

COPY

AMENDMENT NO. 1 TO
THE DIOCESE OF SANTA ROSA LAY EMPLOYEES' PENSION PLAN
(2014 Restatement)

The Diocese of Santa Rosa Lay Employees' Pension Plan, as adopted by The Roman Catholic Bishop of Santa Rosa, a Corporation Sole, and amended and restated effective January 1, 2014, is hereby amended as set forth herein to cease accrual of benefits effective June 30, 2014 and make related changes.

FIRST: Section 2.1 (defining "Accrued Benefit") is amended by the addition of a new sentence at the end thereof, to read as follows:

Notwithstanding any other provision of the Plan, no person shall accrue any benefit under the Plan for any period after June 30, 2014.

SECOND: Section 2.3 (defining "Annual Earnings") is amended by the addition of a new sentence at the end thereof, to read as follows:

Notwithstanding any other provision of the Plan, no person shall have Annual Earnings for any period after June 30, 2014.

THIRD: Section 2.16 ("Entry Date") is amended by the addition of a new sentence at the end thereof, to read as follows:

Notwithstanding any other provision of the Plan, no person shall have an Entry Date later than June 1, 2014.

FOURTH: Section 2.17 is amended to read as follows:

2.17 Highest Average Final Earnings. Highest Average Final Earnings means the greater of **A** or **B**, where:

A equals the average of an Employee's Annual Earnings during the three consecutive calendar years of his

last ten calendar years of employment (disregarding Annual Earnings after June 30, 2014) which produces the highest such average; and

B equals one-third of the sum of (a), (b), (c), and (d), as follows:

- (a) The Employee's Annual Earnings for the period from July 1, 2011 to December 31, 2011, plus
- (b) The Employee's Annual Earnings for 2012, plus
- (c) The Employee's Annual Earnings for 2013, plus
- (d) The Employee's Annual Earnings for the period from January 1, 2014 to June 30, 2014.

If, as of June 30, 2014, an Employee has been employed for less than three years, **A** above shall be calculated using the average of his Annual Earnings for his actual calendar years of employment as of June 30, 2014, and **B** shall be calculated as 12 times the fraction **E** / **F**, where **E** and **F** are defined as follows:

E equals the sum of (a), (b), (c), and (d) above, and

F equals the number of months of employment of the Employee during the period beginning on July 1, 2011 and ending on June 30, 2014.

FIFTH: Section 2.34 (defining "Service") is amended by the addition of a new item (h) at the end thereof, to read as follows:

- (h) For all purposes except (1) vesting under Section 9.1, (2) the 10-year requirement for commencement of an Early Retirement Benefit under Sections 5.2 and 9.4, and (3) eligibility for a survivor benefit under Section 10.1(2), any period after June 30, 2014.

SIXTH: Section 3.4 ("Computation of Service while Disabled") is amended by the addition of a new sentence at the end thereof, to read as follows:

Notwithstanding any other provision of the Plan, Service under this Section shall not include any period after June 30, 2014.

SEVENTH: Section 3.11 ("Treatment of Certain Military Service")

is amended by the addition of a new subsection (f) at the end thereof, to read as follows:

- (f) Nothing in this Section shall entitle any person to credit for Service after June 30, 2014 except as provided in Section 2.34(h) or to Annual Earnings with respect to any period after June 30, 2014.

EIGHTH: Section 4.3 ("Eligibility") is amended by the addition of a new sentence at the end thereof, to read as follows:

Notwithstanding any other provision of the Plan, no person shall become a Participant in the Plan on or after July 1, 2014.

NINTH: Section 4.4 ("Reemployment of Terminated Employees") is amended by the addition of a new sentence at the end thereof, to read as follows:

Notwithstanding any other provision of the Plan, no person shall accrue any benefit under the Plan after June 30, 2014 by reason of reemployment before, on, or after June 30, 2014.

TENTH: The second sentence of Section 6.2 ("Early Retirement Benefit") is amended to read as follows:

Such benefit will be computed pursuant to Section 6.1 multiplied by a fraction, the numerator of which is the Employee's Service to his Early Retirement Date (disregarding any period after June 30, 2014) and the denominator of which is equal to his Service assuming it continued uninterrupted to his Normal Retirement Date.

ELEVENTH: The first sentence of Section 6.3 ("Postponed Retirement Benefit") is amended to read as follows:

Each Employee whose retirement benefit is payable commencing on his Postponed Retirement Date will be entitled to receive an annual retirement benefit computed pursuant to Section 6.1 for Service to the relevant time (disregarding any period after June 30, 2014).

TWELFTH: Section 6.12 is amended to read as follows:

6.12 Suspension of Benefits upon Rehire after Retirement.

- (a) If a retired Employee who is receiving benefits under the Plan is rehired after June 30, 2014, his retirement benefit will not be suspended, and he will not be credited with Service and new benefit accruals under the Plan.
- (b) With respect to any Employee who was reemployed on or before June 30, 2014 and whose benefit is suspended on June 30, 2014, such suspension shall continue until he incurs a Termination of Employment, at which time the following provisions shall apply:
 - (1) His benefit will be redetermined as of his Termination of Employment Date. Payment of such benefit shall commence as soon as administratively feasible thereafter, retroactive to his Termination of Employment Date.
 - (2) Such redetermined benefit will be calculated in the relevant normal form in Section 6.4, under the benefit formula in Section 6.1, in effect on June 30, 2014, disregarding Annual Earnings and Service after June 30, 2014.
 - (3) Any benefit recalculated hereunder shall be offset by any benefits previously paid.
 - (4) Such recalculated benefit cannot result in a benefit lower than the benefit previously in pay status, in the relevant normal form, on the Employee's rehire date.
 - (5) Notwithstanding paragraph (4) above, any benefit payment previously made while such payment should have been suspended under this Section 6.12 shall be taken into account upon resumption of payments hereunder as a full offset to future payments until the sum of such previous payments has been recovered, except that, upon application by the Employee resulting in a determination by the Plan Administrator that a hardship to the Employee would result, recovery of payment may take place by a partial offset or a permanent reduction in benefit.
 - (7) Offsets (permanent reductions in benefit), if any, shall be determined actuarially by using factors in Section 16.21.

THIRTEENTH: Section 7.1 ("Eligibility") is amended by the addition of a new sentence at the end thereof, to read as follows:

No person with a Disability Commencement Date (as defined in Section 7.2(b)) after June 30, 2014 shall be entitled to a benefit under this Section 7.

FOURTEENTH: Section 7.3 ("Disability Retirement Benefit") is amended by the addition of a new sentence after the first sentence thereof, to read as follows:

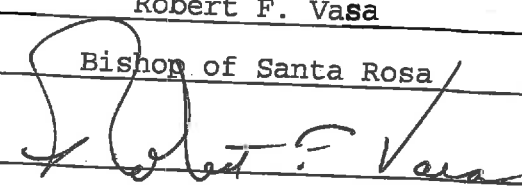
Notwithstanding the preceding sentence or any other provision of the Plan, no Service shall be credited under this Section after June 30, 2014.

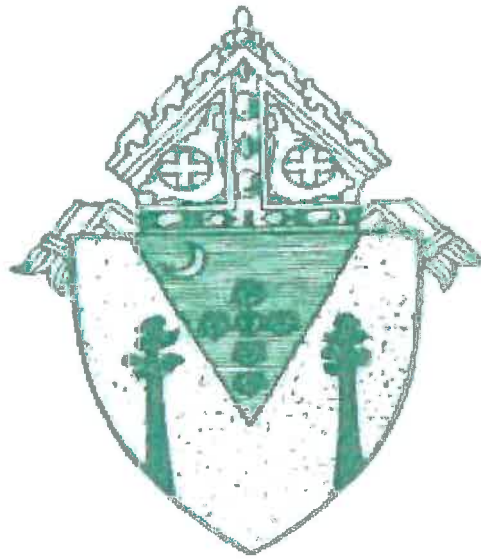
FIFTEENTH Section 9.7 ("Transfer to Ineligible Status and Reinstatement") is amended by the addition of a new subsection (c) at the end thereof, to read as follows:

- (c) Nothing in this Section shall entitle any person to credit for Service after June 30, 2014 except as provided in Section 2.34(h).

SIXTEENTH: This Amendment shall be effective as of June 30, 2014. Except as provided herein, the Diocese of Santa Rosa Lay Employees' Pension Plan shall continue in full force and effect.

IN WITNESS WHEREOF, the Bishop has signed this Amendment No. 1 to the 2014 Restatement of The Diocese of Santa Rosa Lay Employees' Pension Plan this 9 day of June, 2014.

By: Robert F. Vasa
Title: Bishop of Santa Rosa
Signature: 



THE DIOCESE OF SANTA ROSA
LAY EMPLOYEES' PENSION PLAN
(2014 Restatement)

THE DIOCESE OF SANTA ROSA LAY EMPLOYEES' PENSION PLAN

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THE DIOCESE OF SANTA ROSA LAY EMPLOYEES' PENSION PLAN

SECTION 1. FOREWORD

THE DIOCESE OF SANTA ROSA LAY EMPLOYEES' PENSION PLAN is hereby amended and restated in its entirety and shall be evidenced exclusively by the plan of benefits contained in the following pages.

The Trust Agreement is set forth in a document separate from this instrument, a copy of which is made a part hereof by reference.

STATUS AS CHURCH PLAN

The Plan is intended to qualify as a church plan, as defined in Section 414(e) of the Internal Revenue Code and Section 3(33)(A) of ERISA, including any rulings and regulations thereunder, and any amendments thereto. No election under Section 410(d) of the Internal Revenue Code has been made for the purpose of waiving any exemption to which the Plan is entitled as a church plan, under either the Internal Revenue Code or ERISA. The Plan Sponsor does not intend to waive any exemption to which the Plan is entitled under the Internal Revenue Code or ERISA.

All assets acquired by this Plan will be administered according to the terms of the Plan and Trust Agreement for the exclusive benefit of Employees participating in the Plan and their Beneficiaries.

Except as specifically provided herein or required to preserve the qualified status of the Plan, this amendment and restatement shall have no effect on the benefits provided for persons who have retired or terminated prior to its Effective Date.

To record adoption of this restated, amended plan, the Bishop has executed this document on the date written below.

By: Robert F. Vasa

Title: Bishop of Santa Rosa

Signature: 

Date: 1-21-2014

SECTION 2. DEFINITIONS (IN ALPHABETICAL ORDER)

- 2.1 Accrued Benefit. Accrued Benefit means the retirement benefit earned to date of death, Termination of Employment, or retirement, or termination of this Plan, or such other date that a determination of a benefit hereunder is necessary, with respect to one or all Employees. Such benefit shall be determined in accordance with Section 6.1, for Service to the relevant time, payable in the applicable Normal Form described in Section 6.4 at Normal Retirement Date.
- 2.2 Anniversary Date. Anniversary Date means June 30th of each year.
- 2.3 Annual Earnings. Annual Earnings means total compensation paid during a calendar year by the Employer to an Employee for personal services rendered, before reduction for participation in tax sheltered annuities under Section 403(b) of the Code or a cafeteria plan under Section 125 of the Code, if any, excluding payment in lieu of vacations, holidays, sick leave or severance payments. Notwithstanding the foregoing, the Annual Earnings of each Employee taken into account under the Plan for any Plan Year shall not exceed \$260,000, as adjusted from time to time by the Internal Revenue Service for increases in the cost of living in accordance with Section 401(a)(17)(B) of the Code.
- 2.4 Beneficiary. See Section 16.19.
- 2.5 Bishop. The Roman Catholic Bishop of Santa Rosa, a Corporation Sole.
- 2.6 Break-In-Service. A Break-In-Service means the period of time commencing on an Employee's Termination of Employment Date and ending on the date he is reemployed by the Employer and performs any Service for which he is paid or entitled to payment for the performance of duties, regardless of whether or not said Employee performs one or more Hours of Service.

Notwithstanding the above, in the case of an Employee who is absent from Service because of a Maternity or Paternity Leave of Absence, the period commencing on the date after the first anniversary of such absence from Service and ending on the second anniversary of such absence from Service shall not be considered as part of a Break-In-Service.

- 2.7 Children. For purposes of this Plan, the terms Children and Child shall mean natural offspring of the Employee, and individuals who are legally adopted by the Employee, who are considered minor children under the laws of the State of California, and for whom the Employee has a legal, parental responsibility.
- 2.8 Code. The Internal Revenue Code of 1986 as amended.
- 2.9 Disability. See Section 7.2 for definitions relating to Disability..
- 2.10 Disability Commencement Date. See Section 7.2.
- 2.11 Early Retirement Date. See Section 5.2.
- 2.12 Effective Date. This Restatement is effective as of January 1, 2014, except as otherwise specifically stated. The original Effective Date of the Plan is September 1, 1989. With respect to Section 15, Effective Date has the meaning defined in Section 15.1.
- 2.13 Employee. Employee means persons employed and compensated for services by the Employer who are considered lay Employees by the Employer. For the purpose of benefits payable on account of any retired or former Employee, the term Employee will include such person, except that the provisions of this Plan shall have no effect on the benefits provided for persons who are receiving, or entitled to receive, benefits under the Prior Plan. The term Employee shall also include any Leased Employee deemed to be an Employee of the Employer as provided in Sections 414(n) or 414(o) of the Code and Section 2.20 herein.

With respect to a person who is a deacon, status as an Employee for purposes of this section (and as a Part-Time Employee under Section 2.27 and a Temporary Employee under Section 2.36) is determined solely with reference to duties typically performed as a lay person; ministerial duties the performance of which is restricted, by canon law or custom, to deacons or clergy, are completely disregarded.

