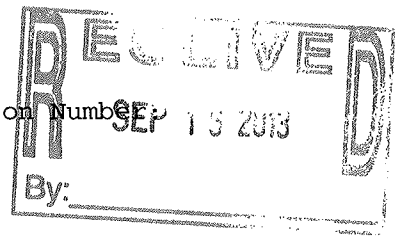
10995,004

INTERNAL REVENUE SERVICE
P. O. BOX 2508
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY



Date: SEP 08 2013

PLAN FIDUCIARY SERVICES INC
C/O BRET HAMLIN
PO BOX 2231
TAMPA, FL 33601-2231

Employer Identification Number:
27-3523833
DLN:
17007038061023
Person to Contact:
RAGEN BENNETT ID# 31362
Contact Telephone Number:
(513) 263-4175
Plan Name:
THE PLATINUM 401K RETIREMENT SAVINGS PLAN
Plan Number: 004

Dear Applicant:

We have made a favorable determination on the plan identified above based on the information you have supplied. Please keep this letter, the application forms submitted to request this letter and all correspondence with the Internal Revenue Service regarding your application for a determination letter in your permanent records. You must retain this information to preserve your reliance on this letter.

Continued qualification of the plan under its present form will depend on its effect in operation. See section 1.401-1(b)(3) of the Income Tax Regulations. We will review the status of the plan in operation periodically.

The enclosed Publication 794 explains the significance and the scope of this favorable determination letter based on the determination requests selected on your application forms. Publication 794 describes the information that must be retained to have reliance on this favorable determination letter. The publication also provides examples of the effect of a plan's operation on its qualified status and discusses the reporting requirements for qualified plans. Please read Publication 794.

This letter relates only to the status of your plan under the Internal Revenue Code. It is not a determination regarding the effect of other federal or local statutes.

This determination letter gives no reliance for any qualification change that becomes effective, any guidance published, or any statutes enacted, after the issuance of the Cumulative List (unless the item has been identified in the Cumulative List) for the cycle under which this application was submitted.

This determination letter is applicable for the plan adopted on 4/5/11.

This determination letter is applicable for the amendment(s) executed on 1/30/13 & 2/17/12.

This determination letter is also applicable for the amendment(s) dated

PLAN FIDUCIARY SERVICES INC

on 12/29/11 & 4/5/11.

Based on the information you have supplied, you are a participating employer in a multiple employer plan under section 413(c) of the Code.

This letter may not be relied on after the end of the plan's first five-year remedial amendment cycle that ends more than 12 months after the application was received. This letter expires on January 31, 2018. This letter considered the 2011 Cumulative List of Changes in Plan Qualification Requirements.

We have sent a copy of this letter to your representative as indicated in the Form 2848 Power of Attorney or appointee as indicated by the Form 8821 Tax Information Authorization.

If you have questions concerning this matter, please contact the person whose name and telephone number are shown above.

Sincerely,

Andrew E. Zuckerman
Director, EP Rulings & Agreements

Enclosures:
Publication 794

THE PLATINUM
401(k) RETIREMENT SAVINGS PLAN

EFFECTIVE
AS OF
JANUARY 1, 2013

HILL WARD HENDERSON
TAMPA, FL
2013

THE PLATINUM
401(k) RETIREMENT SAVINGS PLAN

EFFECTIVE
AS OF
JANUARY 1, 2013

THE PLATINUM
401(k) RETIREMENT SAVINGS PLAN

EFFECTIVE
AS OF
JANUARY 1, 2013

Plan Fiduciary Services, Inc. (the "Company") hereby amends and restates the The Platinum 401(k) Retirement Savings Plan ("Plan"), effective for all purposes as of January 1, 2013, except as otherwise set forth herein.

W I T N E S S E T H:

WHEREAS, the Company previously adopted the Plan to provide retirement benefits for eligible Employees and their beneficiaries; and

WHEREAS, pursuant to the terms of the Plan, the Company is authorized and empowered to amend the Plan; and

WHEREAS, the Company deems it advisable to amend and restate the Plan to reflect changes required by the IRS 2011 Cumulative List of Changes in Plan Qualification Requirements contained in IRS Notice 2011-97 and to make other changes.

NOW, THEREFORE, in consideration of the premises, the Plan is hereby amended and restated to read as follows:

ARTICLE I

Definitions

1.1 "**Account**" or "**Accounts**" shall mean a Participant's Pre-Tax Elective Contribution Account, Roth Elective Contribution Account, Matching Contribution Account, Nonelective Contribution Account, Qualified Matching Contribution Account, Qualified Nonelective Contribution Account, Safe Harbor Matching Contribution Account, Safe Harbor Nonelective Contribution Account, Rollover Contribution Account, Transfer Contribution Account and/or such other accounts as may be established by the Plan Administrator.

1.2 "**Actual Contribution Percentage**" shall mean, with respect to a group of Participants for the Plan Year, the average of the Actual Contribution Ratios (calculated separately for each member of the group) of each Participant who is a member of such group.

1.3 "**Actual Contribution Ratio**" shall mean the ratio of the amount of matching contributions (including elective contributions, qualified nonelective contributions and qualified matching contributions to the extent not included in the Participant's Actual Deferral Ratio, if any, treated as matching contributions) made on behalf of a Participant for a Plan Year to the Participant's compensation for the Plan Year that is taken into account for nondiscrimination testing purposes under Section 401(m) of the Code.

(a) Qualified nonelective contributions and qualified matching contributions, if any, may be treated as matching contributions for this purpose only if such contributions are nonforfeitable when made, subject to the same distribution restrictions that apply to the Participant's elective contributions and satisfy the requirements of Section 1.401(m)-2(a)(6) of the Treasury Regulations.

(b) (1) Compensation taken into account for purposes of this section must satisfy Section 414(s) of the Code.

(2) An Employer may limit the period for which compensation is taken into account to that portion of the Plan Year in which the Employee was a Participant with respect to the matching contribution portion of the Plan so long as this limit is applied uniformly to all Participants in the Plan for the Plan Year.

(c) (1) If no matching contributions, qualified nonelective contributions or elective contributions are taken into account with respect to an eligible Employee, then the Actual Contribution Ratio of the Employee is zero.

(2) For this purpose, an "eligible Employee" is any Employee who is directly or indirectly eligible to receive an allocation of matching contributions (including matching contributions derived from forfeitures) under the Plan for a Plan Year as described in Section 1.401(m)-5 of the Treasury Regulations.

1.4 "**Actual Deferral Percentage**" shall mean, with respect to a group of Participants for the Plan Year, the average of the Actual Deferral Ratios (calculated separately for each member of the group) of each Participant who is a member of such group.

1.5 "**Actual Deferral Ratio**" shall mean the ratio of the amount of elective contributions (including qualified nonelective contributions and qualified matching contributions, if any, treated as elective contributions) made on behalf of a Participant for a Plan Year to the Participant's compensation for the Plan Year taken into account for nondiscrimination testing purposes under Section 401(k) of the Code.

(a) Qualified nonelective contributions and qualified matching contributions, if any, may be treated as elective contributions for this purpose only if such contributions are nonforfeitable when made, subject to the same

distribution restrictions that apply to a Participant's elective contributions and satisfy the requirements of Section 1.401(k)-2(a)(6) of the Treasury Regulations.

(b) (1) Compensation taken into account for purposes of this section must satisfy Section 414(s) of the Code.

(2) An Employer may limit the period for which compensation is taken into account to that portion of the Plan Year in which the Employee was a Participant with respect to the elective contribution portion of the Plan so long as this limit is applied uniformly to all Participants in the Plan for the Plan Year.

(c) (1) If an eligible Employee makes no elective contributions, and no qualified nonelective contributions are treated as elective contributions with respect to such eligible Employee, then the Actual Deferral Ratio of the Employee is zero.

(2) For this purpose, an "eligible Employee" is any Employee who is directly or indirectly eligible to make a cash or deferred election into the Plan for all or a portion of the Plan Year as described in Section 1.401(k)-6 of the Treasury Regulations.

1.6 "**Adoption Agreement**" shall mean the document (including any addendums thereto that are approved by the Company) executed by each Employer adopting this Plan for the benefit of its Employees, the terms and conditions of which are incorporated herein and made a part of the Plan.

1.7 "**Affiliate**" shall mean, with respect to an Employer, any corporation other than such Employer that is a member of a controlled group of corporations, within the meaning of Section 414(b) of the Code, of which such Employer is a member; all other trades or businesses (whether or not incorporated) under common control, within the meaning of Section 414(c) of the Code, with such Employer; any service organization other than such Employer that is a member of an affiliated service group, within the meaning of Section 414(m) of the Code, of which such Employer is a member; and any other organization that is required to be aggregated with such Employer under Section 414(o) of the Code. For purposes of determining the limitations on Annual Additions, the special rules of Section 415(h) of the Code shall apply.

1.8 "**Allocation Group**" shall mean the group of Participants described in the Adoption Agreement which corresponds to the employment status or other classification of the Participants.

1.9 "**Annual Additions**" shall mean, with respect to a Limitation Year, the sum of:

(a) the amount of employer contributions (including elective contributions) allocated to the Participant under any defined contribution plan maintained by an Employer or an Affiliate; provided, however, that catch-up

contributions (and any other contribution subject to Section 414(v) of the Code and made to any defined contribution plan maintained by an Employer or an Affiliate) and restorative payments (where a restorative payment is a payment made to restore losses to the Plan resulting from actions by a fiduciary for which there is reasonable risk of liability for breach of a fiduciary duty under ERISA or under other applicable federal or state law) shall not be taken into account;

(b) the amount of the Employee's contributions (other than rollover contributions, if any) to any contributory defined contribution plan maintained by an Employer or an Affiliate;

(c) any forfeitures allocated to the Participant under any defined contribution plan maintained by an Employer or an Affiliate;

(d) amounts allocated to an individual medical account, as defined in Section 415(l)(2) of the Code that is part of a pension or annuity plan maintained by an Employer or an Affiliate, and amounts derived from contributions that are attributable to post-retirement medical benefits allocated to the separate account of a key employee (as defined in Section 419A(d)(3) of the Code) under a welfare benefit plan (as defined in Section 419(e) of the Code) maintained by an Employer or an Affiliate; and

(e) amounts allocated under a simplified employee pension.

1.10 "**Code**" shall mean the Internal Revenue Code of 1986, as amended, or any successor statute. Any reference in the Plan to a specific section of the Code shall include a reference to any successor provision, as applicable.

1.11 "**Company**" shall mean Plan Fiduciary Services, Inc. and its successors.

1.12 "**Compensation**" shall mean wages within the meaning of Section 3401(a) and all other payments of compensation to an Employee by the Employer and any Affiliate thereof (in the course of the Employer's or Affiliate's trade or business) for which the Employer or Affiliate is required to furnish the Employee a written statement under Sections 6041(d), 6051(a)(3) and 6052 of the Code (wages, tips and other compensation as reported on Form W-2) or, in the case of a Self-Employed Individual, Compensation shall mean the Earned Income of such Self-Employed Individual.

(a) (1) Compensation must be determined without regard to any rules under Section 3401(a) of the Code that limit the remuneration included in wages based on the nature or location of the employment of the services performed.

(2) (A) Compensation shall also include elective contributions made on behalf of a Participant to this Plan, elective contributions that are made by an Employer on behalf of a Participant that are not includible in gross income under Sections 125, 132(f)(4), 402(e)(3), 402(h)(1)(B), or 403(b) of the Code, and Compensation

deferred under an eligible deferred compensation plan within the meaning of Section 457(b) of the Code.

(B) Amounts under Section 125 of the Code include any amounts not available to a Participant in cash in lieu of group health coverage, because the Participant is unable to certify that he has other health coverage. An amount will be treated as an amount under Section 125 of the Code only if the Employer or Affiliate thereof does not request or collect information regarding the Participant's other health coverage as part of the enrollment process for the health plan.

(b) To the extent required by law, no Compensation in excess of the $200,000 limit under Section 401(a)(17) of the Code (as adjusted for cost-of-living increases in accordance with Section 401(a)(17)(B) of the Code) shall be taken into account for any Employee.

(c) For purposes of crediting contributions (other than elective contributions) pursuant to Article VI with respect to any Plan Year, Compensation paid by an Employer or Affiliate thereof with respect to an Employee prior to the Employee's first day of participation shall not be taken into account.

(d) Compensation shall exclude Post-Severance Compensation.

1.13 "**Earned Income**" shall mean the net earnings from self-employment in the trade or business with respect to which the Plan has been adopted, for which personal services of the individual are a material income-producing factor. Net earnings will be determined without regard to items not included in gross income and the deductions allocable to such items. Net earnings are reduced by contributions by an Employer to a qualified plan to the extent deductible under Section 404 of the Code. Net earnings shall be determined with regard to the deduction allowed to the taxpayer by Section 164(f) of the Code.

1.14 "**Effective Date**" of this amendment and restatement of the Plan shall mean January 1, 2013, except as otherwise set forth herein and the "Effective Date" of this Plan with respect to each Employer adopting this Plan shall be as set forth in the Adoption Agreement. The Plan was originally effective January 1, 2011.

1.15 "**Employee**" shall mean

(a) any person employed by an Employer (including a Self-Employed Individual performing services for such Employer) other than:

(1) a member of a collective bargaining unit if retirement benefits were a subject of good faith bargaining between such unit and an Employer; provided, however, that this subsection (1) shall not apply to a member of a collective bargaining unit if such unit, an Employer and the Company agree that the member shall participate in the Plan,

(2) a non-resident alien who does not receive earned income from sources within the United States,

(3) an individual whose employment status has not been recognized by completion of Internal Revenue Service Form W-4 and who is not treated as a common law employee of the Employer; and

(4) a Highly Compensated Employee, but only if the Employer has elected in its Adoption Agreement to exclude Highly Compensated Employees from being eligible to participate in the Plan.

(b) The determination of whether an individual is an "Employee" for purposes of eligibility to participate in the Plan shall be made in the sole and exclusive discretion of the Plan Administrator.

(c) Subject to the requirements of subsection (a)(3) above, the term "Employee" shall also include any leased employee of the Employer; provided, however, that a leased employee shall not be considered an Employee of an Employer if:

(1) leased employees do not constitute more than 20% of the Employer's Non-Highly Compensated Employees (as determined without regard to this subsection), and

(2) such leased employee is covered by a money purchase pension plan providing:

(A) a non-integrated employer contribution rate of at least 10% of compensation (as defined in Section 415(c)(3)) of the Code but including amounts contributed pursuant to a salary reduction agreement that are not includible in gross income under Sections 125, 402(e)(3), 402(h)(1)(B) or 403(b) of the Code),

(B) immediate participation, and

(C) full and immediate vesting.

(d) For purposes of this section, the term "leased employee" means any person (other than an employee of the Employer) who, pursuant to an agreement between the Employer and any other person ("leasing organization"), has performed services for the Employer (or for the Employer and one or more related persons determined in accordance with Section 414(n)(6) of the Code) on a substantially full time basis for a period of at least 1 year and such services are performed under the primary direction or control of such Employer.

(e) Contributions or benefits provided a leased employee by the leasing organization that are attributable to services performed for an Employer shall be treated as provided by such Employer.

(f) An individual shall be considered a common law employee of the Employer (including its Affiliates) for which the individual performs services, and if the individual meets the definition of Employee under Article I, then he shall be an Employee of such Employer and its Affiliates.

1.16 "**Employer**" shall mean the Company and any Affiliate or other entity that adopts this Plan with the consent of the Company.

1.17 "**Entry Date**" shall mean

(a) each January 1, April 1, July 1, and October 1, except as otherwise elected in the Adoption Agreement.

(b) the "Entry Date" with respect to an Employer's initial adoption of the Plan shall mean the date determined by the Plan Administrator which is coincident with or follows the date the Plan is adopted by the adopting Employer.

1.18 "**Excess Compensation**" shall mean Compensation in excess of the maximum amount that may be considered wages under Section 3121(a)(1) of the Code on the first day of each Plan Year.

1.19 "**Highly Compensated Employee**" shall mean any Employee

(a) (1) who was a 5% owner of an Employer or any of its Affiliates (within the meaning of Section 416(i)(1)(B) of the Code) during the Plan Year or the immediately preceding year; or

(2) whose Section 415 Compensation was more than $80,000 for the immediately preceding year (as adjusted at the same time and in the same manner as under Section 415(d) of the Code, except that the base period shall be the calendar quarter ending September 30, 1996).

(b) In determining who is a Highly Compensated Employee, Employees who are nonresident aliens and who receive no earned income (within the meaning of Section 911(d)(2) of the Code) from an Employer constituting United States source income (within the meaning of Section 861(a)(3) of the Code) shall not be treated as Employees.

(c) For purposes of determining who is a Highly Compensated Employee, an Employer and all of its Affiliates shall be taken into account as a single Employer.

(d) The term "Highly Compensated Employee" shall also mean any former Employee who separated from service (or was deemed to have separated from service) prior to the Plan Year, performs no service for an Employer during the Plan Year, and was an actively employed Highly Compensated Employee in the year of separation or any Plan Year ending on or after the date the Employee attained age 55.

1.20 "**Hour of Service**" shall mean

(a) (1) an hour for which an Employee is paid, or entitled to payment, for the performance of duties for an Employer or an Affiliate;

(2) an hour for which an Employee is paid, or entitled to payment, by an Employer or an Affiliate 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), lay-off, jury duty, military duty or leave of absence. Notwithstanding the preceding,

(A) no more than 501 Hours of Service shall be credited under this subsection (a)(2) to an Employee on account of any single continuous period during which the Employee performs no duties (whether or not such period occurs in a single Plan Year);

(B) an hour for which an Employee is directly or indirectly paid, or entitled to payment, on account of a period during which no duties are performed shall not be credited to the Employee if such payment is made or due under a plan maintained solely for the purpose of complying with applicable workmen's compensation, or unemployment compensation or disability insurance laws; and

(C) an hour shall not be credited for a payment which solely reimburses an Employee for medical or medically related expenses incurred by the Employee; and

(3) an hour for which back pay, irrespective of mitigation of damages, is either awarded or agreed to by an Employer or an Affiliate; provided, that the same Hour of Service shall not be credited both under subsection (a)(1) or subsection (a)(2), as the case may be, and under this subsection (a)(3). Crediting of an Hour of Service for back pay awarded or agreed to with respect to periods described in subsection (a)(2) shall be subject to the limitations set forth in that section.

The definition set forth in this subsection (a) is subject to the special rules contained in Sections 2530.200b-2(b) and (c) of the Department of Labor Regulations, and any regulations amending or superseding such sections, which special rules are hereby incorporated in the definition of "Hour of Service" by this reference.

(b) (1) Notwithstanding the other provisions of this "Hour of Service" definition, in the case of an Employee who is absent from work for any period by reason of her pregnancy, by reason of the birth of a child of the Employee, by reason of the placement of a child with the Employee in connection with the adoption of such child by the Employee or for

purposes of caring for such child for a reasonable period beginning immediately following such birth or placement, the Employee shall be treated as having those Hours of Service described in subsection (b)(2).

(2) The Hours of Service to be credited to an Employee under the provisions of subsection (b)(1) are the Hours of Service that otherwise would normally have been credited to such Employee but for the absence in question or, in any case in which the Plan is unable to determine such hours, 8 Hours of Service per day of such absence; provided, however, that the total number of hours treated as Hours of Service under this subsection (b) by reason of any such pregnancy or placement shall not exceed 501 hours.

(3) The hours treated as Hours of Service under this subsection (b) shall be credited only in the Plan Year in which the absence from work begins, if the crediting is necessary to prevent a One Year Break in Service in such Plan Year or, in any other case, in the immediately following Plan Year.

(4) Credit shall be given for Hours of Service under this subsection (b) solely for purposes of determining whether a One Year Break in Service has occurred for participation or vesting purposes; credit shall not be given hereunder for any other purposes (including, without limitation, benefit accrual).

(5) Notwithstanding any other provision of this subsection (b), no credit shall be given under this subsection (b) unless the Employee in question furnishes to the Plan Administrator such timely information as the Plan Administrator may reasonably require to establish that the absence from work is for reasons referred to in subsection (b)(1) and the number of days for which there was such an absence.

(6) For purposes of this section 1.20, the term "Employee" shall include any individual employed by an Employer, including a leased employee.

1.21 "**Key Employee**" shall mean any employee or former employee (including any deceased employee) who was at any time during the Plan Year that includes the determination date (1) an officer of an Employer or an Affiliate (within the meaning of Section 416(i)(1) of the Code) whose Section 415 Compensation is greater than $130,000 (as adjusted under Section 416(i)(1) of the Code), (2) a 5% owner of an Employer or an Affiliate (within the meaning of Section 416(i)(1)(B) of the Code) or (3) a 1% owner of an Employer or an Affiliate (within the meaning of Section 416(i)(1)(B) of the Code) whose Section 415 Compensation is greater than $150,000. The determination of who is a Key Employee will be made in accordance with Section 416(i)(1) of the Code and the applicable regulations and other binding guidance of general applicability issued thereunder.

1.22 "**Limitation Year**" shall mean the Plan Year.

1.23 "**Matching Contribution Account**" shall mean an account established pursuant to section 6.2 of Article VI with respect to discretionary Employer matching contributions to this Plan on behalf of a Participant by an Employer pursuant to Article V.

1.24 "**Non-Highly Compensated Employee**" shall mean, with respect to any Plan Year, an Employee or former Employee who is not a Highly Compensated Employee.

1.25 "**Non-Key Employee**" shall mean, with respect to any Plan Year, an Employee or former Employee who is not a Key Employee (including any such Employee who formerly was a Key Employee).

1.26 "**Nonelective Contribution Account**" shall mean an account established pursuant to section 6.2 of Article VI with respect to discretionary Employer nonelective contributions made pursuant to Article V.

1.27 "**Normal Retirement Date**" shall mean the date on which a Participant attains the age of 65 years.

1.28 "**One Year Break in Service**" shall mean a Plan Year in which an Employee completes 500 or fewer Hours of Service, and it shall be deemed to occur on the last day of any such Plan Year.

1.29 "**Participant**" shall mean any eligible Employee of an Employer who has become a Participant under the Plan and shall include any former employee of an Employer who became a Participant under the Plan and (1) who still has a balance in an Account under the Plan or (2) is entitled to an allocation of an Employer contribution under the Plan. For purposes of administering Rollover Contribution Accounts, the term Participant shall include an Employee who has made a rollover contribution to the Plan.

1.30 "**Period of Service for Eligibility**" shall mean a period of service commencing on the date an Employee last commenced employment with an Employer and ending on his Severance from Service Date.

(a) Periods of service shall be aggregated by crediting an Employee with a month-long Period of Service for Eligibility for each 30 day period of service with any Employer and its Affiliates. Days of service shall include all days within a Period of Severance if the Employee:

(1) severs from service by reason of a quit, discharge, or retirement and then performs an Hour of Service within 12 months of his Severance from Service Date; or

(2) severs from service by reason of a quit, discharge, or retirement within 12 months of a Date of Absence and then performs an Hour of Service also within 12 months of the Date of Absence.

