

**Caernarvon Township  
Employees' Retirement Plan**

**Effective  
January 1, 2026**



# Caernarvon Township Employees' Retirement Plan

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This plan document has been created from the model document developed by Conrad M. Siegel, Inc. For further information regarding the drafter's intended meaning of plan provisions contact Conrad M. Siegel, Inc. by letter (P.O. Box 5900, Harrisburg, Pennsylvania 17110-0900) or telephone (717-652-5633). You may also contact us through our website at [conradsiegel.com](http://conradsiegel.com).

# Caernarvon Township Employees' Retirement Plan

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## PREAMBLE

This plan, executed on the date indicated at the end hereof, is made effective as of January 1, 2026, except as provided otherwise in Section 1.3(c), by Caernarvon Township, a government agency/instrumentality, with its principal office located in Berks County, Pennsylvania.

### WITNESSETH:

WHEREAS, the employer desires to establish a permanent qualified money purchase pension plan in order to provide its employees and their beneficiaries with financial security in the event of retirement, disability, or death;

NOW THEREFORE, the premises considered, the following are the provisions of the qualified plan of the employer.

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## ARTICLE I – DEFINITIONS

### Section 1.1 – References

- (a) **Act 205** means the Municipal Pension Plan Funding Standard and Recovery Act of December 18, 1984, P.L. 1005 no. 205, as amended, 53 P.S. 895.101, *et seq.*, as enacted by the Commonwealth of Pennsylvania.
- (b) **ERISA** means the Employee Retirement Income Security Act of 1974, as amended.
- (c) **IRC** means the Internal Revenue Code of 1986, as it may be amended from time to time.

### Section 1.2 – Compensation

- (a) **Compensation** means, except as provided in Section 1.2(b) hereof, any earnings reportable as W-2 wages for federal income tax withholding purposes plus elective contributions, for the determination period. For this purpose, the determination period is the plan year.

Elective contributions are amounts excludable from the employee's gross income and contributed by the employer, at the employee's election to:

- A cafeteria plan (excludable under IRC section 125 and as provided in Section 5.1(c)(2));
- A IRC section 401(k) arrangement (excludable under IRC section 402(e)(3));
- A simplified employee pension (excludable under IRC section 402(h));
- A simple retirement account (excludable under IRC section 402(k));
- A tax sheltered annuity (excludable under IRC section 403(b));
- A deferred compensation plan excludable under IRC section 457(b); or
- A IRC section 132(f)(4) qualified transportation fringe benefit plan.

Picked-up contributions under IRC section 414(h)(2) shall be included in the participant's compensation. Such earnings shall include any amount contributed to a Roth elective deferral account under a qualified plan. However, compensation shall not include any earnings reportable as W-2 wages that are payable following the termination of employment pursuant to a severance agreement.

Compensation paid or treated as paid prior to severance from employment with the employer shall be taken into account if it is paid by the later of 2½ months after severance or the last day of the determination period that includes the severance date, if later. For this purpose, includable payments are those that absent the severance would have been paid and are regular compensation for services during regular working hours or compensation for services outside regular working hours (such as overtime or shift differentials), commissions, bonuses, or other similar compensation. Includable payments shall also include unused accrued sick, vacation, or other leave if such payments are not excluded under Section 1.2(b). Any payments not described herein as an includable payment shall not be considered compensation if paid after severance from employment, even if they are paid by the later of 2½ months after the date of severance from employment or the end of the determination period that includes the severance date, except, (A) payments to an individual who does not currently perform services for the employer by reason of qualified military service to the extent these 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; or (B) compensation paid to a participant who is permanently and totally disabled, provided salary continuation applies to all participants who are permanently and totally disabled for a fixed or determinable period or the participant was not a highly compensated employee immediately before becoming disabled.

Any reference in this plan to compensation shall be a reference to the definition in this Section 1.2, unless the plan reference specifies a modification to this definition. The plan administrator shall take into account only compensation actually paid by the employer for the relevant period. A compensation payment includes compensation by the employer through another person under the common paymaster provisions in IRC sections 3121 and 3306. Compensation from an employer that is not a participating employer under this plan shall be excluded.

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- (b) **Exclusions From Compensation** – Notwithstanding the provisions of Section 1.2(a), the following types of remuneration shall be excluded from the participant's compensation:
- No exclusions.
- (c) **Limitations on Compensation** – The annual compensation of each participant taken into account in determining allocations shall not exceed \$275,000, as adjusted for cost-of-living increases in accordance with IRC section 401(a)(17)(B). The compensation dollar limitation for a plan year shall be the limitation amount in effect on January 1 of the calendar year in which the plan year begins. Annual compensation means compensation during the plan year or such other 12-consecutive-month period over which compensation is otherwise determined under the plan (the determination period for purposes of Section 1.2). If the plan should determine compensation on a period of time that contains less than 12 calendar months (such as for a short plan year), the annual compensation dollar limitation shall be an amount equal to the compensation dollar limitation for the plan year multiplied by the ratio obtained by dividing the number of months (including any fractional parts of a month) in the period by 12. If compensation for any prior determination period is taken into account in determining a participant's allocations for the current plan year, the compensation for such prior determination period is subject to the applicable annual compensation limit in effect for that prior period.

## Section 1.3 – Dates

- (a) **Accounting Date** means the date(s) on which investment results are allocated to participants' accounts as set forth below:
- December 31
- If there has been a significant change in market conditions since the immediately preceding accounting date that has impacted the value of the assets in which the trust fund is invested and a participant will be taking a distribution; then, the investment results shall be allocated to all participants' accounts as of the last day of the month preceding any participant distribution.
- (b) **Allocation Date** means the last day of each plan year that is the date as of which contributions and any forfeitures are allocated to participants' accounts. The allocation period for the contribution shall be the plan year.
- (c) The **Effective Date** of the plan is January 1, 2026.
- (d) **Plan Entry Date** means the participation date(s) specified in Article II.
- (e) **Plan Year** means the 12-consecutive-month period beginning on January 1 and ending on December 31.
- (f) **Limitation Year** means the plan year.

## Section 1.4 – Employee

- (a) **Employee** means any person employed by the employer. The term employee shall include any employee of the employer maintaining the plan or of any other employer required to be aggregated with such employer under IRC section 414(b), (c), (m), or (o). The term employee shall also include any leased employee deemed to be an employee of any such employer as provided in IRC section 414(n) or (o) and as defined in Section 1.4(b).
- (b) **Leased Employee** means an individual (who otherwise is not an employee of the employer) who, pursuant to a leasing agreement between the employer and any other person, has performed services for the employer (or for the employer and any persons related to the employer within the meaning of IRC section 414(n)(6)) on a substantially full time basis for at least one year and such services are performed under the primary direction or control of the employer. If a leased employee is treated as an employee by reason of this Section 1.4(b), compensation from the leasing organization that is attributable to services performed for the employer shall be considered as compensation under the plan. Contributions or benefits provided a leased employee by the leasing organization that are attributable to services performed for the employer shall be treated as provided by the employer.

## Section 1.5 – Employer

Employer means Caernarvon Township, a political subdivision of the Commonwealth of Pennsylvania (or agency or authority thereof), or any successor entity that may assume the obligations of this plan with respect to its employees by becoming a party to this plan.

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In compliance with the exclusive benefit requirements of IRC section 401(a), the sponsorship of this plan may not be transferred to an unrelated entity if the transfer is not in connection with a transfer of business assets or operations from the employer to such entity.

## Section 1.6 – Fiduciaries

- (a) **Plan Administrator** means the person or persons appointed by the employer to administer the plan.
- (b) **Trustee** means the trustee named in the trust agreement executed pursuant to this plan, or any duly appointed successor trustee.
- (c) **Investment Manager** means a person or corporation other than the trustee appointed for the investment of plan assets.

## Section 1.7 – Participant/Beneficiary/Spouse

- (a) **Participant** means an eligible employee of the employer who becomes a member of the plan pursuant to the provisions of Article II, or a former employee who has an accrued benefit under the plan.
- (b) **Beneficiary** means a person designated by a participant who is or may become entitled to a benefit under the plan. A beneficiary who becomes entitled to a benefit under the plan remains a beneficiary under the plan until the trustee has fully distributed his benefit to him. A beneficiary's right to (and the plan administrator's, or a trustee's duty to provide to the beneficiary) information or data concerning the plan shall not arise until he first becomes entitled to receive a benefit under the plan.
- (c) **Spouse** means the person married to the participant at the time of the determination as evidenced by a marriage certificate valid under the marriage licensing laws of the place of issuance.

## Section 1.8 – Participant Accounts

- (a) **Accrued Benefit** means the total of the participant's account balance(s) as of the accounting date falling on or before the day on which the accrued benefit is being determined.
- (b) **Money Purchase Account** means the balance of the separate account derived from employer contributions provided under Section 3.2, including forfeitures (if any).
- (c) **Employee Nondeductible Contribution Account** means the balance of the separate account derived from the participant's employee nondeductible contributions (if so provided under Section 3.3).
- (d) **Rollover/Transfer Account** means the balance of the separate account derived from rollover contributions and/or transfer contributions (if so provided under Section 3.4).

## Section 1.9 – Plan

**Plan** means Caernarvon Township Employees' Retirement Plan as set forth herein and as it may be amended from time to time.

