

**PUBLIC SAFETY PERSONNEL DEFINED CONTRIBUTION RETIREMENT PLAN  
FIRST AMENDMENT AND RESTATEMENT**

Effective July 1, 2017

**PUBLIC SAFETY PERSONNEL DEFINED CONTRIBUTION RETIREMENT PLAN  
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**PUBLIC SAFETY PERSONNEL DEFINED CONTRIBUTION RETIREMENT PLAN  
FIRST AMENDMENT AND RESTATEMENT**

**PREAMBLES**

**WITNESSETH:**

**WHEREAS**, The Board has been designated by the State of Arizona to establish and maintain a defined contribution plan for certain public safety personnel and corrections officers through which employee contributions shall be picked up by the employer pursuant to §414(h)(2) of the Code; and

**WHEREAS**, The Legislature of the State of Arizona amended Arizona Revised Statutes Title 38, Chapter 5, by adding Article 4.1 to establish such a plan; and

**WHEREAS**, The Legislature of the State of Arizona intends that the plan provide tax-deferred retirement savings to certain public safety personnel and corrections officers so that they have an additional opportunity to save and build financial security; and

**WHEREAS**, The Board desires the defined contribution plan to be a profit sharing plan that is a state-of-the-art plan; and

**WHEREAS**, on June 28, 2017, the Board adopted an initial Plan Statement, effective July 1, 2017, and on even date herewith, the Board adopted the First Amendment to the Plan Statement, effective July 1, 2017 (collectively, the “Initial Plan Statement”); and

**WHEREAS**, in the Fifty-third Legislature of the State of Arizona, Second Regular Session, 2018, the Arizona Legislature enacted Senate Bill 1251 (the “Legislation”) which was signed by the Governor of Arizona on March 20, 2018; and

**WHEREAS**, the Board desires to amend and restate the Initial Plan Statement to be in conformance with the Legislation, and the Board desires to make various other administrative changes to the Initial Plan Statement; and

**WHEREAS**, in the event of any inconsistency or conflict between the terms of this Amended and Restated Plan Statement and the Arizona Revised Statutes, the provisions of the Arizona Revised Statutes shall control;

**NOW, THEREFORE**, This Amended and Restated Plan Statement (hereinafter, the “Plan Statement”) is hereby effective as of July 1, 2017, to read in full as follows:

## SECTION 1

### INTRODUCTION

1.1. **Definitions.** When the following terms are used herein with initial capital letters, they shall have the following meanings:

1.1.1. **Accounts** — the following Accounts will be maintained under the Plan for Participants:

- (a) **Retirement Savings Contribution Account** — the Account maintained for each Participant defined in Sections 2.1.1.(a), (b), (c), and (d) to which is credited the Employer contributions made in consideration of such Participant's Retirement Savings Contributions pursuant to Section 3.1.2, together with any increase or decrease thereon.
- (b) **Employer Contribution Account** — the Account maintained for each Participant defined in Sections 2.1.1.(a), (b), (c), and (d) to which is credited the Participant's share of the Employer contributions made pursuant to Section 3.1.3, together with any increase or decrease thereon.
- (c) **Rollover Contribution Account** — the Account maintained for each Participant described in Section 3.4.2. to which is credited the Participant's rollover contributions made pursuant to Section 3.4, together with any increase or decrease thereon.
- (d) **DROP Account** — The Account maintained for a Participant defined under Section 2.1.3., into which is deposited the benefit the Participant accrued through participation in the deferred retirement option plan established by A.R.S. § 38-844.02.
- (e) **Reverse DROP Account** — The Account maintained for a Participant defined under Section 2.1.3., into which is deposited the benefit the Participant accrued through participation in the reverse deferred retirement option plan established by A.R.S. § 38-885.01.
- (f) **Transfer Account** — the Account maintained for each Participant to which is credited the Participant's interest, if any, transferred from another qualified plan by the trustee of such other plan pursuant to an agreement made under Section 9.3 and not credited to any other Account pursuant to such agreement (or another provision of this Plan Statement), together with any increase or decrease thereon.
- (g) **"Total Account"** — for convenience of reference, a Participant's entire interest in the Fund, including his or her Retirement Savings Contribution Account, Employer Contribution Account, Rollover Contribution Account, DROP

Account, Reverse DROP Account, and/or Transfer Account shall be hereinafter referred to as the Participant's "Total Account."

(h) "**Annuity Account**" — For convenience of reference, a Participant's Retirement Savings Contribution Account and Employer Contribution Account shall, from time to time, be hereinafter referred to collectively as a Participant's "Annuity Account."

(i) "**Separate Rollover Account**" — For convenience of reference, the phrase "Separate Rollover Account" shall be hereinafter used, from time to time, to refer to any of the following Accounts: a Rollover Contribution Account, a DROP Account, or a Reverse DROP Account.

1.1.2. **Administrator** — the Administrator of the Public Safety Personnel Retirement System appointed by the Board pursuant to A.R.S. § 38-848.

1.1.3. **Anniversary Date** — June 30.

1.1.4. **A.R.S.** — the Arizona Revised Statutes, or their successors, as amended from time to time.

1.1.5. **Beneficiary** — a person designated by a Participant (or automatically by operation of this Plan Statement) to receive all or a part of the Participant's Total Account in the event of the Participant's death prior to full distribution thereof. A person so designated shall not be considered a Beneficiary until the death of the Participant.

1.1.6. **Board or Governing Board** — the Board of Trustees established by A.R.S. § 38-848, or its successor. "Board" or "Governing Board" shall also mean and refer to any properly authorized Committee of the Board.

1.1.7. **Code** — the Internal Revenue Code of 1986, as amended from time to time.

1.1.8. **Committee** — any Committee authorized by the Board and to whom certain powers or responsibilities of the Board have been delegated.

1.1.9. **Corrections Officer Retirement Plan** — the Corrections Officer Retirement Plan established in A.R.S. Title 38, Chapter 5, Article 6.

1.1.10. **DC Plan Administrator** — the third party vendor appointed by the Board pursuant to a competitive bidding process. Any reference in this Plan Statement to any duties to be performed by the DC Plan Administrator shall refer to such third party vendor appointed by the Board, unless the Administrator has designated another person (including the Administrator) to perform such duties.

1.1.11. **Effective Date** — July 1, 2017.

- 1.1.12. **Employer** — the State of Arizona, each county of the State of Arizona and any incorporated city or town, or Indian tribe, that has executed a joinder agreement to adopt (1) the Public Safety Personnel Retirement System established in A.R.S. Title 38, Chapter 5, Article 4, or (2) the Corrections Officer Retirement Plan established in A.R.S. Title 38, Chapter 5, Article 6. All agencies and departments of the State of Arizona shall constitute one Employer. All agencies and departments of each county of the State of Arizona shall constitute one Employer.
- 1.1.13. **Enrollment Date** — (i) for a Participant described in Section 2.1.1.(a) or 2.1.1.(d)(ii), the date that is ninety (90) days after the date on which the individual becomes employed in Recognized Employment; (ii) for a Participant described in Section 2.1.1.(b), the date that is the later of (A) (90) days after the date on which the individual becomes employed in Recognized Employment, or (B) the first day of any pay period next following the date on which the individual has both become employed in Recognized Employment and is not covered by the federal old age and survivors insurance system; (iii) for a Participant described in Section 2.1.1. (c) hereof, the first day of any pay period next following the date on which the individual has both become employed in Recognized Employment and is not covered by the federal old age and survivors insurance system; (iv) for a Participant described in Section 2.1.1.d(i), the first day of any pay period next following the date on which the individual has become employed in Recognized Employment (v) for a Participant described in Sections 2.1.3(a) or (b), the date that the individual's lump sum distribution is deposited into his or her DROP Account or Reverse DROP Account; (vi), for a Participant described in Section 2.1.3(c), the date that the individual makes his or her initial rollover contribution to this Plan (vii) the date upon which an individual who had previously been a Participant is reemployed in Recognized Employment and thereby becomes eligible once again to be a Participant as described in Section 2.1, and (viii) such other dates as the Administrator may by uniform, nondiscriminatory rules establish from time to time for the commencement of Participation in this Plan.
- 1.1.14. **Enrollment Form** — the form completed and delivered by an individual eligible to become a Participant as provided in Section 2.2 hereof, as a condition of enrollment in the Plan for those Participants described in Section 2.1.1.(a) and 2.1.1.(d)(ii) hereof.
- 1.1.15. **Event of Maturity** — any of the occurrences described in Section 6 hereof by reason of which a Participant or Beneficiary may become entitled to a distribution from the Plan.
- 1.1.16. **Fiscal Year** — July 1 through June 30.
- 1.1.17. **Fund** — the assets of the Plan held by the Trustee from time to time, including all contributions of the Employer and the Participants and the investments and reinvestments, earnings and profits thereon, whether invested under the general investment authority of the Trustee or under the terms applicable to any subfund established pursuant to Section 4.1 hereof.

- 1.1.18. **Investment Manager** — that person other than the Trustee appointed pursuant to Section 4.1 hereof to manage all or a portion of the Fund.
- 1.1.19. **Normal Retirement Age** — the date a Participant attains age fifty-five (55) and has completed ten (10) years of Vesting Service.
- 1.1.20. **Participant** — those individuals as are identified in Sections 2.1.1 and 2.1.3. of this Plan Statement.
- 1.1.21. **Plan** — the Public Safety Personnel Defined Contribution Retirement Plan established by the Legislature of the State of Arizona in A.R.S. Title 38, Chapter 5, Article 4.1.
- 1.1.22. **Plan Statement** — this written instrument entitled the “Public Safety Personnel Defined Contribution Retirement Plan First Amendment and Restatement” as adopted by the Principal Sponsor effective as of July 1, 2017, as the same may be thereafter amended from time to time, including any appendices thereto.
- 1.1.23. **Plan Year** — the twelve (12) consecutive month period ending on any Anniversary Date.
- 1.1.24. **Principal Sponsor** — the Board.
- 1.1.25. **Recognized Compensation** —
- (a) **Included and Excluded Items.** For Participants described in Sections 2.1.1.(a), (b), and (c), Recognized Compensation includes and excludes those items described in A.R.S. § 38-842, paragraph 12, or its successor. For Participants described in Section 2.1.1.(d), Recognized Compensation includes and excludes those items described in A.R.S. § 38-881, paragraph 43, or its successor.
  - (b) **Compensation Limits.** With respect to Participants described in Section 2.1.1(a) or (b), “Recognized Compensation” shall not exceed one hundred ten thousand dollars (\$110,000.00), as adjusted by the Board from time to time pursuant to A.R.S. § 38-843.04, subsection A., subdivision (3). With respect to Participants described in Section 2.1.1.(d), “Recognized Compensation” shall not exceed seventy thousand dollars (\$70,000.00), as adjusted by the Board from time to time pursuant to A.R.S. § 38-895.01.
  - (c) **Internal Revenue Code Limits.** With respect to all Participants under the Plan, a Participant’s Recognized Compensation for a Plan Year shall not exceed the annual compensation limit under §401(a)(17) of the Code. For purposes of the foregoing, the annual compensation limit under §401(a)(17) of the Code shall be Two Hundred Seventy Thousand Dollars (\$270,000) (as adjusted under

the Code for cost of living increases) for Plan Years beginning on or after July 1, 2017.

1.1.26. **Recognized Employment** — all employment with an Employer, excluding, however:

- (a) employment of a nonresident alien;
- (b) employment by a United States citizen outside the United States unless such citizen is formally designated (individually or by classification) by the Legislature of the State of Arizona as eligible for participation in this Plan;
- (c) services of a person who is not a common law employee of an Employer including, without limiting the generality of the foregoing, services of a leased employee as defined in Code §414(n), leased owner, or leased manager, shared employee, shared leased employee or other similar classification;

An Employer's determination with respect to whether a person is in Recognized Employment shall be conclusive for the purpose of the foregoing rules. No reclassification of a person's status with an Employer, for any reason, without regard to whether it is initiated by a court, governmental agency or otherwise and without regard to whether an Employer agrees to such reclassification for any other purpose, shall result in the person being treated as if in Recognized Employment, either retroactively or prospectively. Notwithstanding anything to the contrary in this provision, however, the Administrator may declare that a reclassified person will be treated as if in Recognized Employment, either retroactively or prospectively. Any uncertainty concerning a person's classification shall be resolved by excluding the person from Recognized Employment.

1.1.27. **Section** — all "Section" references, except references to "Section 415 Compensation," refer to Sections of this Plan Statement.

1.1.28. **System** — the Public Safety Personnel Retirement System established by the Legislature of the State of Arizona in A.R.S. Title 38, Chapter 5, Article 4.

1.1.29. **Trustee** — the person selected by the Principal Sponsor to serve as Trustee under the Public Safety Personnel Defined Contribution Retirement Plan Trust Agreement (the "Trust Agreement"), and its successor or successors in trust. Where the context requires, Trustee shall also mean and refer to any one or more co-trustees serving hereunder. The Principal Sponsor and the Trustee shall enter into a Trust Agreement governing the Trustee's obligations thereunder. To the extent that there is any conflict between this Plan Statement and the Trust Agreement, the terms of this Plan Statement shall control.

1.1.30. **Valuation Date** — each business day and such other dates as the Administrator may from time to time determine.

1.1.31. **Vested** — nonforfeitable, i.e., a claim obtained by a Participant or a Participant's Beneficiary to that part of an immediate or deferred benefit hereunder which arises from the Participant's service, which is unconditional and which is legally enforceable against the Plan.

