

COMPOSITE COPY
OF THE
OPTIONAL RETIREMENT PLAN OF THE
COMMONWEALTH OF VIRGINIA
FOR PUBLIC SCHOOL SUPERINTENDENTS

(As Restated Effective January 1, 2002)

Including :

1. First Amendment dated November 21, 2002
2. Second Amendment dated October 12, 2005
3. Third Amendment dated November 15, 2007
4. Fourth Amendment dated June 19, 2008
5. Fifth Amendment dated June 17, 2010
6. Sixth Amendment dated June 29, 2010
7. Seventh Amendment dated August 5, 2010
8. Eighth Amendment dated February 23, 2011

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WITNESSETH:

WHEREAS, pursuant to the Section 51.1-126.6 of the Code of Virginia (1950), as amended, this Optional Retirement Plan of the Commonwealth of Virginia for Public School Superintendents is implemented by the Commonwealth of Virginia (the "Plan").

The Board intends to maintain the Plan as a qualified defined contribution plan within the meaning of Internal Revenue Code Section 401(a) as applicable to governmental plans as defined in Section 414(d) of the Code. The purpose of the Plan is to provide retirement benefits for eligible employees pursuant to the terms of the Plan in consideration of their services.

The Plan is available in lieu of the benefits established pursuant to the Virginia Retirement Act, Section 51.1-100 *et seq.* of the Code of Virginia (1950) as amended or any benefit that is contingent on membership in the Virginia Retirement System, but is available in addition to the deferred compensation established pursuant to the Government Employees Deferred Compensation Plan Act, Section 51.1-600 *et seq.* of the Code of Virginia (1950) as amended or any tax sheltered annuity plan available through the school board employing the Plan Participant and any cash match plan established pursuant to Section 607 through 613 of the Code of Virginia (1950) as amended.

This restatement is intended as good faith compliance with the requirements of the Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA") and is to be construed in accordance with EGTRRA and guidance issued thereunder. Except as otherwise provided, this restatement shall be effective as of the first day of the first Plan Year beginning after December 31, 2001.

To comply with the requirements of Internal Revenue Code Section 401(a) and in accordance with Section 11 of Article X of the Constitution of Virginia (1971) as amended, the Board has established a related fund ("Fund") pursuant to a trust agreement ("Trust Agreement") in which all contributions to the Plan and the income thereon shall be held for the exclusive benefit of Participants and their Beneficiaries.

NOW, THEREFORE, in consideration of the premises herein, the Board agrees as follows:

ARTICLE I
Definition of Terms

The following words and terms as used in this Plan shall have the meaning set forth below, unless a different meaning is clearly required by the context.

1.1 **"Administrator"**: The Board ("Plan Administrator"), which shall appoint the Director of the Virginia Retirement System as chief administrative officer.

1.2 **“Accrued Benefit”**: The sum of the balances in the following accounts of Participants under the Plan as of the most recent Valuation Date (or as otherwise provided herein):

1.2(a) *[Effective July 1, 2010]* **“Employer Account”** : The account of a Participant attributable to the Employer Contributions and Employee Contributions made on his behalf, plus any earnings or losses thereon, as provided in ARTICLE V.

1.2(b) **“Rollover Account”**: The account or accounts of a Participant in the Fund attributable to his Rollover Contributions, consisting of his After-tax Rollover Account and his Regular Rollover Account as follows:

(i) **“After-tax Rollover Account”**: The Participant's account in the Fund attributable to after-tax employee contributions included in a Rollover Contribution by the Participant.

(ii) **“Regular Rollover Account”**: The Participant's account in the Fund attributable to allocations of his Rollover Contributions which are not after-tax employee contributions.

1.3 **“Agent”** : The plan service agent to be appointed by and serve at the pleasure of the Plan Sponsor.

1.4 **“Alternate Payee”** : *[Effective July 1, 2005]* The person who is or was the spouse of the Participant to the extent that such person is entitled to any or all of a Participant's Accrued Benefit under a court order that the Plan Administrator has determined to be an Approved Domestic Relations Order.

1.5 **“Approved Domestic Relations Order”** : A qualified domestic relations order within the meaning of Section 414(p) of the Code as applicable to governmental plans within the meaning of Section 414(d) of the Code and as determined by the Administrator pursuant to the Plan.

1.6 **“Beneficiary”** : The person or persons, whether natural or non-natural, including but not limited to a trustee or other fiduciary, designated by a Participant pursuant to ARTICLE VIII to receive benefits under the Plan attributable to such Participant after the death of such Participant.

1.7 **“Board”** : The Board of Trustees of the Virginia Retirement System.

1.8 **“Code”** : The Internal Revenue Code of 1986, as the same may be amended from time to time, or the corresponding section of any subsequent Internal Revenue Code, and, to the extent not inconsistent therewith, regulations issued thereunder.

1.9 *[Effective July 1, 2010]* **“Compensation”** :

1.9(a) A Participant's full compensation payable to the Participant working in an Eligible Position, including employee elective salary reduction or similar deferral contributions by reason of Section 125, 132(f) (for Plan Years beginning on or after January 1, 2001), 402(g) or 457(b) of the Code and including non-elective salary reductions made pursuant to Section 414(h) of the Code where the employer picks-up a mandatory employee contribution using a salary reduction method.

1.9(b) The following special rules apply for purposes of determining Compensation:

(i) Compensation not paid as a result of unpaid furlough days shall be included in Compensation for purposes of the Plan.

(ii) In the case of a Participant who is on an approved educational leave of absence with half pay or more, Compensation shall include all compensation that otherwise would have been paid but for the educational leave.

(iii) In the case of a Participant who is on an approved educational leave of absence with less than half pay, Compensation shall not include amounts paid during the education leave.

1.9(c) Notwithstanding the above, the definition of Compensation shall be interpreted in the same manner as the term "creditable compensation" under Section 51.1-124.3 of the Code of Virginia (1950) as amended is interpreted by the Plan Sponsor.

1.10 "Compensation Limit" :

1.10(a) \$200,000 for Plan Years beginning on or after January 1, 2002 (as adjusted in \$5,000 increments by the applicable Adjustment Factor on the basis of a base period of the calendar quarter beginning July 1, 2001); \$150,000 for Plan Years beginning before January 1, 2002 (as adjusted in \$10,000 increments by the applicable Adjustment Factor determined on the basis of a base period of the calendar quarter beginning October 1, 1993).

1.10(b) For purposes of applying the Compensation Limit:

(i) The Compensation Limit applicable to each Plan Year (or other applicable computation period) shall be the Compensation Limit in effect for each such Plan Year (or other applicable computation period), determined without increases in the Compensation Limit for subsequent periods.

(ii) If any Plan Year (or other stated computation period) is a period of less than twelve (12) months, then any dollar limitation referred to in this paragraph shall be prorated by multiplying the otherwise applicable dollar limitation for such Plan Year (or other stated computation period) by a fraction,

the numerator of which is the number of months in such Plan Year (or other stated computation period) and the denominator of which is twelve (12).

1.11 **“Effective Date”** :

- (i) The Effective Date of the Plan is April 1, 2001.
- (ii) The Effective Date of this Restatement of the Plan is January 1, 2002.

1.12 **“Employee”** : Any individual employed in the service of the Employer as a common law employee.

1.13 **“Eligible Employee”** : An Employee who is employed by a participating Employer in an Eligible Position.

1.14 **“Eligible Position”** : A position designated in Section 22.1-60 of the Code of Virginia.

1.15 **“Employer”** : Any school board that is an instrumentality of the Commonwealth and any political subdivision of the Commonwealth or an agency or instrumentality of such a political subdivision(s) who has entered into an agreement with the Plan Sponsor. The Administrator shall maintain a list of all such participating Employers that have adopted the Plan.

1.16 **“Enabling Statute”** : The Section 51.1-126.6 of the Code of Virginia (1950) as amended.

1.17 **“Fund”** : The trust fund created under and subject to the Trust Agreement.

1.18 *[Effective July 1, 2010]* **“Participant”** : An Eligible Employee (or former Eligible Employee) who elected to participate in the Plan for so long as he is considered a Participant as provided in ARTICLE III. Effective July 1, 2010 Participants shall be divided in to the following classifications:

- (i) **Pre-July 1, 2010 Participant:** A Pre-July 1, 2010 Participant is a person who on June 30, 2010 is a member of a retirement plan administered by the Virginia Retirement System as that term is defined in Va. Code Section 51.1-124.3 (which term excludes the Virginia Cash Match Plan and the Deferred Compensation Plan of the Commonwealth of Virginia). For this purpose, a Participant is a member of such a plan if the Participant has creditable service under a defined benefit plan or any account balance under a defined contribution plan. In addition, a person who prior to March 15, 2010 entered into a written employment contract for employment in a covered position in the case of a defined benefit plan administered by the Virginia Retirement System or an

eligible position in the case of a defined contribution plan administered by the Virginia Retirement System, shall be deemed to be a Pre-July 1, 2010 Participant even if the employment pursuant to such agreement commences on or after July 1, 2010. Subsequent separation from employment shall not alter the Participant's status as a Pre-July 1, 2010 Participant. However, if, upon reemployment following a separation from employment, a person no longer has creditable service under a defined benefit plan or any account balance under a defined contribution plan administered by the Virginia Retirement System, such person shall no longer be a Pre-July 1, 2010 Participant.

(ii) **Post-June 30, 2010 Participant:** A Post-June 30, 2010 Participant is any Participant and who is not a Pre-July 1, 2010 Participant.