## Section 1.10 – Service

- (a) **Service** means any period of time the employee is in the employ of the employer. Separation from service means that the employee no longer has an employment relationship with the employer.
- (b) **Hour of Service** means:
  - (1) Each hour for which an employee is paid, or entitled to payment, for the performance of duties for the employer. These hours shall be credited to the employee for the computation period in which the duties are performed; and
  - (2) Each hour for which an employee is paid, or entitled to payment, by the employer on account of a period of time during which no duties are performed (irrespective of whether the employment relationship has terminated) due to vacation, holiday, illness, incapacity (including disability), layoff, jury duty, military duty, or leave of absence. No more than 501 hours of service shall be credited under this Paragraph (2) for any single continuous period (whether or not such period occurs in a single computation period). An hour of service shall not be credited to an employee under this Paragraph (2) if the employee is paid, or entitled to payment, under a plan maintained solely for the purpose of complying with applicable worker's compensation or unemployment compensation or disability insurance laws; and
  - (3) Each hour for which back pay, irrespective of mitigation of damages, is either awarded or agreed to by the employer. The same hours of service shall not be credited both under Paragraph (1) or

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Paragraph (2), as the case may be, and under this Paragraph (3). These hours shall be credited to the employee for the computation period or periods to which the award or agreement pertains rather than the computation period in which the award, agreement, or payment is made.

Hours of service shall be determined on the basis of actual hours for which an employee is paid or entitled to payment. The above provisions shall be construed so as to resolve any ambiguities in favor of crediting employees with hours of service.

- (4) Solely for purposes of determining whether a break in service for participation and vesting purposes has occurred in a computation period, an individual who is absent from work on unpaid leave under the Family and Medical Leave Act shall receive credit for the hours of service that would otherwise have been credited to such individual but for such absence, or in any case in which such hours cannot be determined, 8 hours of service per day of such absence. Such an individual shall be treated as actively employed for the purposes of participation and eligibility for an allocation of any employer contribution that may be provided under this plan. Notwithstanding the preceding, this paragraph shall not apply if the employer or the particular employee is not subject to the requirements of the Family and Medical Leave Act at the time of the absence.
  - (5) If the employer is a member of an affiliated service group under IRC section 414(m) or a controlled group of corporations under IRC section 414(b), or any other entity required to be aggregated with the employer pursuant to IRC section 414(o) as these Internal Revenue Code provisions are applied to a governmental entity, service shall be credited for any employment for any period of time for any other member of such group. Service shall also be credited for any leased employee who is considered an employee for purposes of this plan under IRC section 414(n) or IRC section 414(o).
- (c) (1) **Year of Service** means a 12-consecutive-month computation period during which the employee completes the required number of hours of service with the employer as specified in Section 2.1 or Section 4.1. No more than one year of service will be credited for any 12-consecutive-month period unless otherwise required by Sections 2.1(c) and 4.1(c).
  - (2) **Service With Related Employers** – For purposes of crediting years of service, hours of service credited in accordance with Section 1.10(b)(5) shall be taken into account.
  - (3) **Predecessor Service** – If the employer maintains the plan of a predecessor employer, service with such predecessor employer shall be treated as service for the employer. If the employer does not maintain the plan of a predecessor employer, then service as an employee of a predecessor employer shall not be considered as service under this plan, unless this plan is so amended.
  - (d) **Break in Service** (or One Year Break in Service) means a 12-consecutive-month computation period during which an employee or former employee does not complete the specified number of hours of service with the employer as set forth in Sections 2.1(b) and 4.1(b).
  - (e) **Qualified Military Service** – Notwithstanding any provision of this plan to the contrary, contributions, benefits, and service credit with respect to qualified military service will be provided in accordance with IRC section 414(u) and the applicable Pennsylvania statutes. An employee reemployed after qualified military service shall not be treated as having incurred a break in service, for purposes of vesting and benefit accruals, solely because of an absence due to qualified military service.

## Section 1.11 – Trust

- (a) **Trust** means the qualified trust created under the employer's plan.
- (b) **Trust Fund** means all property held or acquired by the plan.

## ARTICLE II – PARTICIPATION

### Section 2.1 – Eligibility Service

- (a) **Eligibility Year of Service** means an eligibility computation period during which the employee completes at least 1,000 hours of service with the employer.
- (b) **One Year Break in Service** means for the purposes of this Article II an eligibility computation period during which the participant or former participant does not complete more than 500 hours of service with the employer.

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- (c) **Eligibility Computation Period** – The initial eligibility computation period shall be the 12-consecutive-month period beginning with the day on which the employee first performs an hour of service for the employer (employment commencement date).

Succeeding eligibility computation periods shall coincide with the plan year, beginning with the first plan year that commences prior to the first anniversary of the employee's employment commencement date regardless of whether the employee is credited with the required number of hours of service during the initial eligibility computation period. An employee who is credited with the required number of hours of service in both the initial eligibility computation period and the first plan year that commences prior to the first anniversary of the employee's employment commencement date shall be credited with two years of service for purposes of eligibility to participate.

## Section 2.2 – Plan Participation

### (a) Eligibility

- (1) **Age/Service Requirements** – An employee who is a member of the eligible class of employees shall be eligible for plan participation after he has satisfied the following participation requirements:

(A) Completion of 1 year(s) of service.

(B) Attainment of age 21.

- (2) **Eligible class of employees** – All employees of the employer shall be eligible to be covered under the plan except for employees in the following categories:

- Individuals not directly employed by the employer as defined in Section 1.5. An employee of an entity that is not a participating employer in this plan shall not participate in this plan.
- Employees employed as police officers.
- Employees who normally work less than 35 hours per week.
- Employees employed as paid firemen.
- Leased employees who are considered employees under the plan.
- Employees who are non-resident aliens (as defined in IRC section 7701(b)(1)(B)) and who receive no earned income (as defined in IRC section 911(d)(2)) from the employer that constitutes income from sources within the United States (as defined in IRC section 861(a)(3)).

- (b) **Entry Date** – An eligible employee shall participate in the plan as of the first day of the month coinciding with or immediately following the date on which he has met the age and service requirements, provided he is employed on that date.

## Section 2.3 – Termination of Participation

A participant shall continue to be an active participant of the plan so long as he is a member of the eligible class of employees and he does not terminate employment. He shall become an inactive participant when he terminates employment or ceases to be a member of the eligible class of employees. He shall cease participation completely upon the later of his receipt of a total distribution of his nonforfeitable account balance under the plan or the forfeiture of the nonvested portion of the account balance.

## Section 2.4 – Re-Participation

- (a) If a participant becomes an inactive participant, because he is no longer a member of the eligible class of employees; such inactive participant shall become an active participant immediately upon returning to the eligible class of employees. In the event an employee who is not a member of an eligible class of employees becomes a member of an eligible class, such employee shall participate immediately.
- (b) If a participant incurs a break in service, he shall become an active participant immediately upon returning to employment.

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## ARTICLE III – CONTRIBUTIONS TO PARTICIPANT ACCOUNTS

### Section 3.1 – General Provisions

- (a) **Maintenance of Participant Accounts** – The plan administrator shall maintain one or more separate accounts covering each participant under the plan. Such account(s) shall be increased by contributions, reallocation of forfeitures (if any), investment income, and market value appreciation of the fund. It shall be decreased by market value depreciation of the fund, forfeiture of nonvested amounts, benefit payments, withdrawals, and expenses.
- (b) **Amount and Payment of Employer Contribution**
- (1) **Amount of Contribution** – For each plan year, the employer contribution to the plan shall be the amount that is determined under the provisions of this Article; provided, however, that the employer may not make a contribution to the plan for any plan year to the extent the contribution would exceed the participants' maximum permissible amounts under IRC section 415. Further, the employer contribution shall not exceed the maximum amount that would be deductible under IRC section 404.
- (2) **Payment of Contribution** – The employer shall make its contribution to the plan within the time prescribed by the IRC or applicable Treasury regulations. The employer shall notify the trustee in writing as to the amount being contributed with respect to each group of participants where this plan covers more than one division, participating employer, eligible group, or classification.
- (c) **Limitations and Conditions** – Notwithstanding the contribution amount set forth in this Article, the contribution otherwise contributable to a participant's account under this plan shall be limited or reduced as provided in Section 5.1.

In any limitation year in which the contribution otherwise contributable to a participant's account under this plan would exceed the maximum permissible amount due to a contribution otherwise allocable to the participant under another defined contribution plan that the employer also sponsors, the contribution shall first be limited or reduced under such other sponsored plan so that the annual additions for the limitation year will equal the maximum permissible amount.

### Section 3.2 – Allocation of Contributions and Forfeitures to Money Purchase Account

- (a) **Amount of Contribution** – The employer shall contribute the amount required under this Section 3.2 each year; provided, however, that the employer shall also contribute such amount as may be required for restoration of a forfeited amount under Section 4.2.
- (b) **Conditions for Allocations** – An active participant shall be eligible for an allocation of the employer contribution and forfeitures as of an allocation date, provided that he satisfies the following condition(s):
- (1) He completed at least 1,000 hours of service during the current plan year unless his employment terminated during the plan year by reason of normal retirement, disability, or death.
- AND
- (2) He is employed by the employer on the last day of the plan year unless his employment terminated during the plan year by reason of normal retirement, disability, or death.
- (b) (1) **Contribution Formula**
- For each plan year, the employer will contribute an amount equal to 6% of each eligible participant's compensation.
- (2) **Compensation** – For this purpose, compensation means compensation as defined in Section 1.2(a) and (b) (subject to the limitations of Section 1.2(c)) for the entire plan year, but limited to the employee's compensation for the portion of the plan year in which the employee actually is an active participant. Compensation includable under Section 1.2(a) and (b) but not paid through payroll shall be treated as being paid as of the last day of the plan year or the last day of employment, if earlier.

(c) **Allocation of Forfeitures**

Forfeitures for the plan year shall be used to reduce employer contributions for the current plan year in which such forfeitures occur or the immediately following plan year.

### Section 3.3 – Employee Nondeductible Contribution Account

Employee nondeductible contributions have never been permitted under this plan.