1.1.32. **Vesting Service** — a measure of a Participant's number of years of vesting service, determined pursuant to the following rules:

(a) **Credit.** A Participant will receive credit for Vesting Service for a pay period of an Employer in which the Participant performs any service for the Employer.

(b) **Completion.** A year of Vesting Service shall be credited for each twelve (12) months for which a Participant receives credit for Vesting Service. For this purpose, fractional years of Vesting Service shall be aggregated but shall not constitute a year of Vesting Service until the aggregated periods equal a full twelve (12) months.

(c) **Pre-Effective Date Service.** Vesting Service shall be credited for periods of employment by a Participant earned prior to the Effective Date of this Plan.

1.2. **Rules of Interpretation.** An individual shall be considered to have attained a given age on the Participant's birthday for that age (and not on the day before). The birthday of any individual born on a February 29 shall be deemed to be February 28 in any year that is not a leap year. Whenever appropriate, words used herein in the singular may be read in the plural, or words used herein in the plural may be read in the singular; the masculine may include the feminine; and the words "hereof," "herein" or "hereunder" or other similar compounds of the word "here" shall mean and refer to the entire Plan Statement and not to any particular paragraph or Section of this Plan Statement unless the context clearly indicates to the contrary. The titles given to the various Sections of this Plan Statement are inserted for convenience of reference only and are not part of this Plan Statement, and they shall not be considered in determining the purpose, meaning or intent of any provision hereof. Any reference in this Plan Statement to a statute or regulation shall be considered also to mean and refer to any subsequent amendment or replacement of that statute or regulation. This instrument has been executed and delivered in the State of Arizona and has been drawn in conformity to the laws of that State and shall, except to the extent that federal law is controlling, be construed and enforced in accordance with the laws of the State of Arizona. The Plan is intended to be a governmental plan as described in §414(d) of the Code and is intended to be qualified under §401(a) of the Code, and it is intended that the Plan is exempt from taxation under §501(a) of the Code.

## SECTION 2

### ELIGIBILITY AND PARTICIPATION

#### 2.1. Eligibility.

2.1.1. **General Eligibility Rule.** The individuals eligible to participate in this Plan shall be all “Participants,” as that term is defined in A.R.S. § 38-865, paragraph 7, and A.R.S. § 38-865.01, or their successors, as amended from time to time. As of the Effective Date, as provided in the statutes referenced in the preceding sentence, the term “Participant” includes all of the following:

- (a) A “member” as defined in A.R.S. 38-842, paragraph 31, subdivision (a), excluding item (vi) thereof, who is hired by an Employer on or after July 1, 2017, who makes the irrevocable election (as described in Section 2.1.2.(a) below) to participate solely in this Plan and who was not an active, an inactive, or retired member of the System or a member of the System with a disability on June 30, 2017;
- (b) A “member” as defined in A.R.S. 38-842, paragraph 31, subdivision (a), excluding item (vi) thereof, who is hired by an Employer on or after July 1, 2017, who is not covered by the federal old age and survivors insurance system and who:
  - (i) makes the irrevocable election (as described in Section 2.1.2. below) to participate in the System; or
  - (ii) is enrolled in the System pursuant to Arizona Revised States § 38-842.01, subsection A.
- (c) A “member” as defined in A.R.S. 38-842, paragraph 31, subdivision (a), excluding item (vi) thereof, who is hired by an Employer on or after January 1, 2012, and before July 1, 2017, who is not covered by the federal old age and survivors insurance system and who is a member of the System.
- (d) A “member” as defined in A.R.S. § 38-881, paragraph 27, subdivisions (a) and (b), who is one of the following:
  - (i) An employee who is hired on or after July 1, 2018, who is not employed in a “designated position” as defined in A.R.S. § 38-881, paragraph 13, subdivision (g), and who was not an active, an inactive, or a retired member of the Corrections Officer Retirement Plan or a member of the Corrections Officer Retirement Plan with a disability on June 30, 2018.
  - (ii) An employee who is hired on or after July 1, 2018, who is employed in a “designated position” as defined in A.R.S. § 38-

881, paragraph 13, subdivision (g), who makes the irrevocable election (as described in Section 2.1.2(b) below) pursuant to A.R.S. § 38-881.01 to participate solely in this Plan and who was not an active, an inactive or a retired member of the Corrections Officer Retirement Plan or a member of the Corrections Officer Retirement Plan with a disability on June 30, 2018.

With respect to a Participant defined in Section 2.1.1.(d)(i) above, if such Participant subsequently becomes employed in a “designated position” as defined in A.R.S. § 38-881, paragraph 13, subdivision (g), such Participant may not make an irrevocable election as described in Section 2.1.2.(b) below to participate solely in the Corrections Officer Retirement Plan, and must instead continue to participate solely in this Plan.

#### **2.1.2. Irrevocable Election.**

(a) An employee described in Section 2.1.1.(a) will only become eligible to participate in this Plan if he or she irrevocably elects, before his or her ninetieth (90<sup>th</sup>) day of employment, to participate solely in this Plan and not in the System. Once made, the election is irrevocable and will be the Participant’s election for the remainder of his or her employment with any Employer, regardless of whether the employee’s employment is continuous. If no such election is made before the ninetieth (90<sup>th</sup>) day of employment, then the Participant shall automatically be enrolled in the System for the remainder of his or her employment with an Employer under the System, and shall not be a participant in this Plan, unless such employee is also described in Section 2.1.1.(b). Notwithstanding the foregoing, if an employee, in the employee’s first ninety (90) days of employment with an Employer, is determined to be eligible for an accidental or catastrophic disability pension pursuant to A.R.S. § 38-844 the employee shall automatically be enrolled in the System for the remainder of the employee’s employment with any Employer commencing on the employee’s date of disability, and the employee shall not have the option to elect to participate in this Plan. Furthermore, if an employee in the employee’s first ninety (90) days of employment is killed in the line of duty or dies from injuries suffered in the line of duty, the employee shall be considered as having enrolled in the System and the surviving spouse of the deceased employee is eligible for survivor benefits as prescribed in the System.

(b) An employee described in Section 2.1.1.(d)(ii) will only become eligible to participate in this Plan if he or she irrevocably elects, before his or her ninetieth (90<sup>th</sup>) day of employment, to participate solely in this Plan and not in the Corrections Officer Retirement Plan. Once made, the election is irrevocable and will be the Participant’s election for the remainder of his or her employment with any Employer, regardless of whether the employee’s employment is continuous. If no such election is made before the ninetieth (90<sup>th</sup>) day of employment, then the Participant shall automatically be enrolled in the

Corrections Officer Retirement Plan for the remainder of his or her employment with an Employer under the Corrections Officer Retirement Plan, and shall not be a participant in this Plan. Notwithstanding the foregoing, if an employee described in Section 2.1.1.(d)(ii), in the employee's first ninety (90) days of employment with an Employer, is determined to be eligible for an accidental disability pension pursuant to A.R.S. § 38-886, the employee shall automatically be enrolled in the Corrections Officer Retirement Plan for the remainder of the employee's employment with any Employer commencing on the employee's date of disability, and the employee shall not have the option to elect to participate in this Plan.

- (c) An employee described under Sections 2.1.1.(b), 2.1.1.(c), 2.1.1.(d)(i), or 2.1.3. shall be automatically enrolled in this Plan and shall not be required to make an election to participate in this Plan.

**2.1.3. Special Eligibility Rule.**

- (a) Only with respect to a DROP Account established pursuant to A.R.S. § 38-844.02, as described in Section 14.1 of this Plan, the term "Participant" also includes a member of the System as defined in A.R.S. § 38-842, paragraph 31, excluding subdivision (a), item (vi), who is hired before January 1, 2012 and has elected to enter the deferred retirement option plan established in A.R.S. § 38-844.02.
- (b) Only with respect to a Reverse DROP Account established pursuant to A.R.S. § 38-885.01, as described in Section 14.2 of this Plan, the term "Participant" also includes a member of the Corrections Officer Retirement Plan who has elected to enter the reverse deferred retirement option plan established in A.R.S. § 38-885.01.
- (c) Only with respect to a Rollover Contribution Account, the term "Participant" also includes (i) a current member of the System or the Corrections Officer Retirement Plan who has made a rollover contribution to this Plan as provided in Section 3.4.2. of this Plan, and (ii) an individual currently receiving or entitled to receive a pension from the System or the Corrections Officer Retirement Plan who has made a rollover contribution to this Plan as provided in Section 3.4.2 of this Plan.

- 2.2. **Enrollment.** Each individual who is or will become eligible to become a Participant as provided in Sections 2.1.1(a) and 2.1.1.(d)(ii) shall enroll in the Plan by completing an Enrollment Form. Such Enrollment Form shall be delivered to the DC Plan Administrator at such time prior to the Enrollment Date as the DC Plan Administrator shall prescribe from time to time. Each individual who becomes a Participant as provided in Sections 2.1.1(b), 2.1.1.(c), 2.1.1.(d)(i), or 2.1.3 shall be automatically enrolled in the Plan and shall not have to complete an Enrollment Form.

- 2.3. **Opt-Out for Certain Participants.** Pursuant to A.R.S. § 38-868.A., a Participant as defined in A.R.S. § 38-865.01 may make an irrevocable election to opt out of this Plan, which shall be the Participant's election for the remainder of the Participant's employment with any Employer under the System.
- 2.4. **Tax Treatment of Participant Contributions.**
- 2.4.1. **Contributions are Picked Up.** Although designated as Participant contributions, all Participant contributions made to the Plan shall be picked up and paid by an Employer in lieu of contributions made by the Participant. The contributions picked up by an Employer may be made through a reduction in the Participant's salary or as an offset against future salary increases, or a combination of both. A Participant does not have the option of choosing to receive the contribution amounts directly instead of an Employer paying amounts to the Plan.
- 2.4.2. **Contributions are Treated Under Internal Revenue Code §414(h).** It is intended that all Participant contributions that are picked up by an Employer in this subsection shall be treated as Employer contributions under §414(h) of the Code, shall be excluded from the gross income of the Participant for federal and state income tax purposes and are includable in the gross income of the Participants or their beneficiaries only in the taxable year in which they are distributed.
- 2.5. **Other Data to be Furnished by Participants.** Each Participant shall execute and deliver to the Administrator or DC Plan Administrator from time to time such other and additional written instruments giving such information as the Administrator or DC Plan Administrator may reasonably require for the appropriate administration of the Plan.

## SECTION 3

### CONTRIBUTIONS AND ALLOCATION OF CONTRIBUTIONS

#### 3.1. Employer Contributions.

3.1.1. **Source of Employer Contributions.** All Employer contributions to the Plan may be made without regard to profits.

#### 3.1.2. Retirement Savings Contributions.

- (a) For Participants described under Section 2.1.1.(a), for each payroll period, the Employer shall contribute to the Trustee for deposit in the Fund the reduction in each Participant's Recognized Compensation equal to nine percent (9%) of the Recognized Compensation earned by each Participant during such payroll period, or other amount required by A.R.S. § 38-867, subsection A., subdivision (2).
- (b) For Participants described under Section 2.1.1.(b), except as otherwise provided in Section 3.1.3.(d) for each payroll period, the Employer shall contribute to the Trustee for deposit in the Fund the reduction in each Participant's Recognized Compensation equal to three percent (3%) of the Recognized Compensation earned by each Participant during such preceding payroll period, or other amount required by A.R.S. § 38-867, subsection A., subdivision (1).
- (c) For participants described under Section 2.1.1.(c), for each payroll period, the Employer shall contribute to the Trustee for deposit in the Fund the reduction in each Participant's Recognized Compensation equal to three percent (3%) of the Recognized Compensation earned by each Participant during such preceding payroll period, or other amount required by A.R.S. § 38-868.
- (d) For participants described under Section 2.1.1.(d), for each payroll period, the Employer shall contribute to the Trustee for deposit in the Fund the reduction in each Participant's Recognized Compensation equal to seven percent (7%) of the Recognized Compensation earned by each Participant during such preceding payroll period, or other amount required by A.R.S. § 38-867, subsection A., subdivision (3).

#### 3.1.3. Employer Contributions.

- (a) For Participants described under Section 2.1.1.(a), for each payroll period, the Employer shall contribute to the Trustee for deposit in the Fund the Employer Contribution equal to nine percent (9%) of each Participant's Recognized Compensation earned by each Participant during such preceding payroll period, or other amount required by A.R.S. § 38-867, subsection D., subdivision (2).
- (b) For Participants described under Section 2.1.1.(b), for each payroll period, the Employer shall contribute to the Trustee for deposit in the Fund the Employer

Contribution equal to three percent (3%) of each Participant's Recognized Compensation earned by each Participant during such preceding payroll period, or other amount required by A.R.S. § 38-867, subsection D., subdivision (1).

