

# Sample Employee Stock Ownership Plan and Accompanying Trust Agreement

## Worksheet 1

### Sample Employee Stock Ownership Plan and Accompanying Trust Agreement

#### XXX EMPLOYEES' STOCK OWNERSHIP PLAN

(Effective January 1, 2024)

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## XXX EMPLOYEES' STOCK OWNERSHIP PLAN

### Introduction

#### Background, Purpose of Plan and Applicable Requirements

The Corporation establishes the Plan for the purpose of providing retirement benefits to Eligible Employees. The Plan consists of two parts, the Profit-Sharing Plan Portion and the Stock Bonus Plan Portion, and is intended to satisfy the applicable requirements of Section 401(a) of the Code. The Stock Bonus Plan Portion is intended to satisfy Section 409 of the Code and Section 4975(e)(7) of the Code. The Stock Bonus Plan Portion will also comply with Section 407(d)(6) of ERISA. The Corporation also intends that the Trust be exempt from tax under Section 501(a) of the Code.

Contributions to the Plan will be made by the Employer. Contributions to the Stock Bonus Portion of the Plan will be invested primarily in shares of Corporation Stock (which will constitute “qualifying employer securities” as provided in Section 4975(e) (7) of the Code). Contributions to the Profit-Sharing Portion of the Plan will not be invested in Corporation Stock.

Corporation Stock held by the Plan will be deemed to be held in the Stock Bonus Plan Portion of the Plan. The assets of the Plan which are not held in Corporation Stock and which the Corporation does not intend to be used to repay the Exempt Loan or otherwise held in the Stock Bonus Plan Portion will constitute the Profit-Sharing Plan Portion of the Plan. The foregoing will apply regardless of which Accounts within the Plan hold the various assets.

Defined terms used in this SECTION 1 are defined in SECTION 2.

### **Effective Date and Plan Year**

This amendment and restatement of the Plan is effective January 1, 2024. The rights and benefits of any Participant who terminates employment with the Corporation and its Related Employers will be determined under the Plan in effect at the time of such termination of employment, except as otherwise required to comply with applicable law, as specifically provided below, or in accordance with uniform procedures adopted by the Corporation. The Plan is administered on the basis of a Plan Year.

### **Administration of the Plan**

The Plan is administered by the Plan Administrator, as described in SECTION 8. The Plan Administrator has discretionary authority to construe and interpret the provisions of the Plan. The Plan Administrator from time to time may adopt such rules and regulations as may be necessary or desirable for the proper and efficient administration of the Plan and as are consistent with the terms of the Plan. The Plan Administrator may delegate all or any part of its powers, rights, and duties under the Plan to such person or persons as it may deem advisable. Any notice or document required to be given to or filed with the Plan Administrator will be properly given or filed if delivered or mailed, by registered mail, postage prepaid, to:

ESOP Plan Administrator  
c/o

### **Plan Supplements**

The provisions of the Plan may be modified by Supplements to the Plan. The terms and provisions of each Supplement are a part of the Plan and supersede the provisions of the Plan to the extent necessary to eliminate inconsistencies between the Plan and the Supplement.

### **Definitions**

#### **Account**

“Account” means the separate accounts established and maintained for a Participant, Beneficiary or Alternate Payee under SECTION 5 as of any Valuation Date.

#### **Acquired Entity**

“Acquired Entity” means any entity whose stock is acquired by the Plan and then combined with the Corporation or a Related Employer through the merger, amalgamation, consolidation, stock for stock exchange or any other similar event, but specifically excluding any acquisition structured as purchase of assets and any acquisition structured as a purchase of stock directly by the Corporation or a Related Employer.

#### **Alternate Payee**

“Alternate Payee” means a Spouse, former Spouse, child, or other dependent of a Participant to whom benefits are payable under the Plan pursuant to the terms of a qualified domestic relations order as defined in Section 414(p) of the Code.

#### **Approved Form of Election**

“Approved Form of Election” means a request or an election made through the voice response system, Internet, intranet or other electronic media approved by the Plan Administrator or on a written election form approved by the Plan Administrator and filed with the Employer. Notwithstanding the foregoing, no request or election will be deemed to have been made until all required documentation, information, signatures, consents, notarizations, and attestations required for such request or election are provided to the Plan Administrator or its designee.

## Beneficiary

“Beneficiary” means the persons selected by a Participant or, if not selected, then as so designated under the Plan’s procedures to receive a benefit under the Plan payable upon the Participant’s death or as a result of a Qualified Domestic Relations Order.

## Benefit Service

“Benefit Service” means service determined as follows:

**Included Service.** An Employee’s Benefit Service will include:

An Employee will earn one year of Benefit Service for each 12-month period of employment, with non-successive periods of employment aggregated in full years, months, and days. Where an Employee’s aggregate period of employment is for any number of full years plus at least six months, such months will be rounded up and counted as an additional full year of Benefit Service.

An Employee will earn Benefit Service in accordance with Subsection 2.6(a) for periods during which such individual:

- is employed by the Corporation or a Related Employer;
- is on leave of absence pursuant to the Family and Medical Leave Act of 1993, including but not limited to absences for maternity and paternity leave, to the extent required by applicable law;
- is engaged in Qualified Military Service, to the extent required by United States Code, Title 38, Chapter 43;
- is employed by an Acquired Entity, beginning with the date specified in the participation or similar agreement for such Acquired Entity; provided that the Employee is an employee of the Acquired Entity immediately preceding such acquisition and becomes an Employee of the Corporation or a Related Employer immediately following the acquisition; or
- was employed by an entity listed in SUPPLEMENT B.

**Excluded Service.** Notwithstanding anything to the contrary in the Plan, an Employee’s Benefit Service will not include any service with a predecessor entity that is not identified in SUPPLEMENT B or any service with an Acquired Entity prior to the date specified in the participation or similar agreement for such Acquired Entity.

## Board

“Board” means the Board of Directors of the Corporation, as from time to time constituted.

## Break in Service

“Break in Service” means a 12-consecutive month period during which an Employee is credited with fewer than 501 Hours of Service. The computation period used to determine a Break in Service will be the same period used to determine service for eligibility or vesting purposes, as the case may be.

## Closing

“Closing” means the place, date, and time to which the selling Participant (or the Participant’s Beneficiary or Alternate Payee) and purchaser may agree for purposes of a sale and purchase under SECTION 13 (relating to the Participant’s exercise of the put option provided in Subsection 13.1), provided Closing must take place not later than 30 days after the exercise of an offer under Subsection 13.3.

## Closing Date

“Closing Date” means the date and time at which Closing occurs.

## Code

“Code” means the Internal Revenue Code of 1986, and amendments thereto.

## Compensation

“Compensation” means:

**Amounts Included in Compensation.** Compensation includes wages as defined in Section 3401(a) of the Code and all other payments of compensation by the Employer (in the course of the Employer’s trade or business) during a Plan Year for which the Employer is required to furnish the Participant a written statement under Sections 6041(d), 6051(a)(3) and 6052 of the Code. Compensation will be determined without regard to any rules under Section 3401(a) of the Code that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Section 3401(a)(2) of the Code). Compensation also includes pre-tax contributions under Section 125 of the Code,

Section 132(f)(4) of the Code, Section 402(e)(3) of the Code, Section 402(h)(1)(B) of the Code, Section 403(b) of the Code and Section 457(b) of the Code, and Employee contributions described in Section 414(h)(2) of the Code that are treated as Employer contributions. In addition, Compensation includes differential wage payments (as defined in Section 3401(h)(2) of the Code).

**Amounts Excluded from Compensation.** Compensation excludes reimbursements and other expense allowances, fringe benefits (cash or non-cash), moving expenses, deferred compensation (except as included above), and welfare benefits. Compensation also excludes gift cards, imputed income (including, but not limited to, income attributable to health or welfare plan coverage and non-cash prizes, awards, education, and training), non-taxable items, and third-party payments (including, but not limited to, workers' compensation payments and any disability payments made through a state-sponsored program or directly from a third-party insurer).

**Amounts Earned Prior to Becoming or After Ceasing to Be an Eligible Employee.** Compensation will only include Compensation earned while an Employee is employed by an Employer as an Eligible Employee and is a Participant in the Plan. Compensation earned while an Employee is employed by a Related Employer that is not an Employer or in a non-covered position will not be considered Compensation under the Plan for purposes of determining contributions allocated to a Participant's Account. However, notwithstanding the foregoing, Compensation will include all compensation paid by an Acquired Entity and/or an Employer for the entire Plan Year in which the acquisition of such Acquired Entity occurred, provided that the Participant is an employee of the Acquired Entity immediately preceding the acquisition of such Acquired Entity and becomes an Employee of the Corporation or a Related Employer immediately following the acquisition.

**Post-Termination Compensation.** Compensation also excludes amounts paid after a Participant's Severance From Service, except for the following amounts paid within the later of 2-1/2 months after a Participant's Severance From Service or the end of the Plan Year that includes the date of the Participant's Severance from Service, as determined in accordance with the procedures established by the Plan Administrator:

- Payments of unpaid wages, overtime, annual bonuses, commissions, or similar Compensation; and
- Payments of unused accrued bona fide sick, vacation, or other leave that the Participant would have been able to use if employment had continued.

**Limitations on Compensation.** Compensation considered under the Plan will not exceed \$345,000 for 2024 (as adjusted for cost-of-living increases under Section 401(a)(17)(B) of the Code).

### Corporation

"Corporation" means XXX., a Delaware S-corporation, or any successor thereto.

### Corporation Stock

"Corporation Stock" means:

- common stock issued by the Corporation or by a corporation which is a member of the same controlled group of the Corporation (within the meaning of Section 409(l) of the Code) that is either:
  - Readily Tradable on an Established Securities Market, or
  - if not Readily Tradable on an Established Securities Market, has a combination of voting power and dividend rights equal to or in excess of the class of common stock of the Corporation (and/or any other such corporation which is a member of the same controlled group of the Corporation), which has the greatest:
    - voting power, and
    - dividend rights;
- non-callable preferred stock, if:
  - the stock is convertible at any time into stock which meets the requirements described in Subsection 2.14(a)(i), and
  - the conversion price associated with such stock is reasonable on the date of the acquisition by the Trust; and
- callable preferred stock, if after the call there will be a reasonable opportunity for a conversion which meets the requirements reflected in Subsection 2.14(a)(i).

Notwithstanding anything herein to the contrary, the term Corporation Stock will not be construed to include more than one class of stock during such time as the Corporation is operating as an S Corporation.

### Corporation Stock Account

"Corporation Stock Account" means the Account of a Participant which is credited with shares and fractional shares of Corporation Stock purchased and paid for by the Trust or contributed to the Trust or shares of Corporation Stock otherwise allocable because of the Participant's participation in the Plan.



## Current Obligations

“Current Obligations” means obligations of the Trust arising from expenses incurred by the Trust and an extension of credit to the Trust and payable in cash within one year from the date a contribution is due pursuant to Subsection 4.6.

## Deemed-Owned Shares

“Deemed-Owned Shares” means with respect to any Participant:

- any Synthetic Equity;
- the allocated stock of an S Corporation that constitutes Corporation Stock, which is held in the Participant’s Corporation Stock Account under the Plan; and
- the unallocated stock of an S Corporation that constitutes Corporation Stock, which is held in the Unallocated Corporation Stock Account under the Plan, the amount of which will be deemed to be equal to the amount of the Unallocated Corporation Stock that would otherwise be allocated to such Participant if the entire Unallocated Corporation Stock Account were allocated to all Participants in the Plan in the same proportion as the most recent allocation of Corporation Stock under the Plan.

## Direct Rollover

“Direct Rollover” means a payment by the Plan in the form of a direct, trust-to-trust transfer of an Eligible Rollover Distribution. During any Plan Year in which the Corporation is an S Corporation, a Direct Rollover may include a rollover of Corporation Stock to an IRA pursuant to Revenue Procedure 2003-23 and Revenue Procedure 2004-14, without resulting in a termination of the Corporation’s S Corporation election. During any Plan Year in which the Corporation is an S Corporation, if a Direct Rollover of Corporation Stock to an IRA occurs, the Corporation will immediately repurchase any such Corporation Stock rolled into an IRA pursuant to the “put option” provisions set forth in SECTION 13, as required by Revenue Procedure 2004-14.

## Disability or Disabled

“Disability” or “Disabled” means a physical or mental condition of a Participant, as a result of which the Participant qualifies for benefits under the long-term disability plan maintained by the Corporation, or if there is no such plan, under the Social Security Act.

## Disqualified Person

“Disqualified Person” means:

Subject to Subsection 2.20(b), Subsection 2.20(c) and Subsection 2.20(d):

- a Fiduciary;
- a person providing services to the Plan;
- an Employer any of whose Employees are covered by the Plan;
- an employee organization any of whose members are covered by the Plan;
- an owner, direct or indirect, of 50% or more of:
  - the combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of stock of a corporation;
  - the capital interest or the profits interest of a partnership; or
  - the beneficial interest of a trust or unincorporated enterprise, which is an Employer, or an employee organization described in Subsection 2.20(a)(iii) or Subsection 2.20(a)(iv);
- a Member of the Family of any individual described in Subsection 2.20(a)(i), Subsection 2.20(a)(ii), Subsection 2.20(a)(iii) or Subsection 2.20(a)(v);
- a corporation, partnership, or trust or estate holding 50% or more of:
  - the combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of stock of such corporation;
  - the capital interest or profits interest of such partnership; or
  - the beneficial interest of such trust or estate is owned, directly or indirectly, or held by persons described in Subsection 2.20(a)(i), Subsection 2.20(a)(ii), Subsection 2.20(a)(iii), Subsection 2.20(a)(iv) or Subsection 2.20(a)(v);
- an officer, director (or an individual having powers or responsibilities similar to those of officers or directors), a 10% or more shareholder, or a highly compensated employee (earning 10% or more of the yearly wages of an Employer) of a person described in Subsection 2.20(a)(iii), Subsection 2.20(a)(iv), Subsection 2.20(a)(v) or Subsection 2.20(a)(vii); or

- a 10% or more (in capital or profits) partner or joint venturer of a person described in 2.20(a)(iii), Subsection 2.20(a)(iv), Subsection 2.20(a)(v) or Subsection 2.20(a)(vii).

The Secretary of the Treasury, after consultation and coordination with the Secretary of Labor or the Secretary of Labor's delegate, may by regulation prescribe a percentage lower than 50% for Subsection 2.20(a)(v) or Subsection 2.20(a)(vii) and lower than 10% for Subsection 2.20(a)(vii) or Subsection 2.20(a)(ix).

For purposes of Subsection 2.20(a)(v)(A) and Subsection 2.20(a)(vii)(A), there will be taken into account indirect stockholdings which would be taken into account under Section 267(c)(4) of the Code, except that, for purposes of this Subsection 2.20(c), Section 267(c)(4) of the Code will be treated as providing that the members of the family of an individual will include the individual's Spouse, ancestor, lineal descendant, and any Spouse of a lineal descendant.

For purposes of Subsection 2.20(a)(v)(B), Subsection 2.20(a)(v)(C), Subsection 2.20(a)(vii)(B), Subsection 2.20(a)(vii)(C) and Subsection 2.20(a)(ix), the ownership of profits or beneficial interests will be determined in accordance with the rules for constructive ownership of stock provided in Section 267(c) of the Code (other than Section 267(c)(3) of the Code), except that Section 267(c)(4) of the Code will be treated as providing that the members of the family of an individual will include the individual's Spouse, ancestor, lineal descendant, and any Spouse of a lineal descendant.

### **Distributee**

"Distributee" means a Participant, the surviving Spouse of a Participant, the former Spouse of a Participant who is an Alternate Payee under a Qualified Domestic Relations Order or a Beneficiary of a Participant.

### **Dividend**

"Dividend" means a distribution made by the Corporation to its shareholders in the form of a dividend (as defined in Section 316 of the Code) with respect to Corporation Stock. If the Corporation is an S Corporation, Dividend will include any distributions of cash made by the Corporation as an S Corporation to the Plan, for each Plan Year, in the amount which its Board may from time to time deem advisable and/or the income of an S Corporation as passed through to its shareholders under the principles of Section 1366 of the Code.

### **Effective Date**

"Effective Date" means January 1, 2024.

### **Eligibility Service**

"Eligibility Service" means service determined as follows:

**Included Service.** An Employee's Eligibility Service will include:

- An Employee will earn one year of Eligibility Service upon completion of 1,000 or more Hours of Service in any 12-consecutive month period of employment. A year of Eligibility Service will be credited at the end of the 12-consecutive month service period not when an Employee has reached the specified number of Hours of Service during the 12-consecutive month service period. The first 12-consecutive month period to be taken into account for this purpose will be the 12-consecutive month period beginning with (A) the date the Employee is first credited with an Hour of Service, or (B) the first date, following a Break in Service, on which the Employee is credited with an Hour of Service. The second 12-consecutive month period to be taken into account for this purpose will be the Plan Year which includes the first anniversary of such date. All subsequent 12-month periods to be taken into account for this purpose will correspond with Plan Years. If an Employee is credited with 1,000 or more Hours of Service both in the first 12-month period and in the first Plan Year which commences prior to the first anniversary of the initial 12 months, then the Employee will be credited with two years of Eligibility Service.

- An Employee will earn Eligibility Service in accordance with Subsection 2.24(a)(i) for periods during which such individual:

- is employed by the Corporation or a Related Employer;
- is employed as a Leased Employee who performed services for the Employer, to the extent provided by Section 414(n) of the Code and the regulations thereunder;
- is employed by a predecessor employer if service with such predecessor employer is required to be included in the individual's years of Eligibility Service by regulations under Section 414(a)(2) of the Code;
- is on leave of absence pursuant to the Family and Medical Leave Act of 1993, including but not limited to absences for maternity and paternity leave, to the extent required by applicable law;
- is engaged in Qualified Military Service, to the extent required by United States Code, Title 38, Chapter 43;

- is employed by an Acquired Entity, beginning with the date specified in the participation or similar agreement for such Acquired Entity; provided that the Employee is an employee of the Acquired Entity immediately preceding such acquisition and becomes an Employee of the Corporation or a Related Employer immediately following the acquisition; or
- was employed by an entity listed in SUPPLEMENT B.

**Excluded Service.** Notwithstanding anything to the contrary in the Plan, an Employee's Eligibility Service will not include any service with a predecessor entity that is not identified in SUPPLEMENT B or, except as required under Subsection 2.24(a)(ii)(C), any service with an Acquired Entity prior to the date specified in the participation or similar agreement for such Acquired Entity.

### **Eligible Account Balance**

"Eligible Account Balance" means for:

- any Plan Year other than the last Plan Year in a Participant's Qualified Election Period,
  - 25% of the total number of shares of Corporation Stock acquired by or contributed to the Plan that have ever been allocated to a Participant's Account on or before the most recent Plan allocation date, minus
  - the number of shares of Corporation Stock that were previously diversified pursuant to Subsection 10.1, and
- the final Plan Year in a Participant's Qualified Election Period,
  - 50% of the total number of shares of Corporation Stock acquired by or contributed to the Plan that have ever been allocated to a Participant's Account on or before the most recent Plan allocation date, minus
  - the number of shares of Corporation Stock that were previously diversified pursuant to Subsection 10.1.

### **Eligible Employee**

"Eligible Employee" means an Employee of an Employer, but excludes:

- an individual who is not on the payroll of an Employer;
- an individual who is an independent contractor or a Leased Employee;
- an Employee whose employment with the Employer is subject to and represented in collective bargaining by a union, unless otherwise required by the applicable collective bargaining agreement;
- a non-resident alien with no United States source income; or
- a legal permanent resident of Puerto Rico, the United Kingdom, the European Union and/or Canada.

### **Eligible Retirement Plan**

"Eligible Retirement Plan" means (a) an individual retirement account described in Section 408(a) of the Code; (b) an individual retirement annuity described in Section 408(b) of the Code (other than an endowment contract); (c) a qualified plan described in Section 401(a) of the Code; (d) an annuity plan described in Section 403(a) of the Code, (e) an annuity contract described in Section 403(b) of the Code; (f) an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state, or (g) a Roth IRA as described in Section 408A of the Code.

Notwithstanding the foregoing, in the case of an Eligible Rollover Distribution to a Distributee who is a non-Spouse Beneficiary, an Eligible Retirement Plan includes only an individual retirement account or annuity described in Section 408(a) of the Code, Section 408(b) of the Code, or Section 408A of the Code.

### **Eligible Rollover Distribution**

"Eligible Rollover Distribution" means any distribution of all or any portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include (a) any distribution that is one of a series of substantially equal periodic payments (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 designated Beneficiary, or for a specified period of ten years or more; (b) any hardship distribution; (c) any distribution to the extent such distribution is required under Section 401(a)(9) of the Code; (d) dividends paid on employer securities, as described in Section 404(k) of the Code; and (e) prohibited allocations that are treated as deemed distributions pursuant to Section 409(p) of the Code.

A rollover distribution to a Roth IRA must satisfy the requirements of Sections 402(c) and 408A of the Code. Notwithstanding any provision of the Plan to the contrary, a direct rollover of a distribution from amounts in a Participant's Roth Contribution Account and Roth Rollover Contribution Account may only be made to another Roth elective deferral account under an applic-

## Worksheet 1

able retirement plan described in Section 402A(e)(1) of the Code or to a Roth IRA described in Section 408A of the Code, and only to the extent the rollover is permitted under the rules of Section 402(c) of the Code.

### Employee

“Employee” means any common-law employee of the Corporation or a Related Employer whose remuneration for services is reported by the Employer on Form W-2. The term “Employee” will not include independent contractors, any Leased Employee except to the extent provided in Subsection 3.3, any other individual classified by the Corporation or a Related Employer as a contract worker, third party personnel, consultant, or any other person not classified as an Employee by the Plan Administrator in its absolute discretion. Any individual not classified on the payroll records of the Corporation or a Related Employer as an Employee is not eligible for participation in the Plan even if a court or administrative agency determines that such individual is a common law employee and not an independent contractor, Leased Employee or such other category as classified by the Corporation or a Related Employer.

### Employer

“Employer” means the Corporation and any Related Employer that has adopted the Plan in accordance with SECTION 15.

### Employer Contribution Account

“Employer Contribution Account” means any Account so designated and provided for in Subsection Error! Reference source not found..

### Employer Contributions

“Employer Contributions” means any contribution made to the Employer Contribution Account of a Participant by an Employer as provided for in SECTION 4, including both Optional Employer Contributions and Special Employer Contributions.

### ERISA

“ERISA” means the Employee Retirement Income Security Act of 1974 (P.L. 93-406), and amendments thereto.

### Exempt Loan

“Exempt Loan” means a loan or loans made to the Plan by a Disqualified Person or a loan or loans to the Plan, which is guaranteed by a Disqualified Person, including through the use of an unsecured guarantee or the use of assets of a Disqualified Person as collateral for a loan, even though the use of assets may not be a guarantee under applicable state law. An Exempt Loan includes a direct loan of cash, a purchase-money transaction, and an assumption of the obligation of the Plan. An amendment of a loan to qualify as an Exempt Loan is not a refinancing of the loan or the making of another loan. Exempt Loan refers to a loan that satisfies the provisions of Section 54.4975-7(b)(1)(ii) of the Treasury Regulations.

### Fair Market Value

“Fair Market Value” means the value of any Plan asset as determined by the Trustee pursuant to Subsection 12.3 and in accordance with the Code and ERISA.

### Fiduciaries

“Fiduciaries” means the Corporation, the Board, the Plan Administrator, the Trustee, and any Investment Manager, but only with respect to the specific responsibilities of each as described in the Plan.

### Forfeiture

“Forfeiture” means the portion of an Account which is not vested and is forfeited pursuant to SECTION 6.

### General Investment Account

“General Investment Account” means the Account of a Participant which is increased by the Participant’s share of Trust Fund Income and Employer Contributions and Forfeitures, other than amounts invested in Corporation Stock, and which is decreased (to the extent allowed by law) by amounts used to pay for Corporation Stock or distributed from the Plan.

### General Obligation

“General Obligation” means an obligation or commitment of the Trust not arising from an extension of credit to the Trust, which arises from authorized activities of the Trust.

## Highly Compensated Employee

“Highly Compensated Employee” means any Employee who:

- was at any time during the Plan Year or preceding Plan Year a 5% owner (within the meaning of Section 416(i)(1) of the Code) of the Corporation or any Related Employer; or
- received Testing Compensation for the preceding Plan Year from the Corporation or any Related Employer in excess of \$155,000 (for 2024; as adjusted for cost-of-living increases under Section 414(q)(1)(B) of the Code) and was in the top 20% of Employees when ranked on the basis of Testing Compensation paid during such year (as determined in accordance with Section 414(q) of the Code).

A former Employee will be treated as a Highly Compensated Employee if such Employee was a Highly Compensated Employee when such Employee incurred a Severance From Service or if such Employee was a Highly Compensated Employee at any time after attaining age 55.

## Hour of Service

“Hour of Service” means:

Each hour for which a Participant has been directly or indirectly compensated or paid, or entitled to such compensation or other payment, by the Corporation or a Related Employer for performance of work (whether as an Employee or in any other capacity) or for reasons other than the performance of work, such as vacation, holiday, illness, incapacity (including disability), lay off, jury duty and authorized leaves of absence, including any hour for which back pay is awarded; provided, however, that no credit will be given in excess of 501 hours during any single continuous period during which no work is performed nor for any hour as to which a payment is made or due for the sole purpose of complying with applicable workers’ compensation or unemployment compensation or disability insurance laws or for a payment which solely reimburses a person for medical or medically-related expenses; provided further, that each hour will count only once in determining a Participant’s Hours of Service even though the Participant may receive more than straight time pay for such hour.

A Participant’s Hours of Service will be determined by the Plan Administrator on the basis of actual hours worked, and Hours of Service credited with respect to periods in which no work was performed will be determined with reference to the Participant’s straight time rate of pay and allocated to the Plan Year in which such hours occur in accordance with Section 2530.200b-2(b) of the Department of Labor Regulations and Section 2530.200b-2(c) of the Department of Labor Regulations, which are incorporated herein by this reference. Hours of Service will also include the straight-time hours for which a Participant would otherwise have been compensated while the Participant is absent from work due to entering the Armed Forces of the United States, provided the Participant returns to active service with the Corporation or a Related Employer within the period of time during which the Participant has reemployment rights under federal law. The Plan Administrator’s determination, to the extent consistent with the terms hereof and ERISA requirements, will be final and conclusive for all purposes hereof.