Employee does not mean priests, professed religious, members of religious orders or communities, or independent contract labor.

- 2.14 Employer. Employer means the Plan Sponsor and any subsidiary or affiliate of the Plan Sponsor which enters into a written agreement with the Plan Sponsor for participation in the Plan. Solely for convenience of reference, such entities may be listed from time to time in an Appendix to the Plan.
- 2.15 Employment Commencement Date. Employment Commencement Date means the initial date on which an Employee performs an Hour of Service for the Employer.
- 2.16 Entry Date. Entry Date means the first day of the month following the month in which an Employee is employed, unless the Employee is employed on the first day of the month in which event such Employee's Entry Date is his Employment Commencement Date.
- 2.17 Highest Average Final Earnings. Highest Average Final Earnings means the average of an Employee's Annual Earnings during the three consecutive calendar years of his last ten calendar years of employment which produces the highest such average. If an Employee is employed for less than three years, Highest Average Final Earnings means the average of his Annual Earnings for his actual years of employment.
- 2.18 Hour of Service. Hour of Service means each hour for which an Employee is paid or entitled to payment for services rendered and specifically includes each hour for which he is paid, or entitled to payment, for the performance of duties for the Employer, including, but not limited to vacations, holidays, absence from work due to sickness or accident, Disability, and authorized leaves of absence granted on a non-discriminatory basis.
- 2.19 Investment Manager. An Investment Manager shall mean an investment adviser registered under the Investment Advisors Act of 1940, a bank (as defined in that Act), or an insurance company qualified to perform investment management services under state law in more than one state. The appointment, selection and retention of any Investment Manager shall be solely the responsibility of the Named Fiduciary.
- 2.20 Leased Employee.
- (a) A Leased Employee is a person who is not otherwise an Employee of the Employer, but who rendered services to the Employer (or for any related person as defined by Section 414(n)(6) of the Code) which:
- (i) are provided pursuant to one or more agreements between the Employer, and one or more leasing organizations, and

- (ii) have been performed by such person for the Employer on a substantially full-time basis for a period of at least one year (12 consecutive months), and
 - (iii) are performed under primary direction or control by the recipient of such services.
 - (b) Leased Employee is not a person who is covered by a money purchase pension plan maintained by the leasing organization, and said pension plan provides: (1) a nonintegrated employer contribution rate of at least ten percent (10%) of compensation, as defined in Section 415(c)(3) of the Code, but including amounts contributed by the leasing organization pursuant to a salary reduction agreement which are excludable from the Leased Employee's gross income under Section 125, Section 402(a)(8), Section 402(h) or Section 403(b) of the Code, (2) immediate participation, and (3) full and immediate vesting, provided that as a group Leased Employees do not constitute more than twenty percent (20%) of the aggregate non-highly compensated workforce of the Employer, determined with reference to Section 414(q) of the Code.
- 2.21 Limitation Year. Limitation Year shall mean the Plan Year.
- 2.22 Maternity or Paternity Leave of Absence. An absence from the employment of the Employer (1) by reason of the pregnancy of the Employee or Spouse, (2) by reason of the birth of a Child of the Employee, (3) by reason of the placement of a Child in connection with the adoption of the Child by the Employee, or (4) for the purpose of the Employee caring for a Child during the period immediately following the birth or placement for adoption of such Child with the Employee.
- 2.23 Named Fiduciary. The Named Fiduciary is the Bishop. (See Section 16.3 for duties.)
- 2.24 Normal Retirement Age. An Employee's 65th birthday.
- 2.25 Normal Retirement Date. See Section 5.1.
- 2.26 One Year Break-In-Service. A One Year Break-In-Service means a twelve consecutive month period commencing on an Employee's Termination of Employment Date, and ending on the first anniversary of such date, during which an Employee is not credited with any Service, subject to the caveat in Section 2.6 with respect to a Maternity or Paternity Leave of Absence.
- 2.27 Part-Time Employee. Part-Time Employee means persons whose regular and customary employment is for less than 20 hours per week.

- 2.28 Plan Name. This plan will be known as THE DIOCESE OF SANTA ROSA LAY EMPLOYEES' PENSION PLAN (herein called the Plan).
- 2.29 Plan Administrator. The Plan Administrator is the Bishop. (See Section 16.2 for details of powers)
- 2.29A Plan Sponsor. The Plan Sponsor is the Bishop.
- 2.30 Plan Year. Plan Year means the twelve month period beginning on July 1 and ending on the following June 30.
- 2.31 Postponed Retirement Date. See Section 5.3.
- 2.32 Prior Plan. Prior Plan means the predecessor retirement plans, sponsored by the Bishop, which were consecutively in effect up to September 1, 1989, the original Effective Date of this Plan.
- 2.33 Reemployment Date. Reemployment Date means the first day of the month following a One Year Break-In-Service on which an Employee performs an Hour of Service for the Employer.
- 2.34 Service. Service means the period commencing on an Employee's Employment Commencement Date, and ending on his most recent Termination of Employment Date disregarding any intervening Break-in-Service lasting 12 consecutive months or more. Service includes each Hour of Service for which an Employee is paid or entitled to payment. Service will not include the following:
- (a) Any period during which an Employee is or was classified as ineligible under Section 4.2. However such period will be counted for purposes of determining eligibility under Section 4.3 and vested status under Section 9.1 but only for Employees described in Sections 4.2(a) through 4.2(d) herein.
 - (b) Any period of layoff in excess of 12 months due to lack of work, during which the Employee receives no compensation from the Employer.
 - (c) Subject to Section 3.11, any period of **voluntary** military service in excess of twelve months in the Armed Forces of the United States, except military training periods of short duration (such as National Guard of Reserve Training), required by federal law or other statute of similar import, or military service while the United States is at war.
 - (d) Any period following the earlier of the relevant event listed in Section 2.37.
 - (e) Any period of absence in excess of 12 months from the beginning of a Maternity or Paternity Leave of Absence.
 - (f) Any period of unauthorized absence.

- (g) With respect to any Employee who had attained his 60th birthday on or before the date of his employment, any period prior to April 14, 1991. However, such period shall be counted for purposes of determining vested status under Section 9.1.

2.35 Spouse (Surviving Spouse). The legal wife or husband, or surviving wife or husband of an Employee hereunder, provided that with respect to payment of benefits said term also means former wives or husbands to the extent provided under a qualified domestic relations order as described in Section 414(p) of the Code.

2.36 Temporary Employee. Temporary Employee means persons whose regular and customary employment is for less than five months in a Plan Year.

2.37 Termination of Employment/Termination of Employment Date. Termination of Employment and Termination of Employment Date shall mean and shall refer to the last day of the month in which an Employee ceases to be employed by the Employer by reason of the earlier of:

- (a) discharge, or
- (b) resignation, or
- (c) death, or
- (d) retirement under the Plan, or
- (e) failure to return as an Employee for the Employer from absence due to illness, or accident, after having been pronounced fit by a doctor employed by, or acceptable to, the Employer, or
- (f) failure to return on the date stipulated under an authorized leave of absence, or
- (g) failure to comply with the terms of the Employer's maternity leave policy, if any is applicable, and which is not incompatible with subsection (k) below.

Notwithstanding the foregoing provisions of this subsection a Termination of Employment shall not occur by reason of:

- (h) an absence for military service, provided the Employee returns to the Employer's employ within the time required by law for protection of reemployment rights;
- (i) vacation, holiday, absence due to sickness, accident or an authorized leave granted on a nondiscriminatory basis;
- (j) Disability, provided that if an Employee ceases to be Disabled and does not return as an Employee of the Employer within sixty (60) days after such cessation, he will be deemed to have terminated employment as of the last day of the month in which he ceased to be Disabled.

- (k) Maternity or Paternity Leave of Absence until 12 consecutive months have expired from the beginning of such leave of absence during which the Employee failed to return to work for the Employer.

2.38 Trust Agreement. Trust Agreement means the agreement between the Employer and the Trustee in effect from time to time.

2.39 Trust Fund. Trust Fund refers to the assets accumulated under the Trust Agreement.

2.40 Trustee. Trustee means U. S. Bank, N.A., or any successor or substitute bank or trust company appointed by the Plan Administrator in accordance with the terms of the Trust Agreement.

As of 1/1/2015 BNY Mellon is the Trustee

2.41 Vested Deferred Benefit. Vested Deferred Benefit means the nonforfeitable interest of each Employee in his Accrued Benefit, payable at Normal Retirement Date, determined in accordance with Section 9.3, and payable in accordance with Section 9.4.

2.42 Year of Service. Twelve months of Service computed in accordance with Section 3 herein.

SECTION 3. CREDITING AND COMPUTATION OF SERVICE AND BREAK-IN-SERVICE

- 3.1 Elapsed Time Method. For purposes of this Plan, the Elapsed Time Method means that each complete month of Service shall count as one-twelfth of a year. Partial months of Service will count as whole months. Thus all Service can be expressed in terms of calendar months and years.
- 3.2 Effect of Calculation of Service in Calendar Months. Assuming no interruption in employment, an Employee hired on any day of a given month, will have one Year of Service on the first day of that month in the next following year, and an additional Year of Service on the first day of the anniversary month in which he was employed in each succeeding year thereafter. Thus, Employees are always credited with Service from the first day of the month in which they are employed through the last day of the month in which employment terminates, which more than meets the relevant requirements of IRS Regs. 1.410(a)-7(b)(2) and 1.410(a)-7(b)(6), although this Plan is exempt from such requirements.
- 3.3 Calculation of Breaks-In-Service. Breaks-In-Service will be calculated in consecutive calendar months and years in accordance with Section 3.1 above. Because Service is credited through the last day of the calendar month in which employment terminates, the first day of the month next following said month marks the beginning of the computation period for determining the first One Year Break-In-Service. Each successive One Year Break-In-Service, or part thereof, shall be computed accordingly.
- 3.4 Computation of Service While Disabled. Service will include all periods during which an Employee is Disabled, provided that if an Employee ceases to be Disabled before his Normal Retirement Date and does not return as an Employee of the Employer within sixty (60) days thereafter, he will be deemed to have terminated employment as of the last day of the month in which his Disability ceased.
- 3.5 Service Spanning Rules. Service credited through the last day of the calendar month in which Termination of Employment occurred and Service credited subsequent to the date of reemployment shall be added together for all purposes under the Plan (including current vested status), but the intervening time shall be disregarded – subject to the next paragraph.

Notwithstanding the preceding paragraph, if a terminated Employee is reemployed within the twelve consecutive calendar month period following his Termination of Employment Date, he will be credited with Service as if his employment with the Employer had not been interrupted, and the Employee will not be regarded as having incurred a Break-In-Service for Plan purposes.

In no event, however, will an Employee who was covered under the Plan when he so terminated, become covered until he is actually reemployed.

- 3.6 Aggregating Service. All periods of employment shall be aggregated in determining an Employee's Service. In computing the aggregate, such aggregate shall not include any Service that can be disregarded by reason of a prior Break-In-Service.
- 3.7 Service Before September 1, 1989. With respect to any period of employment prior to September 1, 1989, the original effective date of this Plan, Service shall be credited in accordance with the relevant provisions of this Section 3.
- 3.8 Service With Affiliated Group. Subject to Section 4.2, Service with a member of an affiliated group as defined in Section 414(b), 414(c), 414(m), and 414(o) of the Code shall be credited hereunder for purposes of eligibility for coverage or vesting, if such group includes the Employer at the time of reference.
- 3.9 Service With Another Employer and Joint Ventures.
- (a) Before Employment Commencement Date. Any Employee of the Employer who, immediately prior to his employment by the Employer, had worked for an affiliate thereof, or for any other person, firm or corporation, for which the Employer is acting as agent, or with which the Employer may be engaged in a joint venture, shall be deemed to have been employed by the Employer for the purpose of crediting prior Service under the Plan.
 - (b) After Employment Commencement Date. Any Employee of the Employer who shall, at the request of the Employer, or with the agreement of the Employer, work for an affiliate thereof, or any other person, firm or corporation, for which the Employer is acting as agent, or with which the Employer may be engaged in a joint venture, or with which the Employer has concluded an agreement of employment or service reciprocity, shall be deemed employed by the Employer for all purposes of crediting Service under the Plan.

3.10 Ambiguities. Any ambiguities (with respect to crediting Service) will be resolved in favor of the Employee.

3.11 Treatment of Certain Military Service. Solely to the extent required by the Uniformed Services Employment and Reemployment Rights Act ("USERRA," P.L. 103-353) and Section 414(u) of the Code, an Employee who enters service with the uniformed services of the United States (as defined in USERRA) entitling him to reemployment rights with the Employer under federal law shall, upon exercise of such rights, be treated under this Plan as follows:

- (a) Break in Service. He shall not incur a Break-in-Service under Section 2.6 by reason of such uniformed service;
- (b) Vesting Service. He shall be credited with Service by reason of such uniformed service for the purpose of determining his vesting under Section 9.1, provided that he was accruing Service for vesting purposes immediately prior to such uniformed service. No more than 5 years of Service for vesting purposes shall be granted under this provision.
- (c) Benefit Service. He shall be credited with Service for purposes of retirement benefits under Section 6.1 for the period of such uniformed service, provided that immediately prior to such uniformed service he was in an eligible classification under Section 4.1. No more than 5 years of uniformed service shall be taken into account under this provision.
- (d) Highest Average Final Earnings. For the purpose of calculating Highest Average Final Earnings under Section 2.17, his Annual Earnings during the period of uniformed service shall be deemed equal to his Annual Earnings for the 12-month period immediately preceding such service (or, if shorter, his period of employment with the Employer immediately preceding such service).
- (e) Survivor and Death Benefits under HEART Act.
 - (1) In the case of a Participant who dies while performing qualified military service, his or her Surviving Spouse, Child/Children, or Beneficiary is entitled to any additional benefits (other than benefit accruals related to the period of qualified military service) that would have been provided under the Plan had the Participant resumed employment and then terminated employment on account of death.
 - (2) For purposes of paragraph (1), qualified military service means any service in the uniformed services of the United States as defined in chapter 43 of title 38, United States Code, by a Participant if such Participant is entitled to reemployment rights under such chapter with respect to such service.