1.19 **“Plan”** : This document as contained herein or duly amended. The plan maintained pursuant hereto shall be known as the “Optional Retirement Plan of the Commonwealth of Virginia for Public School Superintendents”.

1.20 **“Plan Sponsor”**: The Virginia Retirement System, an independent state agency of the Commonwealth of Virginia with the authority pursuant to the Enabling Statute to establish and administer the Plan.

1.21 **“Plan Year”** : The 12 month period beginning on the first day of July.

1.22 **“Trust Agreement”** : The written agreement (or declaration) made by and between the Plan Sponsor and the Trustee under which the Fund is maintained, which agreement is known as the “Master Trust for the Defined Contribution Plans of the Commonwealth of Virginia”.

1.23 **“Trustee”** : The Trustee duly appointed and currently serving under the Trust Agreement. At all times, the Trustee shall be a directed trustee and (except as provided below) shall be completely subject to the direction of the Plan Administrator, or the Participant or Beneficiary or Alternate Payee. The Trustee's only duty is to ensure that all investments, amounts, property, and rights held under the Fund are held for the exclusive benefit of Participants and their Beneficiaries.

1.24 **“VRS”** : The contributory defined benefit pension plan established pursuant to the Virginia Retirement Act, Section 51.1-100 et seq. of the Code of Virginia (1950) as amended.

1.25 **“Valuation Date”**: The last day of each calendar quarter of the Plan Year and such other date(s) as the Administrator may designate.

ARTICLE II
Participating Employers

2.1 **Adoption by Employer.** With the consent of the Plan Sponsor, an Employer may adopt this Plan pursuant to the Enabling Statute and be an Employer with respect to this Plan.

2.2 **Participating Employer Has Same Provisions.** Each Employer shall adopt the Plan as adopted by the Plan Sponsor, without amendment or revision.

2.2(a) **Amendment Binding Upon All Participating Employers.** Any amendment of the Plan by the Plan Sponsor is effective and binding upon all Employers, without their consent.

2.2(b) *[Effective July 1, 2010]* **No Amendment By Participating Employer.** Except as provided in paragraph 2.4, an Employer (other than the Plan Sponsor) has no power to amend the Plan in any way.

2.3 **Plan Mergers.** If an Employer that adopts the Plan maintained a plan under the Enabling Statute prior to its becoming a participating Employer, the Plan Administrator will accept and credit to a Participant's account amounts transferred from such prior plan. Any such transfer shall be treated as a plan merger and shall be subject to the terms of a plan merger agreement entered into between the Plan Sponsor and the Employer.

2.4 *[Effective July 1, 2010]* **Permissible Amendments by a Participating Employer.**

An Employer may amend the Plan as follows as it relate to the Employees of such Employer:

(i) An Employer may, by formal written action taken by its governing body, elect to supplement, or discontinue its supplement of, the Employer Contribution up to an additional four-tenths of one percent (0.4%) of the Participant's Compensation. The Employer's supplemental contribution shall be reflected in Appendix A to the Plan, attached hereto and maintained by the Administrator.

(ii) An Employer may elect to discontinue making further contributions under this Plan, but only with respect to persons who become employed in an Eligible Position after the Employer has made such an election.

ARTICLE III
Eligibility and Participation

3.1 **Eligibility.**

3.1(a) Each Employee who becomes an Eligible Employee after the Effective Date of the Plan, may, upon his acceptance of the Eligible Position elect to become a Participant in the Plan. Such election shall be effective upon his becoming an Eligible Employee.

3.1(b) The election to participate in the Plan shall be made in accordance with the procedures adopted by the Plan Administrator for this purpose.

3.2 **Length of Participation.** An Employee who becomes a Participant shall be or remain a Participant for so long as he is an Eligible Employee or he is entitled to future benefits under the terms of the Plan.

ARTICLE IV
Contributions

4.1 *[Effective July 1, 2010]* **Amount and Timing of Employer Contributions.** With respect to each payroll period ending on or after the date the Eligible Employee becomes a Participant:

4.1(a) In the case of a Pre-July 1, 2010 Participant, the Employer shall contribute to the Plan ten and four-tenths percent (10.4%) of each Pre-July 1, 2010 Participant's Compensation for such period, or such other amount as may be provided in the Enabling Statute, as amended (sometimes referred herein to as the "Employer Contribution");

4.1(b) In the case of a Post-June 30, 2010 Participant, the Employer shall contribute to the Plan eight and five-tenths percent (8.5%) of each Post-June 30, 2010 Participant's Compensation for such period, or such other amount as may be provided in the Enabling Statute, as amended (sometimes referred herein to as the "Employer Contribution");

4.1(c) In the case of a Post-June 30, 2010 Participant, an Employer shall contribute the additional percentage shown on Appendix A of the Post-June 30, 2010 Participant's Compensation (sometimes referred to herein as the "Employer Contribution").

4.1(d) Such contributions shall be made as soon as reasonably practical following the payday for such payroll period.

4.2 *[Effective July 1, 2010]* **Mandatory Employee Contribution.**

4.2(a) Each Post-June 30, 2010 Participant is required to make a mandatory Employee Contribution equal to five percent (5.0%) of such Post-June 30, 2010

Participant's Compensation for such period, or such other amount as may be provided in the Enabling Statute, as amended (sometimes referred herein to as the "Employee Contribution").

4.2(b) As hereby authorized by the Board pursuant to the authority granted under the Enabling Statute and permitted under Section 414(h) of the Code, the Employer shall "pick-up" such Employee Contribution. This "employer pick-up" contribution shall be designated as an Employee Contribution and the Employee Contribution shall be paid by the Employer to the Plan as a "salary reduction" type contribution.

4.2(c) Alternatively, by formal written action of its governing body as required by Section 414(h) of the Code, the Employer may elect to pick-up all or part of the Employee Contribution (in 1% increments) as an additional benefit not paid as salary, effective on a prospective basis. The alternative elected under this subparagraph must be consistent with the election made by the governing body with respect to other employees who would be considered plan 2 participants in VRS. If this alternative method is elected it shall be reflected on Appendix A along with its effective date.

4.2(d) This "pick-up" contribution shall not have any cash or deferred election right.

4.3 **Participant Rollover Contributions.**

4.3(a) *[Effective July 1, 2005]* A Participant (including an Eligible Employee and a former Eligible Employee) may make a "Rollover Contribution" which is a qualifying rollover contribution under Section 402(a) of the Code of cash or other property acceptable to the Trustee, or cash attributable to the sale of property distributed from an eligible retirement plan. Before accepting such contribution, the Trustee may require the Participant and/or the trustee, custodian or other funding agent of any such plan, trust bond, annuity or account from which the cash or property is to be deposited, to make such certification as the Trustee deems necessary respecting the distributing plan, trust, bond, annuity or account, the amount and nature of the distribution and any other information the Trustee may reasonably require.

4.3(b) In the event that it is discovered that any Rollover Contribution by a Participant is not a qualifying rollover amount which is excluded from the Participant's gross income under Section 402(a)(5) of the Code, or otherwise is a contribution which is not permitted to be received as a Rollover Contribution under the Plan, the Accrued Benefit of the Participant attributable to such non-qualifying Rollover Contribution shall be returned to the Participant (or if deceased to his Beneficiary).

4.3(c) The Plan will accept as a Rollover Contribution by Participant contribution, or by direct rollover, an eligible rollover distribution made after December 31, 2001 or as otherwise stated below from the following types of plans:

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

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

(iii) 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

(iv) An individual retirement account or annuity described in section 408(a) or 408(b) of the Code, but only the portion of the distribution that is eligible to be rolled over and would otherwise be includible in gross income.

4.4 **No Duty to Enforce Contribution.** The Trustee shall not be required to determine the amount of any contribution for any Plan Year or to enforce the duty of the Employer to make or pay over such contributions.

ARTICLE V

Participant Accounts and Adjustments

5.1 **Accounts and Vesting.** The Administrator shall establish and maintain on the books of the Fund for all Participants and all other persons having an interest therein separate accounts reflecting the Accrued Benefit of each Participant. Each Participant shall at all times have a non-forfeitable right to one hundred percent (100%) of his Accrued Benefit.

5.2 **Allocation of Contributions.** Subject to the applicable limitations contained herein:

5.2(a) *[Effective July 1, 2010]* The Employer Contribution and the Employee Contribution to the Plan for a Plan Year shall be allocated as of the date such contribution is made to the Employer Account of the Participant for whom made.

5.2(b) Rollover Contributions by a Participant shall be allocated when made as follows:

(i) Rollover Contributions of after-tax employee contributions shall be allocated to his After-tax Rollover Account.

(ii) All other Rollover Contributions shall be allocated to his Regular Rollover Account.

5.3 415 Limitations on Annual Additions.

5.3(a) For Limitation Years beginning before January 1, 2002, notwithstanding any other provision of the Plan, the sum of all Annual Additions (as defined in subparagraph 5.3(d)) allocated to the accounts of any Participant for any Limitation Year may not exceed the lesser of:

- (i) \$30,000 (referred to herein as the “Dollar Limitation”), or
- (ii) Twenty-five percent (25%) of such Participant’s Total Compensation not in excess of the Compensation Limit for such Limitation Year,

which limitations are jointly referred to herein as the “415 Limitations”. The compensation limit referred to in clause (ii) of this subparagraph 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.