Solely for purposes of determining whether a Break in Service has occurred for purposes of determining Eligibility Service and Vesting Service, to the extent required by law, an Employee who is absent from work (i) for any period by reason of leave of absence covered by the Family and Medical Leave Act of 1993, or (ii) for any period by reason of pregnancy, birth of a child or adoption of a child as described in Section 410(a)(5)(E) of the Code, will receive credit for the Hours of Service which would otherwise have been credited to the Employee but for such absence, or in any case in which such hours cannot be determined, eight Hours of Service per day for such absence, but not in excess of a total of 501 Hours of Service. The Hours of Service credited for this purpose will be credited in the computation period in which the absence begins if the crediting is necessary to prevent a Break in Service in that period, or, in all other cases, in the following computation period.

A Participant’s Hours of Service will include service with a predecessor entity that identified in SUPPLEMENT B.

A Participant who is paid bi-weekly, and for whom detailed records are not available, will receive 45 Hours of Service for each week in which the Participant is credited with one Hour of Service with the Corporation or a Related Employer. A Participant who is paid semi-monthly, and for whom detailed records are not available, will receive 95 Hours of Service for each semi-monthly payroll period in which the Participant is credited with one Hour of Service with the Corporation or a Related Employer.

## Impermissible Accrual

“Impermissible Accrual” means an accrual described in Subsection 16.3(i).

## Impermissible Allocation

“Impermissible Allocation” means an allocation described in Subsection 16.3(j).

## Investment Manager

“Investment Manager” means the manager or managers appointed by the Plan Administrator to manage such portion of the Trust Fund as is designated by the Plan Administrator.

## Leased Employee

“Leased Employee” means any individual who is not an Employee of the Corporation or a Related Employer, but who has provided services to the Corporation or the Related Employer under the primary direction or control of the Corporation or the Related Employer on a substantially full-time basis for a period of at least one year, pursuant to an agreement between the Corporation or the Related Employer and a leasing organization.

## Leveraged Corporation Stock

“Leveraged Corporation Stock” means Corporation Stock acquired by the Trust with the proceeds of an Exempt Loan.

## Member of the Family

“Member of the Family” means, with respect to any individual:

- the Spouse of the individual;
- an ancestor or lineal descendant of the individual or the individual’s Spouse;
- a brother or sister of the individual or the individual’s Spouse and any lineal descendant of the brother or sister; and
- the Spouse of any individual described in Subsection 2.47(a) or Subsection 2.47(b).

For purposes of this Subsection 2.47, a Spouse of an individual who is legally separated from such individual under a decree of divorce or separate maintenance will not be treated as such individual’s Spouse.

## Non-allocation Period

“Non-allocation Period” means the period beginning on the date of the sale of the Corporation Stock to the Trust and ending on the later of the date:

- which is ten years after the sale of the Corporation Stock, or
- of the Plan allocation attributable to the final payment of the Exempt Loan incurred in connection with such sale.

## Non-allocation Year

“Non-allocation Year” means:

- any Plan Year if, at any time during such Plan Year:
  - the Plan holds Corporation Stock consisting of shares of stock in an S Corporation, and
  - consistent with Subsection 2.49(b), S Corporation Disqualified Persons cumulatively own at least 50% of the number of shares of stock in the S Corporation.

For purposes of Subsection 2.49(a)(ii), stock includes, but is not limited to, Corporation Stock owned directly by the S Corporation Disqualified Person, Deemed-Owned Shares of the S Corporation Disqualified Person, and Synthetic Equity of the S Corporation Disqualified Person, as required under Subsection 2.68.

For purposes of this Subsection 2.49, the following attribution rules will apply:

The rules of Section 318(a) of the Code will apply for purposes of determining ownership except that:

- in applying Section 318(a)(1) of the Code, the members of an individual’s family will include members of the family described in Section 409(p)(4)(D) of the Code, and
- Section 318(a)(4) of the Code will not apply.

Notwithstanding the employee trust exception in Section 318(a)(2)(B)(i) of the Code, an individual will be treated as owning Deemed-Owned Shares of the individual.

## Optional Employer Contribution

“Optional Employer Contribution” means any contribution made to the Employer Contribution Account of a Participant by an Employer as provided for in Subsection 4.1(a)(i).

## Participant

“Participant” means an Eligible Employee or former Eligible Employee who has satisfied the requirements of the Plan to become a Participant and who has an Account under the Plan.

**Plan**

“Plan” means the XXX Employees’ Stock Ownership Plan.

**Plan Administrator**

“Plan Administrator” means the person, persons, committee, or committees established to act as the plan administrator pursuant to SECTION 8. The Plan Administrator is the named fiduciary as defined in ERISA.

**Plan Year**

“Plan Year” means the 12-consecutive month period beginning on January 1 of each year and ending on the following December 31.

**Profit-Sharing Plan Portion**

“Profit-Sharing Plan Portion” means the profit-sharing portion established under the Plan, which is established to hold all assets of the Plan not invested in Corporation Stock.

**Qualified Domestic Relations Order**

“Qualified Domestic Relations Order” means any judgment, decree, or order (including approval of a property settlement agreement) made pursuant to a state domestic relations law which (a) relates to the provision of child support, alimony payments, or marital property rights, (b) creates or recognizes the existence of an Alternate Payee’s right to receive all or any portion of the benefits payable with respect to a Participant, and (c) otherwise satisfies the requirements of Section 414(p) of the Code and the Treasury Regulations issued thereunder.

**Qualified Election Period**

“Qualified Election Period” means the six Plan Years beginning with the Plan Year in which the Participant first becomes a Qualified Participant.

**Qualified Military Service**

“Qualified Military Service” means any period for which a Participant is absent from employment because the Participant is performing service in the uniformed services (as defined in United States Code, Title 38, Chapter 43), provided that such individual is entitled to reemployment rights with respect to such service.

**Qualified Participant**

“Qualified Participant” means a Participant who has:

- attained age 55; and
- completed at least ten years of participation in the Plan.

For purposes of Subsection 2.59(b), a “year of participation” will be any year in which a Participant is eligible to receive an allocation of Matching Contributions or Employer Contributions under the terms of the Plan, regardless of whether such contribution is actually made in any given Plan Year.

Notwithstanding anything herein to the contrary, if a Qualified Participant elects to diversify the Qualified Participant’s Account under this Subsection 2.59, shares of Corporation Stock subject to such election will be applied first to shares acquired with an Employer Contribution and then from shares of Corporation Stock acquired with a Matching Contribution.

**Qualifying Corporation Stock**

“Qualifying Corporation Stock” means Corporation Stock which is (a) stock or otherwise an equity security; or (b) a bond, debenture, note, or certificate, or other evidence of indebtedness (an “obligation”) if:

such obligation is acquired:

- on the market, either (A) at the price of the obligation prevailing on a national securities exchange which is registered with the Securities and Exchange Commission, or (B) if the obligation is not traded on such a national securities exchange, at a price not less favorable to the Plan than the offering price for the obligation as established by current bid and asked prices quoted by persons independent of the issuer;
- from an underwriter, at a price (A) not in excess of the public offering price for the obligation as set forth in a prospectus or offering circular filed with the Securities and Exchange Commission, and (B) at which a substantial portion of the same issue is acquired by persons independent of the issuer; or

- directly from the issuer, at a price not less favorable to the Plan than the price paid currently for a substantial portion of the same issue by persons independent of the issuer;
  - immediately following acquisition of such obligation:
- not more than 25% of the aggregate amount of obligations issued in such issue and outstanding at the time of acquisition is held by the Plan; and
  - at least 50% of the aggregate amount referred to in Subsection 2.60(a) is held by persons independent of the issuer; and
  - immediately following acquisition of the obligation, not more than 25% of the assets of the Plan is invested in obligations of the Employer or an affiliate of the Employer.

### **Readily Tradable on an Established Securities Market**

“Readily Tradable on an Established Securities Market” means readily tradable as provided in Section 1.401(a)(35)-1(f)(5) of the Treasury Regulations.

### **Related Employer**

“Related Employer” means any corporation which is a member of a controlled group of corporations (as defined in Section 414(b) of the Code) which includes the Corporation; any trade or business (whether or not incorporated) which is under common control (as defined in Section 414(c) of the Code) with the Corporation; any organization (whether or not incorporated) which is a member of an affiliated service group (as defined in Section 414(m) of the Code) which includes the Corporation; and any other entity required to be aggregated with the Corporation pursuant to Section 414(o) of the Code. Notwithstanding anything herein to the contrary, for purposes of applying the limitations of Subsection 16.1, the Plan Administrator will determine whether an entity is a Related Employer by modifying Section 414(b) of the Code and Section 414(c) of the Code in accordance with Section 415(h) of the Code.

### **Required Age**

“Required Age” means age 73. However, Required Age means age 72 for distributions required to be made with respect to individuals who attained age 72 on or before December 31, 2022, and age 70-1/2 for distributions required to be made with respect to individuals who attained age 70-1/2 on or before December 31, 2019.

### **Required Beginning Date**

“Required Beginning Date” means the later of the April 1 following the Participant’s attainment of Required Age or the date the Participant has a Severance From Service. However, if the Participant is a 5% owner, Plan distributions must commence no later than the April 1 following the Participant’s attainment of Required Age.

### **Retirement Date**

“Retirement Date” means the Participant’s attainment of age 65.

### **Retirement**

“Retirement” means a Participant’s Severance From Service on or after the Participant’s Retirement Date:

### **S Corporation**

“S Corporation” means an Employer who, with the consent of its shareholders, properly made the election under Section 1361(a) of the Code to be treated as such for federal income tax purposes.

### **S Corporation Disqualified Person**

- “S Corporation Disqualified Person” means any person if:
- the aggregate number of Deemed-Owned Shares of such person and the members of such person’s family is at least 20% of the number of Deemed-Owned Shares of stock in the S Corporation, or
  - in the case of a person not described in Subsection 2.68(a), the number of Deemed-Owned Shares of such person is at least 10% of the number of Deemed-Owned Shares of stock in such S Corporation.

In the case of an S Corporation Disqualified Person described in Subsection 2.68(a) above, any Member of the Family with Deemed-Owned Shares will be treated as an S Corporation Disqualified Person if not otherwise treated as an S Corporation Disqualified Person under Subsection 2.68(a) or Subsection 2.68(b).



**Severance From Service**

“Severance From Service” means the date on which a Participant terminates employment with all Related Employers, is discharged, retires, or dies.

A transfer from employment with one Related Employer to another Related Employer or a change in status from Employee to Leased Employee does not constitute a Severance From Service for purposes of SECTION 7.

**Special Employer Contribution**

“Special Employer Contribution” means any contribution made to the Employer Contribution Account of a Participant by an Employer as provided for in Subsection 4.1(a)(ii).

**Specified Income**

“Specified Income” means all income allocable to the Unallocated Corporation Stock Account and Unallocated General Investment Account that is attributable to collateral for the Exempt Loan or attributable to Matching Contributions or Employer Contributions made in order to meet the Plan’s obligation under such Exempt Loan.

**Spouse**

“Spouse” means, unless the provisions of any Qualified Domestic Relations Order provide otherwise, the person to whom the Participant is legally married at the earlier of the date of the Participant’s death or the date payment of the Participant’s benefits commenced and who is living on the date of the Participant’s death. The term “Spouse” will not include civil unions or common law marriages, even if recognized under the laws of the Participant’s state of domicile. A legally separated spouse or former Spouse will not be a “Spouse” or surviving Spouse at the time benefit payments start, except to the extent designated in a Qualified Domestic Relations Order.

**Stock Bonus Plan Portion**

“Stock Bonus Plan Portion” means the stock bonus portion established under the Plan, which is established to hold all the assets of the Plan invested in Corporation Stock.

**Supplement**

“Supplement” means a supplement to the Plan, as described in Subsection 1.4.

**Synthetic Equity**

“Synthetic Equity” means:

Except to the extent provided in regulations, any:

- stock option;
- warrant;
- restricted stock;
- deferred issuance stock right;
- stock appreciation right;
- phantom stock unit;
- any similar right or interest to those enumerated in Subsection 2.75(a)(i) through Subsection 2.75(a)(vi) that entitles the holder to:

- a future cash payment based on the value of such stock or appreciation in such value; or
- acquire or receive stock of the S Corporation in the future; or

• the following forms of non-qualified deferred compensation within the meaning of Section 1.409(p)-1(f) of the Treasury Regulations:

- any remuneration for services rendered to the Employer, or a Related Employer, to which Section 404(a)(5) of the Code applies;
- any right to receive property in a future year to which Section 83 of the Code applies for the performance of services rendered to the Employer or a Related Employer;
- any transfer of property to which Section 83 of the Code applies in connection with the performance of services for the Employer or a Related Employer, to the extent such property is not substantially vested within the meaning of Section 1.83-3(i) of the Treasury Regulations by the end of the Plan Year in which the property was transferred; and

◦ any other remuneration for services rendered to the Employer or a Related Employer under a plan, method, or arrangement deferring receipt of the remuneration to a date that is after the 15th day of the third calendar month after the end of the calendar year in which the services were performed.

In the case of a person who owns Synthetic Equity in the S Corporation, except to the extent provided in regulations, the shares of stock in the S Corporation on which such Synthetic Equity is based will be treated as outstanding stock in such corporation and Deemed-Owned Shares of such person if such treatment of Synthetic Equity of one or more persons results in:

- the treatment of any person as an S Corporation Disqualified Person, or
- the treatment of any Plan Year as a Non-allocation Year.

For purposes of this Subsection 2.75, Synthetic Equity will be treated as owned by a person in the same manner as stock is treated as owned by a person under the rules of Section 318(a)(2) of the Code and Section 318(a)(3) of the Code. If, without regard to this Subsection 2.75(c) a person is treated as an S Corporation Disqualified Person or a Plan Year is treated as a Non-allocation Year, this Subsection 2.75(c) will not be construed to result in the person or year not being so treated.

### Testing Compensation

“Testing Compensation” means all compensation paid to the Participant for services to an Employer under any definition of compensation that satisfies the requirements of Section 414(s) of the Code, and applicable Treasury Regulations, provided that such definition will include income excluded under Sections 402(e) of the Code, Section 402(h) of the Code, Section 403(b) of the Code, Section 132(f) of the Code, and Section 125 of the Code, including deemed Section 125 compensation as defined in Revenue Ruling 2002-27, and any differential wage payment (as defined in Section 3401(h)(2) of the Code) paid by the Employer. Testing Compensation will include any amount received by a Participant after the Participant’s Severance From Service as described in Subsection 2.12(d); provided that, in each case, such amount is paid within the later of 2-1/2 months after a Participant’s Severance From Service or the end of the Plan Year that includes the date of the Participant’s Severance From Service. Testing Compensation will be limited to \$345,000 in a Plan Year (for 2024; as adjusted for cost-of-living increases under Section 401(a)(17)(B) of the Code).

### Total Distribution

“Total Distribution” means a distribution to a Participant (or to a Beneficiary) within one taxable year of the recipient of the entire balance to the Participant’s credit under the Plan.

### Trust

“Trust” means the XXX. Employee Stock Ownership Trust, which is and becomes part of the Plan and holds all amounts allocated to the Stock Bonus Portion of the Plan.

### Trustee

“Trustee” means the trustee or trustees acting at the time in question under the Trust.

### Trust Fund

“Trust Fund” means all property of every kind held or acquired by the Trustee under the Trust.

### Trust Fund Income

“Trust Fund Income” means the net gain or loss of the General Investment Accounts of the Trust Fund, as reflected by interest payments, dividends, realized and unrealized gains and losses on securities and other investment transactions, other than Corporation Stock, and reduced by expenses paid from the Trust Fund. The expenses of the Trust Fund do not include interest paid on any Exempt Loan.

### Unallocated Corporation Stock Account

“Unallocated Corporation Stock Account” means the suspense account maintained under the Plan to which will be credited all shares of Corporation Stock purchased with the proceeds of an Exempt Loan prior to the allocation of such shares to the Corporation Stock Accounts.

### Unallocated General Investment Account

“Unallocated General Investment Account” means the suspense account maintained under the Plan which:

- reflects all transactions of the Plan involving cash and assets other than Corporation Stock, prior to the allocation of any remaining amounts of cash and other assets to the General Investment Account, and
- will have a zero balance at the end of the Plan Year, after all allocations to the General Investment Account have been completed under Subsection 5.2.

#### Valuation Date

“Valuation Date” means:

- with respect to the Stock Bonus Portion of the Plan, the end of each Plan Year and each interim date determined under Subsection 12.3, on which the Trust Fund is valued; and
- with respect to the Profit-Sharing Portion of the Plan, each business day of the Plan Year.

#### Vesting Service

“Vesting Service” means service determined as follows:

**Included Service.** An Employee’s Vesting Service will include:

- An Employee will earn one year of Vesting Service upon completion of 1,000 or more Hours of Service in any Plan Year.
- An Employee will earn Vesting Service in accordance with Subsection 2.85(a)(i) for periods during which such individual:
- is employed by the Corporation or a Related Employer;
- is employed as a Leased Employee who performed services for the Employer, to the extent provided by Section 414(n) of the Code and the regulations thereunder;
- is employed by a predecessor employer of the Employer if service with such predecessor employer is required to be included in the individual’s years of Vesting Service by regulations under Section 414(a)(2) of the Code;
- is on leave of absence pursuant to the Family and Medical Leave Act of 1993, including but not limited to absences for maternity and paternity leave, to the extent required by applicable law;
- is engaged in Qualified Military Service, to the extent required by United States Code, Title 38, Chapter 43;
- is employed by an Acquired Entity, beginning with the date specified in the participation or similar agreement for such Acquired Entity; provided that the Employee is an employee of the Acquired Entity immediately preceding such acquisition and becomes an Employee of the Corporation or a Related Employer immediately following the acquisition; or
- was employed by an entity listed in SUPPLEMENT B.

**Excluded Service.** Notwithstanding anything to the contrary in the Plan, an Employee’s Vesting Service will not include any service prior to January 1, 2024, any service with a predecessor entity that is not identified in SUPPLEMENT B or, except as required under Subsection 2.85(a)(ii)(C), any service with an Acquired Entity prior to the date specified in the participation or similar agreement for such Acquired Entity.

#### Other Definitions

Other defined terms used in the Plan will have the meanings given such terms elsewhere in the Plan.

### Eligibility and Participation

#### Eligibility for Participation

Each Eligible Employee who was a Participant in the Plan immediately prior to the Effective Date will continue to be eligible to participate in the Plan, as amended and restated, subject to the terms and conditions of the Plan.

Each Employee who is hired as or becomes an Eligible Employee will become a Participant in the Plan as of the January 1 immediately preceding the date the Eligible Employee completes one year of Eligibility Service.

#### Participation Following a Break in Service or Rehire

Any Employee who terminates employment with the Corporation and its Related Employers or incurs a Break in Service after becoming a Participant, and who is subsequently reemployed as an Eligible Employee, will again become a Participant as of the date the Eligible Employee is reemployed.

Any Employee who terminates employment with the Corporation and its Related Employers or incurs a Break in Service before satisfying the requirements of Subsection 3.1 and becoming a Participant, and who is subsequently reemployed as an Eligible Employee, will have such Employee’s Eligibility Service restored. Such an Employee will become a Participant in the Plan as of the date the Employee satisfies the requirements of Subsection 3.1.

### Participation by a Leased Employee or Independent Contractor

A Leased Employee or an independent contractor (or other non-employee classification) will not be eligible to participate in the Plan. An Employer's classification of an individual will be determinative for purposes of an individual's eligibility under the Plan. Although ineligible for Plan participation, a Leased Employee will be considered an Employee of an Employer solely for the purposes specified in Section 414(n)(3) of the Code. If a Leased Employee becomes an Employee of an Employer, the period of service for the Employer will be taken into account for purposes of calculating Vesting Service unless (a) such Leased Employee is a participant in a money purchase pension plan maintained by the leasing organization which provides a non-integrated employer contribution rate of at least 10% of compensation, immediate participation for all employees, and full and immediate vesting, and (b) Leased Employees do not constitute more than 20% of the Employer's non-highly compensated workforce. Except as otherwise provided above, no benefits will be provided, or service credited, under the Plan on a retroactive basis to any person who has performed services for an Employer other than as an Employee, even if such person subsequently becomes an Employee of an Employer (or is deemed by a government agency, court, or other third-party, to have been an Employee of an Employer). The subsequent classification of an individual as an Employee of an Employer will not have a retroactive effect for purposes of the Plan.

### Period of Participation

An Employee who becomes a Participant will continue as a Participant until the later to occur of the date of the Participant's Severance From Service or the date on which all the Participant's Accounts have been distributed. For all purposes of the Plan:

- A period of approved leave of absence will not interrupt continuity of participation;
- A determination that a Participant has a Disability will not interrupt continuity of participation; and
- The transfer of employment from an Employer to a Related Employer that is not an Employer will not interrupt continuity of participation.

If a Participant incurs a Severance From Service or otherwise ceases to be an Eligible Employee the Participant will be ineligible to receive Plan contributions except as provided in Subsection 4.1(b).

### Employer Contributions

#### Employer Contributions

**Discretionary Employer Contribution.** An Employer may contribute to the Plan, for each Plan Year, the amount which the Board may from time to time deem advisable. The Employer may contribute to the Plan regardless of whether it has net profit. If made, such Employer Contribution will be allocated to the Employer Contribution Account of each Participant as follows:

**Optional Employer Contributions.** The Plan Administrator may credit annual Optional Employer Contributions to the Employer Account of each eligible Participant such that the Optional Employer Contribution will be allocated in proportion to the Compensation of each such Participant for the Plan Year to the total Compensation of all such Participants for the Plan Year;

**Special Employer Contributions.** The Plan Administrator may credit annual Special Employer Contributions to the Employer Account of each eligible Participant as a flat dollar amount, as set forth on SUPPLEMENT C.

The Corporation may, in addition to (or in lieu of, as determined by the Plan Administrator) its contributions to the Trust, pay cash or other property to the Trust in the form of Dividends. As determined in the sole discretion of the Corporation, Dividends may be used to repay any outstanding indebtedness due under the corresponding Exempt Loan as described under Subsection 4.4. If there is no outstanding indebtedness with respect to an Exempt Loan, the Corporation will allocate Dividends as provided in Subsection 4.2 and Subsection 4.3.

Notwithstanding the foregoing, the amount of Employer Contributions for each Plan Year will never be less than the amount required to enable the Trust to discharge its Current Obligations (after considering all such other amounts, including Dividends) paid to the Plan for purposes of Current Obligations) notwithstanding whether some or all of such contributions may fail to qualify for income tax deductions by the Employer.

**Entitlement to Allocation of Employer Contribution and Forfeitures.** The Plan Administrator will determine the eligibility for allocations of Employer Contributions and Forfeitures on the basis of the Plan Year.

**Compensation Taken into Account.** In allocating an Employer Contribution and/or Forfeiture to an Account, except for purposes of determining the top-heavy minimum contribution under Subsection 16.4, the Plan Administrator will take into account the Participant's Compensation for the portion of the Plan Year, as described in Subsection 2.12(c).

**Service Requirement.** To share in the allocation of Optional Employer Contributions and/or Forfeitures, if any, for a Plan Year a Participant must have at least 1,000 Hours of Service as an Employee of the Corporation or a Related Employer, or experience a Severance From Service because of death, Disability, or attainment of the Participant's Retirement Date during that Plan Year, to be eligible to receive an allocation of Optional Employer Contributions and Forfeitures, if any, for that Plan Year. This requirement will not apply to Special Employer Contributions.

**Employment Requirement.** If the Participant has a Severance From Service during a Plan Year such that the Participant is not an Employee of the Corporation and its Related Employers as of the last day of the Plan Year (unless the Participant experiences a Severance From Service because of the Participant's death, Disability, or attainment of the Participant's Retirement Date), such Participant will not share in the allocation of Optional Employer Contributions and Forfeitures, if any, for that Plan Year. If the Participant experiences a Severance From Service because of the Participant's death, Disability, or attainment of the Participant's Retirement Date, such Participant will share in the allocation of Optional Employer Contributions and Forfeitures, if any, for the Plan Year in which such Severance From Service occurs, regardless of whether the Participant is employed on the last day of the Plan Year. This requirement will not apply to Special Employer Contributions.

**Special Rules for Certain Plan Years.** In the event that, for any Plan Year, the Plan would fail to satisfy the requirements of Section 410(b) of the Code as the result of the requirement that a Participant be employed on the last day of the Plan Year or perform 1,000 or more Hours of Service during the Plan Year, then the number of Participants eligible to receive an allocation under this Subsection 4.1(b) will be increased as set forth below, to the extent necessary to cause the Plan to satisfy the requirements of Section 410(b) of the Code:

An allocation will be made to Participants who were employed by the Corporation and its Related Employers on the last day of the Plan Year but who performed fewer than 1,000 Hours of Service during the Plan Year, beginning with the Participant with the greatest number of Hours of Service for the Plan Year and continuing in order with each Participant with the next greatest number of Hours of Service until the requirements of Section 410(b) of the Code are satisfied.

If, after the application of Subsection 4.1(b)(iv)(A) the Plan still fails to satisfy the requirements of Section 410(b) of the Code for a Plan Year, then an allocation will be made to Participants who experienced a Severance From Service prior to the last day of the Plan Year, beginning with the Participant with the greatest number of Hours of Service for the Plan Year and continuing in order with each Participant with the next greatest number of Hours of Service until the requirements of Section 410(b) of the Code are satisfied.

#### **Allocation of Employer Contributions to Accounts**

Any Employer Contributions will be allocated to Participant Accounts as follows:

**Corporation Stock Account.** The Corporation Stock Account of each Participant will be increased by such Participant's allocable share (determined under the Plan) of:

- the shares of Corporation Stock (including fractional shares) purchased and paid for by the Plan and designated by the Employer to be held in such Participant's Corporation Stock Account;
- the shares of Corporation Stock contributed in kind by the Employer and designated by the Employer to be held in such Participant's Corporation Stock Account;
- Forfeitures of Corporation Stock held in another Participant's Corporation Stock Account;
- stock (in kind) Dividends paid on Corporation Stock held in such Participant's Corporation Stock Account;
- the shares of Corporation Stock, if any, purchased by the Trustee, in its sole discretion, using Matching Contributions and/or Employer Contributions made to the Plan; and
- Corporation Stock released from the Unallocated Corporation Stock Account.

The credits described in this Subsection 4.2(a), will be recorded in whole shares and fractional shares of Corporation Stock in order that such Account will share in any appreciation (or depreciation) in the market value of the shares of Corporation Stock in a Participant's Corporation Stock Account. All fractional shares will be computed at least to the nearest 1/100th of a share (i.e., at least two places to the right of the decimal).

**General Investment Account.** The General Investment Account of each Participant will be increased (or decreased) by the dollar value of the Participant's allocable share of:

- the net income (or loss) of the Plan attributable to such Account;
- cash Dividends and other rights or warrants paid or received on Corporation Stock in such Participant's Corporation Stock Account;

- Matching Contributions, Employer Contributions and Forfeitures (other than Corporation Stock) designated by the Employer to be held in such Participant's General Investment Account;
- Matching Contributions and Employer Contributions made to the Plan, not otherwise invested by the Trustee in Corporation Stock; and
- appreciation (or depreciation) in the Fair Market Value of the assets of the Plan (other than Corporation Stock) attributable to such Account.