SECTION 4. ELIGIBILITY AND REEMPLOYMENT

- 4.1 Eligible Classification of Employees. All Employees of the Employer are eligible for coverage under the Plan, provided they are not in a class of Employees set forth in Section 4.2 below.
- 4.2 Ineligible Classification of Employees. The following classes of Employees are ineligible for coverage under this Plan:
- (a) Part-Time Employees.
 - (b) Temporary Employees.
 - (c) Employees who are covered under the terms of another plan of retirement benefits sponsored by the Employer, if any.
 - (d) Employees who are covered under the terms of a collective bargaining agreement as to which there is evidence that retirement benefits were the subject of good faith bargaining between the Employer and any labor union, unless such agreement provides for coverage under this Plan.
 - (e) Leased Employees.

Notwithstanding the above, Service will be counted for determining eligibility and vested status for Employees ineligible under Section 4.2(a) through Section 4.2(d) who would otherwise qualify for coverage hereunder, but not Employees ineligible under Section 4.2(e) above.

- 4.3 Eligibility. Employees, in an eligible classification of Employees, in the employ of the Employer on the Effective Date will become covered under the Plan on the Effective Date.

Each other Employee in an eligible classification in Section 4.1 above will become covered under this Plan on his Entry Date.

Employees in an ineligible class under Section 4.2 on the Effective Date will become covered under this Plan on the first day of the month in which their change of status from ineligible to eligible occurs.

- 4.4 Reemployment of Terminated Employees. A former Employee who is reemployed shall resume coverage under this Plan on the first day of the month in which he is reemployed and his Service shall be spanned and aggregated as provided in Section 3.6 and 3.7 herein.

PRIOR SERVICE IS NEVER DISREGARDED.

SECTION 5. RETIREMENT DATES AND PAYMENT STARTING DATES

- 5.1 Normal Retirement Date. The Normal Retirement Date of an Employee will be the first day of the calendar month in which his Normal Retirement Age occurs.

Payment of the Employee's retirement benefit will commence on his Normal Retirement Date except as otherwise provided in Section 5.2 or 5.3.

- 5.2 Early Retirement Date. The Early Retirement Date of an Employee who has completed at least 10 years of Service will be the first day of any month on or after his 55th birthday upon which the Employee elects to retire.

Payment of the Employee's retirement benefit will commence on the first day of any month, as selected by the Employee, on or after his Early Retirement Date, but not later than the Employee's Normal Retirement Date.

- 5.3 Postponed Retirement Date. The Postponed Retirement Date of an Employee is the first day of any calendar month after an Employee's Normal Retirement Date, upon which an Employee elects to retire.

Payment of the Employee's retirement benefit will commence on his Postponed Retirement Date, which will be the first day of the month in which actual retirement occurs.

SECTION 6. RETIREMENT BENEFITS

- 6.1 Retirement Benefit at Normal Retirement Date. Each Employee whose retirement benefit is payable commencing on his Normal Retirement Date will be entitled, subject to Section 9.1 in the case of a terminated Employee, to receive an annual retirement benefit in an amount equal to 1.10 percent of his Highest Average Final Earnings multiplied by his years and months of Service, payable as provided in Section 6.4.
- 6.2 Early Retirement Benefit. Each Employee whose retirement benefit is payable commencing prior to his Normal Retirement Date will be entitled to receive an annual retirement benefit for Service to his Early Retirement Date. Such benefit will be computed pursuant to Section 6.1 multiplied by a fraction, the numerator of which is the Employee's Service to his Early Retirement Date and the denominator of which is equal to his Service assuming it continued uninterrupted to his Normal Retirement Date. This benefit will be adjusted in accordance with the Reduction Schedule below for each month by which the early retirement benefit commencement date precedes normal retirement.

Reduction Schedule

5/18 of 1% for each calendar month from age 55 to age 60, and
5/9 of 1% for each calendar month from age 60 to age 65.

If death occurs after an Employee's Early Retirement Date while he is employed by the Employer in an eligible class of Employees in Section 4.1, a survivor's benefit will be determined and paid in accordance with the relevant subsections of Section 10.

- 6.3 Postponed Retirement Benefit. Each Employee whose retirement benefit is payable commencing on his Postponed Retirement Date will be entitled to receive an annual retirement benefit computed pursuant to Section 6.1 for Service to the relevant time.

If death occurs after an Employee's Normal Retirement Date, while he is employed by the Employer in an eligible class of Employees in Section 4.1, a survivor's benefit will be determined and paid in accordance with the relevant subsections of Section 10.

6.4 Payment of Retirement Benefits - Normal Forms.

- (a) Single Employees. One-twelfth of the annual retirement benefit provided for an Employee under Section 6.1, who is **single on his retirement date**, will be payable monthly for life from the commencement date applicable in accordance with Section 5 to the date of the last payment due preceding the death of the Employee, provided, however, if the death of an Employee occurs prior to payment of 120 monthly installments, the remaining portion of such 120 monthly installments shall be continued to the Employee's Children, otherwise his Beneficiary.
- (b) Married Employees. One-twelfth of the annual retirement benefit provided for an Employee under Section 6.1, who is **married on his retirement date**, will be payable monthly for life from the commencement date applicable in accordance with Section 5 to the date of the last payment due preceding the death of such Employee, subject to payment of a Surviving Spouse Benefit described in Section 12, provided he meets the eligibility requirement in Section 12.1.

If the Employee is age 93 or older on his benefit commencement date the benefit determined hereunder will be adjusted to conform to Treasury Reg. 1.401(a)(9)-6 (Q&A-3).

6.5 Timely Commencement of Benefits. Subject to the provisions of Section 16.10 with respect to application for benefits, and Section 16.11 with respect to Spouse consent, payment of benefits under the Plan will commence as soon after the date upon which an Employee (or other person) is entitled to receive benefits hereunder as the Plan Administrator deems to be practical, but in no event later than 60 days after the close of the Plan Year in which the later of the following occurs, provided a perfected application is timely filed with the Plan Administrator:

- (a) the Employee attains age 65,
- (b) the 10th anniversary of an Employee's coverage under the Plan, or
- (c) the Employee's Termination of Employment.

Notwithstanding the above paragraph, distribution of an Employee's benefit must be made in full, or must commence, not later than April 1 of the calendar year following the calendar year in which he attains age 70-1/2, or actually retires if later.

- 6.6 Small Payments. Any retirement benefit will be paid in full by an appropriate single payment determined in accordance with Section 16.21, if the single payment is not more than \$15,000, without regard to the application requirement in Section 16.10 and Spouse consent in Section 16.11.

An Employee who receives a single payment under this section may elect, as prescribed by the Plan Administrator in accordance with Section 401(a)(31) of the Code and regulations thereunder, to have all or any portion of such payment paid directly to an eligible retirement plan (as defined in Section 402(c)(8)(B) of the Code) specified by the distributee in a direct rollover, except to the extent that such payment is a required distribution under Section 401(a)(9) of the Code. For purposes of the preceding sentence, the portion of the single sum distribution that is a required minimum distribution is determined by treating the single sum distribution as a distribution from an individual account plan as described in Treas. Reg. 1.401(a)(9)-6, Q&A-1 (d)(1).

- 6.7 Restoration of Benefits. This section is only applicable to employees who received a single payment in accordance with Section 6.6 before they were 100% vested under the Plan.

An Employee who has received a single payment in accordance with Section 6.6, may restore the benefit attributable to such payment by repaying, at any time prior to commencement of benefits hereunder, the single payment with interest compounded annually at the rate of 5% per annum (or such other interest rate as may be specified by the Secretary of the Treasury or his delegate at the relevant time) from the first day of the month following the month in which the payment was received by the Employee to the first day of the month in which such repayment was received by the Employer.

- 6.8 No Duplication of Benefits. Notwithstanding anything in the contrary in this section, all provisions of the Plan shall be construed to avoid any duplication of benefits. The amount of any benefit determined under this Plan shall be reduced by the value of any benefits previously earned and paid in a single payment in accordance with Section 6.6, unless such single payment has been repaid in accordance with Section 6.7.

Contributions or benefits provided a Leased Employee by the leasing organization, which are attributable to services performed for the recipient employer, shall be treated as provided by the recipient employer, and shall be applied to reduce any benefits otherwise payable hereunder.

- 6.9 Minimum Benefit Limits Because of Internal Revenue Service Requirements. The purpose of this Plan Section is to conform the determination of benefits at Normal Retirement Date to the requirements of U.S. Treas. Dept. Reg. 1.411(a)-7(c).

In no event will a benefit determined under Section 6.1, at Normal Retirement Date, be less than the benefit that could have been determined for an Employee under Section 6.2 on the first day that an Employee could have elected to receive an early retirement benefit or, alternatively, on the first day of any calendar year thereafter in which an Employee could make such election, up to and including the calendar year in which the Employee attains his Normal Retirement Date.

- 6.10 Prior Plan Minimum Benefit. Notwithstanding Section 6.1, any Employee eligible for a benefit under any section of this Plan who was employed by the Employer and covered under the Prior Plan on August 31, 1989, shall have a minimum annual benefit, equal to his Accrued Benefit as of said date, computed under the terms of the Prior Plan.

- 6.11 Prior Plan Benefits in Pay Status and Former Employees. Individuals who are currently receiving benefits under the Prior Plan, and former Employees, their Spouses or other Beneficiaries who are eligible to receive a vested deferred benefit under the Prior Plan, will receive benefits in accordance with such Prior Plan. Benefits for such individuals will not be recomputed under this Plan.

- 6.12 Suspension of Benefits Upon Rehire After Retirement. If a retired Employee (who is receiving benefits under the Plan) is rehired, his retirement benefits will be suspended in any calendar month in which such Employee was employed in an eligible class of Employees in Section 4.1 herein, and such Employee will be credited with Service and new benefit accruals hereunder and his retirement benefit redetermined as follows:

- (a) Such benefit will be redetermined as of the first day of the month coinciding with, otherwise next following, the month in which the rehired Employee ceases to be employed in an eligible class of employees.
- (b) Such redetermined benefit will be calculated in the relevant normal form in Section 6.4, under the benefit formula in Section 6.1, in effect on the date in subsection (a) above.
- (c) Any benefit recalculated hereunder shall be offset by any benefits previously paid.
- (d) Such recalculated benefit cannot result in a benefit lower than the benefit previously in pay status, in the relevant normal form, on the Employee's rehire date.

- (e) Notwithstanding subsection (d) above, any benefit payment previously made while such payment should have been suspended under this Section 6.12, shall be taken into account upon resumption of payments hereunder as a full offset to future payments until the sum of such previous payments has been recovered, except that, upon application by the Employees resulting in a determination by the Plan Administrator that a hardship to the Employee would result, recovery of payment may take place by a partial offset or a permanent reduction in benefit.
- (f) Offsets (permanent reductions in benefit), if any, shall be determined actuarially by using factors in Section 16.21.
- (g) Benefit payments will resume no later than the first day of the third calendar month following the calendar month in which the rehired Employee ceased to be employed in an eligible class of Employees as defined in Section 4.1 herein.

6.13 Limitations Because of Treasury Department Requirements. The purpose of this section is to conform this Plan to the requirements of Section 415 of the Code and final Treasury Regulations thereunder with respect to maximum benefits payable under this Plan.

(a) Basic Limitation.

- (1) *Dollar Limit.* The maximum annual benefit payable to an Employee at retirement shall not exceed \$210,000, assuming such benefit is payable on a straight-life annuity basis without ancillary benefits (e.g., a disability or survivor's benefit):
- (2) *Compensation Limit.* In addition to the limit in paragraph (1), with respect to an Employee who is or has at any time been a highly compensated employee (as defined in Section 414(q) of the Code) of the Employer, the maximum annual benefit payable to such Employee at retirement (on a straight life annuity basis without ancillary benefits) shall not exceed 100% of such Employee's average Compensation (as defined in subsection (h)) for the three consecutive years for which such average is highest.

(b) Small Benefit Exception. The limitations in subsection (a) above are inapplicable if Parts A and B below are satisfied:

Part A. The retirement benefits payable to the Employee under this Plan and all other defined benefit plans of the Employer do not exceed \$10,000 in any one Limitation Year, and

Part B. The Employer has not at any time maintained a defined contribution plan, a welfare benefit plan defined in Section 419(e) of the Code, or an individual medical account defined in Section 415(l)(2) of the Code, in which the Employee participated.

(c) Less Than 10 Years Service or Coverage.

- (1) *Dollar Limit.* For an Employee who has less than 10 years of coverage under the Plan, the dollar limitation in subsection (a)(1) shall be multiplied by a fraction, the numerator of which is the number of years and months of such coverage (expressed as fractional years) and the denominator of which is 10.
- (2) *Compensation Limit and Small Benefit Exception.* For an Employee who has less than 10 years of Service with the Employer, the compensation limitation in subsection (a)(2) and the \$10,000 small benefit limit in subsection (b), Part A, shall be multiplied by a fraction, the numerator of which is the number of years and months (expressed as fractional years) of Service and the denominator of which is 10.
- (3) *Extent of Application.* In no event shall the provisions of this subsection reduce the limitations of subsection (a)(1), (a)(2), or (b), Part A, to an amount less than one-tenth of the applicable limitation (as determined without regard to this subsection).