- (c) For Participants described under Section 2.1.1.(c), for each payroll period, the Employer shall contribute to the Trustee for deposit in the Fund the Employer Contribution equal to the following percentages of each Participant's Recognized Compensation earned by each Participant during such preceding payroll period, or other amount required by A.R.S. § 38-868, subsection C.
  - (i) For a Participant that was first employed by an Employer in calendar year 2012, for Fiscal Years 2017-2018 through 2023-2024, four percent (4%) and three percent (3%) for each Fiscal Year thereafter.
  - (ii) For a Participant that was first employed by an Employer in calendar year 2013, for Fiscal Years 2017-2018 through 2022-2023, four percent (4%) and three percent (3%) for each Fiscal Year thereafter.
  - (iii) For a Participant that was first employed by an Employer in calendar year 2014, for Fiscal Years 2017-2018 through 2021-2022, four percent (4%) and three percent (3%) for each Fiscal Year thereafter.
  - (iv) For a Participant that was first employed by an Employer in calendar year 2015, for Fiscal Years 2017-2018 through 2020-2021, four percent (4%) and three percent (3%) for each Fiscal Year thereafter.
  - (v) For a Participant that was first employed by an Employer in calendar year 2016, for Fiscal Years 2017-2018 through 2019-2020, four percent (4%) and three percent (3%) for each Fiscal Year thereafter.
  - (vi) For a participant that is first employed by an Employer on or after January 1, 2017 and before July 1, 2017, for Fiscal Year 2017-2018, four percent (4%) and three percent (3%) for each Fiscal Year thereafter.
- (d) For Participants described under 2.1.1(d), for each payroll period, the Employer shall contribute to the Trustee for deposit in the Fund the Employer Contribution equal to five percent (5%) of each Participant's Recognized Compensation earned by each Participant during such preceding payroll period, or other amount required by A.R.S. § 38-867, subsection D., subdivision (3).

#### 3.1.4. **Special Contributions Rules for Certain Participants.**

- (a) Pursuant to A.R.S. § 38-867, subsection B., a Participant as defined under Sections 2.1.1.(a), (b), or (d) may make a one-time irrevocable election, before the Participant is eligible to participate in any retirement plan of the Employer that is qualified under §401(a) of the Code, to contribute more than the percentage of the participant's Recognized Compensation specified in Section 3.1.2.(a) (b), or (d), as the case may be, up to the amount allowable under §415(c) of the Code, which shall be the Participant's contribution rate for the remainder of the Participant's employment with any Employer.
- (b) Pursuant to A.R.S. § 38-867, subsection B., a Participant as defined under Section 2.1.1.(d) may make a one-time irrevocable election, before the Participant is eligible to participate in any retirement plan of the Employer that is qualified under §401(a) of the Code, to contribute less than the percentage of the Participant's Recognized Compensation specified in Section 3.1.2(d), but may not elect to contribute less than five percent (5%) of the Participant's Recognized Compensation, which shall be the Participant's contribution rate for the remainder of the Participant's employment with any Employer.
- (c) For Participants described under Section 2.1.1(c), an Employer may choose to pay a portion of the Participant's contributions under Section 3.1.2(c) in an amount of not more than the difference between: (i) the contribution rate specified under A.R.S. § 38-843 for employees hired on or after January 1, 2012 and before July 1, 2017 and (ii) the contribution rate specified under A.R.S. § 38-843 for employees hired before January 1, 2012.
- (d) If a Participant as defined under Section 2.1.1.(b) or Section 2.1.1.(c) becomes subsequently covered by the federal old age and survivors insurance system, the Participant's Employer shall not make any Retirement Savings Contributions to the Plan on behalf of the Participant (as described in Section 3.1.2.), or any Employer Contributions to the Plan on behalf of the Participant (as described in Section 3.1.3), during the time that he or she is covered by the federal old age and survivors insurance system. If at any later time the Participant is not covered by the federal old age and survivors insurance system, the Participant's Employer shall again be required to contribute Retirement Savings Contributions and Employer Contributions to this Plan on behalf of the Participant, and, if the Participant made an irrevocable election to contribute more of the Participant's Recognized Compensation to the Plan than the amount specified in Section 3.1.2, as provided in A.R.S. § 38-867, subsection B., such contributions shall be reestablished for the period the Participant is not covered by the federal old age and survivors insurance system.

3.1.5. **Limitation.** Contributions to this Plan shall be limited by §415 of the Code as applied to the Plan by Appendix A.

3.1.6. **Form and Timing of Payment.** The appropriate contribution of the Employer to the Plan, determined as herein provided, shall be paid to the Trustee within twenty (20) working days following the last day of each payroll period and may be paid either in cash or other assets of any character of a value equal to the amount of the contribution or in any combination of the foregoing ways.

3.2. **Allocation of Employer Contributions.**

3.2.1. **Retirement Savings Contributions.** Employer contributions made pursuant to Section 3.1.2 shall be allocated to the Retirement Savings Contribution Account of the Participant for whom (or with respect to whom) the contribution is made.

3.2.2. **Employer Contributions.** The Employer contribution that is made with respect to a Participant shall be allocated to that Participant's Employer Contribution Account when such contribution is made to the Plan. Such amounts shall be allocated to the Participant's Employer Contribution Account for the Plan Year with respect to which they are made and, for the purposes of Section 4, shall be credited as soon as practicable after being received by the Trustee.

3.3. **Adjustments.**

3.3.1. **Make-Up Contributions for Omitted Participants.** If, after the Employer's contributions for a Plan Year have been made and allocated, it should appear that, through oversight or a mistake of fact or law, a Participant (or an individual who should have been considered a Participant) who should have been entitled to share in such contribution received no allocation or received an allocation which was less than such Participant should have received, the Employer shall make a special make-up contribution for the Account of such Participant in an amount adequate to provide for the Participant the same addition to the Participant's Account for such Plan Year as such Participant should have received.

3.3.2. **Mistaken Contributions.** If, after the Employer's contributions for a Plan Year have been made and allocated, it should appear that, through oversight or a mistake of fact or law, a Participant (or an individual who was not a Participant) received an allocation which was more than the Participant should have received, the Employer may direct that the mistaken contribution, adjusted for its pro rata share of any net loss or net gain in the value of the Fund which accrued while such mistaken contribution was held therein, shall be withdrawn from the Account of such individual and retained in the Fund and used to reduce the amount of the next succeeding contribution of the Employer to the Fund due after the determination that such mistaken contribution had occurred.

3.4. **Rollover Contributions.**

3.4.1. **Contingent Provision.** The provisions of this Section 3.4.1. shall not be implemented unless and until the Administrator shall so determine in his discretion, and, upon being implemented, shall be subject to such conditions and limitations as the Administrator may prescribe from time to time for administrative

convenience and to preserve the tax-qualified status of this Plan, including the power to suspend the provisions of this Section so as to prevent the receipt of any rollover contributions following the date of suspension.

3.4.2. **Eligible Contributions.** An individual described below in this Section 3.4.2. may contribute to this Plan (and thus become a Participant in this Plan as defined in Section 2.1.3(c) if he or she was not already a Participant in this Plan), within such time and in such form and manner as may be prescribed by the Administrator in accordance with those provisions of federal law relating to rollover contributions, cash (or the cash proceeds from any property) received by such individual in a distribution from a qualified plan or IRA. An individual who makes a rollover contribution to this Plan who is not a Participant in this Plan as defined in Sections 2.1.1.(a), (b), (c), or (d) shall not be treated as a Participant in this Plan with respect to other contribution sources under this Plan, and shall be considered a Participant with respect to his or her Rollover Contribution Account only; provided, however, that if such individual also has a DROP Account or a Reverse DROP Account under this Plan, such individual will also be considered a Participant with respect to such DROP Account or Reverse DROP Account. For rollover purposes, a “qualified plan” is a tax-qualified retirement plan described in §§401(a) or 403(a) of the Code, an annuity contract described in §403(b) of the Code, or an eligible plan under §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. An “IRA” is an individual retirement account or an individual retirement annuity described in §§408(a) or 408(b) of the Code. The following individuals may make rollover contributions described in this Section 3.4.2.:

- (a) a Participant in this Plan as defined in Sections 2.1.1.(a), (b), (c), or (d) who is currently employed with an Employer or who currently has an account balance in an Annuity Account or a Separate Rollover Account under this Plan;
- (b) a Participant in this Plan described in Section 2.1.3(a) or 2.1.3(b);
- (c) an individual who is currently a member of the System or the Corrections Officer Retirement Plan; and
- (d) an individual currently receiving or entitled to receive a pension from the System or the Corrections Officer Retirement Plan.

3.4.3. **Specific Review.** The DC Plan Administrator shall have the right to reject or return any such rollover contribution if, in its opinion, the acceptance thereof might jeopardize the tax-qualified status of this Plan or unduly complicate its administration, but the acceptance of any such rollover contribution shall not be regarded as an opinion or guarantee on the part of the Employer, the Trustee, the Administrator, the DC Plan Administrator or the Plan as to the tax consequences which may result to the contributing Participant thereby.

- 3.4.4. **Allocation.** All rollover contributions made by a Participant to this Plan shall be allocated to a Rollover Contribution Account established for such Participant. The amount so allocated to a Participant shall be credited to such Participant's Rollover Contribution Account as of the Valuation Date coincident with or next following the date as of which such contribution is received by the Trustee. If the Administrator permits the direct rollover of any amounts attributable to after-tax contributions, the Plan will accept such contributions only if the Plan will separately account for amounts so transferred, including separately accounting for the portion of such distribution that is includible in gross income and the portion of such distribution that is not so includible.
- 3.4.5. **Distribution.** Notwithstanding anything to the contrary contained in this Plan (specifically, without limitation, Section 7.8 prohibiting in-service distributions), an individual who has any amount allocated to his or her Rollover Contribution Account may withdraw at any time, upon written request, all or any portion of his or her balance in the Rollover Contribution Account, determined as of the Valuation Date immediately preceding such written request.
- 3.5. **Compliance with Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA").** Effective for veterans rehired on or after December 12, 1994, and notwithstanding any provision of the Plan Statement to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with §414(u) of the Code.

## SECTION 4

### INVESTMENT AND ADJUSTMENT OF ACCOUNTS

#### 4.1. **Establishment of Subfunds.**

4.1.1. **Establishing Commingled Subfunds.** At the direction of the Principal Sponsor, the Trustee shall divide the Fund into two (2) or more subfunds, which shall serve as vehicles for the investment of Participants' Accounts and which shall be managed either by the Trustee or by one or more Investment Managers, as the Principal Sponsor shall determine. The Principal Sponsor shall determine, with the advice of the Trustee or such Investment Manager or Managers, the general investment characteristics and objectives of each subfund. The Trustee or Investment Manager, as the case may be, shall have complete investment discretion over each subfund assigned to it, subject only to the general investment characteristics and objectives established for the particular subfund.

4.1.2. **Operational Policies and Procedures.** The Principal Sponsor, from time to time, shall adopt policies and procedures providing the circumstances under which a particular subfund may be elected, or shall be automatically utilized, the minimum or maximum amount or percentage of an Account which may be invested in a particular subfund, the procedures for making or changing investment elections and the effect of a Participant's or Beneficiary's failure to make an effective election with respect to all or any portion of an Account.

4.1.3. **Revising Subfunds.** The Principal Sponsor shall have the power, from time to time, to dissolve subfunds, to direct that additional subfunds be established, to change Investment Managers for any one or more of the subfunds, and, under uniform rules, to withdraw or limit participation in a particular subfund. The Principal Sponsor shall also have the power to direct the Trustee to consolidate any separate subfunds hereunder with any other separate subfunds having the same investment objectives which are established under any other retirement plan trust fund of the Employer or any corporation affiliated in ownership or management with the Employer of which the Trustee is trustee and which are managed by the Trustee or the same Investment Manager.

4.2. **Valuation and Adjustment of Accounts.** Except as may otherwise be agreed upon by the Principal Sponsor and Trustee, the Trustee shall value each subfund, or if no subfunds are created, the entire Fund, as of each Valuation Date, which valuation shall reflect, as nearly as possible, the then fair market value of the assets comprising such subfund or the entire fund, as the case may be (including income accumulations therein). In making such valuations the Trustee may rely upon information supplied by any Investment Manager having investment responsibility over the particular subfund or the entire fund, as the case may be. As of each Valuation Date (the "current Valuation Date"), the value of each Account or portion of an Account invested in a particular subfund or the entire Fund, as the case may be, (including undistributed Vested Total Accounts) determined as of the last

preceding Valuation Date (the “initial Account value”) shall be increased (or decreased) by the following adjustments made in the following sequence:

(a) **Intermediate Distributions Adjustment.** The initial Account value shall be reduced by the total amount:

- (i) distributed in fact to (or with respect to) the Participant from such Account; and
- (ii) transferred from such Account to another Account of that Participant (or any other Participant) within this Plan (including amounts transferred to other subfunds) or to the trustee of another plan pursuant to an arrangement contemplated under Section 9.3; and
- (iii) paid as expenses incurred by the Plan which were charged specifically against that Account (as distinguished as being a general charge against the assets of the Fund),

as of a date subsequent to the last preceding Valuation Date but prior to the current Valuation Date.

(b) **Investment Adjustment.** The initial Account value (as adjusted above) shall be increased (or decreased) for its proportionate share of:

- (i) all the realized and unrealized gains and losses on the assets of the Fund; and
- (ii) all the income earned by the Fund; and
- (iii) all the expenses incurred by the Plan and paid generally from the Fund (rather than charged specifically against a particular Account),

as of a date subsequent to the last preceding Valuation Date but not later than the current Valuation Date.

(c) **Contribution Adjustment.** The initial Account value (as adjusted above) shall be increased by the total amount:

- (i) contributed to and allocated to such Account under Section 3; and
- (ii) transferred into such Account from another Account of that Participant (or any other Participant) within this Plan (including amounts transferred from other subfunds), or from the trustee of another plan pursuant to an arrangement contemplated under Section 9.3,

as of a date subsequent to the last preceding Valuation Date but not later than the current Valuation Date.

