

**THE 401(k) PLAN FOR EMPLOYEES OF THE CITY OF NEW YORK
AND RELATED AGENCIES AND INSTRUMENTALITIES AS
AMENDED AND RESTATED**

Restated Effective July 1, 2014

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Section 1. Purpose.

1.01 This Plan shall be known as "The 401(k) Plan for Employees of the City of New York and Related Agencies and Instrumentalities" (the "Plan"). The original Effective Date of the Plan is October 1, 1985, pursuant to Executive Order 81 of 1985. In addition to the original City of New York Employees Savings Plan covering noncollectively bargained mayoral employees, the City adopted two other related plans, the New York City Savings Plan for Collectively Bargained Uniformed Employees, and the New York City Savings Plan for Collectively Bargained Civilian Employees. Both of these latter plans were adopted on January 16, 1986, and received favorable IRS determination letters on November 24, 1987. The City then consolidated the three plans described above into the current single plan, The 401(k) Plan for Employees of the City of New York and Related Agencies and Instrumentalities. The Plan was subsequently amended and restated effective January 1, 2002, amended effective January 1, 2006 to add a deemed IRA program, and subsequently amended on January 1, 2013, to include reflect required changes in accordance with the Heroes Earnings Assistance and Tax Relief Act of 2008 and the Worker, Retiree, and Employee Recovery Act of 2008, clarifying language regarding the Uniformed Services Employment and Reemployment Rights Act, and the Pension Protection Act of 2006 as well as permissive changes. The Plan was most recently amended on July 1, 2014 to provide for in-Plan Roth transfers.

1.02 This Plan is designated and intended to be a defined contribution individual account plan that is qualified within the meaning of Code Section 401(a) and a governmental plan within the meaning of Code Section 414(d). It is also intended to qualify as a profit-sharing plan within the meaning of Code Section 401(a)(27) and Treasury Regulation 1.401-1(b)(1)(ii), with a Code Section 401(k) cash or deferred arrangement.

1.03 The purpose of the Plan is to encourage Employees to make and continue careers with the City of New York and the Participating Employers listed in Appendix A and to provide eligible Employees with a convenient way to save on a regular and long-term basis and thereby provide for their retirement as set forth herein.

1.04 The benefits provided to any Participant under the Plan will be based on the value of the Participant's individual Plan Account and will depend upon the investment results achieved by the Plan's Investment Funds hereunder and the Participant's individual investment choices among the Plan's Investment Funds. Each Participant shall be one hundred percent (100%) vested at all times in his or her Plan Account in accordance with the terms of the Plan.

1.05 In accordance with Section 401 of the Code and other federal laws created by the Small Business Job Protection Act of 1996, the Economic Growth and Tax Relief Reconciliation Job Protection Act of 2001, the Job Creation and Worker Assistance Act of 2002 and the Pension Protection Act of 2006, all amounts contributed to the Plan, all property and rights purchased with such amounts and all income attributable to such amounts, shall be held for the exclusive benefit of Participants and their Beneficiaries and Alternate Payees as of the Effective Date in a Custodial Account as set forth in Section 16. In no event shall any part of the principal or income of the Plan revert to the Employer, or be used for, or diverted to, purposes other than for the exclusive benefit of Participants and their Beneficiaries and defraying reasonable expenses of administering the Plan, except that to the extent Contributions are made by a mistake of fact such Contributions shall be returned to the Employer. The terms and provisions of the Plan in effect prior to the Restated Effective Date, if any, shall govern with respect to periods prior to the Restated Effective Date.

Section 2. Definitions.

2.01 **"Account(s)"** means the account established and maintained with respect to each Participant to which the Participant's Participant Elective Deferrals, Employer Matching Contributions, Eligible Rollover Contributions and Special Rollover Contributions, if any, and all earnings and losses and fees on those Contributions, shall be credited. If a Participant dies, a separate Account shall be established and maintained for each Beneficiary. A separate Account shall also be established and maintained for each Alternate Payee.

2.02 **"Account Balance"** means the Account balance as of the last Valuation Date in the calendar year immediately preceding the Distribution Calendar Year (valuation Calendar Year).

2.03 **"Administrative Service Agency"** means an entity duly authorized to do business in the State of New York and qualified to administer and maintain records and accounts of defined contribution plans which meet the requirements for qualification under the Internal Revenue Code.

2.04 **"Alternate Payee"** means any spouse, former spouse, child or other dependent of a Participant who is recognized by a Qualified Domestic Relations Order as having a right to receive all, or a portion of, the benefit payable under the Plan with respect to such Participant.

2.05 **"Beneficiary"** means the person or persons designated by a Participant pursuant to Section 13 to receive the amount, if any, payable under the Plan or a Deemed IRA upon the Participant's death.

2.06 **"Board"** means the Deferred Compensation Board of the City of New York established by Executive Order 81 of 1985.

2.07 **"Business Day"** means any day that is not a Saturday, a Sunday or other day on which banks are required or authorized by law to be closed in the State of New York.

2.08 **"Code"** means the Internal Revenue Code of 1986, as now in effect or as hereafter amended. All citations to Sections of the Code are to such Sections as they may from time to time be amended or renumbered.

2.09 **"Compensation"** means all cash compensation for services paid by the Employer to the Employee during the Plan Year, including salaries, wages, fees, commissions, overtime pay, and any accumulated sick pay, accumulated vacation pay and back pay that is includible in the Employee's gross income for the applicable Plan Year under the Code and Treasury regulations. To the extent required by Code Section 401(a)(17), a Participant's Compensation for a Plan Year shall not exceed \$200,000, as indexed for inflation, pursuant to Section 401(a)(17)(B) of the Code. For limitation years beginning on and after January 1, 2001, for all purposes of the Plan and for purposes of Section 415 of the Code, Compensation shall include amounts that would be cash compensation for services to the Employer includable in the Employee's gross income for the calendar year but for a compensation reduction election under Code Section 125, 132(f)(4), 401(k), 403(b) or 457b).

2.10 **"Contribution"** shall mean any amount designated as a Participant Elective Deferral, Eligible Rollover Contribution or Employer Matching Contribution that is deposited into an Account.

2.11 **"Custodial Account"** means a custodial account, as described in Section 401(f) of the Code, established to hold Plan assets and other rights and properties under the Plan held and administered by the Custodian pursuant to a Custodial Agreement. "Custodial Account" also means the assets held in a Deemed IRA, where applicable.

2.12 **"Custodial Agreement"** means an agreement entered into in respect of the Plan between the Board and one or more Custodian(s) pursuant to which all Plan assets, all property and rights purchased with Plan assets, and all income attributable to such assets, property and rights are held in a Custodial Account for the exclusive benefit of Participants and their Beneficiaries and Alternate Payees, as such agreement may be amended from time to time.

2.13 **"Custodian"** means the bank or trust company approved to serve as a custodian for purposes of Code Section 401(f)(2) and appointed by the Board to hold title to all Plan assets, as provided in Section 16, and any successors thereto.

2.14 **"Deemed IRA"** means a Traditional IRA and/or Roth IRA maintained under the Plan on behalf of a Participant.

2.15 **"Designated Beneficiary"** means the individual who is designated as the beneficiary under Section 13 and is the Designated Beneficiary under Code Section 401(a)(9) and section 1.401(a)(9)-1, Q&A-4, of the Treasury Regulations.

2.16 **"Direct Rollover"** means a payment by the Plan to the Eligible Retirement Plan specified by the Distributee, as defined in Code Section 402(c).

2.17 **"Distributee"** includes any Employee or former Employee. In addition, an Employee's or former Employee's Surviving Spouse, or an Employee's or former Employee's former spouse who is an Alternate Payee, are Distributees with regard to the interest of the Surviving Spouse or former Spouse. Effective January 1, 2007, a Designated Beneficiary who is not a Surviving Spouse is a Distributee with regard to the interest of the Designated Beneficiary.

2.18 **"Distribution Calendar Year"** means a calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first Distribution Calendar Year is the calendar year immediately preceding the calendar year which

contains the Participant's Required Beginning Date. For distributions beginning after the Participant's death, the first Distribution Calendar Year is the calendar year in which distributions are required to begin under Section 9.03(b). The required minimum distribution for the Participant's first Distribution Calendar Year will be made on or before the Participant's Required Beginning Date. The required minimum distribution for other Distribution Calendar Years, including the required minimum distribution for the Distribution Calendar Year in which the Participant's Required Beginning Date occurs, will be made on or before December 31 of that Distribution Calendar Year.

2.19 ***"Eligible Rollover Account"*** means an account established and maintained with respect to a Participant pursuant to Section 4.01(g) of the Plan, to which an Eligible Rollover Contribution shall be credited, if any.

2.20 ***"Eligible Rollover Contributions"*** means all Eligible Rollover Distributions credited to the Participant's Account that a Participant transfers into this Plan pursuant to Section 4.01(g) that either are directly rolled into the Plan or paid to the Plan within sixty (60) days of the Participant's receipt thereof.

2.21 ***"Eligible Rollover Distribution"*** means a distribution of all or any portion of the balance to the credit of a Distributee, except that an Eligible Rollover Distribution shall not include: (a) any distribution that is (i) one of a series of substantially equal periodic payment (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or joint life expectancies) of the Distributee and the Distributee's Beneficiary or (ii) for a specified period of ten years or more; (b) any distribution to the extent such distribution is required under Section 401(a)(9) of the Code; (c) any distribution due to a hardship of the Distributee; and (d) the portion of any distribution that is not includible in gross income;

provided, however, that a portion of a distribution shall not fail to be an Eligible Rollover Distribution merely because that portion consists of Employee after-tax contributions that are not includable in gross income. However, that after-tax portion may be transferred prior to January 1, 2007, only to an individual retirement account or annuity described in Code Section 408(a) or (b), or to a qualified defined contribution plan described in Code Section 401(a) or 403(a) that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution that is includable in gross income and the portion that is not so includable. Effective January 1, 2007, after-tax portions may be transferred only (i) in a direct trustee-to-trustee rollover to a qualified trust under Section 401(a) or 403(a) of the Code that is part of a defined contribution or defined benefit plan, or to an annuity contract described in Section 403(b) of the Code, and such trust or annuity contract separately accounts for amounts so rolled over or (ii) to an Eligible Retirement Plan under Section 408 of the Code. Effective January 1, 2008, an Eligible Rollover Distribution shall also mean a qualified rollover contribution within the meaning of Code Section 408A(e).

2.22 ***"Eligible Retirement Plan"*** means (i) Traditional IRA, (ii) an Individual Retirement Annuity, (iii) a traditional deemed individual retirement account or individual retirement annuity described in Section 408(q) of the Code, (iv) an annuity plan described in Section 403(a) of the Code, or (v) a qualified trust under Section 401(a) of the Code that accepts Eligible Rollover Distributions. An Eligible Retirement Plan shall also mean an annuity contract described in Section 403(b) of the Code and an eligible deferred compensation plan described in Section 457(b) of the Code that is maintained by a state, political subdivision of a state, any agency or instrumentality of a state or political subdivision of a state. Effective January 1, 2008, an Eligible Retirement Plan shall also mean a Roth IRA described in Code Section 408A. The

definition of Eligible Retirement Plan shall apply to a Participant and, shall also apply in the case of a distribution to a Surviving Spouse, or to a spouse or former spouse who is the Alternate Payee under a QDRO.

2.23 **"Employee"** means, with respect to the City of New York, any person employed by the City of New York in a title not certified to or represented by a collective bargaining representative pursuant to Article 14 of the Civil Service Law (the "Taylor Law") and Chapter 54 of the Administrative Code of the City of New York (the "New York City Collective Bargaining Law") and who receives stated Compensation from the City of New York other than a pension, severance pay, retainer, or fee contract. An Employee, as defined in this section, who is included in a unit of employees covered by a negotiated collective bargaining agreement, may participate in the Plan if the collective bargaining agreement covering such employees provides for coverage under the Plan. With respect to any Participating Employer, "Employee" means any individual who receives Compensation for services from the Participating Employer, including any elected or appointed officer or employee of the Participating Employer, but excluding any employee who is included in a unit of employees covered by a negotiated collective bargaining agreement which does not provide for participation in the Plan. An independent contractor shall not be eligible to participate in the Plan.

2.24 **"Employer Matching Contribution"** means a contribution made by the Employer to the Plan on behalf of each Participant who makes Participant Elective Deferrals to the Plan or the Deferred Compensation Plan for Employees of the City of New York and Related Agencies and Instrumentalities, pursuant to the provisions of Sections 4.06 and 4.07.

2.25 **"Employer Matching Contribution Account"** means an account established and maintained with respect to a Participant to which Employer Matching Contribution shall be credited, if any, pursuant to Section 4.06 or 4.07 of the Plan.

2.26 **"Employer"** means the City of New York and any Participating Employer.

2.27 **"Enrollment Date"** means the first day of any payroll period commencing on or after the Restated Effective Date.

2.28 **"Financial Organization"** means a person or entity duly authorized to do business in the State of New York and selected by the Board to provide services in respect of the Plan and which either is (i) registered as an investment adviser under the Investment Advisors Act of 1940, as such provisions may be amended from time to time; or (ii) a bank, as defined in such act, or (iii) an insurance company qualified under the laws of more than one state to manage, acquire or dispose of any assets of plans which meet the requirements for qualification under the Code.

2.29 **"Fund"** or **"Investment Fund"** means the separate fund(s) in which Contributions to the Plan are invested as provided for in Section 5.

2.30 **"Individual Retirement Annuity"** means an individual retirement annuity described in Section 408(b) of the Code.