(d) Cost of Living Adjustments.

- (1) *Dollar Limit.* The limitation set forth in subsection (a)(1) shall be automatically adjusted under Section 415(d) of the Code effective January 1 of each year as published by the IRS. The new limitation shall apply to the Limitation Year ending with or within the calendar year of the date of the adjustment, but an Employee's benefit shall not reflect the adjusted limit prior to January 1 of that year; such limitation shall continue in effect until superseded by a new adjustment under Section 415(d).
- (2) *Compensation Limit.* With respect to an Employee who has a Termination of Employment or whose benefits have commenced, the limitation set forth in subsection (a)(2) shall be automatically adjusted by multiplying the limitation applicable to the Employee in the prior Limitation Year by the annual adjustment figure published effective January 1 by the IRS. The adjusted compensation limit shall apply to Limitation Years ending with or within the calendar year of the date of the adjustment, but an Employee's benefit shall not reflect the adjusted limit prior to January 1 of that calendar year; such a limitation shall continue in effect until superseded by a new adjustment under Section 415(d).

(e) Adjustments re Form of Benefit. With respect to an Employee whose benefit is payable in a form of benefit offered under the Plan which is not a straight life annuity with no ancillary benefits, the applicable limitation of subsection (a) shall be applied under paragraph (1) or (2) below, subject to paragraph (3).

- (1) *Lump Sum.* With respect to a lump sum or other form of benefit which would be subject to Section 417(e)(3) of the Code if the Plan were subject to Section 417 of

the Code, the actuarially equivalent straight life annuity benefit is the greatest of: --

- (i) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using the interest rate and mortality table specified in the Plan for actuarial equivalence;
- (ii) The annual amount of straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using a 5.5 percent interest assumption and the applicable mortality table for the distribution under Section 417(e)(3)(B) of the Code; or
- (iii) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable (computed using the applicable interest rate for the distribution under Section 417(e)(3)(C) of the Code and the applicable mortality table for the distribution under Section 417(e)(3)(B) of the Code), divided by 1.05.

(2) *Annuity.* With respect to an immediate annuity or other form of benefit which would not be subject to Section 417(e)(3) of the Code if the Plan were subject to Section 417 of the Code, the actuarially equivalent straight life annuity benefit is greater of:

- (i) The annual amount of the straight life annuity (if such a form of benefit is offered under the Plan) payable to an Employee under the Plan commencing at the same annuity starting date as the form of benefit payable to the Participant; or
- (ii) The annual amount of straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to an Employee computed using a 5 percent interest assumption and the applicable mortality table described in Section 417(e)(3)(B) of the Code for that annuity starting date.

(3) *Special Rule.* Notwithstanding paragraphs (1) and (2), for purposes of this subsection, survivor benefits payable to a Surviving Spouse are not taken into account if the form benefit would be a qualified joint and survivor annuity under Section 417 of the Code if the Plan were subject to such section.

(f) *Adjustments re Time of Commencement of Benefit.*

- (1) *Commencement before Age 62.* If an Employee's retirement benefit commences before his 62nd birthday, the dollar limitation set forth in subsection (a)(1) (determined after adjustment under subsections (c) and (d)) shall be the smaller of:

- (i) The actuarial equivalent of said dollar limitation at age 62, determined by using the interest rate and mortality assumption in paragraph (3), or
 - (ii) If the Plan offers an immediately commencing straight life annuity payable both at age 62 and the age at which the Employee's benefit commences, said dollar limitation multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under the Plan to the annual amount of the straight life annuity under the Plan commencing at age 62, which both annual amounts determined without applying the rules of this section.
- (2) *Commencement after Age 65.* If an Employee's retirement benefit commences after his 65th birthday, the dollar limitation set forth in subsection (a)(1)(determined after adjustment under subsections (c) and (d)) shall be the smaller of –
 - (i) The actuarial equivalent of said dollar limitation at age 65, determined by using the interest rate and mortality assumptions in paragraph (3), or
 - (ii) If the Plan offers an immediately commencing straight life annuity payable both at age 65 and the age at which the Employee's benefit commences, said dollar limitation multiplied by the ratio of (a) the annual amount of the immediately commencing straight life annuity under the Plan (computed by disregarding the Employee's accruals after age 65 but including actuarial adjustments even if those actuarial adjustments are applied to offset accruals) to (b) the annual amount of the straight life annuity under the Plan commencing at age 65 payable under the Plan to a hypothetical Employee who is 65 years old and has the same Accrued Benefit (with no actuarial increases for commencement after age 65) as the Employee receiving the distribution (determined disregarding the Employee's accruals after age 65), with both annual amounts determined without applying the rules of this section.
- (3) For purposes of subparagraphs (1)(i) and (2)(i), the interest rate assumption used in determining actuarial equivalence shall be 5% per annum, and the mortality assumption shall be that specified by the Secretary of the U.S. Treasury under Section 415(b)(2)(E) of the Code.
- (g) *Multiple Annuity Starting Dates.* If an Employee has or will have distributions commencing at more than one annuity starting date, then the limitations of this section must be satisfied as of each of the annuity starting dates, taking into account under regulations prescribed by the IRS the benefits that have been or will be provided at all of the annuity starting dates.

(h) Compensation.

- (1) The term Compensation for any Limitation Year means total compensation actually paid or made available by the Employer for such year, including differential wage payments as defined in Section 3402(h)(2) of the Code and income from sources without the United States which is excludable for federal income tax purposes, but not including deferred compensation (as described in Treas. Reg. 1.415(c)-2(c)(1)) or other amounts which receive special tax benefits. Compensation shall be determined without regard to any election of the Employee to (i) defer into an arrangement under Code Section 401(k) or 403(b), (ii) to contribute to a plan under Code Section 125, or (iii) reduce for qualified transportation fringe benefits under Code Section 132(f)(4) compensation otherwise payable to the participant by the Employer.
- (2) Compensation taken into account for a Limitation Year shall be such amount as is actually paid or made available to the Employee within such Limitation Year and prior to his Termination of Employment Date. Notwithstanding the preceding sentence, however, amounts paid within 2-1/2 months after severance from employment (or, if later, before the end of the Limitation Year in which such severance from employment occurs) shall not be excluded from Compensation if such amounts (i) would have been paid to the Employee as regular compensation (as described in Treas. Reg. 1.415(c)-2(e)(3)(ii)) if his employment had not terminated, or (ii) were for accrued sick, vacation or other leave that the Employee could have used if his employment had continued.
- (3) Compensation for a Limitation Year in excess of the limitation under Section 401(a)(17) of the Code that is in effect for the calendar year in which such Limitation Year begins shall be disregarded.

(i) Aggregation of Plans. For purposes of this section, all qualified defined benefit plans maintained by the Plan Sponsor shall be treated as a single plan, and the benefits, of an Employee, under all such plans shall be aggregated. Solely for purposes of this subsection, the Plan Sponsor and all entities (whether or not incorporated) affiliated with or controlled by the Plan Sponsor, determined under Sections 414(b) and (c) of the Code, as modified by Section 415(h) of the Code, shall be treated as a single employer.

(j) Applicability of this Section.

- (1) Effective Dates. This section is effective for Limitation Years beginning on or after July 1, 2007, except that:
 - (i) Subsection (e)(1)(i) and (ii) shall be effective for Limitation Years beginning

on or after January 1, 2004; and

- (ii) Subsection (e)(1)(iii) shall be effective for Limitation Years beginning on or after January 1, 2006.

(2) *Preservation of Prior Accruals.*

- (i) *In General.* This section shall not cause the benefit of any Employee to be less than his benefit as of the last day of the last Limitation Year beginning before July 1, 2007 under (a) provisions of the Plan adopted and in effect on April 4, 2007 and (b) changes to Section 415(b) made by the Pension Funding Equity Act of 2004 (P.L. 108-218) and the Pension Protection Act of 2006 (P.L. 109-280).

- (ii) *Compensation Limit.* The amendment of subsection (a)(2) reflecting Section 415(b)(11) of the Code as amended by the Pension Protection Act of 2006 (P.L. 109-270) shall not reduce an Employee's benefit below the greater of (a) his Accrued Benefit on the day before the commencement of the first Limitation Year beginning on or after January 1, 2007 or (b) his Accrued Benefit determined as of the day before the first day of the first Limitation Year with respect to which he was a highly compensated Employee (as defined in Section 414(q) of the Code) of the Employer.

SECTION 7. DISABILITY

- 7.1 Eligibility. This Section 7.0 governs the retirement benefit of an Employee who becomes Disabled as defined in Section 7.2 and remains so Disabled until his Normal Retirement Date.
- 7.2 Definitions.
- (a) **Disability.** An Employee is Disabled for purposes of the Plan if he or she has been issued a disability award letter by the Social Security Administration which has not been amended or revoked.
 - (b) **Disability Commencement Date.** The Employee's Disability is deemed to commence on the date determined by the Social Security Administration in its award letter. If such award letter does not state the commencement date of the disability, the Employee's disability is deemed to commence on the date determined in good faith by the Plan Administrator, which determination shall be final and binding on all persons affected thereby.
 - (c) **Disability Determination Date.** The Employee's Disability Determination Date under the Plan is the first day of the month in which he or she delivers to the Plan Administrator a copy of the Social Security Administration award letter and such other evidence of the Social Security Administration determination as the Plan Administrator may reasonably request.
- 7.3 Disability Retirement Benefit. An Employee who is Disabled on his Normal Retirement Date will be entitled, without regard to Section 9.1, to receive an annual retirement benefit computed pursuant to Section 6.1, assuming Service would have continued to his Normal Retirement Date.
- The Plan benefit will be determined based upon the Employee's Highest Average Final Earnings on the date his Disability is deemed to have commenced under Section 7.2(b).
- 7.4 Payment of Benefit. Retirement benefits under this Section 7 will be payable in the relevant normal form described in Section 6.4, commencing on the Employee's Normal Retirement Date. (Benefits under this Section 7 shall not be payable from Early Retirement Date or from Disability Determination Date but only from Normal Retirement Date.)
- 7.5 Death Before Benefits Begin. If an Employee's death occurs prior to commencement of retirement benefits, while such Employee is Disabled, his Spouse or if no Spouse, his Children, or if no Children his Beneficiary will receive a survivor's benefit determined in accordance with the terms and conditions of Section 10.

- 7.6 Reemployment or Termination Upon Cessation of Disability. For purposes of this Plan, recovery from Disability will be deemed to have occurred as of any date, prior to age 65, on which disability payments are discontinued under the Social Security Act.

The employment of an Employee whose disability benefit under the Social Security Act is discontinued prior to age 65 shall be deemed terminated for purposes of the Plan if the Employee is not reemployed by the Employer within sixty (60) days of such discontinuance. In such event, for purposes of crediting Service hereunder, employment will be deemed to terminate on the last day of the month in which the Employee's disability benefits under the Social Security Act ceased.

SECTION 8. RESTRICTIONS ON DISTRIBUTIONS

8.1 Required Minimum Distributions.

- (a) Distribution of the entire vested interest of each Employee shall occur by his required beginning date (April 1 of the year following the year in which he attains age 70-1/2, or retires if later) or shall commence by his required beginning date and occur over the life of such employee or the lives of such Employee and his designated beneficiary, as set forth in Section 401(a)(9) of the Code, including the minimum distribution incidental benefit requirement of Section 401(a)(9)(G), which provisions are incorporated herein by this reference.
- (b) All distributions required under subsection (a) shall be determined and made in accordance with Treas. Reg. 1.401(a)(9)-1 through -9, which are incorporated herein by this reference.
- (c) Any lump sum survivor benefit payable on account of the death of an Employee or Surviving Spouse will be paid within five (5) years from such Employee's (or Surviving Spouse's) death.
- (d) Subsections (a), (b), and (c) shall override any provision of the Plan inconsistent therewith.

8.2 Restriction on Distribution. Subject to Section 8.1, but notwithstanding any other provision of the Plan to the contrary, no form of distribution under the Plan shall permit benefits to be paid over a period that extends beyond:

- (a) the Employee's life, or
- (b) the Employee's life and the life of his Spouse, Children, or Beneficiary, or
- (c) a period of ten (10) years from commencement of benefits.

- 8.3 No Change in Timing or Method of Payment of Survivor Benefits. Any survivor benefits payable on account of the death of an Employee whose benefits are in pay status, shall be paid in accordance with the method of payment in effect prior to such Employee's death at least as rapidly as was provided to such Employee under such method. A form of payment may not be modified or rescinded after benefit payments to the Employee have commenced.

SECTION 9. TERMINATION OF EMPLOYMENT AND/OR CHANGE IN STATUS OF EMPLOYEE

- 9.1 Termination of Employment and Vested Deferred Benefit. Upon Termination of Employment an Employee (and the Employee's Spouse, Children, Beneficiary or Beneficiaries) will lose all rights to benefits under this Plan, except as hereinafter provided in this section and Section 11 or Section 12, whichever is applicable.