To the extent allowed by law, the General Investment Account of each Participant will be decreased for any payments on purchases of Corporation Stock or repayment of an Exempt Loan (including principal and interest) incurred for the purchase of Corporation Stock which are attributable to such Account.

**Unallocated Corporation Stock Account.** The Unallocated Corporation Stock Account will be increased as of each Valuation Date by the number of shares of Corporation Stock purchased with the proceeds of an Exempt Loan. The Unallocated Corporation Stock Account will also be increased as of each Valuation Date by the stock (in kind) Dividends received with respect to Corporation Stock held in such Account and by any Corporation Stock purchased with funds from the Unallocated General Investment Account. The Unallocated Corporation Stock Account will be decreased by the number of shares of Corporation Stock released from such Account in accordance with Subsection 4.4.

**Unallocated General Investment Account.** The Unallocated General Investment Account will be:

- increased (or decreased) by the Specified Income (or loss) of the Trust Fund attributable to such Account;
- increased by the dollar value of Matching Contributions or Employer Contributions made to the Plan to repay an Exempt Loan;
- increased by cash Dividends (and other rights or warrants, if any) received on Corporation Stock in the Unallocated Corporation Stock Account; and
- decreased by the dollar value of amounts attributable to such Account that are used to purchase Corporation Stock or to repay an Exempt Loan in accordance with Subsection 4.4(c).

### Allocation Procedures for Employer Contributions

Subject to Subsection 16.4(e) and Subsection 4.4, Accounts will be adjusted in accordance with the following:

**Income and Appreciation in Value of General Investment Accounts.** The income of the General Investment Accounts and the Unallocated General Investment Account under the Plan (including the appreciation or depreciation in value of the assets in such Accounts) will be allocated to such Accounts in proportion to the balances in such Accounts as of the immediately preceding Valuation Date, but after first reducing each such Account balance by any distributions or charges from such Account since the immediately preceding Valuation Date. Such amounts will be allocated among the General Investment Accounts and the Unallocated General Investment Account in a uniform and nondiscriminatory manner.

**Income and Appreciation in Value of Corporation Stock Accounts.** The income (except stock in kind Dividends) with respect to Corporation Stock (except the unrealized appreciation or depreciation in value of Corporation Stock held in both the Participant Corporation Stock Accounts and the Unallocated Corporation Stock Account) will be allocated to Participant General Investment Accounts or the Unallocated General Investment Account, as is appropriate, in proportion to the balances, as of the immediately preceding Valuation Date, in the respective Participant Corporation Stock Accounts or Unallocated Corporation Stock Account to which the income is attributable, after first reducing each such Account balance by any distributions or charges from such Accounts since the immediately preceding Valuation Date.

**Dividends Paid on Corporation Stock Accounts.** The income (except stock in kind Dividends) with respect to Corporation Stock (except the unrealized appreciation or depreciation in value of Corporation Stock held in both the Participant Corporation Stock Accounts and the Unallocated Corporation Stock Account) will be allocated to Participant General Investment Accounts or the Unallocated General Investment Account, as is appropriate, in proportion to the balances, as of the immediately preceding Valuation Date, in the respective Participant Corporation Stock Accounts or Unallocated Corporation Stock Account to which the income is attributable, after first reducing each such Account balance by any distributions or charges from such Accounts since the immediately preceding Valuation Date. Stock (in kind) Dividends with respect to Corporation Stock will be allocated to the Account which earned the stock (in kind) Dividend. Any cash Dividends received with respect to Corporation Stock in the Unallocated Corporation Stock Account will be used first to repay current principal and then to repay current interest with respect to an Exempt Loan so long as the provisions of Subsection 4.4(c) are met. To the extent no such Exempt Loan exists, such Dividends may be used to purchase Corporation Stock to the extent available or to satisfy General Obligations of the Plan. To the extent no such Exempt Loan obligation exists, or Dividends are not used to purchase Corporation Stock or to satisfy General Obligations of

the Plan, such Dividends will be allocated to Participants' General Investment Accounts in accordance with the following formula: Dividends X A/B where:

- "A" is the total shares in Participants' Corporation Stock Accounts at the beginning of Plan Year (less any shares repurchased during that Plan Year).
- "B" is the total shares in Participants' Corporation Stock Accounts at the end of the Plan Year.

**Employer Contributions.** Employer Contributions for the Plan Year will be, to the extent made in cash and not used to repay an Exempt Loan, allocated to Participant General Investments Accounts, or, if made in Corporation Stock, to Participant Corporation Stock Accounts.

#### **Forfeitures.**

**Forfeitures of Employer Contributions.** Forfeitures of Employer Contributions will first be applied to reduce the Employer's Employer Contribution obligation under then Plan, and then will be allocated among the Employer Contribution Accounts of Participants who received Employer Contributions for the Plan Year in which the Forfeiture occurred in the ratio that the Compensation for the Plan Year of each Participant bears to the total Compensation of all such Participants for the Plan Year.

**Order of Forfeitures.** In determining a Forfeiture under this provision, the Plan Administrator, to the extent possible, must first forfeit from a Participant's General Investment Account, then from any other Account holding assets other than Corporation Stock before making a Forfeiture from the Participant's Corporation Stock Account (or any other Account of a Participant holding Corporation Stock) and then from the Participant's Corporation Stock Account (or any other Account of a Participant holding Corporation Stock); provided that any Leveraged Corporation Stock allocated to such Participant's Corporation Stock Account from the Unallocated Corporation Stock Account will be forfeited last. If the Employer is not an S Corporation and if the Participant has an interest in more than one class of Corporation Stock which has been allocated to a Participant's Corporation Stock Account (and any other Account of a Participant holding Corporation Stock), the Plan Administrator, to the extent possible, must forfeit the same proportion of each class of stock held in the Participant's Corporation Stock Account (and any other Account holding Corporation Stock). In making a Forfeiture allocation under this provision, the Plan Administrator will base Forfeitures of Corporation Stock upon Fair Market Value of the Corporation Stock as of the Valuation Date of the Forfeitures.

#### **Treatment of Corporation Stock Purchased under an Exempt Loan**

**Debt Purchase of Corporation Stock.** All Corporation Stock purchased by the Trust under an Exempt Loan will initially be allocated to the Unallocated Corporation Stock Account.

##### **Reallocation from Unallocated Corporation Stock Account.**

As of the Valuation Date, there will be transferred from the Unallocated Corporation Stock Account to the Corporation Stock Accounts, a portion of the Corporation Stock purchased under an Exempt Loan equal to the number of shares determined by taking the shares so purchased which have not theretofore been released from the Unallocated Corporation Stock Account multiplied in a manner specified in Subsection 12.4(b).

Each Participant's share of the Corporation Stock to be allocated pursuant to Subsection 4.4(b)(i) will be allocated in the same manner as the Matching Contribution or Employer Contributions used to repay the Exempt Loan under Subsection 4.3(c).

**Payments on Exempt Loan.** As of the Valuation Date, installment payments, including principal and interest, made by the Trust out of Matching Contributions or Employer Contributions made with respect to the period then ending, under an Exempt Loan (if permitted by law), will reduce the Unallocated General Investment Account in the same proportion that Matching Contributions or Employer Contributions are allocated under the provisions of Subsection 4.3(d). Unless required by law or as otherwise provided herein, Dividends with respect to Corporation Stock held in the Unallocated Corporation Stock Account and the Participant Corporation Stock Accounts will be allocated in accordance with Subsection 4.3. For purposes of determining payments on an Exempt Loan, each such Exempt Loan will provide for payment of principal and interest substantially in accordance with the following:

- Specified Income will be used before any Matching Contributions or Employer Contributions are so used to pay principal amounts due under such Exempt Loan;
- Matching Contributions or Employer Contributions will be first applied to repay interest under an Exempt Loan with any excess used to fund current principal requirements not otherwise funded by the Specified Income;
- if the Specified Income of the Unallocated Corporation Stock Account and Unallocated General Investment Account is not sufficient to pay principal due under the Exempt Loan, then Matching Contributions or Employer Contributions will be used to fund the difference; and

- if the Specified Income exceeds the amount necessary to pay principal due on Exempt Loans for the Plan Year, then such excess amount will be first used to pay interest currently due with respect to the Exempt Loan and any remaining amount of income may, at the direction of the Plan Administrator, be used to prepay principal due on an Exempt Loan in a succeeding Plan Year.

**Dividends Used to Repay Loan.** To the extent permitted by law, if cash Dividends attributable to allocated Leveraged Corporation Stock held in a Participant's Corporation Stock Account are used to repay an Exempt Loan, the following provisions will apply:

- Corporation Stock at least equal in value to the cash Dividends used to make Exempt Loan payments will be allocated to the Account that would otherwise have received the Dividend allocations; and
- remaining released Corporation Stock will be allocated pursuant to Subsection 4.3(d).

**Dividends Not Used to Repay Loan.** If cash Dividends on Corporation Stock held in a Participant's Corporation Stock Accounts and cash Dividends on Corporation Stock held in the Unallocated Corporation Stock Account are not used to repay an Exempt Loan, such Dividends may be allocated to the Participant's General Investment Account pursuant to 4.3(d).

### Determination of Employer Contributions

The Employer, from its records, determines the amount of any contributions to be made by it to the Trust under the terms of the Plan.

### Time and Form of Employer Contribution

The Employer must make Employer Contribution, if any, to the Trust for any Plan Year within the time prescribed by the Code or applicable Treasury Regulations to be deductible on its federal corporate income tax return, including extensions thereof.

The Employer may make its contributions in cash or Corporation Stock (the Fair Market Value of which may be determined at the time of contribution), as the Corporation from time to time may determine, provided the contribution (including, but not limited to, Corporation Stock) is not a prohibited transaction under the Code or ERISA. Contributions made in Corporation Stock will be held in the Stock Bonus Portion of the Plan and contributions made in cash will be held in the Profit-Sharing Portion of the Plan.

### Qualified Military Service

Notwithstanding any provision of the Plan to the contrary, contributions, benefits, and service credit with respect to Qualified Military Service will be provided in accordance with Section 414(u) of the Code and the Heroes Earnings Assistance and Relief Tax Act of 2008.

## Accounts

### Establishing Accounts

**Individual Accounts.** The Plan Administrator will maintain or cause to be maintained an Employer Contribution Account will be maintained for each Participant on whose behalf Employer Contributions are made to the Plan. The Employer Contribution Account may also include a subaccount for employer contributions made to prior plans merged with and into the Plan. Such contributions, and any earnings and losses on those contributions, will be allocated to the Participant's Employer Contribution Account

**Other Accounts.** In addition to the Accounts described above, the Plan Administrator:

- may maintain such other Accounts and subaccounts in the names of Participants or otherwise as are considered necessary or advisable;
- may maintain for the Plan, an Unallocated Corporation Stock Account and an Unallocated General Investment Account; and
- must maintain a Corporation Stock Account and a General Investment Account to reflect the Participant's interest in the Trust.

**Rights of the Trust Fund.** The Plan Administrator may direct the Trustee to maintain a temporary segregated investment Account in the name of a Participant to prevent a distortion of income, gain, or loss allocations under Subsection 5.3. The maintenance of individual Accounts is only for accounting purposes, and a segregation of the assets of the Plan for each Account will not be required. Distributions and withdrawals made from an Account will be charged to the Account as of the date paid.



### **Value of Participant's Account Balance**

Pursuant to the requirements under Subsection 12.3, the value of each Participant's Account balance consists of that proportion of the net worth (at Fair Market Value) of the Trust Fund which the net credit balance in the Participant's Account bears to the total net credit balance in the Accounts of all Participants. For purposes of a distribution under the Plan, the value of a Participant's Account balance is its value as of the applicable Valuation Date immediately preceding the date of the distribution.

### **Allocation of Earnings and Losses to Accounts**

As of each Valuation Date, the Plan Administrator must adjust Accounts to reflect net income, gain or loss since the most recent applicable Valuation Date. The Plan Administrator will allocate the contributions, Forfeitures, net income, gain or loss, if any, in accordance with SECTION 4.

### **Account Charged**

The Plan Administrator will charge all distributions made to a Participant or to the Participant's Beneficiary from the Participant's Account, against the Account of the Participant when made.

### **Accounts for Alternate Payees**

A separate Account will be established for an Alternate Payee entitled to any portion of a Participant's Account under a Qualified Domestic Relations Order in accordance with procedures established by the Plan Administrator and applicable law. Such separate Account will be valued and accounted for in the same manner as any other Account. Pursuant to the terms of the Qualified Domestic Relations Order, and subject to SECTION 7, an Alternate Payee may receive a distribution of the Alternate Payee's benefits in the same manner as if such Alternate Payee were a Participant at any time after the Qualified Domestic Relations Order has been approved by the Plan Administrator, without regard to whether such distribution is made or commences prior to the Participant's earliest retirement age (as defined in Section 414(p)(4)(B) of the Code). If a separate Account has been established on behalf of an Alternate Payee but all the amounts in the Account have not yet been distributed, the Alternate Payee may direct the investment of such Account in the same manner as if such Alternate Payee were a Participant. Subject to the Plan Administrator's rules, an Alternate Payee may designate one or more Beneficiaries to receive payment of the Alternate Payee's separate Account under the Plan in the same manner as if such Alternate Payee were a Participant, except that the Alternate Payee may designate an alternate Beneficiary other than the Alternate Payee's spouse without such spouse's consent.

### **Missing Persons, Unclaimed Accounts and Uncashed Checks**

Except as otherwise required by law, the Employers and the Plan Administrator will not be required to search for or locate a Participant, Spouse, Beneficiary, or Alternate Payee. Each Participant, Beneficiary, and any other person entitled to benefits hereunder, will notify the Corporation in writing of such person's mailing address and any change of mailing address. Any communication, statement or notice that is addressed to a Participant, Beneficiary, or Alternate Payee at the Participant's, Beneficiary's or Alternate Payee's last known mailing address filed with the Corporation, or as shown on the records of the Employer, will bind such individuals, for all purposes under the Plan. Any check representing payment hereunder and any communication addressed to a Participant, Beneficiary or Alternate Payee, at the last known mailing address of such person that was filed with the Plan Administrator, or if no such address has been filed, then at such person's last mailing address as indicated on the records of the Employer, will be deemed to have been delivered to such person on the date on which such check or communication is deposited, postage prepaid, in the United States mail.

In the event that a Participant, Beneficiary or Alternate Payee who is entitled to a distribution under the Plan is unresponsive to notices sent by the Plan Administrator requesting distribution instructions, the Plan Administrator will further attempt to locate and notify such Participant, Beneficiary or Alternate Payee of the Participant's, Beneficiary's or Alternate Payee's distribution rights via certified or registered mail addressed to the Participant's, Beneficiary's or Alternate Payee's last known addresses of record with the Plan Administrator, Employer, and administrators of any other plans maintained by the Employer. If the Participant, Beneficiary or Alternate Payee continues to be unresponsive, the Plan Administrator will further attempt to locate the Participant, Beneficiary or Alternate Payee by contacting any designated Beneficiaries under the Plan. The Plan Administrator may also utilize internet services, commercial locator services, or credit reporting agencies to locate unresponsive individuals. If, following five consecutive one-year Breaks in Service with respect to the Participant, the Participant or Beneficiary or Alternate Payee of such Participant, fails to claim the Participant's, Beneficiary's or Alternate Payee's distributive share or make such Participant's, Beneficiary's or Alternate Payee's whereabouts known in writing to the Plan Administrator within six months from the date of

mailing of the notice, the Plan Administrator may treat such individual’s unclaimed payable Account balance as forfeited and will reallocate it in the same manner as Forfeitures.

If a Participant, Beneficiary, or Alternate Payee who has incurred a forfeiture of the Participant’s, Beneficiary’s or Alternate Payee’s Account balance under the provisions of Subsection 5.6(a) makes a claim, at any time, for the Participant’s, Beneficiary’s or Alternate Payee’s forfeited Account balance, the Plan Administrator will restore the forfeited Account balance to the same dollar amount as the dollar amount of the Account balance forfeited, unadjusted for any gains or losses occurring subsequent to the date of the forfeiture to the extent permitted by ERISA and the Code. The Plan Administrator will make the restoration during the Plan Year in which the Participant, Beneficiary or Alternate Payee makes the claim, first from the amount, if any, of Forfeitures the Plan Administrator otherwise would allocate for the Plan Year, then from the amount, if any, of the Trust Fund net income or gain for the Plan Year and then from the amount, or additional amount, the Employer contributes to enable the Plan Administrator to make the required restoration. The Plan Administrator must direct the Trustee to distribute the Participant’s, Beneficiary’s or Alternate Payee’s restored Account balance to such Participant, Beneficiary or Alternate Payee as soon as practicable after the close of the Plan Year in which the Plan Administrator restores the forfeited Account balance. The forfeiture provisions of this Subsection 5.6 apply solely to the Participant’s, Beneficiary’s or Alternate Payee’s Account balance derived from Matching Contributions, Employer Contributions and Forfeitures.

Checks that are not cashed, deposited, or otherwise negotiated will be handled in accordance with rules and procedures established by the Plan Administrator, including with respect to the forfeiture and reinstatement of such amounts.

Vesting and Forfeitures

Vesting of Employer Contributions

The following rules will apply for purposes of determining a Participant’s vested interest in the Participant’s Employer Contributions.

**Regular Vesting Schedule.** Each Participant will vest in the Participant’s Employer Contributions as set forth below:

Number of Years of Vesting Service	Vested Percentage
Less than 3	0%
3 or more	100%

**Vesting Upon Death, Disability, Retirement and Severance From Service.** Notwithstanding anything in this Subsection 6.1 to the contrary, a Participant who incurs a Severance From Service will be 100% vested in the Participant’s Account on the first to occur of a Participant’s termination of employment by reason of (i) death; (ii) Disability; or (iii) attainment of the Participant’s Retirement Date. Furthermore, in the case of a Participant who dies while performing Qualified Military Service, the Participant’s Account will become 100% vested.

Breaks in Service , Accounts and Vesting Service for Rehires

If a Participant’s Severance From Service occurs prior to the date the Participant is fully vested in all of the Participant’s Accounts, and the Participant is subsequently reemployed by the Corporation or a Related Employer, the following provisions of this Subsection 6.2 will apply:

- A Participant who incurs fewer than five consecutive Breaks in Service will have the Vesting Service earned both before and after such Breaks in Service included for the purpose of determining the Participant’s vested interest in the Participant’s Account balances attributable to the Participant’s period of employment both before and after such Breaks in Service.
- A Participant who incurs five or more consecutive Breaks in Service will have the Vesting Service earned after such Breaks in Service disregarded for the purpose of determining the Participant’s vested interest in the Participant’s Account balances attributable to the Participant’s period of employment before such Breaks in Service. However, Vesting Service earned by the Participant both before and after the Participant’s Breaks in Service will be included in determining the Participant’s vested interest in the Participant’s Account balances attributable to the Participant’s period of employment after such Breaks in Service.

## Forfeitures

**Timing of Forfeitures.** If a Participant's Severance From Service occurs prior to the date the Participant is fully vested in the Participant's Account, the Participant will forfeit the non-vested portion of the Participant's Account as of the earlier of the Valuation Date of the Plan Year in which the Participant receives a total distribution of the Participant's vested Account balance or the Valuation Date of the Plan Year in which the Participant incurs five consecutive Breaks in Service. For purposes of this Subsection 6.3(a), a Participant who has no vested interest in the Participant's Account will be deemed to have received a complete distribution of the Participant's Account balance on the Participant's Severance From Service. Any portion of a Participant's Accounts that do not vest will be regarded as Forfeitures upon such Participant's Severance From Service.

### Restoration of Previously Forfeited Amounts.

If a portion of a Participant's Account has been forfeited in accordance with Subsection 6.3(a) because such Participant received a distribution of the vested portion of the Participant's Accounts before the date the Participant incurred five consecutive Breaks in Service, the amount forfeited will be restored if:

- the Participant is reemployed before incurring five or more consecutive Breaks in Service; and
- the Participant repays to the Trust Fund an amount equal to the value of the distribution received before the earlier of five years from the Participant's reemployment date or the close of the first period of five consecutive Breaks in Service following the distribution.

A Participant who had no vested interest in the Participant's Accounts upon the Participant's Severance From Service and was deemed to have received a complete distribution of the Participant's Accounts under Subsection 6.3(a) will be deemed to have repaid that amount upon the Participant's subsequent reemployment with an Employer and becoming a Participant if such individual is reemployed before incurring five or more consecutive Breaks in Service.

The restoration of previously forfeited amounts to a Participant's Accounts under this Subsection 6.3(b) will be funded first by Forfeitures which have not been previously taken into account under this Subsection 6.3 and, if that is insufficient, by contributions by an Employer.

If an Employee is reemployed after incurring five or more consecutive Breaks in Service, any portion of the Employee's Accounts that have been previously forfeited in accordance with Subsection 6.3(a) will not be restored.

**Application of Forfeitures.** Forfeitures may be used to in accordance with Subsection 4.3(e) or Subsection 5.6(c).

## Time and Method of Payment of Benefits

### Time of Payment of Vested Account Balance

A Participant's or Beneficiary's time of payment is based on the amount of the Participant's vested Account balance, and any Approved Form of Election made by the Participant or Beneficiary and filed with the Plan Administrator prior to the time when payment of the Participant's vested Account balance would otherwise commence.

**Account Balance Does Not Exceed \$1,000.** If a Participant incurs a Severance From Service, the Participant's vested Account balance does not exceed \$1,000, and the Participant does not elect to have the distribution paid to an Eligible Retirement Plan, then the Trustee, as directed by the Plan Administrator, will distribute the Participant's vested Account balance in a lump sum payment in accordance with Subsection 7.2(a) as soon as administratively practicable following the end of the Plan Year in which the Participant incurred a Severance From Service. However, if the vested value of such Accounts is zero, then such vested value will be deemed paid to the Participant immediately. This Subsection 7.1(a) will also apply to the Participant's Beneficiary or an Alternate Payee.

**Account Balance Exceeds \$1,000 But Does Not Exceed \$7,000.** If a Participant incurs a Severance From Service, the Participant's vested Account balance exceeds \$1,000, but does not exceed \$7,000, and the Participant does not elect a distribution in cash or to have the distribution paid to an Eligible Retirement Plan, then the Trustee, as directed by the Plan Administrator, will distribute the Participant's vested Account balance in a Direct Rollover to an individual retirement plan in accordance with Subsection 7.2(b) as soon as administratively practicable following the end of the Plan Year in which the Participant incurred a Severance From Service. This Subsection 7.1(b) will apply to the Participant's Beneficiary. However, it will apply to an Alternate Payee.

**Account Balance Exceeds \$7,000.** If a Participant incurs a Severance From Service, the Participant's vested Account balance exceeds \$7,000, and the Participant elects to have the Participant's vested Account balance paid upon Severance From Service, the Plan Administrator will direct the Trustee to distribute the Participant's vested Account balance, pursuant to the Participant's election, in accordance with the following:

- If the Participant experiences a Severance From Service by reason of death, Disability, or attainment of the Participant's Retirement Date, the Plan Administrator will direct the Trustee to commence distribution of the Participant's vested Account balance not later than one year after the close of the Plan Year in which such event occurs.

- If the Participant experiences a Severance From Service for any reason other than by reason of death, Disability or attainment of the Participant's Retirement Date, the Plan Administrator will direct the Trustee to commence distribution of the Participant's vested Account balance not later than one year after the close of the fifth Plan Year following the Plan Year in which the Participant experienced a Severance From Service. If the Participant resumes employment with the Corporation or its Related Employers on or before the last day of the fifth Plan Year following the Plan Year of the Participant's Severance From Service, the distribution provisions of this Subsection 7.1(c)(ii) will not apply.

**Other Distribution Commencement Requirements.** If a Participant who incurs a Severance From Service and whose vested Account balance exceeds \$7,000 does not elect otherwise, the Plan Administrator will direct the Trustee to commence distribution of the Participant's vested Account balance to such Participant not later than 60 days after the Plan Year in which the latest of the following events occurs:

- the Participant reaches the Participant's Retirement Date;
- the tenth anniversary of the year in which the Participant commenced participating in the Plan; or
- the Participant's Severance From Service.

However, if a Participant incurs a Severance From Service for any reason, and if the Participant's vested Account exceeds \$7,000, subject to Subsection 7.6, the Participant may choose to start benefits after the dates specified in Subsection 7.1(d). Unless the Participant elects to start benefits by submitting the required information to the Plan Administrator on an Approved Election Form, which describes the benefit and the date on which benefit payments will commence, the Participant will be deemed to have elected to delay payment, but in no event later than the date set forth under Subsection 7.6 or as otherwise provided under the Plan.

**Determination of Account Balance.** For purposes of determining whether the Participant's vested Account exceeds \$7,000.

### Method of Payment of Vested Account Balance

Subject to any restrictions prescribed by Subsection 7.1 at the time the Participant is entitled to receive a distribution under this SECTION 7, a Participant or Beneficiary with a vested Account balance that exceeds \$7,000 in accordance with Subsection 7.1 may elect distribution under one, or any combination, of the following methods:

**Method 1 – Lump Sum.** The Plan Administrator, pursuant to the election of the Participant (or if no election has been made prior to the Participant's death, by the Participant's Beneficiary), will direct the Trustee to distribute the Participant's vested Account balance in a single lump sum. For purposes of determining the value of an Account under this Subsection 7.2, a Participant's Vested Account balance is determined as of the end of the Plan Year in which the Participant's death, attainment of the Participant's Retirement Date, Disability, or Severance From Service occurs. Prior to the distribution of such single lump sum payment, the Account will continue to participate in the annual adjustments for "net increase" or "net decrease" of the Plan.

**Method 2 – Direct Rollover.** The Plan Administrator, pursuant to the election of the Participant (or if no election has been made prior to the Participant's death, by the Participant's Beneficiary), will direct the Trustee to distribute the Participant's vested Account balance, in whole or in part, directly to an Eligible Retirement Plan specified by the Participant in a Direct Rollover and at the time and in the manner prescribed by the Plan Administrator; provided, however, the Direct Rollover portion of the distribution qualifies as an Eligible Rollover Distribution.

**Method 3 – Special Limited Distribution Period.** Notwithstanding any other provision of this SECTION 7 (except Subsection 7.6) or any election by the Participant pursuant to this SECTION 7, the Plan Administrator may in its sole discretion, distribute the Participant's vested Account balance attributable to Corporation Stock in substantially equal installments (not less frequently than annually) over a period not to exceed five years, plus one year, not to exceed an additional five years, for each \$275,000 (for 2024; as adjusted pursuant to Section 415(d) of the Code) or the fraction thereof by which the value of the Account exceeds \$1,380,000 (for 2024; as adjusted pursuant to Section 415(d) of the Code), or such shorter period, as determined in the sole discretion of the Plan Administrator. Commencement of such distribution will occur as provided in Subsection 7.1, unless the Participant has elected to postpone the commencement date of the Participant's distribution. During the period of such installment payments being made from the funds in the Account, the Account will continue to participate in the adjustment for "net increase" or "net decrease" of the Trust.