2.31 **"Life Expectancy"** means life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9) of the Treasury regulations.

2.32 **"Normal Retirement Age"** means any age designated by a Participant (i) beginning no earlier than the earliest age at which a Participant has the right to retire under the Employer's basic pension plan, if any, without the Employer's consent and to receive immediate retirement benefits without actuarial or similar reduction because of retirement before some later

age specified in such basic pension plan, or in the case of a Participant who does not participate in such basic pension plan, age 65, and (ii) ending no later than age 70½. In the case of a Participant who continues to work beyond age 70½, the Normal Retirement Age shall be the age designated by the Participant, which shall not be later than the age at which the Participant Severs from Employment with the Employer.

2.33 ***"Participant"*** means any Employee or former Employee who either (i) is, or may become, eligible to receive a benefit of any type from this Plan, and who is enrolled in the Plan as provided in Section 3, or (ii) is a participant in the Deferred Compensation Plan for Employees of the City of New York and Related Agencies and Instrumentalities.

2.34 ***"Participant Elective Deferrals"*** means any salary reduction contributions made to the Plan by the Employer at the election of the Participant, in lieu of cash Compensation, as provided in Section 4.01.

2.35 ***"Participant Elective Deferrals Account"*** means an account established and maintained with respect to a Participant to which Participant Elective Deferrals shall be credited, if any, pursuant to Section 4.01 of the Plan.

2.36 ***"Participating Employer"*** means any Employer listed in Appendix A (other than the City of New York).

2.37 ***"Participation Agreement"*** means an agreement between an Employee and the Employer, pursuant to which the Employee elects to reduce his or her Compensation and to have the amount of that reduction contributed to the Plan as Participant Elective Deferrals on his or her behalf in accordance with the terms of the Plan. "Participation Agreement" shall also include agreements with respect to Deemed IRA elections where applicable.

2.38 **"Plan"** means the 401(k) Plan for Employees of the City of New York and Related Agencies and Instrumentalities as set forth in this document as the same may be amended from time to time.

2.39 **"Plan Administrator"** means the Board or, if applicable, the agent appointed by the Board that is responsible for the maintenance and management of the Plan.

2.40 **"Plan Benefit"** means, with respect to a Participant, the interest of such Participant in the Custodial Account, excluding any portion of such interest payable to an Alternate Payee pursuant to a Qualified Domestic Relations Order and, where applicable, the Deemed IRAs created under Section 10.

2.41 **"Plan Year"** or **"Year"** means the calendar year.

2.42 **"Qualified Domestic Relations Order"** means a domestic relations order which creates or recognizes the existence of an Alternate Payee's right to, or assigns to an Alternate Payee the right to, receive all or a portion of the benefits payable with respect to a Participant under the Plan (as defined in Code Section 414(p)(8)). The order must clearly specify the name and last known mailing address of the Participant and Alternate Payee covered by the order, the amount or percentage of the Participant's benefits to be paid by the Plan to each such Alternate Payee, or the manner in which such amount or percentage is to be determined, the number of payments or period to which such order applies, and each plan to which the order applies. The order must not require the Plan to provide any type or form of benefit, or any option, not otherwise provided under the Plan, must not require the Plan to provide increased benefits, and must not require the payment of benefits to an Alternate Payee which are required to be paid to another Alternate Payee under another order previously determined to be a Qualified Domestic Relations Order.

2.43 ***"Required Beginning Date"*** means April 1 of the later of (a) the calendar year following the calendar year in which the Participant reaches the age of 70½ or (b) the calendar year in which the Participant Severs from Employment.

2.44 ***"Restated Effective Date"*** means January 1, 2013, except as otherwise noted.

2.45 ***"Severance from Employment"*** or ***"Severs from Employment"*** means the date that the Employee dies, retires, or otherwise has a severance from employment with the Employer, as determined by the Plan Administrator (and taking into account guidance issued under the Code and the Treasury regulations). Severance from Employment shall not include a change of employment in which the Employee's new employer maintains the Plan or accepts a transfer of assets and liabilities (within the meaning of Code Section 414(l)) with respect to such Employee.

2.46 ***"Special Rollover Contribution"*** means that part of an Eligible Rollover Contribution that constitutes a *"picked up contribution"* previously excluded from the Participant's gross income for federal income tax purposes pursuant to Code Section 414(h).

2.47 ***"Special Rollover Account"*** means an account established and maintained with respect to a Participant, to which Special Rollover Contributions shall be credited, if any, pursuant to Section 4.01(f) of the Plan.

2.48 ***"Surviving Spouse"*** means the survivor of a deceased Participant to whom such Participant was legally married, as determined pursuant to applicable law of the State of New York, on the date of the Participant's death.

2.49 ***"Treasury Regulations"*** means the regulations promulgated by the Treasury Department of the federal government under the Code as now in effect or as hereafter amended.

All citations to sections of the Treasury Regulations are to such sections as they may from time to time be amended or renumbered.

2.50 **"Unit"** means the unit measuring the value of a Participant's proportionate interest in an Investment Fund.

2.51 **"USERRA"** means the provisions of the Uniformed Services Employment and Reemployment Rights Act of 1994 contained in Chapter 43 of Title 38 of the United States Code, as amended from time to time.

2.52 **"Roth IRA"** is an individual retirement account described in Section 408A of the Code.

2.53 **"Traditional IRA"** is an individual retirement account described in Section 408 of the Code.

2.54 **"Voluntary Employee Contributions"** means, for purposes of Section 10, any contribution (other than a mandatory contribution within the meaning of Section 411(c)(2) of the Code) that is made by the Participant and which the Participant has designated, at or prior to the time of making the contribution, as a contribution to which Section 10 applies. In addition, an individual who receives a qualified reservist distribution as defined in Code Section 72(t)(2)(G)(iii) may, at any time during the two-year period beginning on the day after the end of his active duty period, make one or more contributions to a Deemed IRA under Section 10 in an aggregate amount not to exceed the amount of his qualified reservist distribution, provided the contribution otherwise meets the requirements to be a Voluntary Employee Contribution. The annual dollar limitations otherwise applicable to Traditional IRAs or Roth IRAs shall not apply to any contribution made pursuant to the preceding sentence.

2.55 *"Valuation Date"* means each Business Day except that, for the purposes of an Investment Fund invested primarily in guaranteed investment contracts and synthetic guaranteed investment contracts, the Board may in a nondiscriminatory manner designate as Valuation Dates such other dates as it deems necessary.

Section 3. Eligibility And Participation

3.01 (a) Each Employee shall be eligible to participate in the Plan on any Enrollment Date on or after the Employee's date of hire.

(b) Each Employee enrolling in the Plan shall provide the Employer, at the time of initial enrollment and thereafter if there are any changes, with such information as may be required by the Board, including, without limitation, whether the Employee is a participant in any other Eligible Retirement Plan and any amounts deferred thereunder.

3.02 An eligible Employee shall become a Participant on the first Enrollment Date after the date he or she files a Participation Agreement with the Plan Administrator with an election to participate in the Plan in the manner prescribed by the Board, but in no event shall any Participant Elective Deferral be accepted until the first Enrollment Date following the date on which such Participation Agreement is filed. The Participation Agreement filed by the Employee with the Plan Administrator shall:

- (a) make the election described in Section 4.01;
- (b) authorize the Employer to reduce his or her Compensation;
- (c) make an investment allocation; and
- (d) name a Beneficiary.

3.03 Participation in the Plan by Employees shall be wholly voluntary.

3.04 Any person re-employed by the Employer as an Employee, who was previously a Participant or who was previously eligible to become a Participant, shall immediately become a Participant of the Plan upon the filing of an election in accordance with Section 3.02.

3.05 A Participant who remains an Employee in the employ of the Employer but who is no longer eligible to participate in the Plan shall continue to be a Participant of the Plan but shall not be eligible to make Participant Elective Deferrals.

3.06 The participation of a Participant in the Plan shall cease upon payment to the Participant of the entire value of his or her Plan Benefit or upon the Participant's death prior to such payment.

Section 4. Contributions.

4.01 (a) Each Participant may elect to defer a portion of his or her Compensation for each Plan Year, as a Participant Elective Deferral, as provided herein:

(1) Each Participant may elect to defer a portion of his or her Compensation for each Plan Year, as a Participant Elective Deferral, in an amount not greater than one-hundred percent (100%) of his Compensation nor less than \$260. The maximum Participant Elective Deferral (expressed as a percentage of Compensation) may be revised by the Board and announced to Employees from time to time. However, subject to the provisions of paragraph (2) and Section 414(v) of the Code, a Participant's Elective Deferral shall in no event exceed the amount prescribed under Section 402(g)(4) of the Code, as amended from time to time, in effect at the beginning of the Plan Year.

(2) Each Participant who has attained age 50 before the close of a Plan Year and who is not permitted to defer additional Compensation pursuant to paragraph (1) for such Plan Year, due to the application of any limitation imposed by the Code or the Plan, shall be

eligible to make additional catch-up deferrals in accordance with, and subject to, the limitations of this paragraph (2) and Section 414(v) of the Code and the Treasury Regulations thereunder. Additional catch-up deferrals pursuant to this paragraph (2) shall not exceed the lesser of:

(i) The excess of one hundred percent (100%) of the Participant's Compensation for the Plan Year over the sum of any other Elective Deferrals by the Participant for such Plan Year or such other lower percentage as the Board may determine; or

(ii) \$5,000, or such greater amount as may be permitted by Section 414(v)(2)(B) of the Code.

Any such catch-up deferrals under this paragraph (2) shall not be taken into account for purposes of the provisions of the Plan implementing the required limitations of Sections 402(g) and 415 of the Code or other limits as permitted by the Secretary of the Treasury. Any such catch-up deferrals under this paragraph (2) may be irrevocably designated by the Participant as a Roth elective deferral, which shall be subject to the provisions of Section 4A of the Plan and Section 402A of the Code.

The portion of Compensation which a Participant elects to defer under this Section 4.01 shall be transferred to the Custodian and credited to the Participant's Elective Deferral Account. Each Participant's Elective Deferral Account shall share in the earnings and losses of the Investment Fund(s) selected by the Participant. Participant Elective Deferrals shall be fully vested at all times.

(b) Each Participant shall specify the amount of his Participant Elective Deferral by designating a percentage in a manner satisfactory to the Board and delivering such designation to the Plan Administrator. Such Participant Elective Deferrals shall be deducted by withholding the

amount elected from a Participant's Compensation for a payroll period, and shall be transmitted to the Custodian within a reasonable time after the payroll period for which deductions are made occurs. Payment of Participant Elective Deferrals through payroll deduction shall be subject to such reasonable and nondiscriminatory restrictions regarding the frequency of change of percentage amounts to be withheld as the Board and Employer shall determine and announce in writing to the Employees.

(c) All designations or changes of designation of the amount of Participant Elective Deferrals to be withheld by payroll deduction shall be made in a manner satisfactory to the Employer. A designation shall be effective in accordance with the rules prescribed by the Board concerning elections to defer. A payroll deduction designation shall be effective until it is succeeded by another valid payroll deduction designation, until the Participant ceases participation, or until the Participant's deferrals are suspended or terminated.

(d) For any Plan Year, a Participant may formally elect to suspend Participant Elective Deferrals in a manner satisfactory to the Plan Administrator and delivered to the Plan Administrator prior to expiration of the uniform period prescribed by the Board for such notice to be given effect for such period. If notice is not timely received, such notice shall be effective commencing with the next succeeding payroll period. Re-commencement of Participant Elective Deferrals shall occur only when the Participant subsequently delivers a new election to the Employer pursuant to the rules prescribed by the Board.

(e) With the permission of the Board and without the limitations imposed by Sections 4.01 or 4.04, an Employee may make a Special Rollover Contribution to the Plan at any time. Any Special Rollover Contribution shall be held in a Special Rollover Account, shall be invested in accordance with the direction of the Participant pursuant to Section 5, and shall be distributed

in the same manner and at the same time as described in Section 8 with respect to a distribution to such Employee of benefits under the Plan. A Participant shall at all times be one hundred percent (100%) vested and non-forfeitable with respect to his or her Special Rollover Account.

(f) An Employee may make an Eligible Rollover Contribution to the Plan at any time. An Eligible Rollover Contribution will be accepted only if the entire qualifying amount was received by the Employee in cash and only such cash amount is included in the Eligible Rollover Contribution. The Eligible Rollover Contributions shall be paid to the Plan within sixty (60) days of the Participant's receipt thereof and shall be credited to the Participant's Account. Any Eligible Rollover Contribution shall be held in an Eligible Rollover Account, shall be invested in accordance with the direction of the Participant pursuant to Section 5, and shall be distributed in the same manner and at the same time as described in Section 8, with respect to a distribution to such Employee of benefits under the Plan. A Participant shall at all times be one hundred percent (100%) vested and non-forfeitable with respect to his or her Eligible Rollover Account.

(g) Prior to accepting any rollovers or transfers to which this Section applies, the Board may require the Employee to establish that the amounts to be transferred to the Plan meet the requirements of this Section. All Special Rollover Contributions and Eligible Rollover Contributions shall be accompanied by written representations, satisfactory to the Board, identifying the transferor plan, stating the name of the Employee, stating the current value of the assets to be transferred, stating that the Employee is one hundred percent (100%) vested in such assets under the plan, and providing such other information as the Board may require. The Board may adopt nondiscriminatory requirements regarding the form, nature and documentation of a Special Rollover Contribution or an Eligible Rollover Contribution.