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## Section 3.4 – Rollover/Transfer Account

- (a) **Contributions Before Plan Entry Date** – An employee, (who is in the eligible class of employees) prior to satisfying the plan's eligibility conditions, may make a rollover or transfer contribution to the plan to the same extent and in the same manner as a participant. If an employee makes a rollover or transfer contribution to the plan before satisfying the plan's eligibility conditions, the plan administrator and trustee will treat the employee as a participant for all purposes of the plan, except the employee is not a participant for purposes of making or sharing in contributions or forfeitures under the plan until he actually becomes a participant in the plan. If the employee has a separation from service prior to becoming a participant, the trustee will distribute his rollover/transfer account to him.
- (b) **Transfer Contributions** – With the consent of the plan administrator, a participant may have funds transferred directly to his rollover/transfer account under this plan from another qualified plan. Consent shall not be given if the optional forms of payment to which the funds are subject under the prior plan are not properly disclosed by the prior plan or cannot be accommodated by this plan and trust.
- (c) **Rollover Contributions** – A participant may contribute to his rollover/transfer account any amounts that he previously received as a lump sum distribution (as defined in IRC section 402(e)(4)(D)) provided that he transfers such distribution to this plan within 60 days after receipt.
- (d) **Acceptable and Unacceptable Sources** – With the consent of the plan administrator, the participant may have the following contributions made on his behalf:
- A transfer or rollover of an eligible rollover distribution from a qualified plan described in IRC section 401(a) or 403(a)
  - A transfer or rollover of an eligible rollover distribution from an eligible plan under IRC section 457(b) that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state
  - A transfer or rollover of an eligible rollover distribution from an annuity contract or account described in IRC section 403(b)
  - A participant transfer or rollover contribution of the portion of a distribution from a traditional individual retirement account or annuity described in IRC section 408(a) or 408(b) (including an account more specifically described under IRC section 408(k) or (p)) that is eligible to be rolled over and would otherwise be includable in gross income, provided in the case of a SIMPLE retirement account subject to IRC section 408(p) the participant participated in such account for at least 2 years.

The plan administrator shall not consent to the following contributions:

- Rollover from a Roth elective deferral account
  - Transfer from a Roth elective deferral account under a qualified IRC section 401(a) plan
  - Transfer or rollover from an after-tax employee contribution account
  - Transfer or rollover from a Roth account under an eligible plan under IRC section 457(b) that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state
  - Transfer or rollover from a Roth elective deferral account under a IRC section 403(b) annuity contract or account
  - Transfer or rollover from a Roth individual retirement account or annuity.
- (e) **Administration** – The plan administrator may require a participant to furnish satisfactory evidence that the proposed transfer or rollover is in fact a "rollover contribution" that the IRC permits a participant to make to a qualified plan. If and to the extent the transferring plan is represented to be a retirement plan qualified under IRC section 401(a) that is not sponsored by a church or governmental agency, the participant shall not be required to furnish such evidence, except with respect to Roth or other after-tax accounting. Further, no evidence shall be required when the check is issued by a financial institution indicating that the distribution is from an individual retirement account, 403(b) account, or a governmental entity 457(b) account previously maintained for the benefit of the participant. The acceptable sources for a transfer or rollover contribution shall be as set forth in Section 3.7(d).

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If the plan administrator later determines that the contribution was an invalid transfer or rollover contribution, the plan administrator shall distribute the amount of the invalid contribution, plus any earnings attributable thereto, to the participant within a reasonable time after such determination.

- (f) **Distribution** – The participant's rollover/transfer account shall be held subject to separate accounting and shall always be 100% vested and nonforfeitable. The rollover/transfer account shall be subject to distribution in the same manner as the money purchase account.

## Section 3.5 – Allocation of Investment Results

### (a) General Allocation Procedure

Investment income and market value appreciation or depreciation shall be allocated and credited to each account of each participant who has accrued benefits in proportion to the respective account balances on each accounting date. For this purpose, each account balance shall be equal to the average balance for the period commencing on the day following the prior accounting date and ending on the current accounting date.

## ARTICLE IV – PAYMENT OF PARTICIPANT ACCOUNTS

### Section 4.1 – Vesting Service Rules

- (a) **Vesting Year of Service** means a vesting computation period during which the employee completes at least 1,000 hours of service with the employer. All of an employee's years of service with the employer shall be counted to determine the nonforfeitable percentage in the employee's account balance derived from employer contributions, except: Years of service disregarded under the break in service rules in Section 4.1(d).
- (b) **One Year Break in Service** means for the purposes of this Article IV a vesting computation period during which the employee or former employee does not complete more than 500 hours of service with the employer.
- (c) **Vesting Computation Period** means the 12-consecutive-month period coinciding with the plan year.
- (d) **Break in Service Rules**
  - (1) **Vested Participant** – A former participant who had a nonforfeitable right to all or a portion of his account balance derived from employer contributions at the time of his termination from service shall retain credit for all vesting years of service prior to a break in service as that term is defined in Section 4.1(b).
  - (2) **Nonvested Participant or Employee** – In the case of a former participant or employee who did not have any nonforfeitable right to his account balance derived from employer contributions at the time of his termination from service, years of vesting service before a period of consecutive one-year breaks in service shall not be taken into account in computing service if the number of consecutive one-year breaks in service in such period equals or exceeds the aggregate number of years of vesting service before such breaks in service. Such aggregate number of years of service shall not include any years of service disregarded under the preceding sentence by reason of prior breaks in service.

### Section 4.2 – Vesting of Participant Accounts

#### (a) Determination of Vesting

- (1) **Normal Retirement** – An employee's right to his accrued benefit shall be 100% vested and nonforfeitable upon the attainment of age 65, the normal retirement age. The vesting of an inactive participant who terminates employment prior to normal retirement age shall remain subject to the provisions of the vesting schedule following attainment of such specified age. Distributions shall be administered in accordance with termination from employment provisions of Section 4.3(a)(3).
- (2) **Late Retirement** – If a participant remains employed after his normal retirement age, his accrued benefit shall remain 100% vested and nonforfeitable. Such participant shall continue to receive allocations to his account as he did before his normal retirement age.
- (3) **Early Retirement** – No accelerated vesting based on age shall be provided prior to the participant's attainment of normal retirement age.

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- (4) **Disability** – No accelerated vesting shall be provided due to the participant's disability.
- (5) (A) **Death** – In the event of the death of a participant who has an accrued benefit under the plan, (whether or not he is an active participant), 100% of the participant's accrued benefit as of the date of death shall be paid to his designated beneficiary.

In the case of a participant who dies while performing qualified military service, the benefit payable shall be increased by any amount that would have been payable had the participant resumed and then immediately terminated employment on account of death (other than contributions relating to the period of qualified military service, but including vesting service credit for such period and any ancillary life insurance or other survivor benefits).

- (B) **Beneficiary Designation** – The participant shall have the right to designate his beneficiaries, including a contingent death beneficiary, and shall have the right at any time to change such beneficiaries. The designation shall be made in writing, either on a form signed by the participant and supplied by and filed with the plan administrator or through an electronic procedure established by the plan administrator. If the participant fails to designate a beneficiary, or if the designated person or persons predecease the participant, "beneficiary" shall mean the spouse, children, parents, siblings (by the whole blood or adoption), or estate of the participant, in the order listed. For this purpose, the terms children, parents, and siblings shall exclude step relationships.

In the absence of a beneficiary designation duly filed or otherwise recorded, if a designated beneficiary dies after the participant has died but before the plan has commenced distribution to the designated beneficiary, the plan shall be administered as set forth in this paragraph. The death benefit will be paid to the designated beneficiary's estate in one lump sum. If the deceased designated beneficiary was not the participant's surviving spouse, distribution will be completed by December 31 of the fifth year following the participant's date of death. If the deceased designated beneficiary was the participant's surviving spouse, distribution will be completed by December 31 of the fifth year following the beneficiary's date of death.

For purposes of this Section 4.2(a)(5), if the designated beneficiary of the participant dies simultaneously with the participant, the participant shall be deemed to be the survivor and to have died subsequent to such designated beneficiary. Likewise, if a beneficiary named by a designated beneficiary dies simultaneously with a designated beneficiary, the designated beneficiary shall be deemed to be the survivor and to have died subsequent to the beneficiary named by the designated beneficiary.

If a participant designates his spouse as the beneficiary and the participant and such spouse are legally divorced subsequent to the date of such designation; then, the designation shall be administered as if such spouse had predeceased the participant unless the participant, subsequent to the legal divorce, reaffirms the designation by completing a new beneficiary designation and duly filing or otherwise recording it with the plan administrator.

- (6) **Termination from Service** – If a participant separates from the service of the employer other than by retirement, disability, or death, he shall be entitled to a fully vested, nonforfeitable accrued benefit. His money purchase account balance shall be 100% immediately vested upon the date of his participation in the plan.
- (7) **Forfeiture for Malfeasance** – Notwithstanding any other provision of this plan, a participant who is convicted or pleads guilty to engaging in criminal misconduct which constitutes a "crime related to public office or public employment," as that phrase is defined in Pennsylvania Pension Forfeiture Act, 43 P.S. 1311-1314 and interpreted thereunder, shall forfeit his right to receive a pension benefit under this plan.

## (b) Forfeitures

- (1) **Time of Forfeiture** – If a participant terminates employment before his account balance derived from employer contributions is fully vested, the nonvested portion of his account shall be forfeited on the earlier of:
- (A) The last day of the vesting computation period in which the participant first incurs a one-year breaks in service, or
- (B) The date the participant receives his entire vested account balance.

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If a participant returns to employment with the employer, and if the forfeited amount is restored pursuant to Section 4.2(b)(2)(B), then any amount required to restore such forfeitures shall be deducted from forfeitures occurring in the plan year of restoration. If forfeitures are insufficient for the restoration, the employer may make a contribution to the plan for such plan year to satisfy the restoration. However, by the end of the plan year following the plan year of restoration, sufficient forfeitures or employer contributions shall be credited to the account to satisfy the restoration.

