

**NEW HAVEN BOARD OF EDUCATION  
LOCAL 3429, COUNCIL 4 (AFSCME) PARAPROFESSIONALS  
MONEY PURCHASE PENSION PLAN**

**NEW HAVEN BOARD OF EDUCATION  
LOCAL 3429, COUNCIL 4 (AFSCME) PARAPROFESSIONALS  
MONEY PURCHASE PENSION PLAN**

**INDEX**

ARTICLE I	Name and Effective Date
ARTICLE II	Definitions
ARTICLE III	Employees Entitled to Participate
ARTICLE IV	Board Contributions and Participant Contributions
ARTICLE V	Rollover Contributions Not Allowed
ARTICLE VI	Participant Accounts
ARTICLE VII	Limitations on Annual Additions
ARTICLE VIII	Plan Loans Not Allowed
ARTICLE IX	Participant Withdrawals Not Allowed
ARTICLE X	Payment of Benefits
ARTICLE XI	Death Benefits
ARTICLE XII	Termination of Participation, Loss of Employment Status and Vesting
ARTICLE XIII	Applications for Benefits and Other Distribution Procedures
ARTICLE XIV	Leave of Absence
ARTICLE XV	Rights of Participant
ARTICLE XVI	Plan Administrator
ARTICLE XVII	The Trust Fund
ARTICLE XVIII	Plan for Exclusive Benefit of Participants

ARTICLE XIX      Miscellaneous Provisions

ARTICLE XX      Amendment

ARTICLE XXI      Termination of Plan

**AMENDMENT NO. 2  
TO THE  
NEW HAVEN BOARD OF EDUCATION  
LOCAL 3429, COUNCIL 4 (AFSCME) PARAPROFESSIONALS  
MONEY PURCHASE PENSION PLAN**

The Board of Education of New Haven, Connecticut has adopted the following amendment and restatement of its money purchase pension plan for paraprofessionals who are members of Local 3429, Council 4 (AFSCME).

**ARTICLE I**

**Name and Effective Date**

Section 1.1 This Plan shall be known as the "New Haven Board of Education Local 3429, Council 4 (AFSCME) Paraprofessionals Money Purchase Pension Plan."

Section 1.2 This Plan became effective as of July 1, 1992.

Section 1.3 This amendment and restatement of the Plan shall be effective as of July 1, 2013, except that:

(a) The provisions of Article VII of the Plan relating to the inclusion of post-severance compensation in the definition of Earnings in Section 7.1(b), the treatment of plans maintained by the Board or a predecessor employer in Section 7.4, and the correction of excess amounts in Section 7.5, are effective for limitation years beginning on or after July 1, 2007.

(b) The extension of the ninety (90) day notice period to one hundred eighty (180) days in Section 10.3, Section 13.1 and Section 15.6(d) of the Plan is effective for Plan Years beginning on or after January 1, 2007.

(c) The provisions of Section 10.3 of the Plan relating to the qualified optional survivor annuity are effective for Plan Years beginning on or after January 1, 2008.

(d) The provisions of Section 10.3 and Section 13.1 of the Plan relating to the relative value of optional forms of benefit are effective for distributions with Annuity Starting Dates occurring on or after February 1, 2006.

(e) The provisions of Section 10.4 and Section 11.4 of the Plan relating to the temporary waiver of required minimum distributions are effective for the 2009 calendar year.

(f) The provisions of Section 14.1(d) of the Plan relating to the determination of death benefits for individuals in qualified military service is effective for deaths occurring on or after January 1, 2007.

(g) The provisions of Section 14.1(e) of the Plan relating to the treatment of differential wage payments for individuals in qualified military service is effective for remuneration paid on or after January 1, 2009.

(h) With respect to the provisions of Section 15.6 of the Plan relating to direct rollovers: (i) the inclusion of Roth individual retirement accounts as eligible retirement plans in Section 15.6(a)(iii) is effective for distributions occurring on or after January 1, 2008; (ii) the ability to rollover after-tax contributions to plans other than defined contribution plans in Section 15.6(a)(iii) is effective for distributions occurring on or after January 1, 2007; and (iii) rollovers by non-spouse beneficiaries in Section 15.6(c) are effective for Plan Years beginning on or after January 1, 2010.

Section 1.4 (a) Any reference in the Plan to "written" or "in writing" shall be construed to include a reference to the use of electronic media, to the extent made available by the Plan Administrator and permitted by the Internal Revenue Service and the Department of Labor.

(b) Subsection (a) shall not apply for the following purposes under the Plan: (i) any spousal consent required in connection with any action taken by a Participant, including the waiver of a spousal death benefit, a qualified preretirement survivor annuity or a joint and survivor annuity or the designation of a Beneficiary other than a Spouse; (ii) making or revoking a Beneficiary designation; (iii) Article II; or (iv) the definition of "earnings" for purposes of the overall limitations on contributions.

## ARTICLE II

### Definitions

When used in this Plan, the following terms have the meanings set forth below unless a different meaning is plainly required by the context:

"*Account*" means a Money Purchase Contributions Account, a Special Contributions Account or a Vested Account, as appropriate.

"*Affiliated Group*" means the Board and any affiliate of the Board as determined under Section 414(b), Section 414(c), Section 414(m) and Section 414(o) of the Code, modified for purposes of Section 415 of the Code by Section 415(h).

"*Anniversary Date*" means June 30 of each Plan Year.

"*Annuity Starting Date*" means the first day of the first period for which an amount is payable as an annuity or, in the case of a benefit not payable as an annuity, the date on which all events have occurred that entitle the recipient to receive such benefit.

"*Application for Benefits*" means the method, prescribed by the Plan Administrator, by which an individual may request a distribution permitted under the Plan.

"*Beneficiary*" means any individual, trust, estate or other recipient entitled to receive death benefits hereunder, on either a primary or a contingent basis.

"*Board*" means the Board of Education of the City of New Haven, Connecticut.

"*Break in Service*" means the failure of an individual to complete more than 500 Hours of Service during a Plan Year. A Break in Service shall be deemed to occur as of the last day of the applicable Plan Year.

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

"*Compensation*" means the following:

(a) Compensation means the base compensation which a Participant receives from the Board during a Plan Year while he or she is a Participant in the Plan and which is reported in Box 1 on IRS Form W-2 (Wage and Tax Statement) for the calendar years in which such Plan Year falls.

(i) Compensation also includes any amounts: (A) that are contributed at the election of the Participant to an employee benefit plan under an arrangement described in Code Section 125, to a qualified transportation fringe benefit plan described in Code

Section 132(f)(4), to an annuity contract described in Code Section 403(b), or to an eligible deferred compensation plan within the meaning of Code Section 457(b); or (B) that are employee contributions treated as employer contributions under Code Section 414(h)(2).

(ii) Compensation excludes: (i) all overtime pay, shift differential, bonuses and any other forms of extra compensation; and (ii) all amounts contributed to this Plan or to any other employee benefit plan maintained by the Board (other than amounts described in subsection (a)(i)).

Amounts contributed at the election of a Participant under an arrangement described in Code Section 125 shall include any amounts that are not available to a Participant in cash in lieu of group health insurance coverage because the Participant is unable to certify that he or she has other health coverage, but only if the Board does not request or collect information regarding the Participant's other health coverage as part of the enrollment process for the health plan.

Amounts that a Participant receives following severance from employment are not considered to be Compensation, unless the amounts are received by the later of: (A) two and one-half months (2-1/2 months) following the Participant's severance from employment; or (B) the end of the Plan Year that includes the date of the Participant's severance from employment with the Board. In addition, such amounts are not considered to be Compensation unless they would have been payable to the Participant if employment had not terminated and represent base compensation for services performed during the Participant's regular working hours.

For purposes of the preceding paragraph, a Participant has a severance from employment when the Participant ceases to be an employee of the employer maintaining the Plan, and a Participant does not have a severance from employment if, in connection with a change of employment, the individual's new employer maintains the Plan with respect to the individual. The determination as to whether a Participant ceases to be an employee of the employer maintaining the Plan is based on all of the relevant facts and circumstances.

(b) The Compensation of a Participant taken into account under the Plan shall not exceed \$255,000, as adjusted under Section 401(a)(17) of the Code for calendar years beginning after December 31, 2013. Any adjustments in the dollar limitation that are applicable for a calendar year shall apply to Plan Years beginning with or within the calendar year. In the case of a Plan Year of less than twelve months, the dollar limitation under this subsection (b) shall be the amount determined by multiplying the applicable amount described in the preceding sentence by a fraction, the numerator of which is the number of months in the Plan Year and the denominator of which is twelve. In the case of a Participant who commences or ceases participation in the Plan on a date other than the first or last day of the Plan Year, no adjustment shall be made to the applicable dollar limitation.

"Contract" means any type of contract issued by an Insurer.

*"Disabled Participant"* means a Participant who has an incapacity, either physical or mental, which is permanent in nature, which results from bodily injury or disease, and which prevents the Participant from performing the requirements of the Participant's job or position; *provided, however*, that a Disabled Participant shall not include any Participant whose incapacity is the result of an injury or disease which: (a) results from or consists of habitual drunkenness or addiction to narcotics; (b) was treated, suffered or occurred while the Participant was engaged in a felonious enterprise; or (c) was intentionally self-inflicted. With the exception of the provisions in subsections (a), (b) and (c), any employee who has qualified to receive disability benefits for total and permanent disability under the Social Security Act shall be deemed to be totally and permanently disabled for purposes of the Plan.

A Participant shall be deemed to be disabled only if an Application for Benefits is filed with the Plan Administrator by or on behalf of such individual in the manner required by Section 13.2.

*"Eligibility Date"* means July 1.

*"Employee"* means an individual who is a common law employee of the Board, who is performing services for the Board as a paraprofessional, and who is a member in good standing of Local 3429, Council 4 (AFSCME).

An individual who is classified by the Board as an independent contractor shall not be considered an Employee. If the Board reclassifies an individual as an Employee, the individual shall be an Employee prospectively from the effective date of that reclassification only, and then only if the individual otherwise satisfies the requirements of this definition. If an individual not classified by the Board as an Employee is retroactively reclassified as such by any governmental or regulatory authority, such individual shall nonetheless be deemed to have become an Employee only prospectively on the event of such reclassification (and not retroactively to the date on which the individual was found to have first become an employee for any other purposes), and then only if the individual otherwise satisfies the requirements of this definition.

*"Employment Commencement Date"* means the first day on which an individual is credited with an Hour of Service as a common law employee of the Board or another member of the Affiliated Group.

*"Employment Status"* means the status of an individual who is employed by the Board or another member of the Affiliated Group on a current basis or whose employment with the Board or another member of the Affiliated Group has been interrupted on a temporary or seasonal basis.

*"Highly Compensated Employee"* means an individual who is a common law employee of the Board or another member of the Affiliated Group and who:



(a) (i) owns more than a five percent (5%) interest in the Board or any other member of the Affiliated Group at any time during the Plan Year or the preceding Plan Year; or

(ii) received earnings from the Affiliated Group in excess of \$115,000 during the preceding Plan Year and was included in the twenty percent (20%) of employees who received the highest earnings from the Affiliated Group during such preceding year.

(b) For purposes of subsection (a):

(i) In determining ownership, the constructive ownership provisions of Code Section 318 shall be applied by utilizing a five percent (5%) test in lieu of the fifty percent (50%) test set forth in subsection (a)(2)(C) thereof.

(ii) The term "earnings" means earnings as defined in Section 7.1(b).

(iii) The dollar limit referred to in subsection (a)(ii) shall be adjusted for Plan Years beginning after December 31, 2013 in accordance with Regulations for increases in the cost of living using the calendar quarter ending September 30, 1996, as the base period.

(iv) Individuals who are nonresident aliens without U.S.-source earned income from the Affiliated Group shall not be treated as employees.

(v) When determining the number of employees for purposes of subsection (a)(ii), the following individuals shall be disregarded:

(A) employees who have not completed six months of service;

(B) employees who have not attained age twenty-one (21);

(C) employees who normally work during not more than six months in any year;

(D) employees who normally work less than seventeen and one-half (17-1/2) hours per week; and

(E) employees who are included in a unit of employees covered by a collective bargaining agreement, but only if: (1) at least ninety percent (90%) of employees are covered by collective bargaining agreements; and (2) the Plan excludes from coverage individuals covered by such agreements.

(c) The determination of who is a Highly Compensated Employee shall be made in accordance with Section 414(q) of the Code and Regulations thereunder.

"Hour of Service" means the following:

(a) An Hour of Service includes:

(i) each hour for which an individual is compensated, or entitled to be compensated, by the Board for the performance of duties;

(ii) each hour for which an individual is compensated, or entitled to be compensated, by the Board for a period during which no duties are performed by such individual (irrespective of whether the employment relationship has terminated) due to vacation, holiday, illness, incapacity (including disability), layoff, jury duty, military duty or leave of absence, up to a maximum of 501 hours for any single continuous period during which no duties are performed (whether or not such period falls within a single Plan Year or other computation period). Hours shall not be credited for payment to an individual from a plan required by workers' compensation, unemployment compensation or disability insurance laws, nor shall hours be credited for reimbursement of an individual for medical or medically related expenses;

(iii) each hour for which back pay, irrespective of mitigation of damages, has been awarded or agreed to by the Board, *provided that*, if such award or agreement of back pay is for reasons other than the performance of duties, such hours shall be subject to the restrictions of subsection (a)(ii) and hours credited under this subsection (a)(iii) shall be credited for the period or periods to which the award or agreement pertains rather than to the period in which the award, agreement or payment is made; and

(iv) in determining whether a Break in Service has occurred for purposes of Article III (eligibility to participate) and Article XII (vesting), each hour up to a maximum of 501 hours for any single continuous period of absence, regardless of whether the individual is compensated for such absence, if such absence occurs by reason of pregnancy of the individual, birth of a child of the individual, adoption of a child by the individual, or the individual caring for a child for the period beginning immediately following such birth or adoption, if such Hours of Service would otherwise have been credited to such individual but for such absence. Hours of Service credited under this subsection (a)(iv) shall be credited in the year in which such absence commences or, if unnecessary to prevent a Break in Service in that year, in the immediately following year. Hours of Service credited under this subsection (a)(iv) shall only be credited to the individual upon receipt by the Administrator of such timely information as may be reasonably required to establish the existence and duration of such absence.