5.3(b) For Limitation Years beginning on or after January 1, 2002, notwithstanding any other provision of the Plan, the sum of all Annual Additions (as defined in subparagraph 5.3(d)) allocated to the accounts of any Participant for any Limitation Year may not exceed the lesser of:

- (i) \$40,000 (referred to herein as the “Dollar Limitation”), or
- (ii) One hundred percent (100%) of such Participant’s Total Compensation not in excess of the Compensation Limit for such Limitation Year,

which limitations are jointly referred to herein as the “415 Limitations”. The compensation limit referred to in clause (ii) of this subparagraph 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.

5.3(c) In determining the Dollar Limitation:

- (i) The Dollar Limitation shall be automatically adjusted by the Adjustment Factor, from time to time, to reflect any annual cost of living adjustments and any such adjustment (which with the original Dollar Limitation is sometimes referred to herein as the “adjusted Dollar Limitation”) shall be effective for the Limitation Year which ends with or within the calendar year for which such increase is effective. For purposes hereof, the term “Adjustment Factor” shall mean the cost of living adjustment factor prescribed by the Secretary of the Treasury or his delegate under Section 415(d) of the Code, applied to such items and in such manner as the Secretary of the Treasury or his delegate shall prescribe. For Limitation Years beginning after December 31, 2002, the adjustment shall be in \$1,000 increments on the basis of a base period of the calendar quarter beginning July 1, 2001.

(ii) If any Limitation Year is a period of less than twelve (12) months, then the Dollar Limitation for such Limitation Year shall be prorated by multiplying then the Dollar Limitation for such Limitation Year by a fraction, the numerator of which is the number of months in such Limitation Year and the denominator of which is twelve (12).

5.3(d) [Effective July 1, 2010] The term “Annual Additions” shall mean the sum of the following amounts allocated to a Participant’s account under the Plan for a Limitation Year:

- (i) All contributions by the Employer;
- (ii) All Employee Contributions; and
- (iii) Any other amounts defined as “annual additions” under Section 415 of the Code.

Notwithstanding anything to the contrary herein, amounts which are excluded from being “annual additions” under Section 415 of the Code shall not be considered Annual Additions for purposes hereof.

5.3(e) For purposes hereof, the term “Limitation Year” means the Plan Year.

5.3(f) For purposes hereof, the term “Total Compensation” means the total compensation from the Employer received by or made available to an Employee during any Plan Year or, for purposes of the limitations imposed by Section 415 of the Code, any Limitation Year:

(i) Including, but not limited to, wages, salary, earned income (in the case of self-employed individuals), vacation pay, sick pay, overtime pay, bonuses and commissions, and as reportable to the Internal Revenue Service on Form W-2 (or its successor), where applicable, for federal income tax purposes, but

(ii) Including employee elective salary reduction or similar deferral contributions excluded from W-2 compensation by reason of Section 125, 132(f)(4) (for Plan Year s beginning on or after January 1, 2001), 402(g)(3) or 457(b) of the Code (and elective deferrals or contributions under any other sections of the Code covered by Section 415(c)(3)(D) of the Code), and

(iii) Excluding, except as otherwise expressly included by clause (ii) above, paid or reimbursed expenses, contributions or benefits under a simplified employee pension plan, contributions (to the extent not includible in the Employee’s gross income when contributed) or benefits under this or any other plan of deferred compensation (other than an unfunded, non-qualified plan), contributions or benefits under any other employee benefit plan or arrangement (to the extent excludable from or not includible in gross income), now, heretofore or hereafter adopted, amounts paid or received or deemed received in connection

with stock options or rights, other amounts which receive special tax benefits, or any amount otherwise paid as compensation but finally determined not to be deductible as compensation in determining the Employer's federal taxable income.

[Effective July 1, 2010] As clarification of the foregoing, Total Compensation does not include non-elective salary reductions made pursuant to Section 414(h) of the Code where the employer picks-up a mandatory employee contribution nor does it include compensation not paid as a result of unpaid furlough days.

5.3(g) *[Effective July 1, 2007]* Notwithstanding the foregoing, the following rules shall also apply in determining Total Compensation for Plan Years (or Limitation Years, as applicable) beginning on or after July 1, 2007:

(i) Amounts earned but not paid during a Plan Year (or Limitation Year, as applicable) solely because of the timing of pay periods and pay dates shall not be included in Total Compensation for the Limitation Year (or Plan Year, as applicable) earned, but shall be included when paid.

(ii) Amounts paid by the later of two and one-half (2-1/2) months after severance from employment or the end of the Plan Year (or Limitation Year, as applicable) that includes the date of severance from employment shall be included in Total Compensation for the Plan Year (or Limitation Year, as applicable) if such payments would have been paid to the Employee while the Employee continued in employment with the Employer absent the severance from employment and such amounts are regular compensation, commissions, bonuses or other similar compensation.

(iii) Except as described in (ii) above, no amount paid after severance from employment shall be treated as Total Compensation.

(iv) Total Compensation shall not include Deemed Section 125 Compensation. "Deemed Section 125 Compensation" is an amount that is excludable under Section 106 of the Code that is not available to a Participant in cash in lieu of group health coverage under a Section 125 of the Code arrangement solely because the Participant is unable to certify that he or she has other health coverage. Amounts are Deemed Section 125 Compensation only if the Employer does not request or otherwise collect information regarding the Participant's other health coverage as part of the enrollment process for the health plan.

5.3(h) For purposes hereof, the rules of Section 415 of the Code are incorporated by reference for purposes of determining "Annual Additions" and applying the "415 Limitations".

5.4 Additional Limitations on Annual Additions Where Employer Maintains More Than One Plan.

5.4(a) If any Participant is or has been a participant in another Qualified Defined Contribution Plan, the limitations contained in paragraph 5.3 shall be appropriately adjusted when and as required by Section 415 of the Code which provisions are incorporated by reference and shall control over any contrary or omitted or inconsistent provisions in the Plan.

5.4(b) If any Participant is or has been a participant in more than one Qualified Defined Contribution Plan (whether or not terminated), the limitations under Section 415 of the Code apply as if all such Qualified Defined Contribution Plans were one plan. The following rules shall also apply:

(i) In the event that the 415 Limitations would otherwise be exceeded for a Limitation Year, the applicable limitation shall be applied for such Participant by limiting the allocation of Annual Additions to the accounts of such Participant in the following order: first, allocations under all plans not hereinafter described, then profit sharing plan allocations then money purchase pension plan allocations, then target benefit plan allocations, and lastly welfare benefit fund and individual medical benefit account allocations.

(ii) If such Participant is a participant in two or more plans of the same type, the applicable limitation shall be applied to contributory plans or aspects thereof first and thereafter to non-contributory plans or aspects thereof and shall be applied pro rata among such plans or aspects thereof in the same limitation category on the basis of allocations thereunder before operation of the applicable limitation.

5.4(c) Solely for purposes of paragraphs 5.3, 5.4 and 5.5, the following words and terms shall have the meaning set forth below in this subparagraph:

(i) The term “Qualified Defined Contribution Plan” means any plan maintained by the Employer or portion thereof described or treated as a defined contribution plan within the meaning of Sections 414(i) and 415(k) of the Code, including, but not limited to, defined contribution plans qualified under Section 401(a) of the Code, tax sheltered annuity contracts described in Section 403(b) of the Code, simplified employee pension plans described in Section 408(k) of the Code, any employee contribution portion of and any cost-of-living protection arrangement under a defined benefit plan qualified under Section 401(a) of the Code, any individual medical account under a pension or annuity plan within the meaning of Section 415(l) of the Code, and any welfare benefit fund within the meaning of Section 419(e) of the Code.

5.4(d) In complying with the limitations of Section 415 of the Code, all other transitional rules under any law enacting or amending Section 415 of the Code shall be applicable as determined by the Plan Sponsor.

5.5 **Special Account for Unallocated Annual Additions.**

5.5(a) *[Effective July 1, 2007]*

For Limitation Years beginning before July 1, 2007, in the event a Participant's Annual Additions for a Plan Year exceed his 415 Limitations of paragraph 5.3, the excess Annual Additions of such Participant shall be reallocated, to the extent necessary to achieve compliance with the 415 Limitations of paragraph 5.3.

5.5(b) *[Effective July 1, 2007]* For Limitation Years beginning on or after July 1, 2007, if the Administrator determines that the amount of a Participant's Annual Additions exceed the limitations set forth herein, the excess Annual Additions shall be corrected as permitted under the Internal Revenue Service's Employee Plans Compliance Resolution System ("EPCRS"), including any successor system or program thereto, or pursuant to any other available guidance from the Internal Revenue Service or U. S. Department of the Treasury.

5.5(c) All contributions by the Employer for such Plan Year which are excess Annual Additions shall be retained as an undesignated account on the books of the Fund for allocation among the accounts of the Participants as a part of the Employer's contribution next due for the next following Plan Year. Any such amounts so used shall be treated for allocation purposes of the Plan as a part of the contribution by the Employer.

5.5(d) The undesignated special account maintained pursuant to this paragraph shall be adjusted at each Valuation Date for its share of net increase or decrease in value of the Fund, and such account shall be held in such investment vehicles as the Administrator shall direct.

5.5(e) Notwithstanding any other provisions of the Plan, no contributions by the Employer which would constitute amounts subject to the 415 Limitations of paragraph 5.3 for a Plan Year may be made to the Plan until any balance at the beginning of such Plan Year in the undesignated account maintained pursuant to this paragraph 5.5 has been allocated among the accounts of Participants.