(b) Period of Service for Eligibility shall include the following special definitions:

(1) Severance from Service Date shall mean the earlier of (i) the date the Employee quits, retires, is discharged, or dies, or (ii) the first anniversary of a Date of Absence.

(2) Date of Absence shall mean the first date of a period in which the Employee remains absent from service with all Employers and their Affiliates (with or without pay) for any reason other than a quit, discharge, retirement, or death. For example, such absence may be due to vacation, holiday, sickness, disability, leave of absence, maternity or paternity absence, or layoff.

(3) Period of Severance shall mean the period of time commencing on the Severance from Service Date and ending on the date on which the Employee again performs an Hour of Service for any Employer or its Affiliates.

(c) A Participant's Periods of Service for Eligibility shall include service (including "covered service" and "contiguous noncovered service" as described in Section 2530.210 of the Department of Labor Regulations) for all Employers and their respective Affiliates.

1.31 "**Plan**" shall mean the 401(k) profit sharing plan as herein set forth, as it may be amended from time to time.

1.32 "**Plan Administrator**" shall mean the Company.

1.33 "**Plan Year**" shall mean the 12-consecutive month period ending on December 31.

1.34 "**Post-Severance Compensation**" shall mean:

(a) Amounts paid after severance from employment, including, but not limited to, severance pay, unfunded nonqualified deferred compensation or parachute payments within the meaning of Section 280G(b)(2) of the Code.

(b) The following types of post-severance payments are not considered Post-Severance Compensation, and are treated as Compensation and Section 415 Compensation, only if they are paid by the later of (A) 2½ months following severance from employment or (B) the end of the Limitation Year that includes the date of severance from employment:

(1) payments that, absent a severance from employment, would have been paid to the employee while the employee continued in employment with the employer and are regular compensation for service during the employee's regular working hours, compensation for services outside the employee's regular working hours (such as overtime or shift differential), commissions, bonuses or other similar compensation; and

(2) payments for accrued bona fide sick, vacation, or other leave, but only if the employee would have been able to use the leave if employment had continued.

1.35 "**Pre-Tax Elective Contribution Account**" shall mean an account established pursuant to section 6.2 of Article VI with respect to pre-tax elective contributions made pursuant to Article V.

1.36 "**Qualified Matching Contribution Account**" shall mean an account established pursuant to section 6.2 of Article VI with respect to qualified matching contributions made by an Employer pursuant to Article V.

1.37 "**Qualified Nonelective Contribution Account**" shall mean an account established pursuant to section 6.2 of Article VI with respect to qualified nonelective contributions made by an Employer pursuant to Article V.

1.38 "**Rollover Contribution Account**" shall mean an account established pursuant to section 6.2 of Article VI with respect to rollover contributions made pursuant to Article V.

1.39 "**Roth Elective Contribution Account**" shall mean an account established pursuant to section 6.2 of Article VI with respect to Roth elective contributions made pursuant to Article V.

1.40 "**Safe Harbor Matching Contribution Account**" shall mean an account established pursuant to section 6.2 of Article VI of the Plan with respect to Employer safe harbor matching contributions made pursuant to Article V.

1.41 "**Safe Harbor Nonelective Contribution Account**" shall mean an account established pursuant to section 6.2 of Article VI of the Plan with respect to Employer safe harbor nonelective contributions made pursuant to Article V.

1.42 "**Section 415 Compensation**" shall mean

(a) (1) wages, salaries, and fees for professional services and other amounts received (without regard to whether or not an amount is paid in cash) for personal services actually rendered in the course of employment with the Employer or an Affiliate to the extent that the amounts are includible in gross income (including, but not limited to, commissions paid salespersons, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips, bonuses, fringe

benefits, reimbursements or other expense allowances under a nonaccountable plan (as described in Section 1.62-2(c) of the Treasury Regulations), and effective for amounts paid after December 31, 2008, military differential wage payments (as described in Section 3401(h) of the Code);

(2) (A) any elective contributions (subject to Sections 402(g)(3) or 414(v) of the Code);

(B) any amount which is contributed or deferred by the Employer or an Affiliate at the election of the Employee and which is not includible in the gross income of the Employee by reason of Sections 125, 403(b) or 457 of the Code;

(C) elective amounts that are not includible in the gross income of the Employee by reason of Section 132(f)(4) of the Code; and

(D) amounts under Section 125 of the Code not available to a Participant in cash in lieu of group health coverage because the Participant is unable to certify that he has other health coverage. An amount will be treated as an amount under Section 125 of the Code only if the Employer or an Affiliate thereof does not request or collect information regarding the Participant's other health coverage as part of the enrollment process for the health plan.

(b) Section 415 Compensation shall exclude the following:

(1) Employer or Affiliate contributions (except as set forth in subsection (a)(2) above) to a plan of deferred compensation which are not includible in the Employee's gross income for the taxable year in which contributed, or Employer or Affiliate contributions (except as set forth in subsection (a)(2) above) under a simplified employee pension or any distributions from a plan of deferred compensation; provided, however, that any amounts received by an Employee pursuant to an unfunded nonqualified deferred compensation plan are permitted to be considered as Section 415 Compensation in the year the amounts are includible in the gross income of the Employee;

(2) amounts realized from the exercise of a non-qualified stock option, or when restricted stock (or property) held by the Employee either becomes freely transferable or is no longer subject to a substantial risk of forfeiture;

(3) amounts realized from the sale, exchange or other disposition of stock acquired under a qualified stock option;

(4) other amounts that receive special tax benefits, such as premiums for group-term life insurance (but only to the extent that the premiums are not includible in the gross income of the Employee and are not salary reduction amounts that are described in Section 125 of the Code);

(5) other items of remuneration that are similar to any of the items listed in (1) through (4); and

(6) Post-Severance Compensation.

(c) The annual Section 415 Compensation of each Participant for any Limitation Year shall not exceed the $200,000 limit under Section 401(a)(17) of the Code (as adjusted for cost-of-living increases in accordance with Section 401(a)(17)(B) of the Code). The cost-of-living adjustment in effect for a calendar year applies to annual Section 415 Compensation for the Limitation Year that begins with or within such calendar year.

1.43 "**Self-Employed Individual**" shall mean an individual who has Earned Income for the taxable year from the trade or business with respect to which the Plan has been adopted; provided, further, that the term "Self-Employed Individual" shall also mean an individual who would have had Earned Income but for the fact that the trade or business had no net earnings for the taxable year.

1.44 "**Top Heavy Plan**" shall mean this Plan if the aggregate account balances (not including voluntary rollover contributions made by any Participant from an unrelated plan) of the Key Employees and their beneficiaries for such Plan Year exceed 60% of the aggregate account balances (not including voluntary rollover contributions made by any Participant from an unrelated plan) for all Participants and their beneficiaries. Such values shall be determined for any Plan Year as of the last day of the immediately preceding Plan Year or, for the first Plan Year, the last day of the first Plan Year (the "determination date" for purposes of section 1.21 and section 1.44 of Article I). For the purposes of this definition, the aggregate account balances for any Plan Year shall include the account balances and accrued benefits of all retirement plans qualified under Section 401(a) of the Code with which this Plan is required to be aggregated to meet the requirements of Sections 401(a)(4) or 410(b) of the Code (including terminated plans that would have been required to be aggregated with this Plan) and all plans of an Employer or an Affiliate in which a Key Employee participates; and such term may include (at the discretion of the Plan Administrator) any other retirement plan qualified under Section 401(a) of the Code that is maintained by an Employer or an Affiliate, provided the resulting permissive aggregation group satisfies the requirements of Sections 401(a)(4) and 410(b) of the Code. All calculations shall be on the basis of actuarial assumptions that are specified by the Plan Administrator and applied on a uniform basis to all plans in the applicable aggregation group. The account balances of a Participant as of the determination date shall be increased by the distributions made with respect to the Participant under the Plan and any plan aggregated with the Plan under Section 416(g)(2) of the Code during the one-year period ending on the

determination date. The preceding sentence shall also apply to distributions under a terminated plan which, had it not been terminated, would have been aggregated with the Plan under Section 416(g)(2)(A)(i) of the Code. In the case of a distribution made for a reason other than severance from employment, death or disability, this provision shall be applied by substituting "five-year period" for "one-year period." The account balances of any Participant shall not be taken into account if:

(a) he is a Non-Key Employee for any Plan Year, but was a Key Employee for any prior Plan Year, or

(b) he has not performed any services for an Employer during the one-year period ending on the determination date

1.45 "**Total and Permanent Disability**" shall be deemed to have occurred with respect to a Participant on the date as of which the Participant has received a determination of disability from the Social Security Administration; provided that proof is received by the Plan Administrator within 60 days after the later of (a) the date of the Participant's severance from employment, or (b) the date the Participant is notified by the Social Security Administration.

1.46 "**Transfer Contribution Account**" shall mean an account established pursuant to section 6.2 of Article VI with respect to direct transfers made to this Plan from another qualified plan pursuant to Article V.

1.47 "**Trust**" shall mean the trust established by the Trust Agreement.

1.48 "**Trust Agreement**" shall mean the agreement providing for the Trust Fund, as it may be amended from time to time.

1.49 "**Trust Fund**" shall mean the trust fund established under the Trust Agreement from which the amounts of supplementary compensation provided for by the Plan are to be paid or are to be funded.

1.50 "**Trustee**" shall mean the individual, individuals or corporation designated as trustee under the Trust Agreement.

1.51 "**Valuation Date**" shall mean December 31 and every other day on which the financial security markets and the Plan's Participant record keeper are open for business.

1.52 "**Year of Service**" shall mean for all purposes of this Plan except for purposes of Article IV, a Plan Year during which an Employee completes 1,000 or more Hours of Service.

(a) For purposes of Article IV, the consecutive 12-month period beginning with the date of the Employee's first Hour of Service for his Employer or any Affiliate thereof if, during such consecutive 12-month period, the Employee completes 1,000 Hours of Service; provided, however, that if, during

such consecutive 12-month period, the Employee does not complete 1,000 Hours of Service, then "Year of Service" shall mean any Plan Year beginning after the date of the Employee's first Hour of Service during which the Employee completes 1,000 or more Hours of Service. In either event, the Year of Service is not completed until the end of the consecutive 12-month period or the Plan Year, as the case may be, without regard to when during the period that the 1,000 Hours of Service are completed.

(b) For purposes of Article VII, an Employee's "Years of Service" shall not include the following:

(1) Any Year of Service prior to a One Year Break in Service, but only prior to such time as the Participant has completed a Year of Service after such One Year Break in Service.

(2) (A) In the case of a Participant who has no vested interest in the balance of his Accounts (other than the Rollover Contribution Account), Years of Service before any period of consecutive One Year Breaks in Service shall not be required to be taken into account if the number of consecutive One Year Breaks in Service equals or exceeds the greater of 5 or the aggregate number of Years of Service completed by the Participant prior to such period of consecutive One Year Breaks in Service.

(B) For purposes of this subsection (b)(2), any Years of Service not required to be taken into account by reason of the application of this subsection shall not be taken into account in applying this subsection (b)(2) to a subsequent period of One Year Breaks in Service.

(c) A Participant's Years of Service shall include service (including "covered service" and "contiguous noncovered service" as described in Section 2530.210 of the Department of Labor Regulations) with all Employers and their respective Affiliates.

(d) For purposes of this section, the term "Employee" shall include any individual employed by an Employer and/or its Affiliates, including a leased employee.

ARTICLE II

Name and Purpose of the Plan and the Trust

2.1 **Name of Plan**. A multiple employer 401(k) profit sharing plan is hereby amended and restated in accordance with the terms hereof and shall continue to be known as the "**The Platinum 401(k) Retirement Savings Plan."**

2.2 **Exclusive Benefit**. This Plan has been established for the sole purpose of providing benefits to the Participants and enabling them to share in the growth of their Employer. Except as otherwise permitted by law, in no event shall any part of the principal or income of the Trust be paid to or reinvested in any Employer or be used for or diverted to any purpose whatsoever other than for the exclusive benefit of the Participants and their beneficiaries.

2.3 **Return of Contribution**. Notwithstanding the provisions of section 2.2, any contribution made by an Employer to this Plan by a mistake of fact may be returned, reduced by the amount of any losses thereon, to the Employer within 1 year after the payment of the contribution; and any contribution made by an Employer that is conditioned upon the deductibility of the contribution under Section 404 of the Code (each contribution shall be presumed to be so conditioned unless the Employer specifies otherwise) may be returned, reduced by the amount of any losses thereon, to the Employer if the deduction is disallowed and the contribution is returned (to the extent disallowed) within 1 year after the disallowance of the deduction.

2.4 **Participants' Rights**. The establishment of this Plan shall not be considered as giving any Employee, or any other person, any legal or equitable right against any Employer, any Affiliate, the Plan Administrator, the Trustee or the principal or the income of the Trust, except to the extent otherwise provided by law. The establishment of this Plan shall not be considered as giving any Employee, or any other person, the right to be retained in the employ of any Employer or any Affiliate.

2.5 **Qualified Plan**. This Plan and the Trust are intended to qualify under the Code as a tax-qualified employees' plan and trust as described in Sections 401(a) and 501(a) of the Code, and a "multiple employer" plan as described in Section 413(c) of the Code.

ARTICLE III

Plan Administrator

3.1 **Administration of the Plan**. The Plan Administrator shall control and manage the operation and administration of the Plan, except with respect to investments. The Plan Administrator shall have no duty with respect to the investments to be made of the funds in the Trust except as may be expressly assigned to it by the terms of the Trust Agreement or as provided in Article X of the Plan.

3.2 **Powers and Duties**. The Plan Administrator shall have complete control over the administration of the Plan herein embodied, with all powers necessary to enable it to carry out its duties in that respect. Not in limitation, but in amplification of the foregoing, the Plan Administrator shall have the power and discretion to conclusively interpret or construe this Plan and to determine all questions that may arise as to the status and rights of the Participants and others hereunder.

3.3 **Direction of Trustee**. It shall be the duty of the Plan Administrator to direct the Trustee with regard to the allocation and the distribution of the benefits to the Participants and others hereunder.

3.4 **Summary Plan Description and Reports**. The Plan Administrator shall prepare or cause to be prepared a summary plan description (if required by law) and such periodic and annual reports as are required by law.

3.5 **Disclosure**. The Plan Administrator shall from time to time furnish to each Participant a statement containing the value of his interest in the Trust Fund and such other information as may be required by law.

3.6 **Conflict in Terms**. The Plan Administrator shall notify each Employee, in writing, as to the existence of the Plan and Trust and the basic provisions thereof. In the event of any conflict between the terms of this Plan and the Trust Agreement and any explanatory booklet or other description, this Plan and the Trust Agreement shall control.

3.7 **Records**.

(a) The Plan Administrator shall keep a complete record of all its proceedings as such Plan Administrator and all data necessary for the administration of the Plan. All of the foregoing records and data shall be located at the principal office of the Plan Administrator.

(b) (1) Upon request of the Plan Administrator, each Employer shall furnish written "service reports" to the Plan Administrator on a regular basis. A service report shall include service information for all Employees who have satisfied the eligibility requirements under the Plan and all Employees who work in a job classification covered by the Plan, even if such Employees have not satisfied the eligibility conditions under the Plan.

(2) The Plan Administrator may prescribe the format of the reports, the manner of reporting, and the reportable information.

3.8 **Final Authority**. Except to the extent otherwise required by law, the decision of the Plan Administrator in matters within its jurisdiction shall be final, binding and conclusive upon each Employer and each Employee, member and beneficiary and every other interested or concerned person or party.

3.9 **Claims**. The Plan Administrator shall develop and institute a claims procedure. The claims procedure shall be in writing and shall be part of the Plan's summary plan description or part of a document that accompanies the Plan's summary plan description. Such written claims procedure is hereby specifically incorporated by reference into the Plan. Participants and beneficiaries may make claims for benefits under the Plan only in accordance with the written claims procedure in effect at the time the Participant or beneficiary makes the claim for benefit. Written notice of the disposition of a claim shall be furnished to the claimant by the Plan Administrator within timeframe set forth in the claims procedure. In the event that the claim is denied, the denial shall be written in a manner calculated to be understood by the claimant and shall include the specific reasons for the denial, specific references to pertinent Plan provisions on which the denial is based, a description of the material information, if any, necessary for the claimant to perfect the claim, an explanation of why such material information is necessary and an explanation of the claims review procedure. If a claim is denied (either in the form of a written denial or by the failure of the Plan Administrator, within the required time period, to notify the claimant of the action taken), the claimant or his duly authorized representative may petition the Plan Administrator in writing for a full and fair review of the denial, during which time the claimant or his duly authorized representative shall have the right to review pertinent documents and to submit issues and comments in writing to the Plan Administrator. The written petition by a claimant or his duly authorized representative for a full and fair review of the denial must be made within the timeframe set forth in the claims procedure. The claimant must exhaust all administrative remedies under the Plan, including a petition for a full and fair review of the denial, prior to filing a suit in state or federal court regarding the claim. The Plan Administrator shall promptly review the claim and shall make a decision within the timeframe set forth in the claims procedure. The decision of the review shall be in writing and shall include specific reasons for the decision, written in a manner calculated to be understood by the claimant, with specific references to the Plan provisions on which the decision is based.

3.10 **Appointment of Advisors and Agents**. The Plan Administrator may appoint such accountants, counsel (who may be counsel for an Employer), specialists and other persons that it deems necessary and desirable in connection with the administration of this Plan. The Plan Administrator may designate one or more of its employees to perform the duties required of the Plan Administrator hereunder.

3.11 **Administration as Multiple Employer Plan**.

(a) The Plan shall be administered as a multiple employer plan in accordance with the requirements of Section 413(c) of the Code, the regulations thereunder and other applicable authority.

(b) Any applicable coverage, nondiscrimination and top heavy testing, including, without limitation, testing required under Sections 401(a)(4), 401(k), 401(m), 410(b), 414(s) and 416 of the Code shall generally be applied separately with respect to each Employer (and its Affiliates) that adopts the Plan.

3.12 **Employer Adoption Prior to Restatement**. The terms of an Adoption Agreement and addendums executed by an Adopting Employer prior to the date of adoption of this amendment and restatement and, to the extent consistent, the terms of the Plan as in effect prior to the date of adoption of this amendment and restatement, shall continue to apply, and any cross references to provisions of the Plan in such Adoption Agreements and addendums shall be treated as cross references to successor provisions of the Plan, as applicable.

3.13 **Plan Correction**. The Plan Administrator may take corrective action with respect to any plan qualification failure, fiduciary breach under ERISA, and prohibited transaction under the Code or ERISA, including, but not limited to, corrective action under the Employee Plans Compliance Resolution System ("EPCRS") and the Voluntary Fiduciary Correction Program ("VFCP").

ARTICLE IV

Eligibility and Participation

4.1 **Plan as Adopted by Company or Affiliate**.

(a) Any Employee of the Company (or an Affiliate thereof) shall be eligible to become a Participant in the Plan as adopted by the Company (or an Affiliate thereof) upon completing the age and service requirements selected by the Company (or an Affiliate thereof) in the Adoption Agreement; provided, however, that any Employee of the Company (or an Affiliate thereof) shall not be eligible to become a Participant in the Plan as adopted by the Company (or an Affiliate thereof) if the Employee

(1) is covered under this Plan as adopted by an Employer (other than the Company or an Affiliate thereof), or

(2) performs services on behalf of an Employer or other entity (other than the Company or an Affiliate thereof).

(b) An eligible Employee who satisfies the requirements described in subsection (a) above shall enter the Plan as a Participant, if he is still an Employee of the Company or an Affiliate, on the first Entry Date concurring therewith or occurring thereafter.

4.2 **Plan as Adopted by Employer (other than Company or Affiliate)**.

(a) Any Employee of an Employer (other than the Company or an Affiliate thereof) shall be eligible to become a Participant in the Plan as adopted by the Employer upon completing the age and service requirements selected by the Employer in the Adoption Agreement.

(b) An eligible Employee who satisfies the requirements described in subsection (a) above shall enter the Plan as a Participant, if he is still an Employee of an Employer, on the first Entry Date concurring therewith or occurring thereafter.

4.3 **Waiver of Eligibility Requirements**. If elected by the Employer in the Adoption Agreement, the eligibility requirements described in sections 4.1 and 4.2 above may be waived with respect to Employees employed by the Employer as of the date specified in the Adoption Agreement.

4.4 **Special Entry Date**. With respect to an Employer's initial adoption of the Plan, the Entry Date with respect to such Employer's eligible Employees shall be the Entry Date concurring with or next following the Employer's adoption of the Plan.

4.5 **Former Employees**.

(a) A Participant who terminates employment and subsequently reenters the employ of an Employer as an Employee shall be eligible to become an active Participant on the date of his reemployment.

(b) An Employee who satisfies the eligibility requirements set forth above and who terminates employment with the Employer prior to becoming a Participant will become a Participant on the later of the Entry Date on which he would have entered the Plan had he not separated from service or the date of his reemployment.

(c) An Employee who terminates employment prior to satisfying the eligibility requirements set forth above shall be eligible to become a Participant upon completion of such requirements.

4.6 **Reclassification; Eligibility and Vesting Service**.

(a) If an individual who is employed by an Employer but who is not an Employee becomes an Employee, then service in non-covered employment will be taken into account for purposes of crediting eligibility and vesting service.

(b) Such Employee shall enter the Plan as an active Participant on the later of (1) the date the individual becomes an Employee or (2) the Entry Date on which he would have entered the Plan had he been an Employee throughout his employment with the Employer.

(c) If the effective date of an individual's reclassification as an Employee is prior to the actual date of such reclassification, in no event shall the reclassified individual be eligible to participate in the Plan retroactively to the effective date of such reclassification.

ARTICLE V

Contributions to the Trust

5.1 **Participants' Elective Contributions**.

(a) (1) The Employer shall contribute to the Trust, on behalf of each Participant, an elective contribution as specified in a salary reduction agreement between the Participant and such Employer; provided, however, that such contribution for a Participant for any calendar year shall not exceed the dollar amount specified in Section 402(g) of the Code with respect to the Participant's taxable years beginning in such calendar year, except to the extent permitted under Section 414(v) of the Code, with respect to catch-up contributions, if applicable. The dollar limit of Section 402(g) of the Code was $15,000 for taxable years beginning in 2006. After 2006, the $15,000 limit is adjusted for cost-of-living increases under Section 402(g)(4) of the Code. Any such adjustments will be in multiples of $500.

(2) A Participant may elect to have pre-tax elective contributions and/or Roth elective contributions contributed to the Trust on his behalf pursuant to his salary reduction agreement.