## (2) Cashout Distributions and Restoration

(A) **Cashout Distribution** – If an employee terminates service and the value of his vested account balance(s) derived from employer and employee contributions is not greater than \$1,000, the employee shall receive a distribution of the value of the entire vested portion of such account balance(s) and the nonvested portion will be treated as a forfeiture. If an employee would have received a distribution under the preceding sentence but for the fact that the employee's vested account balance exceeded \$1,000 when the employee terminated service and if at a later time such account balance is reduced such that it is not greater than \$1,000, the employee will receive a distribution of such account balance and the nonvested portion will be treated as a forfeiture. For purposes of this section, if the value of an employee's vested account balance is zero, he shall be deemed to have received a distribution of such vested account balance.

For the purpose of determining the value of a participant's vested account balance, prior distributions shall be disregarded if distributions have not commenced under an optional form of payment described in Section 4.3.

The value of a participant's vested account balance shall be determined without regard to the account balance that is attributable to rollover contributions (and earnings allocable thereto) within the meaning of IRC sections 402(c), 403(a)(4), 403(b)(8), 408(d)(3)(A)(ii), and 457(e)(16).

If an employee terminates service and elects, in accordance with the requirements of Section 4.3, to receive the value of his vested account balance, the nonvested portion shall be treated as a forfeiture as of the date of distribution. If the employee elects to have distributed less than the entire vested portion of the account balance derived from employer contributions, the part of the nonvested portion that will be treated as a forfeiture is the total nonvested portion multiplied by a fraction, the numerator of which is the amount of the distribution attributable to employer contributions and the denominator of which is the total value of the vested employer-derived account balance.

(B) **Restoration of Account** – If an employee receives a cashout distribution pursuant to this section and resumes employment covered under this plan before he incurs a break in service, his employer-derived account balance shall be restored to the amount on the date of distribution, if he repays to the plan the full amount of the distribution attributable to employer contributions (without regard to gains/losses) before the earlier of one year after the first date on which he is subsequently re-employed by the employer, or the date he incurs a break in service following the date of the distribution. If an employee is deemed to receive a distribution pursuant to this Section 4.2(b)(2), and he resumes employment covered under this plan before he incurs a break in service, upon the re-employment of such employee his employer-derived account balance will be restored to the amount on the date of such deemed distribution.

(c) **Withdrawal of Employee Nondeductible Contributions** – No forfeitures shall occur solely as a result of an employee's withdrawal of employee nondeductible contributions.

## (d) Unclaimed Benefits

(1) **Forfeiture** – The plan does not require the trustee or the plan administrator to search for, or to ascertain the whereabouts of, any participant or beneficiary. At the time the participant's or beneficiary's benefit becomes distributable under the plan, the plan administrator, by certified or registered mail addressed to his last known address of record, shall notify any participant or beneficiary that he is entitled to a distribution under this plan. If the participant or beneficiary fails to claim his distributive share or make his whereabouts known to the plan administrator within twelve months from the date of mailing of the notice, the plan administrator shall treat the participant's or beneficiary's unclaimed payable accrued benefit as forfeited and shall reallocate such forfeiture in accordance with Section 3.2(c). A forfeiture under this paragraph shall occur at the end of the notice period or, if later, the earliest date applicable Treasury regulations would permit the forfeiture. These forfeiture provisions apply solely to the participant's or beneficiary's accrued benefit derived from employer contributions.

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- (2) **Restoration** – If a participant or beneficiary who has incurred a forfeiture of his accrued benefit under the provisions of this Section 4.2(d) makes a claim, at any time, for his forfeited accrued benefit, the plan administrator shall restore the participant's or beneficiary's forfeited accrued benefit to the same dollar amount as the dollar amount of the accrued benefit forfeited, unadjusted for any gains or losses occurring after the date of the forfeiture. During the plan year in which the participant or beneficiary makes the claim, the plan administrator shall make the restoration from forfeitures occurring in that plan year. If forfeitures are insufficient for the restoration, the employer shall make a contribution to the plan to satisfy the restoration. The plan administrator shall direct the trustee to distribute the participant's or beneficiary's restored accrued benefit to him not later than 60 days after the close of the plan year in which the plan administrator restores the forfeited accrued benefit.

## Section 4.3 – Payment of Participant Accounts

### (a) Time of Payment

- (1) **Commencement of Benefits** – Subject to the limitations of this plan, the plan administrator shall have full authority to determine the time of payment of any benefit.
- (2) **Payment Upon Retirement, Disability, or Death** – Subject to the provisions set forth in the Distribution Requirements of Section 5.2, if the participant terminates employment due to retirement, disability, or death, his account(s) shall be paid as soon as administratively possible after the occurrence of the event creating the right to a distribution.
- (3) **Payment Upon Other Termination of Employment** – Subject to the provisions set forth in the Distribution Requirements of Section 5.2, if the participant terminates employment other than by retirement, disability, or death, his account(s) shall be paid as soon as administratively possible after the date of severance of employment.

Notwithstanding the preceding, an alternate payee may elect to have paid the amount determined under the qualified domestic relations order as soon as administratively possible following the date permitted under Section 4.5.

- (4) Notwithstanding the foregoing, the failure of a participant to consent to a distribution while a benefit is immediately distributable shall be deemed to be an election to defer commencement of payment of any benefit sufficient to satisfy this section. An account balance is immediately distributable if any part of the account balance could be distributed to the participant (or surviving spouse) before the participant attains (or would have attained if not deceased) the later of normal retirement age or age 62.

- (b) **Form of Payment** – A participant or beneficiary may elect to receive distribution of his account(s) as a lump sum benefit payment. The participant or beneficiary shall make a request for benefits through the procedures established by the plan administrator before payment will be made. The lump sum benefit payment shall be made in cash from the fund. If the vested accrued benefit is no more than \$1,000, benefits shall automatically be paid in a lump sum.

If a distribution is required under the Distribution Requirements of Section 5.2, the participant fails to elect payment, and the vested balance of the account(s) exceeds \$7,000, the trustee shall pay the benefit in installment payments that meet the requirements of Section 5.2 over the joint life and last survivor expectancy of the participant and his designated beneficiary. If the vested balance of the account(s) does not exceed \$7,000, the trustee shall distribute the entire account balance in a lump sum.

### (c) General Payment Provisions

- (1) All distributions due to be made under this plan shall be made on the basis of the amount to the credit of the participant as of the accounting date coincident with or immediately preceding the date of distribution.

Such amount shall be adjusted with respect to the investment results attributable thereto that accrue during the period following such accounting date until the last day of the plan year quarter preceding the actual distribution date. A participant shall not accrue a right to a particular accounting date based upon the date he submits his written request for distribution.

If a distribution is requested to occur after an allocation date and before allocations have been made to the account of the participant, the distribution request shall be applied to the amounts allocable to the account as of such allocation date.

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- (2) If any person entitled to receive benefits hereunder is physically or mentally incapable of receiving or acknowledging receipt thereof, and if a legal guardian or power of attorney has been appointed for him, the plan administrator may direct the benefit payment to be made to such legal representative. The plan administrator may cause benefits to be paid to any other individual recognized by the state law under which the plan trust has been established.

In the event a distribution is to be made to a minor beneficiary, then the plan administrator may direct that such distribution be paid to the legal guardian, or if none, to a parent of such beneficiary or a responsible adult with whom the beneficiary maintains his residence, or to the custodian for such beneficiary under the Uniform Gift to Minors Act or the Gift to Minors Act, if such is permitted by the laws of the state in which said beneficiary resides. Such a payment to the legal guardian, custodian or parent of a minor beneficiary shall fully discharge the trustee, employer, plan administrator, and plan from further liability on account thereof.

- (3) Any annuity contract distributed herefrom shall be transferred to an individual retirement account established by or on behalf of the participant. The terms of any such annuity contract purchased and distributed by the plan shall comply with the requirements of this plan. Prior to distribution, the ownership of an annuity contract investment shall reside with the plan. Any dividend, refund or recovery on an annuity contract investment shall be credited to the participant or beneficiary for whom the annuity contract was purchased.
- (4) The participant's election of a form of benefit payment shall be irrevocable as of the annuity starting date, subject to the notice requirements contained in Section 4.3(e).

## (d) Eligible Rollover Distributions

A distributee may elect, at the time and in the manner prescribed by the plan administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

- (1) **Eligible Rollover Distribution** – An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under IRC section 401(a)(9) including any portion of such distribution that is not includable in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities); any hardship withdrawal; and any other distribution(s) that is reasonably expected to total less than \$200 during a year.

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 includable in gross income. However, such portion may be transferred only to: (A) a traditional individual retirement account or annuity described in IRC section 408(a) or (b) (traditional IRA) or a Roth individual retirement account or annuity described in IRC section 408A (Roth IRA); or (B) a qualified plan or an annuity contract described in IRC section 401(a) and 403(b), respectively, that agrees to separately account for amounts so transferred (and earnings thereon), including separately accounting for the portion of such distribution that is includable in gross income and the portion of such distribution that is not so includable.

- (2) **Eligible Retirement Plan** – An eligible retirement plan is a traditional IRA, a Roth IRA, an annuity plan described in IRC section 403(a), an annuity contract described in IRC section 403(b), a qualified plan described in IRC section 401(a), that accepts the distributee's eligible rollover distribution, or an eligible plan under IRC section 457(b) that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and that agrees to separately account for amounts transferred into such plan from this plan. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in IRC section 414(p).
- (3) **Distributee** – A distributee includes an employee or former employee. The employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in IRC section 414(p), are distributees with regard to the interest of the spouse or former spouse. A distributee shall include

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a nonspouse beneficiary but only with respect to a direct transfer to an inherited traditional IRA or Roth IRA established on his behalf for the purpose of receiving the distribution.