(d) **Final Distributions Adjustment.** The initial Account value (as adjusted above) shall be reduced by the total amount:

- (i) distributed in fact to (or with respect to) the Participant from such Account; and
- (ii) transferred from such Account to another Account of that Participant (or any other Participant) within this Plan (including amounts transferred to other subfunds), or to the trustee of another plan pursuant to an arrangement contemplated under Section 9.3; and

paid as expenses incurred by the Plan which were charged specifically against that Account (as distinguished as being a general charge against the assets of the Fund), as of the current Valuation Date.

4.3. **Management and Investment of Fund.** The Fund in the hands of the Trustee, together with all additional contributions made thereto and together with all net income thereof, shall be controlled, managed, invested, reinvested and ultimately paid and distributed to Participants and Beneficiaries by the Trustee with all the powers, rights and discretions generally possessed by trustees, and with all the additional powers, rights and discretions conferred upon the Trustee under this Plan Statement. Except to the extent that the Trustee is subject to the authorized and properly given investment directions of a Participant, Beneficiary or Investment Manager, and subject to the directions of the Administrator with respect to the payment of benefits hereunder, the Trustee shall have the exclusive authority to manage and control the assets of the Fund in their custody and shall not be subject to the direction of any person in the discharge of its duties, nor shall its authority be subject to delegation or modification except by formal amendment of this Plan Statement.

4.4. **Participant Direction of Investment.** A Participant's direction of the investment of his Accounts is subject to the provisions of this Section 4.4. For purposes of this Section 4.4, a Participant shall also include a Beneficiary and an Alternate Payee (as defined in Appendix B) where the Beneficiary or Alternate Payee has succeeded to the Participant's Accounts. Until changed in writing by the Principal Sponsor, all Participants shall direct the investment and reinvestment of their Accounts.

4.4.1. **Direction Procedures.** The DC Plan Administrator shall establish written procedures relating to Participant direction of investment under this Section 4.4, including procedures or conditions for electronic transfer or for changes in investments by Participants. The DC Plan Administrator shall maintain appropriate individual investment Accounts to the extent that a Participant's Accounts are subject to Participant self-direction.

4.4.2. **No Liability.** The Principal Sponsor, Trustee and DC Plan Administrator and their respective officers, directors and employees are not liable for any loss or for any breach resulting from a Participant's direction of the investment of any part of his directed Accounts.

4.4.3. **No Investment in Collectibles.** No part of a Participant's directed Accounts shall be invested in collectibles (as defined by §408(m) of the Code).

## SECTION 5

### VESTING

#### 5.1. Employer Contribution Account.

##### 5.1.1. Progressive Vesting.

- (a) Pursuant to A.R.S. § 38-867, subsection I., the Employer Contribution Accounts attributable to contributions made pursuant to Sections 3.1.3.(a), (b), and (c) with respect to Participants as defined in Sections 2.1.1(a), (b), and (c), shall become vested according to the following schedule:

<b>When the Participant Has Completed the Following Years Of Vesting Service:</b>	<b>The Vested Portion of the Participant's Employer Contribution Account Will Be:</b>
Less than One (1)	0%
One (1) or More but Less than Two (2)	10%
Two (2) or More but Less than Three (3)	20%
Three (3) or More but Less than Four (4)	30%
Four (4) or More but Less than Five (5)	40%
Five (5) or More but Less than Six (6)	50%
Six (6) or More but Less than Seven (7)	60%
Seven (7) or More but Less than Eight (8)	70%
Eight (8) or More but Less than Nine (9)	80%
Nine (9) or More but Less than Ten (10)	90%
Ten (10) or More	100%

- (b) Pursuant to A.R.S. § 38-867, subsection J., the Employer Contribution Accounts attributable to contributions made pursuant to Section 3.1.3.(d) with respect to Participants as defined in Section 2.1.1.(d) shall become vested according to the following schedule:

<b>When the Participant Has Completed the Following Years Of Vesting Service:</b>	<b>The Vested Portion of the Participant's Employer Contribution Account Will Be:</b>
Less than One (1)	0%
One (1) or More but Less than Two (2)	25%
Two (2) or More but Less than Three (3)	50%
Three (3) or More	100%

5.1.2. **Full Vesting.** Notwithstanding any provisions for progressive vesting set forth in Section 5.1.1, the entire Employer Contribution Account of each Participant shall be fully Vested upon the earliest occurrence of any of the following events while in the employment of an Employer:

- (a) such Participant's death;
- (b) such Participant's disability, which shall be determined as follows:
  - (i) A Participant defined in Sections 2.1.1(a), (b), or (c), shall be considered disabled for purposes of this Section 5.1.2. if he or she is determined to be eligible for an accidental or catastrophic disability pension pursuant to A.R.S. § 38-844; and
  - (ii) A Participant defined in Section 2.1.1.(d) shall be considered disabled for purposes of this Section 5.1.2. if he or she is determined to be eligible for an accidental or total and permanent disability pension pursuant to A.R.S. § 38-886.
- (c) such Participant's attainment of Normal Retirement Age;
- (d) a complete termination or partial termination of the Plan, or a complete discontinuance of contributions to the Plan, pursuant to Section 9.2.

If a Participant who does not currently perform services for an Employer for reason of "qualified military service" as defined in §414(u) of the Code dies after December 31, 2006 while performing such qualified military service, the entire Employer Contribution Account (if any) of such Participant shall be fully Vested.

A Participant who is not in the employment of an Employer upon a complete termination of the Plan pursuant to Section 9.2, shall be fully Vested unless, on the date of such termination or discontinuance, one of the following events has occurred:

- (i) the Event of Maturity of a Participant who does not have any Vested interest in the Participant's Total Account;
- (ii) the distribution after an Event of Maturity, to (or with respect to) a Participant of the entire Vested portion of the Total Account of the Participant; or

(iii) the death of the Participant at a time and under circumstances which do not entitle the Participant to be fully (100%) Vested in the Participant's Total Account.

5.2. **Other Accounts.** The Retirement Savings Contribution Account, Rollover Contribution Account, DROP Account, Reverse DROP Account, and Transfer Account of each Participant shall be fully Vested at all times.

**SECTION 6**  
**MATURITY**

6.1. **Events of Maturity.** A Participant's Total Account shall mature and shall become distributable upon the earliest occurrence of any of the following events:

- (a) the Participant's death;
- (b) the Participant's termination from employment, whether voluntary or involuntary; or
- (c) termination of the Plan without the establishment or maintenance of another defined contribution plan;

provided, however, that a transfer from Recognized Employment to employment with the Employer that is other than Recognized Employment or a transfer from the employment of one Employer participating in the Plan to another such Employer shall not constitute an Event of Maturity.

6.2. **Determination of Matured Benefit.** Upon the occurrence of a Participant's Event of Maturity, the value of the Participant's Total Account shall be determined as of the Valuation Date coincident with or next following the Event of Maturity.

6.3. **Disposition of Non-Vested Portion of Account.** Upon the occurrence of a Participant's Event of Maturity, if any portion of the Participant's Employer Contribution Account is not vested in the Participant, such portion shall be immediately forfeited. Such forfeited amount shall be held by the Trustee in a suspense account and used to pay the costs of administration of the Plan.

**SECTION 7**  
**DISTRIBUTION**

**7.1. Application for Distribution.**

7.1.1. **Application Required.** No distribution shall be made from the Plan until the DC Plan Administrator has received a written application for distribution from the Participant or the Beneficiary entitled to receive distribution (the “Distributee”). The DC Plan Administrator may prescribe the form of such application, the manner of filing such application and the information required to be furnished in connection with such application.

7.1.2. **Notices.** The DC Plan Administrator will issue such notices as may be required under §402(f) and other sections of the Code in connection with distributions from the Plan. No distribution will be made unless it is consistent with such notice requirements.

7.1.3. **Direct Rollover.** A Distributee who is eligible to elect a direct rollover may elect, at the time and in the manner prescribed by the DC Plan Administrator, to have all or any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the Distributee in a direct rollover. A Distributee who is eligible to elect a direct rollover includes only a Participant, a Beneficiary who is the surviving spouse of a Participant and a Participant’s spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Appendix B.

(a) **Eligible rollover distribution** means any distribution of all or any portion of a Total Account to a Distributee who is eligible to elect a direct rollover except (i) any distribution that is one of a series of substantially equal installments payable not less frequently than annually over the life expectancy of such Distributee or the joint and last survivor life expectancy of such Distributee and such Distributee’s designated Beneficiary, (ii) any distribution that is one of a series of substantially equal installments payable not less frequently than annually over a specified period of ten (10) years or more, (iii) any distribution to the extent such distribution is required under §401(a)(9) of the Code, and (iv) any distribution which is made upon hardship of the Participant.

(b) **Eligible retirement plan** means (i) an individual retirement account described in §408(a) of the Code, (ii) an individual retirement annuity described in §408(b) of the Code (other than an endowment contract), (iii) effective January 1, 2008, a Roth IRA described in §408A of the Code, (iv) an annuity plan described in §403(a) of the Code, (v) an eligible deferred compensation plan described in §457(b) of the Code, which is maintained by an eligible employer described in §457(e)(1)(A) of the Code, (vi) an annuity plan described in §403(b) of the Code, or (vii) a qualified trust described in §401(a) of the Code that accepts the eligible rollover distribution.

(c) **Direct rollover** means the payment of an eligible rollover distribution by the Plan to the eligible retirement plan specified by the Distributee who is eligible to elect a direct rollover.

(d) **Modification of definition of eligible rollover distribution to include after-tax employee contributions.** For purposes of the direct rollover provisions in the Plan, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in §§408(a) or (b) of the Code, a qualified plan described in §401(a) of the Code, or an annuity plan described in §403(b) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution that is includible in gross income and the portion of such distribution that is not so includible.

7.1.4. **Trustee-to-Trustee Transfer by Non-Spouse Beneficiary.** An individual who is eligible to make a trustee-to-trustee transfer under this Section 7.1.4 may elect, at the time and in the manner prescribed by the DC Plan Administrator, to have all or any portion of a distribution from this Plan made with respect to a deceased Participant (other than any distribution to the extent such distribution is required under §401(a)(9) of the Code) transferred directly to: (a) an individual retirement account described in §408(a) of the Code, or (b) an individual retirement annuity described in §408(b) of the Code. An individual who is eligible to make a trustee-to-trustee transfer under this Section 7.1.4 is any individual who is not the surviving spouse of the deceased Participant and is designated as a Beneficiary pursuant to Section 7.5 and as defined in Section 5.1 of Appendix C.

7.2. **Time of Distribution.** Upon the receipt of a proper application for distribution from the Distributee after the occurrence of an Event of Maturity effective as to a Participant, and after the Participant's Total Account has been determined and the right of the Distributee to receive a distribution has been established, the DC Plan Administrator shall cause the Trustee to make a distribution of such Total Account as of (and as soon as administratively feasible after) a Valuation Date specified by the Distributee which is not earlier than nor later than the dates specified below.

7.2.1. **Earliest Beginning Date.** Distribution shall not be made as of a Valuation Date that is earlier than the earliest beginning date.

(a) **Participant.** If the Distributee is a Participant, the earliest beginning date is the Valuation Date coincident with or next following the date of the Participant's Event of Maturity.

(b) **Beneficiary.** If the Distributee is a Beneficiary of a Participant, the earliest beginning date is the Valuation Date coincident with or next following the date of such Participant's death.

Distribution shall not be made, however, as of a Valuation Date which is earlier than the date the DC Plan Administrator receives any required application for distribution.

7.2.2. **Required Beginning Date.**

(a) **Participant.** If the Distributee is a Participant, the required beginning date is the December 31 of the calendar year in which the Participant attains age

seventy and one-half (70-1/2) years, or the Participant's termination of employment with his Employer, if later. Actual distribution shall be made as soon thereafter as is administratively feasible. In all events, distribution shall be made not later than the following April 1.

(b) **Beneficiary.** If the Distributee is the Beneficiary of a Participant, the required beginning date is the latest Valuation Date that will allow distribution to be made as of the date that is not more than five (5) years after the Participant's death.

(c) **Minimum Distribution Rules.** At all times, distributions under this Plan shall comply with the minimum distribution rules of §401(a)(9) of the Code and the Treasury Regulations issued thereunder. In particular, all distributions under the Plan shall comply with the provisions of Appendix C.

7.3. **Forms of Distribution.** All distributions from this Plan following an Event of Maturity, shall be made in a single lump sum, unless the Participant elects an alternate form of distribution permitted under any annuity contract(s) issued by the DC Plan Administrator; provided that such alternate form of distribution shall at all times comply with the provisions of Section 7.2.2(c) of this Plan.

7.4. **Effect of Reemployment.** If a Participant is reemployed by an Employer after distribution has been scheduled to be made but before actual distribution, distribution of the Participant's Total Account shall be suspended and the Total Account shall continue to be held in the Fund until another Event of Maturity effective as to the Participant shall occur after the Participant's reemployment.

7.5. **Designation of Beneficiaries.**

7.5.1. **Right to Designate.** Each Participant may designate, upon forms to be furnished by and filed with the DC Plan Administrator, one or more primary Beneficiaries or alternative Beneficiaries to receive all or a specified part of the Participant's Total Account in the event of the Participant's death. The Participant may change or revoke any such designation from time to time without notice to or consent from any Beneficiary. No such designation, change or revocation shall be effective unless executed by the Participant and accepted by the DC Plan Administrator during the Participant's lifetime.