4.02 The percentage of Compensation designated by a Participant under Section 4.01 shall automatically apply to increases and decreases in the Participant's Compensation. Subject to the provisions of Section 4.01, a Participant may elect to change such percentage by giving at least thirty (30) days prior notice (or such other time period established by the Board) to the Plan Administrator of the new percentage in a manner satisfactory to the Board.

4.03 (a) A Participant may revoke his or her election under Section 4.01 by giving at least thirty (30) days prior notice (or such other time period established by the Board) of the revocation to the Plan Administrator in a manner satisfactory to the Board.

(b) A Participant who has revoked his or her election under Section 4.01 may apply, upon thirty (30) days prior notice (or such other time period established by the Board) in a manner satisfactory to the Board, to have his or her Compensation reduction resumed in accordance with Section 4.01.

4.04 (a) The Annual Addition to a Participant's Accounts for any calendar year, which shall be considered the "limitation year" for purposes of Section 415 of the Code, when added to the Participant's Annual Additions for that Plan Year under any other qualified defined contribution plan of the Employer, shall not exceed, to the extent required under Code Section 415(c), an amount which is equal to the lesser of (i) \$40,000, as adjusted under Code Section 415(d), or (ii) one-hundred percent (100%) of the Participant's Compensation (as defined in Code Section 415(c)(3) and the Treasury Regulations issued thereunder) for that Plan Year.

(b) For purposes of this Section, "Annual Addition" means the annual addition as defined in Code Section 415(c) and as modified by Code Section 415(l)(1). In general, Code Section 415(c) defines the annual addition as the sum of the following amounts credited to a

Participant's accounts for the limitation year under this Plan and any other defined contribution plan maintained by a Participating Employer:

- (1) employer contributions;
- (2) employee contributions; and
- (3) forfeitures.

The Participating Employer must monitor contributions to the Plan on behalf of a Participant to this Plan and any other 401(a) plan maintained by the Participating Employer to determine compliance with this Section. The Participating Employer must cease contributions and deferrals to avoid exceeding the limits of this Section and must notify the Plan Administrator if excess Annual Additions are made. Eligible Rollover Contributions and Special Rollovers are not Annual Additions.

(c) For purposes of this Section, all defined contribution plans of a Participating Employer qualified under Code Section 401(a) or 401(k) are to be treated as a single defined contribution plan. However, each Participating Employer is to be considered as a separate employer.

(d) If as of any allocation Date, the Annual Additions allocated to any Participant's Account exceed the limitations of this Section 4.04, the excess Annual Additions will be corrected as permitted under the Employee Plans Compliance Resolution System (or similar IRS correction program).

4.05 (a) A Participant may, at any time prior to the month of his Severance from Employment, elect to defer Compensation under the Plan out of accumulated sick pay, accumulated vacation pay and back pay that would otherwise be paid or made available to the Participant while he or she is an Employee, to the extent that the election does not cause total

Compensation deferred under the Plan during the Plan Year to exceed the limitations of Code Section 415. In addition, deferrals may be made for former Employees with respect to Compensation described in Treasury Regulations § 1.415(c)-2(e)(3)(ii), and (iii) (relating to certain compensation paid by the later of 2½ months following Severance from Employment or the end of the year that includes the date of Severance from Employment), compensation described in Treasury Regulations § 1.415(c)-2(g)(4) (relating to compensation paid to Participants who are permanently and totally disabled), and compensation relating to qualified military service described in Section 414(u) of the Code, including differential pay.

(b) An Employee whose employment is interrupted by qualified military service under Code Section 414(u) or who is on a leave of absence for qualified military service under Code Section 414(u) shall be entitled to receive any Employer Matching Contributions that he failed to receive as a result of his military service, and may elect to make additional Participant Elective Deferrals upon resumption of employment with the Employer equal to the maximum Elective Deferrals that the Employee could have elected during that period if the Employee's employment with the Employer had continued (at the same level of Compensation) without the interruption or leave, reduced by the Participant Elective Deferrals, if any, actually made for the Employee during the period of the interruption or leave. This right applies for five years following the resumption of employment (or, if sooner, for a period equal to three times the period of the interruption or leave).

In determining the amount of any such Employee make-up contribution or Employer Matching Contribution, an Employee shall be treated as receiving compensation from the Employer during such period of qualified military service equal to (i) the compensation the Employee would have received during such period if the Employee were not in qualified military service, determined

based on the rate of pay the Employee would have received from the Employer but for the absence during the period of qualified military service, or (ii) if the compensation the Employee would have received during such period is not reasonably certain, the Employee's average compensation from the Employer during the twelve (12) month period immediately preceding the qualified military service (or, if shorter, the period of employment immediately preceding the qualified military service).

(c) Effective January 1, 2009, an Employee receiving a differential wage payment within the meaning of Code Section 414(u)(12)(D) from the Employer, shall be treated as an Employee who is eligible to make Elective Deferrals and the differential wage payment shall be treated as Compensation and Compensation under Sections 4.04(b) and 4.05(b). This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner. However, such Employee shall be treated as having a Severance from Employment for purposes of electing to take a distribution from the Plan during any period such individual is performing service in the uniformed services described in Code Section 3401(h)(2)(A) while on active duty for a period of more than 30 days. An Employee who elects a distribution from his or her Account by reason of the preceding sentence may not make an Elective Deferral during the 6-month period beginning on the date of the distribution.

4.06 For each Plan Year, the Board may, in its discretion, declare that an Employer Matching Contribution shall be made by the Employer on behalf of each Participant who makes Participant Elective Deferrals for such Plan Year. The amount of such Employer Matching Contributions, if any, shall be fixed by the Board prior to the end of the Plan Year and shall be expressed as a percentage (not to exceed 100%) of a Participant's Participant Elective Deferrals that do not do not exceed either (i) a fixed dollar threshold or (ii) a percentage of the Participant's

Compensation, as determined by the Board. The Board may from time to time set general eligibility requirements that a Participant must meet in order to receive an Employer Matching Contribution, including without limitation, a requirement that the Participant is employed on the last day of the Plan Year in order to receive an Employer Matching Contribution for that year, and any such eligibility requirements shall be effective for Plan Years after the Plan Year in which they are set by the Board. Notwithstanding the general requirements for receiving an allocation of Employer Matching Contributions, an Employer Matching Contribution, if any, shall be allocated to the Employer Matching Contribution Account of any Participant who Severs from Employment during the Plan Year as a result of his death, disability, or retirement and for whom a Participant Elective Deferral is made for the Plan Year.

4.07 For each Plan Year, the Board may, in its discretion, declare that an Employer Matching Contribution shall be made by the Employer on behalf of each Employee who is a Participant in the Deferred Compensation Plan for Employees of the City of New York and Related Agencies and Instrumentalities and who elects to defer a portion of his Compensation for such Plan Year under that plan. The rules governing Employer Matching Contributions under Section 4.06 shall apply to Employer Matching Contributions, if any, made pursuant to this Section 4.07.

4.08 The Plan Administrator is authorized to extend to Participants, in a nondiscriminatory manner, the benefits of any future amendment to the Code or the Treasury Regulations that increase permitted contributions or change distribution rules.

4.09 All Contributions made in accordance with this Section 4 shall be paid by the Employer as promptly as possible, but in no event later than two (2) Business Days from the applicable payroll date, to the Custodian and shall be invested promptly, but in no event later

than two (2) Business Days following receipt thereof by the Custodian, in accordance with the investment directions of the Participant in the Investment Funds provided by one or more Financial Organizations appointed by the Board, to be managed, invested and reinvested in accordance with the applicable agreement entered into by the Board with each such Financial Organization. The Board shall have the right in its sole discretion to replace any Financial Organization or Investment Fund with a successor or to select any additional Financial Organization or Investment Fund and to incur any and all reasonable fees and expenses on behalf of the Plan and to allocate such fees and expenses among Participant Accounts in connection with such replacement or addition.

Section 4A. Roth Elective Deferrals.

4A.01. General Application. This Section 4A will apply to contributions beginning with September 1, 2006 (the "Roth Effective Date").

(a) As of the Roth Effective Date, the Plan will accept Roth elective deferrals made on behalf of Participants. A Participant's Roth elective deferrals will be allocated to a separate account maintained for such deferrals as described in Section 4A.02.

(b) Unless specifically stated otherwise, Roth elective deferrals will be treated as elective deferrals for all purposes under the Plan.

4A.02. Separate Accounting.

(a) Contributions and withdrawals of Roth elective deferrals will be credited and debited to the Roth elective deferral account maintained for each Participant.

(b) The Plan will maintain a record of the amount of Roth elective deferrals in each Participant's Account.

(c) Gains, losses, and other credits or charges must be separately allocated on a reasonable and consistent basis to each Participant's Roth elective deferral account and the Participant's other Accounts under the Plan.

(d) No contributions other than Roth elective deferrals and properly attributable earnings will be credited to each Participant's Roth elective deferral account.

4A.03. Direct Rollovers.

(a) Notwithstanding Section 8.10 and 8.11, a Direct Rollover of a distribution from a Roth elective deferral account under the Plan will only be made to another Roth elective deferral account under an applicable retirement plan described in Code Section 402A(e)(1) or to a Roth IRA described in Code Section 408A, and only to the extent the rollover is permitted under the rules of Code Section 402(c).

(b) Notwithstanding Section 4.01(g), the Plan will accept a rollover contribution to a Roth elective deferral account only if it is a Direct Rollover from another Roth elective deferral account under an applicable retirement plan described in Code Section 402A(e)(1), and only to the extent the rollover is permitted under the rules of Code Section 402(c).

(c) The Plan will not provide for a Direct Rollover (including an automatic rollover) for distributions from a Participant's Roth elective deferral account if the amounts of the distributions that are Eligible Rollover Distributions are reasonably expected to total less than \$200 during a year. In addition, any distribution from a Participant's Roth elective deferral account is not taken into account in determining whether distributions from a Participant's other Accounts are reasonably expected to total less than \$200 during a year.

(d) The provisions of the Plan that allow a Participant to elect a Direct Rollover of only a portion of an Eligible Rollover Distribution, but only if the amount rolled over is at least

\$500, is applied by treating any amount distributed from the Participant's Roth elective deferral account as a separate distribution from any amount distributed from the Participant's other Accounts in the Plan, even if the amounts are distributed at the same time.

4A.04. Definition of Roth Elective Deferral. A Roth elective deferral is an elective deferral that is: (i) designated irrevocably by the Participant at the time of the cash or deferred election as a Roth elective deferral that is being made in lieu of all or a portion of the pre-tax Participant Elective Deferrals the Participant is otherwise eligible to make under the Plan, and (ii) treated by the Employer as includible in the Participant's income at the time the Participant would have received that amount in cash if the Participant had not made a cash or deferred election.

Section 5. Investment Of Contributions.

5.01 (a) A Participant shall, by filing a direction in a manner satisfactory to the Employer, specify the percentage (in multiples of one percent (1%) or such other percentage as may be prescribed by the Board from time to time) of the amount of Contributions credited to his or her Account in accordance with Section 4 that shall be allocated to each Investment Fund made available by the Board.

(b) Any investment direction given by a Participant shall be deemed to be a continuing direction until changed. A Participant may change his or her investment direction as to future Contributions by using the Plan's voice response system or the Internet, with such change to be effective as soon as administratively feasible. Thereafter, all Contributions shall be invested in accordance with such changed direction until further changed.

(c) A Participant may direct, by using the Plan's voice response system or the Internet, that all, or any multiple of one percent (1%) (or such other percent as may be prescribed

by the Board from time to time), of his or her interest in any Investment Funds be liquidated and the proceeds thereof transferred to another Investment Fund in one lump sum; provided, however, that if all or any portion of the Participant's Account is invested in the International Equity Fund then the Participant's right to make transfers to such Investment Fund shall be subject to such transfer limitations as are contained in the contracts which comprise the International Equity Fund. Such investment direction change will be effective as soon as administratively feasible.

(d) If the Custodian, Administrative Service Agency or any Financial Organization appointed by the Board shall advise the Board that it is not reasonably able to prudently liquidate the necessary amount and transfer it from one of the Investment Funds to another, the amount to be transferred with respect to each Participant who duly requested such a transfer shall be reduced in proportion to the ratio which the aggregate amount that the Custodian, Administrative Service Agency or Financial Organization has advised the Board may not prudently be so transferred bears to the aggregate amount that all Participants have duly requested be so transferred. Regardless of any Participant's investment direction, no transfer between Investment Funds may be made in violation of any restriction imposed by the terms of the agreement between the Board or the Custodian and a Financial Organization providing any Investment Fund or of any applicable law. Notwithstanding anything in this Section 5.01(d) to the contrary, upon written notice to the Plan Administrator, the Custodian, the Administrative Service Agency or the Financial Organization may have the right, without prior notice to any Participant, to suspend for a limited period of time daily transfers between and among Investment Funds for one or more days if the Custodian, Administrative Service Agency or the Financial Organization determines that such action is necessary or advisable (i) in light of unusual market conditions,

(ii) in response to technical or mechanical problems with the Plan's automated system, if any, or the Plan's third-party record keeper and (iii) in connection with any suspension of normal trading activity on the New York Stock Exchange. Notwithstanding anything in this Section 5.01(d) to the contrary, the Board may have the right, with prior written notice to Participants, to limit the frequency of daily transfers between and among Investment Funds if the Board determines that such action is necessary or advisable due to excessive trading by Participants between specific Investment Funds.

(e) The Plan Administrator shall have the right to decline to implement any investment direction upon determination that (i) the person giving the direction is legally incompetent to do so, (ii) implementation of the investment direction would be contrary to the Plan or applicable law or governmental ruling or regulation, including, but not limited to, Treasury Regulations, or (iii) implementation of the investment direction would be contrary to a court order, including, but not limited to, a Qualified Domestic Relations Order.