5.6 *[Effective January 19, 2006]* **Special Rules for Reemployed Veterans.**

5.6(a) Notwithstanding any other provision of the Plan, the following special rules shall apply in order to provide Make-up Contributions to the Plan on behalf of Reemployed Veterans:

- (i) Make-up Contributions shall be made to the Plan by the Employer on behalf of a Reemployed Veteran, and allocated to the appropriate account of the affected Participant's Accrued Benefit, in such amount and such manner and at such time or times as is required by USERRA. In accordance with the requirements of USERRA, the Plan Administrator may establish procedures for determining the proper timing and ordering of Make-up Contributions and other contributions made under the Plan and for determining the time periods during which Make-up Contributions may be made when a Reemployed Veteran has multiple periods of Qualified Military Service.

(ii) Make-up Contributions with respect to a Reemployed Veteran shall not be subject to any otherwise applicable contribution limits under Sections 402(g), 402(h), 403(b), 408, 415, or 457 of the Code as applied with respect to the Plan Year or taxable year, as applicable to the relevant section of the Code, in which the contribution is made. A Make-up Contribution shall not be taken into account in applying the contribution limits to any other contribution made during the Plan Year or taxable year, as applicable to the relevant section of the Code. Make-up Contributions shall not exceed the aggregate amount of contributions that would have been permitted under the Plan contribution limits for the Plan Year or taxable year, as applicable to the relevant section of the Code, to which the contribution relates had the Reemployed Veteran continued to be employed by the Employer during the period of his Qualified Military Service.

(iii) Compensation to be used for purposes of determining Make-up Contributions with respect to a period of Qualified Military Service shall mean the Compensation (but based on rate of pay) which the Reemployed Veteran would have received but for his Qualified Military Service. If a Reemployed Veteran's pay is not reasonably certain, the Reemployed Veteran's Compensation shall then be his average Compensation for the 12-month period (or actual shorter period of employment) immediately preceding his Qualified Military Service.

(iv) Qualified Military Service of a Reemployed Veteran shall be counted as service for purposes of participation and benefit accrual under the Plan. Additionally, the time period between the end of the Reemployed Veteran's Qualified Military Service and his return to the Employer (including the time period spent recovering from an injury or illness as required under USERRA) shall be counted as Service for purposes of participation and benefit accrual under the Plan.

5.6(b) Reserved.

5.6(c) *[Effective January 1, 2007]* To the extent required by USERRA or Section 401(a)(37) of the Code for purposes of determining vesting in Accrued Benefits and entitlement to death benefits under the Plan, in the event a Participant ceases to be an Employee in order to perform Qualified Military Service and dies on or after January 1, 2007 while performing Qualified Military Service, the Participant's death shall be considered to have occurred while he was an Employee and, if he ceased to be an Eligible Employee in order to perform Qualified Military Service, while he was an Eligible Employee so that his Beneficiaries are entitled to any additional benefits provided under the Plan (other than benefit accruals relating to the period of Qualified Military Service unless otherwise expressly provided), including without limitation any additional or enhanced vesting or death benefits, had the Participant resumed employment with the Employer and then terminated employment on account of death. If any benefit is due by reason of this subparagraph and the Participant's otherwise non-vested Accrued Benefit has been forfeited, the additional account balance that is due shall be restored out of forfeitures under the Plan or, if none, by a special contribution by the Employer.

5.6(d) [Effective January 1, 2009] Effective for Plan Years beginning on or after January 1, 2009, for purposes of the Plan, Compensation (but only to the extent the Differential Wage Payments to the individual in question, if an Employee, would otherwise be included in Compensation) and Total Compensation includes Differential Wage Payments and a person receiving a Differential Wage Payment from an Employer shall be considered an Employee of that Employer. A "Differential Wage Payment" is any payment which is made to an individual by an Employer with respect to any period during which the individual is performing Qualified Military Service while on active duty for a period of more than thirty (30) days and which represents all or a portion of the wages the individual would have received from an Employer if the individual were performing services for the Employer.

5.6(e) For purposes of this paragraph, the following terms have the following meanings:

(i) "Make-up Contributions" means the contributions which are required to be made to the Plan for a Reemployed Veteran pursuant to USERRA and Section 414(u) of the Code. These contributions generally are the contributions by the Employer that would have accrued to the Reemployed Veteran under the Plan, but for his absence due to his Qualified Military Service. Neither the Make-up Contribution obligation nor this paragraph requires that any earnings be credited to the account of a Reemployed Veteran with respect to any Make-up Contribution before such contribution is actually made.

(ii) "Qualified Military Service" means any service in the uniformed services (as defined under USERRA) by any individual if such individual is entitled to reemployment rights under USERRA with respect to such service and to the Employer.

(iii) "Reemployed Veteran" means a person who is or, but for his Qualified Military Service, would have been a Participant at some time during his Qualified Military Service and who is entitled to the restoration benefits and protections of USERRA with respect to his Qualified Military Service and the Plan.

(iv) "USERRA" means the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended, and the final regulations and any other applicable guidance issued thereunder.

ARTICLE VI

Accounts and Investments

6.1 **Investment Direction.** At the time an Employee becomes a Participant and at such other times as the Plan Administrator may determine, the Participant shall choose among the various investment vehicles provided for the investment of his Accrued Benefit.

6.1(a) Thereafter, and with respect to any existing Accrued Benefit, the Participant (and, when applicable, each Beneficiary or Alternate Payee) may, subject to the consent of the Plan Administrator, direct any prior investment of his Accrued Benefit be liquidated, sold, or otherwise disposed of with the proceeds reinvested in such manner as the Participant may designate in accordance with the foregoing provisions of this subparagraph.

6.1(b) Notwithstanding that this Plan's procedure may permit the Agent to receive investment instructions, any investment direction is not effective unless and until actually delivered in good form to and accepted by the Plan Administrator or the Agent.

6.1(c) *[Effective July 1, 2005]* All investment directions shall be subject to any and all applicable restrictions imposed by the various investment vehicles.

6.2 **Authority to Act.** During the Participant's life, the Participant shall direct the investment of his Accrued Benefit. If a Plan Approved Domestic Relations Order is in place entered prior to January 1, 2002, the Alternate Payee shall direct the investment of that portion of the Participant's Accrued Benefit assigned to such Alternate Payee pursuant to the order. During the Participant's disability or incompetence, the person who has authority to act for the Participant under a power-of-attorney accepted by the Plan Administrator or the person that is duly appointed and currently serving conservator or guardian of the estate of the Participant shall direct investment of the Participant's Accrued Benefit. After the Participant's death, the Beneficiary shall direct the investment of his Accrued Benefit or each Beneficiary shall direct the investment of his segregated account.

6.3 **Investment Direction Must be in Writing.** Each investment direction must be in writing and shall not be proper unless the writing is signed by the Participant (and, when applicable, each Beneficiary or Alternate Payee). Except as otherwise specified by the Agent's investment direction procedure, "writing" and "signed" shall be construed according to paragraph 14.9, subject to any security procedures required by the Agent. Without limiting the comprehensive effect of the above, a signed writing includes, to the extent permitted by the applicable investment, a proper communication made in a manner prescribed by the Agent.

6.4 **Earnings or Loss to Accrued Benefit.**

6.4(a) As of each Valuation Date, there shall be credited to the Accrued Benefit an additional amount equal to the earnings on such account, which additional amount shall include interest, dividends, gain or loss on the sale of any investment, or any other increase or decrease in value, income, loss or earnings, as the case may be.

6.4(b) To the extent that any account is under an unallocated investment, all income, gains, losses, other elements of investment return or contract value, and expenses shall be allocated as provided by a procedure adopted by the Plan Administrator, which may be an agreement between the Plan Administrator and the Agent.

6.5 **Failure to Give Investment Direction.** If at any time a Participant (and, when applicable, each Beneficiary or Alternate Payee) fails to exercise his duty of investment direction (or an investment direction is refused), the Plan Administrator shall, to the extent of the failure of proper investment direction, cause the account or applicable sub-account(s) or segregated account to be invested as specified by a procedure adopted by the Plan Administrator.

6.6 **Investment Direction During a Domestic Relations Matter.**

6.6(a) Notwithstanding any notice to the Plan Administrator (or to any other person dealing with or performing services regarding the Plan) that a domestic relations order or similar court order relating to the Plan is or may be presented, the Participant shall continue to exercise his duty of investment direction as required by the Plan unless a final court order expressly provides otherwise and the Plan Administrator does not challenge, contest, or appeal the court order.

6.6(b) If such court order provides for an Alternate Payee (or any person other than the Participant) to have the right of investment direction under the Plan, the Plan Administrator may give effect to that court order even contrary to the Plan if the Plan Administrator does not challenge, contest, or appeal the court order.

6.7 **Expenses.** *[Effective July 1, 2010]* All costs and expenses incurred by the Plan Sponsor in connection with investments shall be borne by the appropriate account(s) and appropriately reflected in the balance thereof. Administrative expenses may be paid by Participants, the Employer and by forfeitures or other amounts held in unallocated accounts within the Plan as determined by the Plan Administrator.

6.8 **Plan Administrator Relieved from Fiduciary Responsibility.** The Plan Administrator shall have all powers with respect to such invested funds as granted by the Enabling Statute. Neither the Commonwealth, the Board of Trustees of the Plan Sponsor, the employees of the Plan Sponsor, nor the Investment Advisory Committee of the Plan Sponsor shall incur any liability to any Participant, Beneficiary, or other party with respect to the investment of, or return on, any funds to which a Participant or any Beneficiary may at any time become entitled.

6.9 **Statement of Accrued Benefit.** Within a reasonable period of time after each reporting period, not less often than quarterly, the Plan Administrator or Agent shall provide each Participant (and, when applicable, each Beneficiary, or Alternate Payee) a statement of the balance as of such date in the accounts including the nature and value of any assets or investments used for the purpose of valuing the accounts.

