation or shrinkage in the value of any investments acquired under this Plan.

**5.14 LOST PARTICIPANTS.** If the Plan Administrator is unable to locate any Participant or Beneficiary whose Account becomes distributable (a "lost Participant"), the Plan Administrator will apply the provisions of this Section 5.14.

**(A) Attempt to Locate.** The Plan Administrator will attempt to locate a lost Participant and may use one or more of the following methods: (1) provide a distribution notice to the lost Participant at his or her last known address by certified or registered mail; (2) use a commercial locator service, the internet or other general search method; (3) use the Social Security Administration or PBGC search program; or (4) use such other methods as the Plan Administrator believes prudent.

**(B) Failure to Locate.** If a lost Participant remains unlocated for 6 months following the date the Plan Administrator first attempts to locate the lost Participant using one or more of the methods described in Section 5.14(A), the Plan Administrator may forfeit the lost Participant's Account. If the Plan Administrator forfeits the lost Participant's Account, the forfeiture occurs at the end of the above-described 6-month period and the Plan Administrator will allocate the forfeiture in accordance with Section 5.11. The Plan Administrator under this Section 5.14(B) will forfeit the entire Account of the lost Participant, including Salary Reduction Contributions.

If a lost Participant whose Account was forfeited thereafter at any time but before the Plan has been terminated makes a claim for his or her forfeited Account, the Plan Administrator will restore the forfeited Account to the same dollar amount as the amount forfeited, unadjusted for net income, gains or losses occurring subsequent to the forfeiture. The Plan Administrator will make the restoration in the Plan Year in which the lost Participant makes the claim, first from the amount, if any, of Participant forfeitures the Plan Administrator otherwise would allocate for the Plan Year, then from the amount, if any, of Trust net income or gain for the Plan Year and last from the amount or

additional amount the Employer contributes to the Plan for the Plan Year. The Plan Administrator will distribute the restored Account to the lost Participant not later than 60 days after the close of the Plan Year in which the Plan Administrator restores the forfeited Account.

**(C) Nonexclusivity and Uniformity.** The provisions of this Section 5.14 are intended to provide permissible but not exclusive means for the Plan Administrator to administer the Accounts of lost Participants. The Plan Administrator may utilize any other reasonable method to locate lost Participants and to administer the Accounts of lost Participants, including the default rollover under Section 4.07(C) and such other methods as the Revenue Service or the U.S. Department of Labor ("DOL") may in the future specify. The Plan Administrator will apply Section 5.14 in a reasonable manner, but may in determining a specific course of action as to a particular Account, reasonably take into account differing circumstances such as the amount of a lost Participant's Account, the expense in attempting to locate a lost Participant, the Plan Administrator's ability to establish and the expense of establishing a rollover IRA, and other factors. The Plan Administrator may charge to the Account of a lost Participant the reasonable expenses incurred under this Section 5.14 and which are associated with the lost Participant's Account.

**5.15 PLAN CORRECTION.** The Plan Administrator, in conjunction with the Employer and Trustee as appropriate, may undertake such correction of Plan errors as the Plan Administrator deems necessary, including but not limited to correction to maintain the Plan's status as an Eligible 457 Plan. The Plan Administrator under this Section 5.15 also may undertake Plan correction in accordance with any correction program that the Internal Revenue Service makes applicable to 457 plans.

## ARTICLE VI PARTICIPANT ADMINISTRATIVE PROVISIONS

**6.01 BENEFICIARY DESIGNATION.** A Participant from time to time may designate, in writing, any person(s) (including a trust or other entity), contingently or successively, to whom the Plan Administrator or Trustee will pay the Participant's Account (including any life insurance proceeds payable to the Participant's Account) in the event of death. A Participant also may designate the method of payment of his or her Account. The Plan Administrator will prescribe the form for the Participant's written designation of Beneficiary and, upon the Participant's filing the form with the Plan Administrator, the form revokes all designations filed prior to that date by the same Participant. A divorce decree, or a decree of legal separation, revokes the Participant's designation, if any, of his or her spouse as his or her Beneficiary under the Plan unless the decree or a QDRO provides otherwise. The foregoing revocation provision (if applicable) applies only with respect to a Participant whose divorce becomes effective on or following the date the Employer executes the Adoption Agreement, unless the Employer in the Adoption Agreement specifies a different effective date.

**6.02 NO BENEFICIARY DESIGNATION.** If a Participant fails to name a Beneficiary in accordance with Section 6.01, or if the Beneficiary named by a Participant predeceases the Participant, then the Plan Administrator will pay the Participant's remaining Account in accordance with Article IV in the following order of priority, to:

- (a) The Participant's surviving spouse; or
- (b) The Participant's children (including adopted children), in equal shares by right of representation (one share for each surviving child and one share for each child who predeceases the Participant with living descendants); and if none to
- (c) Parents. The Participant's surviving parents, in equal shares; and if none to
- (d) The Participant's estate.

If the Beneficiary survives the Participant, but dies prior to distribution of the Participant's entire Account, the Trustee will pay the remaining Account to the Beneficiary's estate unless: (1) the Participant's Beneficiary designation provides otherwise; or (2) the Beneficiary has properly designated a beneficiary. A Beneficiary only may designate a beneficiary for the Participant's Account Balance remaining at the Beneficiary's death, if the Participant has not previously designated a successive contingent beneficiary and the Beneficiary's designation otherwise complies with the Plan terms. The Plan Administrator will direct a Trustee if applicable as to the method and to whom the Trustee will make payment under this Section 6.02.

### 6.03 SALARY REDUCTION AGREEMENT.

**(A) General.** A Participant must elect to make Salary Reduction Contributions on a Salary Reduction Agreement form the Plan Administrator provides for this purpose. The Salary Reduction Agreement must be consistent with the Employer's Adoption Agreement elections and the Plan Administrator in a Salary Reduction Agreement may impose such other terms and limitations as the Plan Administrator may determine.

**(B) Election Timing.** A Participant's Salary Reduction Agreement may not take effect earlier than the first day of the calendar month following the date the Participant executes the

Salary Reduction Agreement and as to Compensation paid or made available in such calendar month. However, if an Employee is eligible to become a Participant during the Employee's calendar month of hire, the Employee may execute a Salary Reduction Agreement on or before the date he/she becomes an Employee, effective for the month in which he/she becomes an Employee.

**(C) Sick, Vacation and Back Pay.** If the Employer in the Adoption Agreement permits Participants to make Salary Reduction Contributions from accumulated sick pay, from accumulated vacation pay or from back pay, a Participant who will incur a Severance from Employment may execute a Salary Reduction Agreement before such amounts are paid or made available provided: (i) such amounts are paid or made available before the Participant incurs the Severance; and (ii) the Participant is an Employee in that month.

**(D) Modification of Salary Reduction Agreement.** A Participant's Salary Reduction Agreement remains in effect until a Participant modifies it or ceases to be eligible to participate in the Plan. A Participant may modify his or her Salary Reduction Agreement by executing a new Salary Reduction Agreement. Any modification will become effective no earlier than the beginning of the calendar month commencing after the date the Participant executes the new Salary Reduction Agreement. Filing a new Salary Reduction Agreement will revoke all Salary Reduction Agreements filed prior to that date. The Employer or Plan Administrator may restrict the Participant's right to modify his or her Salary Reduction Agreement in any Taxable Year.

**6.04 PERSONAL DATA TO PLAN ADMINISTRATOR.** Each Participant and each Beneficiary of a deceased Participant must furnish to the Plan Administrator such evidence, data or information as the Plan Administrator considers necessary or desirable for the purpose of administering the Plan. The provisions of this Plan are effective for the benefit of each Participant upon the condition precedent that each Participant will furnish promptly full, true and complete evidence, data and information when requested by the Plan Administrator, provided the Plan Administrator advises each Participant of the effect of his or her failure to comply with its request.

**6.05 ADDRESS FOR NOTIFICATION.** Each Participant and each Beneficiary of a deceased Participant must file with the Plan Administrator from time to time, in writing, his or her address and any change of address. Any communication, statement or notice addressed to a Participant, or Beneficiary, at his or her last address filed with the Plan Administrator, or as shown on the records of the Employer, binds the Participant, or Beneficiary, for all purposes of this Plan.

**6.06 PARTICIPANT OR BENEFICIARY INCAPACITATED.** If, in the opinion of the Plan Administrator or of the Trustee, a Participant or Beneficiary entitled to a Plan distribution is not able to care for his or her affairs because of a mental condition, a physical condition, or by reason of age, the Plan Administrator or at the direction of the Plan Administrator, the Trustee, may make the distribution to the Participant's or Beneficiary's guardian, conservator, trustee, custodian (including under a Uniform Transfers or Gifts to Minors Act) or to his or her attorney-in-fact or to other legal representative upon furnishing evidence of such status satisfactory to the Plan Administrator and to the Trustee. The Plan Administrator and the Trustee do not have any liability with respect to payments so made and neither the Plan Administrator nor the Trustee has any duty to make inquiry as to the competence of any person entitled to receive payments under the Plan.

## Eligible 457 Plan

**ARTICLE VII  
MISCELLANEOUS**

7.01 NO ASSIGNMENT OR ALIENATION. A Participant or Beneficiary does not have the right to commute, sell, assign, pledge, transfer or otherwise convey or encumber the right to receive any payments under the Plan or Trust and the Plan Administrator and the Trustee will not recognize any such anticipation, assignment, or alienation. The payments and the rights under this Plan are nonassignable and nontransferable. Furthermore, a Participant's or Beneficiary's interest in the Trust is not subject to attachment, garnishment, levy, execution or other legal or equitable process.

7.02 EFFECT ON OTHER PLANS. This Plan does not affect benefits under any other retirement, pension, or benefit plan or system established for the benefit of the Employer's Employees, and participation under this Plan does not affect benefits receivable under any such plan or system, except to the extent provided in such plan or system.