(f) Notwithstanding any other provision of the Plan, during any period when an Account is created and the interest therein is segregated on behalf of an Alternate Payee pursuant to a Qualified Domestic Relations Order, the Alternate Payee may be entitled to direct the investment of such amounts in accordance with this Section as if he or she were the Participant to the extent provided in such order. In the event that the Alternate Payee fails to specify an investment direction, the Alternate Payee's interest in their Account shall be invested in the same manner as the relevant Participant's Plan Account as of the date of the creation of the Alternate Payee's Account.

(g) Notwithstanding any other provision of the Plan, during any period following the death of a Participant and prior to distribution of the entire Plan Account of such Participant,

such Participant's Beneficiary shall be entitled to direct the investment of such Plan Account, or, as applicable, his or her proportional interest in such Plan Account, in accordance with this Section as if he or she were the Participant.

(h) No power of attorney, other than one properly executed in accordance with the General Obligations Law of New York, as such may be amended from time to time, shall be effective to permit an attorney-in-fact to make any investment direction on behalf of a Participant except upon specific determination by the Plan Administrator that the instrument expressly grants the power to act on behalf of the Participant regarding investment direction under the Plan.

5.02 Each Participant, Beneficiary and Alternate Payee is solely responsible for the investment and allocation of his or her Plan Account in and among the Investment Funds and shall assume all risk in connection with any decrease in the value of any or all of the Investment Funds. Neither the Board, Employer, Plan Administrator, Financial Organization, Administrative Service Agency nor the Custodian, is empowered to advise a Participant as to the manner in which such Plan Account shall be allocated among the Investment Funds. The fact that a particular Investment Fund is available to Participants for investment under the Plan shall not be construed as a recommendation for investment in such Investment Fund. Notwithstanding the foregoing, the Board or the Plan Administrator may choose to offer for Participants investment advice in a manner consistent with the rules provided by Section 601 of the Pension Protection Act of 2006.

Section 6. Valuation Of And Credits To Accounts.

6.01 The Administrative Service Agency shall establish and maintain Account(s) in the name of each Participant to which shall be credited all Contributions made possible under the

Plan, and all earnings and losses thereon. The Administrative Service Agency shall also establish and maintain any other Accounts, such as Accounts in the name of a Beneficiary or an Alternate Payee, as the Plan Administrator shall deem necessary or desirable.

6.02 As of each Valuation Date and before taking into account any Contributions for the period since the last preceding Valuation Date, each Investment Fund and each Participant's Account shall be adjusted as follows:

(a) The Custodial Account shall consist of the Investment Funds. The aggregate value of the Accounts shall be equal to the value of the Custodial Account. Each Investment Fund shall be valued either in Units or in dollars. As of each Valuation Date, each Investment Fund shall be valued pursuant to the agreements between the Board or the Custodian and the Financial Organizations to reflect the effect of income received and accrued, realized and unrealized profits and losses, and all other transactions of the preceding Valuation Date.

(b) The total aggregate value of all Participants' Accounts shall be determined as shown in the Participant records held by the Administrative Service Agency. The value of a Participant's Account shall be equal to the value of his or her Plan Benefit, which shall be determined by aggregating the value of his or her separate interests, if any, in each Investment Fund.

(c) The Account balance of a Participant, former Participant, Beneficiary, or Alternate Payee shall be reduced by any amounts paid to them from an Investment Fund since the last Valuation Date.

(d) On each Valuation Date, the expenses of administering the Plan, including (i) the fees and expenses of the Financial Organization, the Administrative Service Agency, or the Custodian for their performance of services under the Plan, (ii) the expenses incurred by the

Board in the performance of its duties under the Plan (including reasonable compensation for any legal counsel, certified public accountants, consultants, and agents and cost of services rendered in respect of the Plan), and (iii) all other proper charges and disbursements of the Financial Organizations, Custodian, the Board or its members (including settlements of claims of legal actions approved by counsel to the Plan) shall be paid out and deducted from the Accounts as of each Valuation Date, unless the Employer elects to pay such expenses directly.

(e) Brokerage fees, transfer taxes, and any other expenses incident to the purchase or sale of securities by the Financial Organizations for the Investment Funds shall be deemed to be part of the cost of such securities, or shall be deducted in computing the proceeds therefrom, as the case may be. Taxes, if any, of any and all kinds, which are levied or assessed on any assets held or income received by the Participant's Account shall be deducted therefrom in accordance with this Section.

(f) Dividends, interest, and other distributions received on the assets held by the Custodian in respect to each of the Funds shall be reinvested in the respective Fund.

6.03 Each Account of a Participant in each Investment Fund shall be credited on each Valuation Date with the value of the Contributions allocable to that Fund made on behalf of the Participant by the Employer since the previous Valuation Date, if applicable.

6.04 Each Participant, and, for any period following the death of the Participant and prior to distribution of the entire Plan Benefit of such Participant, each Beneficiary, shall be furnished, at least quarterly, with a written statement by the Administrative Service Agency of his or her Account(s) (including the value of the interest he or she has, if any, in each Investment Fund and the amount of and explanation for each allocation to or deduction from his or her Account(s) since the last statement provided). During the period prior to distribution of his or her

interest under the Plan, each Alternate Payee shall be furnished at least quarterly with a written statement of his or her Account (including the value of the interest he or she has, if any, in each Investment Fund and the amount of and explanation for each allocation to or deduction from his or her Account since the last statement provided).

Section 7. Vesting.

7.01 A Participant shall at all times be one hundred percent (100%) vested in, and have a nonforfeitable right to, any and all amounts credited to his or her Participant Account(s).

Section 8. Withdrawals And Distributions.

8.01 No in-service withdrawals may be made from a Participant's Elective Deferral Account, Special Rollover Account or Employer Matching Contribution Account except as otherwise provided in this Section 8.

8.02 A Participant who has attained age fifty nine and one half (59½) may, without penalty and no more than once in any Plan Year, or such other number as the Board shall determine, elect to withdraw all or a portion of his or her Employer Matching Contribution Account; provided, however, that no withdrawals may be made by a Participant under this Section 8.02 with respect to Employer Matching Contributions that have been held in the Participant's Account for less than twenty-four (24) months unless the Participant has participated in the Plan for at least sixty (60) months as of the effective date of the withdrawal. The minimum withdrawal shall be \$1,000 or the value of the Employer Matching Contribution Account, if less.

8.03 A Participant who has attained age fifty nine and one half (59½) may, without penalty, elect to withdraw all or a portion of his or her Participant Elective Deferral Account or

Special Rollover Account. The minimum withdrawal shall be \$1,000 or the value of the Participant Elective Deferral Account, or Special Rollover Account if less.

8.04 (a) A Participant may elect to withdraw all or part of his or her Account(s), excluding any Employer Matching Contributions or earnings on Participant Elective Deferrals, if any, upon furnishing proof satisfactory to the Board of an immediate and heavy financial need. The amount to be withdrawn shall not exceed the amount required to meet the immediate and heavy financial need (plus any amounts necessary to pay any federal, state or local income taxes and penalties reasonably anticipated to result from the withdrawal) and which is not reasonably available from other resources of the Participant, as determined by the Board under nondiscriminatory and objective standards uniformly applicable to all similarly situated Participants, in accordance with Subsection (b) below, and consistent with Treasury Regulations under Section 401(k) of the Code.

(b) No withdrawal under this Section 8.04 will be permitted unless the Participant provides the Board with a signed written statement certifying that the financial hardship cannot be relieved:

- (1) through reimbursement or compensation by insurance or otherwise;
 - (i) by reasonable liquidation of such Participant's assets, including those of his spouse and minor children if they are reasonably available to such Participant;
 - (ii) by discontinuance of Participant Elective Deferrals; or
 - (iii) by other distributions or nontaxable loans from the Plan or any other qualified plan or loans from commercial sources on reasonable commercial terms.

8.05 Notwithstanding anything in the Plan to the contrary, a Participant who is a reservist or national guardsman (as defined in 37 U.S.C. § 101(24)), and who was ordered or called to active duty (after September 11, 2001, and before December 31, 2007) for a period in excess of 179 days or for an indefinite period may request, during the period beginning on the date of the order or call to duty and ending at the close of the active duty period, a distribution of all or part of his Account attributable to Participant Elective Deferrals (but not earnings on those Participant Elective Deferrals). The distribution shall be paid to the Participant as promptly as practicable after the Plan Administrator receives the Participant's request. If the Participant's interest in the Custodial Account is invested in more than one of the separate Investment Funds maintained under the Plan, a withdrawal of less than the complete balance of his interest shall be withdrawn pro rata from each applicable Investment Fund.

8.06 To make an in-service withdrawal, a Participant shall give at least forty-five (45) days prior notice in a manner satisfactory to the Board. A withdrawal shall be made as of the first Valuation Date following expiration of the forty-five (45) day notice period and approval, if necessary, by the Board. The amount of the withdrawal shall be allocated among the Investment Funds in proportion to the value of the Participant's Account(s) from which the withdrawal is made in each Investment Fund as of the date of the withdrawal. All payments to Participants under this Section 8 shall be a lump sum payment in cash made as soon as practicable following the first Valuation Date after the forty-five (45) day notice period and Board approval.

8.07 Except as otherwise provided in this Section 8, a Participant may not receive a distribution of his or her Plan Benefit at any time prior to such Participant's Severance from Employment. Upon a Participant's Severance from Employment for any reason other than death, the Participant shall be entitled to receive an amount equal to the value of his or her Account and

Special Rollover Account, if any, which shall be paid in cash by the Custodian from the Custodial Account in accordance with the methods described in this Section 8 as of the commencement date elected by the Participant in accordance with the procedures prescribed by this Section 8; provided, however, that payments may not commence earlier than sixty (60) days from Severance from Employment with the Employer, or such other number of days as the Board shall determine.

8.08 Notwithstanding anything in this Section to the contrary, in accordance with the requirements of Section 401(a)(9) of the Code, distributions shall commence no later than April 1st following the close of the Plan Year in which (i) the Participant attains age 70½ or (ii) the Participant Severs from Employment with the Employer, whichever is later.

(a) Any payment made under this Section shall be made in one of the following methods, as the Participant (or in the case of the death of the Participant, his or her Beneficiary) may elect:

- (1) One lump sum full withdrawal of the Participant's Account; or
- (2) An amount certain – a specific portion of the Participant's Account or Special Rollover Account in a lump sum withdrawal; or
- (3) Substantially equivalent monthly, quarterly, semi-annual, or annual installment payments for a period certain; or
- (4) Substantially equivalent monthly, quarterly, semi-annual, or annual installment payments over a period not to exceed the Participant's life expectancy or the joint life and last survivor expectancies of the Participant and his or her Beneficiary, as defined by the Treasury Regulations; or

(5) An amount certain in a lump sum withdrawal, the rest to be paid in substantially equivalent monthly, quarterly, semi-annual, or annual installment payments for a period certain, or substantially equivalent monthly, quarterly, semi-annual, or annual installment payments over a period not to exceed the Participant's life expectancy or the joint life and last survivor life expectancies of the Participant and his or her Beneficiary, as defined by the Treasury Regulations.

(b) All life expectancies shall be determined pursuant to tables prescribed by the Code. In the case of a distribution commencing prior to the death of the Participant, such distribution shall be made in a form under which the amounts payable with respect to the Participant will be paid at times specified by the Secretary of the Treasury, which are not later than the time determined under Section 401(a)(9) of the Code (relating to incidental death benefits) as amended from time to time.

(c) If a Participant (or in the case of death of the Participant, his or her Beneficiary) elects to receive a lump sum full withdrawal payment pursuant to Section 8.08(a)(1), the value of the Participant's Plan Benefit shall be determined as of the Valuation Date coincident with or last preceding the date on which the Plan Benefit is withdrawn from the Investment Fund and liquidated for distribution.

(d) If a Participant (or in the case of death of a Participant, his or her Beneficiary) elects to receive installment payments, such Participant's Account shall continue to participate in the investment performance of the Investment Fund or Funds in which such amounts are invested and to bear its allocable share of administrative and investment expenses, until the Valuation Date coincident with or last preceding the date on which such Plan Benefit amounts are withdrawn from the Investment Funds and liquidated for distribution; provided, however, that

the amount of the installments need not be re-determined to reflect changes in the value of the Account more frequently than annually. All such re-determinations shall be made in accordance with procedures of uniform application.

(e) Any lump sum, final amount certain or final installment payment to a Participant or his or her Beneficiary shall not necessarily constitute final settlement of that Participant's Account. If, prior to the Participant's or his Beneficiary's receipt of such payment, the Plan Administrator determines that the Participant's payroll agency or the Administrative Service Agency erroneously credited monies to the Participant's Account which are adjusted after the receipt of such payment, the Participant is liable for and will be required to remit any such monies. The Plan reserves the right to recover any monies erroneously credited to the Participant's Account.

8.09 (a) A distribution election must be filed with the Plan Administrator within such periods as the Plan Administrator may require uniformly. In any event, distribution shall begin no later than the later of (i) the April 1 following the calendar year in which the Participant attains age seventy and one half (70½), or (ii) the April 1 following the calendar year in which the Participant actually Severs from Employment.

(b) If a Participant dies before receiving distribution of the entire interest in his or her Plan Benefit amount equal to the value of the unpaid portion thereof as of the date of death shall be paid in cash from the Participant's Account to the Participant's Beneficiary. Subject to the minimum required distribution provisions of Code Section 401(a)(9), a Beneficiary shall be permitted to select his or her commencement date and one of the methods of distribution described in this Section 8.