(b) The same Hours of Service shall not be credited under more than one of the foregoing subsections. All Hours of Service shall be computed and credited to computation periods in accordance with Section 2530.200b-2 of the Department of Labor regulations.

(c) In determining whether an individual employed by the Board in a classification of employees eligible to participate in the Plan has satisfied any requirement based upon Hours of Service that relates to eligibility to participate for purposes of Article III or to vesting for purposes of Article XII, Hours of Service shall be credited for the following:

(i) the period during which such individual performs services as a Leased Employee;

(ii) the period during which such individual would have been a Leased Employee but for the failure to satisfy the requirements of subsection (a)(ii) of the definition herein of a "Leased Employee";

(iii) the period during which such individual is a common law employee of a member of the Affiliated Group other than the Board; and

(iv) the period during which such individual performs services for the Board as a common law employee in a classification of such employees who are not eligible to participate in the Plan.

(d) If the Board maintains the plan of a predecessor employer for purposes of Code Section 414(a), hours of service performed for such predecessor employer will be treated as Hours of Service performed for the Board.

(e) Hours of Service will be determined on the basis of actual hours for which an Employee is paid or entitled to payment; *provided, however*, that if actual hours worked cannot be determined, Hours of Service will be based on days worked, with an Employee being credited with ten Hours of Service for each day in which he or she performs at least one Hour of Service.

"*Insurer*" means a life insurance company licensed to do business in the state of Connecticut.

"*Leased Employee*" means the following:

(a) Subject to subsection (b), an individual who performs services for any member of the Affiliated Group (the "recipient"), other than as a common law employee of the recipient, if: (i) such services are provided pursuant to a written or oral agreement between the recipient and any other person (the "leasing organization"); (ii) the individual has performed such services on a substantially full-time basis for a period of at least one year; and (iii) such services are performed under primary direction or control by the recipient. An individual will be deemed to have performed services on a substantially full-time basis for a period of at least one year if the individual has performed during any twelve (12) consecutive month period: (A) at least 1,500 Hours of Service for the recipient; or (B) a number of Hours of Service which is at least 501 and which is at least equal to seventy-five percent (75%) of the median Hours of Service that are customarily performed by any employee of the recipient in the particular position in which such individual is performing services;

(b) An individual shall not be considered to be a Leased Employee if: (i) such individual participates in a money purchase pension plan providing: (A) a nonintegrated employer contribution at a rate not less than ten percent (10%) of the individual's earnings, as defined in Section 7.1(b), (B) immediate participation, and (C) full and immediate vesting; and (ii) Leased Employees, determined without regard to this sentence, do not constitute more than twenty percent (20%) of the nonhighly compensated work force of the recipient.

(c) Contributions and benefits provided to a Leased Employee by the leasing organization which are attributable to services performed for the recipient shall be treated as provided by the recipient.

*"Money Purchase Contributions"* mean the money purchase contributions that the Board makes to the Trust Fund on behalf of a Participant pursuant to Section 4.2.

*"Money Purchase Contributions Account"* means the account maintained for each Participant reflecting the Money Purchase Contributions attributable to the Participant, including net earnings and losses thereon.

*"Normal Retirement Date"* means a Participant's normal retirement age, which is the Participant's sixty-fifth (65<sup>th</sup>) birthday.

*"Participant"* means an Employee who is employed by the Board and who is eligible to participate in the Plan under Article III. However, unless specifically provided otherwise, a Participant shall not include a Retired Participant, a Terminated Participant or a Disabled Participant. In addition, a Leased Employee shall not be eligible to become a Participant.

*"Plan"* means the New Haven Board of Education Local 3429, Council 4 (AFSCME) Paraprofessionals Money Purchase Pension Plan as of its original effective date, including any amendments thereto.

*"Plan Administrator"* means the person, persons or entity designated by the Board in accordance with Article XVI.

*"Plan Year"* means the twelve (12) consecutive month period ending on June 30 of each year. For years prior to the effective date of the Plan, the corresponding twelve (12) consecutive month period shall be the Plan Year.

*"Regulation"* means any rule or regulation promulgated under the Code by the Secretary of the Treasury or his delegate.

*"Retired Participant"* means a Participant who separates from service with the Board on or after Normal Retirement Date.

"*Special Contributions*" means the after-tax contributions that Participants make to the Trust Fund pursuant to Section 4.1.

"*Special Contributions Account*" means the account maintained for each Participant reflecting the Special Contributions attributable to the Participant, including net earnings or losses thereon.

"*Spouse*" or "*Surviving Spouse*" means the Spouse or Surviving Spouse of the Participant as defined for purposes of federal law; *provided, however*, that a former Spouse will be treated as the Spouse or Surviving Spouse of a Participant to the extent provided under a qualified domestic relations order as described in Section 414(p) of the Code.

"*Suspense Account*" means the account established to reflect advance contributions made by the Board, including net earnings or losses thereon.

"*Terminated Participant*" means a Participant whose status as an Employee is terminated for reasons other than death, disability or retirement.

"*Trust Agreement*" means the agreement entered into between the Board and the Trustee.

"*Trustee*" means the corporation or individual(s) selected by the Board to serve as trustee under the Trust Agreement.

"*Trust Fund*" means all the assets held under the Trust Agreement.

"*Valuation Date*" means the last day of the Plan Year and any other date or dates selected by the Plan Administrator.

"*Vested Account*" means the account maintained in accordance with Article XII reflecting an Employee's vested interest in the Board's contributions made prior to a Break in Service, including net earnings or losses thereon.

"*Vesting Year*" means a Plan Year in which an individual has completed 1,000 or more Hours of Service.

When used in this Plan, the singular form of any word shall include the plural and the masculine gender shall include the feminine wherever necessary for the proper interpretation of this Plan.

Any reference in this Plan to an "Article", "Section", "section", "subsection", "paragraph" or "subparagraph" shall be construed as a reference to a provision of this Plan unless indicated otherwise.

## ARTICLE III

### Employees Entitled to Participate

Section 3.1 (a) Every Employee shall become a Participant in the Plan on the Employee's Employment Commencement Date.

(b) For the period prior to April 10, 2006, every Employee became a Participant in the Plan on the Eligibility Date nearest the end of the twelve (12) consecutive month period commencing on the Employee's Employment Commencement Date if the Employee was credited with at least 1,000 Hours of Service during such period. With respect to an Employee who failed to complete 1,000 Hours of Service during the twelve (12) consecutive month period commencing on the Employee's Employment Commencement Date, such Employee became a Participant on the Eligibility Date nearest the end of a Plan Year during which the Employee was credited with at least 1,000 Hours of Service.

Section 3.2 (a) An Employee who separates from service and who subsequently becomes an Employee shall become a Participant immediately on his or her Employment Commencement Date following the period of his or her separation from service.

(b) For the period prior to April 10, 2006, a Participant who incurred a Break in Service and who subsequently became an Employee was required to satisfy the requirements of Section 3.1, without regard to any service performed prior to the Break in Service. Upon satisfying such eligibility requirements, he or she became a Participant again as of the date he or she again became an Employee. In addition, an Employee who had not become a Participant and who incurred a Break in Service was required to satisfy the requirements of Section 3.1, without regard to any service performed prior to the Break in Service.

## ARTICLE IV

### Board Contributions and Participant Contributions

Section 4.1 Subject to the provisions of the Plan and the Trust Agreement, for the period on and after July 1, 1996 each Participant shall contribute to the Plan as of each pay date, by means of payroll deduction on an after-tax basis, an amount equal to two percent (2%) of his or her Compensation for the pay period to which such pay date relates; *provided, however*, that in no event shall a Participant make any contributions to the Plan for any pay periods that relate to pay dates prior to the first pay date which is at least five months after his or her Employment Commencement Date.

Section 4.2 (a) Subject to the provisions of the Plan and the Trust Agreement, the Board shall contribute to the Plan on behalf of each Participant as of each pay date an amount equal to two percent (2%) of the Participant's Compensation for the pay period to which such pay date relates; *provided, however*, that: (i) in no event shall the Board make any contributions to the Plan on behalf of any Participant prior to the first pay date which is at least five months after his or her Employment Commencement Date; (ii) in no event shall the Board make any contributions to the Plan on behalf of a Participant who terminates employment prior to completing five months of employment after his or her Employment Commencement Date; (iii) with respect to the first pay date which is at least five months after a Participant's Employment Commencement Date, the Board's contribution shall be based on the Participant's Compensation for the period from the Participant's Employment Commencement Date through and including the pay period to which such pay date relates; and (iv) except to the extent required by subsection (a)(iii), in no event shall the Board make any contributions to the Plan on behalf of a Participant for any pay period for which the Participant does not make the Participant contributions described in Section 4.1.

(b) In addition to contributions made under subsection (a), the Board shall make any contributions necessary to restore to an Account any amount previously forfeited by an individual described in Section 12.5 or Section 13.9.

(c) For the period prior to April 10, 2006, the Board contributed to the Plan an amount equal to two percent (2%) of Compensation on behalf of: (i) each Participant who completed at least 1,000 Hours of Service during the Plan Year and who had Employment Status on the Anniversary Date; and (ii) each Participant who died or became a Retired Participant or a Disabled Participant during the Plan Year. Board contributions were allocated as of the Anniversary Date of each Plan Year.

Section 4.3 Amounts forfeited under Article XII shall be used to reduce the Board's contributions under Section 4.2.

Section 4.4 (a) A Participant's contributions to the Plan pursuant to Section 4.1 shall be paid to the Trustee as soon as administratively feasible following the pay date as of which such contributions are deducted from the Participant's Compensation, and shall be allocated to the Participant's Special Contributions Account as of such pay date.

(b) Board contributions to the Plan on behalf of a Participant pursuant to Section 4.2 shall be paid to the Trustee as soon as administratively feasible following each pay date, and shall be allocated to the Participant's Money Purchase Contributions Account as of such pay date; *provided, however*, in no event shall the Board make any contributions to the Plan on behalf of any Participant prior to the first pay date which is at least five months after his or her Employment Commencement Date.

For the period prior to April 10, 2006, Board contributions were made as of the applicable Anniversary Date, and were paid to the Trustee. The Board could make contributions during any Plan Year in advance of the Anniversary Date. Such advance contributions were held in the Suspense Account and were invested by the Trustee in accordance with the Trust Agreement. When the Board contributions for the particular Plan Year were allocated, such advance contributions, and the net earnings or losses thereon, were allocated under Section 4.2.

## ARTICLE V

### Rollover Contributions Not Allowed

Section 5.1 The Plan does not accept rollover contributions within the meaning of Section 402(c), Section 403(a)(4), Section 403(b)(8), Section 408(d)(3)(A)(ii), or Section 457(e)(16) of the Code.



## ARTICLE VI

### Participant Accounts

Section 6.1 The Trustee shall maintain separate Accounts for each Participant which shall reflect the amount of each Participant's interest in the Trust Fund attributable to the Board's contributions and the Participant's contributions. All contributions made by the Board on the Participant's behalf and all contributions made by the Participant shall be held and invested by the Trustee as provided herein and in the Trust Agreement.

Section 6.2 (a) As of each Valuation Date, the Trustee shall notify the Plan Administrator of the amount of the net earnings or losses of the Trust Fund for the period since the preceding Valuation Date. "Net earnings or losses" means gross earnings less all expenses and taxes, and shall include any increase or decrease in the market value of the investments of the Trust Fund during such period.

(b) The Plan Administrator shall allocate the net earnings or losses of the Trust Fund among those individuals for whom a balance was held in the Trust Fund as of the Valuation Date. Such net earnings or losses shall be credited or debited to each individual's Accounts in the ratio that the value of such Accounts as of the preceding Valuation Date bears to the aggregate value of all Accounts as of the preceding Valuation Date.

(c) For purposes of this Section 6.2, in the case of investments in a common trust fund or similar investment media, the most recent valuation of such investments shall be used.

Section 6.3 The Plan Administrator shall, within a reasonable time after the end of each Plan Year (or such other date or dates selected by the Plan Administrator), notify each Participant of the amount of net earnings or losses credited to or charged against such Participant's Accounts, the amount of annual contributions and forfeitures allocated to such Accounts, and the total value of such Accounts.

Section 6.4 For purposes of this Article VI, the term "Participant" shall include a Retired Participant, a Disabled Participant and a Terminated Participant.

## ARTICLE VII

### Limitations on Annual Additions

Section 7.1 The following definitions shall apply for purposes of this Article VII:

(a) "*Annual additions*" means the following:

(i) Annual additions mean, for each limitation year, the sum of:

(A) The contributions by the Board or any other member of the Affiliated Group to this Plan or any other qualified defined contribution retirement plan;

(B) Any forfeitures allocated to a Participant under such a plan;

(C) Any contribution to such a plan by the Participant;

(D) Any contribution by the Board or any other member of the Affiliated Group allocated to an individual medical account, as defined in Section 415(l)(2) of the Code, established for a Participant under any pension or annuity plan, and, in the case of an individual who is or was at any time a key employee as defined in Code Section 416(i)(1), any contribution by the Board or any other member of the Affiliated Group paid or accrued to a separate account in a funded welfare benefit plan, as defined in Section 419(e) of the Code, established for the purpose of providing post-retirement medical benefits; and

(E) Any allocations under a simplified employee pension.