7.03 WORD USAGE. Words used in the masculine will apply to the feminine where applicable, and wherever the context of the Plan dictates, the plural will be read as the singular and the singular as the plural.

7.04 STATE LAW. The laws of the state of the Employer's principal place of business will determine all questions arising with respect to the provisions of this Plan, except to the extent Federal law supersedes State law.

7.05 EMPLOYMENT NOT GUARANTEED. Nothing contained in this Plan, or any modification or amendment to the Plan, or in the creation of any Account, or the payment of any benefit, gives any Employee, Participant or Beneficiary any right to continue employment, any legal or equitable right against the Employer, the Plan Administrator, the Trustee, any other Employee of the Employer, or any agents thereof except as expressly provided by the Plan.

7.06 NOTICE, DESIGNATION, ELECTION, CONSENT AND WAIVER. All notices under the Plan and all Participant or Beneficiary designations, elections, consents or waivers must be in writing and made in a form the Plan Administrator specifies or otherwise approves. To the extent permitted by Treasury regulations or other applicable guidance, any Plan notice, election, consent or waiver may be transmitted electronically. Any person entitled to notice under the Plan may waive the notice or shorten the notice period except as otherwise required by the Code.

## Eligible 457 Plan

**ARTICLE VIII**  
**TRUST PROVISIONS—GOVERNMENTAL ELIGIBLE 457 PLAN**

8.01 **GOVERNMENTAL ELIGIBLE 457 PLAN.** The provisions of this Article VIII apply to a Governmental Eligible 457 Plan and do not apply to a Tax-Exempt Organization Eligible 457 Plan. The Employer in the Adoption Agreement may elect to substitute another trust (attached to this Plan as "Appendix A") or to modify any provision of Article VIII, consistent with Code §457(g) and applicable Treasury regulations.

8.02 **ACCEPTANCE/HOLDING.** The Trustee accepts the Trust created under the Plan and agrees to perform the duties and obligations imposed. The Trustee must hold in trust under this Article VIII, all Deferred Compensation until paid in accordance with the Plan terms.

8.03 **RECEIPT OF CONTRIBUTIONS.** The Trustee is accountable to the Employer for the funds contributed to it by the Employer or the Plan Administrator, but the Trustee does not have any duty to see that the contributions received comply with the provisions of the Plan.

8.04 **FULL INVESTMENT POWERS.** The Trustee has full discretion and authority with regard to the investment of the Trust, except with respect to a Trust asset under Participant direction of investment, in accordance with Section 8.12. The Trustee is authorized and empowered, but not by way of limitation, to exercise and perform the following powers, rights and duties:

(a) To invest any part or all of the Trust in any common or preferred stocks, open-end or closed-end mutual funds, put and call options traded on a national exchange, United States retirement plan bonds, corporate bonds, debentures, convertible debentures, commercial paper, U. S. Treasury bills, U. S. Treasury notes and other direct or indirect obligations of the United States Government or its agencies, improved or unimproved real estate situated in the United States, limited partnerships, insurance contracts of any type, mortgages, notes or other property of any kind, real or personal, and to buy or sell options on common stock on a nationally recognized options exchange with or without holding the underlying common stock, as a prudent person would do under like circumstances. Any investment made or retained by the Trustee in good faith will be proper but must be of a kind constituting a diversification considered by law suitable for trust investments;

(b) To retain in cash so much of the Trust as it may deem advisable to satisfy liquidity needs of the Plan and to deposit any cash held in the Trust in a bank account at reasonable interest;

(c) To invest, if the Trustee is a bank or similar financial institution supervised by the United States or by a State, in any type of deposit of the Trustee (or a bank related to the Trustee within the meaning of Code §414(b)) at a reasonable rate of interest or in a common trust fund as described in Code §584, or in a collective investment fund, the provisions of which the Trust incorporates by this reference, which the Trustee (or its affiliate, as defined in Code §1504) maintains exclusively for the collective investment of money contributed by the bank (or its affiliate) in its capacity as Trustee and which conforms to the rules of the Comptroller of the Currency;

(d) To manage, sell, contract to sell, grant options to purchase, convey, exchange, transfer, abandon, improve, repair, insure, lease for any term even though commencing in the future or extending beyond the term of the Trust, and otherwise deal with all property, real or personal, in such manner, for such

considerations and on such terms and conditions as the Trustee decides;

(c) To credit and distribute the Trust as directed by the Plan Administrator of the Plan. The Trustee will not be obliged to inquire as to whether any payee or distributee is entitled to any payment or whether the distribution is proper or within the terms of the Plan, or as to the manner of making any payment or distribution. The Trustee will be accountable only to the Plan Administrator for any payment or distribution made by it in good faith on the order or direction of the Plan Administrator;

(f) To borrow money, to assume indebtedness, extend mortgages and encumber by mortgage or pledge;

(g) To compromise, contest, arbitrate or abandon claims and demands, in the Trustee's discretion;

(h) To have with respect to the Trust all of the rights of an individual owner, including the power to exercise any and all voting rights associated with Trust assets, to give proxies, to participate in any voting trusts, mergers, consolidations or liquidations, to tender shares and to exercise or sell stock subscriptions or conversion rights;

(i) To lease for oil, gas and other mineral purposes and to create mineral severances by grant or reservation; to pool or unitize interest in oil, gas and other minerals; and to enter into operating agreements and to execute division and transfer orders;

(j) To hold any securities or other property in the name of the Trustee or its nominee, with depositories or agent depositories or in another form as it may deem best, with or without disclosing the trust relationship;

(k) To perform any and all other acts in its judgment necessary or appropriate for the proper and advantageous management, investment and distribution of the Trust;

(l) To retain any funds or property subject to any dispute without liability for the payment of interest, and to decline to make payment or delivery of the funds or property until a court of competent jurisdiction makes a final adjudication;

(m) To file all tax returns required of the Trustee;

(n) To furnish to the Employer and the Plan Administrator an annual statement of account showing the condition of the Trust and all investments, receipts, disbursements and other transactions effected by the Trustee during the Plan Year covered by the statement and also stating the assets of the Trust held at the end of the Plan Year, which accounts will be conclusive on all persons, including the Employer and the Plan Administrator, except as to any act or transaction concerning which the Employer or the Plan Administrator files with the Trustee written exceptions or objections within 90 days after the receipt of the accounts; and

(o) To begin, maintain or defend any litigation necessary in connection with the administration of the Trust, except that the Trustee will not be obliged or required to do so unless indemnified to its satisfaction.

**(A) Nondiscretionary Trustee.** The Employer in the Adoption Agreement may elect to appoint a Nondiscretionary Trustee, subject to this Section 8.04(A). The Nondiscretionary Trustee does not have any discretion or authority with regard to the

**Eligible 457 Plan**

investment of the Trust, but must act solely as a directed Trustee hereunder. The Nondiscretionary Trustee is authorized and empowered to exercise and perform the above Section 8.04 powers, rights and duties provided that the Trustee shall act solely as a directed Trustee and only in accordance with the written direction of the Employer, the Plan Administrator or of a Participant as applicable. The Nondiscretionary Trustee is not liable for making, retaining or disposing of any investment or for taking or failing to take any other action, in accordance with proper Employer, Plan Administrator or Participant direction.

**8.05 RECORDS AND STATEMENTS.** The records of the Trustee pertaining to the Trust will be open to the inspection of the Plan Administrator and the Employer at all reasonable times and may be audited from time to time by any person or persons as the Employer or Plan Administrator may specify in writing. The Trustee will furnish the Plan Administrator whatever information relating to the Trust the Plan Administrator considers necessary.

**8.06 FEES AND EXPENSES FROM FUND.** The Trustee will receive reasonable annual compensation in accordance with its fee schedule as published from time to time. The Trustee will pay from the Trust all fees and expenses the Trustee reasonably incurs in its administration of the Trust, unless the Employer pays the fees and expenses.

**8.07 PROFESSIONAL AGENTS.** The Trustee may employ and pay from the Trust reasonable compensation to agents, attorneys, accountants and other persons to advise the Trustee as in its opinion may be necessary. The Trustee may delegate to any agent, attorney, accountant or other person selected by it any non-Trustee power or duty vested in it by the Trust, and the Trustee may act or refrain from acting on the advice or opinion of any agent, attorney, accountant or other person so selected.

**8.08 DISTRIBUTION OF CASH OR PROPERTY.** The Trustee may make distribution under the Plan in cash or property, or partly in each, at its fair market value as determined by the Trustee.

**8.09 RESIGNATION AND REMOVAL.** The Trustee or the Custodian may resign its position by giving written notice to the Employer and to the Plan Administrator. The Trustee's notice must specify the effective date of the Trustee's resignation, which date must be at least 30 days following the date of the Trustee's notice, unless the Employer consents in writing to shorter notice.

The Employer may remove a Trustee or a Custodian by giving written notice to the affected party. The Employer's notice must specify the effective date of removal which date must be at least 30 days following the date of the Employer's notice, except where the Employer reasonably determines a shorter notice period or immediate removal is necessary to protect Plan assets.

**8.10 SUCCESSOR TRUSTEE.**

**(A) Appointment.** In the event of the resignation or the removal of a Trustee, where no other Trustee continues to service, the Employer must appoint a successor Trustee if it intends to continue the Plan. If two or more persons hold the position of Trustee, in the event of the removal of one such person, during any period the selection of a replacement is pending, or during any period such person is unable to serve for any reason, the remaining person or persons will act as the Trustee. If the Employer fails to appoint a successor Trustee as of the effective date of the Trustee resignation or removal and no other Trustee remains, the Trustee will treat the Employer as

having appointed itself as Trustee and as having filed the Employer's acceptance of appointment as successor Trustee with the former Trustee.

**(B) Automatic Successor.** Any corporation which succeeds to the trust business of the Trustee, or results from any merger or consolidation to which the Trustee is a party, or is the transferee of substantially all the Trustee's assets, will be the successor to the Trustee under this Trust. The successor Trustee will possess all rights, duties and powers under this Trust as if the successor Trustee were the original Trustee. Neither the Trustee nor the successor Trustee need provide notice to any interested person of any transaction resulting in a successor Trustee. The successor Trustee need not file or execute any additional instrument or perform any additional act to become successor Trustee.