(3) If elected by an Employer, with the consent of the Company, in the event a Participant does not affirmatively elect to have a specified amount contributed to the Plan as an elective contribution or does not affirmatively elect to receive Compensation in lieu of an elective contribution, such Participant will be deemed to have elected to contribute a portion of his Compensation, as set forth in the Employer's Adoption Agreement, to the Plan as a pre-tax elective contribution for each applicable pay period pursuant to the provisions of his Employer's Adoption Agreement. Prior to the time that this automatic elective contribution would first go into effect for an Employee and/or a Participant who has not previously executed a salary reduction agreement, the Employee and/or Participant must be provided a written notice concerning the effect of the automatic elective contribution and his right to elect a different contribution amount at such times as provided by the Plan Administrator, including the right to elect not to have any elective contribution made to the Plan on his behalf. After receiving the notice, an Employee and/or Participant must be given a reasonable time to consider his election before the automatic elective contribution goes into effect.

(4) The term "elective contributions" includes pre-tax elective contributions and Roth elective contributions.

(A) "Pre-tax elective contributions" means a Participant's elective contributions which are not includible in the Participant's

gross income at the time deferred and have been irrevocably designated as pre-tax elective contributions by the Participant in his deferral election.

(i) Participant's pre-tax elective contributions will be separately accounted for, as will gains and losses attributable to those pre-tax elective contributions in a Pre-Tax Elective Contribution Account for the Participant.

(ii) If the Plan utilizes an automatic enrollment rollover feature as described in subsection (3) above, then such elective contribution shall be a pre-tax elective contribution.

(B) "Roth elective contributions" means a Participant's elective contributions that are includible in the Participant's gross income at the time deferred and have been irrevocably designated as Roth elective contributions by the Participant in his deferral election.

(i) A Participant's Roth elective contributions will be separately accounted for, as will gains and losses attributable to those Roth elective contributions, in a Roth Elective Contribution Account for the Participant. However, forfeitures may not be allocated to such Account.

(ii) The Plan must also maintain a record of a Participant's investment in the contract (i.e., designated Roth elective contributions that have not been distributed).

(iii) Roth elective contributions are not considered employee contributions for Plan purposes.

(iv) Roth elective contributions will be treated in the same manner as other elective contributions for all Plan purposes except as otherwise provided herein.

(b) Participants who are eligible to make elective contributions under the Plan and who have attained age 50 (or whose 50th birthday occurs) before the close of their current taxable year shall be eligible to make catch-up contributions in accordance with, and subject to the limitations of, Section 414(v) of the Code. The dollar limit on catch-up contributions under Section 414(v)(2)(B)(i) of the Code was $5,000 for taxable years beginning in 2006. After 2006, the $5,000 limit is adjusted for cost-of-living increases under Section 414(v)(2)(C) of the Code. Any such adjustments will be in multiples of $500. Such catch-up contributions shall not be taken into account for purposes of the provisions of the Plan implementing the required limitations of Section 402(g) and 415 of the Code, shall not be taken into account for purposes of the Actual

Deferral Percentage Test, and shall not be taken into account for purposes of determining the minimum allocation under Section 416 of the Code; provided, however, that catch-up contributions made in prior years are taken into account in determining whether the Plan is a Top Heavy Plan. The Plan shall not be treated as failing to satisfy the provisions of the Plan implementing the requirements of Sections 401(k)(3), 401(k)(11), 401(k)(12), 410(b) or 416 of the Code, as applicable, by reason of the making of such catch-up contributions. Catch-up contributions shall be treated as elective contributions under the Plan for purposes of calculating matching contributions.

(c) (1) If a Participant's elective contributions, together with any elective contributions by the Participant to any other plans intended to qualify under Sections 401(k), 403(b) or 457 of the Code, exceed the limitation set forth in section 5.1(a) of this Article V, the Plan Administrator shall refund to such Participant the portion of such excess deferrals that are attributable to elective contributions to the Plan, plus the earnings thereon, notwithstanding any additional restrictions set forth in subsection (c)(2) below. The Plan Administrator may use any reasonable method for computing the earnings allocable to such excess deferrals, provided that the method does not violate Section 401(a)(4) of the Code, is used consistently for all Participants and for all corrective distributions under the Plan for the Plan Year, and is used by the Plan for allocating earnings to Participants' Accounts. The earnings on excess deferrals are equal to the allocable gain or loss on such excess deferrals for the Plan Year. Any such refund shall be made on or before April 15 of the Plan Year following the Plan Year in which excess deferral is made. The amount of excess deferrals that may be distributed under this section 5.1(c) with respect to a Participant for any taxable year shall be reduced by any excess contribution previously distributed pursuant to section 5.1(h) with respect to such Participant for the Plan Year ending with or within such taxable year.

(2) For any Plan Year in which a Participant may make both Roth elective contributions and pre-tax elective contributions, the Plan Administrator operationally may implement an ordering rule procedure for the distribution of excess deferrals. Such ordering rule may specify whether the Roth elective contributions or pre-tax elective contributions are distributed first, to the extent such type of elective contribution was made for the Plan Year. Furthermore, such procedure may permit the Participant to elect which type of elective contributions shall be distributed first.

(d) (1) Any salary reduction agreement shall be in effect prior to the end of the pay period to which it applies. Any such agreement may be revised by the Participant in accordance with procedures established by the Plan Administrator. Such revision shall be effective as soon as administratively practicable.

(2) A separate salary reduction agreement may be entered into with respect to a bonus provided the amount of any such bonus is not "currently available" to an Employee on the date such salary reduction agreement is executed. For this purpose, an amount is not currently available to an Employee if there is a significant limitation or restriction on the Employee's right to receive the amount currently or if the Employee may under no circumstances receive the amount before a particular time in the future.

(3) With respect to Roth elective contributions, the Plan Administrator may, in operation, implement deferral election procedures provided such procedures are communicated to participants and permit Participants to modify their elections at least once a year.

(e) A Participant may suspend further elective contributions to the Plan at any time on a prospective basis, provided the Participant provides proper advanced notice to the Plan. Any Participant who suspends further contributions relating to periodic pay may reinstate such contributions in accordance with procedures established by the Plan Administrator.

(f) A salary reduction agreement shall not apply to a Participant's Post-Severance Compensation and may apply only to amounts that are compensation within the meaning of Section 415(c)(3) of the Code and Section 1.415(c)-2 of the Treasury Regulations.

(g) (1) The Plan Administrator may establish such other rules and procedures regarding Participant salary reduction agreements and elective contributions as it deems necessary, including not applying salary reduction elections to non-cash remuneration, which rules and procedures shall be applied in a uniform, nondiscriminatory manner.

(2) The Plan Administrator shall have the right to require any Participant to reduce his elective contributions under any such agreement, or to refuse deferral of all or part of the amount set forth in such agreement, if necessary to comply with the requirements of this Plan and the Code.

(h) (1) (A) If the elective contributions of Highly Compensated Employees exceed the limitations set forth in section 5.6, such excess (plus the earnings thereon), determined as set forth in subsection (h)(2) below, may be distributed to the Highly Compensated Employees described in subsection (h)(3), below, on or before the 15th day of the third month after the close of the Plan Year to which the excess contributions relate. Notwithstanding the preceding sentence, the Plan Administrator shall in no event delay the distribution of any excess contributions (plus the earnings thereon) beyond the date that is 12 months after

the close of the Plan Year to which the excess contributions relate. For this purpose, effective for Plan Years beginning after December 31, 2005, and ending before January 1, 2008, the earnings allocable to excess contributions is equal to the sum of allocable gain or loss on such excess contributions for the Plan Year and the period after the close of the Plan Year and prior to the distribution of excess contributions. For Plan Years beginning on or after January 1, 2008, the earnings allocable to excess contributions is equal to the allocable gain or loss on such excess contributions for the Plan Year.

(B) For any Plan Year in which a Participant may make both Roth elective contributions and pre-tax elective contributions, the Plan Administrator operationally may implement an ordering rule procedure for the distribution of excess contributions. Such ordering rule may specify whether the pre-tax elective contributions or Roth elective contributions are distributed first, to the extent such type of elective contribution was made for the Plan Year. Furthermore, such procedure may permit the Participant to elect which type of elective contributions shall be distributed first.

(2) (A) The amount of such excess for the Plan Year shall be equal to the amount by which the Actual Deferral Ratio of the Highly Compensated Employee with the highest Actual Deferral Ratio for the Plan Year would be reduced to the extent required to

(i) enable the arrangement to satisfy the limitations set forth in section 5.6, or

(ii) cause such Highly Compensated Employee's Actual Deferral Ratio to equal the Actual Deferral Ratio of the Highly Compensated Employee with the next highest Actual Deferral Ratio.

This process shall be repeated until the arrangement satisfies the limitations set forth in section 5.6.

(B) For each Highly Compensated Employee described in subsection (h)(2)(A) above, the amount of such excess shall be deemed to equal

(i) the total elective contributions, plus qualified nonelective contributions, if any, that are treated as elective contributions, on behalf of the Participant (determined prior to the application of this section 5.1(h)), minus

(ii) the amount determined by multiplying the Participant's Actual Deferral Ratio (determined after

application of this section 5.1(h)) by his compensation used in determining such ratio.

(3) The elective contributions of the Highly Compensated Employee with the highest dollar amount of elective contributions for the Plan Year shall be reduced by an amount equal to the excess elective contributions determined under subsection (h)(2). The reduced amount shall be distributed to such Highly Compensated Employee in accordance with subsection (h)(1)); provided, further, that such Highly Compensated Employee's elective contributions shall be reduced to a level that is equal to the elective contributions of the Highly Compensated Employee with the next highest dollar amount of elective contributions. Thereafter, the elective contributions of the Highly Compensated Employees with the same dollar amounts of elective contributions shall be reduced on an equal basis by an amount equal to any additional excess elective contributions determined under subsection (h)(2) above, which reduced amounts shall be distributed to such Highly Compensated Employees in accordance with subsection (h)(1). For purposes of this subsection, elective contributions shall include amounts treated as elective contributions.

(4) The amount of excess contributions that may be distributed under this section 5.1(h) with respect to a Participant for a Plan Year shall be reduced by any excess deferrals previously distributed to such Participant under section 5.1(c) for the Participant's taxable year ending with or within such Plan Year.

(5) The Plan Administrator may use any reasonable method for computing the earnings allocable to excess contributions, provided that the method does not violate Section 401(a)(4) of the Code, is used consistently for all Participants and for all corrective distributions under the Plan for the Plan Year, and is used by the Plan for allocating earnings to Participants' Accounts. Effective for Plan Years beginning after December 31, 2005, and ending before January 1, 2008, the Plan will not be treated as failing to use a reasonable method for computing the earnings allocable to excess contributions merely because the earnings allocable to excess contributions is determined as of a date that is no more than 7 days before the distribution of excess contributions.

5.2 **Matching Contributions**.

(a) (1) Each Employer, in its discretion, may contribute to the Trust a discretionary matching contribution on behalf of each Participant for whom an elective contribution is made during the Plan Year.

(2) Such matching contribution shall be equal to a discretionary percentage of the amount of the elective contribution made to the Plan by

the Participant. The discretionary percentage of the matching contribution shall be determined by the Employer.

(3) No matching contribution shall be made with respect to a Participant's elective contribution that exceeds the percentage of his Compensation specified in the Adoption Agreement.

(b) No matching contribution shall be required for the portion of a Participant's elective contribution (A) that is subject to the refund requirements of sections 5.1(c) and 5.1(h) or (B) that exceeds the limitations of section 6.2(c) of Article VI.

(c) Any matching contribution made by an Employer on account of an elective contribution that has been refunded pursuant to section 5.1(c) or section 5.1(h), above, or distributed to satisfy the limitations set forth in section 6.2 of Article VI shall be forfeited. Such forfeitures may first be used to pay Plan expenses and then shall be used to reduce such Employer's contributions as of the end of the Plan Year in which the forfeiture occurs or the next following Plan Year.

(d) If the matching contributions of Highly Compensated Employees exceed the limitations of section 5.6

(1) The nonvested portion of such excess aggregate contributions (including earnings thereon), if any, determined as set forth in subsection (e)(4) below, shall be forfeited. Such forfeitures may first be used to pay Plan expenses and shall then be used to reduce the contributions under this Article V for the Employers to which the Highly Compensated Employees are attributable.

(2) The vested portion of such excess aggregate contributions (including earnings thereon), if any, determined as set forth in subsection (e)(4) below, shall be distributed to the Highly Compensated Employees described in subsection (e)(7) below, on or before the 15th day of the third month after the close of the Plan Year to which the matching contributions relate. Notwithstanding the preceding sentence, the Plan Administrator shall in no event delay the distribution of any excess aggregate contributions (plus the earnings thereon) beyond the date that is 12 months after the close of the Plan Year to which the excess aggregate contributions relate.

(3) Effective for Plan Years beginning after December 31, 2005, and ending before January 1, 2008, the earnings on excess aggregate contributions is equal to the sum of the allocable gain or loss on such excess aggregate contributions for the Plan Year and the period after the close of the Plan Year and prior to the distribution or forfeiture of excess aggregate contributions, as the case may be. For Plan Years beginning

on and after January 1, 2008, the earnings allocable to excess aggregate contributions is equal to the allocable gain or loss on such excess aggregate contributions for the Plan Year.

(4) The amount of excess aggregate contributions for the Plan Year shall be equal to the amount determined by the following leveling method, under which the Actual Contribution Ratio of the Highly Compensated Employee with the highest Actual Contribution Ratio would be reduced to the extent required to

(A) enable the Plan to satisfy the limitations set forth in section 5.6, or

(B) cause such Highly Compensated Employee's Actual Contribution Ratio to equal the Actual Contribution Ratio of the Highly Compensated Employee with the next highest Actual Contribution Ratio.

This process shall be repeated until the Plan satisfies the limitations set forth in section 5.6. For each Highly Compensated Employee, the amount of such excess is equal to the total matching contributions, plus elective contributions and qualified nonelective contributions, if any, treated as matching contributions, on behalf of the Employee (determined prior to the application of this section 5.2(d)(4)) minus the amount determined by multiplying the Employee's Actual Contribution Ratio (determined after application of this section 5.2(d)(4)) by his compensation used in determining such ratio.

(5) In determining the amount of such excess, Actual Contribution Ratios shall be rounded to the nearest one-hundredth of one percent.

(6) In no case shall the amount of such excess with respect to any Highly Compensated Employee exceed the amount of matching contributions on behalf of such Highly Compensated Employee for such Plan Year.

(7) The matching contributions of the Highly Compensated Employee with the highest dollar amount of matching contributions for the Plan Year shall be reduced by an amount equal to the excess matching contributions determined in accordance with subsection (d)(4) above. The reduced amount shall be either forfeited or distributed to such Highly Compensated Employee in accordance with subsections (d)(1) and (2) above, provided, further, that such Highly Compensated Employee's matching contributions shall be reduced to a level that is equal to the matching contributions of the Highly Compensated Employee with the next highest dollar amount of matching contributions. Thereafter, the matching

contributions of the Highly Compensated Employees with the same dollar amounts of matching contributions shall be reduced on an equal basis by an amount equal to any additional excess matching contributions determined in accordance with subsection (d)(4) above, which reduced amounts shall be either forfeited or distributed to such Highly Compensated Employees in accordance with subsections (d)(1) and (2) above. For purposes of this subsection, matching contributions shall include amounts treated as matching contributions.

(8) The Plan Administrator may use any reasonable method for computing the earnings allocable to excess contributions, provided that the method does not violate Section 401(a)(4) of the Code, is used consistently for all Participants and for all corrective distributions under the Plan for the Plan Year, and is used by the Plan for allocating income to Participants' Accounts. Effective for Plan Years beginning after December 31, 2005, and ending before January 1, 2008, the Plan will not be treated as failing to use a reasonable method for computing the earnings allocable to excess aggregate contributions merely because the earnings allocable to excess aggregate contributions is determined as of a date that is no more than 7 days before the distribution or forfeiture of excess aggregate contributions, as the case may be.

5.3 **Qualified Matching Contributions**. Each Employer, in its discretion, may contribute to the Trust a discretionary qualified matching contribution on behalf of each Participant who is a Non-Highly Compensated Employee for the Plan Year to which such qualified matching contribution relates. Such qualified matching contribution shall be equal to a discretionary percentage of the amount of the elective contribution made to the Plan on behalf of the Participant for the Plan Year. Notwithstanding the foregoing, the Employer, in its discretion, may limit the amount of each Participant's elective contributions (expressed as a dollar amount or a percentage of each Participant's Compensation) that will be matched under this section 5.3 for the Plan Year, provided that such limitation is applied on a uniform and nondiscriminatory basis with respect to each Participant who is eligible to share in the qualified matching contribution for the Plan Year. The amount of, and any limitations on, the qualified matching contribution for a Plan Year shall be determined at the discretion of the Employer.

5.4 **Nonelective Contributions**. Each Employer, in its discretion, may make nonelective contributions to the Nonelective Contribution Accounts of Participants.

5.5 **Qualified Nonelective Contributions**. Each Employer, in its discretion, may make qualified nonelective contributions to the Qualified Nonelective Contribution Accounts of Participants, regardless of whether the Employer has elected in its Adoption Agreement to permit nonelective contributions.

5.6 **Actual Deferral Percentage and Actual Contribution Percentage Tests**. If discrimination testing is required pursuant to Sections 401(k) and 401(m) of

the Code, the amounts contributed as elective and matching contributions shall be limited as follows:

(a) The Actual Deferral Percentage for the group of eligible Highly Compensated Employees for the Plan Year shall bear a relationship to the Actual Deferral Percentage for all other eligible Employees for the current Plan Year which meets either of the following tests:

(1) The Actual Deferral Percentage for the group of eligible Highly Compensated Employees for the current Plan Year shall not exceed the Actual Deferral Percentage for the group of all other eligible Employees multiplied by 1.25, or

(2) The excess of the Actual Deferral Percentage for the group of eligible Highly Compensated Employees for the current Plan Year over the Actual Deferral Percentage for the group of all other eligible Employees shall not exceed 2 percentage points (or such lesser amount as may be required by the Secretary of the Treasury, through regulations or otherwise); and the Actual Deferral Percentage for the group of eligible Highly Compensated Employees shall not exceed the Actual Deferral Percentage for the group of all other eligible Employees, multiplied by 2.0.

(b) The Actual Contribution Percentage for the group of eligible Highly Compensated Employees for the current Plan Year shall not exceed the greater of:

(1) 125% of the Actual Contribution Percentage for the group of all other eligible Employees for the current Plan Year, or

(2) The lesser of 200% of the Actual Contribution Percentage for the group of all other eligible Employees for the current Plan Year, or the Actual Contribution Percentage for the group of all other eligible Employees for the Plan Year, plus 2 percentage points (or such lesser amount as may be required by the Secretary of the Treasury, through regulations or otherwise).

(c) (1) For purposes of this section 5.6, if 2 or more plans of an Employer to which elective contributions or matching contributions are made are elected by the Employer to be treated as one Plan for purposes of Section 410(b)(6) of the Code, such plans shall be treated as a single plan for purposes of determining the Actual Deferral Percentage and the Actual Contribution Percentage.

(2) (A) The Actual Deferral Ratio of a Highly Compensated Employee who is eligible to participate in more than one cash or deferred arrangement maintained by an Employer shall be determined by treating all such cash or deferred arrangements in which the Employee is eligible to participate (other than

arrangements that may not be permissively aggregated) as a single arrangement. If a Highly Compensated Employee participates in more than 1 cash or deferred arrangement of the Employer that have different plan years, then all elective contributions made during the Plan Year being tested under all such cash or deferred arrangements shall be aggregated, without regard to the plan years of the other plans. Notwithstanding the foregoing, certain plans shall be treated as separate if mandatorily disaggregated under the Regulations of Section 401(k) of the Code.

(B) The Actual Contribution Ratio of a Highly Compensated Employee who is eligible to participate in more than one plan of an Employer to which employee or matching contributions are made shall be determined by treating all employee and matching contributions with respect to such Highly Compensated Employee under any such plan (other than plans that may not be permissively aggregated) as being made under the plan being tested. If a Highly Compensated Employee participates in more than 1 plan of the Employer that have different plan years, then all employee and matching contributions made under all such plans during the Plan Year being tested shall be aggregated, without regard to the plan years of the other plans. Notwithstanding the foregoing, certain plans shall be treated as separate if mandatorily disaggregated under the Regulations of Section 401(m) of the Code.

(d) (1) An elective contribution will be taken into account in determining the Actual Deferral Percentage only if it relates to Compensation that either would have been received by the Employee in the Plan Year but for the Employee's election to defer under the cash or deferred arrangement or is attributable to services performed by the Employee in the Plan Year and, but for the Employee's election to defer, would have been received by the Employee within 2½ months after the close of the Plan Year.

(2) An elective contribution will be taken into account in determining the Actual Deferral Percentage only if it is allocated to the Participant as of a date within that Plan Year; and provided further, that such allocation shall not be contingent on participation or performance of services and that such elective contribution shall be paid to the Trust no later than 12 months after the Plan Year to which the contribution relates.

(e) Notwithstanding anything in the Plan to the contrary, the provisions of this section 5.6 may be applied separately (or will be applied separately to the extent required by regulations or other binding guidance) to each plan within the meaning of Section 1.401(k)-6 and Section 1.401(m)-5 of the Treasury Regulations. Furthermore, the provisions of Section 401(k)(3)(F) and Section

401(m)(5)(C) of the Code may be used to exclude from consideration all Non-Highly Compensated Employees who have not satisfied the minimum age and service requirements of Section 410(a)(1)(A) of the Code as of the last day of the Plan Year for which the test is being performed.

5.7 **401(k) Safe Harbor**.

(a) The provisions of this section 5.7 apply to an Employer as elected in the Employer's Adoption Agreement, notwithstanding any contrary provision of the Plan and with all other remaining Plan terms continuing to apply to the Employer. Except as otherwise provided in the Plan, in the Code or in other applicable binding guidance, the safe harbor provisions of this section must generally be implemented and the applicable notice requirements satisfied prior to the beginning of the Plan Year to which the safe harbor provisions apply. In addition, except as otherwise indicated, an Employer subject to the safe harbor provisions of this section must apply the safe harbor provisions for the entire safe harbor Plan Year, including any short Plan Year.

(b) The safe harbor contribution elected by an Employer in its Adoption Agreement shall be a safe harbor matching contribution equal to 100% of the elective contributions of a Participant to the extent that such elective contributions do not exceed 4% (or some other percentage in excess of 4% but not in excess of 6%) of the Participant's Compensation, a safe harbor matching contribution equal to 100% of the elective contributions of a Participant to the extent that such elective contributions do not exceed 3% of the Participant's Compensation plus 50% of the elective contributions of the Participant that exceed 3% of the Participant's Compensation but do not exceed 5% of the Participant's Compensation or a safe harbor nonelective contribution equal to at least 3% of the Participant's Compensation; provided, however, that if the Employer elects in its Adoption Agreement to make safe harbor contributions only with respect to Participants who are Non-Highly Compensated Employees, then Highly Compensated Employees shall not be eligible to receive a safe harbor contribution allocation.

(c) (1) For any Plan Year in which the Plan as adopted by an Employer satisfies the requirements of Sections 401(k)(12) and 401(m)(11) of the Code the Plan will be treated as meeting the Actual Deferral Percentage and Actual Contribution Percentage tests of section 5.6 of this Article.