**Method 4 – Partial Withdrawals.** A Participant may elect a partial distribution of the Participant's vested Account balance. Furthermore, in the event of such a Participant's death, the Participant's Beneficiary may elect to receive a partial distribution

pursuant to the provisions of this Subsection 7.2(d), in lieu of receiving a single lump sum payment of the Participant's vested Account balance. All partial distributions made under this Subsection 7.2(d) will be taken pro rata from each Account and from each investment fund in which the Participant's Account is invested. Such elections for partial distributions will be subject to the minimum distribution and incidental death benefit requirements of Section 401(a)(9) of the Code, and will neither be in the term of, or have the effect of, any annuity contract. A qualifying Participant, or Beneficiary, may elect up to 12 partial distributions per Plan Year, provided that no more than one partial distribution may be taken in any calendar month.

#### **Form of Payment of Vested Account Balance**

**Unregistered Corporation Stock – S Corporation or Corporation Stock Ownership Restricted.** If unregistered shares of Corporation Stock are held in a Participant's Corporation Stock Account or any other Accounts and the Corporation is an S Corporation, or if the articles of incorporation, charter or bylaws of the Corporation restrict ownership of substantially all of the outstanding Corporation Stock to Employees and the Trust, the Participant is not entitled to demand distribution in the form of Corporation Stock and the distribution of a Participant's Corporation Stock Account or other Accounts will be made in the form of cash, subject to the Plan Administrator's discretion to pay such distribution, upon notice to the Participant, in shares of Corporation Stock. At the time the distribution is made by the Trustee, the Trustee, as directed by the Plan Administrator, will distribute cash or other property to the Participant or the Participant's Beneficiary or transfer, in the Trustee's capacity as nominee of the Participant or Beneficiary (and not in its fiduciary capacity as Trustee of the Trust), the Corporation Stock held in the Participant's Corporation Stock Account to the Corporation in exercise of the Participant's (or Beneficiary's) put option pursuant to Subsection 13.1.

**C Corporation and Corporation Stock Not Registered.** If non-registered shares of Corporation Stock are held in a Participant's Corporation Stock Account and the Corporation is not operating as an S Corporation, the Trustee will make all distributions under the Plan in cash, as directed by the Plan Administrator; provided, however, that the Plan Administrator will notify the Participant of the Participant's right to demand distribution of the Participant's Accounts entirely in whole shares of Corporation Stock, so long as the Corporation is not then operating as an S Corporation and/or the distribution of the Corporation Stock to the Participant or Beneficiary does not violate any provision in the Corporation's articles of incorporation, charter or bylaws. The Trustee will pay in cash any fractional share to which a Participant or the Participant's Beneficiary is entitled. Upon demand by the Participant to receive distribution of the Participant's Account balances in whole shares of Corporation Stock, the Trustee will apply any balance in a Participant's General Investments Account, determined as of the Valuation Date coincident with or immediately preceding such distribution to provide whole shares of Corporation Stock for distribution.

**Registered Corporation Stock.** If the Corporation is a C Corporation and the Corporation Stock is registered, the Trustee will make all distributions under the Plan in cash, as directed by the Plan Administrator, provided, however, that the Plan Administrator will notify the Participant of the Participant's right to demand distribution of the Participant's Account balance in whole shares of Corporation Stock. The Trustee will pay in cash any fractional share to which a Participant or the Participant's Beneficiary is entitled. Upon demand by the Participant to receive distribution of the Participant's entire Account in whole shares of Corporation Stock the Trustee will apply any balance in a Participant's General Investments Account determined as of the Valuation Date coinciding with or immediately preceding such distribution to provide whole shares of Corporation Stock for distribution.

#### **Dividends.**

**C Corporation.** Notwithstanding the preceding provisions of this Subsection 7.3, the Trustee, if directed in writing by the Corporation, will pay to the Participant, in cash, any cash Dividends on Corporation Stock allocated, or allocable to the Participant's Corporation Stock Account pursuant to Subsection 4.3(b). The Plan Administrator's direction must state whether the Trustee is to pay the cash Dividends currently, or within the 90-day period following the close of the Plan Year in which the Employer pays the Dividends to the Trust. The Plan Administrator may request the Employer to pay Dividends on Corporation Stock directly to Participants or to transfer such Dividends to the defined contribution plan maintained by the Employer pursuant to Section 401(a) Code and Section 401(k) of the Code, if any. If the Corporation declares a Dividend, the Trustee, if directed in writing by the Plan Administrator, will distribute such Dividends, in whole or part, to the Participants and Beneficiaries as a distribution under SECTION 7 to the extent permitted by applicable law.

**S Corporation.** Notwithstanding the preceding provisions of this Subsection 7.3, the Trustee, if directed in writing by the Plan Administrator, will pay (in whole or in part) to eligible Participants, in cash, any cash Dividends relating to Corporation Stock of an S Corporation held in a Participant's Corporation Stock Account, to the extent of each Participant's respective vested percentage determined as of the close of the Plan Year pursuant to Subsection 6.1. Such distributions will be treated as an in-service distribution to the Participant subject to federal and state income taxation.

**Other Investments.** Subject to this Subsection 7.3 and to the extent allowed by Section 409(h)(2) of the Code, the Trustee will make all distributions of the assets held by the Trust (other than Corporation Stock) to the Participants or Beneficiaries in the form of cash.

**Distributions in Shares and Put Option.** To the extent a distribution is made in shares of Corporation Stock, all such distributions will be subject to the Participant's right to put such shares to the Corporation as provided for under Subsection 13.1 and, to the extent the Corporation is an S Corporation, or if the articles of incorporation, charter or bylaws of the Corporation restrict ownership of substantially all of the outstanding Corporation Stock to Employees and the Trust, such distribution will be required to be immediately put to the Corporation under Subsection 13.1.

### **Distribution Directions**

If no one claims a payment or distribution made from the Trust, disposition of the payment will be made in accordance with the direction of the Plan Administrator.

### **Withholding and Payment of Taxes**

If any assets of the Trust, or any benefits payable under the Plan, will become liable for the payment of any estate, inheritance, income, or other tax, charge or assessment, which in the Corporation's opinion the Trustee will or may be required to pay, the Plan Administrator may direct the Trustee to pay or withhold such tax, charge or assessment out of any monies or other property in the Trustee's hands for the account of the person whose interest hereunder is liable for such tax. The Plan Administrator may require such releases or other documents from any lawful taxing authority and may require such indemnity from such person the Plan Administrator will deem necessary. The Plan may provide any notices required by Section 3405 of the Code with respect to federal income tax withholding from distributions hereunder and will withhold and pay any federal income tax required under Section 3405 of the Code.

### **Minimum Distributions**

All distributions will be determined and made in accordance with the Treasury Regulations under Section 401(a)(9) of the Code. The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's Required Beginning Date. Benefits must be paid over a period not extending beyond the life expectancy of the Participant or the joint life expectancies of the Participant and the Participant's Beneficiary.

**Death of Participant On or After Date Distributions Begin.** If the Participant dies on or after the date distributions begin and there is a designated Beneficiary, the remaining portion of the deceased's Account, if any, will continue to be distributed at least as rapidly as under the method of distribution being used prior to the individual's death. However, where the Participant's Beneficiary is not an eligible designated beneficiary (as such term is defined for purposes of Section 401(a)(9) of the Code), the Participant's Account will be distributed over a period not extending beyond December 31 of the calendar year containing the tenth anniversary of the Participant's death (or where the Beneficiary is the Participant's minor child, December 31 of the calendar year containing the tenth anniversary of the date such child reaches age 21). That said, if there is no designated Beneficiary as of September 30 of the year following 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.

**Death of Participant Before Distributions Begin.** If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than the following.

- If the Participant's surviving Spouse is the Participant's sole Beneficiary, 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 Required Age, if later.
- If the Participant's surviving Spouse is not the Participant's sole Beneficiary, distributions to the Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.

Notwithstanding the foregoing, where the Participant's Beneficiary is not an eligible designated beneficiary (as such term is defined for purposes of Section 401(a)(9) of the Code), the Participant's Account will be distributed over a period not extending beyond December 31 of the calendar year containing the tenth anniversary of the Participant's death (or where the Beneficiary is the Participant's minor child, December 31 of the calendar year containing the tenth anniversary of the date such child reaches age 21). That said, if the Participant has no designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's Account will be distributed over a period not extending beyond December 31 of the calendar year containing the fifth anniversary of the Participant's death.

If the Participant's Spouse is the sole Beneficiary and dies after the Participant but before distributions have begun, then this Subsection 7.6(b) (other than Subsection 7.6(b)(i)) will apply as if the Spouse were the Participant.

### **Designation of Beneficiary**

At any time before payment of a Participant's Accounts, a Participant may designate a Beneficiary or Beneficiaries on an Approved Form of Election, in accordance with this Subsection 7.7:

- Any Participant from time to time may designate any person or persons contingently or successively to whom the Plan will pay the Participant's Account balance in the event of the Participant's death, and the Participant may designate the form and method. The Participant may change or revoke any such designation on an Approved Form of Election at any time before full payment of the Participant's Account balances.

- The Beneficiary designation of a Participant who is married and who designates someone other than or in addition to the Participant's Spouse, is not valid unless the Participant's Spouse consents, in writing, to the Beneficiary designation. The Participant's Spouse will automatically be the named Beneficiary (regardless of whether a Beneficiary designation was made) and will be paid the Participant's death benefit unless the Spouse affirmatively consents to the Beneficiary designation in the manner prescribed in Section 417(a)(2) of the Code and the rules and procedures established by the Plan Administrator. Any consent by the Participant's Spouse to waive any rights to the death benefit must be in writing on an Approved Form of Election, must acknowledge the effect of such waiver, and be witnessed by a Plan representative or notary public. Further, the Spouse's consent must be irrevocable and must acknowledge the specific non-Spouse Beneficiary.

- If a married Participant designates the Participant's Spouse as the Participant's Beneficiary, and after such designation the Participant and the Participant's Spouse are divorced, such designation with respect to any designation of the Spouse as a Beneficiary will automatically be voided. In each such case, the other portion of such Beneficiary designation will remain in place and the Participant's Beneficiary will be the contingent or successive Beneficiary designated pursuant to this Subsection 7.7, or if no such designation has been made, the Participant's Accounts will be distributed as described in Subsection 7.9. Should the Participant wish to designate an ex-Spouse as the Participant's Beneficiary, the Participant must affirmatively do so by completing a new Beneficiary designation form after the Participant's divorce, naming the Participant's ex-Spouse as the Participant's Beneficiary.

- Any benefit payable to or for the benefit of any individual under a legal disability, including, without limitation, minority, or incompetency, may be paid, in accordance with the rules and procedures established by the Plan Administrator, to said person's legal guardian or to the individual who, in the judgment of the Plan Administrator, reasonably appears to be providing for the care and custody of such individual.

### **Missing Spouse**

The spousal consent requirements to designate a Beneficiary will not apply if the Participant establishes to the satisfaction of the Plan Administrator that such written consent may not be obtained because there is no Spouse, the Spouse cannot be located, or other circumstances (as described in Treasury Regulations under Section 401(a)(11) of the Code and Section 417 of the Code) preclude the necessity of the Spouse's consent. If the Spouse of a Participant is legally incompetent to give consent, such consent may be given by the Spouse's legal guardian, which will include the Participant if the Participant is the Spouse's legal guardian. If the Participant is legally separated or has been abandoned, as provided by a court order, spousal consent will not be required, except where required provided by a Qualified Domestic Relations Order.

### **Absence of Beneficiary Designation**

If a deceased Participant failed to designate a Beneficiary in accordance with Subsection 7.7 or if all the Participant's Beneficiaries predecease the Participant, the Participant's Accounts will be distributed estate.

If the Beneficiary does not predecease the Participant but dies prior to distribution of the Participant's entire vested Account balance, the remaining vested Account balance will be paid to the Beneficiary's estate unless the Participant's Beneficiary designation provides otherwise.

## **Administration of the Plan**

### **The Plan Administrator**

The Plan Administrator administers the Plan and is the "plan administrator" and "named fiduciary" for purposes of ERISA. No person will be ineligible to be a member of the Plan Administrator because such person is, was, or may become a Participant of the Plan. The Plan Administrator may rely upon any direction, information or action of the Employers, Trustee, or other Fidu-

ciaries and is not required to inquire into such direction, information, or action. To the maximum extent permitted by law, each Fiduciary will be responsible for the proper exercise of its own powers, duties, and obligations under the Plan, and will not be responsible for any act or failure to act of another fiduciary.

### **Plan Administrator General Powers, Rights, and Duties**

The Plan Administrator will have all the powers necessary and appropriate to discharge its duties under the Plan, which powers will be exercised in the sole and absolute discretion of the Plan Administrator, including, but not limited to, the following:

- To administer the Plan, to construe and interpret the provisions of the Plan, to make legal and factual determinations thereunder (including, but not limited to, the power to determine the rights or eligibility under the Plan of Employees, Participants or any other persons, and the amounts of their benefits (if any) under the Plan), to resolve ambiguities, inconsistencies or omissions arising under the Plan, and to enforce the terms of the Plan and the Trust Fund, all in the sole and absolute discretion of the Plan Administrator.

- To maintain the Plan document and records and establish record keeping accounts, to provide the Employers, Employees, and government agencies with information as required by law, and to receive Participant information from the Trustee, the Employers, Participants, Spouses, Beneficiaries, and record keepers.

- To appoint and remove investment advisers and Investment Managers at any time and to select investment funds.

- To direct the Trustee regarding crediting and distributing the Trust Fund, including payments from the Trust Fund in accordance with the terms of the Plan and Trust Fund.

- To establish and maintain a funding standard account and to make credits and charges to the account to the extent required by and in accordance with the provisions of the Code.

- To distribute cash instead of Corporation Stock, as otherwise permitted hereunder.

- To require a Participant, Beneficiary or Alternate Payee to resell the Corporation Stock immediately to the Employer if shares of Corporation Stock are distributed, as otherwise permitted hereunder.

- To direct the Trustee to convert the Corporation Stock Account of a Participant who is no longer an Employee, in whole or in part and in accordance with the rules regarding valuation reflected in Subsection 8.3, into cash during any Plan Year.

- To determine the validity of all claims for benefits and to provide for withholding. The Plan Administrator's responsibilities with respect to benefit claims and appeals will be determined in accordance with the claims and appeals procedures established in SECTION 9.

- To establish rules and procedures for the proper and efficient administration of the Plan and Trust Fund, including with respect to contributions or other payments by Employers, compliance with non-discrimination requirements under the Code, and Qualified Domestic Relations Orders.

- To employ and suitably compensate agents, auditors, attorneys, accountants, and other persons (who also may be employed by the Employers) to perform administrative duties related to the Plan, and to delegate duties and responsibilities to them (excluding Trustee responsibilities); provided that such allocation or delegation and the acceptance thereof by such agents, auditors, attorneys, accountants, or other persons will be in writing.

- To take such actions as the Plan Administrator may deem necessary or advisable to correct any errors in the operation of the Plan.

### **Conversion of Inactive Participants' Corporation Stock Accounts to Cash**

The Plan Administrator has authority to direct the Trustee to convert the Corporation Stock Account of a Participant who is no longer an Employee, in whole or in part, into cash during any Plan Year. In such case, the Corporation Stock Account will be converted to cash in accordance with the following requirements:

- all shares of the Corporation Stock Account of a Participant who is no longer an Employee will be converted to cash based upon a formula equal to the amount of "free cash" held in the Plan multiplied by a fraction, the denominator of which is the Corporation Stock held by such Participant who is no longer an Employee and the numerator of which is the Corporation Stock held by all Participants who are no longer Employees. For purposes of this Subsection 8.3(a)(i), "free cash" includes all cash (or non-Corporation Stock investments) that are not otherwise held in the Account of a Participant who is no longer an Employee or placed into the Plan as a result of a Participant's exercise of the Participant's election under Subsection 10.1;

- following the close of each Plan Year in which the Corporation Stock of the Participant who is no longer an Employee is to be converted under Subsection 8.2(h), provided, that the Trust has an adequate amount of cash or liquid assets at such time to convert the Restricted Participant's Corporation Stock Account in whole or in part; and



- in accordance with the following requirements;

- in the event that there is not sufficient cash or other liquid assets in the Trust to exchange for the shares of Corporation Stock in the Corporation Stock Accounts of Participants who are no longer Employees that are to be exchanged in such Plan Year, the exchange will be on a pro-rata basis based upon the number of shares of Corporation Stock to be exchanged in the Corporation Stock Accounts of Participants who are no longer Employees; this process will be repeated each subsequent Plan Year until all Corporation Stock Accounts of Participants who are no longer Employees have been fully exchanged in accordance with Subsection 8.2(h); and

- the shares of Corporation Stock which are exchanged for cash under Subsection 8.2(h) will be reallocated to Participants' Corporation Stock Accounts of those Participants from whose General Investment Accounts such cash was withdrawn to purchase such shares of Corporation Stock and such withdrawal of cash will be done on a pro-rata basis based upon the cash held in all Participants' General Investment Accounts but will not include any amounts previously diversified out of Corporation Stock pursuant to the terms of Subsection 10.1.

For purposes of Subsection 8.2(h), the value of the portion of the Corporation Stock Account of a Participant who is no longer an Employee that is to be exchanged in such Plan Year is:

determined as of:

- the end of such Plan Year preceding the Plan Year in which the Corporation Stock Account of the Participant who is no longer an Employee (or portion thereof) is to be exchanged, or,
- as of the more recent valuation, if any, and
- the amount determined in Subsection 8.3(b)(i) will be invested by the Trustee in its discretion in accordance with the investment policy established by the Plan Administrator as soon as administratively practicable following the conversion described in Subsection 8.2(h).

### **Allocations and Delegations of Responsibility**

The Plan Administrator may delegate, from time to time to such person or persons as it may deem advisable for the efficient administration of the Plan and Trust Fund, all or part of the Plan Administrator's powers, rights, and duties under the Plan and the Trust Fund and may authorize such person to delegate such powers, rights, and duties to another person or persons. Any such delegation may be made to an individual, a committee, or a subcommittee established by the Plan Administrator, a third party, or any other entity selected by the Plan Administrator. The Plan Administrator at any time may modify or revoke any such delegation. Any action of a delegatee in the exercise of its delegated responsibilities will have the same force and effect for all purposes hereunder as if such action had been taken by the Plan Administrator. Except as otherwise provided by applicable law, the Plan Administrator will not be liable for any acts or omissions of any such delegatee. The delegatee will periodically report to the Plan Administrator concerning the discharge of its delegated responsibilities. Unless otherwise provided, references in the Plan to the Plan Administrator will include delegates and designees of the Plan Administrator.

### **Interested Plan Administrator Member**

If a member of the Plan Administrator (or one of its delegates or designees) also is a Participant in the Plan, such member may not decide or determine any matter or question concerning distributions of any kind to be made to the Participant or the nature or mode of settlement of the Participant's benefits, unless such decision or determination could be made by the Participant under the Plan if the Participant were not serving on the Plan Administrator.

### **Plan Administrator Actions**

The Plan Administrator will hold meetings upon such notice, at such place or places and at such time or times, as it may from time to time determine. A majority of the Plan Administrator members (whether attending in person, by telephone, or by video) will constitute a quorum for the transaction of business. The vote of a majority of the Plan Administrator members present at any meeting at which a quorum is present will be the act of the Plan Administrator and will be effective as if taken or made by all members of the Plan Administrator. Any action required or permitted to be taken at any meeting of the Plan Administrator may be taken without a meeting by written consent of the Plan Administrator members, in accordance with applicable law. Such written consent may be provided in one document or in multiple copies of the same document.

### **Reports**

The Plan Administrator will prepare an annual report showing in reasonable detail the assets of the Plan and giving a brief account of the operation of the Plan for the preceding Plan Year. The Plan Administrator will exercise such authority and re-

sponsibility as it deems appropriate in order to comply with ERISA and applicable governmental regulations relating to records of Participants' employment, Accounts and the percentages thereof that which are vested under the Plan, notifications to Participants, and annual reports to the Department of Labor.

### **Compensation and Expenses**

Except as otherwise provided below, all reasonable costs, charges, and expenses incurred in the administration of the Plan, including expenses incurred by the Plan Administrator, compensation to the Trustee, compensation to an Investment Manager, and any compensation to agents, attorneys, actuaries, accountants, record keepers, and other persons performing services on behalf of the Plan or for the Plan Administrator, will be paid from the Trust Fund in such portions as the Plan Administrator may direct. Expenses not paid by the Plan will be paid by the Employers.

### **Information Required by Plan Administrator**

Each person entitled to benefits under the Plan must furnish the Plan Administrator with such documents, evidence, data, or information as the Plan Administrator considers necessary or desirable to manage or administer the Plan. The payment of Plan benefits for each person is conditioned upon the furnishing of full, true, and complete evidence, data, and information reasonably requested by the Plan Administrator. The Employers will furnish the Plan Administrator with such data and information as the Plan Administrator may deem necessary or desirable in order to administer the Plan. The records of the Employers as to an Employee's or Participant's period of employment, Hours of Service, termination of employment and the reason therefore, approved leave of absence, reemployment, date of birth, marital status and compensation will be conclusive on all persons unless determined to the Plan Administrator's satisfaction to be incorrect.

### **Uniform Application of Rules**

The Plan Administrator will administer the Plan on a reasonable basis. Any rules, procedures, or regulations established by the Plan Administrator will be applied uniformly to all persons similarly situated.

### **Corrective Contributions**

In addition to the powers described in Subsection 8.2(l), the Plan Administrator may take the following actions to correct errors in the administration of the Plan:

If, with respect to any Plan Year, an administrative error results in a Participant's Account not being properly credited with Employer Contributions, or earnings on any such amounts, the Plan Administrator may take corrective action, including, but not limited to, one or more of the following corrective actions, in order to place such Participant's Account in the position that the Account would have been in had no error occurred:

- Direct additional contributions to be made to such Participant's Accounts;
- Reallocate existing contributions among the Accounts of affected Participants; or
- Such other actions as it considers desirable under the circumstances as are consistent with the principles of the Employee Plans Compliance Resolution System and/or subsequent guidance published in the Internal Revenue Bulletin.

If additional contributions are made to the Plan on behalf of an Eligible Employee who should be included as a Participant in the Plan but was erroneously excluded, and discovery of such omission was not made until after a contribution for that Plan Year has been made and allocated to Participants' Accounts, then any amounts improperly allocated to the Accounts of other Participants who shared in the original allocation of the contribution, will not be required to be removed from the Accounts of such other Participants.

If, with respect to any Plan Year, an administrative error results in an amount being credited to the Account of a Participant or any other individual who is not otherwise entitled to such amount, the Plan Administrator may take corrective action, including, but not limited to:

- Direct the forfeiture of amounts erroneously credited (with such forfeitures to be used to reduce future Employer contributions or other contributions to the Plan);
- Reallocate such erroneously credited amounts to other Participants' Accounts; or
- Such other actions as it considers desirable under the circumstances as are consistent with the principles of the Employee Plans Compliance Resolution System and/or subsequent guidance published in the Internal Revenue Bulletin.

## Recovery of Benefits

In the event a Participant, Spouse, Beneficiary, or Alternate Payee receives a benefit payment from the Plan that is in excess of the benefit payment that should have been made to such Participant, Spouse, Beneficiary, or Alternate Payee or in the event a person other than a Participant, Spouse, Beneficiary or Alternate Payee receives an erroneous payment from the Plan, the Plan Administrator will have the right, on behalf of the Plan, to recover the amount of the excess or erroneous payment from the recipient. To the extent permitted under applicable law, the Plan Administrator may, at its option, deduct the amount of such excess or erroneous payment from any future benefits payable on behalf of a Participant, regardless of whether such amount would otherwise be paid to a Participant, Spouse, Beneficiary, or Alternate Payee who did not receive the overpayment.

## Indemnification

The Employer indemnifies and saves harmless the Plan Administrator and any person or persons delegated with the power, duty and responsibility to act on behalf of the Plan Administrator (if any), from and against any and all loss resulting from liability to which the Plan Administrator or any person or persons delegated with the power, duty and responsibility to act on behalf of the Plan Administrator, may be subjected by reason of any act or conduct (except willful misconduct, gross negligence or breach of fiduciary duty under ERISA) associated with such persons' official capacities in the administration of the Plan, including all court costs and other expenses reasonably incurred in connection with the defense of such persons, in the event that the Employer fails to provide such defense. The indemnification provisions of this Subsection 8.13 do not relieve the Plan Administrator or any person or persons delegated with the power, duty and responsibility to act on behalf of the Plan Administrator from any liability the Plan Administrator may have under ERISA, including any liability for breach of a fiduciary duty. In the case of any person or persons delegated with the power, duty and responsibility to act on behalf of the Plan Administrator, the indemnification provisions of this Subsection 8.13 do not relieve such person or persons from any liability, to the extent that a court of competent jurisdiction from which no appeal can be taken, enters a final judgment that such person's actions or omissions were the result of gross negligence, willful misconduct or breach of fiduciary duty. The Plan Administrator, and any person or persons delegated with the power, duty and responsibility to act on behalf of the Plan Administrator, may execute a letter agreement further delineating the indemnification provisions of this Subsection 8.13, provided the letter agreement is consistent with and does not violate ERISA and Delaware law. The indemnification provisions of this Subsection 8.13 extend to any other Fiduciary solely to the extent provided by a letter agreement executed by such person and the Corporation, provided that, indemnification of the Trustee will be governed by the terms of the Trust.

## Errors and Corrections

Any Plan administration error may be corrected using any appropriate correction method permitted under the Internal Revenue Service Employee Plans Compliance Resolution System (or any successor procedure), as determined by the Plan Administrator.

## Claims for Benefits

### Claim for Benefits

The Plan Administrator does not consider routine requests for information as a claim for benefits under the ERISA. When a Participant, Beneficiary, or Alternate Payee is eligible to receive benefits under the Plan, the Participant, Beneficiary, or Alternate Payee, as applicable, must contact the Plan Administrator. If a Participant, Beneficiary, or Alternate Payee does not believe the Participant, Beneficiary, or Alternate Payee is receiving all of the benefits to which such Participant, Beneficiary, or Alternate Payee may be entitled, then the Participant, Beneficiary, or Alternate Payee must make a claim for Plan benefits in accordance with this SECTION 9.