(ii) Annual additions shall not include any deferral contributions that are distributed in accordance with Regulation Section 1.402(g)-1(e)(2) or (3), any catch-up contributions under Code Section 414(v), any investment earnings allocable to a Participant, any amounts recontributed to this Plan as described in Code Section 411(a)(7)(B) (in accordance with Code Section 411(a)(7)(C)) or Code Section 411(a)(3)(D), any rollover contributions (as described in Code Sections 401(a)(31), 402(c)(1), 403(a)(4), 403(b)(8), 408(d)(3), and 457(e)(16)), any amounts received by a trustee of a plan of the Affiliated Group in a direct transfer from another qualified plan, any payments of principal and interest on any loan made to a Participant, any contributions repaid to a governmental plan (as defined in Code Section 414(d)) as described in Code Section 415(k)(3), and any restoration of benefits that is required pursuant to such repayments.

(iii) Annual additions shall not include restorative payments. A restorative payment is a payment made to restore losses to a Plan resulting from actions by a

fiduciary for which there is reasonable risk of liability for breach of a fiduciary duty under any applicable federal or state law, where participants who are similarly situated are treated similarly with respect to the payments. Generally, payments are restorative payments only if the payments are made in order to restore some or all of the plan's losses due to an action (or a failure to act) that creates a reasonable risk of liability for such a breach of fiduciary duty (other than a breach of fiduciary duty arising from failure to remit contributions to the Plan). This includes payments to a plan made pursuant to a court-approved settlement to restore losses to a qualified defined contribution plan on account of the breach of fiduciary duty (other than a breach of fiduciary duty arising from failure to remit contributions to the Plan). Payments made to the Plan to make up for losses due merely to market fluctuations and other payments that are not made on account of a reasonable risk of liability for breach of a fiduciary duty are not restorative payments and generally constitute contributions that are considered annual additions.

(b) "*Earnings*" means wages, as defined in Section 3401(a) of the Code, and other compensation received by a Participant during a limitation year which are reported in Box 1 on IRS Form W-2 (Wage and Tax Statement) for the calendar years in which such limitation year falls. Earnings shall be determined without regard to any rules under Code Section 3401(a) that limit the remuneration included in wages on the basis of the nature or location of the employment or the services performed.

Earnings shall also include the following with respect to a Participant during a limitation year:

(i) amounts contributed at the election of the Participant to a cafeteria plan described in Code Section 125, to a qualified transportation fringe benefit plan described in Code Section 132(f)(4), to a cash or deferred arrangement described in Code Section 401(k), to an annuity contract described in Code Section 403(b), to a simplified employee pension described in Code Section 408(k)(6), or to a simple retirement account described in Code Section 408(p); or

(ii) amounts deferred under an eligible deferred compensation plan within the meaning of Code Section 457(b).

Amounts contributed at the election of a Participant under an arrangement described in Code Section 125 shall include any amounts that are not available to a Participant in cash in lieu of group health insurance coverage because the Participant is unable to certify that he or she has other health coverage, but only if the Board does not request or collect information regarding the Participant's other health coverage as part of the enrollment process for the health plan.

Amounts that a Participant receives following severance from employment are not considered to be earnings, unless the amounts are received by the later of two and one-half months (2-1/2 months) following the Participant's severance from employment or the end of the limitation year that includes the date of the Participant's severance from employment, and such amounts: (i) would have been payable to the Participant if employment had not terminated and

are either regular compensation for services during the Participant's regular working hours, compensation for services outside of the Participant's regular working hours (such as overtime or shift differential), commissions, bonuses or other similar compensation; or (ii) represent payments for accrued bona fide sick, vacation, or other leave, but only if the Participant would have been able to use the leave if employment had continued; (iii) are received by a Participant pursuant to a nonqualified unfunded deferred compensation plan, but only if the payment would have been paid to the Participant at the same time if the Participant had continued in employment with the Board and only to the extent that the payment is includible in the Participant's gross income; or (iv) are paid to an individual who does not currently perform services for the Board by reason of qualified military service (as the term is used in Code Section 414(u)(1)) but only to the extent the payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the Board rather than performing qualified military service.

Furthermore, anything herein to the contrary notwithstanding, earnings for a limitation year include amounts earned during the limitation year but not paid during the limitation year solely because of the timing of pay periods and pay dates if: (i) the amounts are paid during the first few weeks of the next limitation year; (ii) the amounts are included on a uniform and consistent basis with respect to all similarly situated Participants; and (iii) no amounts are included in more than one limitation year.

A Participant has a severance from employment when the Participant ceases to be an employee of the employer maintaining the Plan, and a Participant does not have a severance from employment if, in connection with a change of employment, the individual's new employer maintains the Plan with respect to the individual. The determination as to whether a Participant ceases to be an employee of the employer maintaining the Plan is based on all of the relevant facts and circumstances.

An amount that a Participant who is permanently and totally disabled, as defined in Code Section 22(e)(3), receives following severance from employment is considered to be earnings, *provided*: (i) salary continuation applies to all Participants who are permanently and totally disabled for a fixed or determinable period; or (ii) the Participant was not a Highly Compensated Employee, as defined in Code Section 414(q), immediately before becoming disabled.

(c) "*Excess amount*" means the amount allocated or credited to a Participant in excess of the limits applicable under Section 7.2 and Section 7.3.

(d) "*Limitation year*" means the Plan Year. All qualified plans maintained by the Board shall use the same limitation year. If the limitation year is amended to a different twelve (12) consecutive month period, the new limitation year shall begin on a date within the limitation year in which the amendment is adopted.

If a short limitation year is created because of an amendment changing the limitation year to a different twelve (12) consecutive month period, the maximum annual addition will not exceed the defined contribution dollar limitation, multiplied by a fraction: (i) the numerator of

which is the number of months (including any fractional parts of a month) in the short limitation year; and (ii) the denominator of which is twelve (12).

If the Plan is terminated as of a date other than the last day of the limitation year, the Plan shall be treated as if the Plan was amended to change the limitation year and create a short limitation year ending on the date the Plan is terminated.

If there is a short limitation year, the limitation on compensation applied pursuant to Code Section 401(a)(17) shall be prorated in the same manner as the defined contribution dollar limitation described above in this definition for purposes of applying the limitation on annual additions.

(e) "*Minimum accrued benefit*" means the sum of the annual retirement benefits accrued by a Participant under all qualified defined benefit retirement plans of the Board or any other member of the Affiliated Group that were in effect on May 6, 1986, as of the end of the last limitation year of such plans beginning before 1987, computed without regard to any changes in the provisions of such plans after May 5, 1986. The preceding sentence shall apply only if the plans described therein individually and collectively satisfied the requirements of Code Section 415 for all limitation years beginning before 1987.

(f) "*Projected annual retirement benefit*" means the annual benefit to which a Participant would be entitled under any qualified defined benefit retirement plan maintained by the Board or any member of the Affiliated Group, based on the assumptions that employment continues until normal retirement age, that earnings continue until normal retirement age at the same rate as in effect in the limitation year under consideration, and that all other relevant factors used to determine benefits under the plan as of the current limitation year remain constant for all future limitation years.

(g) "*Social Security retirement age*" means a Participant's retirement age under Section 216(l) of the Social Security Act determined without regard to the age increase factor under such section as if the early retirement age under paragraph (2) thereof were sixty-two (62).

Section 7.2 (a) The maximum annual additions credited to any Participant for any limitation year under this Plan and all other qualified defined contribution retirement plans maintained by the Board or any other member of the Affiliated Group shall not exceed the lesser of: (i) one hundred percent (100%) of the Participant's earnings for the limitation year; or (ii) \$51,000, adjusted for limitation years beginning after 2013 in accordance with Regulations for increases in the cost of living.

(b) The limitation set forth in subsection (a)(i) shall not apply to any contribution described in Section 7.1(a)(i)(D).

Section 7.3 The provisions of this Section 7.3 shall not apply with respect to any individual who is credited with an Hour of Service on or after the first day of the first limitation year beginning after December 31, 1999.

(a) In the case of a Participant who is covered at any time by a qualified defined benefit retirement plan maintained by the Board or any other member of the Affiliated Group, the sum of the defined contribution fraction described in subsection (b) and the defined benefit fraction described in subsection (c) shall not exceed 1.0.

(b) (i) The defined contribution fraction is a fraction:

(A) the numerator of which is the sum of the annual additions for the current and all prior limitation years, determined with respect to each such year under the rules governing the crediting of annual additions for such year and computed as of the end of such year:

(1) credited to the Participant under any qualified defined contribution retirement plan of the Board or any other member of the Affiliated Group, whether or not terminated;

(2) attributable to nondeductible employee contributions to any defined benefit retirement plan of the Board or any other member of the Affiliated Group, whether or not terminated;

(3) attributable to any welfare benefit plan, as defined in Code Section 419(e), of the Board or any other member of the Affiliated Group; and

(4) attributable to any individual medical account, as defined in Code Section 415(l)(2), maintained by the Board or any other member of the Affiliated Group; and

(B) the denominator of which is the sum of the lesser of the following amounts, computed for each limitation year as of the end of such year and including limitation years when the individual was not a Participant as a result of ineligibility to participate or because the Board did not maintain a defined contribution plan:

(1) one hundred twenty-five percent (125%) of the defined contribution dollar limitation in effect for such limitation year; or

(2) thirty-five percent (35%) of the Participant's earnings for the limitation year.

(ii) In the case of an individual who was a participant as of the end of the first day of the first limitation year beginning after 1986 in any qualified defined contribution plan of the Board or any other member of the Affiliated Group that was in effect on May 6, 1986, if the sum of the fraction described in this subsection (b) and the fraction

described in subsection (c) would otherwise exceed 1.0, the numerator of the fraction described in this subsection (b) shall be adjusted by permanently subtracting therefrom an amount equal to the product of (A) the excess of the sum of such fractions over 1.0, and (B) the denominator of the fraction described in this subsection (b). For purposes of the adjustment described in the preceding sentence, the applicable fractions shall be computed as of the end of the last limitation year beginning before 1987, but using the limitation under Code Section 415 applicable to the first limitation year beginning after 1986, and without regard to any change made after May 5, 1986 in the provisions of the plans taken into account under this subsection (b)(ii).

(iii) At the election of the Plan Administrator, with respect to any limitation year ending after 1982, the denominator of the defined contribution fraction of each Participant for all limitation years ending before 1983 shall be an amount equal to the product of:

(A) the denominator of the defined contribution fraction for the limitation year ending in 1982 (computed under Code Section 415(e)(3)(B) as in effect for such year), and

(B) a fraction, the numerator of which is the lesser of \$51,875 or thirty-five percent (35%) of the earnings of the Participant for the limitation year ending in 1981, and the denominator of which is the lesser of \$41,500 or twenty-five (25%) of the earnings of the Participant for the limitation year ending in 1981.

(iv) For purposes of subsection (c)(i), the annual additions for any limitation year beginning before 1987 shall not be recomputed to treat all employee contributions as annual additions.

(c) (i) Subject to subsection (c)(ii), the defined benefit fraction is a fraction:

(A) the numerator of which is the sum of the Participant's projected annual retirement benefits under each qualified defined benefit retirement plan of the Board or any other member of the Affiliated Group, whether or not terminated, determined as of the end of the limitation year; and

(B) the denominator of which is the lesser of:

(1) one hundred twenty-five percent (125%) of \$90,000 (or, in the case of benefits commencing before or after the Social Security retirement age, the actuarial equivalent of such amount), as adjusted for increases in the cost of living; or

(2) one hundred forty percent (140%) of the Participant's average earnings for the highest three consecutive limitation years, as adjusted based on increases in the dollar limitation.

(ii) If a Participant was a participant as of the first day of the first limitation year beginning after 1986 in any qualified defined benefit retirement plan of the Board or any other member of the Affiliated Group that was in effect on May 6, 1986, the denominator of the defined benefit fraction shall not be less than one hundred twenty-five percent (125%) of such Participant's minimum accrued benefit.

(iii) If the Board or any other member of the Affiliated Group maintains a qualified defined benefit retirement plan providing any post-retirement ancillary benefits (other than a qualified joint and survivor annuity with the Participant's Spouse), the denominator of the defined benefit fraction shall be adjusted in accordance with Regulations.

Section 7.4 (a) For purposes of applying the limitations of Code Section 415, all defined contribution plans (without regard to whether a plan has been terminated) ever maintained by the Board (or a "predecessor employer") under which the Participant receives annual additions are treated as one defined contribution plan. The "Board" means the Board of Education of the City of New Haven, Connecticut that adopted this Plan and all members of a controlled group or an affiliated service group that includes the Board (within the meaning of Code Section 414(b), (c), (m) or (o)), *except that* the determination shall be made by applying Code Section 415(h) and shall take into account tax-exempt organizations under Regulation Section 1.414(c)-5, as modified by Regulation Section 1.415(a)-1(f)(1). For purposes of this Section 7.4:

(i) A former employer is a "predecessor employer" with respect to a Participant in a plan maintained by the Board if the Board maintains a plan under which the Participant had accrued a benefit while performing services for the former employer, but only if that benefit is provided under the plan maintained by the Board. For this purpose, the formerly affiliated plan rules in Regulation Section 1.415(f)-1(b)(2) apply as if the Board and predecessor employer constituted a single employer under the rules described in Regulation Section 1.415(a)-1(f)(1) and (2) immediately prior to the cessation of affiliation (and as if they constituted two, unrelated employers under the rules described in Regulation Section 1.415(a)-1(f)(1) and (2) immediately after the cessation of affiliation) and cessation of affiliation was the event that gave rise to the predecessor employer relationship, such as a transfer of benefits or plan sponsorship.