(2) The Plan will be deemed not to be a Top Heavy Plan for any Plan Year in which the only contributions to the Plan are those that satisfy Sections 401(k)(12)(B) or 401(k)(12)(C) of the Code and, if applicable, Section 401(m)(11) of the Code.

(d) (1) If discretionary matching contributions are made to the Plan in addition to safe harbor contributions, then in order to satisfy the Actual

Contribution Percentage test safe harbor and be deemed a non-Top Heavy Plan the following limitations shall apply:

(A) discretionary matching contributions will be made only on elective contributions that do not exceed 6% of a Participant's Compensation,

(B) the rate of the discretionary matching contributions will not increase as the rate of elective contributions increases,

(C) the matching contributions provided to any Highly Compensated Employee at a given rate of deferral will not be higher than that provided to an eligible Non-Highly Compensated Employee, and

(D) the maximum discretionary matching contribution that is allocated to a Participant's Account for a Plan Year will not exceed 4% of the Participant's Compensation for such Plan Year.

(2) If discretionary nonelective contributions are made to the Plan in addition to safe harbor matching contributions, the Plan may be a Top Heavy Plan.

(e) The definition of Compensation used to determine a Participant's safe harbor matching contribution or safe harbor nonelective contribution must be nondiscriminatory in accordance with Section 414(s) of the Code and the applicable Treasury regulations. A Plan's definition of Compensation that excludes certain items for deferral purposes (e.g., bonuses) may not be a nondiscriminatory definition of Compensation and may not satisfy the safe harbor requirements.

(f) If the Plan as adopted by an Employer provides for safe harbor matching contributions under Section 401(k)(12) of the Code, then the Plan as adopted by such Employer will not impose any allocation conditions on matching contributions.

(g) If the Plan as adopted by an Employer provides for safe harbor matching contributions under Section 401(k)(12) of the Code, that are calculated separately with respect to each pay period (or with respect to all pay periods ending with or within each month or quarter of a Plan Year) taken into account under the Plan for the Plan Year, then safe harbor matching contributions with respect to any elective contributions made during a Plan Year quarter must be contributed to the Plan by the last day of the immediately following Plan Year quarter.

(h) Notwithstanding the provisions of Article VII of the Plan, a Participant's vested interest in his Safe Harbor Matching Contribution Account

and Safe Harbor Nonelective Contribution Account shall be 100% regardless of the number of his Years of Service.

(i) Safe harbor matching contributions are subject to the same withdrawal restrictions that apply to elective contributions. In addition, safe harbor matching contributions cannot be withdrawn on account of hardship.

(j) A safe harbor notice must be provided to each Participant a reasonable period prior to each Plan Year for which the safe harbor provisions apply. For this purpose, the notice shall be deemed timely if it is provided at least 30 days and not more than 90 days prior to the beginning of the safe harbor Plan Year. The safe harbor notice must provide comprehensive information regarding the Participants' rights and obligations under the Plan and must be written in a manner calculated to be understood by the average Participant. If an Employee becomes eligible to participate in the Plan after the Plan Administrator has provided the annual safe harbor notice, the Plan Administrator must provide the safe harbor notice no later than the Employee's Entry Date. A Participant may make or modify a salary reduction agreement under the Plan for 30 days following receipt of the safe harbor notice or, if greater, for the period the Plan Administrator specifies in the salary reduction agreement.

(k) (1) If the Employer is making the safe harbor matching contribution, the Employer may be able to suspend the safe harbor matching contributions during a Plan Year only with respect to future elective contributions by written amendment. An amendment revoking the safe harbor matching contribution during a Plan Year cannot be effective before the adoption of such amendment and may not be effective earlier than 30 days after the Employer provides a notice to the Participants informing them of (i) the consequences of the amendment, (ii) the effective date of the amendment, and (iii) the Participants' reasonable opportunity, including a reasonable period, to change their elective contributions.

(2) If the safe harbor matching contributions are revoked during a Plan Year, the Plan will have to satisfy the Actual Deferral Percentage and Actual Contribution Percentage tests set forth in section 5.6 of this Article for the entire Plan Year using the current year testing method.

(l) An election of the safe harbor nonelective contribution will be irrevocable once the Plan Year for which the election is made has commenced. Any revocation of the safe harbor nonelective contribution must be made prior to the beginning of the Plan Year to which the revocation applies.

5.8 **Form and Timing of Contributions**. Payments on account of the contributions due from an Employer for any Plan Year shall be made in cash. Unless otherwise required by applicable contract, law, regulation or other binding guidance, an Employer may make its contributions, other than elective contributions, to the Plan for a

particular Plan Year at such time as the Employer, in its sole discretion determines, subject to the consent of the Company.

5.9 **Rollover Contributions and Direct Transfers**.

(a) With the consent of the Plan Administrator and in such manner as prescribed by the Plan Administrator, the Trustee may accept

(1) A rollover contribution (as defined in the applicable sections of the Code) on behalf of an Employee from

(A) a qualified plan described in Section 401(a) or 403(a) of the Code, excluding after-tax employee contributions;

(B) an annuity contract described in Section 403(b) of the Code, excluding after-tax employee contributions;

(C) an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state; and

(D) an Employee's rollover contribution of the portion of a distribution from an individual retirement account or annuity described in Section 408(a) or 408(b) of the Code that is eligible to be rolled over and would otherwise be includible in gross income.

(2) A direct transfer from a trustee of another qualified plan in which an Employee is or was a participant.

(b) Any Transfer Contribution Account that would cause this Plan to be a transferee plan within the meaning of Section 401(a)(11)(B)(iii)(III) of the Code shall be accounted for separately, and shall be subject to the requirements of Sections 401(a)(11) and 417 of the Code.

5.10 **No Duty to Inquire**. The Trustee shall have no right or duty to inquire into the amount of any contribution made by an Employer or any Participant or the method used in determining the amount of any such contribution, or to collect the same, but the Trustee shall be accountable only for funds actually received by it.

ARTICLE VI

Participants' Accounts and Allocation of Contributions

6.1 **Common Fund**. The assets of the Trust shall constitute a common fund in which each Participant shall have an undivided interest.

6.2 **Establishment of Accounts**.

(a) The Plan Administrator shall establish and maintain with respect to each Participant an account, designated as a Nonelective Contribution Account, Pre-Tax Elective Contribution Account, Roth Elective Contribution Account, Matching Contribution Account, Safe Harbor Matching Contribution Account, Safe Harbor Nonelective Contribution Account, Qualified Matching Contribution Account and Qualified Nonelective Contribution Account.

(b) (1) For each Participant who has been credited with a rollover contribution or a transfer from another qualified plan pursuant to Article V, the Plan Administrator shall establish and maintain a Rollover Contribution Account or a Transfer Contribution Account.

(2) In the case of a direct transfer of assets from another plan, the protected benefits (within the meaning of Section 411(d)(6) of the Code) attributable to the transferor plan shall apply to the assets in the Participant's Transfer Contribution Account.

(c) The Plan Administrator may establish such additional Accounts as are necessary to reflect a Participant's interest in the Trust Fund.

6.3 **Interests of Participants**. The interest of a Participant in the Trust Fund shall be the vested balance remaining from time to time in his Accounts after making the adjustments required in section 6.4.

6.4 **Adjustments to Accounts**. Subject to the provisions of section 6.5, the Accounts of a Participant shall be adjusted from time to time as follows:

(a) First, the value of a Participant's Accounts shall be converted into units or shares.

(b) Next, contributions made on each Valuation Date shall be credited in accordance with the following and shall be used to purchase additional units or shares:

(1) The Pre-Tax Elective Contribution Account of a Participant shall be credited with any pre-tax elective contributions not previously credited.

(2) The Roth Elective Contribution Account of a Participant shall be credited with any Roth elective contributions not previously credited.

(3) The Matching Contribution Account of a Participant shall be credited with any matching contributions made by his Employer not previously credited.

(4) The Qualified Matching Contribution Account of a Participant shall be credited with any qualified matching contributions made by his Employer not previously credited.

(5) (A) The Safe Harbor Matching Contribution Account of a Participant shall be credited with any safe harbor matching contributions made by his Employer not previously credited.

(B) A Participant shall not be required to be employed by his Employer on the last day of the Plan Year to be credited with a safe harbor matching contribution.

(6) (A) The Safe Harbor Nonelective Contribution Account of a Participant shall be credited with any safe harbor nonelective contributions made by his Employer not previously credited.

(B) A Participant shall not be required to be employed by his Employer on the last day of the Plan Year to be credited with a safe harbor nonelective contribution.

(7) The Nonelective Contribution Account of a Participant shall be credited with his share of the nonelective contribution made by his Employer not previously credited.

(A) (i) If an Employer elects the pro rata crediting option in the Adoption Agreement, the Nonelective Contribution Account of a Participant shall be credited with his share of the contribution, if any, made by his Employer with respect to the Plan Year to which such contribution relates. The amount of the contribution credited to a Participant shall be the amount that bears the same ratio to the total of such contributions as the Participant's Compensation bears to the total Compensation of all Participants attributable to his Employer who are entitled to share in the contributions for the Plan Year.

(ii) If an Employer elects the integrated crediting option in the Adoption Agreement, the Nonelective Contribution Account of a Participant shall be credited with his share of the contribution, if any, made by his Employer,

with respect to the Plan Year to which such contribution relates. The amount of the contribution credited to a Participant shall be determined as follows:

a. Such contributions shall first be credited to the Nonelective Contribution Account of each Participant in an amount that shall bear the same ratio to the total of such contributions as the sum of the Participant's Compensation and his Excess Compensation bears to the sum of the amount of the Compensation and Excess Compensation of all Participants attributable to his Employer who are entitled to share in the contributions for the Plan Year; provided, however, that the amount allocated to the Nonelective Contribution Account of any Participant during any Plan Year pursuant to this subsection shall not exceed the product of 5.7% (or, if greater, the old-age insurance rate of tax under Section 3111(a) of the Code in effect when such Plan Year begins) multiplied by the sum of the Participant's Compensation and the Excess Compensation; and

b. The balance of the contributions shall then be credited to the Nonelective Contribution Account of each Participant in an amount that shall bear the same ratio to the total of such remaining contributions as the Participant's Compensation bears to the total Compensation of all Participants attributable to his Employer who are entitled to share in the contributions for the Plan Year.

(iii) If an Employer elects the cross-tested crediting option in the Adoption Agreement, the Nonelective Contribution Account of a Participant shall be credited with his share of the contribution, if any, made by his Employer with respect to the Plan Year to which such contribution relates. The Employer shall allocate a portion of its nonelective contribution to each Allocation Group, and the amount of each such allocation shall be designated in writing by the Employer and communicated to the Plan Administrator at the time it makes its contribution with respect to the Plan Year. The designated portion of the Employer contribution allocated to an Allocation Group shall be credited to a Participant within such Allocation Group in an amount that bears the same ratio to the total of such designated portion as the Compensation for such Participant with respect to the Plan Year bears to the aggregate of the

Compensation of all Participants in such Allocation Group who are entitled to share in the designated portion for such Plan Year.

(B) If elected by the Employer in the Adoption Agreement, a Participant shall not be credited with a discretionary nonelective contribution unless he is employed by his Employer on the last day of the Plan Year; provided, however; that the "last day rule" shall not apply if the Participant terminates employment during the Plan Year due to his retirement on or after his Normal Retirement Date, Total and Permanent Disability or death.

(C) If an Employer has elected the cross-tested allocation formula as permitted and described in the Adoption Agreement, then for each Plan Year, the Employer may make an additional discretionary Employer nonelective contribution ("Gateway Contribution") in an amount necessary to satisfy the minimum allocation gateway requirement described in Section 1.401(a)(4)-8(b)(1)(vi) of the Treasury Regulations.

(i) The Plan Administrator will allocate any Gateway Contribution for a Plan Year to each Participant who is a Non-Highly Compensated Employee who receives an allocation of any nonelective Employer contribution for such Plan Year. The Plan Administrator will allocate the Gateway Contribution without regard to any allocation conditions otherwise applicable to nonelective contributions under the Plan. However, Participants who the Plan Administrator disaggregates pursuant to Section 1.410(b)-7(c)(3) of the Treasury Regulations, because they have not satisfied the greatest minimum age and service conditions permissible under Section 410(a) of the Code, shall not be eligible to receive an allocation of any Gateway Contribution the Employer makes pursuant to this subsection (C) unless such an allocation is necessary to satisfy Section 401(a)(4) of the Code.

(ii) The Plan Administrator will allocate any Gateway Contribution pro rata based on the Compensation of each Participant who receives a Gateway Contribution allocation for the Plan Year, but in no event will an allocation of the Gateway Contribution to any Participant exceed the lesser of: (i) 5% of Compensation; or (ii) 1/3 of the highest allocation rate for any Participant who is a Highly Compensated Employee for the Plan Year. The Plan Administrator will reduce (offset) the Gateway Contribution allocation for a Participant under either the 5% or the 1/3

Gateway Contribution alternative, by the amount of any other nonelective contributions the Plan Administrator allocates (including forfeitures allocated as a nonelective contribution and safe harbor nonelective contributions, but excluding any qualified nonelective contributions) for the same Plan Year to such Participant. Notwithstanding the foregoing, the Employer may increase the Gateway Contribution to satisfy the provisions of Section 1.401(a)(4)-9(b)(2)(v)(D) of the Treasury Regulations if the Plan consists of one or more defined contribution plans and one or more defined benefit plans for nondiscrimination testing purposes.

(iii) For allocation purposes under the 5% Gateway Contribution alternative, "Compensation" will be determined as set forth in Article I, irrespective of any amendments applicable to an Employer modifying the definition of "Compensation."

(iv) The Plan Administrator under the 1/3 Gateway Contribution alternative, both: (i) will determine the highest allocation rate for any Highly Compensated Employee (and the resulting Gateway Contribution rate for the Participants who are Non-Highly Compensated Employees); and (ii) will allocate the Gateway Contribution, based on the Participant's Compensation, provided the definition satisfies Section 1.414(s) of the Treasury Regulations. The highest allocation rate of any Participant who is a Highly Compensated Employee is equal to the Participant's total nonelective contribution allocation (including any qualified nonelective contributions, safe harbor nonelective contributions and forfeitures allocated as a nonelective contribution) divided by his/her Compensation, as described in this subsection (C)(iv).

(8) The Qualified Nonelective Contribution Account of an eligible Participant shall be credited with his share of the qualified nonelective contribution, if any, made by his Employer with respect to the Plan Year and not previously credited. The amount of the qualified nonelective contribution shall be credited, to the extent available, first to the Participant who is a Non-Highly Compensated Employee and whose Compensation for the Plan Year is the lowest of all Participants. Such amount shall not exceed 5% of the Participant's compensation for the Plan Year. If any qualified nonelective contribution remains to be credited to Participants, then such qualified nonelective contribution shall next be credited, to the extent available, to the Participant who is the Non-Highly Compensated Employee whose Compensation for the Plan Year is the second lowest of all Participants in the same manner as the first level of crediting and such

crediting process shall continue until all of the qualified nonelective contribution is credited. In no event shall a Participant who is a Highly Compensated Employee be eligible to be credited with any portion of the qualified nonelective contribution. Compensation taken into account for purposes of determining whether an amount exceeds 5% of the Participant's compensation for the Plan Year must satisfy Section 414(s) of the Code. If the Plan is applying Section 401(k)(3)(F) of the Code for a Plan Year, a Participant who is an "otherwise excludable" Non-Highly Compensated Employee shall not be eligible to be credited with qualified nonelective contributions for such Plan Year pursuant to this subsection 6.4(b)(8). For this purpose, an "otherwise excludable" Non-Highly Compensated Employee shall mean a Non-Highly Compensated Employee who has not met the minimum age and service requirements of Section 410(a)(1)(A) of the Code as of the last day of the Plan Year for which the qualified nonelective contribution is being allocated.

(9) The Rollover Contribution Account and Transfer Contribution Account of a Participant shall be credited with any rollover or transfer contributions not previously credited.

(10) Elective, Employer (matching and nonelective) and qualified nonelective contributions shall be attributable to the Plan Year with respect to which such contributions relate.

(c) Finally, the amount of distributions, withdrawals or transfers between investment funds, or other fees not previously charged to the Participant's Accounts shall be charged to the appropriate Accounts of the Participant and the number of units or shares equal in value to the amount paid from the Participant's Accounts shall be deducted from the Participant's outstanding units or shares.

(d) (1) For each Plan Year in which this Plan is a Top Heavy Plan, a Participant who is employed by an Employer on the last day of such Plan Year and who is a Non-Key Employee for such Plan Year, determined as of the determination date for such Plan Year, shall be entitled to receive a combined credit of contributions and forfeitures to his Nonelective Contribution Account, Qualified Nonelective Contribution Account, Safe Harbor Nonelective Contribution Account, Matching Contribution Account, Qualified Matching Contribution Account and Safe Harbor Matching Contribution Account equal in the aggregate to at least 3% of his Section 415 Compensation (or, if less, the highest percentage of such Section 415 Compensation credited to a Key Employee's Account hereunder, as well as his employer contribution accounts under any other defined contribution plan maintained by such Employer or an Affiliate, including any elective contribution to any plan subject to Section 401(k) of the Code), except to the extent such a contribution is made by an Employer or

an Affiliate on behalf of the Employee for the Plan Year to any other defined contribution plan maintained by such Employer or Affiliate.

(2) Notwithstanding the provisions of subsection (d)(1) above, in the event an Employer or its Affiliate maintains both a top heavy defined contribution plan and a top heavy defined benefit plan, the Employer will provide the top heavy minimum benefit to Participants who are Non-Key Employees for such Plan Year, determined as of the determination date for such Plan Year and who participate in both top heavy plans (i) in the defined benefit plan if pursuant to the terms of the defined benefit plan the Non-Key Employee is eligible to receive the top heavy minimum benefit for the Plan Year; (ii) in the defined contribution plan (but increasing the minimum allocation from 3% to 5%) if the Non-Key Employee is employed by the Employer on the last day of the Plan Year; or (iii) under any other acceptable method of compliance. If a Non-Key Employee participates only under the defined benefit plan, then the top heavy minimum benefit will be provided under the defined benefit plan if pursuant to the terms of the defined benefit plan the Non-Key employee is eligible to receive the top heavy minimum benefit for the Plan Year. If a Non-Key Employee participates only under the defined contribution plan and is employed by the Employer on the last day of the Plan Year, then the top heavy minimum benefit will be provided under the defined contribution plan.

(e) (1) The contributions of an Employer shall be credited to the Participants attributable to such Employer.

(2) Notwithstanding the foregoing, contributions from each Employer and all assets of the Trust Fund shall be available to pay benefits of any Participant, even if such Participant is attributable to another Employer.

(3) Contributions and/or benefits attributable to Compensation paid for services performed on behalf of an Employer shall be treated, for testing purposes, as provided by such Employer.

(f) The Plan Administrator also may adopt such additional accounting procedures as are necessary to accurately reflect each Participant's interest in the Trust Fund, which procedures shall be effective upon approval by the Employer. All such procedures shall be applied in a consistent and nondiscriminatory manner.

(g) For purposes of all computations required by this Article VI the Trust Fund and the assets thereof shall be valued at their fair market value as of each Valuation Date.

6.5 **Limitation on Allocation of Contributions**.

(a) Notwithstanding anything contained in this Plan to the contrary, except to the extent permitted under Section 414(v) of the Code and section 5.1 of Article V of the Plan, in relation to catch-up contributions, the aggregate Annual Additions to a Participant's Accounts under this Plan and under any other defined contribution plans maintained by an Employer or an Affiliate for any Limitation Year shall not exceed the lesser of $40,000 (as adjusted for cost-of-living increases under Section 415(d) of the Code) or 100% of the Participant's Section 415 Compensation for such Plan Year; provided, however, that the 100% of Section 415 Compensation limitation shall not apply to any contribution for medical benefits after separation from service (within the meaning of Section 401(h) or Section 419A(f)(2) of the Code) which is otherwise treated as an Annual Addition.

(b) In the event that the Annual Additions, under the normal administration of the Plan, would otherwise exceed the limits set forth above for any Participant, or in the event that any Participant participates in both a defined benefit plan and a defined contribution plan maintained by any Employer or any Affiliate and the aggregate annual additions to and projected benefits under all of such plans, under the normal administration of such plans, would otherwise exceed the limits provided by law, then the Plan Administrator shall take such actions, applied in a uniform and nondiscriminatory manner, as will keep the annual additions and projected benefits for such Participant from exceeding the applicable limits provided by law. Excess Annual Additions shall be corrected under the Employee Plans Compliance Resolution System, its successor program or other applicable guidance.

(c) If the Plan is terminated as of a date other than the last day of the Limitation Year, then the Plan is deemed to have been amended to change its Limitation Year to a short Limitation Year ending on the date the Plan is terminated and the applicable dollar limitation on Annual Additions in section 6.5(a) shall be equal to the applicable dollar limitation for that Limitation Year multiplied by a fraction, the numerator of which is the number of months (including any fractional parts of a month) in the short Limitation Year and the denominator of which is 12.

ARTICLE VII

Benefits Under the Plan

7.1 **Retirement Benefit**.

(a) A Participant shall be entitled to a retirement benefit upon his Normal Retirement Date. Until a Participant actually retires from the employ of his Employer, his retirement benefit shall not be paid and he shall continue to be treated in all respects as a Participant.

(b) Upon the retirement of a Participant on or after his Normal Retirement Date, such Participant shall be entitled to a retirement benefit paid in accordance with Article VIII in an amount equal to 100% of the balance in his Accounts as of the date of distribution of his benefit.

7.2 **Disability Benefit**. In the event a Participant's employment with his Employer is terminated by reason of his Total and Permanent Disability, such Participant shall be entitled to a disability benefit paid in accordance with Article VIII in an amount equal to 100% of the balance in his Accounts as of the date of distribution of his benefit.

7.3 **Severance from Employment Benefit**.

(a) Effective for benefit distributions made after December 31, 2001, in the event a Participant's employment with his Employer and all of its Affiliates is severed for reasons other than his retirement on or after his Normal Retirement Date, Total and Permanent Disability or death, such Participant shall be entitled to a severance from employment benefit paid in accordance with Article VIII in an amount equal to his vested interest in the balance in his Accounts as of the date of distribution of his benefit.

(b) (1) Unless a different vesting schedule that complies with subsection (b)(2) below is elected in the Employer's Adoption Agreement, a Participant's vested interest in his Matching Contribution Account and his Nonelective Contribution Account shall be a percentage of the balance of such Accounts as of the applicable Valuation Date, based upon such Participant's Years of Service, as follows:

TOTAL NUMBER OF YEARS OF SERVICE	VESTED INTEREST
Less than 2 Years of Service	0%
2 years, but less than 3 years	20%
3 years, but less than 4 years	40%
4 years, but less than 5 years	60%
5 years, but less than 6 years	80%
6 or more years	100%

(2) An Employer may elect in its Adoption Agreement a vesting schedule other than the vesting schedule set forth in subsection (b)(1) above to determine Participants' vested interests in their Matching Contribution Account and Nonelective Contribution Account provided that such vesting schedule elected in the Adoption Agreement is at least as liberal as the vesting schedule set forth in subsection (b)(1) above or a 3-year cliff vesting schedule that provides for 0% vesting until the Participant has been credited with 3 Years of Service, at which time the Participant shall become 100% vested.