7.5.2. **Failure of Designation.** If a Participant:

(a) fails to designate a Beneficiary;

(b) designates a Beneficiary and thereafter such designation is revoked without another Beneficiary being named; or

(c) designates one or more Beneficiaries and all such Beneficiaries so designated fail to survive the Participant;

such Participant's Total Account, or the part thereof as to which such Participant's designation fails, as the case may be, shall be payable to the following persons in the following order of priority:

(i) the Participant's surviving spouse.

- (ii) the Participant's surviving natural or adopted children in equal shares.
- (iii) the Participant's surviving parents in equal shares.
- (iv) the Participant's estate.

7.5.3. **Disclaimers by Beneficiaries.** A Beneficiary entitled to a distribution of all or a portion of a deceased Participant's Total Account may disclaim his or her interest therein subject to the following requirements. To be eligible to disclaim, a Beneficiary must be a natural person, must not have received a distribution of all or any portion of a Total Account at the time such disclaimer is executed and delivered, and must have attained at least age eighteen (18) years as of the date of the Participant's death. Any disclaimer must be in writing and must be executed personally by the Beneficiary before a notary public. A disclaimer shall state that the Beneficiary's entire interest in the undistributed Total Account is disclaimed or shall specify what portion thereof is disclaimed. To be effective, duplicate original executed copies of the disclaimer must be both executed and actually delivered to both the DC Plan Administrator and to the Trustee after the date of the Participant's death but not later than nine (9) months after the date of the Participant's death. A disclaimer shall be irrevocable when delivered to both the DC Plan Administrator and the Trustee. A disclaimer shall be considered to be delivered to the DC Plan Administrator or the Trustee only when actually received by the DC Plan Administrator or the Trustee (and in the case of a corporate Trustee, shall be considered to be delivered only when actually received by a trust officer familiar with the affairs of the Plan). The DC Plan Administrator (and not the Trustee) shall be the sole judge of the content, interpretation and validity of a purported disclaimer. Upon the filing of a valid disclaimer, the Beneficiary shall be considered not to have survived the Participant as to the interest disclaimed. A disclaimer by a Beneficiary shall not be considered to be a transfer of an interest in violation of the provisions of Section 8 and shall not be considered to be an assignment or alienation of benefits in violation of federal law prohibiting the assignment or alienation of benefits under this Plan. No other form of attempted disclaimer shall be recognized by either the DC Plan Administrator or the Trustee.

7.5.4. **Special Rules.** Unless the Participant has otherwise specified in the Participant's Beneficiary designation, the following rules shall apply:

- (a) If there is not sufficient evidence that a Beneficiary was living at the time of the death of the Participant, it shall be deemed that the Beneficiary was not living at the time of the death of the Participant.
- (b) A Beneficiary designated by the Participant shall become fixed at the time of the Participant's death so that, if a Beneficiary survives the Participant but dies before the receipt of all payments due such Beneficiary hereunder, such remaining payments shall be payable to the personal representative of such Beneficiary's estate or such other persons legally entitled thereto.
- (c) If the Participant designates as a Beneficiary the person who is the Participant's spouse on the date of the designation, either by name or by relationship, or both, the dissolution, annulment or other legal termination of the marriage between

the Participant and such person shall automatically revoke such designation. However, the Participant may designate a former spouse as a Beneficiary on a form executed by the Participant and accepted by the DC Plan Administrator after the date of the legal termination of the marriage between the Participant and such former spouse, and during the Participant's lifetime.

(d) Any designation of a nonspouse Beneficiary by name that is accompanied by a description of relationship to the Participant shall be given effect without regard to whether the relationship to the Participant exists either then or at the Participant's death.

(e) Any designation of a Beneficiary only by statement of relationship to the Participant shall be effective only to designate the person or persons standing in such relationship to the Participant at the Participant's death.

A Beneficiary designation is permanently void if it either is executed or is filed by a Participant who, at the time of such execution or filing, is then a minor under the law of the state of the Participant's legal residence. The DC Plan Administrator (and not the Trustee) shall be the sole judge of the content, interpretation and validity of a purported Beneficiary designation.

7.6. **Distribution in Cash.** Distribution of a Participant's Total Account shall be made in cash or cash equivalents.

7.7. **Facility of Payment.** In case of the legal disability, including minority, of a Participant or Beneficiary entitled to receive any distribution under the Plan, payment shall be made, if the DC Plan Administrator shall be advised of the existence of such condition:

(a) to the duly appointed guardian, conservator or other legal representative of such Participant or Beneficiary; or

(b) to a person or institution entrusted with the care or maintenance of the incompetent or disabled Participant or Beneficiary, provided such person or institution has satisfied the DC Plan Administrator that the payment will be used for the best interest and assist in the care of such Participant or Beneficiary, and provided further, that no prior claim for said payment has been made by a duly appointed guardian, conservator or other legal representative of such Participant or Beneficiary.

Any payment made in accordance with the foregoing provisions of this Section shall constitute a complete discharge of any liability or obligation of the Employer, the Administrator, the Trustee, the DC Plan Administrator and the Fund therefor.

7.8. **In-service Distributions.** In-service distributions shall not be allowed.

7.9. **Loans.** Loans to a Participant may only be made from the Participant's Separate Rollover Account under the Plan (i.e., a DROP Account, Reverse DROP Account, and/or Rollover Contribution Account). Loans may not be made to any Participant from the Participant's Annuity Account under the Plan (i.e., the Participant's Retirement Savings Contribution Account and Employer Contribution Account). If approved by the Administrator, loans shall be made available to the permitted Participants on a non-discriminatory basis pursuant to a loan policy adopted by the Administrator. Such loan policy must be contained in a

written document and must include (1) the identity of the person or positions authorized to administer the participant loan program; (2) a procedure for applying for the loan; (3) the limitations, if any, on the types and amounts of loans available; (4) the procedure for determining a reasonable rate of interest; (5) the types of collateral which may secure the loan; and (6) the events constituting default. This Section 7.9 specifically incorporates the written loan policy as part of the Plan.

**SECTION 8**  
**SPENDTHRIFT PROVISIONS**

No Participant or Beneficiary shall have any transferable interest in any Total Account nor shall any Participant or Beneficiary have any power to anticipate, alienate, dispose of, pledge or encumber the same while in the possession or control of the Trustee, nor shall the Trustee, the Administrator, the DC Plan Administrator or the Employer recognize any assignment thereof, either in whole or in part, nor shall any Total Account be subject to attachment, garnishment, execution following judgment or other legal process while in the possession or control of the Trustee.

The power to designate Beneficiaries to receive the Total Account of a Participant in the event of the Participant's death shall not permit or be construed to permit such power or right to be exercised by the Participant so as thereby to anticipate, pledge, mortgage or encumber the Participant's Total Account or any part thereof, and any attempt of a Participant so to exercise said power in violation of this provision shall be of no force and effect and shall be disregarded by the Trustee, the Administrator, the DC Plan Administrator and the Employer.

This Section shall not prevent the Trustee, the Administrator, the DC Plan Administrator or the Employer from exercising, in their discretion, any of the applicable powers and options granted to them upon the occurrence of an Event of Maturity, as such powers may be conferred upon them by any applicable provision hereof. This Section shall not prevent the Administrator, the DC Plan Administrator or the Trustee from observing the terms of a qualified domestic relations order as provided in Appendix B.

## SECTION 9

### AMENDMENT AND TERMINATION

- 9.1. **Amendment.** The Principal Sponsor reserves the sole power to amend this Plan Statement, either prospectively or retroactively, which such amendment shall be binding on all Employers who are participating in this Plan, provided that no amendment shall be effective to reduce or divest the Total Account of any Participant unless in order to comply with the provisions of the Internal Revenue Code and the regulations and rulings thereunder affecting the tax-qualified status of the Plan. In all events, the Principal Sponsor reserves to the Arizona Legislature the right to prospectively reduce or eliminate any benefit or contribution rate under this Plan. No Participant, no matter when first employed, shall have any vested right to any benefit or contribution rate under this Plan, which requires future employment or participation hereunder. Benefits under this Plan shall only accrue as the Participant is employed by an Employer and the Arizona Legislature may at any time reduce or eliminate benefits and contribution rates that have not been earned by Participants as of the date of such reduction or elimination.
- 9.2. **Discontinuance of Contributions and Termination of Plan.** The Principal Sponsor reserves to the Arizona Legislature the right to reduce, suspend or discontinue the Plan and to terminate the Plan herein embodied in its entirety.
- 9.3. **Merger or Spinoff of Plan.**
- 9.3.1. **In General.** The Principal Sponsor may cause all or a part of this Plan to be merged with all or a part of any other plan and may cause all or a part of the assets and liabilities to be transferred from this Plan to another plan. In the case of merger or consolidation of this Plan with, or transfer of assets and liabilities of this Plan to, any other plan, each Participant shall (if such other plan were then terminated) receive a benefit immediately after the merger, consolidation or transfer which is not less than the benefit the Participant would have been entitled to receive immediately before the merger, consolidation or transfer (if this Plan had then terminated). If the Principal Sponsor agrees to a transfer of assets and liabilities to or from another plan, the agreement under which such transfer is concluded (or an amendment of or appendix to this Plan Statement) shall specify the Accounts to which the transferred amounts are to be credited.
- 9.3.2. **Beneficiary Designations.** If assets and liabilities are transferred from another plan to this Plan, Beneficiary designations made under that plan shall become void on the date as of which such transfer is made and the Beneficiary designation rules of this Plan Statement shall apply beginning on such date.

## **SECTION 10**

### **INDEMNITY**

Each individual (as distinguished from corporate) trustee of the Plan, the Administrator, and any officer, director or employee of the Principal Sponsor shall, except as prohibited by law, be indemnified and held harmless by the Principal Sponsor from any and all liabilities, costs and expenses (including legal fees), to the extent not covered by liability insurance, arising out of any action taken by such individual with respect to the Plan, unless such liability arises from:

- (a) the individual's claim as a Participant under the Plan;
- (b) the proven gross negligence;
- (c) the bad faith; or
- (d) if he had reasonable cause to believe his conduct was unlawful, the criminal misconduct of such individual.

This indemnification shall continue as to such an individual who has ceased to be a trustee of the Plan or has ceased to be the Administrator or officer, director, or employee of the Principal Sponsor and shall inure to the benefit of the heirs, personal representatives and other successors of such individual.

## SECTION 11

### DETERMINATIONS — POLICIES AND PROCEDURES

- 11.1. **Determinations.** The Administrator shall make such determinations as may be required from time to time in the administration of the Plan. The Administrator shall have the sole discretion, authority and responsibility to interpret and construe the Plan Statement and to determine all factual and legal questions under the Plan, including but not limited to the entitlement of Participants and Beneficiaries and the amounts of their respective interests. The Trustee and other interested parties may act and rely upon all information reported to them hereunder and need not inquire into the accuracy thereof, nor be charged with any notice to the contrary.
- 11.2. **Policies and Procedures.** The Administrator may adopt policies and procedures that are not in conflict or at variance with the provisions hereof.
- 11.3. **Method of Executing Instruments.**
- 11.3.1. **Principal Sponsor, Employer, DC Plan Administrator or Administrator.** Information to be supplied, written notices to be made, or consents to be given by the Principal Sponsor, the Employer, the DC Plan Administrator or the Administrator pursuant to any provision of this Plan Statement may be signed in the name of the Principal Sponsor, the DC Plan Administrator or Employer by any officer or other employee thereof who has been authorized to make such certification or to give such notices or consents or by the Administrator.
- 11.3.2. **Trustee.** Any instrument or written notice required, necessary or advisable to be made or given by the Trustee may be signed by any Trustee, if all Trustees serving hereunder are individuals, or by any authorized officer or employee of the Trustee, if a corporate Trustee shall be acting hereunder as sole Trustee, or by any such officer or employee of the corporate Trustee or by an individual Trustee acting hereunder, if corporate and individual Trustees shall be serving as co-trustees hereunder.
- 11.4. **Appeals Procedure.** The Administrator has established procedures for the resolution of disputes and disposition of appeals arising under this Plan. An application for a distribution under Section 7 shall be considered as an appeal for the purposes of this Section 11.4. The appeals procedure is as follows:
- 11.4.1. **Original Appeal.** A person who is not satisfied with a written decision of the DC Plan Administrator may request a review of the decision by the DC Plan Administrator according to the written policies and procedures of the DC Plan Administrator. A person must exhaust all levels of review by the DC Plan Administrator. The DC Plan Administrator shall notify the person in writing of the DC Plan Administrator's final determination within sixty (60) days of receiving the highest-level request.

**11.4.2. Administrator Appeal Procedure.** A person who is not satisfied with the final determination issued by the DC Plan Administrator pursuant to Section 11.4.1 may request a review of the decision by the Administrator. The request for review shall be in writing, shall be filed with the Administrator within thirty (30) days of the DC Plan Administrator's final determination, and shall contain the full name of the person requesting review; the full name of the Participant who is affected by the decision; the address and contact telephone number of the person requesting the review; what the person believes the decision should be; and why the person believes the DC Plan Administrator's decision is in error. The Administrator shall notify the person and the Participant, if the person filing the request for review is not the Participant, and the DC Plan Administrator in writing of the Administrator's decision. If the Administrator's decision upholds the final determination of the DC Plan Administrator, the notification shall include information on requesting a hearing by the Board.

**11.4.3. Board Appeal Procedure.** A person who is not satisfied with the Administrator's decision issued pursuant to Section 11.4.2 may request a further review pursuant by the Board pursuant to such procedures established by the Board from time to time.