(ii) With respect to the Board, a former entity that precedes the Board is a "predecessor employer" with respect to the Participant if, under the facts and circumstances, the Board constitutes a continuation of all or a portion of the trade or business of the former entity.

(b) For purposes of aggregating plans for Code Section 415, a "formerly affiliated plan" of the Board is taken into account for purposes of applying the Code Section 415 limitations to the Board, but the formerly affiliated plan is treated as if it had terminated immediately prior to the "cessation of affiliation." For purposes of this subsection (b), a



"formerly affiliated plan" of the Board is a plan that, immediately prior to the cessation of affiliation, was actually maintained by one or more of the entities that constitute the Board (as determined under the employer affiliation rules described in Regulation Section 1.415(a)-1(f)(1) and (2)), and immediately after the cessation of affiliation, is not actually maintained by any of the entities that constitute the Board (as determined under the employer affiliation rules described in Regulation Section 1.415(a)-1(f)(1) and (2)). For purposes of this subsection (b), a "cessation of affiliation" means the event that causes an entity to no longer be aggregated with one or more other entities as a single employer under the employer affiliation rules described in Regulation Section 1.415(a)-1(f)(1) and (2) (such as the sale of a subsidiary outside a controlled group), or that causes a plan to not actually be maintained by any of the entities that constitute the Board under the employer affiliation rules of Regulation Section 1.415(a)-1(f)(1) and (2) (such as a transfer of plan sponsorship outside of a controlled group).

(c) Two or more defined contribution plans that are not required to be aggregated pursuant to Code Section 415(f) and the Regulations thereunder as of the first day of a limitation year do not fail to satisfy the requirements of Code Section 415 with respect to a Participant for the limitation year merely because they are aggregated later in that limitation year, *provided that* no plan amendments increasing benefits with respect to the Participant under either plan are made after the occurrence of the event causing the plan to be aggregated.

Section 7.5 (a) For limitation years beginning on or after July 1, 2007, notwithstanding any provision of the Plan to the contrary, if an excess amount is determined for any Participant for any limitation year, the Plan may correct such excess amount only in accordance with the Employee Plans Compliance Resolution System ("EPCRS") as set forth in Revenue Procedure 2013-12 (or any superseding guidance), including, but not limited to, the preamble of the Code Section 415 final regulations.

(b) For limitation years beginning prior to July 1, 2007, if an excess amount is determined for any Participant for any limitation year, and if such excess is due to the allocation of forfeitures, a reasonable error in estimating a Participant's annual earnings, the determination of the amount of elective deferrals (as defined in Code Section 402(g)(3)) that may be made with respect to the Participant under the limits of Code Section 415, or such other limited facts and circumstances as the Commissioner of Internal Revenue finds justifiable, such excess amount shall be treated as follows:

(i) Any non-deductible voluntary contributions made to this Plan or any other qualified retirement plan maintained by the Board or any other member of the Affiliated Group shall be returned to the Participant and any elective deferrals shall be distributed to the Participant, to the extent such return or distribution would reduce the excess amount.

(ii) Any remaining excess amount shall be attributed to, and treated in accordance with the provisions of, the qualified retirement plan or plans maintained by the Board or any other member of the Affiliated Group in which the Participant participates, in the following order:

- (A) any qualified defined benefit pension plan;
- (B) this Plan;
- (C) any qualified 401(k) plan;
- (D) any qualified profit sharing plan;
- (E) any qualified stock bonus plan;
- (F) any qualified target benefit pension plan; and
- (G) any other qualified money purchase pension plan.

(iii) Any excess amount which is attributed to this Plan shall be treated as follows:

(A) If the Board's contribution for the limitation year has not been made, the amount that would otherwise be contributed to the Plan shall be reduced by such excess amount.

(B) If the Board's contribution for the limitation year has been made, any remaining excess amount which is contributed under conditions described in Article XVIII shall be returned to the Board in accordance with Article XVIII. Any excess amount that remains attributed to this Plan after the return of contributions to the Board shall be credited to a suspense account. The amount credited to the suspense account and any earnings or losses thereon shall be allocated to all Participants for the next limitation year (and for each succeeding limitation year, as necessary) by reducing future Board contributions (including allocations of any forfeitures) that would otherwise be allocated to the Accounts of such Participants.

## ARTICLE VIII

### Plan Loans Not Allowed

Section 8.1 The Plan does not permit Participants to obtain loans from their Accounts.

## ARTICLE IX

### Participant Withdrawals Not Allowed

Section 9.1 The Plan does not permit a Participant with Employment Status to obtain a withdrawal from the Plan.

## ARTICLE X

### Payment of Benefits

Section 10.1 (a) A Participant who has Employment Status upon attaining Normal Retirement Date shall have a nonforfeitable right to one hundred percent (100%) of the Accounts held on behalf of such Participant. Subject to Section 10.2, if the Participant continues in the service of the Board after attaining Normal Retirement Date, payment of benefits hereunder shall be deferred until the date on which the Participant separates from service with the Board. The amount to which the Participant is entitled shall be paid as provided in this Article X.

(b) A Disabled Participant shall be one hundred percent (100%) vested in the Accounts held on behalf of such Participant. Payment of benefits hereunder shall commence as soon as practical after the approval of the Application for Benefits required by Article XIII. The amount to which the Disabled Participant is entitled shall be paid as provided in this Article X.

Section 10.2 Payment of benefits hereunder shall commence no later than April 1 of the calendar year next following the later of the calendar year in which an individual attains age seventy and one-half (70-1/2) or the calendar year in which the individual retires with the Affiliated Group.

Section 10.3 (a) Subject to Section 10.4, the benefits of a Participant shall be paid through the purchase from an Insurer of a nontransferable annuity Contract providing for the payment of the qualified joint and survivor annuity described in subsection (b), *unless* the Participant waives such form of payment, spousal consent (if applicable) is obtained in accordance with subsection (c), and the Participant elects to receive benefit payments in another form of benefit pursuant to subsection (f). The qualified joint and survivor annuity must be at least as valuable as any optional form of benefit payable under the Plan at the same time.

(b) If the Participant has a Spouse on the Annuity Starting Date, the qualified joint and survivor annuity shall be either a qualified joint and 50% survivor annuity or (effective for Plan Years beginning on or after January 1, 2008) a qualified joint and 75% survivor annuity, as elected by the Participant.

(i) Under a qualified joint and 50% survivor annuity, the Participant's benefit shall continue until and including the first day of the month in which the Participant dies; *provided, however*, that, following the Participant's death, fifty percent (50%) of the monthly benefit paid to the Participant during his or her lifetime shall then be paid to and during the lifetime of the Surviving Spouse of the Participant as the joint annuitant.

(ii) Under a qualified joint and 75% survivor annuity, the Participant's benefit shall continue until and including the first day of the month in which the Participant dies; *provided, however*, that, following the Participant's death, seventy-five percent (75%) of

the monthly benefit paid to the Participant during his or her lifetime shall then be paid to and during the lifetime of the Surviving Spouse of the Participant as the joint annuitant.

If a Participant has a Spouse on his or her Annuity Starting Date and fails to make an election regarding his or her qualified joint and survivor annuity, the qualified joint and survivor annuity shall mean the qualified joint and 50% survivor annuity.

If the Participant does not have a Spouse on the Annuity Starting Date, the qualified joint and survivor annuity shall be an annuity for the Participant's life only.

(c) An election to waive the qualified joint and survivor annuity must be made in writing by the Participant during the election period specified in subsection (d) and, in the case of a Participant who has a Spouse on the Annuity Starting Date, must include the written consent of the Participant's Spouse. Such spousal consent must be witnessed by a Plan representative or a notary public, and must specifically acknowledge the effect of such election, any other designated Beneficiary, and the form of payment elected. Spousal consent under this subsection (c) shall not be binding on a subsequent Spouse. No consent shall be required if it is established to the satisfaction of the Plan Administrator that it cannot be obtained because there is no Spouse or the Spouse cannot be located, or under such other circumstances as may be prescribed by Regulations. Any election under this subsection (c) may be revoked in writing without the consent of the Spouse at any time during the election period described in subsection (d). A change in designated Beneficiary made subsequent to a spousal consent shall be deemed to be a revocation of the waiver. Any subsequent election to waive an annuity must comply with the requirements of this subsection (c).

(d) The election period with respect to the qualified joint and survivor annuity is the one hundred eighty (180) day period (the ninety (90) day period for Plan Years beginning prior to January 1, 2007) ending on the Annuity Starting Date.

(e) Not less than thirty (30) days and not more than one hundred eighty (180) days (ninety (90) days for Plan Years beginning prior to January 1, 2007) before the Annuity Starting Date, the Plan Administrator shall provide each Participant with a written explanation of:

- (i) the terms and conditions of the qualified joint and survivor annuity;
- (ii) the Participant's right to waive the qualified joint and survivor annuity, and the effect of a waiver;
- (iii) a description of the material features and relative values of the optional forms of payment available under the Plan;
- (iv) any right of the Participant to defer receipt of the distribution, and the consequences of failing to defer receipt of the distribution;

(v) the requirements that the Participant's Spouse consent to any waiver of the qualified joint and survivor annuity, and that the Spouse's consent specifically acknowledge the effect of such waiver, any designated Beneficiary, and the form of payment elected; and

(vi) the Participant's right to revoke the waiver and the effect of such revocation.

(f) If a Participant has waived the qualified joint and survivor annuity pursuant to subsection (c), then, subject to Section 10.4, benefits shall be paid in one of the following forms, as selected by the Participant on an Application for Benefits filed under Article XIII:

(i) a single lump sum payment; or

(ii) purchase from an Insurer of a nontransferable annuity Contract providing for payment in equal annual or more frequent installments not exceeding the life expectancy of the Participant or the joint life expectancy of the Participant and his or her Beneficiary, *provided that* the annuity shall not require the survival of the Participant, the Participant's Spouse or the Participant's Beneficiary as a condition for payment; or

(iii) any combination of a lump sum payment and installments.

Section 10.4 (a) For purposes of this Section 10.4, the following terms shall have the meanings set forth below:

(i) "*Designated beneficiary*" means the individual who is the Participant's designated beneficiary pursuant to Section 11.4(a)(i).

(ii) "*Distribution calendar year*" means a calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's required beginning date. 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.

(iii) "*Life expectancy*" means life expectancy as computed by use of the Single Life Table in Regulation Section 1.401(a)(9)-9, Q&A-1.

(iv) "*Participant's account balance*" means the Participant's account balance as of the last valuation date in the calendar year immediately preceding the distribution calendar year (the "valuation calendar year"), increased by the amount of any contributions made and allocated or forfeitures allocated to the Participant's account

balance as of dates in the valuation calendar year after the valuation date, and decreased by distributions made in the valuation calendar year after the valuation date. The account balance for the valuation calendar year includes any amounts rolled over or transferred to the Plan either in the valuation calendar year or in the distribution calendar year if distributed or transferred in the valuation calendar year.

(v) “*Required beginning date*” means the date specified in Section 10.2 of the Plan.

(b) Distributions under the Plan shall be subject to the rules set forth in this Section 10.4. All distributions required under this Section 10.4 will be determined and made in accordance with Regulations under Section 401(a)(9) of the Code and the minimum distribution incidental benefit requirements of Section 401(a)(9)(G) of the Code. The rules set forth herein shall be applied as of the time when distributions are required under Section 10.2 to commence and shall not govern distributions made prior to such time; *provided, however*, that distributions commencing prior to such time which will not satisfy the requirements of this Section 10.4 as of such time and thereafter shall be treated as failing to satisfy such requirements when they commence.

(c) 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.

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 subsection (d) and subsection (e). 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 Section 401(a)(9) of the Code and Regulations.

(d) During the Participant's lifetime, the minimum amount that will be distributed for each distribution calendar year is the lesser of:

(i) the quotient obtained by dividing the Participant's account balance by the distribution period in the Uniform Lifetime Table set forth in Regulation Section 1.401(a)(9)-9, Q&A-2, using the Participant's age as of the Participant's birthday in the distribution calendar year; or

(ii) 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 Regulation Section 1.401(a)(9)-9, Q&A-3, using the Participant's and Spouse's attained ages as of the Participant's and Spouse's birthdays in the distribution calendar year.

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

(e) (i) 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:

(A) The Participant's remaining life expectancy is calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

(B) If the Participant's Surviving Spouse is the Participant's sole designated beneficiary, the remaining life expectancy of the Surviving Spouse is calculated for each distribution calendar year after the year of the participant's death using the Surviving Spouse's age as of the Spouse's birthday in that year. For distribution calendar years after the year of the Surviving Spouse's death, the remaining life expectancy of the Surviving Spouse is calculated using the age of the Surviving Spouse as of the Spouse's birthday in the calendar year of the Spouse's death, reduced by one for each subsequent calendar year.

(C) If the Participant's Surviving Spouse is not the participant's sole designated beneficiary, the designated beneficiary's remaining life expectancy is calculated using the age of the beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.