(3) Notwithstanding the foregoing, if a Participant is employed by an Employer or any of its Affiliates on or after his Normal Retirement Date, then such Participant shall be 100% vested in his Matching Contribution Account and his Nonelective Contribution Account upon reaching his Normal Retirement Date. A Participant's vested interest in his Pre-Tax Elective Contribution Account, Roth Elective Contribution Account, Qualified Nonelective Contribution Account, Qualified Matching Contribution Account and his Rollover Contribution Account shall be 100% regardless of the number of his Years of Service.

(4) If a Participant is less than 100% vested in an Account and he receives a distribution at a time when he can increase his vested percentage after such distribution, then the Participant's vested portion of the balance in such Account at any time shall be equal to an amount ("X") determined by the formula X=P(AB+D)-D, where "P" is the vested percentage of the Participant at such time, "AB" is the balance in such Account of the Participant at such time and "D" is the amount previously distributed.

(c) If the severance from employment results in 5 consecutive One Year Breaks in Service, then upon the occurrence of such 5 consecutive One Year Breaks in Service, the nonvested interest of the Participant in his Matching Contribution Account and his Nonelective Contribution Account shall be forfeited. Such forfeited amount may first be used to pay appropriate Plan expenses and then shall be used to reduce his Employer's contributions (other than elective contributions) under Article V. If the Participant is later reemployed by an Employer or an Affiliate, the unforfeited balance, if any, in his Matching Contribution Account and his Nonelective Contribution Account that has not been distributed to such Participant shall be set aside in a separate account, and such Participant's Years of Service after any 5 consecutive One Year Breaks in Service resulting from such separation from service shall not be taken into account for the purpose of determining the vested interest of such Participant in the balance of his Matching Contribution Account and his Nonelective Contribution Account that accrued before such 5 consecutive One Year Breaks in Service.

(d) (1) Notwithstanding any other provision of this section 7.3, if at any time a Participant is less than 100% vested in his Accounts and, as a result of his severance from employment, he receives his entire vested severance from employment benefit pursuant to the provisions of Article VIII, and the distribution of such benefit is made not later than the close of the fifth Plan Year following the Plan Year in which such severance occurs (or such longer period as may be permitted by the Secretary of the Treasury, through regulations or otherwise), then upon the occurrence of such distribution, the non-vested interest of the Participant in his Accounts shall be forfeited. Such forfeited amount may first be used to pay appropriate Plan expenses and then shall be used to reduce his Employer's contributions (other than elective contributions) under Article V.

(2) If a Participant has no vested interest with respect to any portion of his Accounts, then he will be deemed to have received a distribution immediately following his severance from employment. Upon the occurrence of such deemed distribution, the non-vested interest of the Participant in his Accounts shall be forfeited. Such forfeited amount may first be used to pay appropriate Plan expenses and then shall be used to reduce his Employer's contributions (other than elective contributions) under Article V.

(3) If a Participant whose interest is forfeited under this subsection (d) is reemployed by an Employer prior to the occurrence of 5 consecutive One Year Breaks in Service commencing after his distribution, then such Participant shall have the right to repay to the Trust, before the date that is the earlier of (i) 5 years after the Participant's resumption of employment, or (ii) the close of a period of 5 consecutive One Year Breaks in Service, the full amount of the severance from employment benefit previously distributed to him. If the Participant elects to repay such amount to the Trust within the time periods prescribed herein, or if a non-vested Participant whose interest was forfeited under this subsection (d) is reemployed by an Employer prior to the occurrence of 5 consecutive One Year Breaks in Service, the non-vested interest of the Participant previously forfeited pursuant to the provisions of this subsection (d) shall be restored to the Accounts of the Participant, such restoration to be made from forfeitures of non-vested interests and, if necessary, by contributions of his Employer, so that the aggregate of the amounts repaid by the Participant and restored by the Employer shall not be less than the Account balances of the Participant at the time of forfeiture unadjusted by any subsequent gains or losses.

7.4 **Death Benefit**.

(a) In the event of the death of a Participant (1) who is actively employed by an Employer or (2) effective for deaths occurring on or after

January 1, 2007, who is performing qualified military service as defined in Section 414(u)(5) of the Code and would have been entitled to reemployment under USERRA, the Participant's Beneficiary shall be entitled to a death benefit in an amount equal to 100% of the balance in such Participant's Accounts calculated as of the date of distribution of his benefit, plus the amount of any contributions allocated to the Participant subsequent to such distribution date.

(b) At any time and from time to time, each Participant shall have the unrestricted right to designate a beneficiary to receive his death benefit and to revoke any such designation. Each designation or revocation shall be evidenced by a properly executed instrument (as determined by the Plan Administrator) filed with the Plan Administrator. In the event that a Participant has not designated a beneficiary or beneficiaries, or if for any reason such designation shall be ineffective, or if such beneficiary or beneficiaries shall predecease the Participant, then the personal representative of the estate of such Participant shall be deemed to be the beneficiary designated to receive such death benefit, or if no personal representative is appointed for the estate of such Participant, then his next of kin under the statute of descent and distribution of the state of such Participant's domicile at the date of his death shall be deemed to be the beneficiary or beneficiaries to receive such death benefit.

(c) Notwithstanding the foregoing, if the Participant is married as of the date of his death, the Participant's surviving spouse shall be deemed to be his designated beneficiary and shall receive the full amount of the death benefit attributable to the Participant unless the spouse consents or has consented to the Participant's designation of another beneficiary. Any such consent to the designation of another beneficiary must acknowledge the effect of the consent, must be witnessed by a Plan representative or by a notary public and shall be effective only with respect to that spouse. A spouse's consent shall be a restricted consent (which may not be changed as to the beneficiary unless the spouse consents to such change in the manner described herein). Notwithstanding the preceding provisions of this subsection (c), a Participant shall not be required to obtain spousal consent to his designation of another beneficiary if (A) the Participant is legally separated or the Participant has been abandoned, and the Participant provides the Plan Administrator with a court order to such effect, or (B) the spouse cannot be located.

ARTICLE VIII

Form and Payment of Benefits

8.1 **Timing for Distribution of Benefits**.

(a) Except as otherwise provided under this Article VIII, the amount of the retirement, disability, severance from employment or death benefit to which a Participant is entitled under sections 7.1, 7.2, 7.3 or 7.4 of Article VII shall be paid to him or, in the case of a death benefit, shall be paid to said Participant's beneficiary or beneficiaries, in a single lump sum payment, as soon as practicable following the Participant's actual retirement following his Normal Retirement Date, Total and Permanent Disability, severance from employment or death, as the case may be.

(b) (1) Notwithstanding the foregoing, no distribution shall be made of the normal retirement, disability or severance from employment benefit to which a Participant is entitled under section 7.1, 7.2, or 7.3 of Article VII prior to his Normal Retirement Date unless the Participant consents to the distribution, regardless of the value of the Participant's vested account balance.

(2) The consent of the participant shall be obtained within the 180-day period ending on the annuity starting date. The annuity starting date is the first day of the first period for which an amount is paid as an annuity or any other form. The Plan Administrator shall notify the Participant of the right to defer any distribution until the Participant's Account balance is no longer immediately distributable and the consequences of failing to defer any distribution. Such notification shall include a general description of the material features, an explanation of the optional forms of benefit available under the plan in a manner that would satisfy the notice requirements of Section 417(a)(3) of the Code, and a description of the consequences of failing to defer a distribution, and shall be provided no less than 30 days and no more than 180 days prior to the annuity starting date, except as otherwise provided in section 8.1(d).

(c) Notwithstanding anything contained herein to the contrary, any distribution paid to a Participant (or, in the case of a death benefit, to his beneficiary or beneficiaries) pursuant to subsection (a) shall commence not later than the earlier of:

(1) the 60th day after the last day of the Plan Year in which the Participant's employment is terminated or, if later, in which occurs the Participant's Normal Retirement Date; or

(2) April 1 of the calendar year immediately following

(A) the calendar year in which the Participant reaches age 70-1/2, or

(B) if later, the calendar year in which the Participant retires; provided, however, that this subsection (2)(B) shall not apply in the case of a Participant who is a 5% owner (as defined in Section 416 of the Code) with respect to the Plan Year ending in the calendar year in which the Participant attains age 70-1/2.

(d) If a distribution is one to which Sections 401(a)(11) and 417 of the Code do not apply, such distribution may commence less than 30 days after the notice required under Section 1.411(a)-11(c) of the Treasury Regulations is given, provided that:

(1) the Plan Administrator clearly informs the Participant that the Participant has a right to a period of at least 30 days after receiving the 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 notice, affirmatively elects a distribution.

8.2 **Manner of Payment**. All benefits under the Plan shall be paid in a single lump sum, notwithstanding the provisions of section 8.3 below.

8.3 **Required Minimum Distributions**.

(a) Requirements of Treasury Regulations Incorporated. All distributions required under this Article will be determined and made in accordance with the Treasury regulations under Section 401(a)(9) of the Code and the minimum distribution incidental benefit requirement of Section 401(a)(9)(G) of the Code, which are incorporated herein by reference.

(b) Time and Manner of Distribution.

(1) Required Beginning Date. The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's required beginning date (as defined below).

(2) Death of Participant Before Distributions Begin. If the Participant dies before distributions begin (as defined below), then the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

(A) If the Participant's surviving spouse is the Participant's sole designated beneficiary (as defined below), then distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which

the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70 1/2, if later.

(B) If the Participant's surviving spouse is not the Participant's sole designated beneficiary, then distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.

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

(D) If the Participant's surviving spouse is the Participant's sole designated beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, then this section 8.3(b)(2), other than section 8.3(b)(2)(A), will apply as if the surviving spouse were the Participant.

For purposes of this section 8.3(b)(2) and section 8.3(d) below, unless section 8.3(b)(2)(D) applies, distributions are considered to begin on the Participant's required beginning date. If section 8.3(b)(2)(D) applies, then distributions are considered to begin on the date distributions are required to begin to the surviving spouse under 8.3(b)(2)(A). If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's required beginning date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under 8.3(b)(2)(A)), then the date distributions are considered to begin is the date distributions actually commence.

(3) Forms of Distribution. Distributions under the Plan will generally be in the form of a single lump sum on or before the required beginning date. In such case section 8.3(c) and 8.3(d) below will not apply; provided, however, that to the extent a Participant's interest is not distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, then as of the first distribution calendar year (as defined below) distributions will be made in accordance with section 8.3(c) and 8.3(d) below. 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 Section 401(a)(9) of the Code and the Treasury regulations thereunder.

(c) Required Minimum Distributions During Participant's Lifetime.

(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 below) by the distribution period in the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury Regulations, using the Participant's age as of the Participant's birthday in the distribution calendar year; or

(B) if the Participant's sole designated beneficiary for the distribution calendar year is the Participant's spouse, the quotient obtained by dividing the Participant's Account balance by the number in the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9 of the Treasury Regulations, using the Participant's and spouse's attained ages as of the Participant's and spouse's 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 8.3(c) beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the Participant's date of death.

(d) Required Minimum Distributions After Participant's Death.

(1) Death On or After Date Distribution Begins.

(A) Participant Survived by Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is a designated beneficiary, then the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the longer of the remaining life expectancy of the Participant or the remaining life expectancy of the Participant's designated beneficiary, determined as follows:

(i) The Participant's remaining life expectancy is calculated using the age of the Participant in the year of death, reduced by 1 for each subsequent year.

(ii) If the Participant's surviving spouse is the Participant's sole designated beneficiary, then 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 1 for each subsequent calendar year.

(iii) If the Participant's surviving spouse is not the Participant's sole designated beneficiary, then 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 1 for each subsequent year.

(B) No Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is no designated beneficiary as of September 30 of the year after the year of the Participant's death, then 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 1 for each subsequent year.

(2) Death Before Date Distributions Begin.

(A) Participant Survived by Designated Beneficiary. If the Participant dies before the date distributions begin and there is a designated beneficiary, then the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account balance by the remaining life expectancy of the Participant's designated beneficiary, determined as provided in section 8.3(d)(1).

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

(C) Death of Surviving Spouse Before Distributions to Surviving Spouse Are Required to Begin. If the Participant dies before the date distributions begin, the Participant's surviving spouse is the Participant's sole designated beneficiary, and the

surviving spouse dies before distributions are required to begin to the surviving spouse under section 8.3(b)(2)(B), then this section 8.3(d)(2) will apply as if the surviving spouse were the Participant.

(e) Definitions.

(1) Designated Beneficiary. The individual who is designated as the beneficiary under section 7.4 of Article VII of the Plan and is the designated beneficiary under Section 401(a)(9) of the Code and Section 1.401(a)(9)-4 of the Treasury Regulations.

(2) Distribution calendar year. A calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's required beginning date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin under section 8.3(b)(2). 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 Section 1.401(a)(9)-9 of the Treasury Regulations.

(4) Participant's Account Balance. The Account balance as of the last valuation date in the calendar year immediately preceding the distribution calendar year (valuation calendar year) increased by the amount of any contributions made and allocated or forfeitures allocated to the Account balance as of dates in the valuation calendar year after the valuation date and decreased by distributions made in the valuation calendar year after the valuation date. The Account balance for the valuation calendar year includes any amounts rolled over or transferred to the Plan either in the valuation calendar year or in the distribution calendar year if distributed or transferred in the valuation calendar year.

(5) Required beginning date. A Participant's required beginning date is the April 1 following the close of the calendar year in which the Participant attains age 70½ if the Participant is more than a 5% owner (as defined in Section 416(i)(B) of the Code) as to the Plan Year ending in that calendar year. If a Participant is a more than 5% owner at the close of the relevant calendar year, then the Participant may not discontinue required minimum distributions notwithstanding the Participant's subsequent change in ownership status.

If a Participant is not more than a 5% owner, then his required beginning date is the April 1 following the close of the calendar year in which the Participant incurs a separation from service or, if later, the April 1 following the close of the calendar year in which the Participant attains age 70½.

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

(2) Direct Rollovers. Notwithstanding the provisions of the Plan relating to required minimum distributions under Section 401(a)(9) of the Code, and solely for purposes of applying the direct rollover provisions of the Plan, certain additional distributions in 2009 of 2009 RMDs and Extended 2009 RMDs will be treated as eligible rollover distributions.

8.4 **Distribution for a Minor or Incompetent Beneficiary**. In the event a distribution is to be made to a beneficiary who is a minor under the laws of the state in which the beneficiary resides or is incompetent due to illness, infirmity or other incapacity, the Plan Administrator may, in the Plan Administrator's sole discretion, direct that such distribution be paid to the legal guardian or custodian of such beneficiary as permitted by the laws of the state in which said beneficiary resides. A payment to the legal guardian or custodian of a minor beneficiary shall fully discharge the Trustee, Employer, Plan Administrator, and Plan from further liability on account thereof.

8.5 **Location of Participant or Beneficiary Unknown**. In the event that all, or any portion of the distribution payable to a Participant or his beneficiary, hereunder shall remain unpaid solely by reason of the inability of the Plan Administrator, after sending a registered letter, return receipt requested, to the last known address, and after further diligent effort, to ascertain the whereabouts of such Participant or his beneficiary, the amount so distributable shall be treated as a forfeiture pursuant to the provisions of Article VII. In the event a Participant or beneficiary of such Participant is located subsequent to his benefit being reallocated, such benefit shall be restored.

8.6 **Transfer to Other Qualified Plans**. The Trustee, upon written direction by the Plan Administrator, shall transfer some or all of the assets held under the Trust to another plan or trust meeting the requirements of the Code relating to qualified plans and trust, whether such transfer is made pursuant to a merger or consolidation of this Plan with such other plan or trust or for any other allowable purpose.

8.7 **Direct Rollovers**.

(a) Notwithstanding any provisions of the Plan to the contrary that would otherwise limit a distributee's (as defined below) election under this section, 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 (as defined below) paid directly to an eligible retirement plan (as defined below) specified by the distributee in a direct rollover (as defined below).

(b) For purposes of this section, the following terms shall have the following meanings:

(1) 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 10 years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Code; and any hardship distribution. A portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. Such portion may be transferred to an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, or, effective January 1, 2008, a Roth IRA under Section 408A(b) of the Code. Further, such portion may be transferred, but only through a direct rollover, to a qualified defined contribution plan described in Sections 401(a) or 403(a) of the Code or, effective January 1, 2007, an annuity contract described in Section 403(b) of the Code, that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

(2) An "eligible retirement plan" is an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, an annuity plan described in Section 403(a) of the Code, an annuity contract described in Section 403(b) of the Code, an eligible plan under Section 457 of the Code 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, a qualified plan described in Section 401(a) of the Code and, effective January 1, 2008, a Roth IRA described in Section 408A(b) of the Code. 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 Section 414(p) of the Code. If any portion of an eligible rollover distribution is attributable to payments or distributions from a designated Roth account, an eligible retirement plan with respect to such portion shall include only another designated Roth account of the individual from whose account the payments or distributions were made, or a Roth IRA of such individual.

(3) A "distributee" includes an Employee or former Employee. In addition, 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 Section 414(p) of the Code, are distributees with regard to the interest of the spouse or former spouse. Effective January 1, 2010, distributee also includes the Participant's nonspouse beneficiary under the Plan. In the case of a nonspouse beneficiary, the direct rollover may be made only to an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code or a Roth IRA described in 408A(b) of the Code, that is established on behalf of the designated beneficiary and meets the requirements of an inherited IRA within the meaning of the provisions of Section 408(d)(3)(C) of the Code for distributions to a designated beneficiary (within the meaning of Section 401(a)(9)(E) of the Code).

(4) A "direct rollover" is a payment by the Plan to the eligible retirement plan specified by the distributee.

8.8 **Direct Rollovers of Non-Spousal Death Benefit Distributions**.

(a) For distributions after December 31, 2007, and before January 1, 2010, a nonspouse beneficiary who is a "designated beneficiary" under Section 401(a)(9)(E) of the Code and the regulations thereunder, by a direct trustee-to-trustee transfer ("direct rollover"), may roll over all or any portion of his distribution to an individual retirement account the beneficiary establishes for purposes of receiving the distribution. In order to be able to roll over the distribution, the distribution otherwise must satisfy the definition of an eligible rollover distribution.

(b) Although a nonspouse beneficiary may roll over directly a distribution as provided in section 8.8(a) above, the distribution is not subject to the direct rollover requirements of Section 401(a)(31) of the Code, the notice

requirements of Section 402(f) of the Code or the mandatory withholding requirements of Section 3405(c) of the Code. If a nonspouse beneficiary receives a distribution from the Plan, the distribution is not eligible for a "60-day" rollover.

(c) If the Participant's named beneficiary is a trust, the Plan may make a direct rollover to an individual retirement account on behalf of the trust, provided the trust satisfies the requirements to be a designated beneficiary within the meaning of Section 401(a)(9)(E) of the Code.

(d) A nonspouse beneficiary may not roll over an amount which is a required minimum distribution, as determined under applicable Treasury regulations and other applicable binding guidance. If the Participant dies before his required beginning date and the nonspouse beneficiary rolls over to an IRA the maximum amount eligible for rollover, the beneficiary may elect to use either the 5-year rule or the life expectancy rule, pursuant to Section 1.401(a)(9)-3, A-4(c) of the Treasury Regulations, in determining the required minimum distributions from the IRA that receives the nonspouse beneficiary's distribution.

ARTICLE IX

Hardship and Other Distributions

9.1 **Hardship Distributions**.

(a) (1) A Participant will be eligible to receive a distribution on account of hardship from his Pre-Tax Elective Contribution Account and Roth Elective Contribution Account under the Plan. However, a Participant who is or was previously employed by an Employer whose adoption of the Plan has been revoked is not eligible to receive a hardship distribution from the Plan. The amount that shall be available for a hardship distribution from the Participant's Pre-Tax Elective Contribution Account and Roth Elective Contribution Account shall be limited to the amount credited to the Participant's Pre-Tax Elective Contribution Account as of December 31, 1988, plus the amount of the Participant's pre-tax elective contributions and Roth elective contributions after December 31, 1988, reduced by the amount of any hardship distributions previously received by the Participant from his Pre-Tax Elective Contribution Account and Roth Elective Contribution Account.

(2) A distribution will be on account of hardship only if the distribution both (i) is made on account of an immediate and heavy financial need of the Participant, and (ii) is necessary to satisfy such financial need. Based upon the criteria set forth below, the Plan Administrator shall determine, in a uniform and nondiscriminatory manner, whether an immediate and heavy financial need exists and the amount necessary to meet such need.

(b) (1) Subject to the requirements of subsection (b)(2) below, the determination of whether a Participant has an immediate and heavy financial need shall be made in a uniform and nondiscriminatory manner by the Plan Administrator on the basis of all relevant facts and circumstances. A financial need shall not fail to qualify as immediate and heavy merely because such need was reasonably foreseeable or voluntarily incurred by the Participant.

(2) A distribution shall be made on account of an immediate and heavy financial need of the Participant only if the distribution is for:

(A) expenses for (or necessary to obtain) medical care that would be deductible under Section 213(d) of the Code (determined without regard to whether the expenses exceed 7.5% of the Participant's adjusted gross income) incurred by the Participant, the Participant's spouse, or any dependents of the Participant (as defined in Section 152 of the Code, without regard to Sections 152(b)(1), 152(b)(2) and 152(d)(1)(B) of the Code);

(B) costs directly related to the purchase of a principal residence for the Participant (excluding mortgage payments);

(C) payment of tuition, related educational fees, and room and board expenses, for up to the next 12 months of post-secondary education for the Participant, the Participant's spouse, the Participant's children, or dependents of the Participant (as defined in Section 152 of the Code, without regard to Sections 152(b)(1), 152(b)(2) and 152(d)(1)(B) of the Code);

(D) payments necessary to prevent the eviction of the Participant from the Participant's principal residence or foreclosure on the mortgage on that residence;

(E) payments for burial or funeral expenses for the Participant's deceased parent, spouse, children or dependents (as defined in Section 152 of the Code, without regard to Section 152(d)(1)(B) of the Code); or

(F) expenses for the repair of damage to the Participant's principal residence that would qualify for the casualty deduction under Section 165 of the Code (determined without regard to whether the loss exceeds 10% of the Participant's adjusted gross income); or

(G) such other events as may be prescribed by the Commissioner in revenue rulings, notices and other documents of general applicability.