- (4) **Direct Rollover** – A direct rollover is a payment by the plan to the eligible retirement plan specified by the distributee.

(e) **Payment Election Procedures**

An account balance in excess of \$1,000 shall not be immediately distributed without the consent of the participant. For any distribution in excess of \$200, the plan administrator shall give the participant a written notice of his eligible rollover distribution rights as required under IRC section 402(f) no less than 30 days and no more than 180 days before the proposed distribution date. A participant may elect to waive any requirement that the written explanation and notice be given at least 30 days before the annuity starting date, provided that:

- (1) The participant is provided with information that clearly states that the participant has a right to a period of at least 30 days after receiving the written explanation and notice to consider the decision of whether or not to elect a distribution (and, if applicable, a particular distribution option), and
- (2) The participant, after receiving the written explanation and notice, affirmatively elects a distribution.

If and to the extent the participant elects multiple destinations for his direct rollover distributions, he may designate the allocation of the pretax amounts.

## Section 4.4 – In-Service Account Access

- (a) **Participant Loans** – No participant loans shall be permitted under this plan.

- (b) **In-Service Withdrawals** –

No in-service withdrawal may be taken before separation from service.

## Section 4.5 – Distributions Under Domestic Relations Orders

Nothing contained in this plan prevents the trustee, in accordance with the direction of the plan administrator, from complying with the provisions of a qualified domestic relations order (as defined in IRC section 414(p)).

This plan specifically permits distribution to an alternate payee under a qualified domestic relations order at any time, irrespective of whether the participant has attained his earliest retirement age (as defined under IRC section 414(p)) under the plan. A distribution to an alternate payee prior to the participant's attainment of earliest retirement age is available only if the order specifies distribution at that time or permits an agreement between the plan and the alternate payee to authorize an earlier distribution. If the present value of the alternate payee's benefits under the plan exceeds the cashout amount as permitted under IRC sections 401(a)(31)(B)(ii) and the order requires, the alternate payee must consent to any distribution occurring prior to the participant's attainment of earliest retirement age.

Nothing in this Section gives a participant a right to receive distribution at a time otherwise not permitted under the plan nor does it permit the alternate payee to receive a form of payment not otherwise permitted under the plan.

The plan administrator shall establish reasonable procedures to determine the qualified status of a domestic relations order. Upon receiving a domestic relations order, the plan administrator promptly will notify the participant and any alternate payee named in the order, in writing, of the receipt of the order and the plan's procedures for determining the qualified status of the order. Within a reasonable period of time after receiving the domestic relations order, the plan administrator shall determine the qualified status of the order and shall notify the participant and each alternate payee, in writing, of its determination. The plan administrator shall provide notice under this paragraph by mailing to the individual's address specified in the domestic relations order.

If any portion of the participant's nonforfeitable accrued benefit is payable during the period the plan administrator is making its determination of the qualified status of the domestic relations order, the plan administrator shall make a separate accounting of the amounts payable. If the plan administrator determines the order is a qualified domestic relations order within 18 months of the date amounts first are payable following receipt of the order, it shall direct the trustee to distribute the payable amounts in accordance with the order. If the plan administrator does not make its determination of the qualified status of the order within the 18-month determination period, it shall direct the trustee to distribute the payable amounts in the manner the plan would distribute if the order did not exist and shall apply the order prospectively if it later determines the order is a qualified domestic relations order.

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## ARTICLE V – ADDITIONAL QUALIFICATION RULES

### Section 5.1 – Limitations on Allocations Under IRC Section 415

#### (a) Single Plan Limitations

- (1) If the participant does not participate in, and has never participated in another qualified defined contribution plan (or defined benefit plan permitting employee contributions) maintained by the employer, or a welfare benefit fund (as defined in IRC section 419(e)) maintained by the employer, an individual medical account (as defined in IRC section 415(l)(2)) maintained by the employer, or a simplified employee pension (as defined in Code section 408(k)) maintained by the employer, that provides an annual addition as defined in Section 5.1(c)(1), the amount of annual additions that may be credited to the participant's account for any limitation year will not exceed the lesser of the maximum permissible amount as defined in Section 5.1(c)(5) or any other limitation contained in this plan. If the employer contribution that would otherwise be contributed or allocated to the participant's account would cause the annual additions for the limitation year to exceed the maximum permissible amount, the amount contributed or allocated will be reduced so that the annual additions for the limitation year will equal the maximum permissible amount.
- (2) Prior to determining the participant's actual compensation for the limitation year, the employer may determine the maximum permissible amount for a participant on the basis of a reasonable estimation of the participant's compensation as defined in Section 5.1(c)(2) for the limitation year, uniformly determined for all participants similarly situated.
- (3) As soon as is administratively feasible after the end of the limitation year, the maximum permissible amount for the limitation year will be determined on the basis of the participant's actual compensation for the limitation year.
- (4) If a participant elects to make employee nondeductible contributions that together with any contribution the employer is obligated to make under the terms of this plan (including pursuant to any published discretionary contribution) would otherwise cause the annual additions for the limitation year to exceed the maximum permissible amount, the contribution election of the participant shall be limited before any employer contribution is reduced so that the annual additions for the limitation year will equal the maximum permissible amount.

#### (b) Combined Limitations – Other Defined Contribution Plan

- (1) This Section 5.1(b) applies if, in addition to this plan, the participant is covered under another qualified defined contribution plan maintained by the employer, a welfare benefit fund maintained by the employer, an individual medical account maintained by the employer, or a simplified employee pension maintained by the employer, that provides an annual addition, during any limitation year. The annual additions that may be credited to a participant's account under this plan for any such limitation year will not exceed the maximum permissible amount reduced by the annual additions credited to a participant's account under the other qualified defined contribution plans, welfare benefit funds, individual medical accounts, and simplified employee pensions for the same limitation year. If the annual additions with respect to the participant under other qualified defined contribution plans, welfare benefit funds, individual medical accounts, and simplified employee pensions maintained by the employer are less than the maximum permissible amount and the employer contribution that would otherwise be contributed or allocated to the participant's account under this plan would cause the annual additions for the limitation year to exceed this limitation, the amount contributed or allocated will be reduced so that the annual additions under all such plans and funds for the limitation year will equal the maximum permissible amount. If the annual additions with respect to the participant under such other qualified defined contribution plans, welfare benefit funds, individual medical accounts, and simplified employee pensions in the aggregate are equal to or greater than the maximum permissible amount, no amount will be contributed or allocated to the participant's account under this plan for the limitation year.
- (2) Prior to determining the participant's actual compensation for the limitation year, the employer may determine the maximum permissible amount for a participant in the manner described in Section 5.1(a)(2).
- (3) As soon as is administratively feasible after the end of the limitation year, the maximum permissible amount for the limitation year will be determined on the basis of the participant's actual compensation for the limitation year.

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- (4) If, pursuant to Section 5.1(b)(3) or as a result of the allocation of forfeitures, a participant's annual additions under this plan and such other plans would result in an excess amount for a limitation year, the excess amount as defined in Section 5.1(c)(4) will be deemed to consist of the annual additions last allocated, except that annual additions attributable to a simplified employee pension will be deemed to have been allocated first, followed by Annual Additions to a welfare benefit fund or individual medical account, regardless of the actual allocation date.
- (5) If an allocation date of this plan coincides with an allocation date of another plan and the employee or employer contribution that would otherwise be contributed or allocated to a participant's account under the plans would cause the annual additions for the limitation year to exceed the maximum permissible amount, Section 3.1(c) shall control which contribution or allocation will be reduced so that the annual additions for the limitation year will equal the maximum permissible amount.

## (c) Definitions (IRC Section 415 Limitations)

- (1) **Annual Additions** – The sum of the following amounts credited to a participant's account for the limitation year: (A) employer contributions; (B) employee contributions (excluding catch-up contributions made in accordance with IRC section 414(v)); (C) forfeitures; and (D) amounts allocated, after March 31, 1984, to an individual medical account as defined in IRC section 415(l)(2), that is part of a pension or annuity plan maintained by the employer; and (E) allocations under a simplified employee pension; and (F) contributions paid or accrued after December 31, 1985 (in taxable years ending after such date), to provide postretirement medical benefits allocated to the separate account of a key employee (as defined in IRC section 419A(d)(3)) under a welfare benefit fund (as defined in IRC section 419(e)) maintained by the employer. Picked-up contributions under IRC section 414(h)(2) shall not be included as an annual addition with respect to a participant.

For this purpose, any excess amount applied under Section 5.1(a)(4) or (b)(6) in the limitation year to increase the accounts of participants who did not have an excess amount or to reduce employer contributions will be considered annual additions for such limitation year.

Restorative payments allocated to a participant's account including restorative payments made pursuant to Section 4.2(b)(2)(B) and payments made to restore losses to the plan resulting from actions (or a failure to act) by a fiduciary for which there is a reasonable risk of liability under an applicable federal or state law (where similarly situated participants are treated similarly) shall not give rise to an annual addition for any limitation year.

- (2) **Compensation** – A participant's earned income and any earnings reportable as W-2 wages for federal income tax withholding purposes. W-2 wages means wages as defined in IRC section 3401(a) 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 IRC section 3401(a)(2)). Compensation shall be determined without regard to employer contributions to a SIMPLE IRA or a Simplified Employee Pension after December 31, 2022. Further, picked-up contributions under IRC section 414(h)(2) shall not be included in the participant's compensation.