6.10 **Equitable Adjustment in Case of Error or Omission.** Where an error or omission is discovered in the account of the Participant, the Plan Administrator or Agent shall be authorized to make such equitable adjustment as it deems appropriate.

ARTICLE VII
Retirement Dates

7.1 *[Effective July 1, 2010]* **Normal Retirement Date.**

7.1(a) In the case of a Pre-July 1, 2010 Participant, the Normal Retirement Date of a Participant shall be the first day of the calendar month coinciding with or next following the date on which the Participant attains his Normal Retirement Age of sixty-five (65).

7.1(b) In the case of a Post-June 30, 2010 Participant, the Normal Retirement Date of a Participant shall be the first day of the calendar month coinciding with or next following the date on which the Participant attains his Social Security Retirement Age. For purposes hereof, "Social Security Retirement Age" means age determined as follows:

Year of Birth	Social Security Retirement Age
Years through 1937	65
1938	65 + 2 months
1938	65 + 4 months
1940	65 + 6 months
1941	65 + 8 months
1942	65 + 10 months
1943 through 1954	66
1955	66 + 2 months
1956	66 + 4 months
1957	66 + 6 months
1958	66 + 8 months
1959	66 + 10 months
1960 and beyond	67

7.2 *[Effective July 1, 2010]* **Early Retirement Date.**

7.2(a) In the case of a Pre-July 1, 2010 Participant, a Participant (i) who has attained the age of fifty-five (55) years while an Employee and has completed at least five (5) years of creditable service or (ii) who has attained the age of fifty (50) years while an Employee and has completed at least ten (10) years of creditable service, may retire from the employment of the Employer prior to his Normal Retirement Date, and his Early Retirement Date shall be the first day of the calendar month coinciding with or next following the date on which he ceases to be employed. For purposes hereof, years of creditable service are determined in the same manner as under VRS.

7.2(b) In the case of a Post-June 30, 2010 Participant, a Participant who has attained the age of sixty (60) years while employed and has completed at least five (5) years of creditable service may retire from the employment of the Employer prior to his Normal Retirement Date, and his Early Retirement Date shall be the first day of the calendar month coinciding with or next following the date on which he ceases to be employed. For

purposes hereof, years of creditable service are determined in the same manner as under VRS.

7.3 **Delayed Retirement Date.** A Participant who continues in the active employment of the Employer beyond his Normal Retirement Date shall continue to participate in the Plan, and his Delayed Retirement Date shall be the first day of the calendar month coinciding with or next following the date of termination of his employment with the Employer.

ARTICLE VIII **Death Benefits**

8.1 **Death after Benefit Commencement.** If a Participant dies after his Accrued Benefit has begun to be paid to him, the only benefits payable under the Plan after his death shall be those, if any, provided under the form of payment being made to him at his death.

8.2 **Death before Benefit Commencement.** If a Participant dies before his Accrued Benefit has begun to be paid to him, his Accrued Benefit under the Plan shall be paid to his Beneficiary at the time and in the manner described in ARTICLE IX.

8.3 **Beneficiary Designation.** The Participant shall be entitled to designate a Beneficiary hereunder by filing a designation in writing with the Plan Administrator on the form provided for such purpose. Any Beneficiary designation made hereunder shall be effective only if signed and dated by the Participant and delivered to the Plan Administrator prior to the time of the Participant's death. Any Beneficiary designation hereunder shall remain effective until changed or revoked hereunder.

8.3(a) Any Beneficiary designation may include multiple, contingent or successive Beneficiaries, a trust, and may specify the proportionate distribution to each Beneficiary. The Participant shall designate each Beneficiary by name. Notwithstanding the rule that a Participant shall designate each Beneficiary by name, if the Plan Administrator, in its sole discretion, finds that a Beneficiary designation sufficiently describes a trust, that Beneficiary designation will be construed as naming the duly appointed and currently acting trustee of that trust.

8.3(b) A Beneficiary designation may be changed by the Participant at any time, or from time to time, by filing a new designation in writing with the Plan Administrator.

8.3(c) If the Participant dies without having designated a Beneficiary, or if the Beneficiary so designated has predeceased him, the Participant's Beneficiary shall be deemed to be:

- (i) The Participant's surviving spouse, or

- (ii) if none, his children and descendants of his deceased children, per stirpes or
- (iii) if none, his parents, equally if both living, or
- (iv) if none, the duly appointed executor or administrator of his estate, or
- (v) if none the next of kin entitled to inherit under the laws of the his domicile at the time of his death.

If a Beneficiary of the Participant shall survive the Participant but shall die before the Accrued Benefit hereunder has been distributed, then, absent any other provision by the Participant, the unpaid balance thereof shall be distributed to the estate of the deceased Beneficiary.

ARTICLE IX **Distributions**

9.1 Time of Payment.

9.1(a) Except as provided in clause (ii) below, the Accrued Benefit of a Participant shall become payable to the Participant, if then alive, or otherwise to his Beneficiary, at the time elected by the Participant. Such time may be:

- (i) No earlier than his severance from employment with the Employer; and
- (ii) No later than the April 1 (sometimes referred to as the “Required Beginning Date”) following the calendar year in which occurs the later of the date the Participant attains the age seventy and one-half (70-1/2), or the date the Participant retires from the service of the Employer or otherwise ceases to be employed by the Employer. If the Participant has not begun payments by the Required Beginning Date, payments will automatically commence at that time.

9.1(b) The Accrued Benefit of a Participant who is deceased before such Accrued Benefit commences to be paid to him shall become payable to his Beneficiary at the time elected by such Beneficiary. Such payments may commence as soon as possible after the date of the Participant’s death but no later than the time described in clauses (ii) or (iii) of subparagraph 9.1(d). If the Beneficiary has not begun payments by the date described in clauses (ii) or (iii) of subparagraph 9.1(d), payments will automatically commence at the applicable latest time.

9.1(c) With respect to a Plan Approved Domestic Relations Order approved by the Plan prior to January 1, 2002, unless the Plan Approved Domestic Relations Order is more restrictive or the Alternate Payee requests a lump sum payment earlier, an Alternate Payee may make an election regarding the Alternate Payee’s distribution commencement

date within the same time frame and in the same manner as the Participant to whom the Accrued Benefit is attributable. If no election is made the default distribution commencement date described in clause (ii) of subparagraph 9.1(a) shall apply. For a Plan Approved Domestic Relations Orders approved by the Plan on or after January 1, 2002, the distribution to the Alternate Payee shall be made as soon as reasonably practical following such approval.

9.1(d) Notwithstanding the foregoing provisions of this paragraph, a Participant, or the Beneficiary of a Participant who dies before his Accrued Benefit becomes payable, may elect a later date on which such Accrued Benefit shall become payable. Such later date shall not be later than:

- (i) In the case of an election by a Participant, the latest time for payment under clause (ii) of subparagraph 9.1(a);
- (ii) In the case of an election by a Beneficiary who is the Participant's spouse, the later of:
 - (A) The end of the fifth (5th) calendar year following the calendar year in which the Participant's death occurs, or
 - (B) The end of the calendar year in which the Participant would have attained the age of seventy and one-half (70-1/2); and
- (iii) In the case of an election by a Beneficiary who is not the Participant's spouse, the end of the fifth (5th) calendar year following the calendar year in which the Participant's death occurs.

Such election shall be in writing, executed and filed with the Administrator at least thirty (30) days (or such shorter period as the Administrator may permit on a uniform and non-discriminatory basis) before the date such Accrued Benefit otherwise becomes payable, and it shall set forth and shall be conditioned upon the payment of such Accrued Benefit in a form provided herein. Any such election may be revoked or modified at any time.

9.1(e) Notwithstanding the foregoing provisions of this paragraph, payment may be delayed for a reasonable period in the event the recipient cannot be located or is not competent to receive the benefit payment, there is a dispute as to the proper recipient of such benefit payment, additional time is needed to complete the Plan valuation adjustments and allocations, or additional time is necessary to properly explain the recipient's options.

9.2 **Form of Payment When Participant Is the Initial Recipient.**

9.2(a) The Accrued Benefit of a Participant payable to him pursuant to paragraph 9.1 shall be paid to him in the applicable manner described in this paragraph. Payments continuing after a Participant's death shall be made to his Beneficiary.

9.2(b) The Accrued Benefit shall be paid in the form of a single annuity for the life of the Participant payable in equal monthly amounts on a stated day selected by the Participant of each calendar month during the lifetime of the Participant. This annuity is sometimes referred to herein as a “Life Annuity”.

9.2(c) Each Participant shall have the right to elect, in lieu of the normal form of benefit provided in subparagraph 9.2(b), to receive his Accrued Benefit in one of the following optional forms:

(i) A joint and survivor annuity which provides for the payment to the Participant entitled thereto of equal monthly amounts on a stated day selected by the Participant of each calendar month during his lifetime and continuing as a survivor annuity for the life of the Participant’s contingent annuitant at (A) fifty percent (50%) (B) sixty-six and two thirds percent (66-2/3%) or (B) one hundred percent (100%) of the amount of each monthly payment to the Participant. These annuities are sometimes referred to herein as a “Joint and x% Survivor Annuity”. Notwithstanding the foregoing, such Joint and x% Survivor Annuity paid to a non-spouse survivor must conform to the Minimum Distribution Incidental Benefit Rules (“MDIB Rules”) described in Prop. Treas. Reg. Section 1.401(a)(9)-2.

(ii) In a Lump Sum Payment (as defined in paragraph 9.4).