(c) A distribution shall be necessary to satisfy an immediate and heavy financial need of a Participant only if the following requirements are satisfied:

(1) the distribution is not in excess of the amount of the immediate and heavy financial need of the Participant, including amounts necessary to pay and federal, state or local income taxes or penalties reasonably anticipated to result from the distribution;

(2) the Participant has obtained all distributions, other than hardship distributions, and all nontaxable (at the time of the loan) loans currently available under all plans maintained by an Employer or an Affiliate; and

(3) the Participant's elective contributions to the Plan and the Participant's contributions to any other plan maintained by an Employer are suspended and he is no longer permitted to make further elective contributions to the Plan or Participant contributions to any other plan maintained by an Employer until the expiration of 6 months from the date of such distribution. For this purpose, the phrase "any other plan

maintained by an Employer" means all qualified and nonqualified plans of deferred compensation maintained by an Employer, including a stock option, stock purchase or similar plan.

9.2 **In-Service Distributions After Age 59½**. After reaching age 59½, a Participant may elect to receive an in-service lump sum distribution of any portion of his Accounts to the extent such Accounts are fully vested. The Plan Administrator may adopt a policy imposing frequency limitations or other reasonable administrative requirements applicable to in-service distributions under this section 9.2, provided that such policy must permit a Participant to elect at least 1 in-service distribution pursuant to this section 9.2 each Plan Year.

9.3 **Ordering Rules for Distributions**. The Plan Administrator operationally may implement an ordering rule procedure for distributions (including, but not limited to, hardship or other in-service distributions) from a Participant's Pre-Tax Elective Contribution Account and Roth Elective Contribution Account. Such ordering rules may specify whether the pre-tax elective contributions or Roth elective contributions are distributed first. Furthermore, such procedure may permit the Participant to elect which type of elective contributions shall be distributed first.

9.4 **Roth Distributions**. A distribution from a Participant's Roth Elective Contribution Account shall not be treated as a "qualified distribution," as defined in Section 402A(d) of the Code and Section 1.402A-1 of the Treasury Regulations, unless it is made after the completion of the 5 taxable year period described in Section 1.402A-1 of the Treasury Regulations and (1) is made on or after the date the Participant attains age 59½, (2) is made to a beneficiary or the estate of the Participant on or after the Participant's death, or (3) is attributable to the Participant's being disabled within the meaning of Section 72(m)(7) of the Code.

9.5 **In-Service Distributions from Rollover Contribution Account**. A Participant may elect to receive an in-service lump sum distribution of any portion of his Rollover Contribution Account. The Plan Administrator may adopt a policy imposing frequency limitations or other reasonable administrative requirements applicable to in-service distributions under this section 9.5, provided that such policy must permit a Participant to elect at least 1 in-service distribution pursuant to this section 9.5 each Plan Year.

ARTICLE X

Investment Funds and Loans to Participants

10.1 **Investment Funds**.

(a) Each Participant may direct the Plan Administrator to invest his Accounts in one or more investment funds that may be made available under the Plan from time to time. A Participant's Accounts shall be divided into sub-accounts to properly account for the various investment funds in which such Accounts are invested. Each sub-account shall be adjusted as of each Valuation Date in accordance with Article VI to account for distributions, withdrawals, loans, contributions and forfeitures allocated to it and with respect to its share of the income, loss, appreciation and depreciation of such investment fund.

(b) This Plan is intended to satisfy the requirements of an "ERISA Section 404(c) Plan" providing Participants (and beneficiaries) with the opportunity to exercise control over the investment of assets held in their Accounts and to select, from a broad range of investment funds, the manner in which some or all of the assets in their Accounts are invested.

(c) The Plan Administrator shall establish procedures regarding Participant investment direction as are necessary, which procedures shall be communicated to all Participants and applied in a uniform, nondiscriminatory manner.

(d) In the event that a Participant is credited with contributions made prior to providing the Plan Administrator direction for the investment of his Accounts, such Accounts shall be invested in the qualified default investment alternative, as defined under Department of Labor Regulations, selected by the Company and made available to Participants, until such time as the Participant makes an affirmative investment election.

(e) Each investment fund shall be treated separately for purposes of (A) crediting dividends, interest, and other income on the investments in a particular investment fund, and all realized and unrealized gains shall be credited to that fund, and (B) charging brokerage commissions, taxes, and other charges and expenses in connection with the investments in a particular investment fund, and all realized and unrealized losses shall be charged to that fund. Other charges or fees separately incurred and not charged to an investment fund, and incurred as a result of an election made by a Participant associated with the investment of his Accounts, shall be charged against his Accounts in accordance with Article VI.

(f) Neither the Trustee, the Plan Administrator, nor any other person shall be under any duty to question any election by a Participant or to make any suggestions to him in connection therewith. Any loss occasioned by a

Participant's election or failure to change an election of an investment fund shall not be the responsibility of the Trustee, the Plan Administrator, or any other person. Nor shall the Trustee or the Plan Administrator be liable to any Participant for failure to make an investment in any investment fund elected by him if in the exercise of due diligence the Trustee has not been able to acquire satisfactory securities or other property for that fund satisfying the specifications and parameters established by the Plan Administrator and reasonable requirements as to price, terms, and other conditions, or for inability to liquidate an investment in a fund promptly upon receipt of a new election form from the Participant.

10.2 **Loans to Participants**. In accordance with the loan policy that may be adopted by the Plan Administrator, the Plan Administrator, in accordance with such uniform nondiscriminatory policy, may direct the Trustee to make a loan to a Participant out of his Accounts.

ARTICLE XI

Trust Fund and Expenses of Administration

11.1 **Trustee**. The Trust Fund shall be held by the Trustee, or by a successor trustee or trustees, for use in accordance with the Plan under the Trust Agreement. The Trust Agreement may from time to time be amended in the manner therein provided. Similarly, the Trustee may be changed from time to time in the manner provided in the Trust Agreement.

11.2 **Expenses of Administration**. The Company shall bear all expenses of implementing this Plan and the Trust. For its services, any corporate trustee shall be entitled to receive reasonable compensation in accordance with its agreement with the Company in effect from time to time for the handling of a retirement trust. Any individual Trustee shall be entitled to such compensation as shall be arranged between the Company and the Trustee by separate instrument; provided, however, that no person who is already receiving full-time pay from any Employer or any Affiliate shall receive compensation from the Trust Fund (except for the reimbursement of expenses properly and actually incurred). The Company or any Employer may pay any or all expenses of the administration of the Trust Fund (or may pay all such expenses that are attributable to current Employees), including the Trustee's compensation, the compensation of any investment manager, the expense incurred by the Plan Administrator in discharging its duties, all income or other taxes of any kind whatsoever that may be levied or assessed under existing or future laws upon or in respect of the Trust Fund, and any interest that may be payable on money borrowed by the Trustee for the purpose of the Trust and any Employer may pay such expenses as relate to Participants employed by such Employer. Any such payment by the Company or another Employer shall not be deemed a contribution to this Plan. Such expenses shall be paid out of the assets of the Trust Fund except to the extent paid or provided for by the Company or another Employer. Notwithstanding anything contained herein to the contrary,

(a) if the Company or Employers pay expenses attributable only to current Employees, then expenses attributable to former Employees that are paid out of the assets of the Trust Fund shall be charged solely to the Accounts of such former Employees;

(b) reasonable expenses attendant to the determinations of financial hardship for hardship distribution requests and the processing of associated distributions may be charged to individual Participants' Accounts for whom hardship distribution requests are processed;

(c) reasonable expenses associated with benefit distribution payments may be charged to individual distributees' Accounts;

(d) reasonable expenses attendant to the determinations of Qualified Domestic Relations Order as defined in Section 414(p) of the Code and the processing of associated distributions and/or Account transfers may be charged

to individual Participants' Accounts for whom the Qualified Domestic Relations Order determinations and processing are performed; and

(e) no excise tax or other liability imposed upon the Trustee, the Plan Administrator or any other person for failure to comply with the provisions of any federal law shall be subject to payment or reimbursement from the assets of the Trust.

ARTICLE XII

Amendment and Termination

12.1 **Restrictions on Amendment and Termination of Plan**. It is the present intention of the Company to maintain the Plan set forth herein indefinitely. Nevertheless, the Company specifically reserves to itself the right at any time, and from time to time, to amend or terminate this Plan in whole or in part; provided, however, that no such amendment:

(a) shall have the effect of vesting in any Employer, directly or indirectly, any interest, ownership or control in any of the present or subsequent funds held subject to the terms of the Trust;

(b) shall cause or permit any property held subject to the terms of the Trust to be diverted to purposes other than the exclusive benefit of the Participants and their beneficiaries or for the administrative expenses of the Plan Administrator and the Trust;

(c) shall (A) reduce any vested interest of a Participant on the later of the date the amendment is adopted or the date the amendment is effective, except as permitted by law, or (B) reduce or restrict either directly or indirectly any benefit provided any Participant prior to the date an amendment is adopted;

(d) shall reduce the Accounts of any Participant;

(e) shall amend any vesting schedule with respect to any Participant who has at least 3 Years of Service at the end of the election period described below, except as permitted by law, unless each such Participant shall have the right to elect to have the vesting schedule in effect prior to such amendment apply with respect to him, such election, if any, to be made during the period beginning not later than the date the amendment is adopted and ending no earlier than 60 days after the latest of the date the amendment is adopted, the amendment becomes effective or the Participant is issued written notice of the amendment by his Employer or the Plan Administrator; or

(f) shall increase the duties or liabilities of the Trustee without its written consent.

12.2 **Amendment of Plan**.

(a) (1) Subject to the limitations stated in section 12.1, the Company shall have the power to amend this Plan in any manner that it deems desirable, and, not in limitation but in amplification of the foregoing, it shall have the right to change or modify the method of allocation of contributions hereunder, to change any provision relating to the administration of this Plan and to change any provision relating to the distribution or payment, or both, of any of the assets of the Trust. Any

amendment to the Plan by the Company shall apply to the Plan as adopted by all Employers, unless otherwise expressly provided in such amendment, an Employer's Adoption Agreement or valid addendum.

(2) Each Employer, with the consent of the Company (or one of its Affiliates), may amend the Adoption Agreement.

(b) In the event the Company decides to amend this Plan, such decision shall be evidenced in writing and ratified by the appropriate representatives of the Company.

12.3 **Discontinuance of Contributions; Revocation of Adoption**.

(a) (1) Any Employer, in its sole and absolute discretion, may permanently discontinue making contributions under this Plan (with respect to all Employers if it is the Company, or with respect to itself alone if it is an Employer other than the Company) at any time without any liability whatsoever for such permanent discontinuance.

(2) In the event an Employer decides to permanently discontinue making contributions under this Plan, such decision shall be evidenced in writing and ratified by an appropriate representative of the Employer and such writing shall be delivered to the Plan Administrator.

(3) (A) An Employer may revoke its adoption of the Plan at any time; provided, further, that the Employer shall be deemed to have permanently discontinued making contributions under this Plan unless within 180 days following such revocation the assets attributable to the affected Participants are transferred from the Trust to another qualified plan and/or trust established or maintained on behalf of such Participants.

(B) The Plan Administrator may revoke an Employer's adoption of the Plan at any time; provided, further, that the Employer shall be deemed to have permanently discontinued making contributions under this Plan unless within 180 days following the revocation, the assets attributable to the affected Participants are transferred from the Trust to another qualified plan and/or trust established or maintained on behalf of such Participants.

(b) (1) Upon a permanent discontinuance of contributions as described in subsection (a) above, the affected Participants, notwithstanding any other provisions of this Plan, shall have fully vested interests in the amounts credited to their respective Accounts at the time of such permanent discontinuance of contributions. All such vested interests shall be nonforfeitable.

(2) In the event there is a permanent discontinuance of contributions under this Plan without formal documentation (and not attributable to severance of the relationship with the Company), full vesting of the interests of the affected Participants in the amounts credited to their respective Accounts will occur as of the last day of the Plan Year in which a substantial contribution was made to the Trust.

(c) After payment of all expenses and proportional adjustments of the Accounts to reflect such expenses and other changes in the value of the Trust Fund attributable to the assets in the Trust Fund belonging to the affected Participants, the Plan Administrator may direct the Trustee to transfer a Participant's benefit under the Plan to the trustee of another qualified plan.

12.4 **Termination Procedure**.

(a) (1) The Company, in its sole and absolute discretion, may terminate this Plan and the Trust at any time without any liability for such termination.

(2) In the event the Company decides to terminate the Plan and the Trust, such decision shall be evidenced in writing and ratified by the appropriate representatives of the Company.

(b) In the event of the termination or partial termination of the Plan, the affected Participants, notwithstanding any other provisions of the Plan, shall have fully vested interests in the amounts credited to their respective Accounts at the time of such complete or partial termination of the Plan. All such vested interests shall be nonforfeitable.

(c) Following a complete termination and after payment of all expenses and adjustments of individual accounts to reflect such expenses and other changes in the value of the Trust Fund:

(1) each affected Participant (or the beneficiary of any such Participant) shall be entitled to receive, provided that no successor plan has been established, a distribution of the amounts then credited to his Accounts in accordance with the provisions of Article VIII; or

(2) the Plan Administrator may direct the Trustee to transfer a Participant's benefit under the Plan to the trustee of another qualified plan.

12.5 **Initial Qualification of Plan**. Notwithstanding the provisions of section 12.5, if it is finally determined that the Plan does not qualify initially under the Code, then, in that event, the Plan shall terminate as of the date of such final determination and the Plan Administrator shall direct the Trustee to pay the balances in the Account(s) attributable to Employer contributions (other than elective contributions) to the appropriate Employer and the balance in a Participant's Pre-Tax Elective Contribution Account, Roth Elective Contribution Account and his Rollover Contribution Account to

such Participant (provided such payments are made within 1 year of the final determination). The Participants and their beneficiaries shall have no further rights under the Plan, the Trust or the Trust Fund, and the Trustee shall be discharged of all obligations and duties under the Trust.

ARTICLE XIII

Eligible Automatic Contribution Arrangement (EACA)

13.1 **Rules of Application**.

(a) If the Employer has elected the Automatic 401(k) Contributions option in the Adoption Agreement and if such election is made before the first day of the Plan Year for which it is effective, then the provisions of this Article XIII shall apply for the Plan Year and, to the extent that any other provision of the Plan is inconsistent with the provisions of this Article XIII, the provisions of this Article XIII shall govern.

(b) Default Elective Contributions will be made on behalf of Covered Employees who do not have an affirmative election in effect regarding elective contributions. The amount of Default Elective Contributions made for a Covered Employee each pay period is equal to the Default Percentage specified in the Adoption Agreement multiplied by the Covered Employee's compensation for that pay period.

(c) A Covered Employee will have a reasonable opportunity after receipt of the notice described in section 13.4 of this Article to make an affirmative election regarding elective contributions (either to have no elective contributions made or to have a different amount of elective contributions made) before Default Elective Contributions are made on the Covered Employee's behalf. Default Elective Contributions being made on behalf of a Covered Employee will cease as soon as administratively feasible after the Covered Employee makes an affirmative election.

13.2 **Definitions**.

(a) An "EACA" is an automatic contribution arrangement that satisfies the uniformity requirement in section 13.3 of this Article XIII and the notice requirement in section 13.4 of this Article XIII.

(b) An "automatic contribution arrangement" is an arrangement under which, in the absence of an affirmative election by a Covered Employee, a certain percentage of compensation will be withheld from the Covered Employee's pay and contributed to the Plan as an elective contribution.

(c) "Covered Employee" is a Plan participant identified in the Adoption Agreement as being covered under the EACA.

(d) "Default Elective Contributions" are the elective contributions contributed to the Plan under the EACA on behalf of Covered Employees who do not have an affirmative election in effect regarding elective contributions.

(e) The "Default Percentage" is the percentage of a Covered Employee's compensation contributed to the Plan as a Default Elective Contribution for the Plan Year. The Default Percentage is specified in the Adoption Agreement.

13.3 **Uniformity Requirement**.

(a) The same percentage of compensation will be withheld as Default Elective Contributions from all Covered Employees subject to the Default Percentage.

(b) Default Elective Contributions will be reduced or stopped to meet the limitations under Sections 401(a)(17), 402(g), and 415 of the Code and to satisfy any suspension period required after a distribution.

13.4 **Notice Requirement**.

(a) At least 30 days, but not more than 90 days, before the beginning of the Plan Year, the Employer will provide each Covered Employee a comprehensive notice of the Covered Employee's rights and obligations under the EACA, written in a manner calculated to be understood by the average Covered Employee. If an employee becomes a Covered Employee after the 90th day before the beginning of the Plan Year and does not receive the notice for that reason, the notice will be provided no more than 90 days before the employee becomes a Covered Employee but not later than the date the employee becomes a Covered Employee.

(b) The notice must accurately describe:

(1) The amount of Default Elective Contributions that will be made on the Covered Employee's behalf in the absence of an affirmative election;

(2) The Covered Employee's right to elect to have no Elective Contributions made on his or her behalf or to have a different amount of Elective Contributions made;

(3) How Default Elective Contributions will be invested in the absence of the Covered Employee's investment instructions; and

(4) The Covered Employee's right to make a withdrawal of Default Elective Contributions and the procedures for making such a withdrawal.

13.5 **Withdrawal of Default Elective Contributions**.

(a) No later than 90 days after Default Elective Contributions are first withheld from a Covered Employee's pay, the Covered Employee may request a

distribution of his or her Default Elective Contributions. No spousal consent is required for a withdrawal under this section 13.5.

(b) The amount to be distributed from the Plan upon the Covered Employee's request is equal to the amount of Default Elective Contributions made through the earlier of (a) the pay date for the second payroll period that begins after the Covered Employee's withdrawal request and (b) the first pay date that occurs after 30 days after the Covered Employee's request, plus attributable earnings through the date of distribution. Any fee charged to the Covered Employee for the withdrawal may not be greater than any other fee charged for a cash distribution.

(c) Unless the Covered Employee affirmatively elects otherwise, any withdrawal request will be treated as an affirmative election to stop having elective contributions made on the Covered Employee's behalf as of the date specified in section 13.5(b) above.

(d) Default Elective Contributions distributed pursuant to this section 13 are not counted towards the dollar limitation on elective contributions contained in Section 402(g) of the Code nor for the Actual Deferral Percentage test. Matching contributions that might otherwise be allocated to a Covered Employee's account on behalf of Default Elective Contributions will not be allocated to the extent the Covered Employee withdraws such elective contributions pursuant to this section 13 and any matching contributions already made on account of Default Elective Contributions that are later withdrawn pursuant to this section 13 will be forfeited.

13.6 **Special Rule for Distribution of Excess Contributions and Excess Aggregate Contributions**. If the Employer has elected in the Adoption Agreement that all Plan participants are Covered Employees, then the Plan has until 6 months (rather than 2½ months) after the end of the Plan Year to distribute excess contributions and excess aggregate contributions and avoid the 10% excise tax under Section 4979 of the Code.

ARTICLE XIV

Divestment Of Employer Securities

14.1 **Rule Applicable to Elective Contributions and Employee Contributions**. For Plan Years beginning after December 31, 2006, if any portion of the Account of a Participant (including, for purposes of this Article XIII, a beneficiary entitled to exercise the rights of a Participant) attributable to elective contributions or employee contributions is invested in publicly-traded Employer securities, then the Participant may elect to direct the Plan to divest any such securities, and to reinvest an equivalent amount in other investment options which satisfy the requirements of section 13.3.

14.2 **Rule Applicable to Employer Contributions Other than Elective Contributions.** If any portion of a Participant's Account attributable to nonelective or matching contributions is invested in publicly-traded Employer securities, then a Participant who has completed at least 3 years of vesting service, or a beneficiary of any deceased Participant entitled to exercise the right of a Participant, may elect to direct the Plan to divest any such securities, and to reinvest an equivalent amount in other investment options which satisfy the requirements of section 13.3.

(a) 3-year phase-in applicable to Employer contributions. For Employer securities acquired with nonelective or matching contributions during a Plan Year beginning before January 1, 2007, the rule described in this section 13.2 only applies to the percentage of the Employer securities (applied separately for each class of securities) as follows:

Plan Year	Percentage
2007	33%
2008	66%
2009	100%

(b) Exception to phase-in for certain age 55 Participants. The 3-year phase-in rule of subsection 13.2(a) does not apply to a Participant who has attained age 55 and who has completed at least 3 years of service before the first Plan Year beginning after December 31, 2005.

14.3 **Investment Options**. For purposes of this Article XIII, other investment options must include not less than 3 investment options, other than Employer securities, to which the Participant may direct the proceeds of divestment of Employer securities required by this Article XIII, each of which options is diversified and has materially different risk and return characteristics. The Plan must provide reasonable divestment and reinvestment opportunities at least quarterly. Except as provided in regulations, the Plan may not impose restrictions or conditions on the investment of Employer securities which the Plan does not impose on the investment of other Plan assets, other than

restrictions or conditions imposed by reason of the application of securities laws or a condition permitted under IRS Notice 2006-107 or other applicable guidance.

14.4 **Exceptions for Certain Plans**. This Article XIII does not apply to a one-participant plan, as defined in Section 401(a)(35)(E)(iv) of the Code, or to an employee stock ownership plan ("ESOP") if: (i) there are no contributions to the ESOP (or related earnings) attributable to elective contributions or matching contributions; and (ii) the ESOP is a separate plan, for purposes of Section 414(l) of the Code, from any other defined benefit plan or defined contribution plan maintained by the same employer or employers.

14.5 **Treatment as Publicly Traded Employer Securities**. Except as provided in Treasury regulations or in Section 401(a)(35)(F)(ii) of the Code (relating to certain controlled groups), a plan holding Employer securities which are not publicly traded Employer securities is treated as holding publicly traded Employer securities if any Employer corporation, or any member of a controlled group of corporations which includes such Employer corporation (as defined in Section 401(a)(35)(F)(iii) of the Code) has issued a class of stock which is a publicly traded Employer security.

ARTICLE XV

Miscellaneous

15.1 **Merger or Consolidation**. This Plan and the Trust may not be merged or consolidated with, and the assets or liabilities of this Plan and the Trust may not be transferred to, any other plan or trust unless each Participant would receive a benefit immediately after the merger, consolidation or transfer, if the plan and trust then terminated, that is equal to or greater than the benefit the Participant would have received immediately before the merger, consolidation or transfer if this Plan and the Trust had then terminated.

15.2 **Electronic Media and Other Technology**. Notwithstanding any provision of the Plan to the contrary, the Plan Administrator may use telephonic media, electronic media or other technology in administering the Plan to the extent not prohibited by applicable law, regulation or other pronouncement.

15.3 **Alienation**.

(a) Except as provided in subsection (b), subsection (c) and Section 401(a)(13)(C) of the Code (relating to certain judgments, orders, decrees, and settlements), no Participant or beneficiary of a Participant shall have any right to assign, transfer, appropriate, encumber, commute, anticipate or otherwise alienate his interest in this Plan or the Trust or any payments to be made thereunder; no benefits, payments, rights or interests of a Participant or beneficiary of a Participant of any kind or nature shall be in any way subject to legal process to levy upon, garnish or attach the same for payment of any claim against the Participant or beneficiary of a Participant; and no Participant or beneficiary of a Participant shall have any right of any kind whatsoever with respect to the Trust, or any estate or interest therein, or with respect to any other property or right, other than the right to receive such distributions as are lawfully made out of the Trust, as and when the same respectively are due and payable under the terms of this Plan and the Trust.