**11.4.4. General Rules.**

- (a) No inquiry or question is considered to be an appeal or a request for a review of a denied appeal unless made in accordance with the appeals procedure. The Administrator may require that an appeal for benefits or a request for a review of a denied appeal be filed on a form furnished by the Administrator.
- (b) A person requesting review may be represented by a lawyer or other representative (at the person's own expense), but the Administrator reserves the right to require the appellant to furnish written authorization of the representation. A person's representative shall be entitled to copies of all notices given to the appellant.
- (c) The Administrator shall serve the Administrator's decision on a request for a review, or the Board's decision of an Appeal on the person or the person's representative in writing.
- (d) Prior to filing an appeal or a request for a review of a denied appeal, the person or the person's representative shall have a reasonable opportunity to review a copy of the Plan Statement and all other pertinent documents in the possession of the Employer, the Administrator, the DC Plan Administrator, and the Trustee.
- (e) In computing any time period, parties shall exclude the day from which the designated time period begins to run. Parties shall include the last day of the period unless it falls on a Saturday, Sunday, or legal holiday. When the time

period is ten (10) days or less, parties shall exclude Saturdays, Sundays, and legal holidays.

- (f) It is a rebuttable presumption that a dated letter, notice, or other written document is received within five (5) business days of the date imprinted on the letter, notice, or other written document.

11.5. **Information Furnished by Participants.** Neither the Employer, the Board, the Administrator, the DC Plan Administrator nor the Trustee shall be liable or responsible for any error in the computation of any account of a Participant under this Plan resulting from any misstatement of fact made by the Participant, directly or indirectly, to the Employer, the Board, the Administrator, the DC Plan Administrator or the Trustee and used by them in determining any such account. Neither the Employer, the Board, the Administrator, the DC Plan Administrator nor the Trustee shall be obligated or required to increase any such account of such Participant which, on discovery of the misstatement, is found to be understated as a result of such misstatement of the Participant. However, any account of a Participant that is overstated by reason of any such misstatement shall be reduced to the amount appropriate for the Participant in view of the truth. Any refund received upon reduction of an account so made shall be used to reduce the next succeeding contribution of the Employer to the Plan.

## SECTION 12

### OTHER ADMINISTRATIVE MATTERS

12.1. **Governing Board.** The Board shall have the exclusive authority, which may not be delegated, to do the following:

- (a) to terminate the Plan;
- (b) to reduce, suspend or discontinue all contributions to the Plan; and
- (c) to cause the Plan to be merged with another plan.

12.2. **Administrator.** The Administrator shall:

- (a) perform all acts reasonably necessary for administering the Plan and carrying out the provisions of the Plan Statement and performing the duties imposed by the Board;
- (b) at his discretion, appoint or remove or accept the resignation of any third party performing services for the Plan;
- (c) organize and delegate to such persons, as the Administrator shall select, authority to execute or authenticate policies, procedures, advisory opinions or instructions, and other instruments adopted or authorized by the Administrator; notify the Governing Board and the Employer of any action taken by the Administrator and, when required, notify any other interested person or persons;
- (d) as necessary, determine from the records of the Employer the compensation, service records, status and other facts regarding Participants and other employees;
- (e) cause to be compiled at least annually, from the records of the DC Plan Administrator and the reports and accountings of the Trustee, a report and accounting of the status of the Plan and the accounts of the Participants, and make it available to each Participant who shall have the right to examine that part or portion of such report and accounting (or a true and correct copy of such part) which sets forth the Participant's benefits and the Participant's ratable interest in the Fund;
- (f) prescribe forms to be used for applications for participation, distributions, withdrawals, notifications, etc., as may be required in the administration of the Plan;
- (g) establish and maintain such policies and procedures, applicable to all Participants similarly situated, as are deemed necessary to carry out the terms of the Plan Statement;

- (h) resolve all questions of administration of the Plan not specifically referred to in this Section;
  - (i) adhere to the appeals procedure set forth in Section 11.4;
  - (j) delegate or redelegate to one or more persons, jointly or severally, and whether or not such persons are employees of the Employer, such functions assigned to the Administrator hereunder as the Administrator may from time to time deem advisable; and
  - (k) at his discretion, cause the transfer of assets and liabilities between the Plan and another plan.
- 12.3. **Trustee.** The responsibilities and obligations of the Trustee shall be strictly limited to those set forth in this Plan Statement. The Trustee shall have no authority or duty to determine or enforce payment of any Employer contribution under the Plan or to determine the existence, nature or extent of any individual's rights in the Fund or under the Plan or question any determination made by the Principal Sponsor, the Administrator or the DC Plan Administrator regarding the same. Nor shall the Trustee be responsible in any way for the manner in which the Employer, the Principal Sponsor, the Administrator or the DC Plan Administrator carries out its responsibilities under this Plan Statement or, more generally, under the Plan. The Trustee shall give the Principal Sponsor notice of (and tender to the Principal Sponsor) the prosecution or defense of any litigation involving the Plan or the Fund.
- 12.4. **Conflict of Interest.** If any Trustee, the Administrator, any member of the Governing Board or any officer or employee of the Employer to whom authority has been delegated or redelegated hereunder shall also be a Participant in this Plan, he shall have no authority as such Trustee, member, officer or employee with respect to any matter specially affecting the Participant's individual interest hereunder (as distinguished from the interests of all Participants or Beneficiaries or a broad class of Participants or Beneficiaries), all such authority being reserved exclusively to the other Trustees, members, officers or employees, as the case may be, to the exclusion of such Participant, and such Participant shall act only in the Participant's individual capacity in connection with any such matter.
- 12.5. **Dual Capacity.** Individuals, firms, corporations or partnerships identified herein or delegated or allocated authority or responsibility hereunder may serve in more than one capacity.
- 12.6. **Service of Process.** In the absence of any designation to the contrary by the Principal Sponsor, the Administrator is designated as the appropriate and exclusive agent for the receipt of service of process directed to the Plan in any legal proceeding, including arbitration, involving the Plan.
- 12.7. **Administrative Expenses.** The reasonable expenses of administering the Plan shall be paid by the Employers in such amounts and at such times as determined by the Administrator, in the Administrator's sole discretion.

12.8. **IRS Qualification.** This Plan is intended to qualify under §401(a) of the Code as a defined contribution plan.

## SECTION 13

### IN GENERAL

#### 13.1. Disclaimers.

- (a) Neither the terms of this Plan Statement nor the benefits hereunder nor the continuance thereof shall be a term of the employment of any employee, and the Employer shall not be obliged to continue this Plan.
- (b) The terms of this Plan Statement shall not give any employee the right to be retained in the employment of the Employer.
- (c) Neither the Trustee, the Administrator, the DC Plan Administrator, the Employer or any of its officers nor members of the Governing Board in any way guarantee the Fund against loss or depreciation, nor do they guarantee the payment of any benefit or amount which may become due and payable hereunder to any Participant or to any Beneficiary or to any creditor of a Participant, a Beneficiary or the Trustee. Each Participant, Beneficiary or other person entitled at any time to payments hereunder shall look solely to the assets of the Fund for such payments or to the Total Account distributed to any Participant or Beneficiary, as the case may be, for such payments. In each case where a Total Account shall have been distributed to a former Participant or a Beneficiary or to the person or any one of a group of persons entitled jointly to the receipt thereof and which purports to cover in full the benefit hereunder, such former Participant or Beneficiary, or such person or persons, as the case may be, shall have no further right or interest in the other assets of the Fund.
- (d) Neither the Employer nor any of its officers, members of the Governing Board, the Administrator nor the DC Plan Administrator shall in any manner be liable to any Participant, Beneficiary or other person for any act or omission of the Trustee.
- (e) Neither the Trustee, the Administrator, the DC Plan Administrator, the Employer or any of its officers nor members of the Governing Board shall be under any liability or responsibility for failure to effect any of the objectives or purposes of this Plan by reason of loss or fluctuation in the value of Fund or for the form, genuineness, validity, sufficiency or effect of any Fund asset at any time held hereunder, or for the failure of any person, firm or corporation indebted to the Fund to pay such indebtedness as and when the same shall become due or for any delay occasioned by reason of any applicable law, order or regulation or by reason of any restriction or provision contained in any security or other asset held by the Fund.
- (f) The Employer and its officers, the members of the Governing Board, the Trustee, the Administrator and the DC Plan Administrator shall not be liable for an act or omission of another person with regard to a responsibility that has been allocated to or delegated to such other person pursuant to the terms of this Plan Statement or pursuant to procedures set forth in this Plan Statement.

- 13.2. **Reversion of Fund Prohibited.** The Fund from time to time hereunder shall at all times be a trust fund separate and apart from the assets of the Employer, and no part thereof shall be or become available to the Employer or to creditors of the Employer under any circumstances other than those specified herein. It shall be impossible for any part of the corpus or income of the Fund to be used for, or diverted to, purposes other than for the exclusive benefit of Participants and Beneficiaries (except as otherwise provided herein).
- 13.3. **Execution in Counterparts.** This Plan Statement may be executed in any number of counterparts, each of which, without production of the others, shall be deemed to be an original.

## SECTION 14

### DROP ACCOUNT AND REVERSE DROP ACCOUNT PROVISIONS

#### 14.1 DROP Accounts

14.1.1. **Participation.** An eligible person who has made an irrevocable election to participate in the deferred retirement option plan established under A.R.S. § 38-844.02 shall be considered a Participant under this plan with respect to his or her DROP Account only; provided, however, that if such person also makes a contribution to a Rollover Contribution Account, then such person will also be considered a Participant under this plan with respect to his or her Rollover Contribution Account.

#### 14.1.2. Deposit into DROP Account.

(a) Upon the simultaneous termination of deferred retirement option plan participation and employment by a Participant described in Section 14.1.1, the amount as designated under A.R.S. § 38-844.08, subsection A shall be directly deposited as a lump sum into a DROP Account created for the Participant under this Plan.

(b) Upon termination of employment subsequent to completion of such Participant's designated deferred retirement option plan participation period, the amount as designated under A.R.S. § 38-844.03, subsection C. shall be directly deposited as a lump sum into a DROP Account created for the Participant under this Plan.

14.1.3. **Eligibility of DROP Account.** Pursuant to A.R.S. § 38-867.01, subsection A., upon deposit of a Participant's lump sum distribution into his or her DROP Account, the Participant shall immediately be able to either withdraw all or any portion of the lump sum deposit or directly transfer all or any portion of the lump sum deposit to an eligible retirement plan as required by § 401(a)(31) of the Internal Revenue Code.

#### 14.2 Reverse DROP Accounts

14.2.1. **Participation.** An eligible person who has made an irrevocable election to participate in the reverse deferred retirement option plan established under A.R.S. § 38-885.01 shall be considered a Participant under this plan with respect to his or her Reverse DROP Account only; provided, however, that if such person also makes a contribution to a Rollover Contribution Account, then such person will also be considered a Participant under this plan with respect to his or her Rollover Contribution Account.

14.2.2. **Deposit into Reverse DROP Account.** Upon termination of employment by a Participant described in Section 14.2.1., the amount designated under 38-885.01, paragraph G., shall be deposited as a lump sum into a Reverse DROP Account created for the Participant under this Plan.

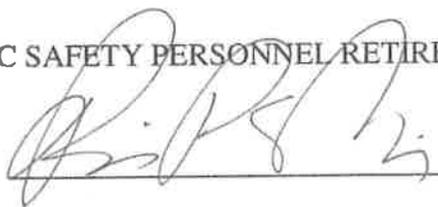
14.2.3. **Eligibility of Reverse DROP Account.** Pursuant to A.R.S. § 38-867.01, subsection A., upon deposit of a Participant's lump sum distribution into his or her Reverse DROP Account, the Participant shall immediately be able to either withdraw all or any

portion of the lump sum deposit or directly transfer all or any portion of the lump sum deposit to an eligible retirement plan as required by § 401(a)(31) of the Internal Revenue Code.

**SIGNATURES**

IN WITNESS WHEREOF, the Board of Trustees of the Public Safety Personnel Retirement System has caused this Plan Statement to be executed this 30 day of May, 2018.

PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM

Signed 

Printed Brian P. Tobin

Title Chairman

Date June 27, 2018

## APPENDIX A

### LIMITATION ON ANNUAL ADDITIONS AND ANNUAL BENEFITS

#### SECTION 1

##### INTRODUCTION

Terms defined in the Plan Statement shall have the same meanings when used in this Appendix. In addition, when used in this Appendix, the following terms shall have the following meanings:

1.1. **Annual Addition.** Annual addition means, with respect to any Participant for a Limitation Year, the sum of:

- (a) all Employer contributions (including Employer contributions of the Participant's earnings reductions under §§414(h)(2), 403(b), and 408(k) of the Code) allocable as of a date during such Limitation Year to the Participant under all defined contribution plans;
- (b) all forfeitures allocable as of a date during such Limitation Year to the Participant under all defined contribution plans; and
- (c) all Participant contributions made as of a date during such Limitation Year to all defined contribution plans.

1.1.1. **Specific Inclusions.** With regard to a plan which contains a qualified cash or deferred arrangement or matching contributions or employee contributions, excess deferrals and excess contributions and excess aggregate contributions (whether or not distributed during or after the Limitation Year) shall be considered annual additions in the year contributed.