(iii) In Periodic Installments (as defined in paragraph 9.5) of a fixed amount per payment or over a term certain, but in either case, not extending beyond:

(A) The life expectancy of the Participant, or

(B) If The joint life and last survivor expectancy of the Participant and his designated Beneficiary (including a Beneficiary determined by operation of subparagraph 8.3(c)).

For purposes hereof, life expectancies shall be determined at the time such Accrued Benefit becomes payable on the basis of the applicable expected return multiples under Section 72 of the Code, and life expectancies and the applicable term certain for periodic installments shall not be redetermined.

9.3 **Form of Payment When Beneficiary Is the Initial Recipient.**

9.3(a) In the event of a Participant’s death before his Accrued Benefit commences to be paid to him, the Participant’s Accrued Benefit payable pursuant to paragraph 8.1 shall be paid to his Beneficiary in the applicable manner described in this paragraph. Payments continuing after a Beneficiary’s death shall be made to the successor Beneficiary.

9.3(b) The Beneficiary shall elect in writing the form in which such Accrued Benefit is to be paid; provided that payment shall be made in the form of a Lump Sum

Payment if the Beneficiary fails to elect a form of payment. Such Accrued Benefit shall be paid either:

(i) In a single annuity for the life of the Beneficiary, payable in equal monthly amounts on the first day of each calendar month during the lifetime of such Beneficiary; provided that payments begin no later that the time described in clause (iii)(B) of this subparagraph..

(ii) In a Lump Sum Payment (as defined in paragraph 9.4).

(iii) In Periodic Installments (as defined in paragraph 9.5) of a fixed amount per payment or over a term certain, but in either case, not extending beyond the end of the fifth (5th) calendar year following the calendar year in which the Participant's death occurs unless:

(A) Such term certain does not extend beyond the life expectancy of the Beneficiary and the Beneficiary is an individual, and

(B) Such installments commence not later than (I) the end of the first (1st) calendar year following the calendar year in which the Participant's death occurs in the case such individual Beneficiary is not the Participant's spouse or (II) the later of the end of the calendar year in which the Participant would have attained the age of seventy and one-half (70-1/2) or the end of the first (1st) calendar year following the calendar year in which the Participant's death occurs in the case such individual Beneficiary is the Participant's spouse.

For purposes hereof, life expectancies shall be determined at the time such Accrued Benefit becomes payable on the basis of the applicable expected return multiples under Section 72 of the Code, and life expectancies and the applicable term certain for periodic installments shall not be redetermined.

9.4 **Lump Sum Payments.** The term "Lump Sum Payment" generally means a single payment of the entire Accrued Benefit or, when combined with another form of payment, the designated portion of the entire Accrued Benefit. An Accrued Benefit of a Participant payable in the form of a Lump Sum Payment shall be determined as of the Valuation Date (or other time of valuation hereunder) immediately preceding the date of payment to which shall be added any contributions or other adjustments allocated after such Valuation Date (or other time of valuation hereunder) and from which shall be subtracted any distributions or other adjustments since such Valuation Date (or other time of valuation hereunder). In the event an Accrued Benefit is to be paid in a Lump Sum Payment and the amount thereof has not been determined, the Administrator is authorized to make one or more interim payments prior to the time the amount of such Lump Sum Payment is finally determined.

9.5 **Periodic Installments.**

9.5(a) The term “Periodic Installments” means in the case of payments over a term certain, periodic payments in amounts determined by the Administrator and paid at least annually. Each installment paid to a Participant or to a Beneficiary shall be determined pursuant to a fractional method under which the amount of each installment is equal to the quotient obtained by dividing the amount of such Participant’s Accrued Benefit determined as though a Lump Sum Payment were being made as of the last Valuation Date (or other time of valuation hereunder) immediately preceding the date of payment of such installment by the number of installment payments then remaining to be made. In the case of payments of a fixed amount per payment and subject to the minimum distribution provisions of Section 401(a)(9) of the Code, periodic payments in the amount and frequency (at least annually) determined by the Participant upon election of the form of payment and paid until the Accrued Benefit has been completely distributed. The last payment in the series may be less than the fixed amount in order to clear the balance of the Accrued Benefit.

9.5(b) In the event an Accrued Benefit is to be paid in the form of Periodic Installments over a term certain and the amount of any installment has not been determined, the Administrator is authorized to make one or more interim payments prior to the time the amount of such installment is finally determined.

9.5(c) Upon the death of a Participant after his Accrued Benefit becomes payable in Periodic Installments, the amounts of any Periodic Installments remaining unpaid shall be paid to his Beneficiary over the remaining term certain for such installments subject to such advance or acceleration thereof permitted hereunder in the case of payments of a term certain or until the account is completely distributed in the case of payments of a fixed amount.

9.5(d) Notwithstanding the foregoing, if a Participant dies before the April 1 following the calendar year in which he reaches or would reach age seventy and one-half (70-1/2) and is receiving at the time of his death, Periodic Installments, the amount of any Periodic Installment shall be redetermined to the extent required to satisfy the minimum distribution requirement of Section 401(a)(9) of the Code.

9.6 Advance on or Acceleration of Deferred Payment or Change to Periodic Installments and Suspension of Payment. *[Effective July 1, 2005]*

9.6(a) If distribution of a Participant’s Accrued Benefit has been deferred or is being made from the Fund in the form of Periodic Installments, payment of all or part of any such remaining Accrued Benefit may be made to the Participant or to the Beneficiary entitled to benefits prior to the scheduled time for payment upon written application delivered to the Administrator. If distribution of a Participant’s Accrued Benefit is being made from the Fund in the form of Periodic Installments, payment of all or part of any such remaining Accrued Benefit may be delayed or decreased upon written application delivered to the Administrator, provided the requirements of paragraph 9.2(c) or 9.3(b) continue to be met following the change in payment. A Participant or Beneficiary may make up to two (2) changes or withdrawals in any calendar year without incurring a

charge. An administrative fee may be applied to changes or withdrawals in excess of two (2).

9.6(b) If a Participant is at any time in service as an employee in a position covered for retirement purposes under the provisions of Chapters 1, 2, 2.1, or 3 of Title 51.1 of the Code of Virginia, his benefit payments under the Plan shall be suspended while so employed; provided, however, reemployment shall have no effect on the payment if the benefits are being paid in an annuity form under an annuity contract purchased with the Participant's his account balance.

9.7 **Plan to Plan Direct Rollover as a Distribution Option.**

9.7(a) *[Effective January 1, 2010 Sixth Amendment supersedes previous amendment which was Effective January 1, 2007]* Notwithstanding any contrary provision of the Plan, but subject to any de minimis or other exceptions or limitations provided for under Section 401(a)(31) of the Code:

(i) Any prospective recipient (whether a Participant, a surviving spouse or a current or former spouse who is an alternate payee under a Plan Approved Domestic Relations Order) of a distribution from the Plan which constitutes an "eligible rollover distribution" (to the extent otherwise includible in the recipient's gross income) may direct the Trustee to pay the distribution directly to an "eligible retirement plan";

(ii) Effective January 1, 2006 (or any later effective date permitted by the Internal Revenue Service and utilized by the Administrator), if (A) the present value of the entire non-forfeitable Accrued Benefit payable to a Participant exceeds \$1,000, (B) the Participant has not attained the later of his Normal Retirement Age or the age of sixty-two (62) and (C) the Participant does not either consent in writing to a distribution to him (as opposed to a rollover to an "eligible retirement plan") or direct in writing the distribution be made to a specified "eligible retirement plan" or plans, then any "eligible rollover distribution" to the Participant shall be made by the Trustee's paying the distribution directly to an "eligible retirement plan" which is an individual retirement plan in a direct rollover to the individual retirement plan on behalf of the Participant (an "automatic rollover"). This clause does not apply to any person who is not a Participant;

(iii) Effective for distributions made after December 31, 2006 and prior to the Plan Year beginning in 2010, any non-spouse designated Beneficiary within the meaning of Section 401(a)(9)(E) of the Code who is a prospective recipient of a distribution from the Plan that would be an eligible rollover distribution, but for the fact that the recipient is not a Participant or a Participant's surviving spouse or current or former spouse who is an alternate payee under a qualified domestic relations order, may direct the Trustee to pay the distribution directly to an "inherited IRA;" and

(iv) Effective for distributions made in Plan Years beginning on or after January 1, 2010, any non-spouse designated Beneficiary within the meaning of Section 401(a)(9)(E) of the Code who is a prospective recipient of an “eligible rollover distribution” from the Plan may direct the Trustee to pay the distribution directly to an “inherited IRA.”

9.7(b) *[Effective January 1, 2010 Sixth Amendment supersedes previous amendment which was Effective January 1, 2007]* For purposes hereof, the following terms have the meanings assigned to them in Section 401(a)(31) of the Code and, to the extent not inconsistent therewith, shall have the following meanings:

(i) The term “eligible retirement plan” means any of the following, as applicable:

(A) A defined contribution plan which is either an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code (other than an endowment contract), an annuity plan described in Section 403(a) of the Code, or a qualified trust described in Section 401(a) of the Code, that accepts the prospective recipient’s eligible rollover distribution.

(B) For distributions made before January 1, 2002; in the case of an eligible rollover distribution payable to a Participant’s surviving spouse, an “eligible retirement plan” means only an individual retirement account or individual retirement annuity.

(C) Effective for distributions made after December 31, 2001, an eligible retirement plan shall also mean an annuity contract described in Section 403(b) of the Code and 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 which agrees to separately account for amounts transferred into such plan from this Plan.