If the employment of an Employee is terminated prior to his Normal or Early Retirement Date, the Employee will be entitled to a Vested Deferred Benefit equal to his Accrued Benefit multiplied by the applicable percent determined as of the Employee's Termination of Employment Date under subsection (a) or subsection (b) below, whichever is greater:

- (a) Service Only

Years of Service	Percent Vested
Less than 5 years	0%
5 years or more	100%

- (b) Age Plus Service

Sum of Age Plus Years of Service	Percent Vested
Less than 55	0%
55 or more	100%

- 9.2 Full Vesting Upon Normal Retirement. An Employee shall be 100% vested in his Accrued Benefit upon attainment of his Normal Retirement Date notwithstanding his status under Section 9.1, or any other section of this Plan affecting vesting.
- 9.3 Amount of Vested Deferred Benefit. The annual benefit, payable at Normal Retirement Date for an eligible terminated Employee, will be determined in accordance with the formula set forth in Section 6.1.

- 9.4 Payment of Benefit. Vested Deferred Benefits are payable at Normal Retirement Date, in the applicable normal form described in Section 6.4.

A terminated Employee may elect a reduced benefit payable on his Early Retirement Date providing he had completed the Service requirements for early retirement as set forth in Section 5.2 on his date of Termination of Employment.

- 9.5 Termination After Retirement Date. Termination of Employment of an Employee on or after his Normal or Early Retirement Date will be deemed retirement for the purpose of this Plan as of the first day of the calendar month in which termination occurred.

- 9.6 Death of a Vested Terminated Employee. If the death of a vested terminated Employee occurs **before** his Normal Retirement Date, or before the date such Employee had retired early under Section 5.2, a survivor benefit will be payable in accordance with Section 11.2 or Section 11.6 whichever is applicable.

If the death of a vested terminated Employee occurs **after** such Employee has retired under this Plan (whether or not benefits have commenced), a survivor benefit, if any, will be determined in accordance with Section 6.1 and payable in accordance with Section 6.4(a) or 6.4(b) whichever is applicable.

- 9.7 Transfer to Ineligible Status and Reinstatement.

- (a) If an Employee ceases to be a member of an eligible class of Employees, but his employment with the Employer has not terminated, or such Employee becomes employed by an affiliate or subsidiary of the Employer which is not covered by this Plan, such Employee shall be ineligible for continued coverage under this Plan and reclassified as inactive on the first day of the month next following his transfer to an ineligible class.

Such transfer will not be considered to have interrupted continuity of employment. Such Employee will continue to be credited with Service while classified as inactive, but further benefits will not accrue while such Employee is inactive. No loss of Accrued Benefit will occur as a result of said transfer.

- (b) In the event such Employee again becomes a member of an eligible class of Employees, he will be reinstated to an active status under this Plan on the first day of the month following his resumption of such eligibility and immediately begin to accrue benefits, computed on the basis that Service credited prior to the date of transfer and service credited subsequent to reinstatement shall be added together, but the intervening time shall be disregarded for determining benefits.

In no event will the subsequent benefit payable under this Plan be less than the sum of the Employee's Accrued Benefit, calculated as of the date of each transfer.

SECTION 10. SURVIVOR BENEFITS IF DEATH OCCURS WHILE EMPLOYED OR DISABLED

- 10.1 Eligibility. If an Employee's death occurs while he is in the employ of the Employer, or while such Employee is Disabled and prior to his Normal Retirement Date, such Employee's Surviving Spouse, or Children, or other Beneficiary if the Employee had no Spouse or Children, will be eligible for a survivor benefit, provided the Employee satisfies one of the following eligibility requirements:

Eligibility Requirements (1) or (2)

- (1) The deceased Employee was entitled to a full or partially Vested Deferred Benefit under Section 9.1 on his date of death.
 - (2) The sum of the deceased Employee's age plus Service equaled 40 or more on his death.
- 10.2 Surviving Spouse Benefits. If the deceased Employee was married on his date of death, his Surviving Spouse will receive a benefit equal to the amount determined in accordance with Section 10.3 and payable in accordance with Section 10.5.
- 10.3 Amount of Surviving Spouse Benefit. The annual Surviving Spouse benefit will be 50% of the deceased Employee's Accrued Benefit on the last day of the month in which his death occurred, reduced by the Spouse Reduction Factor in Section 10.4, but not less than \$1,200 per annum. Accrued Benefits under this subsection will be computed in accordance with Section 6.1, or Section 6.3 if applicable.
- 10.4 Spouse Reduction Factor. If the Surviving Spouse was born more than ten years after the Employee, said Spouse's benefit will be reduced by one-tenth of one percent for each complete month in excess of ten years from the date of birth of the Employee to the date of birth of his Surviving Spouse.
- 10.5 Payment of Surviving Spouse Benefits. One-twelfth of the annual benefit determined for the Surviving Spouse, under this section, will be payable monthly from the first day of the month next following the Employee's death, if said Spouse is then living, to the date of the payment due preceding the death of said Spouse, subject to the minimum number of payments described next.

If the death of a Surviving Spouse occurs prior to the payment of 120 installments, the remaining portion of such 120 installments shall be continued to the deceased Employee's Children in equal shares, or, if there are no Children to the Employee's Beneficiary, if any, otherwise, to the Surviving Spouse's Beneficiary. Thereafter no further retirement or survivor benefit will be payable.

- 10.6 Single Employee's Survivor Benefits - Period Certain Benefit. If a deceased Employee is not survived by a Spouse, such Employee's survivors will be eligible for a period certain survivor benefit as determined in accordance with Section 10.7 and payable in accordance with Section 10.8.
- 10.7 Amount of Single Employees' Period Certain Survivor Benefit. The amount of the period certain survivor benefit will be equal to the annual retirement benefit which the Employee had accrued as of the last day of the month in which his death occurred, computed for the deceased Employee in accordance with Section 6.1, or Section 6.3 if applicable, but not less than \$1,200 per annum.
- 10.8 Payment of Period Certain Survivor Benefits. One-twelfth of the period certain survivor benefit will be payable monthly to the Employee's Children in equal shares, or if no Children survive the Employee, to his Beneficiary.

Payment will begin on the first day of the month next following the death of the Employee and end with the payment due on the first day of the month in which the payment of the 120 monthly installment occurs.

If the death of the Employee's Children, or his Beneficiary if he had no Children, occurs prior to the payment of 120th monthly installments, the remaining portion of such 120th monthly installments shall be continued to another Beneficiary designated by the Employee.

SECTION 11. SURVIVOR BENEFITS UPON DEATH OF A VESTED TERMINATED EMPLOYEE BEFORE RETIREMENT

(See Section 12 if the terminated Employee has retired.)

- 11.1 Eligibility. If the death of a terminated Employee, who is eligible to receive a Vested Deferred Benefit under Section 9.1, occurs prior to the date such Employee has started to receive benefits hereunder, then such Employee's Surviving Spouse, or Children, or other Beneficiary if the Employee had no Spouse or Children, will be eligible for a survivor benefit under this Plan.
- 11.2 Surviving Spouse Benefit. If the deceased, terminated Employee was married on his date of death, his Surviving Spouse will receive a benefit equal to the amount determined in accordance with Section 11.3, and payable in accordance with Section 11.5.
- 11.3 Amount of Surviving Spouse Benefit. The annual Surviving Spouse Benefit will be 50% of the Vested Deferred Benefit which had been determined for the terminated Employee in accordance with Section 9.3, reduced by the Spouse Reduction Factor in Section 11.4, but not less than \$1,200 per annum.
- 11.4 Spouse Reduction Factor. If the Surviving Spouse was born more than ten years after the Employee, said Spouse's benefit will be reduced by one-tenth of one percent for each complete month in excess of ten years from the date of birth of the Employee to the date of birth of his Surviving Spouse.
- 11.5 Payment of Surviving Spouse Benefits. One-twelfth of the benefit determined for the Surviving Spouse, under this section, will be payable monthly from the first day of the month next following the terminated Employee's death, if said Spouse is then living, to the date of the payment due preceding the death of said Spouse, subject to the minimum number of payments described next. If the death of a deceased, terminated Employee's Spouse occurs prior to the payment of 120 installments, the remaining portion of such 120 installments shall be continued to the deceased terminated Employee's Children in equal shares, or, if there are no Children, to such Employee's Beneficiary, if any; otherwise to the Surviving Spouse's Beneficiary. Thereafter, no further retirement or survivor benefit will be payable.

- 11.6 Single Employees Survivor Benefit - Period Certain Benefits. If a deceased, terminated Employee is not survived by a Spouse, then such Employee's survivors will be eligible for a period certain survivor benefit as determined in accordance with Section 11.7, and payable in accordance with Section 11.8.
- 11.7 Amount of Single Employees Period Certain Survivor Benefit. The amount of the period certain survivor benefit will be equal to the annual retirement benefit computed for the deceased terminated Employee in accordance with Section 9.3 or \$1,200 per annum if larger.
- 11.8 Payment of Period Certain Survivor Benefits. One-twelfth of the period certain survivor benefit will be payable monthly to the deceased Employee's Children in equal shares, or if no Children survive the Employee, to his Beneficiary.

Payment will begin on the first day of the month next following the death of the Employee and end with the payment due on the first day of the month in which the payment of the 120 monthly installment occurs.

If the death of the Employee's Children, or his Beneficiary if he had no Children, occurs prior to the payment of 120 installments, the remaining portion of such 120 monthly installments shall be continued to another Beneficiary designated by the Employee.

SECTION 12. SURVIVING SPOUSE BENEFITS AFTER RETIREMENT

For purposes of this section, the term Employee includes a terminated Employee who is entitled to a Vested Deferred Benefit.

- 12.1 Eligibility. A married Employee who has retired under the Plan must have been ***continuously married*** to the same Spouse from his applicable retirement date as defined in Section 5, thereafter to his date of death in order for his Spouse to be entitled to a benefit under this Section 12. (Marriage, or remarriage, after retirement under the Plan will not qualify an Employee for a Surviving Spouse benefit).
- 12.2 Surviving Spouse Benefit. If the death of a married Employee, or married terminated Employee, occurs after he has retired (whether or not benefit payments have commenced), his Surviving Spouse will receive a benefit equal to the amount determined in accordance with Section 12.3 and payable in accordance with Section 12.4.
- 12.3 Amount of Surviving Spouse Benefit. If the death of a retired married Employee occurs before payment to him of 120 monthly installments, a monthly benefit will be paid to the Employee's Surviving Spouse in the same amount as was payable to the Employee, until the remaining portion of such 120 monthly installments have been paid. Thereafter, the annual Surviving Spouse Benefit of a retired married Employee whose benefits had commenced will be 50% of the annual retirement benefit which was being paid to the Employee, or, if payment had not commenced, 50% of the annual retirement benefit that would have been computed for such Employee if the first day of the month in which his death occurred had been his benefit commencement date reduced by the Spouse Reduction Factor in Section 12.4 below.

For purposes of this subsection 12.2, a terminated, retired married Employee's Surviving Spouse benefit will be 50% of the benefit determined at Termination of Employment in accordance with Section 9.3, reduced by the Spouse Reduction Factor in Section 12.4 below.

12.4 Spouse Reduction Factor. If the Surviving Spouse was born more than ten years after the Employee, said Spouse's benefit will be reduced by one-tenth of one percent for each complete month in excess of ten years from the date of birth of the Employee to the date of birth of his Surviving Spouse.

12.5 Payment of Surviving Spouse Benefits. One-twelfth of the annual benefit determined for the Surviving Spouse, under this section, will be payable monthly from the first day of the month next following the Employee's death, if said Spouse is then living, to the date of the payment due preceding the death of said Spouse, subject to the minimum number of payments described next.

If the death of both the Employee and his Spouse occurs prior to the payment of a combined total of 120 installments, the remaining portion of such 120 installments shall be continued to the deceased Employee's Children in equal shares, or, if there are no Children, to the Employee's Beneficiary, if any, otherwise to the Spouse's Beneficiary. Thereafter, no further retirement or survivor benefit will be payable.

12.6 Single Employees Survivor Benefit. The annual benefit for survivors of a retired single (unmarried) Employee will be determined, and payable in accordance with Section 6.4.

SECTION 13. EMPLOYER CONTRIBUTIONS

- 13.1 Funding Policy and Procedure. The Bishop shall make or cause to be made an actuarial valuation of the liabilities of the Plan, future cash requirements, and an actuarial determination of Employer contributions required to maintain the tax qualified status of the Plan, fund current costs as accrued and amortize any unfunded liability over not less than the period permitted for tax qualified plans.

The actuarial assumptions and method used in such valuation shall be determined by the Plan Administrator with advice from the Plan's consultant and/or actuary, if any such advice is required or requested.

- 13.2 Amount of Contributions. The Employer intends to contribute such amounts as are necessary for the purpose of meeting the costs of this Plan, but not less than the minimum specified by the Code, any amendments thereto, and/or any rulings and regulations thereunder, or any other applicable federal statute relating to a church plan defined in Section 414(e) of the Code.

- 13.3 Time of Payment of Employer Contributions. The Employer shall pay contributions to the Trustee on account of a particular Plan Year at such times as the Employer may decide, but not later than the due date for filing his annual tax or information return, if any is filed, including extensions thereof.

- 13.4 Paid to Trustee. The Employer contributions will be paid to the Trustee under the Trust Agreement to provide benefits in accordance with the terms and conditions of this Plan.

- 13.5 Exclusive Benefit and Prohibition Against Reversion. All contributions by the Employer are for the exclusive benefit of Employees, contingent annuitants, Beneficiaries and any other persons entitled to benefits under this Plan. Prior to the satisfaction of all liabilities with respect to such persons, no amount arising from the Employer's contributions will revert to the Employer or be used for, or diverted to, purposes other than for the exclusive benefit of such persons.