(ii) If the Participant dies on or after the date distributions begin and there is no designated beneficiary as of September 30 of the year after the year of the Participant's death, the minimum amount that 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 Participant's remaining life expectancy calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

(iii) The designated beneficiary shall receive benefit payments under a method of distribution which is at least as rapid as the method under which the Participant was receiving benefit payments prior to death.

(f) (i) Notwithstanding the required minimum distribution provisions of this Section 10.4:

(A) If the first distribution calendar year of a Participant occurred prior to 2008 and the Participant received a required minimum distribution from the Plan for a distribution calendar year prior to 2008, the Participant did not receive his or her required minimum distribution for the 2009 distribution calendar year (if any) by December 31, 2009 unless the Participant elected to receive such distribution. Such a Participant was given the opportunity to elect whether or not to receive the distribution described in the preceding sentence.

(B) If the first distribution calendar year of a Participant was 2008 and the Participant reached his or her required beginning date on April 1, 2009, the Participant received his or her required minimum distribution for the 2008 distribution calendar year by April 1, 2009. In addition, such a Participant did not receive his or her required minimum distribution for the 2009 second distribution calendar year (if any) by December 31, 2009 unless the Participant elected to receive such distribution. Such a Participant was given the opportunity to elect whether or not to receive the distribution described in the preceding sentence.

(C) If the first distribution calendar year of a Participant was 2009, the Participant did not receive his or her required minimum distribution for the 2009 distribution calendar year by April 1, 2010 unless the Participant elected to receive such distribution. Such a Participant was given the opportunity to elect whether or not to receive the distribution described in the preceding sentence. In addition, such a Participant received his or her required minimum distribution for the 2010 second distribution calendar year (if any) by December 31, 2010.

(ii) A distribution for the 2009 distribution calendar year (or any portion of such distribution) described in subsection (f)(i) will be treated as an eligible rollover distribution for purposes of the direct rollover provisions in Section 15.6 of the Plan. However, if all or any portion of a distribution for the 2009 distribution calendar year is treated as an eligible rollover distribution but would not be so treated if the required minimum distribution provisions of the Plan had applied during 2009, such distribution shall not be treated as an eligible rollover distribution for purposes of the mandatory withholding requirements of Code Section 3405(c) or the rollover notice requirements of Code Section 402(f).

(iii) For calendar years after 2009, the required beginning date of a Participant shall be determined without regard to this subsection (f). In addition, the five year period described in Code Section 401(a)(9)(B)(ii) shall be determined without regard to the 2009 calendar year.

(iv) The requirements of this subsection (f) are effective for the 2009 distribution calendar year. Notwithstanding the foregoing, this subsection (f) shall not apply to any required minimum distribution for the 2008 distribution calendar year that was permitted to be made in 2009 by reason of an individual's required beginning date being April 1, 2009.



Section 10.5 Notwithstanding Section 10.1 through Section 10.4, if the benefit payable under this Article X does not exceed \$5,000 (the "maximum cash-out amount"), the Plan Administrator shall direct the Trustee to distribute the entire amount of such benefit in a lump sum payment. For purposes of this Section 10.5, a Participant's Accounts shall be valued as of the Valuation Date coinciding with or next following the date on which severance from employment with the Board occurs.

For Plan Year beginning prior to August 7, 1997, the maximum cash-out amount was \$3,500.

For the period prior to March 22, 1999, if the value of a Participant's Accounts exceeded the maximum cash-out amount at the time of any distribution under the Plan, the value of the benefit payable under this Article X was deemed to exceed the maximum cash-out amount at all times thereafter. For the period on and after March 22, 1999 and prior to October 17, 2000, if a Participant began to receive distributions in a form of payment under which at least one scheduled periodic distribution had not yet been made and the value of the Participant's Accounts exceeded the maximum cash-out amount at the time of the first distribution under such form of payment, the value of the benefit payable under this Article X was deemed to exceed the maximum cash-out amount at all times thereafter.

Section 10.6 Subject to Section 10.2 and Section 10.5, the Accounts of a Retired Participant or a Disabled Participant shall be valued as of the Valuation Date coinciding with or next following the date on which the Plan Administrator receives an Application for Benefits filed under Article XIII, and shall be distributed as soon as practical thereafter.

Section 10.7 For purposes of this Article X, other than Section 10.1, the term "Participant" shall include a Retired Participant, a Terminated Participant and a Disabled Participant.

Section 10.8 (a) Notwithstanding Section 10.4 (but subject to the spousal annuity requirements of Section 10.3), the distribution of benefits on behalf of a Participant shall be made in accordance with the terms of the Plan as in effect on December 31, 1983, if the following requirements are satisfied:

- (i) such distribution would not have caused the Plan to be disqualified under Section 401(a)(9) of the Code as in effect on December 31, 1984;
- (ii) such distribution is made in the manner elected by the Participant or, if the Participant has died, in the manner elected by such Participant's Beneficiary;
- (iii) the election is in writing and was signed before 1984;

(iv) the Participant had an accrued benefit under the Plan as of December 31, 1983; and

(v) the method of distribution elected specifies the time at which the distribution will commence, the period over which the distribution will be made and, for distributions made upon the Participant's death, the Beneficiaries in order of priority.

(b) This Section 10.8 shall not apply to distributions upon death unless the election lists the Beneficiaries in order of priority with respect to distributions upon the Participant's death.

(c) With respect to any distribution commencing before 1984 and continuing after 1983, the Participant or Beneficiary receiving such distribution shall be presumed to have elected the manner of distribution under which the distribution is being made if such manner of distribution was specified in writing and satisfies the requirements of subsection (a)(i) and subsection (a)(v).

(d) (i) Distributions under the Plan made after an election described in this Section 10.8 has been revoked shall be subject to the requirements of Section 10.4 and shall be made in accordance with Section 401(a)(9) of the Code and Regulations thereunder. For purposes of the preceding sentence, any change in the election, other than the substitution or addition of a Beneficiary that does not directly or indirectly change the period over which distributions are to be made under the election, shall be treated as a revocation of the election.

(ii) If a revocation occurs after the date distributions are required under Section 10.2 to commence, all amounts remaining in the Plan that would have been required to have been distributed under Section 10.4 but for this Section 10.8 shall be distributed no later than the end of the calendar year following the calendar year in which the revocation occurs.

(iii) In the case of a transfer or rollover to or from this Plan, the rules of Q-14 and Q-15 of Regulation Section 1.401(a)(9)-8 shall apply.

## ARTICLE XI

### Death Benefits

Section 11.1 Upon the death of a Participant with Employment Status before the Annuity Starting Date, or of a Retired Participant or Disabled Participant, the death benefit shall be the value of the Participant's Accounts. Upon the death of a Participant who does not have Employment Status before the Annuity Starting Date, the death benefit shall be the vested value of the Participant's Accounts.

Section 11.2 (a) Subject to subsection (b), a Participant may designate a Beneficiary by completing a Beneficiary designation form pursuant to Article XIII.

(b) The Beneficiary of a Participant who dies before the Annuity Starting Date and who was married on the date of death shall be the Surviving Spouse of the Participant, unless the Participant designated a Beneficiary other than the Participant's Spouse and the Participant's Spouse consented to the designation of the Beneficiary. Such consent must be made in writing, acknowledge the effect of the designation, and be witnessed by a Plan representative or a notary public. Spousal consent shall not be required if it is established to the satisfaction of the Plan Administrator that it cannot be obtained because there is no Spouse or the Spouse cannot be located, or under such other circumstances as may be prescribed by Regulations.

(c) A Participant may revoke a Beneficiary designation in writing at any time before the Annuity Starting Date without spousal consent.

(d) If there is no Surviving Spouse or designated Beneficiary, the Participant's Beneficiary shall be the Participant's estate, and the death benefit payable under Section 11.1 shall be paid to the Participant's estate in a lump sum.

Section 11.3 (a) If a Participant had a Spouse on the date of death, the Participant's Surviving Spouse shall be paid the qualified preretirement survivor annuity described in subsection (b), unless the Participant and the Participant's Spouse waive the qualified preretirement survivor annuity pursuant to subsection (c) and the Participant elects to have the death benefit paid in another form of benefit pursuant to subsection (f).

Notwithstanding the above, after the death of a Participant who has not elected to waive the qualified preretirement survivor annuity, the Surviving Spouse of the Participant may elect to waive the qualified preretirement survivor annuity and may elect to receive the value of such qualified preretirement survivor annuity in a lump sum payment.

(b) A qualified preretirement survivor annuity is an annuity for the life of the Surviving Spouse of a Participant which is the actuarial equivalent of one hundred percent (100%) of the vested portion of the Participant's Accounts, determined as of the Valuation Date

coinciding with or next following the date on which the Plan Administrator receives an Application for Benefits under Article XIII.

(c) An election to waive the qualified preretirement survivor annuity must be made in writing by the Participant during the applicable election period specified in subsection (d) and must include the written consent of the Participant's Spouse. Such consent must be witnessed by a Plan representative or a notary public, and must specifically acknowledge the effect of such election and any other designated Beneficiary. A consent under this subsection (c) shall not be binding on a subsequent Spouse. No consent shall be required if it is established to the satisfaction of the Plan Administrator that it cannot be obtained because there is no Spouse or the Spouse cannot be located, or under such other circumstances as may be prescribed by Regulations. Any election under this subsection (c) may be revoked in writing without the consent of the Spouse at any time during the election period. A change in designated Beneficiary made subsequent to a spousal consent shall be deemed to be a revocation of the waiver. Any subsequent election to waive an annuity described in this subsection (c) must comply with the consent requirements of this subsection (c).

(d) The election period with respect to the qualified preretirement survivor annuity begins on the first day of the Plan Year in which the Participant attains age thirty-five (35) or, if later, the date on which the individual becomes a Participant, and ends on the earlier of the date on which benefits commence or the date of the Participant's death. If a Participant separates from service prior to the beginning of the election period, the election period shall begin on the date of separation from service.

(e) (i) The Plan Administrator shall provide each Participant with a written explanation of the qualified preretirement survivor annuity containing information comparable to that required by the written explanation described in Section 10.3. Subject to subsection (e)(ii), such written explanation shall be provided during whichever of the following four periods ends last:

(A) the period beginning with the first day of the Plan Year in which the Participant attains age thirty-two (32) and ending on the last day of the Plan Year preceding the Plan Year in which the Participant attains age thirty-five (35);

(B) the twelve consecutive month period commencing on the date on which the individual becomes a Participant;

(C) the twelve consecutive month period commencing on the date on which the qualified preretirement survivor annuity is no longer subsidized within the meaning of Regulation Section 1.401(a)-20; or

(D) the twelve consecutive month period commencing on the date on which the qualified preretirement survivor annuity first becomes effective with respect to the Participant.

(ii) In the case of a Participant who separates from service with the Company before attaining age thirty-five (35), the written explanation required by this subsection (e) shall be provided during the twelve consecutive month period commencing on the date of separation from service.

(f) If any portion of a Participant's death benefit described in Section 13.1 is not payable in the form of a qualified preretirement survivor annuity (either because the Participant did not have a Spouse on the date of death, or the Participant and the Participant's Spouse waived the qualified preretirement survivor annuity pursuant to subsection (c)), then any portion of the death benefit payable with respect to the Participant that is not paid in the form of a qualified preretirement survivor annuity shall be paid to the Beneficiary in one of the following forms of payment, as selected by the Participant on a Beneficiary designation form:

(i) a single lump sum payment; or

(ii) payments in equal annual or more frequent installments not exceeding the life expectancy of the Beneficiary, *provided that* the survival of the Beneficiary shall not be a condition for payment; or

(iii) any combination of a lump sum payment and installments.

If the deceased Participant has not selected a form of payment, the death benefit shall be paid in a form set forth in this subsection (f), as selected by the Beneficiary on an Application for Benefits. Any such election by a Beneficiary must be made no later than the earlier of: (i) the last day of the calendar year in which distributions are required under Section 11.4 to commence; or (ii) the last day of the calendar year in which occurs the fifth anniversary of the date of death of the Participant.

(g) In the event the Board's contribution for the Plan Year in which a Participant died is allocated after payment in full of the death benefit, the deceased Participant's share of such contribution shall be paid to the Beneficiary in a single lump sum as soon as practical.

(h) Payment of death benefits shall commence as soon as practicable following receipt by the Plan Administrator of the Application for Benefits required by Section 13.3. The Accounts of the deceased Participant shall be valued as of the Valuation Date coinciding with or next following the date on which the Plan Administrator receives such Application for Benefits.

(i) If a Participant dies after the Annuity Starting Date, the death benefit, if any, payable to the Beneficiary shall depend upon the form of benefit payment in effect for such Participant at the time of death.

Section 11.4 (a) For purposes of this Section 11.4, the following terms shall have the meanings set forth below:

(i) “*Designated beneficiary*” means the individual who is designated as the Participant’s Beneficiary pursuant to Section 11.2 and who satisfies the requirements for being a designated beneficiary under Code Section 401(a)(9) and Regulation Section 1.401(a)(9)-4. The Participant’s designated beneficiary will be determined based on the beneficiaries designated as of the Participant’s date of death who remain beneficiaries as of September 30 of the calendar year following the calendar year of the Participant’s death; *provided, however*, if the Participant’s Spouse is the Participant’s sole designated beneficiary as of September 30 of the calendar year following the calendar year of the Participant’s death and the Surviving Spouse dies after the Participant and before the date on which distributions would have begun to the Surviving Spouse under this Section 11.4, then this Section 11.4 will apply as if the Surviving Spouse were the Participant; *and provided further*, if an individual is designated as the Participant’s beneficiary as of the Participant’s date of death and the individual dies prior to September 30 of the calendar year following the calendar year of the Participant’s death without disclaiming, then the individual will continue to be treated as a beneficiary of the Participant as of September 30 of the calendar year following the calendar year of the Participant’s death for purposes of determining the Participant’s designated beneficiary.