(D) Effective for distributions made after December 31, 2001, the definition of eligible retirement plan applicable to a Participant shall also apply in the case of a distribution to a Participant’s surviving spouse and to a Participant’s spouse or former spouse who is the alternate payee under an Approved Domestic Relations Order.

(E) Effective for distributions made after December 31, 2007, an individual retirement plan described in section 408A of the Code (sometimes referred to as a Roth IRA) provided that for tax years beginning before January 1, 2010, the recipient does not have modified adjusted gross income in excess of \$100,000 and is not married filing a separate return, both as determined under Section 408A(c)(3)(B) of the Code.

(F) For distributions made in Plan Years beginning on or after January 1, 2010, in the case of an eligible rollover distribution payable to a non-spouse designated Beneficiary within the meaning of Section 401(a)(9)(E) of the Code, an “eligible retirement plan” means only an “inherited” IRA.

(ii) The term “eligible rollover distribution” means any distribution made after December 31, 1992 other than any of the following:

(A) A distribution which is one of a series of substantially equal periodic payments (not less frequently than annually) made either for the life (or life expectancy) of the recipient or the joint lives (or joint life expectancies) of the recipient and his beneficiary who is an individual or for a specified period of ten (10) or more years,

(B) A distribution to the extent it is required under the minimum distribution requirement of Section 401(a)(9) of the Code; provided, however, that if an amount would have been a required minimum distribution for calendar year 2009 but for the waiver of required minimum distributions for calendar year 2009 (if applicable to the Plan), then the Administrator may offer the recipient of such distribution a direct rollover to an eligible retirement plan, but the distribution is not subject to federal mandatory income tax withholding if the recipient declines the direct rollover,

(C) That portion of a hardship withdrawal attributable to pre-tax elective contributions or other contributions subject to the withdrawal restrictions of Section 401(k)(2)(B)(i)(IV) of the Code,

(D) For distributions made after December 31, 2001, any amount that is distributed on account of hardship, or

(E) Any other amount which is not considered an eligible rollover distribution for purposes of Section 402(c)(4) of the Code with respect to the Plan.

Effective for distributions made after December 31, 2001, 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. However, such portion may be paid only to an individual retirement account or annuity described in Section 408(a) or (b) of the Code, or to a qualified defined contribution plan described in Section 401(a) or 403(a) of the Code that agrees to separately account for amounts so transferred and earnings thereon, 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. Effective for distributions made after December 31, 2006, such portion may also be paid to an annuity contract described in Section 403(b) of the Code or a qualified defined benefit plan described in Section 401(a) or 403(a) of the Code that agrees to separately account for amounts so transferred and earnings thereon, 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.

(iii) The term “inherited IRA” means an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code (other than an endowment contract) or, for Plan Years beginning in or after 2010, an individual retirement plan described in section 408A of the Code (sometimes referred to as a Roth IRA) established for the purpose of receiving the distribution where the individual retirement account or annuity or Roth IRA is treated as an inherited individual retirement account or annuity within the meaning of Section 408(d)(3)(C) or, as applicable, Section 409A(d)(3)(B) of the Code.

9.7(c) Any such direction shall be filed with the Administrator in such form and at such time as the Administrator may require and shall adequately specify the eligible retirement plan to which the payment shall be made.

9.7(d) The Trustee shall make payment as directed only if the proposed transferee plan will accept the payment.

9.7(e) Any such plan to plan transfer shall be considered a distribution option under this Plan and shall be subject to all the usual distribution rules of this Plan (including but not limited to the requirement an advance explanation of the option).

9.7(f) The Administrator is authorized in its discretion, applied on a uniform and non-discriminatory basis, to apply any discretionary de minimis or other discretionary exceptions or limitations provided for under Section 401(a)(31) of the Code in effecting or declining to effect plan to plan transfers hereunder.

9.7(g) *[Effective January 1, 2006]* Within a reasonable time (generally not more than ninety (90) nor less than thirty (30) days) before the benefit payment date of a prospective recipient of an eligible rollover distribution from the Plan, the Administrator shall provide the prospective recipient with a written explanation of the rollover and tax rules required by Section 402(f) of the Code. In addition, where the prospective distribution is described in clause (ii) of subparagraph 9.7(a), the Administrator shall provide the written notice to the prospective recipient required by Sections 401(a)(31)(B)(i) of the Code (either separately or at the time the notice under Section 402(f) of the Code is provided) that the automatic rollover to an individual retirement plan pursuant to clause (ii) of subparagraph 9.7(a) may be transferred to another individual retirement plan.

9.7(h) *[Effective January 1, 2006]* In the case of an automatic rollover described in clause (ii) of subparagraph 9.7(a):

(i) Unless otherwise determined by the Plan Sponsor by written agreement with another Plan fiduciary, the Administrator shall determine the individual retirement plan to receive the automatic rollover and the initial investment under the individual retirement plan in which the automatic rollover is invested;

(ii) The automatic rollover shall be made to an individual retirement plan within the meaning of Section 7701(a)(37) of the Code;

(iii) In connection with the automatic rollover, the Administrator shall enter into a written agreement with the individual retirement plan provider that provides:

(A) The rolled-over funds shall be invested in an investment product designed to preserve principal and provide a reasonable rate of return, whether or not such return is guaranteed, consistent with liquidity;

(B) For purposes of clause (iii)(A) of this subparagraph, the investment product selected for the rolled-over funds shall seek to maintain, over the term of the investment, the dollar value that is equal to the amount invested in the product by the individual retirement plan;

(C) The investment product selected for the rolled-over funds shall be offered by a state or federally regulated financial institution, which shall be either (I) a bank or savings association, the deposits of which are insured by the Federal Deposit Insurance Corporation, (II) a credit union, the member accounts of which are insured within the meaning of Section 101(7) of the Federal Credit Union Act, (III) an insurance company, the products of which are protected by State guaranty associations, or (IV) an investment company registered under the Investment Company Act of 1940;

(D) All fees and expenses attendant to an individual retirement plan, including investments of the individual retirement plan (e.g., establishment charges, maintenance fees, investment expenses, termination costs and surrender charges) shall not exceed the fees and expenses charged by the individual retirement plan provider for comparable individual retirement plans established for reasons other than the receipt of a rollover distribution subject to the provisions of Section 401(a)(31)(B) of the Code; and

(E) The recipient on whose behalf the Plan makes an automatic rollover shall have the right to enforce the terms of the contractual

agreement establishing the individual retirement plan, with regard to his rolled-over funds, against the individual retirement plan provider, and.

(iv) Participants shall be furnished a description of the Plan's automatic rollover provisions effectuating the requirements of Section 401(a)(31)(B) of the Code, including an explanation that the mandatory distribution in the form of an automatic rollover will be invested in an investment product designed to preserve principal and provide a reasonable rate of return and liquidity, a statement indicating how fees and expenses attendant to the individual retirement plan will be allocated (i.e., the extent to which expenses will be borne by the account holder alone or shared with the distributing Plan or Plan Sponsor), and the name, address and phone number of a plan contact (to the extent not otherwise provided in the description) for further information concerning the Plan's automatic rollover provisions, the individual retirement plan provider and the fees and expenses attendant to the individual retirement plan.

It is intended that the automatic rollover provisions of the Plan satisfy the safe harbor therefore Section 51.1-124.30.F of the Code of Virginia, and such provisions shall be interpreted and administered in accordance therewith. There are no mandatory cash-out amounts described in the Plan which would require automatic rollovers as described in this paragraph.

9.8 Notice and Election Procedures Regarding Payment.

9.8(a) Any election authorized by subparagraph 9.2(c) and 9.3(b) and any designation of a date of payment by a Participant or Beneficiary shall be in writing, shall clearly indicate the election or designation being made, and shall be filed with the Administrator and in accordance with the procedures provided in the following subparagraphs to this paragraph.

9.8(b) Within a reasonable time before a Participant's Accrued Benefit is to be paid to him, the Administrator shall by mail or personal delivery provide the Participant with a written explanation of:

(i) The terms and conditions of the applicable forms of payment; including the financial effects of the applicable forms of payment.

(ii) The Participant's right to delay receipt of his Accrued Benefit until such later date allowed under paragraph 9.1, including the right to modify or revoke any election thereunder; and

(iii) The Participant's right to obtain an advance on or acceleration of payment of his Accrued Benefit or to change any periodic installment as provided under paragraph 9.6.

9.8(c) Within a reasonable time before the Accrued Benefit of a Participant who died prior to commencement of payment of his Accrued Benefit is to be paid, the

Administrator shall by mail or personal delivery provide the Participant's Beneficiary with a written explanation of:

- (i) The terms and conditions of the applicable forms of payment.
- (ii) The Beneficiary's right to delay receipt of the Participant's Accrued Benefit until such later date allowed under paragraph 9.1, including the right to modify or revoke any election thereunder.
- (iii) The Beneficiary's right to obtain an advance on or acceleration of payment of the Participant's Accrued Benefit or to change any periodic installment under paragraph 9.6.

9.9 **Benefit Determination and Payment Procedure.**

9.9(a) The Administrator shall make all determinations concerning eligibility for benefits under the Plan, the time or terms of payment, and the forms or manner of payment to the Participant or the Participant's Beneficiary, in the event of the death of a Participant. The Administrator shall promptly notify the Trustee of each such determination that benefit payments are due or should cease to be made and provide to the Trustee all other information necessary to allow the Trustees to carry out said determination, whereupon the Trustee shall pay or cease to pay such benefits in accordance with the Administrator's determination.