**8.11 VALUATION OF TRUST.** The Trustee will value the Trust as of each Accounting Date to determine the fair market value of the Trust assets. The Trustee will value the Trust on such other date(s) the Plan Administrator may direct.

**8.12 PARTICIPANT DIRECTION OF INVESTMENT.** Consistent with the Plan Administrator's policy adopted under Section 5.02(l), the Trustee may consent in writing to permit Participants in the Plan to direct the investment to the Trust assets. The Plan Administrator will advise the Trustee of the portion of the Trust credited to each Participant's Account under the Plan, and subject to such Participant direction. As a condition of Participant direction, the Trustee may impose such conditions, limitations and other provisions as the Trustee may deem appropriate and as are consistent with the Plan Administrator's policy. The Trustee will report to the Plan Administrator the net income, gain or losses incurred by each Participant-Directed Account separately from the net income, gain or losses incurred by the general Trust during the Trust Year.

**8.13 THIRD PARTY RELIANCE.** No person dealing with the Trustee will be obliged to see to the proper application of any money paid or property delivered to the Trustee, or to inquire whether the Trustee has acted pursuant to any of the terms of the Trust. Each person dealing with the Trustee may act upon any notice, request or representation in writing by the Trustee, or by the Trustee's duly authorized agent, and will not be liable to any person whomsoever in so doing. The certificate of the Trustee that it is acting in accordance with the Trust will be conclusive in favor of any person relying on the certificate.

**8.14 INVALIDITY OF ANY TRUST PROVISION.** If any clause or provision of this Article VIII proves to be or is adjudged to be invalid or void for any reason, such void or invalid clause or provision will not affect any of the other provisions of this Article VIII and the balance of the Trust provisions will remain operative.

**8.15 EXCLUSIVE BENEFIT.** The Trustee will hold all the assets of the Trust for the exclusive benefit of the Participants and their Beneficiaries and neither the Employer nor the Trustee will use or divert any part of the corpus or income of the Trust for purposes other than the exclusive benefit of the Participants and Beneficiaries of the Plan. The Employer will not have any right to the assets held by the Trustee and the Trust assets will not be subject to the claims of the Employer's creditors or, except as provided in Section 4.06, of the creditors of any Participant or Beneficiary. No Participant or Beneficiary shall have any right to sell, assign, transfer or otherwise convey his or her Account or any interest in his or her Deferred Compensation. Notwithstanding the foregoing, the Plan Administrator may pay from a Participant's or Beneficiary's Account the amount the Plan Administrator finds is lawfully



**Eligible 457 Plan**

demanded under a levy issued by the Internal Revenue Service with respect to that Participant or Beneficiary or is sought to be collected by the United States Government under a judgment resulting from an unpaid tax assessment against the Participant or Beneficiary. The Trust created under the Employer's Plan is irrevocable and its assets will not inure to the benefit of the Employer.

**8.16 SUBSTITUTION OF CUSTODIAL ACCOUNT OR ANNUITY CONTRACT.** The Employer in the Adoption Agreement may elect to use one or more custodial accounts or annuity contracts in lieu of or in addition to the Trust established in this Article VIII. Any such custodial account or annuity contract must satisfy the requirements of Code §457(g)(3) and applicable Treasury regulations.

**8.17 GROUP TRUST AUTHORITY.** Notwithstanding any contrary provision in this Plan, the Trustee may, unless restricted in writing by the Plan Administrator, transfer assets of the Plan to a group trust that is operated or maintained exclusively for the commingling and collective investment of monies provided that the funds in the group trust consist exclusively of trust assets held under plans qualified under Code §401(a), individual retirement accounts that are exempt under Code §408(e), and eligible governmental plans that meets the requirements of Code §457(b). For this purpose, a trust includes a custodial account that is treated as a trust under Code §401(f) or under Code §457(g)(3). For purposes of valuation, the value of the interest maintained by the Plan in such group trust shall be the fair market value of the portion of the group trust held for Plan, determined in accordance with generally recognized valuation procedures.

**ARTICLE IX  
AMENDMENT, TERMINATION, TRANSFERS**

9.01 AMENDMENT BY EMPLOYER/SPONSOR. The Employer has the right at any time and from time to time:

(a) To amend this Plan and Trust Agreement and the Adoption Agreement in any manner it deems necessary or advisable in order to continue the status of this Plan as an Eligible 457 Plan; and

(b) To amend this Plan and Trust Agreement and the Adoption Agreement in any other manner, including deletion, substitution or modification of any Plan, Trust or Adoption Agreement provision.

The Employer must make all amendments in writing. The Employer may amend the Plan by an Adoption Agreement election, by addenda, by separate amendment, or by restatement of the Adoption Agreement or Plan. Each amendment must state the date to which it is either retroactively or prospectively effective. The Employer also may not make any amendment that affects the rights, duties or responsibilities of the Trustee or the Plan Administrator without the written consent of the affected Trustee or the Plan Administrator.

9.02 TERMINATION/FREEZING OF PLAN. The Employer has the right, at any time, to terminate this Plan or to cease (freeze) further Deferral Contributions to the Plan. Upon termination or freezing of the Plan, the provisions of the Plan (other than provisions permitting continued Deferral Contributions) remain operative until distribution of all Accounts. Upon Plan termination, the Plan Administrator or Trustee shall distribute to Participants and Beneficiaries all Deferred Compensation as soon as is reasonably practicable following termination.

9.03 TRANSFERS. The Employer may enter into a Transfer agreement with another employer under which this Plan: (a) may accept a Transfer of a Participant's Account in the other employer's Eligible 457 Plan; or (b) may Transfer a Participant's (or Beneficiary's) Account in this Plan to the other employer's Eligible 457 Plan. The plan sponsors of the plans involved in the Transfer both must be States or both must be Tax-Exempt Organizations and the plans must provide for Transfers. The Participant or Beneficiary, after the Transfer will have Deferred Compensation in the recipient plan at least equal to his or her Deferred Compensation in the transferring plan immediately before the Transfer. Any Transfer also must comply with applicable Treasury regulations, and in particular Treas. Reg. §§1.457-10(b)(2) as to post-severance transfers between Governmental Eligible 457 Plans; 1.457-10(b)(3) as to transfers of all assets between Governmental Eligible 457 Plans; 1.457-10(b)(4) as to transfers between Governmental Eligible 457 Plans of the same Employer; and 1.457-10(b)(5) as to post-severance transfers between Tax-Exempt Organization Eligible 457 Plans. The Plan Administrator will credit any Transfer accepted under this Section 9.03 to the Participant's Account and will treat the transferred amount as a Deferral Contribution for all purposes of this Plan except the Plan Administrator, will not treat such Transfer as a Deferral Contribution subject to the limitations of Article III. In addition, in the case of a Transfer between Tax-Exempt Organization Eligible Plans, the recipient plans shall apply a Participant's distribution elections made under the transferor plan in accordance with Treas. Reg. §1.457-10(b)(6)(ii). The Plan's Transfer of any Participant's or Beneficiary's Account under this Section 9.03 completely discharges the Employer, the Plan Administrator, the Trustee and the Plan from any liability to the Participant or Beneficiary for any Plan benefits.

9.04 PURCHASE OF PERMISSIVE SERVICE CREDIT.

A Participant in a Governmental Eligible 457 Plan, prior to otherwise incurring a distributable event under Article IV, may direct the Trustee to transfer all or a portion of his or her Account to a governmental defined benefit plan (under Code §414(d)) for: (a) the purchase of permissive service credit (under Code §415(n)(3)(A)) under such plan, or (b) the repayment of contributions and earnings previously refunded with respect to a forfeiture of service credited under the plan (or under another governmental plan within the same State) to which Code §415 does not apply by reason of Code §415(k)(3).

**AMENDMENT TO IMPLEMENT SECURE ACT AND OTHER LAW CHANGES**

**NASSAU COUNTY BOARD OF COUNTY COMMISSIONERS  
457(B) DEFERRED COMPENSATION PLAN**

**ARTICLE 1  
PREAMBLE**

- 1.1 **Adoption and effective date of Amendment.** The Employer hereby adopts this Amendment to the Employer's Plan. Each Article specifies the effective date of its provisions. Also see Section 1.5.
- 1.2 **Superseding of inconsistent provisions.** This Amendment supersedes the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Amendment. Except as otherwise provided in this Amendment, terms defined in the Plan will have the same meaning in this Amendment. Most Articles include definitions which are specific to that Article. Also see Section 1.6.
- 1.3 **Numbering.** Except as otherwise provided in this Amendment, any "Section" reference in this Amendment refers only to this Amendment and is not a reference to the Plan. The Article and Section numbering in this Amendment is solely for purposes of this Amendment, and does not relate to the Plan article, section, or other numbering designations.
- 1.4 **Intention; Construction.** The purpose of this amendment is to amend the Plan in accordance with pension-related provisions of the Further Consolidated Appropriations Act of 2019 ("FCAA") in general, and Division O of that Act, the Setting Every Community Up for Retirement Enhancement Act of 2019 ("SECURE"), in specific. It also addresses a provision of the Bipartisan American Miners Act ("BAMA"), which is also part of FCAA, as well as a section of the Coronavirus Aid, Relief, and Economic Security Act ("CARES"). The provisions of this Amendment shall be interpreted and applied to be consistent with FCAA and CARES and IRS guidance issued in connection therewith, whether such guidance is issued before or after the date of this amendment.
- 1.5 **Effect of subsequent restatement or amendment of Plan.** If the Employer restates the Plan, then this Amendment shall remain in effect after such restatement unless the provisions in this Amendment are restated or otherwise become obsolete (e.g., if the Plan is restated onto a plan document which incorporates these provisions). Some Articles in this amendment may not apply to a particular plan at the time the Amendment is executed but they will apply in the future based on subsequent amendments.
- 1.6 **Preservation of prior amendments.** If the Employer previously amended the Plan after December 20, 2019 to implement a provision contained in one or more Articles of this Amendment, that prior amendment shall remain in effect and will not be superseded by this Amendment, unless Section 1.6(a) is selected. For example, if the Employer previously adopted an amendment to implement the BAMA provisions of Article 10, that amendment remains in effect, notwithstanding the provisions of this Amendment, unless Section 1.6(a) is selected.
- (a)  This amendment supersedes all prior inconsistent amendments of the Plan.