### Claims Procedures for Retirement Benefits

Any Plan Administrator determination of the claim for benefits under the Plan by a Participant, Spouse, Beneficiary, or Alternate Payee (a "claimant") will be stated in writing by the Plan Administrator and delivered or mailed to the claimant within 90 days after receipt by the Plan Administrator. If the Plan Administrator determines that special circumstances require an extension of time for processing the claim, the initial 90-day period may be extended for up to 90 additional days. The Plan Administrator will give the claimant written notice of the extension prior to the expiration of the initial 90-day period, and such notice will set forth the circumstances requiring the extension of time and the date by which the Plan Administrator expects to render a decision.

If a claimant has not submitted sufficient information to the Plan Administrator to process a benefit claim, the claimant will be notified of the incomplete claim and given time to submit additional information. This will extend the time in which the Plan Administrator has to respond to the claim from the date the notice of insufficient information is sent to the claimant until the date the claimant responds to the request. If the claimant does not submit the requested missing information to the Plan Administrator within a reasonable time period, the claim will be denied.

If the Plan Administrator wholly or partially denies the claim, the Plan Administrator will provide a written notice that sets forth, in a manner calculated to be understood by the claimant:

- the specific reasons for the denial;
- reference to the specific Plan provisions on which the denial is based;
- a description of any additional material or information necessary for the claimant to perfect the claim and an explanation of why such material or information is necessary; and
- a description of the Plan's appeal procedures, and the time limits applicable to such procedures, including a statement of the claimant's right to bring suit under Section 502(a) of ERISA following an adverse benefit determination on appeal.

### **Appeal Procedures for Retirement Benefits**

In the event of a denial of a claim, a claimant must notify the Plan Administrator in writing within 60 days after receipt of written denial of the claim, if the claimant wishes to appeal the denial of the claim. The claimant also must present to the Plan Administrator a written statement of the claimant's position and any documents, records or other information relating to the claim for benefits. Upon request and free of charge, the claimant will be provided reasonable access to, and copies of, all documents, records and other information relevant to the claimant's claim for benefits. The Plan Administrator's review will take into account all comments, documents, records, and other information submitted by the claimant relating to the claim, without regard to whether such information was submitted or considered in the initial benefit determination. The Plan Administrator will act upon such appeal within 60 days after receipt thereof unless special circumstances require further time, but in no event later than 120 days after receipt. If the Plan Administrator needs additional time to consider the appeal due to special circumstances, the Plan Administrator will notify the claimant within 60 days of filing the appeal. If the Plan Administrator confirms the denial, in whole or in part, the Plan Administrator will present in a written notice to the claimant, in a manner calculated to be understood by the claimant:

- the specific reasons for the denial;
- reference to the specific Plan provisions on which the decision was based;
- a statement that the claimant is entitled to receive, upon request and free of charge, reasonable access to and copies of, all documents, records and other information relevant to the claimant's claim for benefits; and
- a statement of the claimant's right to bring suit under Section 502(a) of ERISA.

In determining claims for benefits, the Plan Administrator has the authority and discretion to interpret the Plan and to resolve ambiguities to make factual determinations, and to resolve questions relating to eligibility for and the amount of benefits.

### **Exhaustion of Claims and Appeals Procedures and Legal Action**

No action at law or in equity will be brought to recover benefits under the Plan until the claim and review process in this SECTION 9 has been exercised, and until the Plan benefits requested in such review have been denied in whole or in part. If any judicial proceeding is undertaken to appeal the denial of a claim, challenge the amount of any benefit under the Plan, or bring any other action under ERISA other than a breach of fiduciary duty claim, any such judicial proceeding must be filed by the earlier of one year following a final decision on the claimant's claim under the Plan's governing claims procedures (which claim will include any substantially similar claim thereafter filed) or, if earlier, two years from the date when the claimant knew or should have known of the underlying facts relating to the claimant's claim. The evidence presented in such a judicial proceeding will be strictly limited to the evidence; timely presented to the Plan Administrator.

### **Plan Administrator Decision Final**

The Plan Administrator will establish rules and procedures, consistent with the Plan and with ERISA, as it may deem necessary or appropriate in carrying out its responsibilities under this SECTION 9. The Plan Administrator may require a claimant who wishes to submit additional information in connection with a claim or appeal to do so at the claimant's own expense.

Benefits under the Plan will be paid only if the Plan Administrator, or its delegate, decides in its sole discretion that a claimant is entitled to them. Subject to applicable law, any interpretation of the provisions of the Plan and any decisions on any matter within the discretion of the Plan Administrator made by the Plan Administrator, or its delegate, in good faith will be binding on

all persons. A misstatement or other mistake of fact will be corrected when it becomes known and the Plan Administrator will make such adjustment on account thereof as it considers equitable and practicable.

### **Diversification and Voting**

#### **Diversification of Participant's Account**

Except as provided under Subsection 10.1(b) a Participant does not have the right to direct the Trustee with respect to the investment or re-investment of the assets comprising the Participant's Account.

Notwithstanding Subsection 10.1(a), each Qualified Participant may direct the investment of all or a portion of the Qualified Participant's Eligible Account Balance within 90 days after the last day of each Plan Year during the Participant's Qualified Election Period (the "Election Window"); provided, however, that if the Fair Market Value of Corporation Stock is not known within 90 days, the Election Window will be extended until 90 days after the Fair Market Value of Corporation Stock is communicated to Qualified Participants. The Qualified Participant must make the Qualified Participant's direction in writing, the direction may be effective no later than 90 days after the close of the Plan Year to which the direction applies, and the direction must specify which, if any, of the investment options the Participant selects.

A Qualified Participant may choose one of the following investment options:

- The distribution of the portion of the Qualified Participant's Eligible Account Balance covered by the election. The distribution will be made within 90 days after the last day of the period during which the Qualified Participant may make the election. The provisions of the Plan applicable to a distribution of Corporation Stock, including the put option requirements as set forth herein, apply to this investment option.

- The direct transfer of the portion of the Qualified Participant's Eligible Account Balance covered by the election to the Profit-Sharing Portion of the Plan, which permits employee-directed investment with at least three investment options and does not invest in Corporation Stock to a substantial degree. The direct transfer will be made no later than 90 days after the last day of the period during which the Qualified Participant may make the election. Notwithstanding anything to the contrary herein, diversification of shares of Corporation Stock attributable to Matching Contributions that qualify as safe harbor contributions may only be diversified under this Subsection 10.1(c)(ii).

#### **Participant Voting Rights – Corporation Stock**

##### **Unregistered Corporation Stock.**

With respect to Corporation Stock held in a Participant's Corporation Stock Account which is not part of a registration-type class of securities (as defined in Section 409(e)(4) of the Code), a Participant has the right to direct the Trustee regarding the voting of such Corporation Stock that is allocated to the Participant's Corporation Stock Account with respect to any corporate matter which involves the approval or disapproval of any corporate merger or consolidation, recapitalization, reclassification, liquidation, dissolution, sale of substantially all assets of a trade or business, or such similar transaction as the Department of Treasury may prescribe in Treasury Regulations. On other corporate matters requiring a vote of the shareholders, the Trustee will vote Corporation Stock as directed by the Corporation, or such other party as appointed by the Corporation for such purpose.

Each Participant (or Beneficiary) who is entitled to direct the Trustee how to vote Corporation Stock allocated to such Participant's Corporation Stock Account will do so in accordance with this Subsection 10.2(a)(ii). The Employer will provide each Participant (or Beneficiary) with proxy solicitation materials or other notices or information statements describing the matter to be voted upon, together with a form requesting confidential instructions as to the manner in which Corporation Stock allocated to a Participant's Corporation Stock Account are to be voted. Each Participant (or Beneficiary) will, as a named fiduciary described in Section 403(a)(1) of ERISA, direct the Trustee with respect to the vote of such Corporation Stock which is allocated to the Corporation Stock Account of the Participant (or Beneficiary). Reasonable means will be employed to provide confidentiality with respect to the voting by such Participant (or Beneficiary), it being the intent of this provision of this Subsection 10.2(a)(ii) to ensure that the Corporation (and its directors, officers, Employees and agents) cannot determine the direction given by any Participant (or Beneficiary). The Plan Administrator may establish any conditions as to the form, manner, or time for a Participant (or Beneficiary) to vote Corporation Stock. Each Participant or Beneficiary will have one vote per whole share of Corporation Stock allocated to the Participant's or Beneficiary's Corporation Stock Account (unless the by-laws of the Employer require the Plan to vote an issue in a manner that reflects a one-man, one-vote philosophy, in which case each Participant or Beneficiary will be entitled to cast one vote on an issue) and, subject to its Fiduciary obligations under ERISA, the Trustee will vote all shares of Corporation Stock held by the Plan for which voting direction is provided by Participants and Beneficiaries in proportion to the results of the votes cast on the issue by the Participants and Beneficiaries. The Trustee will vote Corporation Stock for which no

direction is received or which is held in the Unallocated Corporation Stock Account as directed by the Corporation, or such other party as appointed by the Corporation for such purpose.

**Registered Corporation Stock.** As to any Corporation Stock allocated to a Participant's Corporation Stock Account which is part of a registration-type class of securities, the Participant (or Beneficiary) will be entitled to direct the Trustee with respect to the voting of such Corporation Stock with respect to all corporate matters requiring a vote of stockholders, and such voting rights will be exercised in accordance with Subsection 10.2(a)(ii). With respect to Corporation Stock held in the Unallocated Corporation Stock Account which is part of a registration-type class of securities, the Trustee will properly vote such Corporation Stock which is held in the Unallocated Corporation Stock Account for or against any proposal, in its sole discretion. If all Corporation Stock is held in the Unallocated Corporation Stock Account on the record date when a matter is submitted to a vote of the Corporation's shareholders, the Trustee will vote such Corporation Stock as directed by the Corporation, or such other party as appointed by the Corporation for such purpose.

### **ERISA Requirements/Amendment to Subsection 10.2.**

Notwithstanding any other provision contained in this Subsection 10.2, if compliance with Participant (or Beneficiary) directions, or directions from the Employer (if any), Corporation or any other fiduciary appointed by the Corporation are determined by the Trustee, in its sole discretion, to constitute a violation of ERISA, to not be necessary or required, to not be in accordance with the terms of the Plan or to otherwise be contrary to ERISA, the Trustee will disregard any such direction and vote the shares of Corporation Stock in a manner consistent with its responsibilities under ERISA and in accordance with the organizational documents of the Corporation.

If any provision contained in or action required by this Subsection 10.2, violates any provision under ERISA, the provisions under ERISA will control.

The Corporation agrees and acknowledges that this Subsection 10.2 may not be amended to change the rights, duties and liabilities of the Trustee without its prior written agreement. Amendments to this Subsection 10.2 will be in writing and will be effective upon execution of such amendments by both the Corporation and the Trustee unless otherwise agreed.

## **Investment Provisions**

### **Investment of Employer Contributions**

Employer Contributions may be made in the form of cash or Corporation Stock (the Fair Market Value of which may be determined at the time of contribution), as the Corporation from time to time may determine.

## **Management of Trust Fund**

### **Trustee and Trust**

All Plan assets will be held in the Trust Fund. The Trust Fund will be held by a Trustee under the Trust. The assets of the Trust Fund will be held, invested, and disposed of in accordance with the terms of the Trust.

### **Restrictions as to Trust Reversions**

Except as otherwise provided in this Subsection 12.2, all assets of the Trust Fund will be retained for the exclusive benefit of Participants, Alternate Payees, and Beneficiaries. All the Employers will have no right, title, or interest in the assets of the Trust Fund. No part of the assets of the Trust Fund at any time will revert to, or be repaid to, the Employers, directly or indirectly, except as follows.

- If the Internal Revenue Service initially determines that the Plan, as applied to an Employer, does not meet the requirements of a "qualified plan" under Section 401(a) of the Code and Section 4975 of the Code, the assets of the Trust Fund attributable to contributions made by the Employer under the Plan will be returned to the Employer within one year of the date of denial of qualification of the Plan as applied to the Employer.
- If a contribution or a portion of a contribution is made by an Employer as a result of a mistake of fact, such contribution or portion of a contribution will not be considered to have been contributed to the Trust Fund by the Employer and, after having been reduced by any losses of the Trust Fund allocable thereto, will be returned to the Employer within one year of the date the amount is paid to the Trust Fund.
- Each contribution made by an Employer is conditioned upon the deductibility of such contribution as an expense for federal income tax purposes, to the extent the deduction for the contribution made by the Employer is disallowed, such contribution, or portion of such contribution, after having been reduced by any losses of the Trust Fund allocable thereto, will be returned to the Employer within one year of the date of disallowance of the deduction.

In no event may the return of a contribution pursuant to Subsection 12.2(b) or Subsection 12.2(c) cause any Participant's Accounts to be less than the amount had the contribution not been made under the Plan.

### Valuation of Trust

The Trust Fund will be valued as of each Valuation Date, and in addition, as of each transaction date with any Disqualified Person, to determine the Fair Market Value of each Participant's Account balance in the Plan, or on such other dates as determined by the Plan Administrator. Investments of the Trust Fund in assets other than Corporation Stock may be valued on a more frequent basis, as directed by the Plan Administrator. If a Valuation Date (other than the date of any transaction with a Disqualified Person) would otherwise occur on a Saturday, Sunday, or Corporation holiday, then the Valuation Date with respect to assets of the Trust Fund will mean the preceding business day. For the purposes of each such valuation, the assets of the Trust Fund will be valued at their respective current Fair Market Value, and the amount of any obligations for which the Trust Fund may be liable will be deducted from the total value of the assets. With respect to activities carried on by the Plan, an independent appraiser (meeting requirements similar to those prescribed by Treasury Regulations under Section 170(a)(1) of the Code) must perform all valuations of Corporation Stock which are not Readily Tradable on an Established Securities Market. The Trustee will be responsible for establishing the Fair Market Value with respect to all shares of Corporation Stock which are not Readily Tradable on an Established Securities Market based upon the valuation analysis performed by the independent appraiser referenced in the prior sentence and such determinations will be made by the Trustee in its sole discretion.

### Exempt Loan

The Trustee may enter into an Exempt Loan transaction. The Board may empower the Corporation to authorize the guarantee or making by the Employer of any such Exempt Loan. The following terms and conditions will apply to any Exempt Loan.

The proceeds of the Exempt Loan will be used within a reasonable time after receipt only for any or all of the following purposes to:

- acquire Corporation Stock,
- repay such Exempt Loan, or
- repay a prior Exempt Loan.

Except as provided under SECTION 13, no Corporation Stock acquired with the proceeds of an Exempt Loan may be subject to a put, call or other option, or buy-sell or similar arrangement while held by and when distributed from the Trust, whether or not the Plan is then an employee stock ownership plan.

The interest rate of the Exempt Loan may not be more than a reasonable rate of interest. Notwithstanding anything to the contrary in the Plan, at the time that an Exempt Loan is made, the interest rate for such Exempt Loan and the price of the Corporation Stock acquired by such Exempt Loan should not be such that Plan assets might be drained off.

Any collateral pledged to the creditor must consist only of the Corporation Stock purchased by the borrowed funds and those Corporation Stock used as collateral on the prior Exempt Loan repaid with the proceeds of the current Exempt Loan.

The creditor may have no recourse against the Plan under the Exempt Loan except with respect to such collateral given for the Exempt Loan, contributions (other than contributions of Corporation Stock) that the Employer makes to the Trust to meet its obligations under the Exempt Loan, and earnings attributable to such collateral and the investment of such contributions. The payment made with respect to an Exempt Loan by the Plan during a Plan Year must not exceed an amount equal to the sum of such contributions and earnings received during or prior to the Plan Year less such payments in prior Plan Years. Such contributions and earnings must be accounted for separately in the books of account of the Plan until the Exempt Loan is repaid.

In the event of default upon the Exempt Loan, the value of Plan assets transferred in satisfaction of the Exempt Loan must not exceed the amount of the default, and if the lender is a Disqualified Person, the Exempt Loan must provide for transfer of Plan assets upon default only upon and to the extent of the failure of the Plan to meet the payment schedule of the Exempt Loan.

All Corporation Stock acquired with the proceeds of an Exempt Loan must be added to and maintained in the Unallocated Corporation Stock Account. In withdrawing Corporation Stock from the Unallocated Corporation Stock Account, the provisions of Section 54.4975-7(b)(8) of the Treasury Regulations and Section 54.4975-7(b)(15) of the Treasury Regulations will be applied as if all Corporation Stock in the Unallocated Corporation Stock Account were encumbered.

The Exempt Loan must be for a specific term. Such Exempt Loan may not be payable at the demand of any person, except in the case of default.

Notwithstanding any other provision herein, upon the payment of any portion of the Exempt Loan, Corporation Stock in the Unallocated Corporation Stock Account will be released from encumbrance.

Provided that the terms of the Exempt Loan satisfy all requirements under Section 54.4975-7(b)(8)(ii) of the Treasury Regulations, for each Plan Year during the duration of the Exempt Loan, the number of shares of Corporation Stock released must equal the product of:

- the number of encumbered shares of Corporation Stock held immediately before release for the current Plan Year, multiplied by
- a fraction that, subject to Subsection 12.4(b)(ii), is comprised of: (1) a numerator equal to the amount of principal paid under the purchase contract or the loan agreement for the current Plan Year, and (2) a denominator equal to the total of all principal to be paid for the current and all future Plan Years during the term of the Exempt Loan (determined without reference to any possible extensions or renewals thereof).

If the Corporation chooses, or if the Exempt Loan does not contain the following characteristics, the interest paid and to be paid in the future on the Exempt Loan will be included in the numerator and denominator of the fraction described in Subsection 12.4(b)(i)(B):

- the annual payments of principal and interest (at a cumulative rate) are at least as rapid as level annual payments of such amounts over ten years,
- the portion of each Exempt Loan payment treated as interest does not exceed the amount of payment that would be treated as interest under standard loan amortization tables, and
- the Exempt Loan term (including extensions and renewals) does not exceed ten years.

An Exempt Loan may be obtained provided such Exempt Loan is primarily for the benefit of Participants and Beneficiaries.

In the event a portion of a Participant's Corporation Stock Account is forfeited, if more than one class of Corporation Stock subject to the Exempt Loan provisions has been allocated to a Participant's Corporation Stock Account, the same proportion of each class of Corporation Stock will be forfeited. Such forfeiture will occur only when assets other than Corporation Stock held in the Accounts have been forfeited.

### Funding Policy

The Plan is designed to invest primarily in Corporation Stock, which is a Qualifying Corporation Stock with respect to the Employer within the meaning of Section 409(1) of the Code and Section 4975(e)(8) of the Code. The Plan Administrator may direct the Trustee, however, to invest in assets other than Corporation Stock to provide for expenses and distributions and to the extent the Trustee and Plan Administrator deem appropriate.

### Repurchase of Corporation Stock

#### Put Option

The Corporation will issue a "put option" to each Participant receiving a distribution of Corporation Stock from the Participant's Corporation Stock Account if such Corporation Stock is not Readily Tradeable on an Established Securities Market when distributed or is subject to a trading limitation (within the meaning of Section 54.4975-7(b)(10) of the Treasury Regulations). The put option will permit the Participant, the Participant's Beneficiary, the Participant's donees, or a person (including an estate or its distributee) to whom the Corporation Stock may pass by reason of the Participant's or Beneficiary's death, to sell the Corporation Stock to the Corporation, at any time during two option periods, at the current Fair Market Value. The first put option period runs for a period of at least 60 days commencing on the date of distribution of Corporation Stock to the Participant. The second put option period runs for a period of at least 60 days commencing on the first day of the subsequent Plan Year. If a Participant (or Beneficiary) exercises the Participant's or Beneficiary's put option, the Corporation must purchase the Corporation Stock at Fair Market Value upon the terms provided under Subsection 13.4. The Corporation may grant the Trust an option to assume the Corporation's rights and obligations at the time a Participant exercises an option under this Subsection 13.1.

#### Restriction on Corporation Stock

Except upon the prior written consent of the Corporation, no Participant (or Beneficiary) may sell, assign, give, pledge, encumber, transfer or otherwise dispose of any Corporation Stock which is not Readily Tradeable on an Established Securities Market, and which is now owned or subsequently acquired by the Participant or Beneficiary without complying with the terms of this SECTION 13. If a Participant (or Beneficiary) pledges or encumbers any Corporation Stock with the required prior written consent, any security holder's rights with respect to such Corporation Stock are subordinate and subject to the rights of the Corporation.

Certificates for Corporation Stock distributed to Participants or Beneficiaries thereof, may contain the following legend:



THE SHARES REPRESENTED BY THIS CERTIFICATE ARE TRANSFERABLE ONLY UPON COMPLIANCE WITH THE TERMS OF THE XXX EMPLOYEES' STOCK OWNERSHIP PLAN (THE "PLAN"). THE CORPORATION WILL FURNISH TO THE RECORD HOLDER OF THIS CERTIFICATE WITHOUT CHARGE UPON WRITTEN REQUEST TO THE CORPORATION AT ITS PRINCIPAL PLACE OF BUSINESS OR REGISTERED OFFICE A COPY OF THE PLAN. THESE SHARES HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 OR UNDER ANY APPLICABLE STATE LAW. THESE SHARES MAY NOT BE OFFERED FOR SALE, SOLD, TRANSFERRED, OR PLEDGED WITHOUT EITHER (1) REGISTRATION UNDER THE SECURITIES ACT OF 1933 AND UNDER ANY APPLICABLE STATE ACT OR (2) ANY AVAILABLE EXEMPTION FROM SUCH REGISTRATION.

On the front of each such certificate, there may be placed the following notation in capital letters:

#### RESTRICTIONS ON TRANSFER STATED ON REVERSE SIDE

##### Lifetime Transfer and Right of First Refusal

If any Participant (or Beneficiary) who holds Corporation Stock as a result of a distribution from the Plan which is not Readily Tradeable on an Established Securities Market desires to dispose of any of the Participant's or Beneficiary's Corporation Stock for any reason during the Participant's or Beneficiary's lifetime (whether by sale, assignment, gift or any other method of transfer), the Participant or Beneficiary first must offer the Corporation Stock for sale to the Corporation. The Plan Administrator may require a Participant (or Beneficiary) entitled to a distribution of Corporation Stock to execute an appropriate stock transfer agreement (evidencing the right of first refusal) prior to receiving a certificate of Corporation Stock.

In the case of an offer by a third party, the offer to the Corporation is subject to all the terms and conditions set forth in Subsection 13.4 based on the price equal to the Fair Market Value per share as of the date of the offer and payable in accordance with the terms of Subsection 13.4 unless the selling price and terms offered to the Participant by the third party are more favorable to the Participant than the selling price and terms of Subsection 13.4, in which case the selling price and terms of the offer of the third party apply. The Corporation must give written notice in accordance with Subsection 13.5 to the offering Participant of its acceptance of the Participant's offer within 14 days after the Participant has given written notice in accordance with Subsection 13.5 to the Corporation or the Corporation's rights under this Subsection 13.3 will lapse. The Corporation may grant the Trust the option to assume the Corporation's rights and obligations with respect to all or any part of the Corporation Stock offered to the Corporation under this Subsection 13.5.

Notwithstanding any provision to the contrary herein, the Trustee is prohibited from exercising this first right of refusal if the Fair Market Value at the time of exercise is higher than the last Valuation Date, unless the Plan Administrator and the Trustee determine such action:

- will not have an effect on the qualification of the Plan; and
- is not a prohibited transaction under the Code and ERISA.

##### Payment of Purchase Price

If the Corporation (or the Trustee, if offered and it accepts the option) exercises an option to purchase a Participant's Corporation Stock pursuant to an offer given under Subsection 13.1, the Corporation or Trustee must make payment in lump sum or, if the distribution to the Participant (or to the Participant's Beneficiary) constitutes a Total Distribution, in substantially equal installments over a period not exceeding five years. In the case of a distribution which is not a Total Distribution, or which is a Total Distribution with respect to which the Corporation or Trustee will make payment in lump sum, the Corporation or Trustee, as applicable, must pay the Participant (or Beneficiary) the Fair Market Value of the Corporation Stock repurchased no later than 30 days after the date the Participant (or Beneficiary) exercises the option. In the case of a Total Distribution with respect to which the Corporation or Trustee will make installment payments, the Corporation or Trustee, as applicable, must make the first installment payment no later than 30 days after the Participant (or Beneficiary) exercises the put option. For installment amounts not paid within 30 days of the exercise of the put option, the Corporation or Trustee, as applicable, must evidence the balance of the purchase price by executing a promissory note, delivered to the selling Participant at the Closing. The note delivered at Closing must bear a reasonable rate of interest, determined as of the Closing Date, and the Corporation or Trustee, as applicable, must provide adequate security (which satisfies the requirements of the Code and ERISA). The note must provide for equal annual installments with interest payable with each installment, the first installment being due and payable one year after the Closing date. The note further must provide for acceleration in the event of 30 days' default of the payment on interest or principal and must grant to the maker of the note the right to prepay the note in whole or in part at any time or times without penalty; provided, however, the purchaser(s) may not have the right to make any prepayment during the calendar year or fiscal year of the Participant

(or Beneficiary) in which the Closing Date occurs. For purposes of this Subsection 13.4, the determination of Fair Market Value will be made in accordance with the requirements of Subsection 12.3.

### Notice

A person has given notice permitted or required under this SECTION 13 when the person deposits the notice in the United States mail, first class, postage prepaid, addressed to the person entitled to the notice at the address currently listed for such person in the records of the Plan Administrator. Any person affected by this SECTION 13 has the obligation of notifying the Plan Administrator of any change of address.

### Certain Rights with Respect to the Corporation Stock

Except as otherwise provided in Subsection 13.1 or Subsection 13.3, or as otherwise required by applicable law, no Leveraged Corporation Stock may be subject to a put, call, or other option, or a buy-sell or similar arrangement, while held by and when distributed from the Plan.

### Trustee's Put Option

To the extent permitted by applicable law, the Plan Administrator may authorize the Trustee to put the shares of Corporation Stock held by the Trust to the Corporation to be purchased by the Corporation at the then Fair Market Value in the event that a distribution from a Participant's Corporation Stock Account is to be made in cash or a distribution pursuant to Subsection 7.3 is required (in which case, the Plan Administrator will direct the Trustee to transfer, in the Trustee's capacity as nominee of the Participant or Beneficiary (and not in its fiduciary capacity as Trustee of the Trust), the Corporation Stock held in the Participant's Corporation Stock Account to the Corporation for repurchase pursuant to hereunder), or the Trustee expects to incur Plan expenses which will not be paid directly by the Employer and the Trustee determines that the Trust has insufficient cash to make the anticipated distributions or pay Plan expenses.

### Security Holder

Notwithstanding any provision herein, the Trustee will not otherwise obligate itself to acquire Corporation Stock from a particular shareholder at an indefinite time determined upon the happening of an event such as, but not limited to, the death of a shareholder.

### Provisions Non-Terminable

The provisions described in this SECTION 13 are non-terminable even if the Exempt Loan is repaid or the Plan ceases to be an employee stock ownership plan.