- 13.6 Forfeitures. Any forfeiture arising under this Plan will not be applied to increase the benefits any person would otherwise receive under this Plan but will be applied to reduce the Employer contributions under this Plan.

SECTION 14. AMENDMENT OR TERMINATION OF PLAN

- 14.1 Amendment or Termination. Although the Plan Sponsor expects this Plan to remain in effect indefinitely, the Plan Sponsor reserves the right to amend or terminate this Plan and to discontinue contributions hereunder at any time, or suspend contributions from time to time to the extent that it is appropriate under the funding method used to determine the minimum funding requirements under this Plan, without the consent of any Employee or other person, provided, however, that the Plan Sponsor will not have the right to amend this Plan in any way that will:
- (a) deprive any person of any benefits accrued under this Plan with respect to Employer's contributions previously made; and provided further that no amendment made pursuant to mandatory provisions of the Internal Revenue Code, or any other federal or state statute relating to an employee's pension plan, or any regulations, or rulings issued under such code or statute, will be considered as depriving any person of any such benefits; or
 - (b) alter the basic purpose of this Plan to provide for the use of the Employer's contributions otherwise than for the exclusive benefit of persons entitled to benefits under this Plan.
- 14.2 Effect of Termination. In the event of the complete or partial termination of this Plan or complete discontinuance of contributions by the Employer, no further contributions will be made by the Employer, no further benefits will accrue hereunder for the Employees affected by such termination, and the rights of all such Employees to benefits accrued to the date of such termination or discontinuance, to the extent funded, are nonforfeitable and all unallocated amounts held by the Trustee under the Trust Fund will be available solely to provide retirement benefits for such Employees in the manner hereafter indicated in Section 14.4.
- 14.3 Plan Termination Date. For purposes of this section; the date of termination of this Plan will be the date established by the Employer, subject to applicable requirements of the code, if any, of the Code, any rulings or regulations thereunder, or amendments thereto, if any are applicable to this Plan.
- 14.4 Allocation. The following section applies to each Employer, affiliate, subsidiary or division of an Employer, separately or collectively, as the case may be.

Upon termination of this Plan, the Plan Administrator will determine the asset value properly apportionable to each Employer or each affiliate, subsidiary or division of an Employer.

If required by federal law or regulation, the Plan Administrator shall notify the relevant federal agency or department that this Plan, with respect to such entity, is to be terminated.

After compliance with relevant laws and regulations governing plan termination, if any apply to this Plan, the assets of this Plan, with respect to each separate entity, shall be allocated to provide benefits as follows:

- (1) The first group will include all persons who had been receiving benefits under this Plan throughout the three-year period immediately preceding termination of this Plan. For each such person there shall be allocated an amount to provide for the continuation of benefits, determined in accordance with paragraph (5) below.
- (2) The second group will include all persons who could have commenced receiving benefits three years (or more) prior to the termination date, but who had not done so as of such termination date. For each such person there shall be allocated an amount to provide for the payment of benefits determined in accordance with paragraph (5) below.
- (3) The third group will include all persons, not included in the first and second group, who have met the requirements in Section 9 of this Plan for a Vested Deferred Benefit. For each such person there will be allocated an amount to provide a retirement benefit determined in accordance with (a) or (b) below, whichever is applicable and payable in accordance with subparagraph (c) as follows:
 - (a) For persons whose benefits have commenced, or whose benefits could have commenced, on account of retirement, death or Disability, and who are not included in groups one or two above, benefits will be determined in accordance with Section 6.1 in the case of retirement or, or the relevant normal form in Section 6.4 in the case of death or, Section 7 in the case of Disability, adjusted for Service to the plan termination date in Section 14.3.
 - (b) For persons who are ineligible to receive a benefit on the plan termination date in Section 14.3, there will be allocated an amount to provide a Vested Deferred Benefit determined in accordance with Section 9.3.
 - (c) For purposes of this sub-paragraph, benefits will be payable in the applicable normal form described in Section 6.4 herein, beginning immediately in the case of retirement and death, and at age 65 in the case of Disability and Vested Deferred Benefits.

- (4) The fourth group will include all persons not included in the first, second, and third groups above (if any) who have an Accrued Benefit under this Plan. For each such person there will be allocated an amount to provide a retirement benefit, determined in accordance with Section 6.1 and adjusted for Service to the Plan Termination Date. Such benefit will be payable commencing on the Normal Retirement Date in the applicable normal form provided in Section 6.4.
- (5) For each person included in the first and second groups above, his benefit shall be determined in accordance with the Plan provisions as in effect during the five-year period ending on the plan termination date in Section 14.3 which produces the lowest benefit, payable in the applicable normal form described in Section 6.4 of this Plan. In the case of benefits provided under an annuity or similar contract issued to the Employer by an insurance company, such benefits will be paid in accordance with the terms of such contract, or a certificate issued by the insurance company.

The allocation will start with the first group and will continue to the extent that the balance of the amount available under the Trust Fund permits. The full amount will be allocated for each person in a particular group before any amount is allocated for persons in a subsequent group.

If the remaining balance is not sufficient to allocate the full amount for each person in a particular group, a pro rata allocation will be made on the basis of the present value of the benefit amounts applicable for the group to which such pro rata allocations will apply. Present values will be determined by using factors as provided in Section 16.21.

Instead of the form and date of payment set forth above, the Plan Administrator (or his delegate) may offer an alternate method of distribution for each person in a group above, in the form of cash, providing that if the approval of a federal government agency or department is required for such alternate method to become effective, that such approval is requested and granted.

If the Secretary of the Treasury determines that any allocation made pursuant to this Section 14.4 results in discrimination prohibited by Section 401(a)(4) of the Code then, if required to prevent the disqualification of this Plan or the Trust Fund under Section 401(a) or 501(a) of the Code, the assets allocated under groups (3) and (4) shall be reallocated to the extent necessary to avoid such discrimination.

- 14.5 Surplus Assets. After fulfillment of all obligations provided for in Section 14.4, any remaining unallocated amounts resulting from the differences between actual and assumed actuarial experience will be returned to the Bishop.
- 14.6 Merger of Plans. This Plan and the Trust Fund associated with it shall not be merged or consolidated with, nor any assets transferred to, any other plan, unless the benefit after such merger or consolidation is equal to or greater than the value of the benefit the Employee (or his Beneficiary in a proper case) would have received had this Plan terminated on the day before such merger or consolidation.

SECTION 15. TREASURY DEPARTMENT REQUIREMENTS

- 15.1 Limitation Because of Treasury Department Requirements. The purpose of this section is to conform this Plan to the requirement of Section 1.401-4(c) of the Treasury Department Regulations. For purposes of this Section 15, Effective Date means September 1, 1989.
- 15.2 Plan Termination Within Ten Years, Etc. This section is applicable only to the twenty-five highest paid Employees as of the Effective Date (including any such highest paid Employees who are not covered under this Plan at that time but may later become covered). Notwithstanding any provision in this Plan to the contrary, the benefits provided by the Employer's contributions for the above named Employees whose anticipated annual retirement benefit provided by such contributions will exceed \$1,500, will be subject to the following limitations, conditions and exceptions:
- (a) Such benefits will be paid in full which have been provided by the Employer's contributions not exceeding the larger of the following amounts:
 - (1) \$20,000; or
 - (2)
 - (i) the contributions of the Employer which would have been applied to provide pension benefits for the Employee under the Prior Plan, if any, if the Prior Plan had terminated on the Plan Effective Date, and
 - (ii) an amount equal to 20 percent of the first \$50,000 of the Employee's average regular annual compensation multiplied by the number of years between the Plan Effective Date and (a) the date that this Plan terminates, or (b) if benefits become payable to an Employee described in the first paragraph of this section within ten years after this Plan's Effective Date, the date retirement benefits of such Employee first become payable (if before the date of termination of the Plan), or (c) if benefits become payable to an Employee described in the first paragraph of this section after this Plan has been in effect for ten years and if the full current costs of this Plan for the first ten years have not been met, or if the full current costs have not been met on the dates referred to in (a) or (b) above, the date of the failure to meet full costs.

- (b) If, (1) the Plan is terminated within ten years after the Effective Date, or (2) the benefits of any of the Employees described in the first paragraph of this section become payable within ten years after the Effective Date, or (3) the benefits of any of the Employees described in the first paragraph of this section become payable after this Plan has been in effect for ten years and, at the time such benefits become payable, the full current costs for the first ten years have not been met, the benefits which any of the Employees described in the first paragraph of this section may receive from the Employer's contributions will not exceed the benefits set forth in (a) of this section. The limitation will cease to be effective at such time, at or after the expiration of ten years from the Effective Date, as the full current costs of this Plan have been met.
- (c) If an Employee described in the first paragraph of this section leaves the employ of the Employer or otherwise is deleted from coverage under this Plan, the benefits which he may receive from the Employer's contributions will not at any time, within the first ten years after the Effective Date, exceed the benefits set forth in (a) of this section. If at the end of ten years after the Effective Date, the full current costs of the first ten years have not been met, the benefits such Employee may receive from the Employer's contributions will not exceed the benefits set forth in (a) of this section until the first time that the full current costs of this Plan have been met.
- (d) The aforesaid conditions will not restrict the full payment of any death or survivor benefits on behalf of an Employee who dies while this Plan is in full effect and its full current costs have been met.
- (e) The aforesaid conditions will not restrict the current payment of full retirement benefits provided by this Plan for any retired Employee, who would otherwise be subject to these restrictions, provided:
 - (i) The Employer contributions which may be used for such Employee to determine benefits in accordance with the restrictions in this section, are applied to provide a level amount of benefit payment in accordance with the applicable normal form in Section 6.4, and
 - (ii) the benefit thus provided is supplemented, to the extent necessary to provide the full retirement income benefits in the normal form called for under this Plan (Section 6.4), by current payments to such Employee as such benefits become due, and

- (iii) such supplemental payments are made at any time only if the full current costs of this Plan have been met, or the aggregate of such supplemental payments for all such Employees does not exceed the aggregate Employer contributions already made under this Plan in the year then current.
- (f) In the event of termination of this Plan within the period during which (b) of this section is effective, distributions and benefits to then non-retired Employees, other than the Employees described in the first paragraph of this section, will be allocated in accordance with Section 14.4.

SECTION 16. ADMINISTRATION

- 16.1 Plan Administrator and Named Fiduciary. The Bishop is hereby designated as the Plan Administrator and Named Fiduciary and will be responsible for the general administration of the Plan and will be entitled to rely on all valuations, tables and reports furnished by the Trustee or by a consultant retained or employed by the Plan Administrator.
- 16.2 Plan Administrator's Powers. The Plan Administrator will have full discretionary authority to administer, interpret and construe this Plan including discretionary authority to determine all questions of eligibility and of the status, rights and benefits of Employees and other persons under this Plan. In all such cases, the Plan Administrator's determination will be based on uniform rules and practices and will be binding, on all Employees or other persons affected thereby.
- 16.3 Named Fiduciary's Duties. It shall be the duty of the Named Fiduciary to establish a funding policy and procedure to carry out the objectives of the Plan. The Named Fiduciary is also responsible for engagement and retention of Investment Manager(s) under Section 16.8.
- 16.4 Delegation of Plan Administrator and Named Fiduciary Duties. The Plan Administrator and Named Fiduciary may delegate all or part of his responsibilities. No delegation of the Plan Administrator's and Named Fiduciary's powers and duties to any party not an employee of any Employer shall become effective until the party designated accepts those powers and duties in writing filed with the Plan Administrator.
- 16.5 Acts of Authorized Person to be Considered Acts of Plan Administrator. Whenever the Plan Administrator or his delegate is permitted or required to do or perform any discretionary responsibility act, matter or thing (acts), it shall be done and performed by any officer, or other person, duly authorized and delegated to do so by the Plan Administrator, and such acts shall be considered acts of the Plan Administrator.
- 16.6 Allocation of Functions. Any person or group of persons, may serve in more than one fiduciary or administrative capacity with respect to the Plan. Such persons may agree in writing to allocate among themselves the various powers and duties delegated to them, provided all such persons sign such agreement. A copy of any such agreement shall be promptly filed with the Plan Administrator and where appropriate with the Trustee.

- 16.7 Trustee's Power and Duties. The powers and duties of the Trustee shall be to manage and hold the funds of the Trust Fund in accordance with the terms of the Trust Agreement forming a part hereof.
- 16.8 Appointment of Investment Manager. The Named Fiduciary may appoint and retain one or more Investment Managers to manage any assets of the Trust Fund (including the power to acquire and dispose of such assets). The Investment Manager(s) shall be the person(s), or other entity(ies), designated by the Named Fiduciary in writing filed with the Plan Administrator and Trustee. No appointment shall become effective until the Investment Manager enters into a signed agreement with the Named Fiduciary which sets out such enumerated powers and duties, and the Trustee is notified of such appointment.
- 16.9 Records and Reports. The Plan Administrator shall keep a record of all his proceedings and acts and shall keep all such books of account, records, and other data as may be necessary for proper administration of this Plan.

The Plan Administrator shall notify the Trustee of any action taken by him, or by the Employer (if the Employer is not the Plan Administrator), or by a committee, or committees appointed by the Plan Administrator, or by delegates of the Plan Administrator, or by an Investment Manager and, when required, shall notify any other person or persons with a financial interest in the Plan.

The Plan Administrator shall file or cause to be filed all such annual reports, financial and otherwise as may be required by any federal or state statute, agency or authority within the time prescribed by law or regulation for filing said documents, if any are applicable to this Plan.