For purposes of applying the limitations of this Section 5.1, compensation for a limitation year is the compensation actually paid or includable in gross income during such limitation year. Compensation for a limitation year shall include amounts earned but not paid during the limitation year solely because of the timing of pay periods and pay dates, provided the amounts are paid during the first few weeks of the next limitation year, the amounts are included on a uniform and consistent basis with respect to all similarly situated employees, and no compensation is included in more than one limitation year.

Back pay, within the meaning of Treasury Regulation section 1.415(c)-2(g)(8), shall be treated as compensation for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.

Compensation in excess of the limitations of Section 1.2(c) shall not be taken into account. In order to be taken into account for a limitation year, compensation must be paid or treated as paid prior to severance from employment with the employer. Effective for limitation years beginning on or after July 1, 2007, an includable payment shall be treated as paid prior to severance from employment if it is paid by the later of 2½ months after severance or the last day of the limitation year that includes the severance date. For this purpose, includable payments are those that absent the severance would have been paid and are regular compensation for services during regular working hours or outside working hours (such as overtime or shift differentials), commissions, bonuses, or other similar

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payments. Includable payments shall also include accrued sick, vacation, or other leave if such payments would have been included in compensation as defined in Section 1.2 if they were paid prior to the employee's severance from employment.

For limitation years beginning after December 31, 2008, compensation for a limitation year shall include amounts paid as differential wages to a participant on qualified military service leave of more than 30 days and otherwise meeting the requirements of IRC section 3401(h)(2). For plan years beginning after December 31, 2015, compensation for a limitation year shall include amounts received by a participant as difficulty of care payments and otherwise meeting the requirements of IRC section 131(c).

Compensation shall include elective contributions as defined in Section 1.2(a) and elective contributions under a IRC section 501(c)(18) plan. Elective contribution amounts under a cafeteria plan excludable under IRC section 125 shall include any amounts not available to a participant in cash in lieu of group health coverage solely because the participant is unable to certify that he has other health coverage (deemed section 125 compensation). Amounts are deemed section 125 compensation only if the employer does not request or collect information regarding the participant's other health coverage as part of the enrollment process for the health plan.

Compensation shall not include amounts paid as compensation to a nonresident alien, as defined in IRC section 7701(b)(1)(B), who is not a participant in the plan to the extent the compensation is excludable from gross income and is not effectively connected with the conduct of a trade or business within the United States.

Notwithstanding the preceding, compensation shall include compensation paid to a participant who is permanently and totally disabled (as defined in IRC section 22(e)(3)), provided, salary continuation applies to all participants who are permanently and totally disabled for a fixed or determinable period.

- (3) **Defined Contribution Dollar Limitation** – \$66,000, as adjusted under IRC section 415(d).
- (4) **Excess Amount** – The excess of the participant's annual additions for the limitation year over the maximum permissible amount.
- (5) **Maximum Permissible Amount** – The maximum annual addition that may be contributed or allocated to a participant's account under the plan for any limitation year shall not exceed the lesser of:
  - (A) the defined contribution dollar limitation as defined in Section 5.1(c)(3); or
  - (B) 100% of the participant's compensation for the limitation year.

The compensation limitation referred to in (B) shall not apply to any contribution for medical benefits after separation from service (within the meaning of IRC section 401(h) or IRC section 419A(f)(2)) that is otherwise treated as an annual addition.

If a short limitation year is created because of an amendment changing the limitation year to a different 12-consecutive-month period, the maximum permissible amount will not exceed the defined contribution dollar limitation multiplied by the following fraction:

$$\frac{\text{Number of months in the short limitation year}}{12}$$

If the plan is terminated as of a date other than the last day of the limitation year, the plan shall be deemed to have been amended to change its limitation year and the maximum permissible amount shall be prorated it for the resulting short limitation year.

## Section 5.2 – Distribution Requirements

Effective for calendar years beginning after December 31, 1984, the requirements of this Section 5.2 shall apply to any distribution of a participant's interest and will take precedence over any inconsistent provisions of this plan. With respect to distributions under the plan made on or after August 1, 2002 for calendar years beginning on or after January 1, 2002, the plan will apply the minimum distribution requirements of IRC section 401(a)(9) as set forth in this Section 5.2. Distributions made prior to August 1, 2002 are subject to the provisions of the plan as in effect before this amendment and restatement of the plan. Further, distributions shall comply with the minimum distribution incidental benefit requirement of IRC section 401(a)(9)(G).

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Notwithstanding the provisions of this Section 5.3, in the absence of an affirmative election, a participant or beneficiary will not receive a required minimum distribution (RMD) to the extent the participant or beneficiary would have been required to receive an RMD in 2020 (or by a required beginning date of April 1, 2021 with respect to the 2020 calendar year) but for the enactment of IRC section 401(a)(9)(I) (2020 RMDs) and would have satisfied that requirement by receiving distributions that are either (1) equal to the 2020 RMDs, or (2) one or more payments (that include the 2020 RMDs) in a series of substantially equal periodic payments made at least annually and expected to last for the life (or life expectancy) of the participant, the joint lives (or joint life expectancies) of the participant and the participant's designated beneficiary, or for a period of at least 10 years (Extended 2020 RMDs). The participant or beneficiary will be given an opportunity to make an election as to whether or not to receive those distributions; however, a direct rollover will be offered only for distributions that would be eligible rollover distributions in the absence of IRC section 401(a)(9)(I).

- (a) **Required Beginning Date** – The entire interest of a participant must be distributed, or begin to be distributed, no later than the participant's required beginning date.
- (b) **Limits on Distribution Periods** – As of the first distribution calendar year, distributions to a participant, if not made in a single sum, may only be made over one of the following periods (or a combination thereof):
  - (1) the life of the participant;
  - (2) the joint lives of the participant and a designated beneficiary;
  - (3) a period certain not extending beyond the life expectancy of the participant; or
  - (4) a period certain not extending beyond the joint life and last survivor expectancy of the participant and a designated beneficiary.
- (c) **Death of Participant Before Distributions Begin** – If the participant dies before the Required Beginning Date, the participant's entire interest will be distributed, or begin to be distributed, no later than as follows:
  - (1) If the participant's surviving spouse is the participant's sole designated beneficiary, then distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the participant died, or by December 31 of the calendar year in which the participant would have attained the applicable age. If the surviving spouse so elects, the participant's entire interest will be distributed to such surviving spouse by December 31 of the calendar year containing the tenth anniversary of the participant's death (fifth anniversary of the participant's death with respect to participants born on or before June 30, 1949 or dying before January 1, 2020). If no election is received, distributions to the surviving spouse will begin by December 31 of the calendar year in which the participant would have attained the applicable age, or the participant's entire interest will be distributed to such surviving spouse by December 31 of the calendar year containing the tenth anniversary of the participant's death (fifth anniversary of the participant's death with respect to participants born on or before June 30, 1949 or dying before January 1, 2020), if later.
  - (2) If the participant's surviving spouse is not the participant's sole eligible designated beneficiary, then distributions to the eligible designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the participant died. If the eligible designated beneficiary so elects or if no election is received, the participant's entire interest will be distributed to such eligible designated beneficiary by December 31 of the calendar year containing the tenth anniversary of the participant's death (fifth anniversary of the participant's death with respect to participants born on or before June 30, 1949 or dying before January 1, 2022).
  - (3) If the participant's beneficiary satisfies the requirements to be a designated beneficiary, but does not satisfy the requirements to be an eligible designated beneficiary; the participant's entire interest will be distributed by December 31 of the calendar year containing the tenth anniversary of the participant's death (fifth anniversary of the participant's death with respect to participants born on or before June 30, 1949 or dying before January 1, 2022).
  - (4) 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.
  - (5) Effective for initial distributions to a surviving spouse occurring on or after January 1, 2024 and subsequent distributions to such surviving spouses, if the participant's surviving spouse is the participant's sole designated beneficiary, the surviving spouse shall be treated as the participant for purposes of calculating the RMD. The applicable denominator from the Uniform Life Table as set forth in Regulation section 1.401(a)(9)-9(c) shall be used.

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- (6) 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 are required to begin, this Section 5.2(c), other than Section 5.2(c)(1), will apply as if the surviving spouse were the participant, except that the designated beneficiary of the surviving spouse shall not be permitted to extend the final date of distribution beyond December 31 of the calendar year containing the tenth anniversary of the surviving spouse's death (fifth anniversary of the participant's death with respect to participants dying before January 1, 2022). In the case of a non-designated beneficiary such as an estate or another entity without life expectancy, the final date of distribution shall be December 31 of the calendar year containing the fifth anniversary of the participant's death.

For purposes of this Section 5.2(c) and Section 5.2(f), unless Section 5.2(c)(6) applies, distributions are considered to begin on the participant's required beginning date. If Section 5.2(c)(6) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under Section 5.2(c)(1). 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 5.2(c)(1)), the date distributions are considered to begin is the date distributions actually commence.

- (d) **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 Section 5.2(e) and (f). 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 IRC section 401(a)(9) and the Treasury regulations.

To the extent the participant has an employee nondeductible contribution account or after-tax contributions for which there is separate accounting under his rollover/transfer account, such funds shall be distributed first before any fully taxable distribution is made to satisfy the minimum distribution requirement. After the exhaustion of such accounts, distributions shall be debited from a participant's accounts to the extent funded first from any rollover/transfer account and then from his money purchase pension account.

- (e) **Required Minimum Distributions During Participant's Lifetime** - If a participant's benefit is to be distributed over (1) a period not extending beyond the life expectancy of the participant or the joint life and last survivor expectancy of the participant and the participant's designated beneficiary or (2) a period not extending beyond the life expectancy of the designated beneficiary, the amount required to be distributed for each calendar year, beginning with distributions for the first distribution calendar year, must at least equal the quotient obtained by dividing the participant's benefit by the applicable life expectancy.