**ARTICLE 2  
INSTRUCTIONS; ELECTIONS**

- 2.1 **Instructions.** Select 2.3a if all defaults are accepted. Select 2.3b and as applicable 2.4 - 2.10 if the Employer wishes to select other than the default for a particular provision.
- 2.2 **Reserved.**
- 2.3 **Operating Elections.** Many subsequent Articles of this Amendment refer to elections appearing in this Article 2. Each of Sections 2.4 through 2.10 refers to a corresponding Article. For example, Section 2.4 has the elections related to Article 4. The definitions in those Articles apply to the elections in the corresponding Section of this Article 2, and those elections have the same effective date as the corresponding Article. Each Section of this Article lists the default provisions which will apply if no election is made. If you accept the default(s), there is no need to complete the Section. There are no elective provisions which apply to Article 3 or Articles 11 through 16. The following are the defaults and a summary of the Articles for which there are no elections.
- Article 3. Reserved.
  - Article 4. QBADs are not permitted.
  - Article 5. Distributions of RMDs will not begin before a Participant turns 72.
  - Article 6. The Plan will apply its RMD provisions with respect to the 5-year rule in administering the 10-year rule.
  - Article 7. RMDs subject to 5-Year Rule for participants who died from 2015 through 2019 are extended one year unless the beneficiary objects.
  - Article 8. Reserved.
  - Article 9. Reserved.
  - Article 10. The amendment does not modify the minimum age for in-service distributions.
  - Article 11. Administrative policy can permit distributions of Discontinued Lifetime Income Investments.

- Article 12. Updated RMD tables and 2022 transition.
- Article 13. Reserved.
- Article 14. Reserved.
- Article 15. Reserved.
- Article 16. Deemed IRA accounts are not subject to maximum age.

**Check (a) or (b).**

- (a)  All defaults apply. *Skip the rest of Article 2 and sign the amendment.*
- (b)  One or more defaults do not apply. *Complete those sections in Article 2 for which you do not accept the default; then sign the amendment.*

**2.4 Article 4 – Birth/Adoption Distributions.** In the absence of an election below, Article 4 does NOT apply. To permit QBADs (Qualified Birth and Adoption Distributions), check (a). If QBADs are available, they apply to all accounts except as provided in Article 4 or in elections (b), (c), (d) or (e). *(Select all that apply.)*

- (a)  Article 4 applies effective January 1, 2020, unless a different date is selected in (1) below.
- (1)  \_\_\_\_\_ *(Enter date after December 31, 2019.)*
- (b)  QBADs may only be made from accounts in which the Participant is fully vested.
- (c)  QBADs are not available if the Participant has severed employment.
- (d)  Describe additional limitations: \_\_\_\_\_ *(must be definitely determinable and not subject to discretion)*
- (e)  QBADs are available from the following Accounts: \_\_\_\_\_ *(must be definitely determinable and not subject to discretion)*

**2.5 Article 5 – RMD Timing.** Unless Section 2.5(a) is selected, distribution of RMDs will begin for Affected Participants no sooner than April 1 of the calendar year following the year the Participant attains age 72.

- (a)  Distribution of RMDs to Affected Participants will NOT be delayed on account of this Amendment (i.e., distributions will generally commence no later than April 1 of the calendar year following the year the Affected Participant attains age 70 1/2), in accordance with Section 5.5. This election is effective for distributions after December 31, 2019, except as specified below *(Optional: select either or both of (1) or (2))*:
- (1)  Section 5.5 is effective for distributions after \_\_\_\_\_ and prior to the earlier of January 1, 2022 or the date entered in 2.5(a)(2). *(Enter date on or after December 31, 2019.)*
- (2)  Section 5.5 is repealed for distributions after \_\_\_\_\_ *(enter date on or after the date entered in 2.5(a)(1) and before January 1, 2022)*, subject to the anti-cutback rule of Code §411(d)(6) to the extent applicable.

**2.6 Article 6 – 10-Year Rule for Beneficiary RMDs.** RMDs to an Eligible Designated Beneficiary of a Participant who dies prior to the Participant's RBD will be made as elected below. In the absence of an election in Section 2.6, the Plan's provisions about Beneficiary elections with regard to the 5-Year Rule will apply, substituting the 10-Year Rule for the 5-Year Rule.

- (a)  **Beneficiary election.** The Eligible Designated Beneficiary may elect application of the 10-Year Rule or the Life Expectancy rule. If the Beneficiary does not make a timely election *(Select one of (1) or (2))*:
- (1)  **10-year rule.** The 10-year rule applies to the Eligible Designated Beneficiary.
- (2)  **Life Expectancy Rule.** The Life Expectancy rule applies to the Eligible Designated Beneficiary.
- (b)  **10-year rule.** The 10-year rule applies to the Eligible Designated Beneficiary.
- (c)  **Life Expectancy rule.** The Life Expectancy rule applies to the Eligible Designated Beneficiary.
- (d)  **Shorter Period.** The entire interest of the Eligible Designated Beneficiary will be distributed no later than December 31 of the \_\_\_\_\_ *(enter a number of years, not exceeding "tenth")* year following the year of the Participant's death.
- (e)  **Other:** *(Describe, e.g., the 10-Year Rule applies to all Beneficiaries other than a surviving spouse Beneficiary.)*
- \_\_\_\_\_

**2.7 Article 7 – CARES RMD Waivers; 5-Year Rule.** Unless the Employer elects otherwise below, beneficiaries of Applicable Participant Accounts will have the option to extend distribution under the 5-Year Rule by one year, and in the absence of a beneficiary election the extension will apply.

- (a)  **No extension without request.** The provisions of Section 7.2 apply but in the absence of a beneficiary election the extension will NOT apply.
- (b)  **Not Apply.** Article 7 will NOT apply to this Plan.

**2.8 Article 8 – Reserved.**

**2.9 Article 9 – Reserved.**

2.10 **Article 10 – In-Service Distributions.** In the absence of an election below, Article 10 does NOT apply. To permit in-service distributions at age 59 1/2, check (a). Check (b) to specify an age greater than 59 1/2. If Article 10 applies, it applies to all Accounts except as limited in Article 10.

- (a)  Article 10 applies effective on or after the first day of the first plan year beginning after December 31, 2019, unless a different date is selected in (1) below.
- (1)  April 28, 2023. (Enter date on or after the first day of the first plan year beginning after December 31, 2019.)
- (b)  Age at which in-service distributions are permitted \_\_\_\_\_. (Enter age greater than 59 1/2.) This provision applies effective on or after the first day of the first plan year beginning after December 31, 2019, unless a different date is selected in (1) below.
- (1)  \_\_\_\_\_. (Enter date on or after the first day of the first plan year beginning after December 31, 2019.)

### ARTICLE 3 RESERVED

### ARTICLE 4 BIRTH/ADOPTION DISTRIBUTIONS – SECURE Act §113

- 4.1 **Application.** This Article 4 will apply only if the Employer elects in Section 2.4(a) for this Article 4 to apply, effective on the date specified in Section 2.4(a).
- 4.2 **Distribution Authorized.** Except as limited by Section 2.4 (b), (c), (d), (e), a Participant may request a distribution of up to \$5,000 (per child or Eligible Adoptee) as a QBAD. The Participant may request the distribution whether or not the Participant has severed employment unless Section 2.4(c) is selected. This \$5,000 limit shall be reduced by QBADs to the Participant made with respect to the same child or Eligible Adoptee by other plans maintained by the Employer or a related employer described in Code §414(b), (c), (m), or (o). The Plan Administrator may adopt a policy imposing frequency limitations or other reasonable administrative conditions for QBADs.
- 4.3 **Definitions.** The following definitions apply for this Article 4 and Section 2.4:
- (a) A "QBAD" is a Qualified Birth or Adoption Distribution described in Code §72(t)(2)(H)(iii). A QBAD must be made during the 1-year period beginning on the date on which a child of the Participant is born or on which the legal adoption of an Eligible Adoptee by the Participant is finalized.
- (b) An "Eligible Adoptee" is an individual, other than a child of the Participant's spouse, who has not attained age 18 or is physically or mentally incapable of self-support. An individual is considered physically or mentally incapable of self-support if that individual is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or to be of long-continued and indefinite duration. This provision shall be applied in a manner consistent with Part D of IRS Notice 2020-68.
- 4.4 **Rollover.** A Participant who received one or more QBADs from this Plan may, if the Plan then permits the Participant to make rollover contributions, make one or more contributions in an aggregate amount not to exceed the amount of such QBADs. The Plan will treat such a contribution as a rollover contribution made by direct trustee-to-trustee transfer within 60 days of distribution.
- 4.5 **Reliance.** The Plan Administrator may rely on an individual's reasonable representation that the individual is eligible to receive a QBAD unless the Plan Administrator has actual knowledge to the contrary.
- 4.6 **Status.** A QBAD is not an eligible rollover distribution for purpose of the obligation to permit a direct rollover under Code §401(a)(31), the notice requirement of Code §402(f), or the mandatory withholding rules of Code §3405(c)(1).