(b) (1) Notwithstanding the provisions of subsection 14.3(a), the Plan Administrator shall direct the Trustee to make payments pursuant to a Qualified Domestic Relations Order as defined in Section 414(p) of the Code. This Plan shall permit distributions pursuant to a Qualified Domestic Relations Order at any time.

(2) The Plan Administrator shall establish procedures consistent with Section 414(p) of the Code to determine if any order received by the Plan Administrator, or any other fiduciary of the Plan, is a Qualified Domestic Relations Order.

(c) Notwithstanding any provision of the Plan to the contrary, an offset to a Participant's Accounts for an amount that the Participant is ordered or

required to pay the Plan with respect to a judgment, order or decree issued, or a settlement entered into, on or after August 5, 1997, shall be permitted in accordance with Sections 401(a)(13)(C) and (D) of the Code.

15.4 **USERRA Requirements**. This Plan shall comply with the requirements of the Uniformed Services Employment and Reemployment Rights Act (USERRA) and Section 414(u) of the Code, including the following:

(a) An individual reemployed under USERRA shall be treated as not having incurred a break in service with Employer by reason of such individual's qualified military service (as defined in Section 414(u) of the Code).

(b) Each period of qualified military service served by an individual is, upon reemployment, deemed to constitute service with the Employer for purposes of vesting and the accrual of benefits under the Plan.

(c) An individual reemployed under USERRA is entitled to accrued benefits that are contingent on the making of, or derived from, Employee contributions or elective deferrals only to the extent the individual makes payment to the Plan with respect to such contributions or deferrals; provided, however, that no such payment may exceed the amount the individual would have been permitted or required to contribute had the individual remained continuously employed by the Employer throughout the period of qualified military service. Any payment to the Plan under this subsection (c) shall be made during the period beginning with the date of reemployment and whose duration is 3 times the period of the qualified military service (but not greater than 5 years).

15.5 **Governing Law**. This Plan shall be administered, construed and enforced in accordance with applicable federal law, and to the extent applicable and not preempted by federal law, the laws of the state or commonwealth in which the Company's principal office is located, other than its laws regarding choice of law.

15.6 **Action by Employer**. Whenever an Employer under the terms of this Plan is permitted or required to do or perform any act, it shall be done and performed by a person duly authorized by its legally constituted authority.

15.7 **Alternative Actions**. In the event it becomes impossible for the Company, another Employer, the Plan Administrator or the Trustee to perform any act required by this Plan, then the Company, such other Employer, the Plan Administrator or the Trustee, as the case may be, may perform such alternative act that most nearly carries out the intent and purpose of this Plan.

15.8 **Gender**. Throughout this Plan, and whenever appropriate, the masculine gender shall be deemed to include the feminine and neuter; the singular, the plural; and vice versa.

15.9 **Severability of Provisions**. In the event that any provision of the Plan shall be determined to be illegal, invalid or unenforceable, the remaining provisions of the Plan shall be construed as though the illegal, invalid or unenforceable provision is not part of the Plan.

IN WITNESS WHEREOF, this Plan has been executed this 30 day of January, 2013, and is effective as of the dates set forth above.

Plan Fiduciary Services, Inc.

By: _____

"COMPANY"

THE PLATINUM 401(k)
RETIREMENT SAVINGS PLAN
LOAN POLICY

The Plan Administrator of The Platinum 401(k) Retirement Savings Plan ("Plan") has adopted the following loan policy pursuant to the terms of the Plan. The Plan Administrator is authorized to administer the participant loan program under this loan policy. Participant loans from the Plan may only be made in accordance with this loan policy.

1. ***LOAN APPLICATION***. Any Plan participant may apply for a loan from the Plan. For purposes of this loan policy, the term "participant" means any participant or beneficiary who is a party in interest (as defined in Section 3(14) of the Employee Retirement Income Security Act of 1974 ("ERISA")) with respect to the Plan. Generally, only current employees are considered parties in interest. Notwithstanding the foregoing, a participant who is employed by an employer whose adoption of the Plan has been revoked or discontinued is not eligible to receive a loan from the Plan. A participant must apply for each loan in accordance with procedures established by the Plan Administrator.

2. ***LIMITATION ON LOAN AMOUNT AND NUMBER OF LOANS***. The Plan Administrator will not approve any loan to a participant in an amount that exceeds 50% of his or her nonforfeitable accrued benefit (i.e., vested account balance), as reflected by the books and records of the Plan. The maximum aggregate dollar amount of participant loans outstanding to any participant may not exceed $50,000, as aggregated with all loans the participant has from other retirement plans of the employer, reduced by the excess of the participant's highest outstanding participant loan balance during the 12-month period ending on the date of the loan over the participant's current outstanding participant loan balance on the date of the loan. A participant may not request a loan for less than $1,000. A participant may not have more than 1 participant loan outstanding from the Plan at any time.

3. ***PURPOSE OF LOAN***. Participant loans shall be available for any purpose.

4. ***EVIDENCE AND TERMS OF LOAN***. The Plan Administrator will document every loan in the form of a promissory note or other enforceable agreement entered into by the participant for the face amount of the loan, together with a commercially reasonable rate of interest.

   A loan will provide for a commercially reasonable fixed rate of interest. The interest rate for a loan will be prime rate plus 1%. For this purpose, prime rate will be the prime rate published in *The Wall Street Journal* on the date the loan is processed. The Plan Administrator will determine whether the interest rate is commercially reasonable at the time it approves the loan. Notwithstanding the foregoing, during a participant's period of military service, the interest rate on such participant's loan may not exceed the interest rate prescribed by the Servicemembers Civil Relief Act, if applicable.

The loan must provide at least quarterly payments under a substantially level amortization schedule. If the participant is currently employed by an employer that has adopted the Plan ("Employer"), then the Plan Administrator will require the participant receiving a loan from the Plan to enter into an agreement to repay the loan through payroll deduction.

The Plan Administrator will set the term for repayment of any loan. In no instance may the term for repayment be greater than 5 years, unless the loan qualifies as a home loan, or except as provided in section 7 below regarding suspension of loan repayments during military service. The Plan Administrator may set the term for repayment of a home loan for a period not to exceed 15 years. A "home loan" is a loan used to acquire a dwelling unit which the participant will use as a principal residence within a reasonable time.

Subject to the military service loan repayment suspension provisions of section 7 below, applicable tax law treats the amount of any loan (other than a "home loan") not repaid 5 years after the date of the loan as a taxable distribution on the last day of the 5 year period or, if sooner, at the time the loan is in default. If a participant extends a non-home loan having a 5-year or shorter repayment term beyond 5 years, the balance of the loan at the time of the extension is treated as a taxable distribution to the participant.

A participant may prepay the entire outstanding principal amount of, plus accrued interest on, a loan at any time in a single lump sum payment without penalty for prepayment. Partial prepayments are not permitted.

5. ***SECURITY FOR LOAN***. A participant must secure each loan with an irrevocable pledge and assignment of 50% of the nonforfeitable amount of the borrowing participant's account balance under the Plan.

6. ***FORM OF PLEDGE***. The pledge and assignment of a participant's account balance will be in the form prescribed by the Plan Administrator.

7. ***MILITARY SERVICE.*** If a participant separates from service (or takes a leave of absence) from the Employer because of service in the military and does not receive a distribution of his or her account balance, then the Plan Administrator will suspend loan repayments until the participant's completion of military service. The Plan Administrator will provide the participant with a written explanation of the effect of the participant's military service upon his or her Plan loan in this regard.

8. ***DEFAULT, RISK OF LOSS AND ACCELERATION OF LOAN***.

The Plan Administrator will treat a loan in default if:

(a) any scheduled payment remains unpaid beyond the last day of the calendar quarter following the calendar quarter in which the payment was due;

(b) the participant terminates employment with his employer and does not pay the entire outstanding loan balance within 60 days of his or her termination of employment;

(c) there is a making or furnishing of any representation or statement to the Plan with respect to the loan by or on behalf of the participant which proves to have been false in any material respect when made or furnished; or

(d) the participant fails to comply with the terms of the promissory note or other enforceable agreement and/or security agreement.

If a loan in default remains unpaid at the time a distribution is permitted to be made under the Plan, then the Plan Administrator will offset the participant's vested account balance by the outstanding balance of the loan. The Plan Administrator will treat the loan as repaid to the extent of any permissible offset. Pending final disposition of the loan, the participant remains obligated for any unpaid principal and accrued interest.

The Plan Administrator intends this loan program not to place other participants at risk with respect to their interests in the Plan. In this regard, the Plan Administrator will administer any participant loan as a participant directed investment of that portion of the participant's vested account balance equal to the outstanding principal balance of the loan. The Plan will credit that portion of the participant's account balances with the interest earned on the loan and with principal payments received from the participant.

A participant who terminates employment with an outstanding loan shall have 60 days to payoff the outstanding balance of the loan. Upon the expiration of 60 days following the participant’s termination of employment with the Employer, the loan will be deemed to be in default and the Plan Administrator will offset the participant’s vested account balance by the outstanding balance of the loan.

Upon termination of the Plan, a loan that is not otherwise due and payable, shall become due and payable.

9. ***LOAN FEES.*** The Plan may charge the participant's account balance with expenses directly related to the organization, maintenance and collection of the loan.

* * * * * *

This loan policy is effective for participant loans made from the Plan on and after February 1, 2012. This loan policy shall remain in effect until revoked or amended by the Plan Administrator.

THE PLATINUM 401(k)
RETIREMENT SAVINGS PLAN
PROCEDURES FOR DETERMINING
STATUS OF DOMESTIC RELATIONS ORDERS

Upon receipt of any domestic relations order affecting the account balances of a participant within The Platinum 401(k) Retirement Savings Plan (the "Plan"), the status of the order shall be determined in accordance with the requirements of the Employee Retirement Income Security Act ("ERISA") and the Internal Revenue Code (the "Code") and pursuant to the following procedures:

Upon receipt of a judgment, decree, or order issued by a state court and relating to the provision of child support, alimony payments, or marital property rights of a spouse, former spouse, child, or other dependent of a participant in the Plan, the Plan Administrator shall promptly notify the affected participant and each alternate payee (or his or her designated representative) specified within the domestic relations order of the receipt of the domestic relations order and of this procedure. Within a reasonable period after receipt of the domestic relations order (or such period as may be provided by Regulations issued by the Department of the Treasury or the Department of Labor), the Plan Administrator may consult with its legal counsel regarding the status of the domestic relations order and shall determine whether the order is a "qualified domestic relations order" as defined within Internal Revenue Code Section 414(p)(1) and ERISA Section 206(d)(3)(B). After receipt of the domestic relations order and prior to the determination of the status of the order, the Plan Administrator shall separately account for all amounts which are otherwise attributable to the affected participant and which may be payable to an alternate payee if the order is determined to be a qualified domestic relations order. After receipt of the domestic relations order, the Plan Administrator shall take reasonable steps to ensure that amounts that may be payable to the alternate payee under the domestic relations order are not distributed or loaned to the participant or any other person.

If the Plan Administrator is unable to determine whether the order is qualified, it shall delay any payments from the Plan to the participant and the alternate payee. The Plan Administrator shall then take any appropriate steps, including initiation of appropriate judicial proceedings, within 18 months in order to finally determine the status of the domestic relations order. If within 18 months after the date payment would be required to commence under the order the Plan Administrator determines that it has not received a qualified domestic relations order or that the status of the order has not been finally determined, the separately accounted for amounts, together with interest thereon, if applicable, may be paid to the person or persons who would have been entitled to such account balances if there had been no domestic relations order.

A domestic relations order shall not fail to be treated as a qualified domestic relations order solely because the order is issued, or revised, after another domestic relations order or qualified domestic relations order or because of the time at which it is

issued (for example, if it is issued after the death of the participant, after the final divorce decree or after the participant's annuity starting date).

In the event the domestic relations order is determined not to be a qualified domestic relations order, a written notice of determination shall be provided to the parties, with information as to the reasons the domestic relations order fails to be qualified. In a subsequent determination that an order is a qualified domestic relations order, such order shall be applied prospectively only.

In the event that the Plan Administrator determines that an order is a qualified domestic relations order, the affected participant and each alternate payee shall be provided with written notice of the determination. The notice of determination shall provide the affected participant and each alternate payee with information regarding the amount that is distributable to each alternate payee, the method of payment, and the anticipated date of distribution. Distributions to each alternate payee shall be made in accordance with the terms of the notice, the qualified domestic relations order, the Plan and the provisions of Internal Revenue Code Section 414(p) and ERISA Section 206(d)(3).

WRITTEN ACTION
OF THE
BOARD OF DIRECTORS
OF
PLAN FIDUCIARY SERVICES, INC.

The undersigned, being the sole member of the Board of Directors of Plan Fiduciary Services, Inc. (the "Company"), hereby adopts the following resolutions:

WHEREAS, the Company has previously adopted the The Platinum 401(k) Retirement Savings Plan (the "Plan"); and

WHEREAS, the Company is authorized and empowered to amend the Plan; and

WHEREAS, the Company desires to amend and restate the Plan to reflect changes required by the IRS 2011 Cumulative List of Changes in Plan Qualification Requirements contained in IRS Notice 2011-97 and to make other changes.

NOW, THEREFORE, BE IT RESOLVED that the adoption of the amendment and restatement of the Plan be, and it hereby is, ratified and approved in all respects to be effective as of the dates set forth therein.

BE IT FURTHER RESOLVED that the appropriate individuals be, and they hereby are, authorized and directed to execute such documents and to take such further steps as they deem necessary or desirable to implement these resolutions.

DATED this 30 day of January, 2013.

Lee D. Vogt

SECOND AMENDMENT
TO
THE PLATINUM 401(k)
RETIREMENT SAVINGS PLAN

This Second Amendment to The Platinum 401(k) Retirement Savings Plan is made and entered into by Plan Fiduciary Services, Inc. (the "Company"), and is effective as of the dates set forth herein.

W I T N E S S E T H:

WHEREAS, the Company has previously adopted The Platinum 401(k) Retirement Savings Plan (the "Plan"); and

WHEREAS, the Company is authorized and empowered to amend the Plan; and

WHEREAS, the Company desires to amend the Plan to reflect changes made by IRS Notice 2016-16 with respect to 401(k) safe harbor plans and Proposed Treasury Regulation sections 1.401(k)-6 and 1.401(m)-5.

NOW, THEREFORE, the Plan is amended as follows:

I.

Effective January 1, 2017, Section 5.7 of the Plan is hereby deleted in its entirety and the following is substituted in lieu thereof:

5.7 **401(k) Safe Harbor**.

(a) The provisions of this section 5.7 apply to an Employer as elected in the Employer's Adoption Agreement, notwithstanding any contrary provision of the Plan and with all other remaining Plan terms continuing to apply to the Employer. Except as otherwise provided in the Plan, in the Code or in other applicable binding guidance, the safe harbor provisions of this section must generally be implemented and the applicable notice requirements satisfied prior to the beginning of the Plan Year to which the safe harbor provisions apply. In addition, except as otherwise indicated, an Employer subject to the safe harbor provisions of this section must apply the safe harbor provisions for the entire safe harbor Plan Year, including any short Plan Year.

(b) The safe harbor contribution elected by an Employer in its Adoption Agreement shall be a safe harbor matching contribution equal to 100% of the elective contributions of a Participant to the extent that such elective contributions do not exceed 4% (or some other percentage in excess of 4% but

not in excess of 6%) of the Participant's Compensation, a safe harbor matching contribution equal to 100% of the elective contributions of a Participant to the extent that such elective contributions do not exceed 3% of the Participant's Compensation plus 50% of the elective contributions of the Participant that exceed 3% of the Participant's Compensation but do not exceed 5% of the Participant's Compensation or a safe harbor nonelective contribution equal to at least 3% of the Participant's Compensation; provided, however, that if the Employer elects in its Adoption Agreement to make safe harbor contributions only with respect to Participants who are Non-Highly Compensated Employees, then Highly Compensated Employees shall not be eligible to receive a safe harbor contribution allocation.

(c) (1) For any Plan Year in which the Plan as adopted by an Employer satisfies the requirements of Sections 401(k)(12) and 401(m)(11) of the Code, the Plan will be treated as meeting the Actual Deferral Percentage and Actual Contribution Percentage tests of section 5.6 of this Article.

(2) The Plan will be deemed not to be a Top Heavy Plan for any Plan Year in which the only contributions to the Plan are those that satisfy Sections 401(k)(12)(B) or 401(k)(12)(C) of the Code and, if applicable, Section 401(m)(11) of the Code.

(d) (1) If discretionary matching contributions are made to the Plan in addition to safe harbor contributions, then in order to satisfy the Actual Contribution Percentage test safe harbor and be deemed a non-Top Heavy Plan the following limitations shall apply:

(A) discretionary matching contributions will be made only on elective contributions that do not exceed 6% of a Participant's Compensation,

(B) the rate of the discretionary matching contributions will not increase as the rate of elective contributions increases,

(C) the matching contributions provided to any Highly Compensated Employee at a given rate of deferral will not be higher than that provided to an eligible Non-Highly Compensated Employee, and

(D) the maximum discretionary matching contribution that is allocated to a Participant's Account for a Plan Year will not exceed 4% of the Participant's Compensation for such Plan Year.

(2) If discretionary nonelective contributions are made to the Plan in addition to safe harbor matching contributions, the Plan may be a Top Heavy Plan.

(e) The definition of Compensation used to determine a Participant's safe harbor matching contribution or safe harbor nonelective contribution must be nondiscriminatory in accordance with Section 414(s) of the Code and the applicable Treasury regulations. A Plan's definition of Compensation that excludes certain items for deferral purposes (e.g., bonuses) may not be a nondiscriminatory definition of Compensation and may not satisfy the safe harbor requirements.

(f) If the Plan as adopted by an Employer provides for safe harbor matching contributions under Section 401(k)(12) of the Code, then the Plan as adopted by such Employer will not impose any allocation conditions on matching contributions.

(g) If the Plan as adopted by an Employer provides for safe harbor matching contributions under Section 401(k)(12) of the Code that are calculated separately with respect to each pay period (or with respect to all pay periods ending with or within each month or quarter of a Plan Year) taken into account under the Plan for the Plan Year, then safe harbor matching contributions with respect to any elective contributions made during a Plan Year quarter must be contributed to the Plan by the last day of the immediately following Plan Year quarter.

(h) Notwithstanding the provisions of Article VII of the Plan, a Participant's vested interest in his Safe Harbor Matching Contribution Account and Safe Harbor Nonelective Contribution Account shall be 100% regardless of the number of his Years of Service.

(i) Safe harbor matching contributions and safe harbor nonelective contributions are subject to the same withdrawal restrictions that apply to elective contributions. In addition, safe harbor matching contributions and safe harbor nonelective contributions cannot be withdrawn on account of hardship.

(j) A safe harbor notice must be provided to each eligible Employee within a reasonable period prior to each Plan Year for which the safe harbor provisions apply. For this purpose, the notice shall be deemed timely if it is provided at least 30 days and not more than 90 days prior to the beginning of the safe harbor Plan Year. The safe harbor notice must provide comprehensive information regarding the Employee’s rights and obligations under the Plan and must be written in a manner calculated to be understood by the average Participant. If an Employee becomes eligible to participate in the Plan after the Plan Administrator has provided the annual safe harbor notice, the Plan Administrator must provide the safe harbor notice no later than the Employee's Entry Date. An eligible Employee may make or modify a salary reduction agreement under the Plan for 30 days following receipt of the safe harbor notice or, if greater, for the period the Plan Administrator specifies in the salary reduction agreement.

(k) Notwithstanding the provisions of this section 5.7 to the contrary, an Employer that has elected in its Adoption Agreement to make a safe harbor matching contribution or safe harbor nonelective contribution intended to satisfy the requirements of this section 5.7 may amend its Adoption Agreement during the Plan Year to reduce or suspend the safe harbor matching contribution with respect to future elective contributions or to reduce or suspend safe harbor nonelective contributions on a prospective basis, provided that the following requirements are satisfied:

(1) The Employer is either (i) operating at an economic loss as described in Section 412(c)(2)(A) of the Code or (ii) the safe harbor notice described in section 5.7(j) includes a statement that the Plan as adopted by the Employer may be amended during the Plan Year to reduce or suspend safe harbor matching contributions or safe harbor nonelective contributions and that the reduction or suspension will not apply until at least 30 days after all eligible Employees are provided notice of the reduction or suspension,

(2) All eligible Employees are provided a supplemental notice that explains (i) the consequences of the amendment that reduces or suspends future safe harbor matching contributions or safe harbor nonelective contributions, (ii) the effective date of the amendment, and (iii) the procedures for changing their elective contribution elections,

(3) The reduction or suspension of safe harbor matching contributions or safe harbor nonelective contributions is effective no earlier than the later of the date the amendment is adopted or 30 days after eligible Employees are provided with the supplemental notice described in section 5.7(k)(2),

(4) Eligible Employees are given a reasonable opportunity, including a reasonable period after receipt of the supplemental notice described in section 5.7(k)(2), prior to the reduction or suspension of safe harbor matching contributions or safe harbor nonelective contributions to change their elective contribution elections,

(5) The Plan as adopted by the Employer that has reduced or suspended its safe harbor matching contributions or safe harbor nonelective contributions pursuant to this section 5.7(k) will satisfy the Actual Deferral Percentage and Actual Contribution Percentage tests set forth in section 5.6 of this Article for the entire Plan Year using the current year testing method,

(6) The Plan as adopted by the Employer that has reduced or suspended its safe harbor matching contributions pursuant to this section 5.7(k) satisfies the requirements of section 5.7 (other than this section

5.7(k)) with respect to amounts deferred through the effective date of the amendment, and

(7) The Plan as adopted by the Employer that has reduced or suspended safe harbor nonelective contributions pursuant to this section 5.7(k) satisfies the requirements of section 5.7 (other than this section 5.7(k)) with respect to safe harbor Compensation paid through the effective date of the amendment.

(l) Notwithstanding the foregoing provisions of this section 5.7, the 401(k) safe harbor provisions adopted by an adopting employer may be changed mid-year (a "mid-year change") pursuant to and in accordance with IRS Notice 2016-16. For this purpose, a “mid-year change” is (i) a change that is first effective during a Plan Year, but not effective as of the beginning of the Plan Year, or (ii) a change that is effective as of the beginning of the Plan Year, but adopted after the beginning of the Plan Year.

II.

Pursuant to Proposed Treasury Regulation sections 1.401(k)-6 and 1.401(m)-5, effective January 18, 2017, notwithstanding any provision of the Plan to the contrary, forfeitures may be used to fund qualified nonelective contributions and qualified matching contributions, including, but not limited to, safe harbor contributions.

IN WITNESS WHEREOF, this Second Amendment has been executed this 28th day of December, 2017.

Plan Fiduciary Services, Inc.