- (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 (as defined in Section 5.2(g)(4)) by the applicable denominator from the Uniform Lifetime Table set forth in Treasury Regulation section 1.401(a)(9)-9(c), 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 applicable denominator from the Joint and Last Survivor Table set forth in Treasury Regulation section 1.401(a)(9)-9(d), using the participant's and spouse's attained ages as of the participant's and spouse's birthdays in the distribution calendar year.

- (2) **Lifetime Required Minimum Distributions Continue Through Year of Participant's Death** – Required minimum distributions will be determined under this Section 5.2(e) beginning with the first distribution calendar year and continuing up to and including the distribution calendar year that includes the participant's date of death.

- (f) **Required Minimum Distributions after Participant's Death**

- (1) **Death on or after Date Distributions Begin**

- (A) **Participant Survived by Eligible Designated Beneficiary** – If the participant dies on or after the date distributions begin and there is an eligible designated beneficiary, the minimum amount that

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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 (as defined in Section 5.2(g)(3)) of the participant's eligible 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. Effective on or after January 1, 2024, if the initial distribution to the surviving spouse is to occur on or after that date, the Uniform Lifetime Table as set forth in Treasury Regulation section 1.401(a)(9)-9(c) shall be used to determine the applicable denominator. The life expectancy of the surviving spouse's beneficiary is calculated using the age of the beneficiary in the year following the year of the surviving spouse's death, reduced by one for each subsequent year. Any remaining account balance will be distributed by December 31 of the calendar year containing the tenth anniversary of the surviving spouse's death.
  - (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) **Participant Survived by Designated Beneficiary** – If the participant's beneficiary satisfies the requirements to be a designated beneficiary, but does not satisfy the requirements to be an eligible designated beneficiary; the participant's entire interest will be distributed by December 31 of the calendar year containing the tenth anniversary of the participant's death. The life expectancy payments will not be continued after that date. This Section 5.2(f)(1)(B) shall not apply with respect to beneficiaries of participants born on or before June 30, 1949 or dying before January 1, 2022.
- (C) **No Designated Beneficiary** – If the participant dies prior to January 1, 2022, but 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. If the participant dies on or after January 1, 2022, 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.
- (2) **Death Before Date Distributions Begin**
- (A) **Participant Survived by Eligible Designated Beneficiary** – If the participant dies before the date distributions begin and there is an eligible 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 eligible designated beneficiary, determined as provided in Section 5.2(f)(1).
  - (B) **Participant Survived by Designated Beneficiary** – If the participant's beneficiary satisfies the requirements to be a designated beneficiary, but does not satisfy the requirements to be an eligible designated beneficiary; the participant's entire interest will be distributed by December 31 of the calendar year containing the tenth anniversary of the participant's death. This Section 5.2(f)(2)(B) shall not apply with respect to beneficiaries of participants born on or before June 30, 1949 or dying before January 1, 2022.
  - (C) **Surviving Spouse Election** – Effective on or after January 1, 2024, if the initial distribution to the surviving spouse is to occur on or after that date and the participant's surviving spouse is the participant's sole designated beneficiary, the minimum amount that will be distributed for each distribution calendar year is the quotient obtained by dividing the surviving spouse's account

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balance by the applicable denominator from the Uniform Lifetime Table as set forth in Treasury Regulation section 1.401(a)(9)-9(c), using the surviving spouse's age as of the surviving spouse's birthday in the distribution calendar year. No affirmative election or notice from the surviving spouse will be required.

- (D) **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.
- (E) **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 5.2(c), this Section 5.2(f)(2) will apply as if the surviving spouse were the participant.

## (g) Definitions (IRC Section 401(a)(9) Requirements)

### (1) Beneficiary

- (A) **Designated Beneficiary** – The individual who is designated as the beneficiary of the participant's interest under the plan and who is the designated beneficiary under IRC section 401(a)(9) and Treasury Regulation section 1.401(a)(9)-4.
- (B) **Eligible Designated Beneficiary** – A designated beneficiary who is an eligible designated beneficiary including the participant's surviving spouse, a person not more than 10 years younger than the participant, a child of the participant until he reaches the age of majority, a disabled person, or a chronically ill person as provided under IRC section 401(a)(9)(E)(ii) and as further described under Treasury Regulation section 1.401(a)(9)-4(e). For this purpose, age of majority shall mean age 21.

- (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 that 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 pursuant to Section 5.2(c). 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.

- (3) **Life Expectancy** – Life expectancy as computed by use of the Single Life Table in Treasury Regulation section 1.401(a)(9)-9(a).

- (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 such 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. Such 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.

If any portion of the minimum distribution for the first distribution calendar year is made in the second distribution calendar year on or before the required beginning date, the amount of the minimum distribution made in the second distribution calendar year shall be treated as if it had been made in the immediately preceding distribution calendar year.

- (5) **Required Beginning Date** – The required beginning date of a participant is April 1 of the calendar year following the later of: (i) the calendar year in which the participant attains the applicable age, or (ii) the calendar year in which the participant retires. **Applicable Age** means:
  - (A) Age 70½ with respect to participants who attain age 70½ before January 1, 2020 (i.e., born on or before June 30, 1949);
  - (B) Age 72 with respect to participants who attain age 70½ after December 31, 2019 and age 72 before January 1, 2023 (i.e., born on or after July 1, 1949 and by December 31, 1950);

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- (C) Age 73 with respect to Participants who attain age 72 after December 31, 2022 and age 73 before January 1, 2033 (i.e., born on or after January 1, 1951 and by December 31, 1959); and
- (D) Age 75 with respect to Participants who attain age 73 after December 31, 2032 (i.e., born on or after January 1, 1960 and thereafter).

## ARTICLE VI – ADMINISTRATION OF THE PLAN

### Section 6.1 – Fiduciary Responsibility

- (a) **Management and Control of Plan Assets** – The governing body of the employer shall designate the persons responsible for the management and control of plan assets. Such person shall discharge their duties with respect to the plan in accordance with the documents and instruments governing the plan insofar as such documents and instruments are consistent with the applicable provisions of the Internal Revenue Code.
- (b) A fiduciary of this plan is required to exercise the judgment and care under the circumstances then prevailing that men of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital.
- (c) **Allocation of Responsibility**
  - (1) When the plan administrator is required to follow the directions of the trustee or the trustee is required to follow the directions of the plan administrator, they shall not be deemed to share such responsibility. Instead, the responsibility of the person giving the directions shall be deemed to be his sole responsibility and the responsibility of the person receiving directions shall be to follow those directions insofar as such instructions on their face are proper under applicable law.
  - (2) The plan administrator or trustee under this plan may employ one or more persons, including independent accountants, attorneys and actuaries to render advice with regard to any responsibility such person has under the plan.
- (d) **Liability and Indemnification** – Subject to Act 205, no past, present, or future officer of the employer nor of any participating employer shall be personally liable to any participant, beneficiary, or other person under any provision of the plan or trust or any insurance policy or contract issue pursuant thereto. No individual fiduciary shall be liable for any act or omission of any other fiduciary. Unless resulting from the gross negligence, willful misconduct or lack of good faith on the part of the fiduciary, the employer shall indemnify and save harmless such fiduciary from, against, for and in respect of any and all damages, losses, obligations, liabilities, liens, deficiencies, costs and expenses, including without limitation, reasonable attorney's fees and other costs and expenses incident to any suit, action, investigation, claim or proceedings suffered in connection with his acting as a fiduciary under the plan.

### Section 6.2 – Plan Administrator

- (a) **Appointment of Plan Administrator**

The governing body of the employer shall be responsible for the administration of the plan. It may appoint one or more members of itself to be the plan administrator. The employer shall review at regular intervals the performance of those members appointed to be the plan administrator(s) and shall re-evaluate the appointment of such plan administrator(s).

- (b) **Duties and Powers of Plan Administrator**

The plan administrator shall have the following duties and discretionary powers and such other duties and discretionary powers as relate to the administration of the plan:

- (1) To determine in a nondiscriminatory manner all questions relating to the eligibility of employees to become participants.
- (2) To determine in a nondiscriminatory manner eligibility for benefits and to determine and certify the amount and kind of benefits payable to participants.
- (3) To authorize all disbursements from the fund.

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- (4) To appoint or employ any independent person to perform necessary plan functions and to assist in the fulfillment of administrative responsibilities as he deems advisable, including the retention of a third party administrator, custodian, auditor, accountant, actuary, or attorney.
- (5) When appropriate, to select an insurance company and annuity contracts that, in his opinion, will best carry out the purposes of the plan.
- (6) To construe and interpret any ambiguities in the plan and to make, publish, interpret, alter, amend or revoke rules for the regulation of the plan that are consistent with the terms of the plan and with the applicable provisions of the Internal Revenue Code.
- (7) To prepare and distribute, in such manner as determined to be appropriate, information explaining the plan.

## (c) **Miscellaneous Provisions**

- (1) **Expenses** – The plan administrator shall serve without compensation for service as such. All reasonable expenses of the plan administrator shall be paid by the employer or from the trust fund.
- (2) **Examination of Records** – The plan administrator shall make available to any participant for examination during business hours such of the plan records as pertain only to the participant involved.
- (3) **Information to the Plan Administrator** – To enable the plan administrator to perform the administrative functions, the employer shall supply full and timely information to the plan administrator on all participants as the plan administrator may require.

## **Section 6.3 – Claims Procedure**

- (a) **Notification of Claim Determination** – The plan administrator shall notify each participant in writing of its determination of benefits. If the plan administrator denies any benefit, such written denial shall include:
  - The specific reasons for denial;
  - Reference to provisions on which the denial is based;
  - A description of and reason for any additional information needed to process the claim; and
  - A description of the plan's review procedures.
- (b) **Appeal** – The participant or his duly authorized representative may:
  - Make a written request for a review of the participant's case by the employer;
  - Review pertinent documents;
  - Submit issues and comments in writing.