### ARTICLE 5 REQUIRED BEGINNING DATE – SECURE Act §114

- 5.1 **Application.** This Article 5 will apply to all plans, regardless of type. It is effective with regard to RMDs required to be made after December 31, 2019.
- 5.2 **Delay of Required Beginning Date.** An Affected Participant's RBD shall not be earlier than April 1 of the calendar year following the year the Affected Participant attains age 72. For purposes of determining an Affected Participant's RBD, an Affected Participant will be treated as a more than 5% owner if the Participant was a 5-percent owner (as defined in Code §416(i)(1)(B)) as to the Plan Year ending in the calendar year the Participant attains age 72.
- 5.3 **Spousal Distributions.** If an Affected Participant dies prior to the Participant's RBD, and the Participant's sole Designated Beneficiary is the Participant's surviving spouse, then the RMDs to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 72, if later. However, this Section will apply only if the Plan, prior to this Amendment,

permitted a surviving spouse to delay RMD distributions to December 31 of the calendar year in which the Participant would have attained age 70 1/2.

- 5.4 **Definitions.** The following definitions apply for this Article 5 and Section 2.5:
- (a) A Participant is an "**Affected Participant**" if the Participant was born after June 30, 1949.
  - (b) An "**RMD**" is a Required Minimum Distribution as described in Code §401(a)(9).
  - (c) A Participant's "**RBD**" is the Participant's Required Beginning Date as described in Code §401(a)(9)(C), as amplified by Section 5.2.
- 5.5 **Optional Distribution Timing.** If the Employer elects in Section 2.5(a) for this Section 5.5 to apply, the timing and form of distributions to an Affected Participant will be determined as though this Article 5 had not been adopted. Distributions pursuant to this paragraph, which are not RMDs, will be treated as eligible rollover distributions for purposes of the direct rollover provisions of Code §401(a)(31). This Section 5.5 will no longer be effective for distributions after December 31, 2021, or, if earlier, the date specified in Section 2.5(a)(2).

## ARTICLE 6 BENEFICIARY RMDs – SECURE Act §401

- 6.1 **Application.** This Article 6 will apply to all plans. This Article will not apply to qualified annuities described in SECURE Act §401(b)(4)(B).
- 6.2 **Effective Date.** Except as provided in Section 6.4, Article 6 will apply to Participants who die on or after the Effective Date of this Article. Generally, the Effective Date of this Article is January 1, 2022. The Effective Date of this Article 6 in the case of a collectively-bargained plan will be the date determined in SECURE Act §401(b)(2). See Section 6.5 regarding the limited application of this Article to certain accounts of Participants who died before the Effective Date of this Article.
- 6.3 **Death before RBD.** If the Participant dies before the Participant's RBD, the Plan will distribute or commence distribution of the Participant's Vested Accrued Benefit not later than as follows:
- (a) **No Designated Beneficiary.** If there is no Designated Beneficiary as of September 30 of the year following the calendar year of the Participant's death, the Beneficiary's entire interest will be distributed under the 5-Year Rule.
  - (b) **Eligible Designated Beneficiary.** If the distributee of a Participant's account is an Eligible Designated Beneficiary, the Beneficiary's entire interest will be distributed under the Life Expectancy Rule unless the 10-Year Rule applies. The Employer may elect application of the Life Expectancy rule or the 10-Year Rule in Section 2.6. In the absence of an election in Section 2.6, the Plan's provisions with regard to election of the 5-Year Rule will apply, substituting the 10-Year Rule for the 5-Year Rule. A permitted Beneficiary election must be made no later than the earlier of December 31 of the calendar year in which distribution would be required to begin under the Life Expectancy Rule, or by December 31 of the calendar year which contains the tenth anniversary of the Participant's (or, if applicable, surviving spouse's) death.
  - (c) **Other Designated Beneficiaries.** If the distributee of the Participant's account is a Designated Beneficiary who is not an Eligible Designated Beneficiary, then the Beneficiary's entire interest will be distributed under the 10-Year Rule.
  - (d) **10-Year Rule.** If distribution of a deceased Participant's account thereof is subject to the "10-Year Rule," then the Plan will distribute the account in full no later than December 31 of the tenth year following the year of the Participant's death. No RMDs are required to be distributed from the account prior to that date.
- 6.4 **Death after RBD.** If the Participant dies on or after the Participant's RBD, the Participant's remaining interest will be distributed at least as rapidly as under the method of distribution being used as of the date of the participant's death, using the Life Expectancy Rule, as, and to the extent, provided by applicable guidance. If the Beneficiary is a Designated Beneficiary that is not an Eligible Designated Beneficiary, the Plan will distribute the remaining account in full no later than December 31 of the tenth year following the year of the Participant's death.
- 6.5 **Beneficiary Death.** If an Eligible Designated Beneficiary receiving distributions under the Life Expectancy Rule dies before receiving distribution of the Beneficiary's entire interest in the Participant's account, the Plan will distribute that interest in full no later than December 31 of the 10<sup>th</sup> year following the year of the Eligible Designated Beneficiary's death. Similarly, if a Participant died before the Effective Date of this Article 6, and the beneficiary died after such Effective Date, but prior to receiving full distribution of the beneficiary's interest, the Plan will distribute that interest in full no later than December 31 of the tenth year following the year of the beneficiary's death.
- 6.6 **Age of Majority.** If a child of the Participant was receiving distributions under the Life Expectancy rule, when the child reaches the age of Majority, the Plan will distribute the child's account in full no later than 10 years after that date, provided the child is not otherwise an Eligible Designated Beneficiary, such as a disabled or chronically ill individual.

6.7 **Definitions; operating rules.** The following definitions and operating rules apply for this Article 6 and Section 2.6:

- (a) An "**RMD**" is a Required Minimum Distribution as described in Code §401(a)(9).
- (b) A Participant's "**RBD**" is the Participant's Required Beginning Date as described in Code §401(a)(9)(C) and the Plan. Also see Section 5.2.
- (c) A distributee of a Participant's account is a "**Designated Beneficiary**" if the distributee is an individual or trust who is a beneficiary of the account (whether pursuant to a designation by the Participant or application of the Plan terms) and who is a designated beneficiary under Code §401(a)(9) and Treas. Reg. §1.401(a)(9)-4, Q&As-4 and -5.
- (d) An individual is an "**Eligible Designated Beneficiary**" of a Participant if the individual qualifies as a Designated Beneficiary and is (1) the Participant's spouse, (2) the Participant's child who has not reached the age of Majority, (3) an individual not more than 10 years younger than the Participant, (4) a disabled individual, as defined in Code §72(m)(7), or (5) an individual who has been certified to be chronically ill (as defined in Code §7702B(e)(2)) for a reasonably lengthy period, or indefinitely. Certain trusts may be treated as Eligible Designated Beneficiaries pursuant to Code §401(a)(9)(H)(iv) and (v).
- (e) Whether a child has reached the age of "**Majority**" is determined under Code §401(a)(9)(F) and applicable regulations and guidance issued thereunder.
- (f) The "**Life Expectancy Rule**" for distributing RMDs is described in Code §401(a)(9)(B)(iii) and is further described in the Plan.
- (g) The "**5-Year Rule**" for distributing RMDs is described in Code §401(a)(9)(B)(ii) and is further described in the Plan.
- (h) The "**10-Year Rule**" is described in Section 6.3(d).
- (i) **Shorter period.** Section 2.6(c) may specify a shorter period to be used in place of the tenth year after the death of a Participant or Beneficiary.
- (j) **Separate share rule.** All references in this Article to a Participant's Account and a Beneficiary's interest in that account will be applied separately to each separate account determined under Treas. Reg. §1.401(a)(9)-8, Q&A 2 and 3, and Code §401(a)(9)(H)(iv).

**ARTICLE 7  
EXTENSION OF 5-YEAR RULE FOR RMDs – CARES §2203**

- 7.1 **Application.** This Article 7 does not apply if the Employer has selected Section 2.7(b); otherwise, it is effective January 1, 2020.
- 7.2 **Waiver; default provision.** The beneficiary of an Applicable Participant Account will have the option to extend the deadline to distribute the account for one year. The default in the absence of a beneficiary election will be to extend the distribution, unless the Employer elects in Section 2.7(a) for the default to be not to extend unless the beneficiary requests it.
- 7.3 **Definitions.** The following definitions apply for this Article 7 and Section 2.7:
  - (a) "**RMDs**" means required minimum distributions described in Code §401(a)(9).
  - (b) The "**5-Year Rule**" for distributing RMDs is described in Code §401(a)(9)(B)(ii) and is further described in the Plan.
  - (c) "**Applicable Participant Account**" means the remaining account of a Participant who died during the years 2015-2019, to the extent the account is subject to the 5-Year Rule.

**ARTICLE 8  
RESERVED**

**ARTICLE 9  
RESERVED**

**ARTICLE 10  
IN-SERVICE PENSION DISTRIBUTIONS – BAMA §104**

- 10.1 **Application.** This Article 10 will apply if the Employer elects in Section 2.10 for this Article 10 to apply, effective on the date specified in Section 2.10(a).
- 10.2 **Distribution at 59 1/2.** A Participant can take an in-service distribution at age 59 1/2, or, if later, the age (if any) specified in Section 2.10(b). Such a distribution will be limited to the vested portion of the Participant's accrued benefit or account and will be

subject to all Plan provisions related to in-service distributions. The Plan can operationally permit distributions as early as January 1 of the calendar year the Participant attains 59 1/2 (or such later age).

- 10.3 **Limited application to Profit-Sharing Plans.** If the Employer elects in Section 2.10 for this Article 10 to apply, this Article 10 will apply to an account in a 401(k) Plan or a Profit-Sharing Plan which holds assets transferred from a Money Purchase Pension Plan or a Defined Benefit Plan.