Only an individual may be a designated beneficiary. If a person other than an individual is designated as the Participant’s Beneficiary, the Participant will be treated as having no designated beneficiary; *provided, however*, that the individual beneficiaries of a trust will be treated as the Participant’s beneficiaries if the trust meets the following requirements:

(A) the trust is a valid trust under state law (or would be a valid trust but for the fact that there is no corpus);

(B) the trust is irrevocable or will, by its terms, become irrevocable upon the death of the Participant;

(C) the beneficiaries of the trust who are beneficiaries with respect to the trust's interest in the death benefit payable under the Plan are identifiable from the trust instrument; and

(D) the documentation required by Regulation Section 1.401(a)(9)-4, Q-6 is provided to the Plan Administrator.

If more than one individual is designated as a Participant’s Beneficiaries, the individual with the shortest life expectancy will be considered the Participant’s designated beneficiary.

(ii) “*Distribution calendar year*” means a calendar year for which a minimum distribution is required. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin

under subsection (b), and the required minimum distribution for each distribution calendar year will be made on or before December 31 of that distribution calendar year.

(iii) “*Life expectancy*” means life expectancy as computed by use of the Single Life Table in Regulation Section 1.401(a)(9)-9, Q&A-1.

(iv) “*Participant's account balance*” means the Participant’s account balance as of the last valuation date in the calendar year immediately preceding the distribution calendar year (the “valuation calendar year”), increased by the amount of any contributions made and allocated or forfeitures allocated to the Participant’s account balance as of dates in the valuation calendar year after the valuation date, and decreased by distributions made in the valuation calendar year after the valuation date. The account balance for the valuation calendar year includes any amounts rolled over or transferred to the Plan either in the valuation calendar year or in the distribution calendar year if distributed or transferred in the valuation calendar year.

(v) “*Required beginning date*” means the date specified in Section 10.2 of the Plan.

(b) 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:

(i) If the Participant's Surviving Spouse is the Participant's sole designated beneficiary, then distributions 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 seventy and one-half (70-1/2) (if later).

(ii) If the Participant's Surviving Spouse is not the Participant's sole designated beneficiary, then distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.

(iii) 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.

(iv) If the Participant's Surviving Spouse is the Participant's sole designated beneficiary and the Surviving Spouse dies after the Participant but before distributions to the Surviving Spouse begin, this subsection (b), other than subsection (b)(i), will apply as if the Surviving Spouse were the Participant.

(c) (i) Except as provided in subsection (e), 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 10.4(e).

(ii) 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.

(iii) 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 subsection (b)(i), this subsection (c) will apply as if the Surviving Spouse were the Participant.

(d) For purposes of subsection (b) and subsection (c), unless subsection (b)(iv) applies, distributions are considered to begin on the Participant's required beginning date. If subsection (b)(iv) applies, distributions are considered to begin on the date distributions are required to begin to the Surviving Spouse under subsection (b)(i). 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 subsection (b)(i)), the date distributions are considered to begin is the date distributions actually commence.

(e) Notwithstanding the provisions of subsection (b) and subsection (c), Participants or beneficiaries may elect on an individual basis whether distributions after the death of a Participant who has a designated beneficiary either will begin by the date required by subsection (b) (the "life expectancy rule"), or will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death (the "five year rule"). The election must be made no later than the earlier of September 30 of the calendar year in which distribution would be required to begin under subsection (b), or September 30 of the calendar year which contains the fifth anniversary of the Participant's (or, if applicable, Surviving Spouse's) death. If neither the Participant nor beneficiary makes an election under this subsection (e), distributions will be made in accordance with the life expectancy rule.

(f) (i) Notwithstanding the required minimum distribution provisions of Section 10.4(e) and this Section 11.4:

(A) If the first distribution calendar year of the designated beneficiary of a deceased Participant occurred prior to 2008, and if the beneficiary received a required minimum distribution from the Plan for a distribution calendar year prior to 2008, the beneficiary did not receive his or her required minimum distribution for the 2009 distribution calendar year (if any) by December 31, 2009 unless the



beneficiary elected to receive such distribution. Such a beneficiary was given the opportunity to elect whether or not to receive the distribution described in the preceding sentence.

(B) If the first distribution calendar year of the designated beneficiary of a deceased Participant was 2008 and the beneficiary reached his or her required beginning date on December 31, 2008, the beneficiary received his or her required minimum distribution for the 2008 distribution calendar year by December 31, 2008. In addition, such a beneficiary did not receive his or her required minimum distribution for the 2009 second distribution calendar year (if any) by December 31, 2009 unless the beneficiary elected to receive such distribution. Such a beneficiary was given the opportunity to elect whether or not to receive the distribution described in the preceding sentence.

(C) If the first distribution calendar year of the designated beneficiary of a deceased Participant was 2009, the beneficiary did not receive his or her required minimum distribution for the 2009 distribution calendar year by December 31, 2009 unless the beneficiary elected to receive such distribution. Such a beneficiary was given the opportunity to elect whether or not to receive the distribution described in the preceding sentence. In addition, such a beneficiary received his or her required minimum distribution for the 2010 second distribution calendar year (if any) by December 31, 2010.

(ii) A distribution for the 2009 distribution calendar year (or any portion of such distribution) described in subsection (g)(i) will be treated as an eligible rollover distribution for purposes of the direct rollover provisions in Section 15.6 of the Plan. However, if all or any portion of a distribution for the 2009 distribution calendar year is treated as an eligible rollover distribution but would not be so treated if the required minimum distribution provisions of the Plan had applied during 2009, such distribution shall not be treated as an eligible rollover distribution for purposes of the mandatory withholding requirements of Code Section 3405(c) or the rollover notice requirements of Code Section 402(f).

(iii) For calendar years after 2009, the required beginning date of a designated beneficiary shall be determined without regard to this subsection (g). In addition, the five year period described in Code Section 401(a)(9)(B)(ii) shall be determined without regard to the 2009 calendar year.

(iv) The requirements of this subsection (f) are effective for the 2009 distribution calendar year.

Section 11.5 Subject to Section 11.2 and Section 11.3, the designation of a Beneficiary and the selection of a form of payment of death benefits shall be made on a form furnished by and filed with the Plan Administrator, and may be changed in a like manner.

Section 11.6 If the death benefit payable under this Article XI does not exceed \$5,000 (the "maximum cash-out amount"), the Plan Administrator shall direct the Trustee to distribute the entire amount of such benefit in a lump sum payment. For purposes of this Section 11.6, a Participant's Accounts shall be valued as of the Valuation Date coinciding with or next following the date of the Participant's death.

For Plan Years beginning prior to August 7, 1997, the maximum cash-out amount was \$3,500.

For the period prior to March 22, 1999, if the value of a Participant's Accounts exceeded the maximum cash-out amount at the time of any distribution under the Plan, the value of the benefit payable under this Article XI was deemed to exceed the maximum cash-out amount at all times thereafter. For the period on and after March 22, 1999 and prior to October 17, 2000, if a Participant began to receive distributions in a form of payment under which at least one scheduled periodic distribution had not yet been made and the value of the Participant's Accounts exceeded the maximum cash-out amount at the time of the first distribution under such form of payment, the value of the benefit payable under this Article XI was deemed to exceed the maximum cash-out amount at all times thereafter.

Section 11.7 For purposes of this Article XI, other than Section 11.1, the term "Participant" includes a Retired Participant, a Terminated Participant and a Disabled Participant.

Section 11.8 (a) Notwithstanding Section 11.4 (but subject to the qualified preretirement survivor annuity requirements of Section 11.3), the distribution of benefits on behalf of a Participant shall be made in accordance with the terms of the Plan as in effect on December 31, 1983, if the following requirements are satisfied:

- (i) such distribution would not have caused the Plan to be disqualified under Section 401(a)(9) of the Code as in effect on December 31, 1984;
- (ii) such distribution is made in the manner elected by the Participant or, if the Participant has died, in the manner elected by such Participant's Beneficiary;
- (iii) the election is in writing and was signed before 1984;
- (iv) the Participant had an accrued benefit under the Plan as of December 31, 1983; and
- (v) the method of distribution elected specifies the time at which the distribution will commence, the period over which the distribution will be made and, for distributions made upon the Participant's death, the Beneficiaries in order of priority.

(b) This Section 11.8 shall not apply to distributions upon death unless the election lists the Beneficiaries in order of priority with respect to distributions upon the Participant's death.

(c) With respect to any distribution commencing before 1984 and continuing after 1983, the Participant or Beneficiary receiving such distribution shall be presumed to have elected the manner of distribution under which the distribution is being made if such manner of distribution was specified in writing and satisfies the requirements of subsection (a)(i) and subsection (a)(v).

(d) (i) Distributions under the Plan made after an election described in this Section 11.8 has been revoked shall be subject to the requirements of Section 11.4 and shall be made in accordance with Section 401(a)(9) of the Code and Regulations thereunder. For purposes of the preceding sentence, any change in the election, other than the substitution or addition of a Beneficiary that does not directly or indirectly change the period over which distributions are to be made under the election, shall be treated as a revocation of the election.

(ii) If a revocation occurs after the date distributions are required under Section 10.2 to commence, all amounts remaining in the Plan that would have been required to have been distributed under Section 11.4 but for this Section 11.8 shall be distributed no later than the end of the calendar year following the calendar year in which the revocation occurs.

(iii) In the case of a transfer or rollover to or from this Plan, the rules of Q-14 and Q-15 of Regulation Section 1.401(a)(9)-8 shall apply.

ARTICLE XII

Termination of Participation, Loss of  
Employment Status and Vesting

Section 12.1 The vested right of a Participant or a Terminated Participant to receive a distribution of benefits from the Plan shall be determined under this Article XII.

Section 12.2 (a) A Participant or a Terminated Participant shall always be one hundred percent (100%) vested in the Participant's Special Contributions Account and in any Vested Account held on behalf of such individual.

(b) Subject to subsection (c) and subsection (e), the vested portion of a Participant's or a Terminated Participant's Money Purchase Contributions Account shall be a percentage of the value thereof, determined as follows:

Less than 5 Vesting Years .....	0%
At least 5 Vesting Years .....	100%

(c) A Participant who has Employment Status on or after Normal Retirement Date, a Retired Participant and a Disabled Participant shall have a nonforfeitable interest in one hundred percent (100%) of the Accounts held on behalf of such individual.

(d) A Terminated Participant whose Money Purchase Contributions Account is not one hundred percent (100%) vested shall forfeit the nonvested portion of such Account at the time of a distribution or deemed distribution under this Article XII or upon the occurrence of five consecutive Breaks in Service (whichever occurs first). Such forfeited amount shall be applied in accordance with Article IV.

(e) The vested percentage of the Money Purchase Contributions Account of a Terminated Participant who again becomes an Employee after a Break in Service, excluding any amounts that were previously forfeited under this Article XII, shall be determined in accordance with the following provisions:

(i) If the Terminated Participant had achieved any percentage of vesting under this Section 12.2 prior to the Break in Service, then all Vesting Years shall be aggregated for purposes of this Article XII.

(ii) If the Terminated Participant had not achieved any percentage of vesting under this Section 12.2, and if the number of consecutive Breaks in Service is less than either: (A) five; or (B) the aggregate number of Vesting Years prior to such Breaks in Service, then all Vesting Years shall be aggregated for purposes of this Article XII.

(iii) If the Terminated Participant had not achieved any percentage of vesting under this Section 12.2, and if the number of consecutive Breaks in Service equals or exceeds both: (A) five; and (B) the aggregate number of Vesting Years prior to such Breaks in Service, then all Vesting Years prior to such Breaks in Service shall be disregarded for purposes of this Article XII.

In the case of a Terminated Participant described in subsection (e)(i) who was less than one hundred percent (100%) vested in any Account and who becomes an Employee after incurring five consecutive Breaks in Service, any vested amounts attributable to Board contributions made before such Breaks in Service that are held under this Article XII shall be allocated to a Vested Account when the individual again becomes an Employee.

(f) In determining the value of the vested portion of a Participant's or Terminated Participant's Money Purchase Contributions Account, the amount of any prior distribution to such individual shall be taken into account if: (i) such Account was less than one hundred percent (100%) vested at the time of such event; and (ii) the vested percentage of such Account, determined at the time of such event, could increase. The amount to which the Participant or Terminated Participant is entitled ("X") shall be determined by the formula  $X = P(AB + D) - D$ , where AB is the value of the Account at the time of determination, D is the amount of the distribution, and P is the vested percentage at the time of determination.

Section 12.3 (a) A Terminated Participant may elect to receive a distribution of the vested portion of the Accounts held on behalf of such individual in accordance with Article X. Such vested portion of the individual's Accounts shall be valued as of the Valuation Date coinciding with or next following the date on which the Plan Administrator receives an Application for Benefits filed under Article XIII, and shall be distributed as soon as practical thereafter.

(b) A Terminated Participant who does not have a vested balance in any of his or her Accounts shall be deemed to have elected to receive a lump sum distribution under this Section 12.3 in the amount of \$0. Such distribution shall be deemed to have occurred on the Valuation Date coinciding with or next following the date on which such individual separates from service with the Board.

(c) The vested portion of a Terminated Participant's Accounts that is not otherwise subject to a distribution or deemed distribution under this Article XII shall be held by the Trustee until the individual's Normal Retirement Date, and shall then be distributed in accordance with Article X.