1.1.2. **Specific Exclusions.** Annual Additions for purposes of §415 of the Code shall not include:

- (a) The direct transfer of a benefit or employee contributions from a qualified plan to the Plan;
- (b) Rollover contributions as described in §§401(a)(31), 402(c)(1), 403(a)(4), 403(b)(8), 408(d)(3), and 457(e)(16) of the Code;
- (c) Repayments of loans made to a Participant from the Plan; and
- (d) Repayments of amounts described in §415(k)(3) of the Code, as well as Employer restorations of benefits that are required pursuant to such repayments.

1.1.3. **Date of Employer contributions.** Notwithstanding anything in the Plan to the contrary, Employer contributions are treated as credited to a Participant's Retirement Savings Contribution Account or Employer Contribution Account (as

applicable) for a particular Limitation Year only if the contributions are actually made to the Plan no later than the fifteenth (15<sup>th</sup>) day of the tenth (10<sup>th</sup>) calendar month following the end of the calendar year or fiscal year (as applicable, depending on the basis on which the Employer keeps its books) with or within which the particular Limitation Year ends.

- 1.2. **Defined Contribution Plans.** Defined contribution plan has the meaning assigned to such term by §415(k)(1) of the Code. Whenever reference is made to defined contribution plans in this Appendix, it shall include all such plans maintained by all Employers.
- 1.3. **Individual Medical Account.** Individual medical account means an account, as defined in §415(1)(2) of the Code maintained by an Employer that provides an annual addition.
- 1.4. **Limitation Year.** Limitation Year means the Plan Year. The Limitation Year may only be changed by a Plan amendment. Furthermore, if the Plan is terminated effective as of a date other than the last day of the Plan's Limitation Year, then the Plan is treated as if the Plan has been amended to change its Limitation Year.
- 1.5. **Maximum Permissible Addition.**
  - 1.5.1. **General Rule.** Maximum permissible addition means, for any one (1) Limitation Year, the lesser of:
    - (a) Fifty-Four Thousand Dollars (\$54,000) or a larger amount that is effective as of January 1 of each calendar year and is due to any cost of living adjustment announced by the United States Secretary of the Treasury pursuant to §415(d) of the Code; or
    - (b) One hundred percent (100%) of the Participant's §415 compensation for such Limitation Year.
  - 1.5.2. **Medical Benefits.** The dollar limitation in Section 1.5.1(a), but not the amount determined in Section 1.5.1(b), shall be reduced by the amount of Employer contributions which are allocated to a separate account established for the purpose of providing medical benefits or life insurance benefits with respect to a key employee (as defined in §416(i) of the Code) under a welfare benefit fund or an individual medical account.
- 1.6. **Section 415 Compensation.**
  - 1.6.1. **General.** Section 415 compensation (sometimes, "§415 compensation") shall mean, with respect to any Limitation Year, the wages, tips, and other compensation paid to the Participant by an Employer and reportable in the box designated "wages, tips, other compensation" on Treasury Form W-2 (or any comparable successor box or form) for the Limitation Year but determined without regard to any rules 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 §3401(a)(2) of the Code). Section 415 compensation shall also include amounts

paid to a member of an Indian tribe directly or through a qualified Indian entity (within the meaning of § 7873(b)(3) of the Code) as compensation for services performed in a fishing rights-related activity (as defined in § 7873(b)(1) of the Code) of the tribe for years beginning after November 15, 2013. Section 415 compensation shall be determined on a cash basis, and shall include elective contributions made by the Employer on behalf of a Participant which are not includable in gross income under §§125, 132(f)(4), 402(g)(3), or 457 of the Code; provided that §415 compensation shall not include any amounts under §125 of the Code not available to a Participant in cash in lieu of group health coverage because the Participant is unable to certify that he or she has other health coverage.

1.6.2. **Adjustments to Section 415 Compensation.** The following adjustments shall be made to the definition of §415 compensation contained in Section 1.6.1:

(a) **Compensation paid after severance from employment.** Section 415 compensation shall be adjusted for the following types of compensation paid after a Participant's severance from employment with an Employer. However, amounts described in clauses 1.6.2(a)(i) and (ii) may only be included in §415 compensation to the extent such amounts are paid by the later of two and one-half (2 ½) months after severance from employment or by the end of the Limitation Year that includes the date of such severance from employment. Any other payment of compensation paid after severance of employment that is not described in the following types of compensation is not considered §415 compensation within the meaning of §415(c)(3) of the Code, even if payment is made within the time period specified above.

(i) **Regular pay.** Section 415 compensation shall include regular pay after severance of employment if: (A) the payment is regular compensation for services during the Participant's regular working hours, or compensation for services outside the Participant's regular working hours (such as overtime or shift differential), commission, bonuses, or other similar payments; and (B) the payment would have been paid to the Participant prior to a severance from employment if the Participant had continued in employment with the Employer.

(ii) **Leave cashouts and deferred compensation.** Leave cashouts shall be included in §415 compensation if those amounts would have been included in the definition of §415 compensation if they were paid prior to the Participant's severance from employment, and the amounts are payment for unused accrued bona fide sick, vacation, or other leave, but only if the Participant would have been able to use the leave if employment had continued. In addition, deferred compensation shall be included in §415 compensation if the compensation would have been included in the definition of §415 compensation if it had been paid prior to the Participant's severance from employment, and the compensation is received pursuant to a nonqualified unfunded deferred compensation plan, but only if the payment would have been paid at the same time if the Participant had

continued in employment with the Employer and only to the extent that the payment is includible in the Participant's gross income.

(iii) **Salary continuation payments for military service Participants.** Section 415 compensation shall include payments to an individual who does not currently perform services for the Employer by reason of "qualified military service" (as that term is used in §414(u)(1) of the Code) to the extent those payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the Employer rather than entering qualified military service.

(iv) **Salary continuation payments for disabled Participants.** Section 415 compensation does not include compensation paid to a Participant who is permanently and totally disabled (as defined in §22(e)(3) of the Code).

(b) **Administrative delay ("the first few weeks") rule.** Section 415 compensation for a Limitation Year shall not include amounts earned but not paid during the Limitation Year solely because of the timing of pay periods and pay dates.

1.7. **Welfare Benefit Fund.** Welfare benefit fund means a fund as defined in §419(e) of the Code which provides post-retirement medical benefits allocated to separate accounts for key employees as defined in §419A(d)(3) of the Code.

## SECTION 2

### DEFINED CONTRIBUTION LIMITATION

Notwithstanding anything to the contrary contained in the Plan Statement, there shall not be allocated to the account of any Participant under a defined contribution plan for any Limitation Year an amount which would cause the annual addition for such Participant to exceed the maximum permissible addition.

## SECTION 3

### REMEDIAL ACTION

Notwithstanding any provision of the Plan to the contrary, if a Participant's Annual Additions are exceeded, then the Plan may correct such excess only in accordance with the Employee Plans Compliance Resolution System (EPCRS) as set forth in Revenue Procedure 2008-50 or any superseding guidance, including, but not limited to, the preamble of the final Treasury regulations issued under §415 of the Code.

## SECTION 4

### AGGREGATION AND DISAGGRAGATION OF PLANS

- 4.1. **General.** For purposes of applying the limitations of §415 of the Code, all defined contribution plans (without regard to whether a plan has been terminated) ever maintained by an Employer (or a “predecessor employer”) under which the Participant receives Annual Additions are treated as one defined contribution plan. The “Employer” means an Employer and all members of a controlled group or an affiliated service group that includes the Employer (within the meaning of §§414(b), (c), (m), or (o) of the Code), except that for purposes of this Section, the determination shall be made by applying §415(h) of the Code, and shall take into account tax-exempt organizations under Treasury regulations §1.414(c)-5, as modified by Treasury regulations §1.415(a)-1(f)(1). For purposes of this Section 4.1:
- 4.1.1. A former Employer is a “predecessor employer” with respect to a Participant in a plan maintained by an Employer if the Employer maintains a plan under which the Participant had accrued a benefit while performing services for the former Employer, but only if that benefit is provided under the plan maintained by the Employer. For this purpose, the formerly affiliated plan rules in Treasury regulation §1.415(f)-1(b)(2) apply as if the Employer and predecessor Employer constituted a single employer under the rules described in Treasury regulation §1.415(a)-1(f)(1) and (2) immediately prior to the cessation of affiliation (and as if they constituted two, unrelated employers under the rules described in Treasury regulation §1.415(a)-1(f)(1) and (2) immediately after the cessation of affiliation) and cessation of affiliation was the event that gives rise to the predecessor employer relationship, such as a transfer of benefits or plan sponsorship.
- 4.1.2. With respect to an Employer of a Participant, a former entity that antedates the Employer is a “predecessor employer” with respect to the Participant if, under the facts and circumstances, the Employer constitutes a continuation of all or a portion of the trade or business of the former entity.
- 4.2. **Break-up of an affiliate employer or an affiliated service group.** For purposes of aggregating plans for §415 of the Code, a “formerly affiliated plan” of an Employer is taken into account for purposes of applying the §415 limitations to the Employer, but the formerly affiliated plan is treated as if it had terminated immediately prior to the “cessation of affiliation.” For purposes of this paragraph, a “formerly affiliated plan” of an Employer is a plan that, immediately prior to the cessation of affiliation, was actually maintained by one or more of the entities that constitute the employer (as determined under the employer affiliation rules described in Treasury regulation §§1.415(a)-1(f)(1) and (2)), and immediately after the cessation of affiliation, is not actually maintained by any of the entities that constitute the employer (as determined under the employer affiliation rules described in Regulation §§1.415(a)-1(f)(1) and (2)). For purposes of this Section, a “cessation of affiliation” means the event that causes an entity to no longer be aggregated with one or more other entities as a single employer under the employer affiliation rules described in Treasury regulation §§1.415(a)-1(f)(1) and (2) (such as the sale of a

subsidiary outside a controlled group), or that causes a plan to not actually be maintained by any of the entities that constitute the employer under the employer affiliation rules of Treasury regulation §§1.415(a)- 1(f)(1) and (2) (such as a transfer of plan sponsorship outside of a controlled group).

- 4.3. **Midyear Aggregation.** Two or more defined contribution plans that are not required to be aggregated pursuant to §415(f) of the Code and the Treasury regulations thereunder as of the first day of a Limitation Year do not fail to satisfy the requirements of §415 of the Code with respect to a Participant for the Limitation Year merely because they are aggregated later in that Limitation Year, provided that no Annual Additions are credited to the Participant's account after the date on which the plans are required to be aggregated.

**APPENDIX B**  
**QUALIFIED DOMESTIC RELATIONS ORDERS**

**SECTION 1**

**GENERAL MATTERS**

Terms defined in the Plan shall have the same meanings when used in this Appendix.

- 1.1. **General Rule.** The Plan shall not honor the creation, assignment or recognition of any right to any benefit payable with respect to a Participant pursuant to a domestic relations order unless that domestic relations order is a qualified domestic relations order.
- 1.2. **Alternate Payee Defined.** The only persons eligible to be considered alternate payees with respect to a Participant shall be that Participant's Spouse, former Spouse, child or other dependent.
- 1.3. **DRO Defined.** A domestic relations order is any judgment, decree or order (including an approval of a property settlement agreement) which relates to the provision of child support, alimony payments, or marital property rights to a Spouse, former Spouse, child or other dependent of a Participant and which is made pursuant to a state domestic relations law (including a community property law).
- 1.4. **QDRO Defined.** A qualified domestic relations order is a domestic relations order which creates or recognizes the existence of an alternate payee's right to (or assigns to an alternate payee the right to) receive all or a portion of the Account of a Participant under the Plan and which satisfies all of the following requirements.
  - 1.4.1. **Names and Addresses.** The order must clearly specify the name and the last known mailing address, if any, of the Participant and the name and mailing address of each alternate payee covered by the order.
  - 1.4.2. **Amount.** The order must clearly specify the amount or percentage of the Participant's Account to be paid by the Plan to each such alternate payee or the manner in which such amount or percentage is to be determined.
  - 1.4.3. **Payment Method.** The order must clearly specify the number of payments or period to which the order applies.
  - 1.4.4. **Plan Identity.** The order must clearly specify that it applies to this Plan.
  - 1.4.5. **Settlement Options.** Except as provided in Section 1.4.8 of this Appendix, the order may not require the Plan to provide any type or form of benefits or any option not otherwise provided under the Plan.
  - 1.4.6. **Increased Benefits.** The order may not require the Plan to provide increased benefits.

1.4.7. **Prior Awards.** The order may not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee under another order previously determined to be a qualified domestic relations order.

1.4.8. **Exceptions.** The order will not fail to meet the requirements of Section 1.4.5 of this Appendix if:

- (a) The order requires payment of benefits be made to an alternate payee before the Participant has separated from service but as of a date that is on or after the date on which the Participant attains (or would have attained) the earliest payment date described in Section 1.4.10 of this Appendix; and
- (b) The order requires that payment of benefits be made to an alternate payee as if the Participant had retired on the date on which payment is to begin under such order (but taking into account only the present value of benefits actually accrued); and
- (c) The order requires payment of benefits to be made to an alternate payee in any form in which benefits may be paid under the Plan to the Participant (other than in the form of a joint and survivor annuity with respect to the alternate payee and his or her subsequent Spouse).

In lieu of the foregoing, the order will not fail to meet the requirements of Section 1.4.5 of this Appendix if the order: (1) requires that payment of benefits be made to an alternate payee in a single lump sum as soon as is administratively feasible after the order is determined to be a qualified domestic relations order, and (2) does not contain any of the provisions described in Section 1.4.9 of this Appendix, and (3) provides that the payment of such single lump sum fully and permanently discharges all obligations of the Plan to the alternate payee.