**ARTICLE 11  
DISTRIBUTIONS OF DISCONTINUED LIFETIME INCOME INVESTMENTS – SECURE §109**

- 11.1 **Application.** This Article 11 is effective for Plan Years beginning after December 31, 2019.
- 11.2 **Distributions authorized.** The Plan Administrator may authorize Participants to request, and as soon as practical after a Participant makes the request, the Plan will make a distribution of a Discontinued Lifetime Income Investment. Distribution under this Article is limited to the 90-day period prior to the date on which the Lifetime Income Investment is no longer authorized to be held as an investment option under the Plan. Such distribution will be in the form of a Qualified Distribution, or in the form of a Qualified Plan Distribution Annuity Contract, as determined by the Plan Administrator. The Plan Administrator will administer this section in a reasonable, nondiscriminatory manner, and may authorize distributions of some Discontinued Lifetime Income Investments and not others.
- 11.3 **Definitions.** The terms "Lifetime Income Investment," "Qualified Distribution" and "Qualified Plan Distribution Annuity Contract" have the meanings set forth in Code §401(a)(38)(B). A "Discontinued Lifetime Income Investment" is a Lifetime Income Investment which will no longer be authorized to be held as an investment option under the Plan.

**ARTICLE 12  
UPDATED LIFE EXPECTANCY TABLES – TREAS. REG. §1.401(a)(9)-9**

- 12.1 **Application.** This Article 12 will apply to all plans and is effective for distribution calendar years beginning on or after January 1, 2022.
- 12.2 **New RMD Tables.** Any Plan reference to the life expectancy tables detailed in Treas. Reg. §1.401(a)(9), such as the Uniform Life Table, the Single Life Table, or the Joint and Last Survivor Table, refers to these tables as published in Treas. Reg. §1.401(a)(9)-9 from time to time, and is subject to adjustment as described in Treas. Reg. §1.401(a)(9)-9(f).

**ARTICLE 13  
RESERVED**

**ARTICLE 14  
RESERVED**

**ARTICLE 15  
RESERVED**

**ARTICLE 16  
REPEAL OF DEEMED IRA MAXIMUM AGE – SECURE §107**

- 16.1 **Application.** This Article 16 will apply only if the Plan permits deemed IRA contributions (sometimes called "designated IRA" contributions) described in Code §408(q). It is effective January 1, 2020.
- 16.2 **No Maximum Age.** To the extent the Plan otherwise permits a Participant to make deemed IRA contributions, the Participant may make such contributions regardless of whether the Participant has attained age 70 1/2 or any other age.

This Amendment has been executed this 10th day of July, 2023.

Name of Plan: Nassau County Board of County Commissioners 457(b) Deferred Compensation Plan

Name of Employer: County of Nassau, FL

By:  EMPLOYER

Klynt A. Farmer  
Chairman, Nassau County BOCC



**CERTIFICATE OF ADOPTING RESOLUTION**

The undersigned authorized representative of County of Nassau, FL (the Employer) hereby certifies that the following resolution was duly adopted by Employer on the date specified below, and that such resolution has not been modified or rescinded as of the date hereof:

RESOLVED, the Amendment to Implement SECURE Act and Other Law Changes to the Nassau County Board of County Commissioners 457(b) Deferred Compensation Plan (the Amendment) is hereby approved and adopted and that an authorized representative of the Employer is hereby authorized and directed to execute and deliver to the Plan Administrator the Amendment and to take any and all actions as it may deem necessary to effectuate this resolution.

The undersigned further certifies that attached hereto is a copy of the Amendment approved and adopted in the foregoing resolution.

Date: July 10, 2020

Signed: 

Klynt A. Farmer - Chairman, Nassau County BOCC

[print name/title]

**NASSAU COUNTY BOARD OF COUNTY COMMISSIONERS  
457(B) DEFERRED COMPENSATION PLAN**

**SUMMARY PLAN DESCRIPTION  
MATERIAL MODIFICATIONS – SECURE ACT**

**I  
INTRODUCTION**

This is a Summary of Material Modifications regarding the Nassau County Board of County Commissioners 457(b) Deferred Compensation Plan ("Plan"). This is merely a summary of important changes to the Plan and information contained in the Summary Plan Description ("SPD") previously provided to you. It supplements and amends that SPD so you should retain a copy of this document with your copy of the SPD. If you have any questions, contact the Administrator. If there is any discrepancy between the terms of the Plan, as modified, and this Summary of Material Modifications, the provisions of the Plan will control.

**II  
SUMMARY OF CHANGES**

**Required Minimum Distributions.** The law requires that retirement plans distribute funds at least as rapidly as specified in the required minimum distribution (RMD) rules. The Plan has been amended to conform to recent changes in those rules. Effective after December 31, 2021, regardless of the method of distribution a beneficiary might otherwise be able to elect, generally if your designated beneficiary is a person (other than your estate or certain trusts), then minimum distributions of your death benefit must begin no later than the end of the calendar year which follows the year of your death and must be paid over a period not extending beyond your beneficiary's life expectancy. However, instead of a life expectancy based distribution, your designated beneficiary may elect to have the entire death benefit paid by the end of the tenth year following the year of your death. Generally, if your beneficiary is not a person, then your entire death benefit must be paid within five years after your death.

Distributions must generally begin by April 1 of the calendar year following the year you turn age 70 1/2 (if you were born before July 1, 1949) or age 72 (if you were born after June 30, 1949) or, in some cases, when you retire, if later. For more information, see IRS Publication 590-B.

**In-Service Distributions.** Beginning April 28, 2023 a Participant can take an in-service distribution from the Plan at age 59 1/2. The amount of the distribution will be limited to the Participant's vested accrued benefit or account balance. It will be subject to all restrictions, procedures, and plan provisions which otherwise apply to such in-service distributions.

**NASSAU COUNTY BOARD OF COUNTY COMMISSIONERS  
457(B) DEFERRED COMPENSATION PLAN  
SUMMARY OF 457 PLAN PROVISIONS**

**TABLE OF CONTENTS**

**INTRODUCTION TO YOUR PLAN**

**ARTICLE I  
PARTICIPATION IN THE PLAN**

Am I eligible to participate in the Plan? ..... 1  
 When am I eligible to participate in the Plan? ..... 1  
 When is my entry date? ..... 1

**ARTICLE II  
CONTRIBUTIONS**

What kind of contributions may I make to the Plan and how do my contributions affect my taxes?..... 1  
 Is there a limit on the amount of elective deferrals that can be made each year? ..... 2  
 How do I make an election to defer? ..... 2  
 What are rollover contributions? ..... 2  
 What compensation is used to determine my Plan benefits? ..... 2

**ARTICLE III  
DISTRIBUTIONS**

When will I be entitled to a distribution from the Plan? ..... 3  
 What is the Plan's normal retirement age? ..... 3  
 What is my vested interest in my account? ..... 3  
 How will my benefits be paid? ..... 3  
 May I elect to roll over my account to another plan or IRA? ..... 4  
 What happens if I get divorced? ..... 4

**ARTICLE IV  
DEATH BENEFITS**

What happens if I die while working for the Employer? ..... 4  
 When will the death benefit be paid to my beneficiary? ..... 4  
 What happens if I'm a participant, terminate employment, and die before receiving all my benefits? ..... 4

**ARTICLE V  
IN-SERVICE DISTRIBUTIONS**

Can I withdraw money from my account while working for the Employer? ..... 5

**ARTICLE VI  
TAX TREATMENT OF DISTRIBUTIONS**

What are my tax consequences when I receive a distribution from the Plan?..... 5  
 Can I reduce or defer tax on my distribution?..... 5

**ARTICLE VII  
LOANS**

Is it possible to borrow money from the Plan? ..... 6

**ARTICLE VIII  
CLAIMS AND BENEFITS**

Can the Plan be amended? ..... 6  
What happens if the Plan is discontinued or terminated? ..... 6  
How do I submit a claim for Plan benefits? ..... 6

**ARTICLE IX  
GENERAL INFORMATION ABOUT THE PLAN**

Employer Information ..... 7  
Administrator Information ..... 7  
Plan Funding Medium ..... 7

**NASSAU COUNTY BOARD OF COUNTY COMMISSIONERS  
457(B) DEFERRED COMPENSATION PLAN**

**SUMMARY OF 457 PLAN PROVISIONS**

**INTRODUCTION TO YOUR PLAN**

Nassau County Board of County Commissioners 457(b) Deferred Compensation Plan ("Plan") has been adopted to provide you with the opportunity to save for retirement on a tax-advantaged basis. This Plan is a type of retirement plan commonly referred to as a Governmental Eligible 457 Plan. This summary of 457 Plan Provisions contains valuable information regarding when you may become eligible to participate in the Plan, your Plan benefits, your distribution options, and many other features of the Plan. You should take the time to read this Summary to get a better understanding of your rights and obligations under the Plan.

We have attempted to answer most of the questions you may have regarding your benefits in the Plan. If this summary does not answer all of your questions, please contact the Administrator. The name and address of the Administrator can be found in the Article of this summary entitled "General Information About The Plan."

This summary describes the Plan's benefits and obligations as contained in the legal Plan document, which governs the operation of the Plan. The Plan document is written in much more technical and precise language. If the non-technical language under this summary and the technical, legal language of the Plan document conflict, the Plan document always governs. If you wish to receive a copy of the legal Plan document, please contact the Administrator.

This summary describes the current provisions of the Plan. The Plan is subject to federal laws, such as the Internal Revenue Code and other federal and state laws which may affect your rights. The provisions of the Plan are subject to revision due to a change in laws or due to pronouncements by the Internal Revenue Service (IRS). The Employer may also amend or terminate this Plan. The Administrator will notify you if the provisions of the Plan that are described in this summary change. This summary does not address the provisions of specific investment products.

**ARTICLE I  
PARTICIPATION IN THE PLAN**

**Am I eligible to participate in the Plan?**

All employees are eligible once they satisfy the eligibility conditions, if any, described in the next question.

Independent contractors are eligible to participate once they satisfy the eligibility conditions described in the next question.

**When am I eligible to participate in the Plan?**

Provided you are an eligible employee, you will be eligible on your date of hire. You will actually enter the Plan once you reach the entry date as described in the next question.

**When is my entry date?**

Provided you are an eligible employee, you will be able to participate in the Plan beginning on your date of hire.