## Amendment, Termination, and Merger

### Amendment and Termination

The Corporation, by action of its Board, reserves the right to amend, modify, or terminate the Plan at any time, and such amendment will be binding upon the Employers, all Participants and their Beneficiaries, Alternate Payees, the Plan Administrator, the Trustee, and all parties in interest, subject to the following limitations:

- No amendment enlarging the rights and responsibilities of the Trustee will be made without its consent.
- No amendment, merger, or termination will decrease the accrued benefit of a Participant (as adjusted for income, losses, expenses, appreciation, and depreciation) as of the effective date of the amendment, merger, or termination.
- No amendment, merger, or termination will provide for diversion of any part of the Trust Fund other than for the exclusive benefit of Participants, or Beneficiaries, except as permitted by law.
- No person has the authority to modify the terms of the Plan, except by means of authorized written amendments to the Plan. No verbal or written representations contrary to the terms of the Plan and its written amendments will be binding upon the Employers or the Plan.

### Amendment of Vesting Schedule

Except as may be specifically permitted under law, no amendment of the Plan's vesting schedule will deprive a Participant of nonforfeitable rights to benefits accrued prior to the date of such amendment. If the vesting schedule of the Plan is amended, the Plan Administrator will give each Participant who has completed three years of Vesting Service an opportunity to have the Participant's vested percentage determined without regard to the amendment. Such election will be in writing and will be irrevocable. In the event that the Plan Administrator does not provide an election as outlined in this Subsection 14.2, it will be assumed

that each Participant who would have been entitled to make such an election would have elected to receive benefits determined in accordance with the vesting schedule that produces the largest non-forfeitable interest for the Participant at the time it is actually applied.

### **Effect of Termination**

The Plan will terminate as to all Employers on any date specified by the Corporation by action of the Board. The Plan will terminate as to an individual Employer on the first to occur of the following.

- The date the Plan is terminated by that Employer.
- The date that Employer completely discontinues contributions under the Plan.
- The date that Employer ceases to be a Related Employer due to one of the following:
  - The sale of all or substantially all of the stock of that Employer to a person that is not a Related Employer;
  - The sale of all or substantially all of the assets of that Employer to a person that is not a Related Employer; or
  - The merger or consolidation of that Employer with a person that is not a Related Employer.

Each Participant employed by an Employer that ceases to be a Related Employer will be considered to have terminated employment with all Related Employers on such date and will cease to accrue additional Plan contributions with respect to any period of time commencing on or after such date.

### **Nonforfeitability and Distribution on Termination**

Upon complete termination or partial termination of the Plan, or upon the termination of the Plan with respect to an Employer, the rights of all affected Participants to benefits accrued to the date of such termination, after all required adjustments have been made, will be nonforfeitable. Upon the termination of the Plan with respect to an Employer, the Plan Administrator may direct the Trustee to distribute to each Participant employed by that Employer the Participant's benefits under the Plan in a lump sum (unless the Participant then is employed by a Related Employer). However, distributions under this Subsection 14.4 will be made only to the extent such distributions are permissible under the Code and applicable Treasury Regulations. All appropriate accounting provisions of the Plan will continue to apply until all Participants' Accounts have been distributed under the Plan.

### **Merger and Consolidation**

In the case of any merger or consolidation with, or transfer of assets or liabilities to, any other retirement plan qualified under Section 401(a) of the Code, each Participant's benefit will be equal to or greater than the benefit the Participant would have been entitled to receive if the Plan had terminated immediately before the merger, consolidation, or transfer. If an operating unit of an Employer is sold and the purchaser agrees to a spin-off from the Plan, the Accounts of Employees of such unit will be transferred to a successor funding arrangement.

## **Employers**

### **Participating Employers**

SUPPLEMENT A lists the Employers participating in the Plan as of the Effective Date and may be amended from time to time to list the Related Employers that become Employers on and after the Effective Date.

### **Adoption of the Plan by a Related Employer**

Any Related Employer which on or after the Effective Date is or becomes a member of a group of corporations described in Section 409(1) of the Code that includes the Corporation and complies with Section 1361 of the Code (if the Corporation has elected S Corporation status) may adopt the Plan, effective as of the date indicated in the instrument of adoption described in Subsection 15.2(a), if:

- such Related Employer executes a duly authorized instrument in writing, which will become part of the Plan and which:
  - reflects its adoption of the Plan;
  - may provide for:
    - the making of an initial contribution to the Trust,
    - the making such other changes with respect to the Plan as are approved by the Plan Administrator, and
    - the designation of the name of the Plan with respect to its Employees; and
  - is delivered to both:
- the Board, and
- the Plan Administrator (if different than the Board), and

- the adoption of the Plan by such Related Employer is approved by the Board, or such other person or group of persons who have been authorized by resolution of the Corporation's Board to take such action.

### Disassociation of an Employer from the Plan

Any Employer may withdraw from the Plan at any time upon the expiration of 30 days after delivery of written notice of its intent to do so to the Plan Administrator and the Board and will thereupon cease to be a party to the Plan. In such event, liability for further contributions for such Employer will cease, and the money attributable to its then Participants will, to the extent otherwise permitted by applicable law, either be distributed to the Participants, if it elects to terminate the Plan as to it, in the same manner as provided in the case of termination of the whole Plan, or will be transferred to an independent successor plan and trust that it may establish for the benefit of its own employees. Withdrawal from the Plan by an Employer will not affect the continued operation of the Plan with respect to the Corporation and other Employers.

### Contribution and Benefit Limitations

#### Maximum Benefits

**Contribution Limitations.** For each Plan Year, the annual additions (as defined in applicable Treasury Regulations issued under Section 415 of the Code) to a Participant's Account will not exceed the lesser of \$69,000 (for 2024; as adjusted for cost-of-living increases under Section 415(d) of the Code) or 100% of the Participant's compensation for the Plan Year. For purposes of this Subsection 16.1, a Participant's compensation means the Participant's Testing Compensation within the meaning of Section 1.415(c)-2(b) of the Treasury Regulations and Section 1.415(c)-2(c) of the Treasury Regulations that is actually paid or made available during the Plan Year. The Plan Administrator will take any actions it deems advisable to avoid an annual addition in excess of Section 415 of the Code; provided, however, if a Participant's annual addition actually exceeds the limitations of this Subsection 16.1(a), the Plan Administrator will correct such excess in accordance with applicable guidance issued by the Internal Revenue Service. Annual additions will be subject to Section 415 of the Code and applicable Treasury Regulations issued thereunder, the requirements of which are incorporated herein by reference to the extent not specifically provided in this Subsection 16.1.

**Calculating Annual Additions.** For purposes of calculating annual additions, the amount of Employer contributions will be determined based upon the lesser of (i) contributions (cash or Corporation Stock) credited to the Participant's Account for the Plan Year; or (ii) on the Fair Market Value of Corporation Stock released from the Unallocated Corporation Stock Account and credited to the Participant's Corporation Stock Account for the Plan Year plus the Fair Market Value of contributions credited to the Participant's Account, determined as of the Valuation Date coinciding with allocation of such annual addition; provided, however, annual additions relating to allocations of Corporation Stock not acquired with the proceeds of an Exempt Loan will be calculated based solely on the Fair Market Value of such Corporation Stock.

**Combining Plans.** In applying the limitations set forth in this Subsection 16.1, reference to the Plan will mean the Plan and all other defined contribution plans (whether or not terminated) maintained by the Related Employers. If necessary, a Participant's annual additions will be limited by reducing annual additions under the Plan or any other defined contribution plan maintained by the Related Employers, until the Participant's annual additions have been reduced sufficiently to comply with Section 415 of the Code and this Subsection 16.1. The Plan Administrator will attribute any excess amount to any other defined contribution plan maintained by the Employer unless the Plan Administrator determines otherwise, or applicable law prohibits such allocation to the other defined contribution plan maintained by the Employer.

#### Transactions Involving Corporation Stock

No portion of the Plan attributable to (or allocable in lieu of) Corporation Stock acquired by the Plan in a sale to which Section 1042 of the Code applies may accrue or be allocated directly or indirectly under any plan maintained by the Corporation or a Related Employer meeting the requirements of Section 401(a) of the Code

- during the Non allocation Period for the benefit of:
  - any taxpayer who makes an election under Section 1042(a) of the Code with respect to Corporation Stock,
  - any individual who is related to the taxpayer (within the meaning of Section 267(b) of the Code and subject to Subsection 16.2(d)), or
- for the benefit of any other person who owns (after application of Section 318(a) of the Code) more than 25% of:
  - any class of outstanding stock of the Employer which issued such Corporation Stock or of any corporation which is a member of the same controlled group of corporations (as defined in Section 409(1)(4) of the Code), or

- the total value of any class of outstanding stock of any such corporation.

Subsection 16.2(b)(ii) will not apply to lineal descendants of the taxpayer, provided that, the aggregate amount allocated to the benefit of all such lineal descendants during the Non allocation Period does not exceed more than 5% of the Corporation Stock (or amounts allocated in lieu thereof) held by the Plan which are attributable to a sale to the Plan by any person related to such descendants (within the meaning of Section 267(c)(4) of the Code) in a transaction to which Section 1042 of the Code applied.

A person will be treated as failing to meet the stock ownership limitation under Subsection 16.2(a), if such person fails such limitation:

- at any time during the one-year period ending on the date of sale of Corporation Stock to the Plan, or
- on the date as of which Corporation Stock is allocated to such Participant's Corporation Stock Accounts.

Notwithstanding the preceding, if the Employer changes from being taxed as an S Corporation subsequent to the time when an election under this Subsection 16.2 was made, the restrictions contained in this Subsection 16.2 will continue to apply and further provided that an election under Section 1042 of the Code will not be permissible during any period in which the Corporation is operating as an S Corporation.

### **Prohibited Allocations Under S Corporation ESOP**

Notwithstanding any provision of the Plan to the contrary, during any Plan Year in which the Corporation is an S Corporation and Corporation Stock held under the Plan consists of stock in an S Corporation, no portion of the assets held by the Trust, will, during a Non-allocation Year, accrue or be allocated (either directly or indirectly) under the Plan or any plan qualified under Section 401(a) of the Code that is maintained by the Employer for the benefit of an S Corporation Disqualified Person, to the extent that such accrual or allocation would cause an Impermissible Accrual or Impermissible Allocation. In the event an accrual or allocation is projected to cause an Impermissible Accrual or Impermissible Allocation for a Plan Year, the Plan Administrator may, prior to finalizing the administration for such Plan Year, and effective as of the last day of that Plan Year, suspend allocations of Matching Contributions and/or Employer Contributions and/or Forfeitures to any Disqualified Person who is a Highly Compensated Employee, as needed to prevent such Impermissible Accrual or Impermissible Allocation. If following the finalization of administration for a Plan Year, any allocation under the Plan should cause the Stock Bonus Plan Portion of the Plan to have a Non-allocation Year, amounts held by an S Corporation Disqualified Person (or person reasonably expected to become an S Corporation Disqualified Person absent a transfer described in this Subsection 16.3), necessary to avoid a Non-allocation Year, will be transferred to the Profit-Sharing Plan Portion of the Plan and any taxes, interest and penalties, including but not limited to unrelated business taxable income, will be paid immediately.

Assets held under the Plan in accordance with the above are held in the Profit-Sharing Plan Portion and not under the Stock Bonus Plan Portion which is intended to qualify as an employee stock ownership plan, within the meaning of Section 4975(e)(7) of the Code. Amounts held in the Profit-Sharing Plan Portion will be held in Accounts that are separate from the Accounts for the amounts held in the Stock Bonus Plan Portion. The statements provided to Participants and Beneficiaries to show their interest in the Plan will separately identify the amounts held in each such portion. Except as specifically set forth in this Subsection 16.3, all of the terms of the Plan apply to any amount held under the Profit-Sharing Plan Portion of the Plan in the same manner and to the same extent as to any other amount held under the Plan.

In the case of any event that the Plan Administrator determines would cause a Non-allocation Year to occur (referred herein as a "Non-allocation Event"), shares of Corporation Stock held under the Plan before the date of the Non-allocation Event, will be transferred from the Stock Bonus Plan Portion of the Plan to the Profit-Sharing Plan Portion of the Plan as provided in this Subsection 16.3(c). Actions that may cause a Non-allocation Event, include, but are not limited to, a contribution to the Plan in the form of shares of Corporation Stock, a distribution from the Plan in the form of shares of Corporation Stock, a change of investment within a Corporation Stock Account of an S Corporation Disqualified Person that alters the number of shares of Corporation Stock held in the Corporation Stock Account of the S Corporation Disqualified Person, or the issuance by the Corporation of Synthetic Equity. A Non-allocation Event occurs only if (i) the total number of shares of Corporation Stock held in the Corporation Stock Account of those Participants who are or who would be S Corporation Disqualified Persons after taking into account the Participant's Synthetic Equity and the Non-allocation Event, exceeds (ii) 49.9% of the total number of shares of Corporation Stock outstanding after taking the Non-allocation Event into account (causing a Non-allocation Year to occur). No transfer under this Subsection 16.3 will be greater than the excess, if any, of (i) over (ii). Before the Non-allocation Event occurs, the Plan Administrator will determine the extent to which a transfer is required to be made and will take steps to ensure that all action necessary to implement the transfer are taken before the Non-allocation Event occurs.

Except as provided for in this Subsection 16.3(d) at the date of the transfer, the total number of shares transferred as provided for in Subsection 16.3(c), as provided for in Subsection 16.3(b), will be charged against the Corporation Stock Accounts of Participants who are S Corporation Disqualified Persons(i) by first reducing the Corporation Stock Account of the Participant who is an S Corporation Disqualified Person whose Corporation Stock Account has the largest number of shares (with the addition of Synthetic Equity shares) and (ii) thereafter by reducing the Corporation Stock Accounts of each succeeding Participant who is an S Corporation Disqualified Person who has the largest number of shares in the Participant's Corporation Stock Account (with the addition of Synthetic Equity shares). Immediately following the transfer, the number of transferred shares charged against any Participant's Corporation Stock Account in the Stock Bonus Plan Portion of the Plan will be credited to an Account established for that Participant in the Profit-Sharing Plan Portion of the Plan.

Notwithstanding Subsection 16.3(d), the number of shares transferred will be charged against the Corporation Stock Accounts of Participants who are S Corporation Disqualified Persons by first reducing the Corporation Stock Account of the Participant with the fewest shares (including Synthetic Equity) who is an S Corporation Disqualified Person and who is a Highly Compensated Employee, to cause the Participant not to be an S Corporation Disqualified Person, and thereafter reducing the Corporation Stock Account of each other Participant who is an S Corporation Disqualified Person and a Highly Compensated Employee, in order of who has the fewest Corporation Stock shares (including Synthetic Equity). A transfer under this Subsection 16.3(e) only applies to the extent that the transfer results in fewer shares being transferred than in a transfer under Subsection 16.3(d).

If two or more Participants described in Subsection 16.3(d) or Subsection 16.3(e) have the same number of shares, the Corporation Stock Account of the Participant with the longest Service will be reduced first.

Beneficiaries of the Plan are treated as Participants for purposes of this Subsection 16.3.

If the Trust owes income taxes as a result of unrelated business taxable income under Section 512(e) of the Code with respect to shares of Corporation Stock held in the Profit-Sharing Plan Portion of the Plan, the income tax payments made by the Trustee will be charged against the portion of each Participant's or Beneficiary's Account held in the Profit-Sharing Portion of the Plan in proportion to the ratio of the shares of Corporation Stock in such Participant's or Beneficiary's Account held in the Profit-Sharing Portion of the Plan to the total shares of Corporation Stock in the Profit-Sharing Portion of the Plan. The Employer will purchase shares of Corporation Stock from the Trustee with cash (based on the Fair Market Value of the shares so purchased) from each such portion of the Participant's or Beneficiary's Account to the extent necessary for the Trustee to make the income tax payments.

For purposes of this Subsection 16.3, there is an "Impermissible Accrual" to the extent that Corporation Stock consisting of stock in an S Corporation owned by the Plan and any assets attributable thereto is held under the Plan for the benefit of an S Corporation Disqualified Person during a Non-allocation Year. For this purpose, assets attributable to stock in an S Corporation owned by the Plan include any S Corporation distributions, within the meaning of Section 1368 of the Code, made on S Corporation Stock held in an S Corporation Disqualified Person's Account in the Plan (including earnings thereon), plus any proceeds from the sale of S Corporation Stock held for an S Corporation Disqualified Person's Account in the Plan (including any earnings thereon). Thus, in the event of a Non-allocation Year, all S Corporation Stock and all other Plan assets attributable to S Corporation Stock, including distributions, sales proceeds, and earnings on either distributions or proceeds, held for the Account of such S Corporation Disqualified Person in the Plan during that year are an Impermissible Accrual for the benefit of that person, whether attributable to contributions in the current Plan Year or in prior Plan Years.

For purposes of this Subsection 16.3, an "Impermissible Allocation" occurs during a Non-allocation Year to the extent that a contribution or other annual addition (as described in Subsection 16.1) is made with respect to the Account of an S Corporation Disqualified Person, or the S Corporation Disqualified Person otherwise accrues additional benefits, directly or indirectly under the Plan or any other plan of the employer qualified under Section 401(a) of the Code (including a release and allocation of assets from a suspense account, as described at Section 54.4975-11(c) of the Treasury Regulations and Section 54.4975-11(d) of the Treasury Regulations) that, for the Non-allocation Year, would have been added to the Account of the S Corporation Disqualified Person under the Plan and invested in Corporation Stock but for a provision in the Plan that precludes such addition to the Account of the S Corporation Disqualified Person, and investment in Corporation Stock during a Non-allocation Year.

For purposes of this Subsection 16.3, for any Plan Year in which it is determined that the principal purposes of the ownership structure of the Corporation, as an S Corporation, constitute an avoidance or evasion of Section 409(p) of the Code, the Plan will have a Non-allocation Year and/or treat any person required to be designated as an S Corporation Disqualified Person, as required by the Commissioner, pursuant to Section 1.409(p)-1(b)(3) of the Treasury Regulations or Section 409(p)(7)(B) of the Code.

## Top Heavy Rules

**Purpose and Effect.** The purpose of this Subsection 16.4 is to comply with the requirements of Section 416 of the Code. The provisions of this Subsection 16.4 will be effective for each Plan Year in which the Plan is a “Top-Heavy Plan” within the meaning of Section 416(g) of the Code.

**Top Heavy Plan.** In general, the Plan will be a Top-Heavy Plan for any Plan Year if, as of the last day of the preceding Plan Year (or, in the case of the first Plan Year of the Plan, the last day of such first Plan Year) (the “Determination Date”), the aggregate Accounts of Participants in the Plan who are Key Employees (as defined in Subsection 16.4(c) and under Section 416(i) (1) of the Code) exceed 60% of the aggregate Accounts of all Participants in the Plan. In making the foregoing determination, the following rules will apply.

A Participant’s Account will be increased by the aggregate distributions, if any, made with respect to the Participant during the one-year period ending on the Determination Date (including distributions under a terminated plan which, had it not been terminated, would have been aggregated with the Plan under Section 416(g)(2)(A)(i) of the Code). In the case of a distribution made for a reason other than severance from employment, death or Disability, the one-year period will be replaced with a five-year period.

The Account of, and distributions to, a Participant who was previously a Key Employee, but who is no longer a Key Employee, will be disregarded.

The Account of a Beneficiary of a Participant will be considered the Account of a Participant.

The Account of a Participant who did not perform any services for the Related Employers during the one-year period ending on the Determination Date will be disregarded.

**Key Employees.** A Key Employee will include:

- An officer of an Employer receiving Testing Compensation greater than \$220,000 (for 2024; as adjusted under Section 416(i)(1) of the Code);
- A 5% owner of an Employer; or
- A 1% owner of an Employer receiving Testing Compensation of more than \$155,000.

**Top Heavy Vesting.** For any Plan Year in which the Plan is a Top-Heavy Plan, the vesting schedule in Subsection 6.1(a) will apply with respect to any Participant who completes one Hour of Service after the Plan becomes a Top-Heavy Plan.

**Minimum Employer Contribution.** For any Plan Year in which the Plan is a Top-Heavy Plan, the Employer contributions, if any, credited to each Participant who is not a Key Employee will not be less than the lesser of:

- 3% of such Participant’s Testing Compensation for that year; or
- the maximum Employer contribution credited in that year to a Key Employee (expressed as a percentage of such Key Employee’s Testing Compensation).

Employer Contributions will be considered Employer contributions and will be taken into account for purposes of satisfying the minimum contribution requirements of Section 416(c)(2) of the Code and the Plan. The minimum contribution will apply under the Plan; provided, however that if an Employer maintains more than one plan, the minimum Employer contribution otherwise required under this Subsection 16.4(e) may be reduced in accordance with Treasury Regulations to either coordinate the minimum Employer contribution or prevent inappropriate duplications of minimum contributions or benefits. Matching Contributions that are used to satisfy the minimum contribution requirements will be treated as Matching Contributions for purposes of the actual contribution percentage test and other requirements of Section 401(m) of the Code.

**Aggregation of Plans.** Each other defined contribution plan and defined benefit plan maintained by the Employers that covers a Key Employee as a Participant, or that is maintained by the Employers in order for a Plan covering a Key Employee to qualify under Section 401(a)(4) of the Code and Section 410 of the Code, will be aggregated with the Plan in determining whether the Plan is a Top-Heavy Plan. In addition, any other defined contribution or defined benefit plan of the Employers may be included if all such plans which are included when aggregated will continue to qualify under Section 401(a)(4) of the Code or Section 410 of the Code.

## Reduction of Contributions

The aggregate of Employer Contributions for any Plan Year will in no event exceed the maximum amounts deductible from the Employers’ income for such year under Section 404 of the Code. If such aggregate contributions would exceed any deductible amounts, such contributions under the Plan will be reduced, in accordance with the procedures established by the Plan Administrator, to the amount deductible. In addition, subject to Subsection 4.1(b)(iv), an Employer may reduce the amount of any contri-

bution that would otherwise be allocated to a Highly Compensated Employee if, and to the extent, necessary to comply with the nondiscrimination and coverage requirements of Section 401(a)(4) of the Code and Section 410(b) of the Code. Any such reduction will reduce allocations made to Highly Compensated Employees but will not affect allocations to non-Highly Compensated Employees.

### Miscellaneous Provisions

#### Evidence

Anyone required to give evidence under the terms of the Plan may do so by certificate, affidavit, document, or other information which the person to act in reliance may consider pertinent, reliable, and genuine, and to have been signed, made or presented by the proper party or parties. The Plan Administrator is fully protected in acting and relying upon any such evidence.

#### Non-Alienation of Benefits

Except as otherwise provided in the Plan or required by law, none of the payments, benefits, or rights of any Participant will be subject to the claim of any creditor, and will not be subject to attachment, garnishment, or any other legal process available to any creditor of such Participant. No Participant, Alternate Payee or Beneficiary will have the right to alienate, anticipate, commute, pledge, encumber, or assign any of the benefits or payments which the Participant, Alternate Payee or Beneficiary may expect to receive under the terms of the Plan. However, distributions to an Alternate Payee pursuant to a Qualified Domestic Relations Order, which provides for the creation, assignment, or recognition of a right to all or any portion of a benefit payable with respect to a Participant, will be permitted in accordance with administrative procedures adopted by the Plan Administrator. The provisions of this Subsection 17.2 will not apply against an amount the Participant is ordered or required to pay to the Plan if such order or requirement arises from a judgment relating to the Participant's conviction of a crime involving the Plan, a civil judgment or order in connection with a violation of ERISA, a settlement agreement between the Participant and the Secretary of Labor relating to a violation of ERISA, or a settlement agreement between the Pension Benefit Guaranty Corporation and the Participant, in connection with a violation (or alleged violation) of Part 4 of Subtitle B of Title I of ERISA by a fiduciary or any other person.

#### No Responsibility for Plan Actions

The Plan Administrator does not have any obligation or responsibility with respect to any action required by the Plan or Trust to be taken by the Trustee, Employer, the Corporation, any Participant or Employee, or for the failure of any of such persons to act or make any payment or contribution, or to otherwise provide any benefit contemplated under the Plan, unless such action or failure to act is directed by the Plan Administrator. The Plan does not require the Plan Administrator to:

- determine if a loan obtained by the Trustee is an Exempt Loan;
- determine if the Trustee is purchasing Qualifying Corporation Stock;
- determine if the Trustee is purchasing Qualifying Corporation Stock for no more than adequate consideration (as defined in ERISA);
- determine the correctness of the amount of any Matching Contributions or Employer Contribution; or
- collect any contribution required under the Plan.

The Plan Administrator need not inquire into or be responsible for any action or failure to act on the part of the others, or on the part of any other person who has any responsibility regarding the management, administration, or operation of the Plan, whether by the express terms of the Plan, the Trust or by a separate agreement authorized by the Plan or by the applicable provisions of ERISA.

#### Conflicts of Interest

If the Plan Administrator determines that government or other policies concerning conflicts of interest (including, but not limited to, policies governing the role of a Participant or the Participant's Spouse or other family members, would prohibit the continued beneficial ownership of Corporation Stock by a Participant under the Plan and:

- The Participant is no longer an Employee of the Corporation and its Related Employers, then the Participant will be offered an opportunity to elect to receive a distribution of the Participant's entire Account in cash, in a single lump sum, based on its value as of the preceding Valuation Date.
- The Participant is an Employee of the Corporation and its Related Employers, then the Participant will be offered an opportunity to elect to convert all Corporation Stock in the Participant's Account to cash or other liquid assets, based on the value as



of the preceding Valuation Date, and to transfer such cash or other liquid assets to the Participant's account in the Corporation's 401(k) plan, in accordance with the procedures established by the Plan Administrator.

In either case, if the Participant does not elect to do so, the Corporation Stock in the Participant's Account will be converted to cash, based on the value as of the preceding Valuation Date, and thereafter will be held in the portion of the Participant's Account held in the Profit-Sharing Portion of the Plan until such time as the Participant may receive a distribution in accordance with SECTION 7.

#### **Fiduciaries Not Insurers**

The Plan Administrator, any person or persons delegated with the powers, duties or responsibilities of the Plan Administrator, the Corporation, the Trustee and the Employer in no way guarantee the Trust Fund from loss or depreciation. The Employer and the Corporation do not guarantee the payment of any money which may be or becomes due to any person from the Trust Fund.

#### **Waiver of Notice**

Any person entitled to notice under the Plan may waive the notice unless the Code or Treasury Regulations prescribe the notice or ERISA specifically or impliedly prohibits such a waiver.

#### **Heirs, Assigns, and Representatives**

The Plan and its terms will be binding and conclusive upon the heirs, executors, administrators, successors, and permitted assigns of all the parties hereto, including each Participant and Beneficiary.

#### **Gender and Number**

Where the context permits, words will be read in as singular or as plural and as masculine, feminine or gender neutral.