8.10 Notwithstanding any provision of the Plan to the contrary that would otherwise limit a Distributee's election under this Section, and to the extent required by applicable provisions of the Code and the Treasury Regulations, the Distributee may elect, at the time and in the manner prescribed by the Plan Administrator, to have all or any portion of the Account that qualifies as an Eligible Rollover Distribution paid directly to the trustee of an Eligible Retirement Plan specified by the Distributee in a Direct Rollover, provided that such other plan provides for the acceptance of such amounts by the trustee. The Plan shall provide written information to the Distributee regarding Eligible Rollover Distributions to the extent required by Section 402(f) of the Code.

8.11 Effective January 1, 2007, and notwithstanding anything in the Plan to the contrary that would otherwise limit a Distributee's election under this Section, and to the extent allowed under the applicable provisions of the Code and the Treasury Regulations, a Distributee who is a Designated Beneficiary, but not a Surviving Spouse may elect, at the time and in the manner prescribed by the Plan Administrator, to have all or any portion of the Account that qualifies as an Eligible Rollover Distribution paid in a direct trustee-to-trustee transfer to an Eligible Retirement Plan that is an individual retirement plan described in clause (i) or (ii) of Code Section 402(c)(8)(B) established for the purpose of receiving the distribution. If such a transfer is made, (i) the transfer shall be treated as an Eligible Rollover Distribution, (ii) the individual retirement plan shall be treated as an inherited individual retirement account or individual retirement annuity (within the meaning of Code Section 408(d)(3)(C), and (iii) Code Section 401(a)(9)(B) (other than clause iv thereof) shall apply to such individual retirement plan.

8.12 The Board may require and rely upon such proof of death and such evidence of the right of any Beneficiary or other person to receive the value of the Accounts of a deceased

Participant as the Board may deem proper, and its determination of death and of the right of any Beneficiary or other person to receive payment shall be conclusive.

8.13 (a) The Plan Administrator may, in a nondiscriminatory manner, permit a Participant who is an Eligible Retired Public Safety Officer to elect to have the Plan pay Qualified Health Insurance Premiums directly to the provider of accident or health insurance or Qualified Long Term Care Insurance that provides coverage for the eligible retired public safety officer and/or his or her spouse and dependents. Distributions under this Section 8 together with similar distributions under all other Eligible Retirement Plans maintained by the Employer shall not exceed \$3,000 in any year.

(b) For purposes of this Section 8.13:

(1) The term "Public Safety Officer" has the meaning provided by Section 1204(9)(A) of the Omnibus Crime Control and Safe Streets Act of 1968.

(2) The term "Eligible Retirement Public Safety Officer" means a Public Safety Officer who by reason of disability or attainment of normal retirement age Severs from Employment as a Public Safety Officer with the Employer.

(3) The term Qualified Long Term Care Insurance has the meaning provided by Code Section 7702B(b).

(4) The Plan Administrator shall issue rules to implement this Section in accordance with Code Section 402(l) and applicable Regulations.

(5) This Section shall be effective January 1, 2007.

8.14 (a) Any vested amount held in an Account for a Participant (other than an amount held in a Roth elective deferral account) is eligible for direct rollover to the Participant's Roth elective deferral account under the Plan, even if the vested amount is not otherwise distributable

(pursuant to Section 402A(c)(4)(E) of the Code) under Section 8 of the Plan, and the transfer shall be treated as a qualified rollover contribution (within the meaning of section 408A(e) of the Code) to such Account.

(b) A Participant's election under this Section 8.14 shall be subject to the reasonable administrative procedures established by the Administrator, section 402A(c)(4) of the Code and the regulations thereunder, and subsequent guidance from the Internal Revenue Service.

(c) The taxable portion of the Participant's Account transferred to a Roth Accumulation Account under this Section 8.14 shall be included in the Participant's gross income the tax year in which the transfer occurs.

(d) The Plan shall provide written information regarding in-Plan Roth rollovers under this Section 8.14, for amounts that are otherwise distributable under Section 8 to the extent required by Section 402(f) of the Code.

Section 9. Minimum Distribution Rules

9.01 The requirements of this Section 9 will take precedence over any inconsistent provisions of the Plan; provided, however, it shall not take precedence over the minimum distribution rules in Section 11 and Section 12.

9.02 All distributions required under this Section 9 will be determined and made in accordance with the Treasury Regulations under Code Section 401(a)(9).

9.03 (a) The Participant's entire interest will be distributed, or begin to be distributed, to the Participant not later than the Participant's Required Beginning Date.

(b) If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

(1) If the Participant's Surviving Spouse is the Participant's sole Designated Beneficiary, then distributions to the Surviving Spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70 ½, if later.

(2) If the Participant's Surviving Spouse is not the Participant's sole Designated Beneficiary, then distributions to the Designated Beneficiary may be made by lump sum or installment payments commencing no later than the close of the Plan Year following the Plan Year in which the Participant died, and all distributions must be made no later than December 31 of the calendar year containing the fifth anniversary of the Participant's death.

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

(4) If the Participant's Surviving Spouse is the Participant's sole Designated Beneficiary and the Surviving Spouse dies after the Participant but before distributions to the Surviving Spouse begin, this paragraph (b), other than paragraph (b)(1), will apply as if the Surviving Spouse were the Participant.

For purposes of this paragraph (b) and Section 9.05, unless paragraph (b)(4) of this Section applies, distributions are considered to begin on the Participant's Required Beginning Date. If paragraph (b)(4) of this Section applies, distributions are considered to begin on the date the distributions are required to begin to the Surviving Spouse under paragraph (b)(1) of this

Section. If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's Required Beginning Date (or to the Participant's Surviving Spouse before the date distributions are required to begin to the Surviving Spouse under paragraph (b)(1) of this Section), the date distributions are considered to begin is the date distributions actually commence.

(c) Unless the Participant's interest is distributed in a single sum on or before the Required Beginning Date, as of the first Distribution Calendar Year distributions will be made in accordance with Sections 9.04 or 9.05.

9.04 (a) During the Participant's lifetime, the minimum amount that will be distributed for each Distribution Calendar Year is the lesser of:

(1) The quotient obtained by dividing the Participant's Account Balance by the distribution period in the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the Treasury Regulations, using the Participant's age as of the Participant's birthday in the Distribution Calendar Year; or

(2) If the Participant's sole Designated Beneficiary for the Distribution Calendar Year is the Participant's spouse, the quotient obtained by dividing the Participant's Account Balance by the number in the Joint and Last Survivor Table set forth in section 1.401(a)(9)-9 of the Treasury regulations, using the Participant's and spouse's attained ages as of the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the Distribution Calendar Year.

(b) Required minimum distributions will be determined under this Section beginning with the first Distribution Calendar Year and up to and including the Distribution Calendar Year that includes the Participant's date of death.

9.05 (a) Death on or After Date Distributions Begin.

(1) If the Participant dies on or after the date distributions begin and there is a Designated Beneficiary, the minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the longer of the remaining Life Expectancy of the Participant or the remaining Life Expectancy of the Participant's Designated Beneficiary, determined as follows:

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

(ii) If the Participant's Surviving Spouse is the Participant's sole Designated Beneficiary, the remaining Life Expectancy of the Surviving Spouse is calculated for each Distribution Calendar Year after the year of the Participant's death using the Surviving Spouse's age as of the spouse's birthday in that year. For Distribution Calendar Years after the year of the Surviving Spouse's death, the remaining Life Expectancy of the Surviving Spouse is calculated using the age of the Surviving Spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.

(iii) If the Participant's Surviving Spouse is not the Participant's sole Designated Beneficiary, the Designated Beneficiary's remaining Life Expectancy is calculated using the age of the beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.

(2) If the Participant dies on or after the date distributions begin and there is no Designated Beneficiary as of September 30 of the year after the year of the Participant's death, the minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the Participant's remaining Life Expectancy calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

(b) Death Before Date Distributions Begin.

(1) If the Participant dies before the date distributions begin and there is a Designated Beneficiary, the minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the remaining Life Expectancy of the Participant's Designated Beneficiary, determined as provided in paragraph (a) of this Section.

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

(3) If the Participant dies before the date distributions begin, the Participant's Surviving Spouse is the Participant's sole Designated Beneficiary, and the Surviving Spouse dies before distributions are required to begin to the Surviving Spouse under

Section 9.03(b)(1), this paragraph (b) will apply as if the Surviving Spouse were the Participant.

9.06 Nothing in this Section 9 shall provide any individual entitled to a benefit under this Plan a benefit or payment option to which such individual would not otherwise be entitled pursuant to the provisions of the Plan.

9.07 A Participant or Beneficiary who would have been required to receive required minimum distributions for 2009 but for the enactment of Code Section 401(a)(9)(H) ("2009 RMDs", and who would have satisfied that requirement by receiving distributions that are (1) equal to the 2009 RMDs or (2) one or more payments in a series of substantially equal distributions (that include the 2009 RMDs) made at least annually and expected to last for the life (or life expectancy) of the Participant, the joint lives (or joint life expectancy) of the Participant and the Participant's Beneficiary, or for a period of at least 10 years ("Extended 2009 RMDs"), will receive those distributions for 2009 unless the Participant or Beneficiary chooses not to receive such distributions (Participants and Beneficiaries will be given the opportunity to elect to stop receiving such distribution.)

Section 10. Deemed IRAs.

10.01 This Section 10 permits a Participant to fund a Deemed IRA established under this Plan and shall be effective as of January 1, 2006.

10.02 Each Participant may make Voluntary Employee Contributions to the Participant's Traditional IRA and/or Roth IRA established under the Plan. The Plan shall establish a separate account for the designated Deemed IRA contributions of each Participant to each of his or her Deemed IRAs and any earnings properly allocable to the contributions, and maintain separate recordkeeping with respect to each such Deemed IRA. Each Deemed IRA account, whether

under Section 11 or Section 12 of this Plan, is established for the exclusive benefit of the Participant or his or her beneficiaries.

10.03 The Custodian shall be subject to the reporting requirements of Section 408(i) of the Code with respect to all Deemed IRAs that are established and maintained under the Plan.

10.04 Deemed IRAs established pursuant to this Section shall be held by the Custodian in a Custodial Account separate from the Custodial Account established under the Plan to hold contributions other than Deemed IRA contributions and shall satisfy the applicable requirements of Sections 408 and 408A of the Code, which requirements are set forth in Sections 11 and 12.

10.05 Except as specifically provided by this Section 10, by Section 11 (Rules Applicable to Traditional IRAs) or by Section 12 (Rules Applicable to Roth IRAs), or by Sections 408 or 408A of the Code or by applicable Treasury Regulations, all procedural provisions of this Plan shall apply to Deemed IRAs.

10.06 The Participant's Account "value" in a Deemed IRA includes the amount of any outstanding rollover, transfer and recharacterization under Q&As-7 and -8 of §1.408-8 of the Treasury Regulations.

10.07 With respect to Section 11 and Section 12 below, if the Beneficiary of a Deemed IRA, so designated by the Participant, shall die after the death of the Participant, but prior to receiving a complete distribution of the balance of his or her Deemed IRA amount that would have been paid to such Beneficiary had such Beneficiary's death not then occurred, the undistributed balance of the Deemed IRA that would otherwise have been received by such Beneficiary shall be paid to such person or persons as the Beneficiary shall have designated during his lifetime, or, if there is no such designation, to the Beneficiary's estate.

10.08 With respect to Deemed IRAs, the Plan Administrator is authorized to extend to Participants in a nondiscriminatory manner the benefit of any future amendment to the Code or Treasury Regulations with respect to increases in permitted contributions and changes in distribution rules.

Section 11. Special Rules for Traditional IRAs.

11.01 The Custodian will accept for the exclusive benefit of the Participant and his Beneficiaries as a Traditional IRA contribution only cash contributions up to \$4,000 for tax years 2005 through 2007 and \$5,000 for 2008 and thereafter. For Participants who have reached the age of 50 before the close of the Plan Year, this contribution limit is increased to \$5,000 for 2006 and 2007, and \$6,000 for 2008 and thereafter. For Plan Years after 2008, this contribution limit will be increased to reflect a cost-of-living adjustment, if any. These contribution limits do not apply in the case of a rollover contribution as described in Sections 402(c), 402(e)(6), 403(a)(4), 403(b)(8), 408(d)(3), or 457(e)(16) of the Code, an employer contribution to a simplified employee pension plan as described in section 408(k) or a recharacterized contribution as described in Section 408A(d)(6) of the Code.

11.02 The Participant's interest in the balance in the Custodial Account that is allocable to his Traditional IRA is nonforfeitable.

(a) No part of the Custodial Account funds allocable to a Traditional IRA may be invested in life insurance contracts, nor may the assets of the Custodial Account allocable to a Traditional IRA be commingled with other property except in a common trust fund or common investment fund (within the meaning of Section 408(a)(5) of the Code).

(b) No part of the Custodial Account funds allocable to a Traditional IRA may be invested in collectibles (within the meaning of Section 408(m) of the Code) except as otherwise

permitted by Section 408(m)(3) of the Code, which provides an exception for certain gold, silver, and platinum coins, coins issued under the laws of any state, and certain bullion.

(c) No contributions will be accepted under a SIMPLE IRA plan established by any employer pursuant to Code Section 408(p). Also, no transfer or rollover of funds attributable to contributions made by a particular employer under its SIMPLE IRA plan will be accepted from a SIMPLE IRA, that is, a Traditional IRA used in conjunction with a SIMPLE IRA plan, prior to the expiration of the 2-year period beginning on the date the individual first participated in that employer's SIMPLE IRA plan.