The written request for review must be submitted no later than 60 days after receiving written notification of denial of benefits.

- (c) **Review** – The employer must render a decision no later than 60 days after receiving the written request for review, unless circumstances make it impossible to do so; but in no event shall the decision be rendered later than 120 days after the request for review is received.
- (d) **Limitation on Time Period for Litigation of a Benefit Claim** – Following receipt of the written rendering of the employer's decision under Section 6.3(c), the participant shall have 365 days in which to file suit in the appropriate court. Thereafter, the right to contest the decision shall be waived.

## **Section 6.4 – Trust Fund**

- (a) **Creation and Maintenance of the Fund** – The trust fund shall be created and maintained in the following manner:
  - (1) All funds on deposit and held for pension or retirement benefits of the participants shall continue to be part of the trust fund created and maintained hereby subject to any liabilities that may exist against such fund.
  - (2) The employer shall allocate to the fund the payments made by the Treasurer of the Commonwealth of Pennsylvania from monies received from taxes paid upon premiums by foreign casualty insurance

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companies and foreign fire insurance companies pursuant to the General Municipal Pension System State Aid Program.

- (3) The fund shall accept and maintain any payments made by other gifts, grants, devises, or bequests to the fund.
- (4) The employer shall contribute to the fund the payments that are authorized to be made from the general revenue of the employer.

All such payments received shall be part of the trust fund and shall not be applied to any other account or disbursed in any manner except as provided by this plan. Payments required under the plan shall be a charge only upon the trust fund and not upon other monies or funds of the employer.

## (b) **Appointment of Trustee**

The employer, or its delegee, shall appoint a trustee for the proper care and custody of all funds, securities and other properties in the trust, and for investment of plan assets (or for execution of such orders as it receives from an investment manager appointed for investment of plan assets). The duties and powers of the trustee shall be set forth in a trust agreement executed by the employer, which is incorporated herein by reference. The employer shall review at regular intervals the performance of the trustee and shall re-evaluate the appointment of such trustee. After the employer has appointed the trustee and has received a written notice of acceptance of its responsibility, the fiduciary responsibility with respect to the proper care and custody of plan assets shall be considered as the responsibility of the trustee. Unless otherwise allocated to an investment manager, the fiduciary responsibility with respect to investment of plan assets shall likewise be considered as the responsibility of the trustee.

## (c) **Appointment of Corporate Custodian**

The employer, or its delegee, may appoint a corporate custodian to hold and invest the fund. The corporate custodian shall carry out its responsibilities in accordance with the terms of the custodial agreement and the investment policy and guidance as the employer shall, from time to time provide. The employer shall review at regular intervals no less frequently than annually, the performance of such corporate custodian and shall re-evaluate the appointment of such corporate custodian.

## (d) **Appointment of Investment Manager**

The employer, or its delegee, may appoint an investment manager who is other than the trustee, which investment manager may be a bank or an investment advisor registered with the Securities and Exchange Commission under the Investment Advisors Act of 1940. Such investment manager, if appointed, shall have sole discretion in the investment of plan assets, subject to the funding policy. The employer shall review at regular intervals no less frequently than annually, the performance of such investment manager and shall re-evaluate the appointment of such investment manager. After the employer has appointed an investment manager and has received a written notice of acceptance of its responsibility, the fiduciary responsibility with respect to investment of plan assets shall be considered as the responsibility of the investment manager.

## (e) **Funding Policy**

The employer, or its delegee, shall determine and communicate in writing to the person responsible for investment of plan assets the funding policy for the plan. The funding policy shall set forth the plan's short-range and long-range financial needs, so that said person may coordinate the investment of plan assets with the plan's financial needs.

## (f) **Valuation of the Fund**

The trust fund shall be valued by the trustee on the anniversary date of each year and as of any interim allocation date determined by the plan administrator. The valuation shall be made on the basis of the current fair market value of all property in the fund.

## (g) **Expenses**

The trust fund may pay the expenses incurred in the administration of the plan and the investment of the fund, provided the cost is reasonable. Such expenses shall include legal fees incurred by the plan administrator or the trustee, provided such fiduciaries are not proven to have committed a prohibited transaction. If the trust fund pays the expenses, the expenses generally shall be allocated against the participant accounts on a pro rata basis. Certain expenses incurred with respect to a particular participant or beneficiary shall be allocated against the participant's account on a direct basis.

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## ARTICLE VII – AMENDMENT AND TERMINATION OF PLAN

### Section 7.1 – Right to Discontinue and Amend

It is the expectation of the employer that it will continue this plan indefinitely and make the payments of its contributions hereunder, but the continuance of the plan is not assumed as a contractual obligation of the employer and the right is reserved by the employer, at any time, to reduce, suspend or discontinue its contributions hereunder.

### Section 7.2 – Amendments

Except as herein limited, the employer shall have the right to amend this plan at any time to any extent that it may deem advisable. Such amendment shall be stated in writing and shall be by ordinance or resolution of the governing body of the employer. The employer's right to amend the plan shall be limited as follows:

- (a) No amendments shall have the effect of vesting in the employer any interest in or control over any contracts issued pursuant hereto or any other property in the fund.
- (b) No amendment to the vesting schedule adopted by the employer hereunder shall deprive a participant of his vested portion of his employer-derived accrued benefit to the date of such amendment.

### Section 7.3 – Protection of Benefits in Case of Plan Merger

In the event of a merger or consolidation with, or transfer of assets or liabilities to any other plan, each participant will receive a benefit immediately after such merger, consolidation or transfer (if the plan then terminated) that is at least equal to the benefit the participant was entitled to immediately before such merger, consolidation or transfer (if the plan had terminated).

The transfer of amounts from this trust to a nonqualified foreign trust shall be treated as a distribution from this plan. Further, the transfer of assets and liabilities from this plan to a plan that satisfies Puerto Rico Code section 1165 shall also be treated as a distribution from this plan.

### Section 7.4 – Termination of Plan

- (a) **When Plan Terminates** – This plan shall terminate upon the legal dissolution of the employer or the termination of the plan by the amendment action of the employer. Subject to the provisions of the Municipal Pension Plan Funding Standard and Recovery Act (P.L. 1005, Act 205 of 1984) governing financial distressed municipalities, the liability of the employer to make contributions to the plan shall automatically terminate upon liquidation or dissolution of the employer, upon its adjudication as a bankrupt, or upon the making of a general assignment for the benefit of its creditors.
- (b) **Allocation of Assets** – Upon termination or partial termination, the account balance of each affected participant who is an active participant or who is not an active participant but has neither received a complete distribution of his vested accrued benefit nor incurred a one-year break in service shall be 100% vested and nonforfeitable. The amount of the fund assets shall be allocated to each participant, subject to provisions for expenses of administration of the liquidation, in the ratio that such participant's account bears to all accounts.

## ARTICLE VIII – MISCELLANEOUS PROVISIONS

### Section 8.1 – Exclusive Benefit – Non-Reversion

The plan is created for the exclusive benefit of the employees of the employer and shall be interpreted in a manner consistent with its being a qualified plan as defined in IRC section 401(a). The sponsorship of this plan may not be transferred to an unrelated entity if the transfer is not in connection with a transfer of business assets or operations from the employer to such entity. The corpus or income of the trust may not be diverted to or used for other than the exclusive benefit of the participants or their beneficiaries (except for defraying reasonable expenses of administering the plan). Notwithstanding the preceding, any contribution made by the employer because of a mistake of fact must be returned to the employer within one year of the contribution.

### Section 8.2 – Inalienability of Benefits

No benefit or interest available hereunder including any annuity contract distributed herefrom shall be subject to assignment or alienation, either voluntarily or involuntarily. The preceding sentence shall also apply to the

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creation, assignment, or recognition of a right to any benefit payable with respect to a participant pursuant to a domestic relations order, unless such order is determined to be a qualified domestic relations order as defined in IRC section 414(p), or any domestic relations order entered before January 1, 1985.

## **Section 8.3 – Employer-Employee Relationship**

This plan is not to be construed as creating or changing any contract of employment between the employer and its employees, and the employer retains the right to deal with its employees in the same manner as though this plan had not been created.

## **Section 8.4 – Binding Agreement**

This plan shall be binding on the heirs, executors, administrators, successors and assigns as such terms may be applicable to any or all parties hereto, and on any participants, present or future.

## **Section 8.5 – Inconsistency or Conflict of Prior Ordinances or Resolutions**

Any ordinance or resolution with an effective date prior to the adoption date of this amendment and restatement of the plan shall be of no effect.

## **Section 8.6 – Separability**

If any provision of this plan shall be held invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision hereof and this plan shall be construed and enforced as if such provision had not been included.

## **Section 8.7 – Construction**

The plan shall be construed in accordance with the laws of the Commonwealth of Pennsylvania and with the applicable portions of the Internal Revenue Code. In the event of any conflict between the terms of this plan and any conflicting provision contained in any associated trust, custodial account document or any document that is incorporated by reference, the terms of this plan will govern.

## **Section 8.8 – Copies of Plan**

This plan may be executed in any number of counterparts, each of which shall be deemed as an original, and said counterparts shall constitute but one and the same instrument that may be sufficiently evidenced by any one counterpart.

## **Section 8.9 – Interpretation**

Wherever appropriate, words used in this plan in the singular may include the plural or the plural may be read as singular, and the masculine may include the feminine.

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IN WITNESS WHEREOF, the Employer has caused this plan to be executed this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

Employer:  
Caernarvon Township

By: \_\_\_\_\_

Title: Chairman of the Caernarvon Township Board of Supervisors