1.4.9. **Deemed Spouse.** Notwithstanding the foregoing:

- (a) The order may provide that the former Spouse of a Participant shall be treated as a Surviving Spouse of such Participant for the purposes of Section 7 of the Plan Statement (and that any subsequent or prior Spouse of the Participant shall not be treated as a Spouse of the Participant for such purposes), and
- (b) The order may provide that, if the former Spouse has been married to the Participant for at least one (1) year at any time, the surviving former Spouse shall be deemed to have been married to the Participant for the one (1) year period ending on the date of the Participant's death.

1.4.10. **Payment Date Defined.** For the purpose of Section 1.4.8 of this Appendix, the earliest payment date means the earlier of:

- (a) The date on which the Participant is entitled to a distribution under the Plan; or

- (b) The later of (i) the date the Participant attains age fifty (50) years, or (ii) the earliest date on which the Participant could begin receiving benefits under the Plan if the Participant separated from service.

## SECTION 2

### PROCEDURES

- 2.1. **Actions Pending Review.** During any period when the issue of whether a domestic relations order is a qualified domestic relations order is being determined by the DC Plan Administrator, the DC Plan Administrator shall cause the Plan to separately account for the amounts which would be payable to the alternate payee during such period if the order were determined to be a qualified domestic relations order.
- 2.2. **Reviewing DROs.** Upon the receipt of a domestic relations order, the DC Plan Administrator shall determine whether such order is a qualified domestic relations order.
- 2.2.1. **Receipt.** A domestic relations order shall be considered to have been received only when the DC Plan Administrator shall have received a copy of a domestic relations order which is complete in all respects and is originally signed, certified or otherwise officially authenticated.
- 2.2.2. **Notice to Parties.** Upon receipt of a domestic relations order, the DC Plan Administrator shall notify the Participant and all persons claiming to be alternate payees and all prior alternate payees with respect to the Participant that such domestic relations order has been received. The DC Plan Administrator shall include with such notice a copy of this Appendix.
- 2.2.3. **Comment Period.** The Participant and all persons claiming to be alternate payees and all prior alternate payees with respect to the Participant shall be afforded a comment period of thirty (30) days from the date such notice is mailed by the DC Plan Administrator in which to make comments or objections to the DC Plan Administrator concerning whether the domestic relations order is a qualified domestic relations order. By the unanimous written consent of the Participant and all persons claiming to be alternate payees and all prior alternate payees with respect to the Participant, the thirty (30) day comment period may be shortened.
- 2.2.4. **Initial Determination.** Within a reasonable period of time after the termination of the comment period, the DC Plan Administrator shall give written notice to the Participant and all persons claiming to be alternate payees and all prior alternate payees with respect to the Participant of its decision that the domestic relations order is or is not a qualified domestic relations order. If the DC Plan Administrator determines that the order is not a qualified domestic relations order or if the DC Plan Administrator determines that the written objections of any party to the order being found a qualified domestic relations order are not valid, the DC Plan Administrator shall include in the written notice:
- (a) the specific reasons for the decision;

- (b) the specific reference to the pertinent provisions of this Plan Statement upon which the decision is based;
- (c) a description of additional material or information, if any, which would cause the DC Plan Administrator to reach a different conclusion; and
- (d) an explanation of the procedures for reviewing the initial determination of the DC Plan Administrator.

2.2.5. **Appeal Period and Procedure.** The Participant and all persons claiming to be alternate payees and all prior alternate payees with respect to the Participant shall be afforded an appeal period of sixty (60) days from the date such an initial determination and explanation is mailed in which to make comments or objections concerning whether the original determination of the DC Plan Administrator is correct. By the unanimous written consent of the Participant and all persons claiming to be alternate payees and all prior alternate payees with respect to the Participant, the sixty (60) day appeal period may be shortened. All appeals of the DC Plan Administrator's initial determination shall be governed by the appeals procedure contained in Section 11.4 of the Plan, as if the appeal was an original claim for benefits under the Plan.

2.2.6. **Final Determination.** In all events, the final determination shall be made not later than eighteen (18) months after the date on which first payment would be required to be made under the domestic relations order if it were a qualified domestic relations order. The final determination shall be communicated in writing to the Participant and all persons claiming to be alternate payees and all prior alternate payees with respect to the Participant.

2.3. **Final Disposition.** If the domestic relations order is finally determined to be a qualified domestic relations order and all comment and appeal periods have expired, the Plan shall pay all amounts required to be paid pursuant to the domestic relations order to the alternate payee entitled thereto. If the domestic relations order is finally determined not to be a qualified domestic relations order and all comment and appeal periods have expired, benefits under the Plan shall be paid to the person or persons who would have been entitled to such amounts if there had been no domestic relations order.

2.4. **Orders Being Sought.** If the DC Plan Administrator has notice that a domestic relations order is being or may be sought but has not received the order, the DC Plan Administrator shall not (in the absence of a written request from the Participant) delay payment of benefits to a Participant or beneficiary which otherwise would be due. If the DC Plan Administrator has determined that a domestic relations order is not a qualified domestic relations order and all comment and appeal periods have expired, the DC Plan Administrator shall not (in the absence of a written request from the Participant) delay payment of benefits to a Participant or beneficiary which otherwise would be due even if the DC Plan Administrator has notice that the party claiming to be an alternate payee or the Participant or both are attempting to rectify any deficiencies in the domestic relations order.

## SECTION 3

### PROCESSING OF AWARD

- 3.1. **General Rules.** If a benefit is awarded to an alternate payee pursuant to an order that has been finally determined to be a qualified domestic relations order, the following rules shall apply.
  - 3.1.1. **Effect on Account.** For all purposes of the Plan, the Participant's Account (and all benefits payable under the Plan which are derived in whole or in part by reference to the Participant's Account) shall be permanently diminished by the portion of the Participant's Account which is awarded to the alternate payee.
  - 3.1.2. **After Death.** After the death of an alternate payee, all amounts awarded to the alternate payee which have not been distributed to the alternate payee and which continue to be payable shall be paid in a single lump sum distribution to the personal representative of the alternate payee's estate as soon as administratively feasible, unless the qualified domestic relations order clearly provides otherwise. The Participant's beneficiary designation shall not be effective to dispose of any portion of the benefit awarded to an alternate payee, unless the qualified domestic relations order clearly provides otherwise.
- 3.2. **Segregated Account.** If the DC Plan Administrator determines that it would facilitate the administration or the distribution of the benefit awarded to the alternate payee or if the qualified domestic relations order so requires, the benefit awarded to the alternate payee shall be established on the books and records of the Plan as a separate account belonging to the alternate payee.
- 3.3. **Former Alternate Payees.** If an alternate payee has received all benefits to which the alternate payee is entitled under a qualified domestic relations order, the alternate payee will not at any time thereafter be deemed to be an alternate payee or prior alternate payee for any substantive or procedural purpose of this Plan.

## APPENDIX C

### MINIMUM DISTRIBUTION REQUIREMENTS

#### SECTION 1

##### GENERAL RULES

- 1.1. **Effective Date.** The provisions of this Appendix will apply for purposes of determining required minimum distributions.
- 1.2. **Precedence.** The requirements of this Appendix will take precedence over any inconsistent provisions of the Plan.
- 1.3. **Requirements of Treasury Regulations Incorporated.** All distributions required under this Appendix will be determined and made in accordance with the Treasury regulations under §401(a)(9) of the Internal Revenue Code.

#### SECTION 2

##### TIME AND MANNER OF DISTRIBUTION

- 2.1. **Required Beginning Date.** The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's required beginning date.
- 2.2. **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 as follows:
  - (a) If the Participant's surviving spouse is the Participant's sole designated beneficiary, then, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age seventy and one-half (70-1/2), if later.
  - (b) If the Participant's surviving spouse is not the Participant's sole designated beneficiary, then, distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.
  - (c) If there is no designated beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
  - (d) If the Participant's surviving spouse is the Participant's sole designated beneficiary and the surviving spouse dies after the Participant but before distributions to the

surviving spouse begin, this Section 2.2, other than Section 2.2(a), will apply as if the surviving spouse were the Participant.

For purposes of this Section 2.2, unless Section 2.2(d) applies, distributions are considered to begin on the Participant's required beginning date. If Section 2.2(d) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under Section 2.2(a). If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's required beginning date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under Section 2.2(a)), the date distributions are considered to begin is the date distributions actually commence.

- 2.3. **Forms of Distribution.** Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with Sections 3 and 4 of this Appendix. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of §401(a)(9) of the Code and the Treasury regulations.

### SECTION 3

#### REQUIRED MINIMUM DISTRIBUTIONS DURING PARTICIPANT'S LIFETIME

- 3.1. **Amount of Required Minimum Distribution for Each Distribution Calendar Year.** During the Participant's lifetime, the minimum amount that will be distributed for each distribution calendar year is the lesser of:
- (a) the quotient obtained by dividing the Participant's account balance by the distribution period in the Uniform Lifetime Table set forth in §1.401(a)(9)-9 of the Treasury regulations, using the Participant's age as of the Participant's birthday in the distribution calendar year; or
  - (b) if the Participant's sole designated beneficiary for the distribution calendar year is the Participant's spouse, the quotient obtained by dividing the Participant's account balance by the number in the Joint and Last Survivor Table set forth in §1.401(a)(9)-9 of the Treasury regulations, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the distribution calendar year.
- 3.2. **Lifetime Required Minimum Distributions Continue Through Year of Participant's Death.** Required minimum distributions will be determined under this Article 3 beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the Participant's date of death.

## SECTION 4

### REQUIRED MINIMUM DISTRIBUTIONS AFTER PARTICIPANT'S DEATH

#### 4.1. Death On or After Date Distributions Begin.

- (a) **Participant Survived by Designated Beneficiary.** If the Participant dies on or after the date distributions begin and there is a designated beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the longer of the remaining life expectancy of the Participant or the remaining life expectancy of the Participant's designated beneficiary, determined as follows:
- (i) The Participant's remaining life expectancy is calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.
  - (ii) If the Participant's surviving spouse is the Participant's sole designated beneficiary, the remaining life expectancy of the surviving spouse is calculated for each distribution calendar year after the year of the Participant's death using the surviving spouse's age as of the spouse's birthday in that year. For distribution calendar years after the year of the surviving spouse's death, the remaining life expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.
  - (iii) If the Participant's surviving spouse is not the Participant's sole designated beneficiary, the designated beneficiary's remaining life expectancy is calculated using the age of the beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.
- (b) **No Designated Beneficiary.** If the Participant dies on or after the date distributions begin and there is no designated beneficiary as of September 30 of the year after the year of the Participant's death, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the Participant's remaining life expectancy calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

#### 4.2. **Death Before Date Distributions Begin.**

- (a) **Participant Survived by Designated Beneficiary.** If the Participant dies before the date distributions begin and there is a designated beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the remaining life expectancy of the Participant's designated beneficiary, determined as provided in Section 4.1.
  - (b) **No Designated Beneficiary.** If the Participant dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
  - (c) **Death of Surviving Spouse Before Distributions to Surviving Spouse are Required to Begin.** If the Participant dies before the date distributions begin, the Participant's surviving spouse is the Participant's sole designated beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under Section 2.2(a), this Section 4.2 will apply as if the surviving spouse were the Participant.
- 4.3. **Elections for Payments to Designated Beneficiaries.** Participants or beneficiaries may elect on an individual basis whether the 5-year rule or the life expectancy rule in Sections 2.2 and 4.2 of this Appendix applies to distributions after the death of a Participant who has a designated beneficiary. The election must be made no later than the earlier of September 30 of the calendar year in which distribution would be required to begin under Section 2.2 of this Appendix, or by September 30 of the calendar year which contains the fifth anniversary of the Participant's (or, if applicable, surviving spouse's) death. If neither the Participant nor beneficiary makes an election under this paragraph, distributions will be made in accordance with Sections 2.2 and 4.2 of this Appendix.

## **SECTION 5**

### **DEFINITIONS**

- 5.1. **Designated Beneficiary.** The individual who is designated as the Beneficiary under the Plan and is the designated beneficiary under §401(a)(9) of the Internal Revenue Code and §1.401(a)(9)-4, of the Treasury regulations.
- 5.2. **Distribution Calendar Year.** A calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's required beginning date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin under Section 2.2 of this Appendix. The required minimum distribution for the Participant's first distribution calendar year will be made on or before the

Participant's required beginning date. The required minimum distribution for other distribution calendar years, including the required minimum distribution for the distribution calendar year in which the Participant's required beginning date occurs, will be made on or before December 31 of that distribution calendar year.

- 5.3. **Life Expectancy.** Life expectancy as computed by use of the Single Life Table in §1.401(a)(9)-9 of the Treasury regulations.
- 5.4. **Participant's Account Balance.** The account balance as of the last valuation date in the calendar year immediately preceding the distribution calendar year (valuation calendar year) increased by the amount of any contributions made and allocated or forfeitures allocated to the account balance as of dates in the valuation calendar year after the valuation date and decreased by distributions made in the valuation calendar year after the valuation date. The account balance for the valuation calendar year includes any amounts rolled over or transferred to the Plan either in the valuation calendar year or in the distribution calendar year if distributed or transferred in the valuation calendar year.
- 5.5. **Required Beginning Date.** The date specified in the Plan when distributions under §401(a)(9) of the Internal Revenue Code are required to begin.