11.03 Notwithstanding any provision in this Plan to the contrary, the distribution of the Participant's interest in the Custodial Account allocable to a Traditional IRA shall be made in accordance with the following requirements in this Section 11 and shall otherwise comply with Section 408(a)(6) of the Code and the Treasury Regulations thereunder, the provisions of which are herein incorporated by reference.

11.04 (a) The entire value of the Traditional IRA account of the Participant for whose benefit the account is maintained will commence to be distributed no later than the first day of April following the calendar year in which such Participant attains age 70½ (the "required beginning date") over (i) the life of such Participant or the lives of such Participant and his or her Designated Beneficiary, or (ii) a period certain not extending beyond the life expectancy of such Participant, or the joint and last survivor expectancy of such Participant and his Designated Beneficiary.

(b) The amount to be distributed each year, beginning with the calendar year in which the Participant attains age 70½ and continuing through the year of death, shall not be less than the quotient obtained by dividing the value of the Traditional IRA (as determined under

Section 11.05(c)) as of the end of the preceding year by the distribution period in the Uniform Lifetime Table in Q&A-2 of Treasury Regulation Section 1.401(a)(9)-9, using the Participant's age as of his or her birthday in the year. However, if the Participant's sole Designated Beneficiary is his or her Surviving Spouse and such spouse is more than 10 years younger than the Participant, then the distribution period is determined under the Joint and Last Survivor Table in Q&A-3 of Treas. Reg. Section 1.401(a)(9)-9, using the ages as of the Participant's and spouse's birthdays in the year.

(c) The required minimum distribution for the year the Participant attains age 70½ can be made as late as April 1 of the following year. The required minimum distribution for any other year must be made by December 31 of such year.

11.05 (a) Death On or After Required Beginning Date. If the Participant dies on or after the required beginning date, the remaining portion of his or her interest will be distributed at least as rapidly as follows:

(1) If the Designated Beneficiary is someone other than the Participant's Surviving Spouse, the remaining interest will be distributed over the remaining life expectancy of the Designated Beneficiary, with such life expectancy determined using the Beneficiary's age as of his or her birthday in the year following the year of the Participant's death, or over the period described in paragraph (3) below if longer.

(2) If the Participant's sole Designated Beneficiary is the Participant's Surviving Spouse, the remaining interest will be distributed over such spouse's life or over the period described in paragraph (3) below if longer. Any interest remaining after such spouse's death will be distributed over such spouse's remaining life expectancy determined using the spouse's age as of his or her birthday in the year of the spouse's

death, or, if the distributions are being made over the period described in paragraph (3) below, over such period.

(3) If there is no Designated Beneficiary, or if applicable by operation of paragraph (1) or (2) above, the remaining interest will be distributed over the Participant's remaining life expectancy determined in the year of the Participant's death.

(4) The amount to be distributed each year under paragraph (1), (2) or (3), beginning with the calendar year following the calendar year of the individual's death, is the quotient obtained by dividing the value of the Traditional IRA as of the end of the preceding year by the remaining life expectancy specified in such paragraph. Life expectancy is determined using the Single Life Table in Q&A11 of Treasury Regulation Section 1.401(a)(9)-9. If distributions are being made to a Surviving Spouse as the sole Designated Beneficiary, such spouse's remaining life expectancy for a year is the number in the Single Life Table corresponding to such spouse's age in the year. In all other cases, remaining life expectancy for a year is the number in the Single Life Table corresponding to the Beneficiary's or Participant's age in the year specified in paragraph (1), (2) or (3) and reduced by 1 for each subsequent year.

(b) Death Before Required Beginning Date. If the Participant dies before the required beginning date, his or her entire interest will be distributed at least as rapidly as follows:

(1) If the Designated Beneficiary is someone other than the Participant's Surviving Spouse, the entire interest will be distributed, starting by the end of the calendar year following the calendar year of the Participant's death, over the remaining life expectancy of the Designated Beneficiary, with such life expectancy determined

using the age of the Beneficiary as of his or her birthday in the year following the year of the Participant's death, or, if elected, in accordance with paragraph (3) below.

(2) If the Participant's sole Designated Beneficiary is the Participant's Surviving Spouse, the entire interest will be distributed, starting by the end of the calendar year following the calendar year of the Participant's death (or by the end of the calendar year in which the Participant would have attained age 70½, if later), over such spouse's life, or, if elected, in accordance with paragraph (3) below. If the Surviving Spouse dies before distributions are required to begin, the remaining interest will be distributed, starting by the end of the calendar year following the calendar year of the spouse's death, over the spouse's designated Beneficiary's remaining life expectancy determined using such Beneficiary's age as of his or her birthday in the year following the death of the spouse, or, if elected, will be distributed in accordance with paragraph (3) below. If the Surviving Spouse dies after distributions are required to begin, any remaining interest will be distributed over the spouse's remaining life expectancy determined using the spouse's age as of his or her birthday in the year of the spouse's death.

(3) If there is no Designated Beneficiary, or if applicable by operation of paragraph (1) or (2) above, the entire interest will be distributed by the end of the calendar year containing the fifth anniversary of the Participant's death (or of the spouse's death in the case of the Surviving Spouse's death before distributions are required to begin under paragraph (2) above).

(4) The amount to be distributed each year under paragraph (1) or (2) is the quotient obtained by dividing the value of the Traditional IRA as of the end of the

preceding year by the remaining life expectancy specified in such paragraph. Life expectancy is determined using the Single Life Table in Q&A-1 of Treasury Regulation Section 1.401(a)(9)-9. If distributions are being made to a Surviving Spouse as the sole Designated Beneficiary, such spouse's remaining life expectancy for a year is the number in the Single Life Table corresponding to such spouse's age in the year. In all other cases, remaining life expectancy for a year is the number in the Single Life Table corresponding to the Beneficiary's age in the year specified in paragraph (1) or (2) and reduced by 1 for each subsequent year.

(c) The “value” of the Traditional IRA includes the amount of any outstanding rollover, transfer and recharacterization under Q&As 7 and 8 of Treasury Regulation 1.408-8.

(d) To the extent permitted under Code Section 408(q) and the regulations thereto, if the sole Designated Beneficiary is the individual's Surviving Spouse, the spouse may elect to treat the Deemed Traditional IRA as his or her own IRA. This election will be deemed to have been made if such Surviving Spouse makes a contribution to the Deemed Traditional IRA or fails to take required distributions as a Beneficiary.

11.06 The Custodian shall furnish annual calendar-year reports concerning the status of the Traditional IRA account and such information concerning required minimum distributions as is prescribed by the Commissioner of Internal Revenue.

11.07 The Custodian shall substitute another Custodian if the Custodian receives notice from the Commissioner of Internal Revenue that such substitution is required because it has failed to comply with the requirements of §1.408-2(e) of the Treasury Regulations.

11.08 Notwithstanding any other sections which may be added or incorporated, the provisions of this Section 11 will be controlling with respect to each Traditional IRA created

under the Plan. Any other provisions of this Plan inconsistent with Code Section 408(a)(6), the Treasury Regulations, and other published guidance will be invalid with respect to a Traditional IRA.

Section 12. Special Rules for Roth IRAs

12.01 (a) The Roth Deemed IRA accounts are established for the exclusive benefit of the Participant or his or her Beneficiaries.

(1) Except in the case of a qualified rollover contribution or a recharacterization (as defined in (6) below), no contribution will be accepted unless it is in cash and the total of such contributions to all the Participant's Roth IRAs for a taxable year does not exceed the applicable amount (as defined in (2) below), or the Participant's compensation (as defined in (8) below), if less, for that taxable year. The contribution described in the previous sentence that may not exceed the lesser of the applicable amount or the Participant's compensation is referred to as a "regular contribution." A "qualified rollover contribution" is a rollover contribution that meets the requirements of Code Section 408(d)(3), except the one rollover per year rule of Code Section 408(d)(3)(B) does not apply if the rollover contribution is from a Traditional IRA. Beginning in 2006, a qualified rollover contribution also includes a rollover from a designated Roth account described in Code Section 402A. Contributions may be limited under (3) through (5) below.

(2) The applicable amount is determined under (i) or (ii) below:

(i) If the Participant is under age 50, the applicable amount is \$4,000 for any taxable year beginning in 2005 through 2007 and \$5,000 for any taxable year beginning in 2008 and years thereafter.

(ii) If the Participant is 50 or older, the applicable amount is \$4,500 for any taxable year beginning in 2005, \$5,000 for any taxable year beginning in 2006 through 2007 and \$6,000 for any taxable year beginning in 2008 and years thereafter.

After 2008, the limits in paragraph (i) and (ii) above will be adjusted by the Secretary of the Treasury for cost-of-living increases under Code Section 219(b)(5)(C). Such adjustments will be in multiples of \$500.

(3) If (i) and/or (ii) below apply, the maximum regular contribution that can be made to all the Participant's Roth IRAs for a taxable year is the smaller amount determined under (i) or (ii).

(i) The maximum regular contribution is phased out ratably between certain levels of modified adjusted gross income ("modified AGI," defined in (7) below) in accordance with the following table:

<u>Filing Status</u>	<u>Full Contribution</u>	<u>Phase-out Range</u>	<u>No Contribution</u>
<u>Modified AGI</u>			
Single or Head of Household	\$95,000 or less	Between \$95,000 and \$110,000	\$110,000 or more
Joint Return or Qualifying Widower	\$150,000 or less	Between \$150,000 and \$160,000	\$160,000 or more
Married-Separate Return	\$0	Between \$0 and \$10,000	\$10,000 or more

If the Participant's modified AGI for a taxable year is in the phase-out range, the maximum regular contribution determined under this table for that

taxable year is rounded up to the next multiple of \$10 and is not reduced below \$200.

(ii) If the Participant makes regular contributions to both Roth and Traditional IRAs for a taxable year, the maximum regular contribution that can be made to all the Participant's Roth IRAs for that taxable year is reduced by the regular contributions made to the Participant's Traditional IRAs for the taxable year.

(4) A rollover from a Traditional IRA cannot be made to this Deemed Roth IRA if, for the year the amount is distributed from the Traditional IRA, (i) the Participant is married and files a separate return, (ii) the Participant is not married and has modified AGI in excess of \$100,000 or (iii) the Participant is married and together the Participant and the Participant's spouse have modified AGI in excess of \$100,000. For purposes of the preceding sentence, a husband and wife are not treated as married for a taxable year if they have lived apart at all times during that taxable year and file separate returns for the taxable year. The Pension Protection Act of 2006 amended Code Section 408A(d)(3) to permit rollovers from Eligible Retirement Plans to Roth IRAs under the rules provided above for Traditional IRA's beginning in 2008, and amended Code Section 408A(c)(3)(B) to eliminate the AGI based restrictions on all rollovers to Roth IRAs beginning in 2010. The Plan Administrator may issue rules to accept rollovers from Eligible Retirement Plans to Roth IRAs under the new rules beginning after 2007, and all rollovers to Roth IRAs under the new rules beginning after 2009 in accordance with the Code and the Treasury Regulations.

(5) No contributions will be accepted under a SIMPLE IRA plan established by any employer pursuant to Code Section 408(p). Also, no transfer or rollover of funds attributable to contributions made by a particular employer under its SIMPLE IRA plan will be accepted from a SIMPLE IRA; that is, an IRA used in conjunction with a SIMPLE IRA plan, prior to the expiration of the 2-year period beginning on the date individual first participated in that employer's SIMPLE IRA plan.

(6) A regular contribution to a Traditional IRA may be recharacterized pursuant to the rules in Treasury Regulation Section 1.408A-5 as a regular contribution to this Roth IRA, subject to the limits in (3) above.

(7) For purposes of (3) and (4) above, a Participant's modified AGI for a taxable year is defined in Code Section 408A(c)(3)(C)(i) and does not include any amount included in adjusted gross income as a result of a rollover from a Traditional IRA (a "conversion").

(8) For purposes of (1) above, "compensation" is defined as wages, salaries, professional fees, or other amounts derived from or received for personal services actually rendered (including, but not limited to commissions paid salesmen, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips, and bonuses) and includes earned income, as defined in Code Section 401(c)(2) (reduced by the deduction the self-employed individual takes for contributions made to a self-employed retirement plan). For purposes of this definition, Code Section 401(c)(2) shall be applied as if the term trade or business for purposes of Code Section 1402 included service described in Code Subsection 401(c)(6). Compensation does not include amounts derived from or received as earnings or profits

from property (including but not limited to interest and dividends) or amounts not includible in gross income. Compensation also does not include any amount received as a pension or annuity or as deferred compensation. The term "compensation" shall include any amount includible in the individual's gross income under Code Section 71 with respect to a divorce or separation instrument described in subparagraph (A) of Code Section 71(b)(2). In the case of a married individual filing a joint return, the greater compensation of his or her spouse is treated as his or her own compensation, but only to the extent that such spouse's compensation is not being used for purposes of the spouse making a contribution to a Roth IRA or a deductible contribution to a Traditional IRA.

(b) If the Deemed IRA Trust acquires collectibles within the meaning of Code Section 408(m) except as otherwise permitted by Code Section 408(m)(3), which provides an exception for certain gold, silver and platinum coins, coins issued under the laws of any state, and certain bullion.

(c) No part of the Deemed IRA Trust funds will be invested in life insurance contracts.

(d) No amount is required to be distributed prior to the death of the Participant for whose benefit the Deemed Roth IRA account was originally established.