- 16.10 Application (Claim) for Benefits. Except as provided in Sections 6.6, and 16.20, no benefit will be paid hereunder until the Employee, or in a proper case his Spouse, or if no Spouse his Children, or if no Children his other Beneficiary, submits an application to the Plan Administrator. Application for benefits under this Plan must be made in writing on a form or forms supplied by, or acceptable to the Plan Administrator, within ninety (90) days prior to the date such benefit is scheduled to commence; otherwise such benefit payment may be delayed by the Plan Administrator, beyond the period specified in Section 6.5.

Incomplete applications will be returned to the applicant and, where appropriate, an explanation or assistance as to how the applicant can perfect the application will be provided.

- 16.11 Spouse Consent. No payments to, or election by, an Employee may be made hereunder unless his Spouse consents to the payment, or election, as follows:
- (a) The Employee's Spouse must consent to the payment, or the election of optional form of benefit, in writing on a form or forms provided by or acceptable to the Plan Administrator. The Spouse's signature consenting to the payment or election of optional form of benefit must be witnessed by the Plan Administrator or a notary public.
 - (b) Spouse consent to an optional form of benefit must name the optional form of benefit elected by the Employee.
 - (c) Nothing in this section shall permit a married Employee to designate a Beneficiary other than his Spouse.
 - (d) Spousal consent may be waived if the Employee can establish to the satisfaction of the Plan Administrator that there is no Spouse or the Spouse cannot be located. Any consent by a Spouse is effective only with respect to that Spouse.
- 16.12 Evidence of Marital Status. For purposes of payment of benefits hereunder and wherever Spouse consent is required herein, it must be established to the satisfaction of the Plan Administrator, that an Employee does or does not have a Spouse, or that the Employee is deemed not to have a Spouse because no Spouse can be located, or because of such other circumstances as may be prescribed in regulations issued by the Secretary of the Treasury.
- 16.13 Information to be Furnished Employees and Beneficiaries. The Plan Administrator shall furnish such information, reports, statements and documents to Employees, Spouses, and other Beneficiaries of this Plan as may be required by any federal statute or regulation applicable to church plans, as defined in Section 414(e) of the Code, within the time prescribed for furnishing such information or material, if any are applicable hereto.
- 16.14 Copies of Documents, Etc. Copies of this Plan and the Trust Agreement, annual financial reports, plan summaries and other relevant data will be available for inspection to Employees and Beneficiaries, or their delegates, by appointment, made at least ten (10) days in advance, at the principal office of the Employer, during regular business hours. Copies of such documents may be obtained by written request made to the Plan Administrator. The Plan Administrator may make a reasonable charge to defray the expense of compiling, mailing and reproducing such documents.

- 16.15 Information to be Furnished to Plan Administrator. An Employee or Beneficiary, or such other person as may make application for benefits, or request information with respect to benefit determination or payment of benefits, will furnish all information which the Plan Administrator, may reasonably require for the administration of this Plan.
- 16.16 Misstatements. If the age or sex, or any other relevant fact relating to any Employee or other individual, is found to have been misstated, an equitable adjustment of benefits payable will be made by the Plan Administrator, or his delegate(s), based on the correct information as it is known by the Plan Administrator. Any adjustments of benefits made in accordance with this section will be conclusive, subject to the provisions of Section 16.18, upon any Employee, Spouse, Child, other Beneficiary, or other individual affected thereby. Any overpayments of benefits by the Trustee due to any misstatements, subject to a possible interest charge assessed by the Plan Administrator, will be deducted from the amounts otherwise payable with respect to the benefit, or may be recovered by the Plan Administrator under due process of law. No adjustment will reduce an Employee's (or any other person's), benefit below the amount which he otherwise has a nonforfeitable right to receive.
- 16.17 Notice of Decision. A decision as to the disposition of an application for benefits shall be made as soon as practical after submission, and such decision shall be communicated in writing to the applicant by the Plan Administrator.
- 16.18 Right of Appeal. Any Employee, or other person, who has had a claim for a benefit under this Plan denied shall be entitled to receive adequate notice, in writing, of such denial, setting forth the specific reasons for such denial, and such Employee, former Employee, or other person, shall be given a period of not less than sixty (60) days in which he may request and receive a full and fair review by the Plan Administrator.
- 16.19 Employee's Beneficiary. SUBJECT TO SECTION 17.2, AN EMPLOYEE'S SURVIVING SPOUSE AND HIS CHILDREN SUPERSEDE ANY OTHER DESIGNATION. NEITHER THE EMPLOYEE, SPOUSE, OR CHILDREN MAY MAKE AN ELECTION TO THE CONTRARY. When necessary for the administration of this Plan, the Employee will designate his primary and secondary Beneficiary and any change in such designation to the Plan Administrator, on a form or forms supplied by or acceptable to the Plan Administrator. Similarly, the designated Beneficiary will make such designation.

If a Spouse, or if no Spouse a Child, or if no Children a Beneficiary, is not living (or has not been designated) at the time any benefit would otherwise be paid to said Spouse, Child, or Beneficiary, then such benefits will be paid to the surviving party of highest priority in the following list:

- (i) adult children for whom the Employee had a legal and parental responsibility,
- (ii) parent(s) of the Employee,
- (iii) siblings of the Employee,
- (iv) grandparents of the Employee,
- (v) aunts and/or uncles who are the children of (iv),
- (vi) the Employee's estate.

In the event the Spouse of an Employee, or if no Spouse a Child, or if no Child a Beneficiary, does not survive the Employee by at least 30 days, or in the event said Spouse, Child, or Beneficiary dies in or as a result of a common accident or disaster with the Employee, then the Employee's death will be deemed to have occurred last.

16.20 Facility of Payment. If an individual entitled to any payment under this Plan is incapable, due to minority or other condition, of giving a valid receipt or discharge for any payment otherwise due such individual under the Plan, then the Trustee may be directed to make such payment to the person or organization legally responsible for the individual's welfare or, if none such exists, to the person or organization which will, based on consideration of all information available to the Plan Administrator best serve the individual's welfare.

Any payment made under the conditions set out above will completely discharge the liability of the Plan Administrator, the Employer and the Trustee, with respect to the amount so paid.

16.21 Factors. Factors, mortality tables, and interest rates for determining the amount of retirement benefit payable under options of this Plan, commuted values, and actuarial equivalent benefits (not including Section 6.13 and Section 6.6) will be as follows: the interest rate to be used will be 8%; the mortality table to be used hereunder for such purposes as described in this paragraph will be the 1971 Group Annuity Mortality Table (male) projected to 1975 by Scale D, and set back 6 years.

For lump sum values calculated under Section 6.6, the factor will be based the immediate and deferred interest rates used to determine the amount of lump-sum benefits paid by the Pension Benefit Guaranty Corporation under the plans that PBGC trustees. The mortality table to be used will be the UP-84 Unisex Mortality Table, set back 4 years.

- 16.22 Payment of Plan Expenses. The Bishop may pay all expenses in administration of this Plan, including expenses and fees of the Trustee, but he shall not be obligated to do so, and any such expenses and fees not paid by the Bishop will be paid from the Trust Fund.
- 16.23 Evidence of Survival. When payment under this Plan is contingent upon the survival of any person, evidence of such person's survival must be furnished to the Plan Administrator, either by the personal endorsement of the check drawn for such payment or by other means that is satisfactory to the Plan Administrator.
- 16.24 Abandonment of Benefits, Unclaimed Amounts. If the Plan Administrator, is unable to authorize payment of any benefit because the identity or whereabouts of the person to receive such benefit cannot be positively ascertained, the Plan Administrator may withhold payment of benefits, with respect to such person, until the Plan Administrator locates and/or positively identifies such person, or until such person is declared legally dead by a court of competent jurisdiction and payment of withheld or suspended benefits is made in accordance with Section 16.19, or in accordance with established state or federal law and custom. The Plan Administrator, must mail notification of such action, to such person, at the person's last known address, at least 30 days prior to the date any action is taken and receive no response within such 30 days before withholding or stop payment of any benefit can take effect.
- 16.25 Forfeiture of Benefits Where Recipient Cannot Be Located.
- (a) **Forfeiture of Benefit.** The vested benefit of a terminated Employee shall be forfeited (subject to reinstatement under subsection (d) or paragraph (e)(1)) if the Employee does not contact the Plan and request payment of his or her benefit before the first anniversary of the date on which the Plan Administrator executes its declaration (under subsection (c)) that is reasonable effort to locate the Employee was completed.
 - (b) **Reasonable Effort to Locate Employee.** For purposes of this Section, the Plan Administrator shall be deemed to have made a reasonable effort to locate the Employee if the Plan Administrator completes the actions required under paragraph (1) within the period described in paragraph (2), attempting to provide the Employee with information as described in paragraph (3).

- (1) Actions to Locate Employee. The Plan Administrator shall complete the first of the following actions and any two of the remaining actions:
- (A) *Mandatory.* Writing to the Employee, via certified mail with return receipt requested or an equivalent private delivery service, at each and every address in the records of the Plan or in records of the Employer accessible to the Plan which is not known to the Plan Administrator to be an invalid address.
 - (B) Using the services of a licensed private investigator or an online search service and writing to the Employee at the addresses obtained (but not more than three) that are reasonably believed most likely to be valid among those provided by the investigator or search service. If fewer than four addresses are provided, the Plan Administrator shall write to the employee at all such addresses.
 - (C) In addition to (B), using a different online search service and writing to the Employee at the addresses obtained (but not more than three) that are reasonably believed most likely to be valid among those provided by the search service. If fewer than four addresses are provided, the Plan Administrator shall write to the Employee at all such addresses.
 - (D) Writing to the Employee through the Social Security Administration's Letter Forwarding Program.
 - (E) Writing to the Employee's designated beneficiary (with respect to the Plan or to life insurance or any other benefit offered by the Plan Sponsor or any affiliate thereof) at an address reasonably believed by the Plan Administrator to be valid.
 - (F) Writing to those relatives, friends, or associates of the Employee (but no more than three) known to the Plan Administrator as a result of Employee's employment, whose addresses are reasonably believed most likely to be valid among those provided by the Plan Sponsor. If fewer than four addresses are provided, the Plan Administrator shall write to all such addresses.
- (2) Timing of Actions. Actions taken by the Plan Administrator before the third anniversary of the Employee's Normal Retirement Date or subsequent date of termination of employment (or, if later, the most recent date on which the

Employee contacted the Plan Administrator pertaining specifically to his or her Plan benefit) shall be disregarded in applying this subsection (b).

(3) **Content of Message.** The Plan Administrator's communication to the Employee (or to others under subparagraph (D) or (E) of paragraph (1) above) shall clearly state:

- (A) That the Employee is believed to be entitled to a benefit under the Plan;
- (B) The address and telephone number of the Plan Administrator's delegate authorized to provide further information and assistance; and
- (C) That the Plan permits forfeiture of the Employee's benefit if no response is received and that the forfeiture will become final upon any future termination of the Plan.

(c) **Certification by Plan Administrator.** Upon completion of the reasonable effort under subsection (b), the Plan Administrator shall execute a declaration describing and certifying the actions taken to locate the Employee and the date on which such actions were completed.

(d) **Reinstatement Upon Subsequent Reappearance.** Notwithstanding subsection (a), in the event that an Employee whose benefit has been forfeited thereunder contacts the Plan Administrator (or is otherwise located) and submits a claim for his or her benefit which is approved by the Plan Administrator under regular Plan procedures, the forfeiture shall be null and void and the Plan Administrator shall commence payment of benefits as soon as administratively feasible; provided that:

(1) **Amount of Benefit:** The amount of the benefit paid to the Employee shall be determined as follows:

(A) ***Lump Sum:*** In the case of a benefit paid as a lump sum, the amount shall be equal to the amount of the benefit on the day before the forfeiture, without Interest Credits or any other addition to the benefit amount during the period of the forfeiture.

(B) ***Annuity:*** In the case of the a benefit payable as a monthly lifetime annuity, retroactive payments shall be included for the period:

(i) Beginning on the Employee's Normal Retirement Date or, if later, the first date on which the Employee was entitled to receive a benefit and

(ii) Ending on the date on which payment actually begins (or the Employee's date of death if earlier).

(2) **Reserved.**

(e) **Application to Deceased Employee.** In the case of an Employee who is deceased, this Section shall apply to payment of a survivor benefit to the Employee's Beneficiary as follows:

(1) After Forfeiture of Employee's Benefit. A benefit which has been forfeited by an Employee under subsection (a) and not subsequently reinstated shall be reinstated and paid to a Beneficiary of the Employee who contacts the Plan Administrator and files a claim for benefits which is approved by the Plan Administrator under regular Plan survivor benefit procedures. Payment of such benefit shall be governed by subsection (d) as interpreted by the Plan Administrator to apply to the situation.

(2) Before Forfeiture of Employee's Benefit. If the Plan Administrator obtains information it deems reliable that an Employee whose benefit has not been forfeited is deceased, the Plan Administrator may make an effort to locate the Beneficiary of such Employee which is reasonable based on the extend of the information regarding the death of the Employee and the identity and whereabouts of the Beneficiary that is immediately available to the Plan Administrator. Actions taken to locate such Beneficiary need not meet all the requirements of paragraph (1) of subsection (b)). The Plan Administrator may execute a declaration ---

(A) Describing the information received about the death of the Employee and the identity and whereabouts of the Beneficiary,

(B) Describing the efforts made to locate the Beneficiary, and

(C) Declaring under penalty of perjury that any failure of such efforts to meet the standards of paragraph (b)(1) is due solely to the incomplete nature of the information as to the Beneficiary which was received by the Plan Administrator.