#### **Headings**

The headings of Sections and Subsections are included solely for reference and convenience and are not intended to modify or otherwise affect the text of the Plan.

#### **Controlling State Law**

To the extent not preempted by federal law, the Plan will be construed and enforced according to the laws of the State of Delaware (other than its laws respecting choice of law).

#### **No Contract of Employment**

The Plan does not constitute a contract of employment, and neither participation in the Plan, establishment of the Plan or any modification thereof, creation of any account or fund (whether non-forfeitable or forfeitable), nor payment of any benefit will give any Participant or Employee the right to be retained in the employ of the Corporation or a Related Employer or to interfere with the right of an Employer to discharge or retire any of its employees at any time.

#### **Severability of Provisions**

If any provision or portion of a provision of the Plan is held to be invalid or unenforceable, such invalidity or unenforceability will not affect the balance of the Plan. The Plan will be construed and enforced as if such provision had not been included. However, the Plan will be reformed only to the extent necessary to comply with applicable law.

#### **Corporation Action**

All actions required or permitted by the provisions of the Plan to be taken by the Corporation will be by resolution adopted by the Board, or by an instrument signed by the person or persons from time to time authorized by resolution of said Board to act on behalf of the Corporation under the Plan.

#### **Records and Statements**

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

# Worksheet 1

## Parties to Litigation

Except as otherwise provided by ERISA, no Participant, Spouse, Beneficiary or Alternate Payee is a necessary party or is required to receive notice of process in any court proceeding involving the Plan or any fiduciary of the Plan. Any final judgment entered in any proceeding will be conclusive upon the Employer, the Plan Administrator, the Trustee, Participants, Spouses, Beneficiaries and Alternate Payees.

## Litigation Against the Trust

If any legal action filed against the Trustee, the Board, the Plan Administrator, any person or persons delegated with the power, duty and responsibility to act on behalf of the Plan Administrator, or against any member or members of the Board, by or on behalf of any Participant or Beneficiary, results adversely to the Participant or to the Beneficiary, the Trustee will reimburse itself, the Board, the Plan Administrator, any person or persons delegated with the power, duty and responsibility to act on behalf of the Plan Administrator, or any member or members of the Board, for all costs and fees expended by it or them by surcharging all costs and fees against the sums payable under the Plan to the Participant or to the Beneficiary, but only to the extent a court of competent jurisdiction specifically authorizes and directs any such surcharges.

## Notices and Deliveries

Any notices or deliveries to the Trustee, the Plan Administrator or the Corporation will be directed to the address set forth in Subsection 1.3.

## Corporation Merger

In the event any successor corporation to the Corporation, by merger, consolidation, purchase, or otherwise, will elect to adopt the Plan, such successor corporation will be substituted hereunder for the Corporation upon filing in writing with the Trustee its election to do so.

## Service of Process

The Plan Administrator and the Trustee are designated parties for service of legal process.

## Uniform and Nondiscriminatory Treatment

Any discretion exercisable hereunder by the Corporation or the Plan Administrator will be exercised in a uniform and nondiscriminatory manner.

## Counterparts

This instrument may be executed in any number of counterparts, each of which will be deemed to be an original, but all of which when taken together will be deemed to constitute a single document.

## Statutory References

Any reference in the Plan to a section of the Code or a section of ERISA, or to a section of any other federal law, will include any comparable section or sections of any future legislation that amends, supplements, or supersedes that section.

IN WITNESS WHEREOF, the Corporation has executed this Plan to be effective as noted herein.

XXX.

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aaa

Chief Executive Officer

## Participating Employers

Subject to SECTION 18, the following entities are the Employers under the Plan:

Aaa
Bbb
Ccc

Service with Other Employers

Eligibility Service. Prior service with the following employers will be credited for purposes of determining Eligibility Service:

<u>Predecessor Eligibility Service</u>
None

Vesting Service. Prior service with the following employers will be credited for purposes of determining Vesting Service:

<u>Predecessor Vesting Service</u>
ZZZ

Benefit Service. Prior service with the following employers will be credited for purposes of determining Benefit Service:

<u>Predecessor Benefit Service</u>
XXX

Allocation of Contributions. Prior service with the following employers will be credited for purposes of determining service for allocation requirements for Matching Contributions, Employer Contributions and Forfeitures:

<u>Predecessor Allocation Service</u>
ZZZ

Special Contributions

XXX EMPLOYEES’ STOCK OWNERSHIP TRUST

(Effective January 1, 2024)

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### XXX EMPLOYEES' STOCK OWNERSHIP TRUST

**THIS TRUST AGREEMENT**, is made effective as provided below, by and between XXX (the "Company"), a corporation organized under the laws of the State of Delaware, and YYY, not in his individual capacity, but solely in his capacity as trustee (the "Trustee"), and its successors and assigns in the trust hereby evidenced.

#### WITNESSETH THAT:

**WHEREAS**, the Company established the XXX Employees' Stock Ownership Plan effective January 1, 2024 (the "Plan");

**WHEREAS**, the Company now desires to establish the XXX Employees' Stock Ownership Trust (Effective January 1, 2024) (the "Trust") to hold all assets of the Plan invested in shares of Company stock;

**WHEREAS**, the Trustee now desires to accept the Trust which is and becomes a part of the Plan and agrees to perform the obligations set forth in this Trust;

**WHEREAS**, the Trust shall be interpreted, whenever possible, to comply with the terms of the Code, ERISA, and all formal Regulations and rulings; and

**WHEREAS**, capitalized terms used but not defined herein shall have their respective meanings given to such terms in the Plan.

**NOW, THEREFORE**, pursuant to the authority delegated to the undersigned officers of the Company by resolution of its Board of Directors (the "Board") and the authority delegated to the Trustee under the Trust;

**IT IS AGREED**, by and between the parties hereto, that the trust provisions contained herein shall constitute the agreement between the Company and the Trustee in connection with the Plan and the Trust; and

**IT IS FURTHER AGREED**, by and between the parties hereto as follows:

#### Article I.

##### NAME AND ACCEPTANCE

**Section 1.01 NAME.** This Trust Agreement and Trust hereby shall be known as the "XXX Employees' Stock Ownership Trust" and shall hold only such assets as may be invested in shares of Company Stock.

**Section 1.02 ACCEPTANCE.** The Trustee accepts the Trust established and contained herein which is and becomes part of the Plan and agrees to perform the obligations imposed under this Trust Agreement.

**Section 1.03 CONFORMANCE WITH PLAN.** Unless otherwise indicated in the Trust, all capitalized terms herein shall have the meaning as stated in the Plan. To the extent provisions of the Plan and the Trust conflict, the provisions of the Plan shall govern; provided, however, that the Trustee's duties and obligations shall be determined solely under the Trust. The Company, as Plan sponsor, shall from time to time provide the Trustee a signed copy of the Plan and any subsequent amendments thereto.

#### Article II.

##### MANAGEMENT AND CONTROL OF TRUST FUND

**Section 2.01 TRUST FUND.** The "Trust Fund" as of any date means all property of every kind held or acquired by the Trustee pursuant to this Trust but shall specifically not include any Trust assets controlled or held by another trustee under the terms of the Plan (e.g., the cash assets held in the Profit-Sharing Portion of the Plan). The "Trust Fund" may also be referred to as "Trust assets." The Trustee may manage, administer and invest all contributions made to the Trust by the Employer or Employers under the Plan as one Trust Fund. If, for any reason, it becomes necessary to determine the portion of the Trust Fund allocable to Employees and former Employees of any Employer as of any date, the Plan Administrator (as defined in Section 2.02 herein) shall specify such date as a Valuation Date and after all adjustments required under the Plan as of that Valuation Date have been made, the portion of the Trust Fund attributable to such Employees and former Employees shall be determined and shall consist of an amount equal to the aggregate of the Account balances of Employees and former Employees of that Employer plus an amount equal to any allocable contributions made by that Employer since the close of the immediately preceding Plan Year.

**Section 2.02 PLAN ADMINISTRATION.** The Plan shall be administered by a Plan Administrator. Except as provided in the Plan, Section 2.04 herein, and under ERISA, the Trustee shall have no authority to act unless directed by the Plan Administrator. Unless the Board appoints an individual or a committee as Plan Administrator, the Board assumes the powers, duties and responsibilities of the Plan Administrator. The Plan Administrator may authorize one or more individuals to sign all communications between the Plan Administrator and Trustee. The Company shall at all times keep the Trustee advised of the names of the members of the Plan Administrator and individuals authorized to sign on behalf of the Plan Administrator and provide specimen signatures thereof. With the Trustee's prior written consent, the Plan Administrator may authorize the Trustee to act, without specific directions or other directions or instructions from the Plan Administrator, on any matter or class of matters with respect to

which directions or instructions from the Plan Administrator are called for hereunder. The Trustee shall be fully protected in relying on any communication, including electronic communication, sent by any authorized person and shall not be required to verify the accuracy or validity of any signature. If the Trustee requests any directions hereunder and does not receive them, the Trustee shall act or refrain from acting, as it may determine, with no liability for such action or inaction. Notwithstanding the provisions herein, the Trustee: (i) shall act in accordance with its obligations under ERISA and the Plan; and (ii) is the sole discretionary fiduciary with respect to borrowing money with respect to the purpose of purchasing Company Stock and for the purchase or sale of Company Stock.

Section 2.03 *EXERCISE OF TRUSTEE'S DUTIES*. The Trustee shall discharge its duties hereunder solely in the interest of Plan Participants and other persons entitled to benefits under the Plan, and:

- (a) for the exclusive purpose of:
  - (i) providing benefits to Participants and other persons entitled to benefits under the Plan; and
  - (ii) defraying reasonable expenses of administering the Plan;
- (b) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; and
- (c) in accordance with the documents and instruments governing the Plan unless, in the good faith judgment of the Trustee, the documents and instruments are not consistent with the provisions of the Code and ERISA.

Section 2.04 *GENERAL POWERS*. The Trustee has full discretion and authority with regard to the investment and reinvestment of the Trust Fund, except with respect to Trust assets under the control or direction of a properly appointed Investment Manager or with respect to Trust assets properly subject to Employer or Participant direction of investment. Subject to the provisions of Section 2.02, Section 2.03 and ARTICLE III herein, with respect to the Trust Fund, the Trustee shall have, but shall not be limited to, the following powers, rights and duties in addition to those provided elsewhere in this Trust, the Plan or by law; provided, however, that the Trustee shall cease to be responsible for any assets upon the transfer of such assets to any other trust formed pursuant to the terms of the Plan:

- (a) To invest the Trust Fund primarily in Company Stock (provided the Trustee does not pay in excess of adequate consideration, as defined by ERISA, for such Company Stock) and to invest or reinvest the Trust Fund in any common or preferred stocks, open-end or closed-end mutual funds, put and call options traded on a national exchange, United States retirement plan bonds, corporate bonds, debentures, convertible debentures, commercial paper, U.S. Treasury bills, U.S. Treasury notes and other direct or indirect obligations of the United States Government or its agencies, improved or unimproved real estate situated in the United States, limited partnerships, limited liability companies, insurance contracts of any type, mortgages, notes or other property of any kind, real or personal, and to buy or sell options on common stock on a nationally recognized exchange with or without holding the underlying common stock, to buy and sell commodities, commodity options and contracts for the future delivery of commodities, and to make any other investments the Trustee deems appropriate, as a prudent man would do under like circumstances with due regard for the purposes of the Plan. Any investment made or retained by the Trustee in good faith is proper but must be of a kind (with the exception of Company Stock) constituting a diversification considered by law suitable for trust investments;
- (b) To retain in cash (pending investment, reinvestment or the distribution of Dividends) such reasonable amount as may be required to satisfy liquidity needs of the Trust and for the proper administration of the Trust and to invest such cash as provided in Section 3.01 herein, provided, however, that pending receipt of directions from the Plan Administrator, the Trustee may retain reasonable amounts of cash, in its discretion, without any liability for interest;
- (c) To invest at a reasonable rate of interest or in a common trust fund, as described in Code Section 584, or in a collective investment fund, the provisions of which govern the investment of such assets and which the Plan incorporates by this reference and which conforms to the rules of the Comptroller of the Currency;
- (d) To lease for oil, gas and other mineral purposes and to create mineral severances by grant or reservation; to pool or unitize interests in oil, gas and other minerals, and to enter into operating agreements and to execute division and transfer orders;
- (e) To hold any securities or other property in the name of the Trustee or its nominee, with depositories or agent depositories or in another form as it may deem best, with or without disclosing the trust relationship;
- (f) To provide information available to the Trustee to enable the Company to file all tax returns required for the Trust and Plan required of the Trustee;
- (g) To receive and to hold all contributions paid to it under the Plan; provided, however, that the Trustee shall have no duty to require any contributions to be made to it, to determine that the contributions received by it comply with the provisions of the Plan or with any resolution of the Board providing therefor;

(h) To receive amounts transferred to the Trust from any plan qualified under Code Section 401(a) and/or trust exempt from taxation under Code Section 501(a), provided such transfer does not adversely impact the qualification of the Plan under Code Sections 401(a) and 4975 and/or the Trust under Code Section 501(a).

(i) To credit and make distributions from the Trust Fund to such persons or trusts, in such manner, at such times and in such forms (Company Stock, cash or a combination thereof) as directed by the Plan Administrator without inquiring as to whether a payee or distributee is entitled to the payment, or as to whether a payment is proper, and without liability for a payment made in good faith without actual notice or knowledge of the changed condition or status of the payee or distributee. Unless required by ERISA, the Trustee is accountable only to the Plan Administrator for any payment or distribution made by it in good faith on the order or direction of the Plan Administrator. If any payment of benefits to be made from the Trust Fund by the Trustee is not claimed, the Trustee shall notify the Plan Administrator of that fact promptly. The Plan Administrator will make a diligent effort to ascertain the whereabouts of the payee or distributee of benefits returned unclaimed. The Trustee shall dispose of such payments as the Plan Administrator shall direct pursuant to the Plan and in accordance with ERISA. The Trustee shall have no obligation to search for or ascertain the whereabouts of any payee or distributee of benefits from the trust Fund unless required by the Plan, Code or ERISA;

(j) To vote Company Stock as provided in the Plan, and any other stocks, bonds or other securities held in the Trust, or otherwise consent to or request any action on the part of the issuer in person, by proxy or power of attorney;

(k) To contract or otherwise enter into transactions between itself, as Trustee, and the Company or any Employer, or any Company shareholder or other individual, for the purpose of acquiring or selling Company Stock and, subject to the provisions of Section 2.03 herein and the Plan, to retain such Company Stock;

(l) To compromise, contest, arbitrate, settle or abandon claims and demands by or against the Trust and Trust Fund;

(m) To begin, maintain or defend any litigation necessary in connection with the investment, reinvestment and administration of the Trust, and, to the extent not paid from the Trust Fund and subject to Section 9.01 herein, the Employers shall indemnify the Trustee against all expenses and liabilities reasonably sustained or anticipated by it by reason thereof (including reasonable attorneys' fees);

(n) To retain any funds or property subject to any dispute without liability for the payment of interest, or to decline to make payment or delivery thereof until final adjudication is made by a court of competent jurisdiction;

(o) To report to the Company as of the last day of each Plan Year, as of any Valuation Date (or as soon thereafter as practicable), or at such other times as may be required under the Plan, the then net worth of the Trust Fund, which is the fair market value of all property held in the Trust Fund, reduced by any liabilities other than liabilities to Participants (and their Beneficiaries) in the Plan, as determined by the Trustee;

(p) To furnish to the Company, the Employers, and the Plan Administrator an annual statement of account or accounts for such periods as may be required under the Plan, showing the condition of the Trust Fund and the net worth of the Trust Fund at the end of the Plan Year, all investments, receipts, disbursements and other transactions made by the Trustee during the Plan Year covered by the statement, and such other information as the Trustee may possess which the Company requires in order to comply with Section 103 of ERISA. The Trustee shall keep accurate accounts of all investments, earnings thereon, and all accounts, books and records related to such investments shall be open to inspection by any person designated by the Company, an Employer or the Plan Administrator at reasonable times and may be audited from time to time by any person or persons as the Company, Employer or Plan Administrator may specify in writing. All accounts of the Trustee shall be kept on an accrual basis. The Plan Administrator may direct the Trustee to furnish the Plan Administrator, Company or Employer with any information relating to the Trust Fund. If, during the term of this Trust, the Department of Labor issues Labor Regulations under ERISA regarding the valuation of Company Stock or other assets for purposes of the reports required by ERISA, the Trustee shall use such valuation methods for purposes of the accounts described by this subparagraph.

If the Trustee determines the shares of Company Stock held in the Trust are not readily tradable on an established securities market (determined in accordance with the requirements of IRS Notice 2011-19), all valuations of such securities shall be made by an "Independent Appraiser" retained by the Trustee, and reviewed and finalized by the Trustee, in accordance with Section 3(18)(B) of ERISA. For purposes of this Trust, an Independent Appraiser shall be such appraiser selected by the Trustee that meets the requirements of the Treasury Regulations prescribed under Section 170(a)(1) of the Code and Section 401(a)(28)(C) of the Code.

The Company or the Plan Administrator may approve the accounting provided for under this subsection (p) by written notice of approval delivered to the Trustee or by failure to express objection to such accounting in writing delivered to the Trustee within

sixty (60) days from the date upon which the accounting was delivered to the Company. Nothing herein shall require the Company or the Plan Administrator to approve or otherwise determine the correctness of the Trustee's valuation of Company Stock. Upon the receipt of a written approval of the accounting, or upon the passage of the period of time within which objection may be filed without written objections having been delivered to the Trustee, such accounting shall be deemed to be approved, and the Trustee shall be released and discharged as to all items, matters and things set forth in such account, as fully as if such accounting had been settled and allowed by decree of a court of competent jurisdiction in an action or proceeding in which the Trustee, the Plan Administrator, the Company and all persons having or claiming to have any interest in the Trust Fund or under the Plan were parties;

(q) To pay any estate, inheritance, income or other tax, charge or assessment attributable to any benefit which it shall or may be required to pay or withhold taxes; and to require before making any payment such release or other document from any taxing authority and such indemnity from the intended payee or distributee as the Trustee shall deem necessary for its protection;

(r) To employ and to reasonably rely upon information and advice furnished by agents, attorneys, independent appraisers, independent financial advisors, accountants or other persons of its choice for such purposes as the Trustee considers desirable;

(s) To assume, until advised to the contrary, that the Trust evidenced by this Agreement is qualified under Section 401(a) of the Code and is entitled to tax exemption under Section 501(a) of the Code;

(t) To have the authority, in addition to Section 2.4(a), to invest and reinvest the assets of the Trust Fund, in personal property of any kind, including, but not limited to, Company Stock, bonds, notes, debentures, mortgages, equipment trust certificates, investment trust certificates, life insurance, guaranteed investment contracts, preferred or common stock, common trust funds, mutual funds, collective trust funds, and registered investment companies; provided, however, that all investments in Company Stock shall be undertaken pursuant to the provisions of Section 3.01 herein;

(u) To exercise any options, subscription rights and other privileges with respect to the Trust Fund, subject to the provisions of ARTICLE III herein, to manage, sell, contract to sell, grant options to purchase, convey, exchange, transfer, abandon, improve, repair, insure, lease for any term even though commencing in the future or extending beyond the term of the Trust, and otherwise deal with all property, real or personal, in such manner, for such considerations and on such terms and conditions as the Trustee decides;

(v) To register ownership of any securities or other property held by it in its own name or in the name of a nominee, with or without the addition of words indicating that such securities are held in a fiduciary capacity, and hold any securities in bearer form, but the books and records of the Trustee shall at all times reflect that all such investments are part of the Trust;

(w) To perform any and all other acts which are necessary or appropriate for the proper management, investment and distribution of the Trust Fund;

(x) To construe and interpret the Plan subject to the constructions and interpretations of the Plan Administrator, direction(s) from the Plan Administrator, and the rules and regulations adopted and to answer all questions arising in the administration, interpretation, and application of the Plan document and documents related to the Plan's operation;

(y) To borrow money, to assume indebtedness, extend mortgages and encumber by mortgage or pledge; provided, however, if any loan transaction is with a Disqualified Person or a Disqualified Person guarantees a loan to the Plan or Trust, such loan shall be an Exempt Loan and the following terms and conditions apply to such loan:

(i) Such loan shall be entered into by the Plan only if such loan is primarily for the benefit of the Participants (and their Beneficiaries).

(ii) The Trustee will use the proceeds of a loan within a reasonable time after receipt only for any of the following purposes: (i) to acquire Company Stock, (ii) to repay such loan, or (iii) to repay a prior Exempt Loan. No financed Company Stock may be subject to a put, call or other option or buy-sell or similar arrangement while held by and when distributed from the Trust, whether or not the Plan is then an employee stock ownership plan;

(iii) The interest rate of the loan may not be more than a reasonable rate of interest. Notwithstanding anything to the contrary in this Trust or the Plan, at the time that an Exempt Loan is made, the interest rate for such Exempt loan and the price of the Company Stock acquired by such Exempt Loan should not be such that Plan assets might be drained off;

(iv) The Exempt Loan must be for a specific term. Such Exempt Loan may not be payable at the demand of any person, except in the case of default;

(v) Any collateral the Trustee pledges to the creditor must consist only of the assets purchased by the borrowed funds and those assets the Trust used as collateral on any prior Exempt Loan repaid with the proceeds of the current Exempt Loan;



1) The creditor may have no recourse against the Trust under the loan except with respect to such collateral given for the loan, contributions (other than contributions of Leveraged Company Stock) that the Company makes to the Trust to meet its obligations under the loan, and earnings attributable to such collateral and the investment of such contributions. The payment made with respect to an Exempt Loan by the Plan during a Plan Year must not exceed an amount equal to the sum of such contributions and earnings received during or prior to the year less such payments in prior years. The Plan Administrator and the Trustee must account separately for such contributions and earnings on the books of account of the Plan until the Trust repays the loan.

2) In the event of default upon the loan, the value of Trust assets transferred in satisfaction of the loan must not exceed the amount of default, and if the lender is a Disqualified Person, the loan must provide for transfer of Trust assets upon default only upon and to the extent of the failure of the Trust to meet the payment schedule of the loan.

3) The Trustee will account for all assets acquired with the proceeds of an Exempt Loan initially in a suspense account within the Trust. In withdrawing assets from the suspense account, the Trustee will apply the provisions of Treasury Regulation Section 54.4975-7(b)(8) and (15) as if all securities in the suspense account were encumbered. Upon the payment of any portion of the loan, the Trustee will affect the release of assets in the suspense account from encumbrances in accordance with the Plan; and

(z) Notwithstanding the foregoing, if the Plan ceases to be an employee stock ownership plan after the Trustee repays the Exempt Loan, the Leveraged Company Stock shall continue to be subject to the provisions of Treasury Regulation Section 54.4975-7(b)(4), (10), (11) and (12) relating to put, call or other options and to buy-sell or similar arrangements, except to the extent such Treasury Regulations are inconsistent with Code Section 409(h).

Notwithstanding the preceding, all valuations of Company Stock that are not readily tradable on an established securities market as described in Section 2.04(n) with respect to activities carried on by the Plan must be made by an Independent Appraiser selected by the Trustee. The Trustee, in its sole discretion, shall be responsible for reviewing and accepting, in good faith and in accordance with the fiduciary requirements of ERISA, the appraisal prepared by the Independent Appraiser and the factors and assumptions relied on by the Independent Appraiser in preparing the appraisal. The Trustee shall be entitled to rely on the record-keeper and any custodian, other than the Trustee, for the maintenance and provision of all records.

Section 2.05 *RESPONSIBILITY OF TRUSTEE*. The Trustee shall not be responsible in any way for the adequacy of the Trust Fund to meet and discharge any or all liabilities under the Plan or for the proper application of distributions made or other actions taken upon the direction of the Plan Administrator. The powers, duties and responsibilities of the Trustee shall be limited to those set forth in this Trust and the Plan, or as later agreed upon by the Trustee, Company, and Plan Administrator in writing.

#### Section 2.06 *COMPENSATION AND EXPENSES*.

(a) So long as the Trustee is an employee of the Company or an Employer, the Trustee shall not be entitled to compensation for its services.

(b) So long as the Trustee is an “independent fiduciary” and not an employee of the Company or an Employer, the Trustee shall be entitled to reasonable compensation for its services, as agreed to between the Company and the Trustee in the Trustee Engagement Agreement as entered into from time to time and as such may be amended by the Company and the Trustee (“Engagement Agreement”) which is incorporated herein by reference, as it may be amended from time to time.

While the payment of all amounts owed to the Trustee, other than pursuant to the indemnification provisions of this Trust Agreement and the Engagement Agreement, is the legal obligation of the Trust, the Company may pay any and all amounts owed to the Trustee pursuant to this Trust Agreement. To the extent the Trust is unable to pay all amounts owed to the Trustee for any reason, any unpaid amounts shall become the legal obligation of the Company and shall be paid as soon as possible after receipt of written notice from the Trustee by the Company. The Trustee is authorized to pay from the Trust Fund all expenses reasonably incurred by the Trustee, to the extent such fees and expenses are for the ordinary and necessary administration and operation of the Trust, including the Trustee's compensation, compensation to any agents employed by the Trustee and any reasonable accounting and reasonable legal expenses. If the Trustee is to pay such expenses from the Trust Fund but there are not sufficient amounts in the Trust Fund to pay such expenses, the Trustee has the right, to the extent that the Company does not pay such expenses: (i) to offset the amounts due to it against the Trust Fund and the Trustee shall be authorized to sell Trust assets; or (ii) to put Company Stock to the Company pursuant to Section 3.05 hereof, to the extent necessary to obtain sufficient cash to pay such expenses. Any fee or expense paid directly or indirectly by the Company shall not be considered an Employer contribution to the Trust, provided the fee or expense relates to the ordinary and necessary administration of the Trust.

Section 2.07 *CONTINUATION OF POWERS UPON TRUST TERMINATION*. Notwithstanding anything to the contrary in this Trust Agreement, upon termination of the Trust the powers, rights and duties of the Trustee hereunder shall continue until all Trust assets have been liquidated and distributed out of the Trust.

Section 2.08 *BOND*. The Trustee shall be required to provide bond pursuant to the Plan for the faithful performance of its duties under the Trust and Plan, unless exempted pursuant to ERISA Section 412(a).

Section 2.09 *TRUSTEE DIRECTIONS*. All decisions, determinations, directions, interpretations, and applications (collectively referred to as “determination”) of the Plan and Trust by the Trustee shall be final and binding upon all persons, including (but not limited to) the Company, the Plan Administrator, and all Participants and Beneficiaries unless such determination is in violation of ERISA or any federal or state laws or the Plan Administrator has the authority to make such determination and directs or overrides the Trustee's decision provided the Plan Administrator's determination does not cause the Trustee to violate ERISA or any federal or state laws.