Section 12.4 If the benefit payable under this Article XII does not exceed \$5,000 (the "maximum cash-out amount"), the Plan Administrator shall direct the Trustee to distribute the entire amount of such benefit in a lump sum payment. For purposes of this Section 12.4, a Participant's Accounts shall be valued as of the Valuation Date coinciding with or next following the date on which the Participant incurs a severance from employment with the Board.

For Plan Year beginning prior to August 7, 1997, the maximum cash-out amount was \$3,500.

For the period prior to March 22, 1999, if the value of a Participant's Accounts exceeded the maximum cash-out amount at the time of any distribution under the Plan, the value of the benefit payable under this Article XII was deemed to exceed the maximum cash-out amount at all times thereafter. For the period on and after March 22, 1999 and prior to October 17, 2000, if a Participant began to receive distributions in a form of payment under which at least one scheduled periodic distribution had not yet been made and the value of the Participant's Accounts exceeded the maximum cash-out amount at the time of the first distribution under such form of payment, the value of the benefit payable under this Article XII was deemed to exceed the maximum cash-out amount at all times thereafter.

Section 12.5 (a) If a Terminated Participant received a lump sum distribution under this Article XII that included less than the entire value of his or her Money Purchase Contributions Account at the time of such distribution, and if the individual is again employed by the Board in a classification of employees eligible to participate in the Plan, then the individual shall be entitled, during the period commencing on the date of reemployment and ending on the earlier of the fifth anniversary of such date or the occurrence of five consecutive Breaks in Service commencing after the lump sum distribution, to recontribute to the Plan the full amount of the distribution attributable to the individual's Money Purchase Contributions Account. Upon the recontribution of such amount to the Plan, the Money Purchase Contributions Account of such individual shall be reinstated in an amount equal to the value of such Account immediately before such distribution.

(b) If a Terminated Participant who is deemed to have received a distribution of \$0 under Section 12.3(b) is again employed by the Board in a classification of employees eligible to participate in the Plan before incurring five consecutive Breaks in Service commencing after such deemed distribution, the Money Purchase Contributions Account of such individual shall be reinstated in an amount equal to the value of such Account immediately before such deemed distribution.

(c) Amounts recontributed to the Plan under subsection (a) or restored to an individual's Account under subsection (a) or subsection (b) shall not be considered an annual addition for purposes of Article VII.

## ARTICLE XIII

### Applications for Benefits and Other Distribution Procedures

Section 13.1 (a) Benefits under the Plan shall be paid in the manner and at the time selected in an Application for Benefits filed by an individual in accordance with this Article XIII after receipt of the written description required by subsection (b)(ii) and subsection (b)(iii) and as soon as reasonably practicable after the Annuity Starting Date.

(b) Not less than thirty (30) days and not more than one hundred eighty (180) days (ninety (90) days for Plan Years beginning prior to January 1, 2007) before an individual's Annuity Starting Date, the Plan Administrator shall:

(i) provide the individual with an Application for Benefits;

(ii) provide the individual with a general description of the material features of, and an explanation of the relative values of, the optional forms of payment available under the Plan; and

(iii) inform the individual of any right to defer receipt of the distribution, and that failure to file an Application for Benefits within the time permitted by the Plan Administrator will be treated as an election to defer.

(c) If an individual's Annuity Starting Date will occur more than one hundred eighty (180) days (more than ninety (90) days for Plan Years beginning prior to January 1, 2007) after the date on which such individual received the information required by subsection (b)(ii) and subsection (b)(iii), except as otherwise permitted by Regulations, the Plan Administrator shall again furnish such individual with the written information required by subsection (b)(ii) and subsection (b)(iii) so that such information is received no more than one hundred eighty (180) days (ninety (90) days for Plan Years beginning prior to January 1, 2007) before the Annuity Starting Date.

(d) (i) Subject to subsection (d)(ii), an individual's Annuity Starting Date shall be not less than thirty (30) days and not more than one hundred eighty (180) days (ninety (90) days for Plan Years beginning prior to January 1, 2007) after the date on which the individual has received the written information required by subsection (b)(ii) and subsection (b)(iii).

(ii) Payment of benefits may commence less than thirty (30) days (but not less than eight days) after an individual's receipt of the information required by subsection (b)(ii) and subsection (b)(iii) if:

(A) the Plan Administrator has informed the individual that he or she is entitled, for a period of at least thirty (30) days after receiving such information, to

consider whether to elect a distribution (and, if applicable, a particular form of payment); and

(B) the individual, after receiving the information, elects to receive a distribution before the end of such thirty (30) day period.

Section 13.2 The Application for Benefits required for the payment of disability benefits under Article X must include proof of disability in the form of a written certification by a licensed physician appointed by the Plan Administrator, and such certification must be based on medical proof satisfactory to such physician. Any such certification of disability shall be binding on the Participant and all interested parties, and shall not be subject to review.

Section 13.3 The Application for Benefits required for the payment of death benefits under Article XI must be filed by the Beneficiary of a deceased individual or the legal representative of the individual's estate, and must be accompanied by a death certificate.

Section 13.4 If payment of an individual's benefits is to commence on or after Normal Retirement Date and the individual fails to file an Application for Benefits within a reasonable time following receipt of such application and the written information required by Section 13.1(b)(ii) and Section 13.1(b)(iii), the amount to which such individual is entitled shall be paid as provided in Article X.

Section 13.5 An Application for Benefits filed by a Participant or Beneficiary may be revised by filing a new Application for Benefits prior to the Annuity Starting Date.

Section 13.6 The Plan Administrator shall promptly process each Application for Benefits received by it and shall notify the applicant in writing of the action taken regarding the Application for Benefits within a reasonable period of time. In the event of a denial of benefits, the Plan Administrator shall furnish the applicant with a written notification which shall include: (a) the reasons for the denial; (b) specific references to the Plan provisions on which the denial is based; (c) a description of any additional material or information necessary for the applicant to perfect the Application for Benefits, including an explanation of why such material or information is necessary; and (d) an explanation of the review procedure set forth in Section 13.7.

Section 13.7 (a) An applicant who has received a written denial of an Application for Benefits may appeal by filing with the Plan Administrator a written request for review. Such request must be made within sixty (60) days following the receipt of the written denial. In connection with any request for review, the applicant may at any time review all documents, records, and other information relevant to the claim free of charge, and request a review that takes into account all comments, documents, records and other information submitted without regard to whether such information was submitted or considered in the initial benefit determination. An applicant must file an appeal with the Plan Administrator to review a denial of a benefit claim before initiating a claim in a state or federal court.



(b) The Plan Administrator shall notify the applicant of its determination on review within a reasonable period of time following receipt of the request for review.

Section 13.8 An individual for whom benefits are being held by the Trustee shall keep the Plan Administrator notified of a current mailing address. The Plan Administrator and the Board shall be discharged from any liability resulting from a failure to pay benefits as they become due if reasonable effort has been made to contact the individual at the last address on record.

Section 13.9 Accounts maintained under the Plan for an individual who cannot be found shall be forfeited and used to reduce the Board's contribution hereunder as soon as possible. Prior to the forfeiture, the Plan Administrator shall conduct a diligent search for the individual. If the individual is located after the forfeiture, the vested portion of the individual's Accounts shall be reinstated and distributed in accordance with the terms of the Plan.

Section 13.10 Distributions under Article X and Article XII of the Plan may, in addition to applicable income taxes, be subject to the tax on early distributions imposed by Section 72(t) of the Code.

## ARTICLE XIV

### Leave of Absence

Section 14.1 (a) This Section 14.1 shall apply only to a Participant who is absent from his or her position of employment with the Board by reason of a period of military service and who, upon reemployment with the Board, is entitled to the benefits of the Uniformed Services Employment and Reemployment Rights Act of 1994 with respect to such service ("qualified military service"). Upon such reemployment with the Board, the individual shall be treated as having been on a leave of absence and the following requirements shall apply:

(i) The individual shall be deemed not to have incurred a Break in Service by reason of such qualified military service, and the period of such service shall constitute service with the Board for purposes of determining the individual's vesting service.

(ii) The individual may, during the period described in subsection (b), make any Participant contributions up to the maximum amount the individual would have been required to make under Article IV if he or she had remained continuously employed by the Board and received compensation as determined in subsection (c) during the period of qualified military service, reduced by any Participant contributions actually made by such individual during the period of qualified military service.

(iii) The Board shall make any Board contributions that would have been allocated to the individual under Article IV if he or she had remained continuously employed by the Board and received compensation as determined in subsection (c) during the period of qualified military service, reduced by any Board contributions that the Board actually made under Article IV and that were allocated to such individual for the period of such qualified military service.

(b) The period during which the contributions permitted by subsection (a) may be made to the Plan shall begin on the individual's date of reemployment following the period of qualified military service and shall end upon the expiration of a period equal to three times the period of qualified military service, not to exceed five years from the date of such reemployment.

(c) For purposes of subsection (a) and Section 7.1(b), an individual shall be treated as having received compensation from the Board during the period of qualified military service equal to the compensation that would have been paid to the individual by the Board during such period determined at the rate of pay he or she would have received but for such period of service or, if such rate of pay is not reasonably ascertainable, the individual's average rate of compensation during the twelve consecutive month period preceding the qualified military service (or the entire period of employment preceding the military service, if less than twelve consecutive months).

(d) For the period on or after January 1, 2007, if a Participant dies while performing qualified military service, the survivors of the Participant are entitled to any additional death benefits that would have been payable under the Plan if the Participant had resumed employment and then terminated employment on account of death. As a result, such a Participant's death benefits under the Plan shall be determined by treating the Participant as if he or she were an active employee at the time of his or her death.

(e) Effective as of January 1, 2009, if the Board provides differential military pay to a Participant who is performing qualified military service, the Participant shall be treated as an employee of the Board and the differential military pay shall be treated as compensation paid by the Board for all purposes of the Plan. Differential military pay means any amounts that the Board pays to a Participant who is performing qualified military service to the extent such amounts do not exceed the excess of the compensation that the Participant would have received if he or she had remained employed by the Board during the period of his or her qualified military service, over the amount of the Participant's military pay.

(d) Nothing in this Section 14.1 shall be construed as requiring the crediting of investment earnings to an individual's Accounts before any contribution permitted or required by subsection (a) is actually made, or the allocation of any forfeiture with respect to the period of qualified military service.

(e) Contributions made under subsection (a) shall be allocated promptly to the individual's Accounts. Such contributions shall not be subject to any otherwise applicable limitation under Article VII with respect to the year in which such contributions are made. In accordance with Regulations, contributions made under subsection (a) shall be subject to such limitation with respect to the year to which the contributions relate.

Section 14.2 An individual employed by the Board who is not performing services for the Board or is on a reduced work schedule for a reason designated by the Board as qualifying under the Family and Medical Leave Act of 1993 shall be treated as on a leave of absence for the period of such absence or reduced work schedule.

Section 14.3 A leave of absence under Section 14.1 or Section 14.2 may not be canceled by the Board, and an Employee deemed to be on such a leave shall not incur a Break in Service during the leave of absence.

## ARTICLE XV

### Rights of Participant

Section 15.1 The adoption and maintenance of this Plan shall not be construed as creating any contract of employment between the Board and any individual. This Plan shall not affect the right of the Board to deal with individuals employed by it in all respects, including their hiring, discharge, compensation and conditions of employment.

Section 15.2 The sole rights of a Participant, Retired Participant, Disabled Participant, Terminated Participant, or Beneficiary under this Plan shall be to have this Plan administered according to its provisions, to receive whatever benefits the individual may be entitled to hereunder, and to name the Beneficiary to receive any death benefits payable hereunder.

Section 15.3 The Trust Fund is established for the purpose of providing for the support of the Participants upon their retirement and for the support of their families. Except as provided in Section 15.5, no right or interest of any Participant in any part of the Trust Fund shall be transferable or assignable by the Participant or be subject to alienation, anticipation or encumbrance by the Participant, and no such right or interest shall be subject to garnishment, attachment, execution or levy of any kind.

Section 15.4 No Participant shall be discharged, fired, suspended, expelled, disciplined or discriminated against for exercising any right under this Plan, or for giving information or testimony in any inquiry or proceeding relating to the administration of this Plan.

Section 15.5 (a) Section 15.3 shall not apply to a qualified domestic relations order. The Plan Administrator shall abide by the terms of any qualified domestic relations order. A "qualified domestic relations order" means any judgment, decree or order (including approval of a property settlement agreement) that creates or recognizes the existence of an alternate payee's right to receive all or a portion of the benefits payable to a Participant hereunder pursuant to a state's domestic relations law relating to the provision of child support, alimony payments or marital property rights to a Spouse, former Spouse, child or other dependent of the Participant.

(b) Payments made under this Section 15.5 shall completely discharge the Plan of its obligations with respect to the Participant and each alternate payee to the extent of any such payments.

(c) To the extent authorized by a qualified domestic relations order, a distribution under the Plan may be made to an alternate payee before the Participant whose benefits are subject to such order attains the earliest retirement age (as defined in Section 414(p)(4)(B) of the Code).

Section 15.6 (a) For purposes of this Section 15.6, the following terms shall have the meanings set forth below:

(i) "*Direct rollover*" means the payment by the Trustee of an eligible rollover distribution made under the Plan to one or more eligible retirement plans specified by a distributee.

(ii) "*Distributee*" means an employee or former employee, the Surviving Spouse of an employee or former employee, and the Spouse or former Spouse of an employee or former employee who is the alternate payee under a qualified domestic relations order as defined in Section 414(p) of the Code.