(e) The Roth IRA accounts will comply with the minimum distribution rules as follows:

(1) Notwithstanding any provision of this Deemed Roth IRA to the contrary, the distribution of the Participant's interest in the account shall be made in accordance with the requirements of Code Section 408(a)(6), as modified by Code Section 408A(c)(5), and the regulations thereunder, the provisions of which are herein

incorporated by reference. If distributions are made from an annuity contract purchased from an insurance company, distributions thereunder must satisfy the requirements of Treas. Reg. Section 1.401(a)(9)-6 (taking into account Code Section 408A(c)(5)), rather than the distribution rules in paragraphs (2), (3) and (4) below.

(2) Upon the death of the Participant, his or her entire interest will be distributed at least as rapidly as follows:

(i) If the Designated Beneficiary is someone other than the Participant's Surviving Spouse, the entire interest will be distributed, starting by the end of the calendar year following the calendar year of the Participant's death, over the remaining life expectancy of the Designated Beneficiary, with such life expectancy determined using the age of the Beneficiary as of his or her birthday in the year following the year of the Participant's death, or, if elected, in accordance with paragraph (iii) below.

(ii) If the Participant's sole Designated Beneficiary is the Participant's Surviving Spouse, the entire interest will be distributed, starting by the end of the calendar year following the calendar year of the Participant's death (or by the end of the calendar year in which the Participant would have attained age 70½, if later), over such spouse's life, or, if elected, in accordance with paragraph (iii) below. If the Surviving Spouse dies before distributions are required to begin, the remaining interest will be distributed, starting by the end of the calendar year following the calendar year of the spouse's death, over the spouse's Designated Beneficiary's remaining life expectancy determined using such Beneficiary's age as of his or her birthday in the year following the death of the

spouse, or, if elected, will be distributed in accordance with paragraph (iii) below. If the Surviving Spouse dies after distributions are required to begin, any remaining interest will be distributed over the spouse's remaining life expectancy determined using the spouse's age as of his or her birthday in the year of the spouse's death.

(iii) If there is no Designated Beneficiary, or if applicable by operation of paragraph (i) or (ii) above, the entire interest will be distributed by the end of the calendar year containing the fifth anniversary of the Participant's death (or of the spouse's death in the case of the Surviving Spouse's death before distributions are required to begin under paragraph (2) above).

(iv) The amount to be distributed each year under paragraph (i) or (ii) is the quotient obtained by dividing the value of the Deemed Roth IRA as of the end of the preceding year by the remaining life expectancy specified in such paragraph. Life expectancy is determined using the Single Life Table in Q&A-1 of Treas. Reg. Section 1.401(a)(9)-9. If distributions are being made to a Surviving Spouse as the sole Designated Beneficiary, such spouse's remaining life expectancy for a year is the number in the Single Life Table corresponding to such spouse's age in the year. In all other cases, remaining life expectancy for a year is the number in the Single Life Table corresponding to the Beneficiary's age in the year specified in paragraph (i) or (ii) and reduced by 1 for each subsequent year.

(3) The "value" of the Deemed Roth IRA includes the amount of any outstanding rollover, transfer and recharacterization under Q&As 7 and 8 of Section 1.408-8 of the Income Tax Regulations.

(4) To the extent permitted under Code Section 408(q) and the regulations thereto, if the sole Designated Beneficiary is the Participant's Surviving Spouse, the spouse may elect to treat the Deemed Roth IRA as his or her own IRA. This election will be deemed to have been made if such surviving spouse makes a contribution to the Deemed Roth IRA or fails to take required distributions as a Beneficiary.

12.02 (a) The Participant agrees to provide the Custodian with all information necessary to prepare any reports required by Sections 408(i) and 408A(d)(3)(E) of the Code. Treasury Regulations §§1.408-5 and 1.408-6, or other guidance published by the Internal Revenue Service.

(b) The Custodian agrees to submit to the IRS and Participant the reports prescribed by the IRS.

12.03 Separate records will be maintained for the interest of each Participant.

12.04 The Custodian of a Roth IRA shall furnish annual calendar-year reports concerning the status of the account and such information concerning required minimum distributions as is prescribed by the Commissioner of Internal Revenue.

12.05 The Custodian shall substitute another Custodian if the Custodian receives notice from the Commissioner of Internal Revenue that such substitution is required because it has failed to comply with the requirements of Treasury Regulations §1.408-2(e), relating to the definition of Custodian.

12.06 Notwithstanding any other sections which may be added or incorporated, the provisions of Sections 12.01 through 12.06 and this sentence will be controlling with respect to each Roth IRA created under the Plan. Any additional sections inconsistent with Section 408A of the Code, the Treasury Regulations, and other published guidance will be invalid.

Section 13. Designation Of Beneficiaries.

13.01 Each Participant shall file with the Employer a written designation of one or more persons as the Beneficiary who shall be entitled to receive the amount, if any, payable under the Plan, upon the Participant's death. A Participant may from time to time revoke or change his or her beneficiary designation without the consent of any prior Beneficiary by filing a new designation with the Employer. The last such designation received by the Employer shall be controlling; provided, however, that no designation or change or revocation thereof shall be effective unless received by the Employer prior to the Participant's death, and in no event shall it be effective as of a date prior to such receipt.

13.02 If no such beneficiary designation is in effect at the time of a Participant's death, or if no Beneficiary survives the Participant, or if no Beneficiary can be located with reasonable diligence by the Plan Administrator, the payment of the Plan Benefit, if any, payable under the Plan upon the Participant's death, shall be made to the Participant's Surviving Spouse, if any or, if the Participant has no Surviving Spouse or the Surviving Spouse cannot be located with reasonable diligence by the Employer or the Plan Administrator, to the Participant's estate. If the Plan Administrator is in doubt as to the right of any person to receive such amount, it shall inform the Board and the Board may direct the Custodian to retain such amount in the Custodial Account, without liability for any investment thereon, until the rights thereto are determined, or the Plan Administrator may authorize the Custodian to pay such amount into any court of

appropriate jurisdiction or to any other person pursuant to applicable law and such payment shall be a complete discharge of the liability of the Board, Custodian, Plan Administrator, Employer, Administrative Service Agency and Financial Organizations. If the primary Beneficiary so designated by the Participant shall die prior to the death of the Participant, the amount that would have been paid to such Beneficiary had such Beneficiary's death not then occurred, shall be paid to the Participant's contingent Beneficiary, if any, in accordance with the provisions of the Plan. If a primary or contingent Beneficiary so designated by the Participant shall die after the Participant, the amount that would have been paid to such Beneficiary had such Beneficiary's death not then occurred, shall be paid to such Beneficiary's estate.

13.03 No power of attorney, other than one properly executed in accordance with the General Obligations Law of the State of New York, as such may be amended from time to time, shall be effective to permit an attorney-in-fact to make or change a Beneficiary designation on behalf of a Participant except upon specific determination by the Plan Administrator that the instrument expressly grants the power to act on behalf of the Participant regarding Beneficiary designation under the Plan.

Section 14. Loans To Participants.

14.01 The Employer, in accordance with a written loan procedure established by the Board, may permit loans to be made from the Plan to Participants on a nondiscriminatory basis pursuant to Code Section 72(p). If made available, a Participant may make application to the Board requesting a loan. A Plan loan shall be made from the Participant's Account. The Board will have the sole right to approve or disapprove the application provided that loans will be made available to all Participants on a reasonably equivalent basis. Plan loans shall be granted only to those Participants who are active Employees. Each Participant may have no more than two

outstanding Plan loans at a time. All loans must be evidenced by a legally enforceable agreement (which may include more than one document) set forth in writing or in such other form as may be approved by the Internal Revenue Service, and the terms of such agreement must specify the amount and term of the loan, and the repayment schedule. The Board, may in its sole discretion, establish or change from time to time, the standards or procedures for making any Plan loan, including, without limitation, assessing an administrative fee against the Participant for such Plan loan. Subject to the loan procedure, loans will be made in accordance with the following rules:

(a) Maximum Loan: The principal amount of any Plan loan shall be for an amount equal to at least \$2,500, or such other amount as the Board shall determine, and shall not exceed the lesser of (i) \$50,000 reduced by the greater of (A) the outstanding balance on any loan from the Plan to the Participant on the date the loan is made or (B) the Participant's highest outstanding balance on loans from the Plan during the 1 year period ending on the day before the loan was made (not taking account any payments made during such 1 year period); or (ii) one-half of the value of the Participant's Account (as of the Valuation Date immediately preceding the date on which the loan was made).

(b) Aggregation Of Loans: For purposes of the limitations in paragraph (a) above, all loans from all plans of the Employer will be aggregated, and the Participant's vested interest under such other plan shall be considered a vested interest under this Plan; provided, however, that the provisions of this paragraph shall not be applied so as to allow the amount of a loan under this Section to exceed the amount that would otherwise be permitted in the absence of this paragraph. An assignment or pledge of any portion of the Participant's Account balance, and a

loan, pledge, or assignment with respect to any insurance contract purchased under the Plan, will be treated as a loan under this Section.

(c) Loans Must Bear Reasonable Interest: Any loan granted hereunder must bear interest at a rate reasonable at the time of application, considering the purpose of the loan and the rate being charged by representative commercial banks in the local area for a similar loan, unless the Board sets forth a different method for determining loan interest rates in its loan procedures such as using the prime rate or some other rate based on the prime rate. The loan agreement will also provide for the payment of principal and interest in not less than quarterly installments. The interest earned by the Fund on any loan granted hereunder will be credited directly to the individual Participant's Account to whom the loan was granted.

(d) Loans Must Be Secured: If a Participant's loan application is approved by the Board, such Participant will be required to execute a note and a loan agreement as collateral for the loan. Such collateral may, in the Board's discretion, include the Participant's Account.

(e) Terms Of Repayment: The term of a loan will not exceed 5 years. Any Plan loan shall be repaid in substantially equal installments of principal and accrued interest, which shall be paid in at least quarterly installments throughout the repayment period, except that alternative arrangements for repayment may apply in the event that the borrower is on a bona fide unpaid leave of absence for a period not to exceed (i) one year for leaves other than a qualified military leave within the meaning of Code Section 414(a) or (ii) the duration of a qualified military leave, and shall be subject to the methods and procedures as shall be determined by the Board and the Administrative Service Agency. All Plan loans shall be made from the Custodial Account and notes evidencing such obligations shall be considered assets of the Custodial Account.

(f) Loan Default: If a Participant fails to make any scheduled repayment of his or her Plan loan within ninety (90) days of its due date, or such other period as the Board shall determine within Code limits, such Participant shall be considered in default and the Administrative Service Agency shall declare a deemed distribution to have occurred with respect to such Plan loan, effective as of the date of the default. If the Participant's Account is less than the amount due, the Board will take whatever steps are necessary to collect the balance due from the Participant.

Section 15. Administration of Plan.

15.01 Except as otherwise provided herein, the general operation and administration of the Plan shall be the responsibility of the Plan Administrator. The Board shall have the power and duty to take all action and to make all decisions necessary to carry out its responsibilities under the Plan. All determinations of the Board as to any question involving its responsibilities under the Plan, including, but not limited to, interpretation of the Plan or as to any discretionary actions to be taken under the Plan, shall be solely in the Board's discretion and shall be final, conclusive, and binding on all parties.

15.02 Without limiting the generality of the foregoing, the Board shall have the following powers and duties:

- (a) to require any person to furnish such information as it may request for the purpose of the proper administration of the Plan as a condition to receiving any benefit under the Plan;
- (b) to make and enforce such rules and regulations and prescribe the use of such forms as it shall deem necessary for the efficient administration of the Plan;
- (c) to interpret the Plan and to solve ambiguities, inconsistencies, and omissions;

(d) to decide all questions concerning the Plan and the eligibility of any Employee to participate in the Plan;

(e) to determine whether a domestic relations order constitutes a Qualified Domestic Relations Order;

(f) to determine the amount of benefits which shall be payable to any person in accordance with the provisions of the Plan;

(g) to direct the Custodian to make payments from the Custodial Account to Participants, Beneficiaries and such other persons as it may determine pursuant to the provisions of the Plan; and

(h) to enlarge or diminish the time periods specified under the Plan for any election, designation, request, notice, instruction or other communication from an Employee or Participant, or his or her Beneficiary, provided such time period is not contrary to the applicable requirements of the Code and the Treasury Regulations and the Board determines that such action is necessary or desirable to facilitate the proper administration of the Plan.

15.03 The Board shall have general authority under the Plan. The decisions of the Board shall be final, binding and conclusive on all interested persons for all purposes. The Board may delegate its general authority as it deems appropriate in accordance with the terms of the Plan and all applicable Code Sections and Treasury Regulations; provided, however, that such delegation shall be subject to revocation at any time at the discretion of the Board. Notwithstanding any other provisions of the Plan, the Board's general authority shall include the right to review, revise, modify, revoke, or vacate any decision made or action taken by any party under the Plan.

15.04 Any claim to rights or benefits under the Plan, including, without limitation, any purported Qualified Domestic Relations Order or request for hardship withdrawal must be filed in writing with the Board or with such other entity as the Board may designate. Within sixty (60) days after receipt of such claim or such other reasonable amount of time that the Board may determine, the Board, or such entity designated by the Board, shall notify the claimant and, if such claimant is not the Participant, any Participant against whose Plan Benefit the claim is made, that the claim has been granted or denied, in whole or in part.

Within sixty (60) days after receipt by the claimant of notification of denial, the claimant shall have the right to present a written appeal to the Board. If such appeal is not filed within said sixty (60) day period, the decision of the Board shall be final and binding. The Board shall act as a fiduciary in making a full and fair review of such denial. The claimant or his/her duly authorized representative may review any Plan documents that are pertinent to the claim and may submit issues and comments to the Board in writing. A decision by the Board shall be made promptly and shall be final.