Section 2.10 *INSURANCE PROCEEDS*. The Trustee will allocate any insurance proceeds received from the purchase of insurance contracts to Participants' Accounts in the same manner as the allocation under Section 3.04 of the Plan of the Employer contribution for the Plan Year in which the death of the insured Participant occurs.

### Article III. PROVISIONS RELATED TO INVESTMENT OF TRUST FUND

#### Section 3.01 *INVESTMENT OF TRUST FUND*.

(a) Any cash received by the Trustee as Employer Contributions or as Trust Fund Income attributable to the Unallocated Company Stock Account or Unallocated General Investment Account which is not applied to fund the Current Obligations of the Trust, if any, shall be held in the Unallocated General Investment Account or Profit Sharing Accounts, invested at the direction of the Plan Administrator, or shall be applied to the payment of non-Current Obligations or General Obligations of the Trust. All cash received by the Trustee as income attributable to Participant Company Stock Accounts, Participant General Investment Accounts and Participant Profit Sharing Accounts shall be invested as soon as practicable after receipt by the Trustee in a diversified manner in investments selected by the Trustee. In making payments in respect of Current Obligations, non-Current Obligations, or General Obligations of the Trust, the Trustee shall use income and Employer Contributions as is specified in the Plan, namely, that income shall be first used to pay interest payments. The Trustee is authorized to purchase Company Stock with Trust assets held in the Participant's General Investment Accounts, Participant's Profit-Sharing Accounts and the Unallocated General Investment Account.

The Trustee is further authorized to purchase Company Stock from the Company or from any shareholder, and the Company Stock may be outstanding, newly issued or treasury stock. Whenever investment in Company Stock of amounts held in the Trust Fund is required or permitted hereunder, such investment may be accomplished, on directions of the Plan Administrator, by a sale within the Trust. Specifically, the Company Stock Accounts of Participants, Former Participants, Alternate Payees, and Beneficiaries who have become entitled to cash distributions hereunder may be liquidated by an exchange for assets held in other Accounts of the Plan, including the Participant Profit Sharing Accounts. The Trustee shall not invest or reinvest any cash held in the Account of a Participant in Company Stock following the date the Participant Separates from Service for any reason unless specifically directed otherwise by the Plan Administrator and approved by the Trustee. However, the Trustee may continue to hold Company Stock existing in the Participant Company Stock Account of a Participant.

All purchases or exchanges of Company Stock shall be for no more than “adequate consideration,” as defined in Section 3(18) of ERISA, determined at the time provided under the Plan or required under applicable law. If shares of Company Stock are not readily tradable on an established securities market (determined in accordance with the requirements of IRS Notice 2011-19), “adequate consideration” shall mean the fair market value of such Company Stock, determined in good faith by the Trustee.

(b) As of the end of any Plan Year in which an Inactive Participant has shares of Company Stock in his Account (after all allocations of Employer Contributions, Forfeitures, Dividends and earnings have been made) the Plan Administrator shall exchange any cash or other liquid assets held in the General Investment Accounts (including the Profit Sharing Accounts) of active Participants for such Plan Year for the number of shares of Company Stock that would otherwise be distributable to such Inactive Participants in such Plan Year had they elected to receive a distribution of their Account. Shares of Company Stock held in each Inactive Participant's Company Stock Account shall be exchanged at an exchange rate determined based on the most recently appraised fair market value of such Company Stock. Such exchange shall be made pro-rata based on the active Participants' General Investment Account (including the Profit-Sharing Accounts) balances. In the event that there is not sufficient cash or other liquid assets in the active Participants' General Investment Accounts (including the Profit Sharing Accounts) to exchange for all

of the shares of Company Stock in the Inactive Participants' Company Stock Accounts, required to be exchanged hereunder for such Plan Year, the exchange shall be pro-rata based upon the Inactive Participants' Company Stock Account balances required to be exchanged hereunder for such Plan Year. The purpose of this exchange is to assure that the Accounts of active Participants are invested in Company Stock and that the Accounts of Inactive Participants to the extent otherwise then payable to the Inactive Participant in that Plan Year are invested in assets other than Company Stock, to the maximum extent possible given the assets available to the Trust.

Following such exchange, the Trustee shall invest all exchanged amounts held in such Inactive Participant's Account in a diversified manner in investments selected by the Trustee; provided, however the Trustee shall have no obligations for cash amounts otherwise transferred to another trust under the Plan in which case such amount shall be invested as provided for therein.

Notwithstanding any provisions of this Section to the contrary, no Company Stock shall be reallocated to other active Participants to the extent their Account has previously been diversified pursuant to the provisions of Plan.

Section 3.02 *STOCK SPLITS AND OTHER CAPITAL REORGANIZATION, DIVIDENDS*. Any Company Stock received by the Trustee as a stock split or as a result of a reorganization or other recapitalization of the Company (collectively referred to as "stock split") shall be allocated in accordance with the terms of the Plan as of each Valuation Date under the Plan. If the Plan does not address the allocation of a stock split, the Trustee shall allocate the stock split in proportion to the Company Stock to which they are attributable. Cash or stock in kind Dividends received by the Trustee shall be reinvested in accordance with the terms of the Plan.

Section 3.03 *VOTING OF SHARES AND TENDER OR EXCHANGE OFFERS*. Company Stock held in the Trust Fund shall be voted, tendered and exchanged by the Trustee in the manner set forth in the Plan and consistent with its duties described in Section 2.03 herein.

Section 3.04 *DISTRIBUTION OF TRUST FUND*. The Trustee shall make all distributions in accordance with the direction of the Plan Administrator.

Section 3.05 *PUT OPTION*. If (i) the distribution of a Participant's Company Stock Account is to be made in cash, (ii) a distribution of Company Stock is to be made pursuant to the Plan, (iii) the Trustee is required to diversify a Participant's Company Stock Account pursuant to the Plan, or (iv) the Trustee expects to incur substantial Trust expenses which will not be paid directly by the Employer, and the Trustee determines that the Trust Fund has insufficient cash to make anticipated distributions or diversification or pay Trust expenses, the Trustee shall have a "put option" on Company Stock it holds to put such Company Stock to the Company pursuant to the Plan for the purpose of making such anticipated distributions and diversifications of Participant Company Stock Accounts, and paying such expenses and the Company agrees to honor such put and purchase the Company Stock as put to it by the Trustee. The Trustee will price the put of the Company Stock at an amount that not less than the fair market value of such shares as such term is used in determining "adequate consideration" pursuant to Section 3(18) of ERISA and Section 2510.3-18 of the proposed regulations of the U.S. Department of Labor, and on terms that are fair to the Plan from a financial point of view.

Section 3.06 *PARTICIPANT LOANS*. The Trustee shall not be permitted to make loans to Participants and Beneficiaries.

#### Article IV. VALUATION OF TRUST FUND

The Trustee shall value the Trust Fund in accordance with the Plan.

#### Article V. NO REVERSION TO EMPLOYER

No part of the corpus or income of the Trust Fund shall revert to any Employer or be used for, or diverted to, purposes other than for the exclusive benefit of Participants and other persons entitled to benefits under the Plan, provided, however, that:

(a) For amounts contributed prior to the initial qualification of the Plan and Trust, as determined by the IRS, each Employer Contribution under the Plan is conditioned on the qualification of the Plan as applied to that Employer under Sections 401(a) and 4975(e)(7) of the Code and, if the Plan does not so qualify, the Trustee shall, upon written direction of the Plan Administrator, return to that Employer the amount of such contribution and any increment thereon within one calendar year after the date that qualification of the Plan, as applied to that Employer, is denied, but only if the application for qualification is submitted within the time prescribed by law.

(b) Employer Contributions under the Plan are conditioned upon the deductibility thereof under Section 404 of the Code, and, to the extent any such deduction of an Employer is disallowed by the Internal Revenue Service, the Trustee shall return the

amount of the contribution (to the extent disallowed), reduced by the amount of any losses thereon, to the Employer within one year after the date the deduction is disallowed.

(c) If a contribution or any portion thereof is made by an Employer by a mistake of fact, the Trustee shall return the amount of the contribution or such portion, reduced by the amount of any losses thereon, to the Employer within one year after the date of payment to the Trustee.

Notwithstanding the foregoing, the Trustee has no responsibility as to the sufficiency of the Trust Fund to provide any distribution to an Employer under this ARTICLE V.

#### Article VI. CHANGE OF TRUSTEE

**Section 6.01 RESIGNATION OF THE TRUSTEE.** The Trustee may resign its position at any time by giving 30 days advance written notice to the Company, unless such notice period is waived by the Company or the Plan Administrator. If the Company fails to appoint a successor trustee within 30 days of its receipt of the Trustee's written notice of resignation, the Trustee will treat the Board of the Company as having been appointed as Trustee and as having accepted their appointment as Trustee.

**Section 6.02 REMOVAL OF THE TRUSTEE.** The Company may remove the Trustee by hand delivering or by mailing by registered or certified mail, addressed to such Trustee at his or her or its last known address, at least 30 days advance written notice of removal, subject to providing the removed Trustee with satisfactory written evidence of the appointment of a successor Trustee and of the successor Trustee's acceptance of the trusteeship. If two or more persons hold the position of Trustee, in the event of the removal of one such person, during any period the selection of a replacement is pending, or during any period such person is unable to serve for any reason, the remaining person or persons will act as the Trustee.

**Section 6.03 DUTIES OF RESIGNING OR REMOVED TRUSTEE AND OF SUCCESSOR TRUSTEE.** If the Trustee resigns or is removed, it shall promptly transfer and deliver the assets of the Trust Fund to the successor Trustee and may reserve such amount to provide for the payment of all fees and expenses, or taxes then or thereafter chargeable against the Trust Fund, to the extent not previously paid by the Employers. The Employers shall be obligated to reimburse the Trust for any amount reserved by the Trustee. Within one hundred twenty (120) days, the resigned or removed Trustee shall furnish the Company and the successor Trustee an account of its administration of the Trust from the date of its last account. Each successor Trustee shall succeed to the title to the Trust Fund vested in the predecessor Trustee without the signing or filing of any further instrument, but any resigning or removed Trustee shall execute all documents and do all acts necessary to vest such title or record in any successor Trustee. Each successor Trustee shall have all the powers, rights and duties conferred by this Trust as if originally named Trustee. No successor Trustee shall be personally liable for any act or failure to act of a predecessor Trustee, except as required by ERISA. With the approval of the Company or Plan Administrator, a successor Trustee may accept the account rendered and the property delivered to it by its predecessor Trustee as a full and complete discharge of the predecessor Trustee without incurring any liability or responsibility for so doing.

**Section 6.04 FILLING TRUSTEE VACANCY.** The Company shall fill a vacancy in the office of Trustee as soon as practicable by a writing filed with the person or entity appointed to fill the vacancy.

#### Article VII. ADDITIONAL EMPLOYERS

In addition to the requirements of the Plan, any Related Employer may become a party to this Trust Agreement by:

- (a) filing with the Company and the Trustee a copy of a resolution of its board of directors to that effect; and
- (b) filing with the Trustee a copy of a resolution of the Board of the Company consenting to such action.

#### Article VIII. AMENDMENT AND TERMINATION

**Section 8.01 AMENDMENT.** While the Company expects and intends to continue the Trust, the Company reserves the right to amend or terminate the Trust at any time pursuant to an action of the Board of the Company. However, no amendment shall change the rights, duties and liabilities of the Trustee under the Trust without its prior written agreement, nor reduce a Participant's benefits to less than the amount such Participant would be entitled to receive if such Participant had resigned from the employ of the Employer on the date of the amendment unless otherwise required or permitted by the Code or ERISA. Amendments to the Trust shall be in writing and shall be effective upon execution of such amendments by both the Company and the Trustee unless otherwise agreed.

Section 8.02 *TERMINATION*. The Trust may be terminated as to all Employers on any date specified by the Company. The Trust will terminate as to any Employer on the first to occur of the following:

- (a) the date it is terminated by that Employer;
- (b) the date such Employer's contributions, or contributions on its behalf, to the Trust, are completely discontinued;
- (c) the date such Employer is judicially declared bankrupt under Chapter 7 of the U.S. Bankruptcy Code; or
- (d) the dissolution, merger, consolidation, or reorganization of that Employer, or the sale by that Employer of all or substantially all of its assets, except that, with the consent of the Company, such arrangements may be made whereby the Trust will be continued by any successor to that Employer or any purchaser of all or substantially all of that Employer's assets, in which case the successor or purchaser will be substituted for that Employer under the Trust.

The Trustee's powers upon termination as described above will continue until liquidation of the Trust Fund, or the portion thereof attributable to an Employer, as the case may be. Upon termination of this Trust the Trustee shall first reserve such reasonable amounts as it may deem necessary to provide for the payment of any expenses or fees then or thereafter chargeable to the Trust Fund. Subject to such reserve, the balance of the Trust Fund shall be liquidated and distributed by the Trustee to or for the benefit of the Participants or their Beneficiaries, as directed by the Plan Administrator after compliance with the Plan and applicable requirements of ERISA, as amended from time to time, or other applicable law, accompanied by a certification that the disposition is in accordance with the terms of the Plan and the Trustee need not question the propriety of such certification. The Company shall have full responsibility to see that such distribution is proper and within the terms of the Plan and this Trust.

#### Article IX.

#### INDEMNIFICATION, APPOINTMENT OF INVESTMENT MANAGER, AND APPOINTMENT OF ANCILLARY TRUSTEE

##### Section 9.01 *INDEMNIFICATION*.

(a) *Indemnification*. For purposes of this Section 9.01, the term "Indemnitees" shall mean the Trustee and its officers, directors, employees, and agents. Subject to the applicable provisions of ERISA, the Company shall indemnify the Indemnitees for any past or present loss, cost, expense, or other damage, including attorney's fees, suffered by any of the Indemnitees resulting from or incurred with respect to any legal proceedings related in any way to the performance of services by any one or more of the Indemnitees pursuant to this Agreement. The indemnification provided for in this Section 9.01 shall also extend to: (a) any action taken or not taken by any of the Indemnitees at the direction or request of the Plan Administrator, Investment Manager, or of any agent of the Plan Administrator; and (b) all reasonable costs and expenses incurred by the Indemnitees in enforcing the indemnification provisions of this Section 9.01, including reasonable attorney's fees and court costs. However, these indemnification provisions shall not apply to the extent that any loss, cost, expense, or damage with respect to which any of the Indemnitees shall seek indemnification is held by a court of competent jurisdiction, in a final judgment from which no appeal is taken, to have resulted either from the gross negligence of one or more of the Indemnitees or from the willful misconduct of one or more of the Indemnitees.

##### (b) *Defense of Actions*.

(i) *Notice and Assumption of Defense*. If one or more of the Indemnitees receives notice of any legal proceeding with respect to which indemnification may be sought against the Company pursuant to Section 9.01(a) (a "Proceeding"), the Indemnitees shall notify the Company of the Proceeding in writing within 30 days of their receipt of notice of the commencement of the Proceeding. However, failure by the Indemnitees to so notify the Company shall not relieve the Company from any liability, except to the extent that the failure to notify the Company shall actually have prejudiced the defense of any Proceeding. The Company will be entitled to assume the defense of the Proceeding with counsel reasonably satisfactory to the Indemnitees or to otherwise participate in the Proceeding. If the Company elects to assume the defense of the Proceeding, it then shall pay all costs of defense.

(ii) *Reimbursement of Expenses*. The Company shall reimburse the Indemnitees for all reasonable costs of investigation, of testifying at any hearing, of responding to discovery proceedings, and of consulting with the Company or the attorneys for the Company. The Indemnitees shall have the right to employ their own counsel in any Proceeding, and the reasonable fees and reasonable expenses of the Indemnitees' counsel shall be paid by the Company as they are incurred, if any one or more of the following conditions are satisfied:

- (A) The employment by the Indemnitees of their own counsel shall be authorized by the Company, which authorization shall not be unreasonably withheld;

(B) The Indemnitees are advised by their counsel that there may be one or more legal defenses available to them which are different from or additional to defenses available to the Company (in which case the Company shall not have the right to assume the defense of the Proceeding on behalf of the Indemnitees);

(C) The Company and the Trustee have a conflict of interest;

(D) The allegation made against the Trustee is for gross negligence or willful misconduct;

(E) The Company fails to assume the defense of the proceeding and to employ counsel satisfactory to the Indemnitees within fourteen (14) days after being notified of the commencement of the Proceeding; or

(F) The Indemnitees shall be informed by their counsel that a conflict exists with the counsel selected by the Company.

(c) *Governmental Investigations.* The provisions of this **Section 9.01** shall apply if any governmental or private commission or regulatory authority shall investigate any of the Indemnitees or shall require any of the Indemnitees to testify at any hearing or in connection with any investigation, regarding the performance of services by the Indemnitees pursuant to this Trust Agreement. Investigations covered by this **Section 9.01** shall include, but shall not be limited to, investigations conducted by any agency of the United States or of the legislature of any state, or by a stock exchange or other entity having authority to investigate or regulate similar to that of a stock exchange. In the case of any investigation, the Indemnitees shall have the right to employ separate counsel to represent them, and the Company shall pay the reasonable fees and expenses of the Indemnitees' counsel as they are incurred. The Trustee agrees that it shall reasonably cooperate with the Company in connection with any investigation.

(d) *Limitation.* If a court of competent jurisdiction shall hold that any payment or award of indemnification pursuant to the terms of this Agreement shall be unavailable to any one or more of the Indemnitees from the Company for any reason other than their gross negligence or willful misconduct, the Company then shall reimburse the affected Indemnitees, as required by this **Section 9.01**, but taking into account the basis for the denial of full indemnification by the court.

(e) *Additional Agreements.* The Trustee and the Company may also enter into additional letter agreements further delineating the indemnification agreement of this **Section 9.01**, provided the letter agreement is consistent with and does not violate ERISA and Delaware law.

**Section 9.02 LIMITATION ON LIABILITY - IF INVESTMENT MANAGER, ANCILLARY TRUSTEE OR INDEPENDENT FIDUCIARY APPOINTED.** The Plan Administrator and Trustee shall not be liable for the acts or omissions of any Investment Manager or an ancillary trustee appointed by the Company, nor shall the Plan Administrator or Trustee be under any obligation to invest or reinvest or otherwise manage any asset of the Trust Fund which is subject to the management of a properly appointed Investment Manager or ancillary trustee. The Plan Administrator, the Trustee, the Company and any properly appointed Investment Manager or ancillary trustee may execute a letter agreement pursuant to **Section 9.03** herein as a part of this Trust delineating duties, responsibilities and liabilities of the Investment Manager or ancillary trustee with respect to any part of the Trust Fund under the control of the Investment Manager or ancillary trustee.

The limitation on liability described in this **Section 9.02** also applies to the acts or omissions of an ancillary trustee or independent fiduciary properly appointed under **Section 9.03** hereof. However, if a Trustee, pursuant to the delegation described in **Section 9.03** hereof, appoints an ancillary trustee, the Trustee is responsible for the periodic review of the ancillary trustee's actions and must exercise its delegated authority in accordance with the terms of the Trust and in a manner consistent with ERISA. The Company, the Trustee and an ancillary trustee may execute a letter agreement as a part of this Trust delineating any indemnification agreement between the parties.

**Section 9.03 APPOINTMENT OF AN INVESTMENT MANAGER OR AN ANCILLARY TRUSTEE.** The Company, in writing, may appoint (subject to the written consent of the Trustee) any person or trust company in any state to act as an Investment Manager or as an ancillary trustee with respect to a designated portion of the Trust Fund. An Investment Manager or ancillary trustee must acknowledge in writing its acceptance of the terms and conditions of its appointment as an Investment Manager or as an ancillary trustee and its fiduciary status under ERISA. The Investment Manager and ancillary trustee have the rights, powers, duties, and discretion as the Company may delegate, subject to any limitations or directions specified in the instrument evidencing appointment of the Investment Manager or ancillary trustee and to the terms of the Trust or of ERISA. The investment powers delegated to the Investment Manager or to the ancillary trustee may include any investment powers available under **Section 2.04** or **Section 3.03** hereof, including but not limited to, the right to invest or reinvest any portion of the assets of the Trust Fund in Company Stock and to invest or reinvest any portion of the assets of the Trust Fund in a common trust fund, as described in Code Section 584, or in any collective investment fund, the provisions of which govern the investment of such assets and which the Trust incorporates by this reference, but only if the Investment Manager or ancillary trustee is a bank or similar financial in-

stitution supervised by the United States or by a State and the ancillary trustee (or its affiliate, as defined in Code Section 1504) maintains the common trust fund or collective investment fund exclusively for the collective investment of money contributed by the ancillary trustee (or its affiliate) in a trustee capacity and which conforms to the rules of the Comptroller of the Currency.

The Investment Manager or ancillary trustee may resign their position at any time by providing at least 30 days' advance written notice to the Company, unless the Company waives this notice requirement. The Company, in writing, may remove an Investment Manager or ancillary trustee at any time. In the event of resignation or removal, the Company may appoint another Investment Manager or ancillary trustee, return the assets to the control and management of the Trustee, or receive such assets in the capacity of the Investment Manager or ancillary trustee. The Company, with the prior written consent of the Trustee, may delegate its responsibilities under this **Section 9.03** herein to the Trustee.

If the U.S. Department of Labor (the "Department") requires engagement of an independent fiduciary to have control or management of all or a portion of the Trust Fund, the Company will appoint such independent fiduciary, as directed by the Department. The independent fiduciary will have the duties, responsibilities, and powers prescribed by the Department and will exercise those duties, responsibilities, and powers in accordance with the terms, restrictions, and conditions established by the Department and, to the extent not inconsistent with ERISA, the terms of the Plan. The independent fiduciary must accept its appointment in writing and must acknowledge its status as a fiduciary of the Plan.

**Section 9.04 PARTIES TO LITIGATION.** Except as otherwise provided by ERISA, no Participant or Beneficiary is a necessary party or is required to receive notice of process in any court proceeding involving the Plan, the Trust, the Trust Fund or any fiduciary of the Plan. Any final judgment entered in any proceeding will be conclusive as to the parties over which the court entering the judgment has jurisdiction.

## Article X. MISCELLANEOUS

**Section 10.01 DISAGREEMENT AS TO ACTS.** If there is a disagreement between the Trustee and anyone as to any act or transaction reported in any accounting, the Trustee shall have the right to have its own account settled by a court of competent jurisdiction.

**Section 10.02 PERSONS DEALING WITH TRUSTEE.** No person dealing with the Trustee shall be required to see to the application of any money paid or property delivered to the Trustee, or to determine whether or not the Trustee is acting pursuant to any authority granted to it under the Trust or the Plan. Each person dealing with the Trustee may act upon any notice, request or representation in writing by the Trustee, or by the Trustee's duly authorized agent, and is not liable to any person in so acting. The certificate of the Trustee that it is acting in accordance with the Trust and Plan will be conclusive in favor of any person relying on the certificate.

**Section 10.03 THIRD PARTY AND MULTIPLE TRUSTEES.** If more than two persons act as Trustee, a decision of the majority of such persons controls with respect to any decision regarding the administration or investment of the Trust Fund, or any portion of the Trust Fund with respect to which such persons act as Trustee. However, the signature of only one Trustee is necessary to affect any transaction on behalf of the Trust. Notwithstanding anything in this Section 10.03 or any other provision of this Agreement to the contrary, no additional trustee may be appointed without the consent of the Trustee.

**Section 10.04 BENEFITS MAY NOT BE ASSIGNED OR ALIENATED.** The interests of Participants, Beneficiaries and other persons entitled to benefits under the Trust and Plan are not subject to the claims of their creditors and may not be voluntarily or involuntarily assigned, alienated or encumbered, except as allowed pursuant to Code Section 401(a)(13) or to the extent that the Plan Administrator, pursuant to the Plan, directs the Trustee that any such interests are subject to a qualified domestic relations order, as defined in Section 414(p) of the Code.

**Section 10.05 EVIDENCE.** Evidence required of anyone under the Trust may be by certificate, affidavit, document or other instrument which the person acting in reliance thereon considers pertinent and reliable, and signed, made or presented by the proper party.

**Section 10.06 WAIVER OF NOTICE.** Any notice required under the Trust or Plan may be waived in writing by the person entitled thereto.

**Section 10.07 COUNTERPARTS.** The Trust may be executed in any number of counterparts, each of which shall be deemed an original and no other counterparts need be produced.

**Section 10.08 GOVERNING LAWS AND SEVERABILITY; SITUS.** The Trust shall be construed and administered according to the laws of the State of Delaware to the extent that such laws are not preempted by the laws of the United States of America. If any provision of the Trust or Plan is held illegal or invalid, the illegality or invalidity shall not affect the remaining provisions

of the Trust and Plan, but shall be severable, and the Trust and Plan shall be construed and enforced as if the illegal or invalid provision had never been inserted herein.

Section 10.09 *SUCCESSORS*. The Trust shall be binding on the Company, the Employers and any successor thereto by virtue of any merger, sale, dissolution, consolidation or reorganization, on the Trustee and its successor and on all persons entitled to benefits under the Plan and their respective heirs and legal representatives.

Section 10.10 *ACTION*. Any action required or permitted to be taken by the Company under the Trust shall be by resolution of its Board or by a person or persons authorized by resolution of its Board. The Trustee shall not recognize or take notice of any appointment of any representative of the Company or Plan Administrator unless and until the Company or the Plan Administrator shall have notified the Trustee in writing of such appointment and the extent of such representative's authority. The Trustee may assume that such appointment and authority continue in effect until it receives written notice to the contrary from the Company or Plan Administrator. Any action taken or omitted to be taken by the Trustee by authority of any representative of the Company or Plan Administrator within the scope of his or her authority shall be as effective for all purposes hereof as if such action or inaction had been authorized by the Company or Plan Administrator.

Section 10.11 *CONFORMANCE WITH PLAN*. Unless otherwise indicated in the Trust, all capitalized terms herein shall have the meaning as stated in the Plan. To the extent provisions of the Plan and the Trust conflict, the provisions of the Plan shall govern; provided, however, that the Trustee's duties and obligations shall be determined solely under the Trust.

Section 10.12 *HEADINGS*. The headings and sections of this Trust Agreement are for convenience or reference only and shall have no substantive effect on the provisions of this Trust Agreement.

**IN WITNESS WHEREOF**, the Company, by its duly authorized officer, and the Trustee, have caused this Trust to be signed this \_\_ day of \_\_\_\_\_, 2024 and effective on the 1st day of January, 2024.

“COMPANY”  
XXX  
By: \_\_\_\_\_  
Name: aaa  
Title: Chief Executive Officer

[ADDITIONAL SIGNATURE PAGE FOLLOWS]

“TRUSTEE”  
YYY, not in his individual capacity but solely in his capacity as Trustee of the XXX Employees' Stock Ownership Trust  
By: \_\_\_\_\_  
YYY, solely as a Trustee