**ARTICLE II  
CONTRIBUTIONS**

**What kind of contributions may I make to the Plan and how do my contributions affect my taxes?**

As a participant under the Plan, you may elect to reduce your compensation by a specific percentage or dollar amount and have that amount contributed to the Plan. The Plan refers to this as an "elective deferral." There are two types of elective deferrals, pre-tax deferrals and Roth deferrals. For purposes of this summary "deferrals" or "elective deferrals" generally means both pre-tax deferrals and Roth deferrals.

If you make pre-tax deferrals, your taxable income is reduced by the deferral contributions so you pay less in federal income taxes. Later, when the Plan distributes the deferrals and earnings, you will pay the taxes on those deferrals and the earnings. Federal income taxes on the pre-tax deferral contributions and on the earnings are only postponed.

If you elect to make Roth deferrals, the deferrals are subject to federal income taxes in the year of deferral. However, the Roth deferrals and, if you meet certain conditions, the earnings on the Roth deferrals are not subject to federal income taxes when distributed to you. This means that the earnings on the Roth deferrals may never be subject to Federal income tax. See "What are my tax consequences when I receive a distribution from the Plan?"

Both your pre-tax and Roth deferrals will be subject to Social Security taxes at the time of your deferral.

**Is there a limit on the amount of elective deferrals that can be made each year?**

As a participant, you may elect to defer a percentage of your compensation each year instead of receiving that amount in cash. The Administrator will notify you of the maximum percentage you may defer.

You may make deferrals from your accumulated sick pay, from accumulated vacation pay or from back pay.

Your total elective deferrals in any calendar year may not exceed a certain dollar limit which is set by law ("elective deferral limit"). The elective deferral limit for 2023 is \$22,500. After 2023, the elective deferral limit may increase for cost-of-living adjustments.

If you are age 50 or will attain age 50 before the end of a calendar year, you may make additional deferrals (called "age 50 catch-up deferrals") for that year and following years. If you meet the age 50 requirement and your salary deferrals exceed the elective deferral limit described above, then any excess will be an age 50 catch-up deferral. The maximum catch-up deferral that you can make in 2023 is \$7,500. After 2023, the maximum age 50 catch-up contribution limit may increase for cost-of-living adjustments.

Instead of the "age 50-catch-up deferrals" there is an alternative catch-up limit that is available in the three years prior to your normal retirement age. This increased limit (called "Special NRA Catch-Up Contributions") is designed to allow make-up contributions for prior years when contributions to the plan were less than the maximum contribution that could have been made in those years. The additional catch-up amount is equal to the difference between the amounts that could have been contributed in the prior years less the amounts that actually were contributed in those years. However, the additional catch-up for the year cannot exceed the general limit for the year. Thus, if you are entitled to the full Special NRA Catch-up Contribution, your contributions in the last three years prior to your normal retirement age cannot exceed two times the regular elective deferral limit for the year. If you qualify for both Age 50 Catch-Up Deferrals and Special NRA Catch-Up Deferrals, you are limited to the greater of the two catch-up limitations.

**How do I make an election to defer?**

The amount you elect to defer will be deducted from your pay in accordance with a procedure established by the Plan Administrator. If you wish to defer, the procedure will require that you enter into a salary reduction agreement. You may elect to defer a portion of your compensation payable on or after your Entry Date. Such election must be made prior to the first day of a calendar month in which you wish to defer and will become effective as soon as administratively feasible after it is received by the Plan Administrator. Your election will remain in effect until you modify or terminate it. You may revoke or make modifications to your salary deferral election in accordance with procedures that the Employer provides. See the Plan Administrator for further information.

**What are rollover contributions?**

**Rollover contributions.** If you are a Participant or an Eligible Employee, you may be permitted to deposit into the Plan distributions you have received from other retirement plans. Such a deposit is called a "rollover" and may result in tax savings to you. You may ask the Administrator or Trustee of the other plan or IRA to directly transfer (a "direct rollover") to this Plan all or a portion of any amount that you are entitled to receive as a distribution from such plan. Alternatively, you may elect to deposit any amount eligible to be rolled over within 60 days of your receipt of the distribution. You should consult qualified counsel to determine if a rollover is in your best interest.

**Rollover account.** Your rollover will be accounted for in a "rollover account." You will always be 100% vested in your "rollover account" (see the Article in this SPD entitled "Vesting"). This means that you will always be entitled to all amounts in your rollover account. Rollover contributions will be affected by any investment gains or losses.

**Withdrawal of rollover contributions.** You may withdraw the amounts in your "rollover account" at any time.

**What compensation is used to determine my Plan benefits?**

**Definition of compensation.** For the purposes of the Plan, compensation has a special meaning. Compensation is generally defined as your total compensation that is subject to income tax and paid to you by your Employer during the Plan Year. If you are an independent contractor, generally, your compensation will be the amount you are paid by the Employer. The Plan takes into account elective deferrals to retirement plans (including this one) cafeteria plans, or qualified transportation fringe benefit plans. The following describes the adjustments to compensation that may apply for the different types of contributions provided under the Plan:

- Compensation paid after you terminate is generally excluded for Plan purposes. However, the following amounts will be included in compensation even though they are paid after you terminate employment, provided these amounts would otherwise have been considered compensation as described above and provided they are paid within 2 1/2 months after you terminate employment, or if later, the last day of the Plan Year in which you terminate employment:
  - Compensation for services performed during your regular working hours, or for services outside your regular working hours or other similar payments that would have been made to you had you continued employment.

- Compensation paid for unused accrued bona fide sick, vacation or other leave, if such amounts would have been included in compensation if paid prior to your termination of employment and you would have been able to use the leave if employment had continued.
- Nonqualified unfunded deferred compensation if the payment is includible in gross income and would have been paid to you had you continued employment.

### **ARTICLE III DISTRIBUTIONS**

#### **When will I be entitled to a distribution from the Plan?**

Distributions under the Plan may generally not be made prior to your termination of employment (for whatever reason, including death). The rules are explained in more detail below.

If you terminate employment for any reason and at any age (including retirement), then you will be entitled to a distribution within The Plan will commence distribution in the absence of a Participant's election to commence payment earlier, no later than the Participant's required beginning date as defined under Plan Section 4.03. A Participant, with Plan Administrator approval of the election, may elect the method of distribution from the following choices: lump sum, installments or partial distribution (See the question "How will my benefits be paid?" for a further explanation of how benefits are paid from the Plan.)

If your benefit does not exceed \$1,000 then the distribution will automatically be paid to you as soon as administratively practical following your termination of employment. If your benefit exceeds \$1,000, then you will be given the opportunity to elect to defer payment of the benefit, subject to certain limitations. In determining whether your vested account balance exceeds the \$1,000 threshold, "rollovers" (and any earnings allocable to "rollover" contributions) will be taken into account.

**Military Service.** If you are a veteran and are reemployed under the Uniformed Services Employment and Reemployment Rights Act of 1994, your qualified military service may be considered service with the Employer. There may also be benefits for employees who die or become disabled while on active duty. Employees who receive wage continuation payments while in the military may benefit from various changes in the law. If you think you may be affected by these rules, ask the Administrator for further details.

#### **Required beginning date.**

Regardless of the above, the law requires that certain minimum distributions be made from the Plan. Distributions are required to begin not later than the April 1st following the later of the end of the year in which you reach age 70 1/2 (if you were born before July 1, 1949) or age 72 (if you were born after June 30, 1949) or terminate employment. You should see the Plan Administrator if you think you may be affected by these rules.

#### **What is the Plan's normal retirement age?**

You will attain your normal retirement age when you reach the age that you designate, which may not be earlier than age 65 and may not be later than age 70 1/2.

If you are a police department employee, you will attain your normal retirement age when you reach the age that you designate, which may not be earlier than age 40 and may not be later than age 70 1/2.

If you are a fire department employee, you will attain your normal retirement age when you reach the age that you designate, which may not be earlier than age 40 and may not be later than age 70 1/2.

#### **What is my vested interest in my account?**

You are always 100% vested in all your accounts under our plan.

#### **How will my benefits be paid?**

- A Participant, with Plan Administrator approval of the election, may elect the method of distribution from the following choices: lump sum, installments or partial distribution
- A single lump-sum payment.
- Installments over your life expectancy, but only if you are required to take distributions under the law because you reached your "required beginning date" (generally the later of age 70 1/2 (if you were born before July 1, 1949) or age 72 (if you were born after June 30, 1949) or the date you terminate employment).



**May I elect to roll over my account to another plan or IRA?**

If you are entitled to a distribution of more than \$200, then you may elect whether to receive the distribution or to roll over the distribution to another retirement plan such as an individual retirement account ("IRA"). For this purpose, your Roth deferral account is treated separately.

**What happens if I get divorced?**

The Administrator will honor a "qualified domestic relations order." A "qualified domestic relations order" is defined as a decree or order issued by a court that obligates you to pay child support or alimony, or otherwise allocates a portion of your assets in the Plan to your spouse, former spouse, child or other dependent. If a qualified domestic relations order is received by the Administrator, all or a portion of your benefits may be used to satisfy the obligation. The Administrator will determine the validity of any domestic relations order received. You and your beneficiaries can obtain from the Administrator, without charge, a copy of the procedure used by the Administrator to determine whether a qualified domestic relations order is valid.

**ARTICLE IV  
DEATH BENEFITS****What happens if I die while working for the Employer?**

If you die while still employed by the Employer, your entire account balance will be used to provide your beneficiary with a death benefit.

Your beneficiary is the person or persons whom you designate on a form the Administrator provides for this purpose. If you are married, your spouse will be the beneficiary of the death benefit, unless you elect to change the beneficiary.

If no valid designation of beneficiary exists, or if the beneficiary is not alive when you die, then the death benefit will be paid in the following order, unless the investment provider's documentation says otherwise:

- (a) Your surviving spouse;
- (b) Your children, including adopted children, and if a child dies before you, to their children, if any; or
- (c) Your Parents. Your surviving parents, in equal shares; and if none to
- (d) Your estate.