(iii) "*Eligible retirement plan*" means any of the following that will accept a distributee's eligible rollover distribution: (A) an individual retirement account and an individual retirement annuity described in Section 408 of the Code or (effective for distributions occurring on or after January 1, 2008) a Roth individual retirement account described in Section 408A of the Code; (B) a qualified plan described in Section 401(a) of the Code; (C) an annuity plan described in Section 403(a) of the Code and an annuity contract described in Section 403(b) of the Code; and (D) an eligible plan described in Section 457(b) of the Code that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and that agrees to separately account for any eligible rollover distributions transferred into such plan. Notwithstanding the above, if any portion of an eligible rollover distribution is not includible in gross income, such portion of the distribution may be transferred only to the following eligible retirement plans: (A) an individual retirement account and an individual retirement annuity described in Section 408 of the Code or (effective for distributions occurring on or after January 1, 2008) a Roth individual retirement account described in Section 408A of the Code; and (B) a qualified plan described in Section 401(a) of the Code or an annuity contract described in Section 403(b) of the Code that receives such portion of the distribution in a direct rollover pursuant to subsection (a)(i), that agrees to separately account for the amounts so transferred (including separately accounting for the portion of the distribution which is includible in gross income and the portion of the distribution which is not includible in gross income), and (for the period prior to January 1, 2007) that is a defined contribution plan.

(iv) "*Eligible rollover distribution*" means the distribution of all or a portion of the balance to the credit of a distributee, other than: (A) one or more distributions to be made during a taxable year of the distributee which in the aggregate are reasonably expected to be less than \$200; (B) a distribution that is one of a series of substantially equal periodic payments made not less frequently than annually for the life or life expectancy of the distributee or the joint lives or joint life expectancy of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; (C) the portion of any distribution that is required to be made under Section 401(a)(9) of the Code; and (D) any distribution that is made due to the hardship of the distributee.

(b) Notwithstanding any other provision of the Plan, a distributee may elect, in accordance with procedures established by the Plan Administrator, that all or a portion of an

eligible rollover distribution to be made to the distributee shall instead be distributed in a direct rollover. If a portion but not all of an eligible rollover distribution is to be distributed in a direct rollover, such portion may not be less than \$500. In the case of an eligible rollover distribution not exceeding \$500, any direct rollover must consist of the entire amount of the eligible rollover distribution.

(c) Effective for Plan Years beginning on or after January 1, 2010, if the designated beneficiary of a Participant (as defined in Section 11.4(a)(i)) is not the Surviving Spouse of the Participant and is eligible to receive a distribution from the Plan due to the death of the Participant, and if the distribution satisfies all of the requirements for constituting an eligible rollover distribution set forth in subsection (a)(iv) other than the requirement that the distribution be made to a distributee, then the distribution to the non-spouse designated beneficiary shall be treated as an eligible rollover distribution and the non-spouse designated beneficiary may elect that all or a portion of the distribution to be made to the non-spouse designated beneficiary will instead be distributed in a direct rollover to an individual retirement account or an individual retirement annuity that is maintained for the benefit of the non-spouse designated beneficiary and that is described in Code Section 402(c)(8)(B)(i) or Code Section 402(c)(8)(B)(ii). The individual retirement account or individual retirement annuity shall be treated as an inherited individual retirement account pursuant to Code Section 402(c)(11).

(d) Not less than thirty (30) days and not more than one hundred eighty (180) days (ninety (90) days for Plan Years beginning prior to January 1, 2007) before the Annuity Starting Date of a distributee or non-spouse designated beneficiary who is entitled to receive an eligible rollover distribution, the Plan Administrator shall, in accordance with Section 402(f) of the Code, provide the distributee or non-spouse designated beneficiary with a written explanation of the rules governing rollovers (including the right to make a direct rollover under subsection (b) or subsection (c)) and the mandatory federal income tax withholding on any eligible rollover distribution for which no election is made under subsection (b) or subsection (c). No later than the date on which the information required by this subsection (d) is provided to a distributee or non-spouse designated beneficiary, the Administrator shall notify the distributee or non-spouse designated beneficiary that he or she is entitled to consider, for a period of at least thirty (30) days following receipt of such information, whether or not to make an election under subsection (b) or subsection (c).

(e) Notwithstanding subsection (d) but subject to Section 13.1(d), a direct rollover or distribution may be made less than thirty (30) days after the distributee or non-spouse designated beneficiary receives the information required by subsection (d), if the distributee or non-spouse designated beneficiary affirmatively elects to receive a distribution or to make a direct rollover under subsection (b) or subsection (c).

(f) Any portion of an eligible rollover distribution that is not distributed in a direct rollover under subsection (b) or subsection (c) is ordinarily subject to mandatory federal income tax withholding.

(g) In the event of a mandatory cash-out distribution greater than \$1,000 in accordance with the provisions of Section 10.5, Section 11.6 or Section 12.4, if the distributee or non-spouse designated beneficiary does not elect to have such distribution paid directly to an eligible retirement plan specified by the distributee or non-spouse designated beneficiary in a direct rollover or to receive the distribution directly in accordance with this Section 15.6, then the Plan Administrator will pay the distribution in a direct rollover to an individual retirement plan designated by the Plan Administrator. The Plan Administrator shall notify the distributee or non-spouse designated beneficiary (either separately or as part of the notice described in subsection (d)) that the distribution may be transferred in a direct rollover to an individual retirement plan designated by the Plan Administrator. The notice: (i) shall identify the trustee or custodian of the individual retirement plan; (ii) shall state that the distribution will be placed in an investment fund that is designed to preserve principal and provide a reasonable rate of return and liquidity; (iii) shall indicate how the fees and expenses required to maintain the individual retirement plan will be allocated; and (iv) shall state the name, address, and telephone number of a person that the distributee or non-spouse designated beneficiary can contact for further information about the automatic rollover provisions, the individual retirement plan provider, and the fees and expenses attendant to the individual retirement plan.

## ARTICLE XVI

### Plan Administrator

Section 16.1 The Plan Administrator shall supervise and control the operation of the Plan and shall have all powers necessary to accomplish such purpose, including the power to make rules and regulations pertaining to the administration of the Plan. The Plan Administrator shall establish a funding method and policy consistent with the objectives of the Plan, and shall determine the Plan's short-term and long-term financial needs and communicate such requirements to the Trustee.

Section 16.2 The Board shall have the power to designate the Plan Administrator. If no Plan Administrator has been designated, the Board shall serve as the Plan Administrator.

Section 16.3 If more than one person is serving as the Plan Administrator, such persons may by written agreement allocate among themselves their responsibilities under the Plan. Except as otherwise provided by law, if responsibilities have been allocated among the persons serving as the Plan Administrator, only the person to whom a specific responsibility has been allocated shall be liable for acts or omissions occurring in the performance of such responsibility.

Section 16.4 The Plan Administrator may delegate to others all or part of its duties that do not involve management of Plan assets. The Plan Administrator shall not be liable for any act or omission of the persons to whom such duties have been delegated, *provided that* the Plan Administrator acted prudently and in the interests of the Participants and Beneficiaries in selecting and retaining such persons.

Section 16.5 The Plan Administrator shall file such reports with the Department of the Treasury as may be required by law.

Section 16.6 A Plan Administrator who is also a Participant hereunder shall not vote upon any question affecting his or her benefits under the Plan, and hereby agrees to be bound by the decision of the remaining persons serving as the Plan Administrator, or if they are unable to agree or if there is only one person serving as Plan Administrator, by the decision of the Board.

Section 16.7 If more than one person is serving as the Plan Administrator, any act which the Plan authorizes or requires the Plan Administrator to do may be done by a majority of such persons. The action of such majority expressed from time to time by a vote at a meeting, or in writing without a meeting, shall constitute the action of the Plan Administrator.

Section 16.8 The Board shall pay all expenses of administering the Plan, including legal, accounting and investment advisory fees.

Section 16.9 The Plan Administrator shall have the discretionary authority to interpret the provisions of the Plan and to determine all questions relating to eligibility for benefits



hereunder. Any such interpretation or determination adopted by the Plan Administrator in good faith shall be binding upon the Board and on all Participants and Beneficiaries. The Plan Administrator, in exercising its discretion, shall do so in a uniform and nondiscriminatory manner, treating all individuals in similar circumstances alike.

## ARTICLE XVII

### The Trust Fund

Section 17.1 All assets of the Plan shall be held in trust by the Trustee under the Trust Agreement.

Section 17.2 The Trustee shall have such powers as to investment, reinvestment, control and disbursement of the Trust Fund as are provided in the Plan and the Trust Agreement.

## ARTICLE XVIII

### Plan for Exclusive Benefit of Participants

Section 18.1 Except as provided in this Article XVIII and in Article XXI, no assets of the Trust Fund shall ever revert to, or be used or enjoyed by, the Board or any successor of the Board, nor shall any such funds or assets ever be used other than for the benefit of Participants or their Beneficiaries.

Section 18.2 In the event the Plan Administrator determines that the Board has contributed any amount to the Trustee by mistake of fact, the Plan Administrator may direct the Trustee in writing to return to the Board, within one year after the payment of the contribution, the lesser of the amount actually contributed by such mistake of fact or its then current value.

## ARTICLE XIX

### Miscellaneous Provisions

Section 19.1 Any provision of the Plan or the Trust Agreement that is susceptible to more than one interpretation shall be interpreted in a manner that is consistent with the Plan and the Trust Agreement being an employees' plan and trust within the meaning of Section 401(a) and Section 501 of the Code.

Section 19.2 The Board, the Plan Administrator and the Trustee shall be discharged from liability in acting upon any representation by an individual of any fact affecting such individual's status under the Plan or upon any notice, request, consent, letter, telegram or other document believed by them, or any of them, to be genuine and to have been signed or sent by the proper person.

Section 19.3 The Plan shall not merge or consolidate with another plan or transfer assets and liabilities to another trust, unless each Participant shall, in the event of plan termination immediately after the merger, consolidation or transfer, be entitled to a benefit at least equal to the benefit such Participant would have been entitled to receive if the Plan had terminated immediately prior to such merger, consolidation or transfer. In any transaction described in the preceding sentence, the Trust Fund shall be allocated in accordance with Code Section 414(l).

Section 19.4 The Plan shall be construed according to the laws of the State of Connecticut, except as such laws are superseded by federal law.

## ARTICLE XX

### Amendment

Section 20.1 Subject to the terms of any collective bargaining agreement covering the Employees, the Board shall have the right to amend the Plan at any time and from time to time.

Section 20.2 Except to the extent required to qualify the Plan and the Trust Agreement under Section 401(a) and Section 501 of the Code, or as a condition of continued qualification thereunder, no amendment shall be made which would have any of the following effects:

(a) deprive any Beneficiary of a then deceased Participant of the right to receive the benefits to which the Beneficiary may be entitled hereunder;

(b) deprive any then Retired Participant or Disabled Participant of the benefits to which such individual is entitled hereunder;

(c) deprive any then Terminated Participant of the benefits to which such individual is entitled hereunder; or

(d) deprive any then Participant of any of the proportionate interest in the Trust Fund to which such individual would be entitled were such individual to terminate employment on the date of such amendment.

## ARTICLE XXI

### Termination of Plan

Section 21.1 Although the Board expects to continue the Plan and the contributions to the Trust Fund indefinitely, the Board may terminate the Plan in its entirety at any time, subject to the terms of any collective bargaining agreement covering the Employees.

Section 21.2 (a) The Plan Administrator shall notify the Trustee in writing of the termination of the Plan or the complete discontinuance of contributions to the Trust Fund. After the Plan has been terminated and after complying with all applicable laws and regulations, the Trustee shall, upon direction by the Board, terminate the Trust Fund by distributing the assets thereof as soon as practicable in accordance with this Article XXI. All of the provisions of the Plan and Trust Agreement shall remain in effect, other than any provision requiring contributions by the Board.

(b) Upon the termination of the Plan or the complete discontinuance of contributions to the Trust Fund, except as provided in Article XVIII, the rights of each Participant, Retired Participant, Disabled Participant, Terminated Participant, and Beneficiary of a deceased Participant to the amounts credited to such individual's Accounts as of the date of such termination or discontinuance shall become nonforfeitable. Such amounts shall be held, administered and distributed by the Trustee and the Plan Administrator in the manner provided in this Article XXI.

(c) Upon the partial termination of the Plan, the rights of each individual affected by such partial termination, including a Retired Participant, Disabled Participant, Terminated Participant, and Beneficiary of a deceased Participant, to the amounts credited to such individual's Accounts as of the date of such partial termination shall be nonforfeitable. Such amounts shall be distributed in accordance with the provisions of the Plan.

(d) Any excess amount (as defined in Section 7.1(c)) held in the Plan at the time of the termination of the Plan or a complete discontinuance of contributions shall be allocated among the Participants for whom Money Purchase Contributions Accounts are being maintained in the proportion that the Compensation of each such Participant bears to the aggregate Compensation of all such Participants. Any such allocation shall be subject to Section 7.2 and Section 7.3.

(e) Upon Plan termination, the amounts credited to the Accounts of each Participant, Retired Participant, Disabled Participant, Terminated Participant, and Beneficiary of a deceased Participant shall be distributed to the individual free of trust, in a lump sum or in the form of an annuity Contract in accordance with Article X.

Section 21.3 The Trustee's fees and expenses of administration of the Trust Fund and other expenses incident to the termination and distribution of the Trust Fund incurred after the termination of the Plan shall be paid from the Trust Fund, unless paid by the Board.

Dated this 31<sup>st</sup> day of October, 2013.

Witness:

BOARD OF EDUCATION OF NEW  
HAVEN, CONNECTICUT

John V. Smith

By [Signature]  
Title: William Clark  
Chief Operating Officer