By: DocuSigned by: Lee D. Vogt F91FCB96C1CB484...

Title: President

THIRD AMENDMENT
TO
THE PLATINUM 401(k)
RETIREMENT SAVINGS PLAN

This Third Amendment to The Platinum 401(k) Retirement Savings Plan is made and entered into by Plan Fiduciary Services, Inc. (the "Company"), and is effective as of January 1, 2020, except as otherwise set forth herein.

W I T N E S S E T H:

WHEREAS, the Company has previously adopted The Platinum 401(k) Retirement Savings Plan (the "Plan"); and

WHEREAS, the Company is authorized and empowered to amend the Plan; and

WHEREAS, the Company desires to amend the Plan's hardship distribution provisions.

NOW, THEREFORE, Section 9.1 of Article IX of the Plan is hereby amended to read as follows:

9.1 **Hardship Distributions**.

(a) (1) A Participant will be eligible to receive a distribution on account of hardship from his Pre-Tax Elective Contribution Account and Roth Elective Contribution Account under the Plan. However, a Participant who is or was previously employed by an Employer whose adoption of the Plan has been revoked is not eligible to receive a hardship distribution from the Plan. With respect to hardship distributions made prior to January 1, 2022, the amount that shall be available for a hardship distribution from the Participant's Pre-Tax Elective Contribution Account and Roth Elective Contribution Account shall be limited to the amount credited to the Participant's Pre-Tax Elective Contribution Account as of December 31, 1988, plus the amount of the Participant's pre-tax elective contributions and Roth elective contributions after December 31, 1988, reduced by the amount of any hardship distributions previously received by the Participant from his Pre-Tax Elective Contribution Account and Roth Elective Contribution Account.

(2) A distribution will be on account of hardship only if the distribution both (i) is made on account of an immediate and heavy financial need of the Participant, and (ii) is necessary to satisfy such financial need. Based upon the criteria set forth below, the Plan Administrator shall determine, in a uniform and nondiscriminatory manner,

whether an immediate and heavy financial need exists and the amount necessary to meet such need.

(b) (1) Subject to the requirements of subsection (b)(2) below, the determination of whether a Participant has an immediate and heavy financial need shall be made in a uniform and nondiscriminatory manner by the Plan Administrator. A financial need shall not fail to qualify as immediate and heavy merely because such need was reasonably foreseeable or voluntarily incurred by the Participant.

(2) A distribution shall be made on account of an immediate and heavy financial need of the Participant only if the distribution is for:

(A) expenses for (or necessary to obtain) medical care that would be deductible under section 213(d) of the Code (determined without regard to whether the expenses exceed 10% of the Participant's adjusted gross income) incurred by the Participant, the Participant's spouse, or any dependent of the Participant (as defined in section 152 of the Code, without regard to sections 152(b)(1), 152(b)(2) and 152(d)(1)(B) of the Code);

(B) costs directly related to the purchase of a principal residence for the Participant (excluding mortgage payments);

(C) payment of tuition, related educational fees, and room and board expenses, for up to the next 12 months of post-secondary education for the Participant, the Participant's spouse, the Participant's child, or dependent of the Participant (as defined in section 152 of the Code, without regard to sections 152(b)(1), 152(b)(2) and 152(d)(1)(B) of the Code);

(D) payments necessary to prevent the eviction of the Participant from the Participant's principal residence or foreclosure on the mortgage on that residence;

(E) payments for burial or funeral expenses for the Participant's deceased parent, spouse, child or dependent (as defined in section 152 of the Code, without regard to section 152(d)(1)(B) of the Code);

(F) expenses for the repair of damage to the Participant's principal residence that would qualify for the casualty deduction under section 165 of the Code (determined without regard to section 165(h)(5) of the Code and whether the loss exceeds 10% of the Participant's adjusted gross income); or

(G) expenses and losses (including loss of income) incurred by the Participant on account of a disaster declared by the

Federal Emergency Management Agency (FEMA) under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, provided that the Participant's principal place of residence or principal place of employment, at the time of the disaster, was located in an area designated by FEMA for individual assistance with respect to the disaster.

(c) A distribution shall be necessary to satisfy an immediate and heavy financial need of a Participant only if the following requirements are satisfied:

(1) the distribution is not in excess of the amount required to satisfy the financial need, including any amounts necessary to pay any federal, state and local income taxes and penalties reasonably anticipated to result from the distribution; and

(2) the Participant has obtained all distributions, other than hardship distributions, currently available under the Plan and all other plans of deferred compensation, whether qualified or nonqualified, maintained by an Employer or an Affiliate; and

(3) with respect to hardship distributions made prior to January 1, 2022, the Participant has obtained all nontaxable (at the time of the loan) loans currently available under all plans maintained by an Employer or an Affiliate; and

(4) the Participant has provided to the Plan Administrator a representation in writing (including by using an electronic medium as defined in section 1.401(a)-21(e)(3) of the Treasury regulations), or in such other form as may be prescribed by the Commissioner of the Internal Revenue Service, that he or she has insufficient cash or other liquid assets reasonably available to satisfy the need and the Plan Administrator does not have actual knowledge that is contrary to the representation.

IN WITNESS WHEREOF, this Third Amendment has been executed this 13th day of December, 2021.

Plan Fiduciary Services, Inc.

By: DocuSigned by: Terrance P. Power FADB82CFB8494A3...

Title: CEO

THE PLATINUM 401(k) RETIREMENT SAVINGS PLAN

ADOPTION AGREEMENT

The undersigned, Barbeque Integrated, Inc. ("Adopting Employer"), by executing this Adoption Agreement, hereby adopts The Platinum 401(k) Retirement Savings Plan and its related trust (the "Plan"). By entering into this Adoption Agreement, the Adopting Employer adopts the Plan in full as if the Adopting Employer were a signatory to the Plan.

Plan Fiduciary Services, Inc. or any of its Affiliates ("Plan Fiduciary Services"), by executing this Adoption Agreement, hereby consents to the adoption of the Plan by the Adopting Employer.

SECTION I
Effective Date

☒ **Initial Adoption**: This is the Adopting Employer's initial adoption of the Plan and the "Effective Date" is 01/01/2013.

☐ **Amendment of Plan**: This Adoption Agreement is an amendment of the Adopting Employer's previous adoption of the Plan and the "Effective Date" of this amendment is _____. The "Effective Date" of the Adopting Employer's initial adoption of the Plan was _____. *(Amendments require that a new Adoption Agreement be completed in its entirety and that such Adoption Agreement be timely and appropriately executed.)*

SECTION II
Eligibility and Participation

(Complete (a) and (b); (c) and (d) are optional.)

(a) **Age Requirement:** To become a Participant in the Plan, an Employee must be at least age:
(Select (i) or (ii) below.)

☒ (i) 21

☐ (ii) _____ (may not exceed 21)

(b) **Service Requirement:** To become a Participant in the Plan, an Employee must satisfy the following service requirement: *(Select (i), (ii) or (iii) below.)*

☐ (i) One Year of Service. *(Generally, 1,000 Hours of Service in a 12 consecutive month period.)*

☐ (ii) _____ month Period of Service for Eligibility (may not exceed 12 months). *(If this option is selected, then Hours of Service will not be taken into account.)*

☒ (iii) One Hour of Service. *(Immediate eligibility).*

(c) **Grandfathered Eligibility:** *(This option may be selected only upon an Adopting Employer's initial adoption of the Plan.)*

☐ The Adopting Employer hereby elects to waive the Plan's eligibility requirements (the age and service requirements selected above) for Employees who are performing services on behalf of the Adopting Employer as of _____.

Individuals for whom the eligibility requirements are waived will be immediately eligible to participate in the Plan. Any Employees who begin performing services on behalf of the Adopting Employer after the date set forth above must satisfy the Plan's regular eligibility requirements.

(d) **Highly Compensated Employee Exclusion:** *(This option should be selected only if the Adopting Employer wants to exclude all Highly Compensated Employees from being eligible to participate in the Plan.)*

☒ Highly Compensated Employees are not eligible to participate in the Plan.

SECTION III
Contributions and Allocation of Contributions

(Complete (a), (b) and (c).)

(a) **Discretionary Matching Contributions.** *(Select (i) if no discretionary matching contributions may be made; select and complete (ii) if discretionary matching contributions may be made.)*

☐ (i) The Adopting Employer will **not** make discretionary matching contributions to the Plan.

☒ (ii) The Adopting Employer may make discretionary matching contributions in accordance with the provisions of the Plan.

(Optional: Select and complete a. below only if you wish to impose a dollar cap on each Participant's discretionary matching contributions for a Plan Year)

☐ a. Matching contributions on behalf of any Participant for a Plan Year shall not exceed $_____.

Note: *If the discretionary matching contribution option is elected and the 401(k) safe harbor contribution option is also elected below, then the following limitations will apply so that the Plan will satisfy the actual contribution percentage test described in Article V of the Plan and so that the Plan may be deemed a non-Top Heavy Plan: (i) discretionary matching contributions can only be made on elective contributions that do not exceed 6% of a Participant's Compensation for the payroll period or other applicable period, (ii) the rate of the discretionary matching contribution cannot increase as the rate of elective contributions increases, (iii) the matching contributions provided to any Highly Compensated Employee at a given rate of elective contributions cannot be higher than that provided to an eligible Non-Highly Compensated Employee, and (iv) the maximum discretionary matching contribution on behalf of any Participant will not exceed 4% of the Participant's Compensation for the payroll period or other applicable period.*

(b) **Discretionary Nonelective "profit sharing" Contributions.** *(Select (i) if no discretionary nonelective contributions may be made; select and complete (ii) if discretionary nonelective contributions may be made; (iii) is optional.)*

☐ (i) The Adopting Employer will **not** make discretionary nonelective contributions to the Plan.

☒ (ii) The Adopting Employer may make discretionary nonelective ("profit sharing") contributions to the Plan. A Participant's share of discretionary nonelective contributions, if any, made by the Adopting Employer will be determined in accordance with the Plan and the crediting formula selected below.

Note: *If discretionary nonelective contributions are made to the Plan in addition to safe harbor matching or nonelective contributions, the Plan may be a Top Heavy Plan.*

☒ a. Pro-rata

☐ b. Integrated ("Permitted Disparity")

☐ c. Cross Tested ("New Comparability")

(If option c. is selected above, then the Allocation Groups shall be described below on the basis of the Participants' employment status or other classification. The Adopting Employer must notify the Trustee or its designee, in writing, of the portion of the nonelective contribution to be allocated to each Allocation Group.)

Allocation Groups for Cross Tested Formula:

Allocation Group 1: _____

Allocation Group 2: _____

Allocation Group 3: _____

Allocation Group 4: _____

(Optional: Select (iii) below if you wish to apply the "last day rule" to discretionary nonelective contributions.)

☒ (iii) **Employment Condition:** To be credited with a discretionary nonelective contribution, if any, for the Plan Year, a Participant must be employed by the Adopting Employer on the last day of the Plan Year, unless the Participant terminates employment with the Adopting Employer during the Plan Year on or after his Normal Retirement Date or on account of his Total and Permanent Disability or death. This "employment condition" is not applicable to discretionary matching contributions.

(c) **401(k) Safe Harbor Contributions.** *(Select (i), (ii), (iii) or (iv), below.)*

Note: *Safe harbor may be elected upon the Adopting Employer's initial adoption of the Plan (but not later than October 1st). If the Adopting Employer has already adopted the Plan (or maintains another 401(k) plan), then a safe harbor election may be made only as of the beginning of a new Plan Year (this election must be communicated to eligible employees at least 30 days prior to the start of a new Plan Year). If 401(k) safe harbor contributions are selected below, then the safe harbor contributions must generally be made to the Plan for the entire Plan Year. If the Adopting Employer's safe harbor contributions are not made for an entire Plan Year or if an Adopting Employer's adoption of the Plan is revoked for any reason prior to the end of a Plan Year (e.g., the relationship between the Adopting Employer and Plan Fiduciary Services is terminated during the Plan Year), the Plan may fail to satisfy the safe harbor requirements.*

For the Adopting Employer's initial Plan Year of Plan adoption, the Effective Date of the 401(k) safe harbor can be other than the first day of the Plan Year only if the Adopting Employer's adoption of the Plan is not considered the adoption of a "successor plan," even if the initial Plan Year of adoption is as short as 3 months.

The Adopting Employer's adoption of the Plan will be considered the adoption of a "successor plan" if, for the first Plan Year of Plan adoption, 50% or more of the eligible Employees of the Adopting Employer were eligible employees under another 401(k) plan that the Adopting Employer was part of at any time in the prior year.

☒ (i) The Adopting Employer will **not** make safe harbor contributions to the Plan.

☐ (ii) The Adopting Employer shall make a fully vested (i.e., nonforfeitable) safe harbor matching contribution equal to 100% of a Participant's elective contributions for each **payroll period** that do not exceed 4% of the Participant's Compensation for such **payroll period**.

☐ (iii) The Adopting Employer shall make a fully vested (i.e., nonforfeitable) safe harbor matching contribution equal to 100% of a Participant's elective contributions for each **payroll period** that do not exceed 3% of the Participant's Compensation for such **payroll period**, plus 50% of a Participant's elective contributions for each **payroll period** that exceed 3% but do not exceed 5% of the Participant's Compensation for such **payroll period**.

☐ (iv) The Adopting Employer shall make a fully vested (i.e., nonforfeitable) safe harbor nonelective contribution on behalf of each Participant employed by the Adopting Employer equal to 3% of the Participant's Compensation for the Plan Year.

Note: *If the Adopting Employer has elected the Integrated ("Permitted Disparity") contribution allocation formula for discretionary nonelective contributions, then the safe harbor nonelective contribution must be allocated to Participants independently from the allocation of discretionary nonelective contributions.*

SECTION IV
Vesting

Vesting of Matching and Nonelective Contributions

A Participant's vested interest in his Accounts attributable to matching and nonelective contributions (other than 401(k) safe harbor matching contributions, 401(k) safe harbor nonelective contributions, qualified nonelective contributions and qualified matching contributions) will be determined in accordance with the six-year graded vesting schedule set forth in the Plan, unless a vesting schedule is selected below: *(Select (a), (b), (c), (d) or (e).)*

☐ (a) Full and immediate vesting.

☐ (b)

Total Number of Years of Service	Vested Interest
Less than 2 Years of Service	0%
2 years but less than 3 years	20%
3 years but less than 4 years	40%
4 years but less than 5 years	60%
5 years but less than 6 years	80%
6 years or more	100%

☐ (c)

Total Number of Years of Service	Vested Interest
Less than 3 Years of Service	0%
3 years or more	100%

☒ (d)

Total Number of Years of Service	Vested Interest
Less than 1 Years of Service	0%
1 years but less than 2 years	20%
2 years but less than 3 years	40%
3 years but less than 4 years	60%
4 years but less than 5 years	80%
5 years or more (may not exceed 6 years)	100%

☐ (e)

Total Number of Years of Service	Vested Interest
Less than _____ Years of Service	0%
____ years but less than ____ years	_____%
____ years but less than ____ years	_____%
____ years but less than ____ years	_____%
____ years but less than____ years	_____%
____ years but less than____ years	_____%
____ years or more (may not exceed 6 years)	100%

If a vesting schedule is selected in (e) above, then such vesting schedule must be at least as liberal to the Participants at all Years of Service as either the 6-year graded vesting schedule in (b) above or the 3-year cliff schedule in (c) above.

SECTION V
Miscellaneous Provisions

The Adopting Employer agrees that it is adopting the Plan for the benefit of its Employees (as such term is defined in the Plan).

Adopting Employer agrees to properly disclose to Plan Fiduciary Services all information reasonably required by Plan Fiduciary Services for the proper administration of the Plan.

Adopting Employer understands that if the Plan as adopted by the Adopting Employer becomes "top-heavy" (as defined in Section 416 of the Internal Revenue Code), a minimum contribution may have to be made to the Plan on behalf of the Adopting Employer's "non-key employees" (as defined in Section 416 of the Internal Revenue Code). If the Plan as adopted by the Adopting Employer becomes top-heavy, then Adopting Employer agrees to make any minimum contribution required by law and Adopting Employer acknowledges that it is solely responsible for any such required contribution.

DS
JS

Initials

Adopting Employer acknowledges that it is solely responsible for any discretionary matching or nonelective contributions or safe harbor contributions to be made to the Plan on behalf of Adopting Employer's Employees.

The Adopting Employer agrees that Plan Fiduciary Services has made no representations to the Adopting Employer regarding the legal or financial impact of the adoption of the Plan by the Adopting Employer.

The Adopting Employer agrees to hold Plan Fiduciary Services harmless against any claims, taxes or costs of any kind incurred by the Adopting Employer as a result of the adoption of the Plan and the Adopting Employer's failure to fulfill its obligations and duties with respect to the Plan. The Adopting Employer agrees to indemnify Plan Fiduciary Services for any claims, taxes or costs incurred by Plan Fiduciary Services at any time as a result of the Adopting Employer's failure to fulfill its obligations and duties with respect to the Plan.

The Adopting Employer recognizes that it is in its best interest to have the Plan reviewed by legal counsel to ensure that the Plan as adopted by the Adopting Employer is suitable and appropriate for adoption by the Adopting Employer.

Authorization to Establish Spin-Off/Termination Plan

Adopting Employer appoints Plan Fiduciary Services as its agent for purposes of establishing and terminating a spin-off/termination retirement plan ("Spin-Off/Termination Plan") on behalf of Adopting Employer. The Spin-Off/Termination Plan shall be established in the discretion of Plan Fiduciary Services if Adopting Employer's adoption of the Plan is revoked for any

reason and the Adopting Employer fails to establish another qualified retirement plan for the purpose of receiving a transfer of assets from the Plan

It is acknowledged that the purpose of the Spin-Off/Termination Plan is to receive a transfer of assets from the Plan and immediately terminate. Upon such termination, the assets of the Spin-Off/Termination Plan will be distributed to the participants in accordance with the terms of the Spin-Off/Termination Plan or directly transferred to another qualified retirement plan

Adopting Employer understands that if Adopting Employer sponsors or maintains another defined contribution plan within the 12-month period following a distribution of assets from the Spin-Off/Termination Plan, the Spin-Off/Termination Plan may be subject to disqualification resulting in adverse tax consequences for the Adopting Employer and its employees and/or former employees, as well as any other qualified retirement plan or IRA that receives a distribution or transfer of assets from the Spin-Off/Termination Plan

Pursuant to the appointment of Plan Fiduciary Services as Adopting Employer's agent, the actions taken by Plan Fiduciary Services to establish and terminate the Spin-Off/Termination Plan shall be deemed made by Adopting Employer as if Adopting Employer were a signatory to the Spin-Off/Termination Plan Adopting Employer shall be the sole sponsor and named fiduciary of the Spin-Off/Termination Plan.

The Adopting Employer agrees to hold Plan Fiduciary Services harmless against any claims, taxes or costs of any kind incurred by the Adopting Employer or Adopting Employer's employees as a result of the establishment of the Spin-Off/Termination Plan and any subsequent distribution or transfer of assets from the Spin-Off/Termination Plan.

DS
JS

Initials

SECTION VI
Execution

By executing this Adoption Agreement, the Adopting Employer agrees to all of the obligations, responsibilities and duties imposed with respect to the Plan, including the responsibility for making all required contributions to the Plan on behalf of its Employees The Adopting Employer hereby agrees to the provisions of the Plan and, in witness to their agreement, the Adopting Employer and Plan Fiduciary Services have executed this Adoption Agreement on the dates set forth below

Name of Adopting Employer: BARBEQUE INTERNATIONAL, INC.

EIN of Adopting Employer: 26-1305332

DocuSigned by:
Signed By: Jon Sholl
05205FA93633429

12/11/2012
Date

Title: CFO

Plan Fiduciary Services, Inc.

Signed By: DocuSigned by: Lee Vogt F01FCB85C1CB484...

12/11/2012
Date

Title: President

Rev. 02/08/12

ADDENDUM TO THE PLATINUM 401(k) RETIREMENT SAVINGS PLAN AS ADOPTED BY BARBEQUE INTEGRATED, INC. ("ADOPTING EMPLOYER")

I.

Notwithstanding the provisions of The Platinum 401(k) Retirement Savings Plan as adopted by Barbeque Integrated, Inc. (the "Plan"), effective January 1, 2013, the definition of "Employee" is hereby amended to read as follows:

(o) "**Employee**" shall mean

(1) any person employed by an Employer who is a head office-based employee or who is a manager (including a Self-Employed Individual performing services for such Employer) other than:

(A) a member of a collective bargaining unit if retirement benefits were a subject of good faith bargaining between such unit and an Employer; provided, however, that this subparagraph (A) shall not apply to a member of a collective bargaining unit if such unit, an Employer and the Company agree that the member shall participate in the Plan,

(B) a non-resident alien who does not receive earned income from sources within the United States,

(C) an individual whose employment status has not been recognized by completion of Internal Revenue Service Form W-4 and who is not initially treated as a common law employee of the Employer, and

(D) a Highly Compensated Employee, but only if the Employer has elected in its Adoption Agreement to exclude Highly Compensated Employees from being eligible to participate in the Plan.

(2) The determination of whether an individual is an "Employee" for purposes of eligibility to participate in the Plan shall be made in the sole and exclusive discretion of the Plan Administrator.

(3) Subject to the requirements of subparagraph (1)(C) above, the term "Employee" shall also include any leased employee of the Employer; provided, however, that a leased employee shall not be considered an Employee of an Employer if:

(A) leased employees do not constitute more than twenty percent (20%) of the Employer's Non-Highly Compensated Employees (as determined without regard to this subparagraph), and

(B) such leased employee is covered by a money purchase pension plan providing:

(i) a non-integrated employer contribution rate of at least 10% of compensation (as defined in Section 414(n) of the Code),

(ii) immediate participation, and

(iii) full and immediate vesting.

(4) For purposes of this paragraph, the term "leased employee" means any person (other than an Employee of the Employer) who, pursuant to an agreement between the Employer and any other person ("leasing organization"), has performed services for the Employer (or for the Employer and one or more Affiliates) on a substantially full time basis for a period of at least one year and the individual's services are performed under the primary direction or control of such Employer.

(5) Contributions or benefits provided a leased employee by the leasing organization that are attributable to services performed for an Employer shall be treated as provided by such Employer.

(6) An individual shall be considered a common law employee of the Employer (including its Affiliates) for which the individual performs services, and if the individual meets the definition of Employee under Article I, then he shall be an Employee of such Employer and its Affiliates.

II.

Notwithstanding the provisions of The Platinum 401(k) Retirement Savings Plan as adopted by Barbeque Integrated, Inc. (the "Plan"), elective contributions under the Plan will begin effective February 1, 2013.

Barbeque Integrated, Inc.

Signed By: DocuSigned by: Jon Shell 05205FA93633429...

Title: CFO

Dated: 1/15/2013

"ADOPTING EMPLOYER"

Plan Fiduciary Services, Inc.

Signed By: DocuSigned by: Lee Vogt F01FCB05C1CB484...

Title: President

Dated: 1/15/2013