**When will the death benefit be paid to my beneficiary?**

Your death benefit will be paid to your beneficiary and payment will be made as your beneficiary elects, consistent with the Plan. See the Plan Administrator for further details.

You should immediately report any change in your marital status to the Administrator. If you have specifically named your spouse as your beneficiary on a designation form, then the designation will be invalid upon your divorce.

Effective after December 31, 2021, regardless of the method of distribution a beneficiary might otherwise be able to elect, generally if your designated beneficiary is a person (other than your estate or certain trusts), then minimum distributions of your death benefit must begin no later than the end of the calendar year which follows the year of your death and must be paid over a period not extending beyond your beneficiary's life expectancy. However, instead of a life expectancy based distribution, your designated beneficiary may elect to have the entire death benefit paid by the end of the tenth year following the year of your death. Generally, if your beneficiary is not a person, then your entire death benefit must be paid within five years after your death.

Distributions must generally begin by April 1 of the calendar year following the year you turn age 70 1/2 (if you were born before July 1, 1949) or age 72 (if you were born after June 30, 1949) or, in some cases, when you retire, if later. For more information, see IRS Publication 590-B.

**What happens if I'm a participant, terminate employment, and die before receiving all my benefits?**

If you terminate employment with us and subsequently die, your beneficiary will be entitled to any remaining benefits that you were entitled to as of the date of your death.

## ARTICLE V IN-SERVICE DISTRIBUTIONS

### **Can I withdraw money from my account while working for the Employer?**

You may receive a distribution from the Plan prior to your termination of employment if you satisfy certain conditions. These conditions are described below. However, this distribution will reduce the value of the benefits you will receive when you retire. Any in-service distribution is made at your election and will be made in accordance with the forms of distribution available under the investment product you have selected or under the Plan.

You may receive a distribution if you have an "unforeseeable emergency," which is severe financial hardship resulting from an accident or illness to you, your spouse, dependent(s) or beneficiaries, a loss of property due to casualty, or other extraordinary and unforeseeable circumstances beyond your control.

You may elect to receive a "de minimis" distribution of up to \$5,000 provided: (i) your account does not exceed \$5,000; (ii) you have not made any Salary Reduction Contributions or received any Employer contribution during the prior two years ending on the date you would have received the de minimis distribution; and (iii) you have not previously taken a de minimis distribution from the Plan.

You may request a distribution of up to your entire account once you reach age 70 1/2.

## ARTICLE VI TAX TREATMENT OF DISTRIBUTIONS

### **What are my tax consequences when I receive a distribution from the Plan?**

Generally, you must include any Plan distribution in your taxable income in the year in which you receive the distribution. The tax treatment may also depend on your age when you receive the distribution.

If you receive distribution of a Roth deferral, since you paid current federal income tax on the deferral contribution in the year of deferral, the deferrals are not subject to federal income taxes when distributed to you. The earnings on Roth deferrals are also tax free upon distribution if you receive a "qualified distribution" from your Roth deferral account.

In order to be a "qualified distribution," the distribution must occur after one of the following: (1) your attainment of age 59 1/2, (2) your disability, or (3) your death. In addition, the distribution must occur after the expiration of a 5-year participation period. The 5-year participation period is the 5-year period beginning on the calendar year in which you first make a Roth contribution to the Plan (or to another 401(k) plan or 403(b) plan if such amount was rolled over into the Plan) and ending on the last day of the calendar year that is 5 years later. For example, if you made your first Roth deferral under this Plan on November 30, 2012, your participation period would end on December 31, 2016. This means that you could take a qualified distribution as early as January 1, 2017. It is not necessary that you make a Roth contribution in each of the five years.

If a distribution from your Roth deferral account is not a qualified distribution, the earnings distributed with the Roth deferrals will be taxable to you at the time of distribution (unless you roll over the distribution to another 457(b) plan, a Roth IRA, or a 401(k) plan that will accept the rollover). In addition, in some cases, there may be a 10% excise tax on the earnings that are distributed.

### **Can I reduce or defer tax on my distribution?**

You may reduce, or defer entirely, the tax due on your distribution through use of one of the following methods:

(a) The rollover of all or a portion of the distribution you actually receive to a traditional Individual Retirement Account (IRA) or another eligible employer plan. This will result in no tax being due until you begin withdrawing funds from the traditional IRA or other eligible employer plan. The rollover of the distribution, however, **MUST** be made within strict time frames (normally, within 60 days after you receive your distribution). Under certain circumstances all or a portion of a distribution may not qualify for this rollover treatment. In addition, most distributions will be subject to mandatory federal income tax withholding at a rate of 20%. This will reduce the amount you actually receive. For this reason, if you wish to roll over all or a portion of your distribution amount, the direct rollover option described in paragraph (b) below would be the better choice.

(b) For most distributions, you may request that a "direct rollover" of all or a portion of the distribution to either a traditional Individual Retirement Account (IRA) or another employer plan willing to accept the rollover. A direct rollover will result in no tax being due until you withdraw funds from the traditional IRA or other qualified employer plan. Like the 60-day rollover, under certain circumstances all or a portion of the amount to be distributed may not qualify for this direct rollover, e.g., a distribution of less than \$200 will not be eligible for a direct rollover. If you elect to actually receive the distribution rather than request a direct rollover, then in most cases 20% of the distribution amount will be withheld for federal income tax purposes.

WHENEVER YOU RECEIVE A DISTRIBUTION THAT IS AN ELIGIBLE ROLLOVER DISTRIBUTION, THE ADMINISTRATOR WILL DELIVER TO YOU A MORE DETAILED EXPLANATION OF THESE OPTIONS. HOWEVER, THE RULES WHICH

DETERMINE WHETHER YOU QUALIFY FOR FAVORABLE TAX TREATMENT ARE VERY COMPLEX. YOU SHOULD CONSULT WITH A QUALIFIED TAX ADVISOR BEFORE MAKING A CHOICE.

#### **ARTICLE VII LOANS**

**Is it possible to borrow money from the Plan?**

Yes. Loans are permitted in accordance with the Plan Loan Policy. If you wish to receive a copy of the Loan Policy, please contact the Plan Administrator.

#### **ARTICLE VIII CLAIMS AND BENEFITS**

**Can the Plan be amended?**

Yes. The Employer may amend the Plan at any time. No amendment will cause any reduction in the amount credited to your account.

**What happens if the Plan is discontinued or terminated?**

The Employer may terminate the Plan at any time. Upon termination, no more contributions may be made to the Plan. The Administrator will notify you of any modification or termination of the Plan.

**How do I submit a claim for Plan benefits?**

You may file a claim for benefits by submitting a written request for benefits to the Plan Administrator. You should contact the Plan Administrator to see if there is an applicable distribution form that must be used. If no specific form is required or available, then your written request for a distribution will be considered a claim for benefits. In the case of a claim for disability benefits, if disability is determined by the Plan Administrator (rather than by a third party such as the Social Security Administration), then you must also include with your claim sufficient evidence to enable the Plan Administrator to make a determination on whether you are disabled.

Decisions on the claim will be made within a reasonable period of time appropriate to the circumstances. "Days" means calendar days. If the Plan Administrator determines the claim is valid, then you will receive a statement describing the amount of benefit, the method or methods of payment, the timing of distributions and other information relevant to the payment of the benefit.

For purposes of the claims procedures described below, "you" refers to you, your authorized representative, or anyone else entitled to benefits under the Plan (such as a beneficiary). A document, record, or other information will be considered relevant to a claim if it:

- Was relied upon in making the benefit determination;
- Was submitted, considered, or generated in the course of making the benefit determination, without regard to whether it was relied upon in making the benefit determination;
- Demonstrated compliance with the administrative processes and safeguards designed to ensure and to verify that benefit determinations are made in accordance with Plan documents and Plan provisions have been applied consistently with respect to all claimants; or
- Constituted a statement of policy or guidance with respect to the Plan concerning the denied treatment option or benefit.

The Plan may offer additional voluntary appeal and/or mandatory arbitration procedures other than those described below. If applicable, the Plan will not assert that you failed to exhaust administrative remedies for failure to use the voluntary procedures, any statute of limitations or other defense based on timeliness is tolled during the time a voluntary appeal is pending; and the voluntary process is available only after exhaustion of the appeals process described in this section. If mandatory arbitration is offered by the Plan, the arbitration must be conducted instead of the appeal process described in this section, and you are not precluded from challenging the decision under ERISA §501(a) or other applicable law.

#### **ARTICLE IX GENERAL INFORMATION ABOUT THE PLAN**

There is certain general information that you may need to know about the Plan. This information has been summarized for you in this Article.

The full name of the Plan is Nassau County Board of County Commissioners 457(b) Deferred Compensation Plan.

This Plan was originally effective on July 14, 1987. The amended and restated provisions of the Plan become effective on April 28, 2023.

The Plan's records are maintained on a twelve-month period of time. This is known as the "Plan Year." The Plan Year begins on January 1 and ends on December 31.

Valuations of the Plan are generally made daily.

The Plan will be governed by the laws of Florida.

**Employer Information**

Your Employer's name, address, business telephone number, and identification number are:

County of Nassau, FL  
96135 Nassau Place, Suite 5  
Yulee, Florida 32097-8635  
(904) 321-5726  
59-1863042

**Administrator Information**

The Employer is the Plan Administrator. The Plan Administrator is responsible for the day-to-day administration and operation of the Plan. For example, the Administrator maintains the Plan records, including your account information, provides you with the forms you need to complete for Plan participation and directs the payment of your account at the appropriate time. If you have any questions about the Plan and your participation, you should contact the Administrator. The Administrator may designate other parties to perform some duties of the Administrator, and some duties are the responsibility of the investment provider(s) to the Plan.

The Administrator has the complete power, in its sole discretion, to determine all questions arising in connection with the administration, interpretation, and application of the Plan (and any related documents and underlying policies). Any such determination by the Administrator is conclusive and binding upon all persons.

**Plan Funding Medium**

All money that is contributed to the Plan is held in custodial accounts and annuity contracts.