15.05 Subject to the discretion of the Board, or such other entity as the Board may designate to determine otherwise, no distribution of any Plan Benefit shall be permitted during any period which a claim, including, without limitation, a purported Qualified Domestic Relations Order, against all or part of such Plan Benefit is being reviewed in accordance with the provisions of this Section. If the Plan Administrator reasonably believes that a claim, including, without limitation, a purported Qualified Domestic Relations Order, against all or part of any Plan Benefit is likely to be asserted, it shall be within the discretion of the Board or its designee to refuse to permit any distribution of all or part of such Plan Benefit pending determination of such claim.

15.06 If the Board deems it necessary or advisable, it shall arrange, in accordance with Executive Order No. 81 of 1985, for the engagement of legal counsel (with the approval of the Corporation Counsel of the City of New York) and certified public accountants, who may be counsel or accountants for the Employer, and other consultants, and make use of agents and or other personnel, for purposes of the Plan. The Board may rely upon the written opinions of such counsel, accountants and consultants and delegate in writing or pursuant to a resolution of the Board, to any agent or to any member of the Board, its authority or the authority of the Employer to perform any act hereunder, including, without limitation, those matters involving the exercise of discretion; provided, however, that such delegation shall be subject to revocation at any time at the discretion of the Board.

15.07 No member of the Board shall be entitled to act on or decide any matters relating solely to such member or any of his or her rights or benefits under the Plan.

15.08 Any action of the Board may be taken at a meeting. The Board shall establish its own procedures and the time and place for its meetings and provide for the keeping of minutes of all meetings. A majority of the entire Board shall be necessary to constitute a quorum of the Board for the transaction of business at any meeting. If a quorum is present, a vote of majority of the entire Board shall constitute an act of the Board.

15.09 Except as prohibited by law, neither the Board nor any member thereof, nor any person, firm, or corporation to whom may be delegated any duty or power in connection with administering, managing, or supervising the administration or management of the Plan, shall be liable for anything done or omitted to be done by it or by them unless the act or omission claimed to be the basis for liability amounted to a failure to act in good faith or was due to gross negligence or willful misconduct; nor for the payment of any amount under the Plan; nor for any

mistake of judgment made by it or on its behalf by a member of the Board; nor for the neglect, omission or wrongdoing of any member of the Board. No member of the Board, nor any delegate, shall be personally liable under any contract, agreement, bond or other instrument made or executed by him or her on his or her behalf in connection with the Plan or Custodial Account.

15.10 Except as otherwise provided in the Plan and the Custodial Agreement, the Board shall have responsibility with respect to the control or management of the assets of the Plan and the Custodial Account. The Board shall periodically review the performance and methods of the Custodian and the Board may appoint and remove or change the Custodian. The Board shall have the power to appoint or remove one or more Financial Organizations and to delegate to such Financial Organization(s) authority and discretion to manage (including the power to acquire and dispose of) the assets of the Plan and Custodial Account in accordance with the Treasury Regulations and shall periodically review the performance and methods of such Financial Organization(s) and may direct the acquisition or disposition of the assets in any Investment Fund.

15.11 Notwithstanding any other provision hereof, the Plan shall at all times be operated in accordance with the requirements of applicable law, including, without limitation, the Code Treasury Regulations applicable to a profit sharing/401(k) plan..

Section 16. Management of Funds.

16.01 A Custodian, as appointed from time to time by the Board or its delegate, shall hold all of the funds of the Plan for the exclusive purpose of providing benefits under the Plan and paying any and all expenses not paid directly by the Employer. The Employer shall have no liability for the payment of benefits under the Plan or for the investment of the funds paid over to the Custodian.

16.02 Except as otherwise provided in the Plan, no part of the corpus or income of the funds of the Plan shall be used for, or diverted to, purposes other than for the exclusive benefit of Participants and other persons entitled to benefits under the Plan or for paying Plan expenses not paid directly by the Employer. Other than pursuant to a Qualified Domestic Relations Order, no person shall have any interest in or right to any part of the earnings of the Funds of the Plan, or any right in, or to, any part of the assets held under the Plan, except as and to the extent expressly provided in the Plan.

Section 17. Amendment or Termination.

17.01 Subject to Section 17.02 and any requirements of State or federal law, the Board reserves the right at any time and with or without prior notice to amend, suspend, or terminate the Plan, any deferrals thereunder, and any Investment Fund, in whole or in part and for any reason and without the consent of any Employee, Participant, Beneficiary, or other person. The Plan shall be terminated automatically upon complete and final discontinuance of all deferrals thereunder.

17.02 Except as provided in Section 17.03, no amendment or modification shall be made which would (i) cause or permit any part of the Plan assets to be diverted to purposes other than for the exclusive benefit of Participants or their Beneficiaries; (ii) cause or permit any portion of such assets to revert to or become the property of the Employer; (iii) cause an impermissible reduction in the value of a Participant's Account theretofore credited to any Participant; or (iv) retroactively impair any individual's rights to any benefits under the Plan.

17.03 Any provisions of the Plan or the Custodial Agreement, any deferrals thereunder, or any Investment Fund may be retroactively amended, suspended or terminated if required to meet any applicable requirements of the Code or any other applicable law or regulation.

17.04 The Plan may not be merged or consolidated with, and its assets or liabilities may not be transferred to, any other plan unless each person entitled to benefits under the Plan would, if the resulting plan were then terminated, receive a benefit immediately after the merger, consolidation, or transfer which is equal to or greater than the benefit that person would have been entitled to receive immediately before the merger, consolidation, or transfer if the Plan had terminated.

17.05 Upon termination of the Plan, the Employer shall not permit any further deferrals of Compensation under the Plan and all Plan Benefits shall thereafter be payable as provided in the Plan. Any distributions, transfers or other dispositions of the Plan Benefits as provided in the Plan shall constitute a complete discharge of all liabilities under the Plan. The Board and the Custodian shall remain in existence and all of the provisions of the Plan which in the opinion of the Board are necessary for the execution of the Plan and the administration and distribution, transfer, or other disposition of interests shall remain in force until all assets of the Custodial Account have been transferred, distributed or disposed..

Section 18. Antiassignment Provisions and Qualified Domestic Relations Orders

18.01 Except insofar as may otherwise be required by law or in accordance with this Section 18, no amount payable at any time under the Plan shall be subject in any manner to alienation by anticipation, sale, transfer, assignment, bankruptcy, pledge, attachment, charge or encumbrance of any kind, and any attempt to so alienate such amount, whether presently or thereafter payable, shall be void. If any person shall attempt to, or shall, so alienate any amount payable under the Plan, or any part thereof, or if by reason of bankruptcy or other event happening at any time such amount would not be enjoyed by the person to whom it is payable under the Plan, then the Plan Administrator shall notify the Board and, if it so elects, may direct

that such amount be withheld and that the same or any part thereof be paid to or for the benefit of such person, his or her spouse, children or other dependents, or any of them, in such manner and proportion as the Plan Administrator may deem proper.

18.02 Notwithstanding anything contained herein to the contrary, the Plan Administrator may pay from a Participant's, Beneficiary's or Alternate Payee's Account the amount that the Plan Administrator finds is lawfully demanded under a levy issued by the Internal Revenue Service with respect to that Participant, Beneficiary or Alternate Payee or is sought to be collected by the United States Government under a judgment resulting from an unpaid tax assessment against the Participant, Beneficiary or Alternate Payee.

18.03 (a) Payments with respect to a Participant's Plan Benefit may be made to one or more Alternate Payees pursuant to the terms of a Qualified Domestic Relations Order. If the Qualified Domestic Relations Order provides that a benefit may be paid to the Alternate Payee identified in the Order prior to the identified Participant attains retirement age or separates from service, immediate distributions may be made to the Alternate Payee pursuant to Section 414(p)(4) of the Code as amended from time to time. Upon receipt by the Plan of a Qualified Domestic Relations Order, a portion of the Participant's Account, which portion shall be determined in accordance with the Qualified Domestic Relations Order, shall be segregated in an Account maintained on behalf of each Alternate Payee designated under such order until payment is made to the Alternate Payee in accordance with this Section and the terms of the Plan. No liability whatsoever shall be incurred by the Board, Employer, Plan Administrator, Custodian, Administrative Service Agency or any Financial Organization solely by reason of any action taken in accordance with this Section pursuant to the terms of a Qualified Domestic Relations Order.

(b) The Plan specifically permits distribution at any time to an Alternate Payee under a QDRO irrespective of whether the Participant has met the Plan requirements to receive a distribution. A distribution to an Alternate Payee prior to the Participant's Severance From Employment is available only if: (i) the order specifies distribution at that time; and (ii) the order specifies the form and manner in which the distribution is to occur. Nothing in this Article permits a Participant a right to receive a distribution at a time otherwise not permitted under the Plan nor does it permit the Alternate Payee to receive a form of payment not permitted under the Plan. An Alternate Payee who is the spouse or former spouse of the Participant shall be treated as a Participant of any distribution or payment made to the Alternate Payee, this includes any taxes or penalties.

18.04 Each Participant and Alternate Payee shall file with the Plan Administrator such pertinent information concerning himself or herself and his or her Beneficiary as the Board may specify, and no Participant, Beneficiary, or other person shall have any rights or be entitled to any benefits under the Plan unless such information is filed with respect to him or her.

Section 19. General Limitations and Provisions.

19.01 The Plan, as duly amended from time to time, shall be binding on each Participant and his or her Surviving Spouse, heirs, administrators, trustees, successors, assigns, Beneficiaries, Alternate Payees and all other interested persons.

19.02 Nothing contained herein shall give any individual the right to be retained in the employment of the Employer or affect the right of the Employer to terminate any individual's employment. The adoption and maintenance of the Plan shall not constitute a contract between the Employer and any individual or consideration for, or an inducement to or condition of, the employment of any individual.

19.03 If the Plan Administrator shall find that any person to whom any amount is payable under the Plan is unable to care for his or her affairs, is a minor, or has died, then it shall so notify the Board, and any payment due him or her or his or her estate (unless a prior claim therefor has been made by a Beneficiary, Surviving Spouse, or duly appointed legal representative or the time period during which a Beneficiary or Surviving Spouse could make a claim under the Plan has elapsed) may, if the Board so elects, be paid to his or her spouse, a child, a relative, or any other person maintaining or having custody of such person otherwise entitled to payment or deemed by the Board to be a proper recipient on behalf of such person. Any such payment shall be a complete discharge of all liability under the Plan therefore.

19.04 All elections, designations, requests, notices, instructions, and other communications from an Employee, Participant, Beneficiary, Surviving Spouse, or other person to the Board, Custodian, Plan Administrator, or Employer required or permitted under the Plan shall be in such form as is prescribed from time to time by the Board, shall be mailed by first class mail or delivered to such location as shall be specified by the Board, and shall be deemed to have been given and delivered only upon actual receipt thereof at such location. Copies of all elections, designations, requests, notices, instructions and other communications from an Employee, Participant, Beneficiary, Surviving Spouse, or other person to the Employer shall be promptly filed with the Board.

19.05 All notices, statements, reports and other communications from an Employer, Custodian, Plan Administrator, Administrative Service Agency or the Board to any Employee, Participant, Beneficiary, Surviving Spouse, or other person required or permitted under the Plan shall be deemed to have been duly given when delivered to, or when mailed by first class mail, postage prepaid, and addressed to, such Employee, Participant, Beneficiary, Surviving Spouse,

or other person at his or her address last appearing on the records of the Employer and/or Plan Administrator.

19.06 (a) Notwithstanding any provision of the Plan to the contrary, contributions and benefits with respect to qualified military service shall be provided in accordance with Section 414(u) of the Code as amended from time to time.

(b) Effective January 1, 2007, to the extent provided under Code Section 401(a)(37), in the case of an Employee whose employment is interrupted by qualified military service and who dies while performing qualified military service, the survivor of such Employee shall be entitled to any additional benefit (other than benefit accruals) provided under the Plan as if the Employee timely resumed employment in accordance with USERRA and then, on the next day, terminated employment on account of death.

(c) Beginning January 1, 2009, to the extent required by Code Section 414(u)(12), an individual receiving differential wage payments (as defined under Code Section 3401(h)(2)) from an employer shall be treated as employed by that employer, and the differential wage payment shall be treated as compensation for purposes of applying the limits on annual additions under Code Section 415(c). This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner.

19.07 The Plan is a governmental plan as defined in Section 3(32) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA") and is thus specifically exempt from the provisions of ERISA and shall be construed, regulated and administered under the applicable provisions of the Code and the laws of the State of New York.

19.08 The captions preceding the Sections hereof have been inserted solely as a matter of convenience and in no way define or limit the scope or intent of any provisions hereof.

19.09 The masculine pronoun shall mean the feminine and the singular shall mean the plural wherever appropriate.

IN WITNESS WHEREOF, the members of the Board have adopted this Plan subject to changes required by the Internal Revenue Service, which can be made retroactively as required by the Internal Revenue Service, to meet the requirements of Sections 401(a) and 401(k) of the Internal Revenue Code of 1986, as amended.

THE CITY OF NEW YORK
DEFERRED COMPENSATION BOARD

By: _____

NAME: Georgette Gestely

TITLE: Director, Deferred Compensation

DATE: June 4, 2014

Appendix A

- A) The City of New York
- B) The Housing Authority
- C) The School Construction Authority
- D) The Water Finance Authority
- E) The Board of Education
- F) Health and Hospitals Corporation
- G) The Community Colleges of the City University of New York