The survivor benefit to which such Beneficiary would otherwise be entitled shall be forfeited if the Beneficiary does not contact the Plan Administrator and request payment of his or her benefit before the first anniversary of the date on which the Plan Administrator execute the declaration. Such forfeiture is subject to reinstatement and payment under subsection (d), as interpreted by the Plan Administrator to apply to the situation.

(f) **Termination of Plan.** On the Plan termination date established under Section 14.3, all forfeitures which have occurred under this Section and have not previously been reinstated shall become final and no longer subject to reinstatement.

(g) **Interpretation.** For purposes of this Section:

- (1) "Beneficiary" includes the plural as well as the singular and includes the Employee's surviving Spouse.
- (2) "Employee" includes an alternate payee under a domestic relations order accepted by the Plan under Section 17.2.
- (3) "Plan Administrator" includes a delegate of the Plan Administrator.

16.26 Benefits Payable Hereunder. The Plan Administrator shall be responsible to see that no benefits are paid hereunder except for retirement, Disability, death, plan termination, or Termination of Employment, as provided herein.

SECTION 17. MISCELLANEOUS

17.1 Entire Agreement. Neither this Plan nor any action taken by the Employer or Plan Administrator, or their delegate(s), hereunder will be construed as giving any Employee or other person any right, legal or equitable, under this Plan against the Employer, or against any officer or Employee thereof, or any right to benefits under this Plan, except as specifically provided for in this Plan. Nothing herein will be construed to give any Employee the right to remain in the employment of the Employer, or to change the terms of his employment by the Employer.

17.2 Nonassignability/Non-Alienation. All of the benefits provided under this Plan are nonassignable. All benefits under this Plan will be exempt from the claims of creditors to the maximum extent permitted by law.

Benefits under this Plan shall not be subject in any manner to alienation. Any attempt to alienate benefits under this Plan, for any reason, shall be void.

The preceding paragraphs shall also apply to the creation, assignment, or recognition of a right to any benefit payable with respect to an Employee pursuant to a domestic relations order, unless such order (1) would meet the requirements for a qualified domestic relations order under Section 414(p) of the Code if such section applied to church plans that have not made an election under Section 410(d) of the Code, and (2) is determined by the Plan Administrator in its discretion to be consistent with applicable law and the terms of the Plan (including this section).

17.3 Nonforfeitability of Benefits. Subject only to the specific provisions of this Plan, nothing shall be deemed to divest an Employee during his lifetime of his right to the nonforfeitable benefit to which he becomes entitled in accordance with the provisions of this Plan.

17.4 Construction. The masculine includes the feminine wherever appropriate. The singular may include the plural; and vice versa unless the context clearly indicates to the contrary.

The Plan and Trust Agreement shall each form a part of the other by reference and terms shall be used herein interchangeably.

17.5 Employee Contributions. Employee contributions are neither required nor permitted.

SECTION 18. TOP HEAVY PROVISIONS

18.1 Effect of Top-Heavy Status. Should the Plan become Top-Heavy, the following subsections of this Section 18 shall apply, notwithstanding anything contained in this Plan to the contrary, for all Plan Years for which the Plan is Top-Heavy and for all other Plan Years where applicable.

18.2 Definitions. (Alphabetical)

- (a) Accrued Benefit. See Section 2.1 herein.
- (b) Code. Section 2.8 herein.
- (c) Compensation. See Section 6.13(h) herein.
- (d) Determination Date. The last day of the preceding Plan Year.
- (e) Key Employee. Any Employee or former Employee (and the Beneficiaries of such Employee) who at any time during the Plan Year that includes the Determination Date, was an officer of the Employer if such Employee's annual Compensation exceeds \$170,000 (as adjusted under Section 416(i)(1)(A) of the Code), a five percent (5%) owner of the Employer, or a one percent (1%) owner of the Employer who has Compensation of more than \$150,000. The determination of who is a Key Employee will be made in accordance with Section 416(i)(1) of the Code and the regulations thereunder.
- (f) Non-Key Employee. Any Employee who is not a Key Employee.
- (g) Normal Retirement Age and Date. See Sections 2.24 and 5.1 herein.
- (h) Permissive Aggregation Group. The Permissive Aggregation Group of plans plus any other plan or plans of the Employer which, when considered as a group with the required aggregation group, would continue to satisfy the requirements of Sections 401(a)(4) and 410 of the Code.

- (i) **Present Value.** Present Value means the current worth on the relevant date of an amount or series of amounts payable or receivable in the future. Present Values shall be determined by using factors as provided in Section 16.21. The present values of Accrued Benefits and the amounts of account balances of an Employee as of the determination date shall be increased by the distributions made with respect to the Employee under the Plan, and any plan aggregated with the Plan under Section 416(g)(2) of the Code during the one-year period ending on the Determination Date. The preceding sentence shall also apply to the distributions' under a terminated plan which, had it not been terminated, would have been in a Required Aggregation Group with the Plan. In the case of a distribution made for a reason other than severance from employment, death, or Disability, this provision shall be applied by substituting "five-year period" for "one-year period". The Accrued Benefits and accounts of any Employee who has not been credited with Service during the one-year period ending on the Determination Date shall not be taken into account.
- (j) **Required Aggregation Group.** (1) Each qualified plan of the Employer in which at least one Key Employee participated at any time during the five-year period ending on the Determination Date (whether or not such plan has terminated), and (2) any other qualified plan of the Employer which enables a plan described in (1) to meet the requirements of Sections 401(a)(4) or 410 of the Code.
- (k) **Top-Heavy Ratio.**
- (i) If the Employer maintains one or more defined benefit plans and the Employer has not maintained any defined contribution plans which during the five-year period ending on the Determination Date(s) has or has had account balances, the Top-Heavy Ratio for this Plan alone or for the Required or Permissive Aggregation Group, as appropriate, is a fraction, the numerator of which is the sum of the Present Values of Accrued Benefits of all Key Employees as of the Determination Date (including any part of any Accrued Benefit distributed in the one-year period ending on the Determination Date, and the denominator of which is the sum of all Accrued Benefits (including any part of any Accrued Benefit distributed in the one-year period ending on the Determination Date), determined in accordance with Section 416 of the Code.

- (ii) If the Employer maintains one or more defined benefit plans and the Employer maintains or has maintained one or more defined contribution plans which during the five-year period ending on the Determination Date has or has had any account balances, the Top-Heavy Ratio for any Required or Permissive Aggregation Group, as appropriate, is a fraction, the numerator of which is the sum of the Present Value of Accrued Benefits under the aggregate defined benefit plan or plans for all Key Employees, determined in accordance with (i) above, and the sum of account balances under the aggregate defined contribution plan or plans for all Key Employees as of the Determination Date, and the denominator of which is the sum of the Present Values of Accrued Benefits under the aggregate defined benefit plan or plans, determined in accordance with (i) above, for all participants of such plan and the sum of the account balances under the aggregated defined contribution plan or plans for all participants of such plan, as of the Determination Date, all determined in accordance with Section 416 of the Code. The Present Values of Accrued Benefits under a defined benefit plan and account balances under a defined contribution plan in both the numerator and denominator of the Top-Heavy Ratio are adjusted for any distribution of an accrued benefit or account balance made in the one-year period ending on the Determination Date.

- (iii) For purposes of (i) and (ii) above, the value of account balances and the Present Value of Accrued Benefits will be determined as of the most recent valuation date that falls within or ends with the twelve-month period ending on the Determination Date, except as provided in Section 416 of the Code and the regulations thereunder for the first and second plan years of a defined benefit plan. The account balances and Accrued Benefits of an Employee (1) who is a Non-Key Employee but who was a Key Employee in a prior year, or (2) who has not performed services for the Employer at any time during the one-year period ending on the Determination Date will be disregarded. The calculation of the Top-Heavy Ratio and the extent to which distributions, rollovers, and transfers are taken into account will be made in accordance with 416 of the Code and regulations thereunder. Deductible employee contributions, if any, will not be taken into account for purposes of computing the Top-Heavy Ratio. When aggregating plans, the value of account balances and Accrued Benefits will be calculated with reference to the Determination Dates that fall within the same calendar year.
- (iv) For purposes of the adjustments for distributions set forth in paragraphs (i) and (ii), "five-year period" shall be substituted for "one-year period" in the case of a distribution made for a reason other than severance from employment, death, or Disability.
- (l) Top-Heavy Year. Top-Heavy Year is the Plan Year immediately following the date a determination is made that the Plan is Top-Heavy.
- (m) Valuation Date. The last day of each Plan Year.
- (n) Year of Service. See Section 2.42.

18.3 Determination of Top-Heavy Status. This Plan shall be considered Top-Heavy with respect to any Plan Year if, as of the Determination Date for such Plan Year, either:

- (a) The Top-Heavy Ratio for this Plan exceeds sixty percent (60%) and this Plan is not part of any Required Aggregation Group, or
- (b) This Plan is part of a Required Aggregation Group of plans and the Top-Heavy Ratio for the group of plan is sixty percent (60%); provided that, if this Plan is part of one or more Permissive Aggregation Groups of plans for which the Top-Heavy Ratio does not exceed sixty percent (60%), this Plan shall not be Top-Heavy.

18.4 Minimum Accrued Benefits.

- (a) Notwithstanding any other provision in this Plan except (c), (d), and (e) below for any Plan Year in which this Plan is Top-Heavy, each Employee who is a Non-Key Employee and has completed a year of Service will accrue a benefit (expressed as a life annuity commencing at Normal Retirement Age) of two percent (2%) of his highest average Compensation for the five consecutive years for which the Employee had the highest Compensation. The minimum accrual is determined without regard to any social security contribution or benefit. The minimum accrual applies even though under other Plan provisions the Employee would not otherwise be entitled to receive an accrual, or would have received a lesser accrual for the year, because (i) the Non-Key Employee is not employed on the last day of the accrual computation period, or (ii) the Plan is integrated with social security, or (iii) the Non-Key Employee's Compensation is less than a stated amount.
- (b) For purposes of computing the Minimum Accrued Benefit, Compensation shall be as defined in Section 18.2(c) above.
- (c) No additional benefit accruals shall be provided pursuant to (a) above to the extent that the total accruals on behalf of the Employee will provide a benefit expressed as a life annuity commencing at Normal Retirement Age, that equals or exceeds twenty percent (20%) of the Employee's highest average Compensation for the five consecutive years for which the Employee had the highest Compensation.
- (d) The provisions in (a) above shall not apply to any Employee to the extent that the Employee is covered under any other plan or plans of the Employer and the Employer has provided in such plan that the minimum allocation or benefit requirement applicable to this top-heavy plan will be met in the other plan or plans.

- (e) All accruals whether or not attributable to years for which the plan is Top-Heavy, may be used in computing whether the minimum accrual requirements of paragraph (c) above are satisfied.
- (f) In determining Years of Service, any Service shall be disregarded to the extent that such Service occurs during a Plan Year when (1) the Plan is not Top-Heavy or (2) no Key Employee or former Key Employee accrues a benefit.

18.5 Top-Heavy Defined Contribution and Defined Benefit Plans - Minimum. If the Employer maintains both this Plan and a defined contribution plan and both plans are Top-Heavy, the Employer shall provide a minimum in the following order of priority:

- (a) First, each Employee who is a participant in the defined contribution plan shall receive a minimum contribution equal to five percent (5%) of his compensation.
- (b) If the Employer is unable to make contributions under paragraph (a) above, then each Employee who is also covered under the defined benefit plan shall receive a Minimum Accrued Benefit as determined under Section 18.4 above.

18.6 Adjustment for Benefit Form Other Than Life Annuity at Normal Retirement Age. If the form of benefit is other than a single life annuity, the Employee must receive an amount that is the actuarial equivalent of the minimum single life annuity benefit. If the benefit commences at a date other than at Normal Retirement Date, the Employee must receive at least an amount that is the actuarial equivalent of the minimum benefit commencing at Normal Retirement Age payable as a single life annuity. Actuarial equivalent shall be determined by factors in Section 16.21 herein.

18.7 Nonforfeitability of Minimum Accrued Benefit. The Minimum Accrued Benefit required (to the extent required to be nonforfeitable under Section 416(b)) may not be suspended or forfeited under Sections 411(a)(3)(B) or 411(a)(3)(D) of the Code.

18.8 Minimum Vesting Schedule. For any Plan Year in which this Plan is Top-Heavy, the following vesting schedule will automatically apply to the Plan. The Minimum Vesting Schedule applies to all benefits within the meaning of Section 411(a)(7) of the Code, including benefits accrued before the effective date of Section 416 and benefits accrued before the Plan became Top-Heavy. Further, no reduction in vested benefits may occur in the event the Plan's status as Top-Heavy changes for any Plan Year. However, this subsection does not apply to the Accrued Benefits of any Employee who does not have an Hour of Service after the Plan has initially become Top-Heavy, and such Employee's Accrued Benefits will be determined without regard to this subsection.

MINIMUM VESTING SCHEDULE

Less than 3 years of Service	0%
3 or more years of Service	100%

- 18.9 Change In Top-Heavy Status. If the Plan becomes a Top-Heavy Plan and subsequently ceases to be such, the vesting schedule in Section 18.8 above shall continue to apply in determining the vested status of any Employee who had at least three years of Service as of the Anniversary Date in the last Plan Year of top-heaviness, unless the requirements in Section 9.1 are more favorable to the Employee, in which case Section 9.1 shall apply. For other Employees, the above schedule shall apply only to their Accrued Benefit as of such Anniversary Date. Provided further that any portion of an Employee's Accrued Benefit that was vested before the Plan ceased to be Top-Heavy must remain vested.

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