9.9(b) In making the determinations described in subparagraph 9.9(a), the Administrator shall take into account the terms of any Approved Domestic Relations Order received with respect to the Accrued Benefit of the Participant or any Death Benefit with respect to the Participant. The time and form of payment with respect to the Approved Domestic Relations Order and the time and form of payment chosen by the Participant or his Beneficiary or required by the Plan shall not be altered by the terms of the Approved Domestic Relations Order. The Administrator shall make all determinations regarding benefit payments to be made pursuant to an Approved Domestic Relations Order. Any benefit payments which may be subject to the terms of a domestic relations order received by the Administrator shall be suspended during the period the Administrator is considering whether the order is an Approved Domestic Relations Order. In the event that benefits are in pay status at the time that a domestic relations order is received, the Administrator shall promptly notify the Trustee of the amount, if any, of the benefit payments that must be suspended for the period required by the Administrator to determine the status of the order. Upon the completion of the Administrator's review or other determination of the status of the order, the Administrator shall promptly notify the Trustee of the time benefit payments are to commence and of the identity of, and the amount and form of benefits to be paid to, the person or persons to whom payment is to be made.

9.9(c) To the extent the payment provisions of the Plan are inconsistent with and violative of the requirements of Section 401(a)(9) of the Code, the provisions of Section 401(a)(9) of the Code are hereby incorporated by reference and shall control.

9.10 **Payments to Minors and Incompetents.** If a Participant or Beneficiary entitled to receive any benefits hereunder is a minor or is adjudged to be legally incapable of giving valid receipt and discharge for such benefits, or is deemed so by the Administrator, benefits will be paid to such person as the Administrator may designate for the benefit of such Participant or Beneficiary. Such payments shall be considered a payment to such Participant or Beneficiary and shall, to the extent made, be deemed a complete discharge of any liability for such payments under the Plan.

9.11 **Distribution of Benefit When Distributee Cannot Be Located.** The Administrator shall make all reasonable attempts to determine the identity and/or whereabouts of a Participant or Participant's spouse or a Participant's Beneficiary entitled to benefits under the Plan, including the mailing by certified mail of a notice to the last known address shown on the Employer's, the Administrator's or the Trustee's records. If the Administrator is unable to locate such a person entitled to benefits hereunder, or if there has been no claim made for such benefits, the Trustee shall continue to hold the benefit due such person, subject to any applicable statute of escheats.

9.12 **Minimum Distributions.**

9.12(a) Pre 2003 Minimum Distribution Requirements. With respect to distributions under the Plan made in calendar years beginning on or after January 1, 2001 but before January 1, 2003, the Plan will apply the minimum distribution requirement of Section 401(a)(9) of the Code in accordance with the regulations under Section 401(a)(9) that were proposed in January 2001, notwithstanding any provision of the Plan to the contrary. This provision shall continue in effect until the end of the last calendar year beginning before the effective date of final regulations under Section 401(a)(9) or such other date specified in guidance published by the Internal Revenue Service.

9.12(b) Post December 31, 2002 Minimum Distribution Requirements.

(i) General Rules.

(A) Effective Date. The provisions of this paragraph will apply for purposes of determining required minimum distributions for calendar years beginning with the 2003 calendar year.

(B) Precedence. The requirements of this Paragraph will take precedence over any inconsistent provisions of the Plan.

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

(ii) Time and Manner of Distribution.

(A) 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.

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

(1) If the Participant's surviving spouse is the Participant's sole Beneficiary, then distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70 1/2, if later.

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

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

(4) If the Participant's surviving spouse is the Participant's sole Beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this clause (ii)(B) of subparagraph 9.12(b), other than clause (ii)(B)(1) of subparagraph 9.12(b), will apply as if the surviving spouse were the Participant.

For purposes of this clause (ii)(B) and clause (iv) of subparagraph 9.12(b), unless clause (ii)(B)(4) of subparagraph 9.12(b) applies, distributions are considered to begin on the Participant's Required Beginning Date. If clause (ii)(B)(4) of subparagraph 9.12(b) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under clause (ii)(B)(1) of subparagraph 9.12(b). 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 clause (ii)(B)(1) of subparagraph 9.12(b)), the date

distributions are considered to begin is the date distributions actually commence.

(C) Forms of Distribution. Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the Required Beginning Date, as of the first Distribution Calendar Year distributions will be made in accordance with clauses (iii) and (iv) of this subparagraph. 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.

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

(A) 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:

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

(2) if the Participant's sole 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.

(B) Lifetime Required Minimum Distributions Continue Through Year of Participant's Death. Required minimum distributions will be determined under this clause (iii) of subparagraph 9.12(b) beginning with the first Distribution Calendar Year and up to and including the Distribution Calendar Year that includes the Participant's date of death.

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

(A) Death On or After Date Distributions Begin.

(1) Participant Survived by Beneficiary. If the Participant dies on or after the date distributions begin and there is

a Beneficiary, the minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the longer of the remaining Life Expectancy of the Participant or the remaining Life Expectancy of the Participant's Beneficiary, determined as follows:

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

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

(III) If the Participant's surviving spouse is not the Participant's sole Beneficiary, the Beneficiary's remaining Life Expectancy is calculated using the age of the Beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.

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

(B) Death Before Date Distributions Begin.

(1) Participant Survived by Beneficiary. If the Participant dies before the date distributions begin and there is a Beneficiary, the minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death

is the quotient obtained by dividing the Participant's Account Balance by the remaining Life Expectancy of the Participant's Beneficiary, determined as provided in clause (iv)(A) of subparagraph 9.12(b).

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

(3) 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 Beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under clause (ii)(B)(1) of subparagraph 9.12(b), this clause (iv)(B) will apply as if the surviving spouse were the Participant.

(v) Definitions. For purposes of this paragraph, the follow terms shall have the meaning set forth below:

(A) "Beneficiary" shall mean the individual who is designated as the Beneficiary under the Plan in accordance with Section 401(a)(9) of the Internal Revenue Code and Section 1.401(a)(9)-1, Q&A-4, of the Treasury Regulations.

(B) "Distribution Calendar Year" shall mean 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 clause (ii)(B) of subparagraph 9.12(b). The required minimum distribution for the Participant's first Distribution Calendar Year will be made on or before the Participant's Required Beginning Date. The required minimum distribution for other Distribution Calendar Years, including the required minimum distribution for the Distribution Calendar Year in which the Participant's Required Beginning Date occurs, will be made on or before December 31 of that Distribution Calendar Year.

(C) "Life Expectancy" shall mean the life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9 of the Treasury Regulations.

(D) “Participant’s Account Balance” shall mean 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. *[Added Effective January 1, 2004]* For purposes of determining the application of the Required Minimum Distributions after a Participant’s death, the Participant’s Account Balance shall be divided into separate accounts as defined in Section 1.401(a)(9)-8 of the Treasury Regulations to reflect the separate interest of each beneficiary for which the separate account is maintained.

(E) “Required Beginning Date” shall mean the date specified in subparagraph 9.1(a) of the Plan.

9.12(c) *[Effective January 1, 2009]* To the extent the payment provisions of the Plan are inconsistent with and violative of the requirements of Section 401(a)(9) of the Code, the provisions of Section 401(a)(9) of the Code are hereby incorporated by reference and shall control, including the minimum distribution and incidental benefit requirements thereunder. In this regard the Plan will apply the minimum distribution requirements of Section 401(a)(9) of the Code in accordance with a good faith interpretation as permitted by the Pension Protection Act of 2006. Notwithstanding section of the Plan, 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 receive those distributions for 2009 unless the participant or Beneficiary chooses not to receive such distributions. Participants and Beneficiaries described in the preceding sentence will be given the opportunity to elect to stop receiving the distributions described in the preceding sentence.

ARTICLE X

Withdrawals and Loans

10.1 **Withdrawals from Rollover Account.** Subject to the conditions set forth in paragraph 10.2 and notwithstanding any other provision of the Plan except the latest

time for payment under paragraph 9.1, withdrawals from the Rollover Account of a Participant may be made in accordance with the following subparagraphs.

10.1(a) A Participant who is an Employee may make withdrawals, in whole or in part, from his Rollover Account at any time.

10.1(b) *[Effective July 1, 2005]* The Rollover Account of a Participant who ceases to be an Employee may be withdrawn in whole or in part by such Participant or, if deceased, by his Beneficiary at any time after the date the Participant ceased to be an Employee and before such account commences to be paid pursuant to ARTICLE IX.

10.1(c) No withdrawals are permitted from any account other than a Rollover Account.

10.2 **Withdrawal Restrictions and Procedure.**

10.2(a) The amount of any withdrawal from any such account shall not be less than \$100, unless the Participant's account balance is less than \$100 in which case the then balance in the account may only be withdrawn. A Participant or Beneficiary may make up to two (2) withdrawals in any calendar year without incurring a charge. An administrative fee may be applied to withdrawals in excess of two (2). Withdrawals from more than one account made at the same time shall only count as one withdrawal.

10.2(b) All withdrawals shall be made only by filing a written withdrawal request form with the Administrator in which the amount of withdrawal and such other information pertaining thereto as the Administrator may deem appropriate are stated.

10.2(c) All withdrawals shall be made pro rata from investment vehicles or fund divisions in which the assets are invested.

10.2(d) In the event that a withdrawal is made from an account holding assets other than cash, assets in such account may be distributed or withdrawn, as determined by the Administrator in its discretion, and references to amounts herein shall be considered to refer to the value or the asset withdrawn, depending on the context.

10.2(e) All withdrawals shall be subject to the plan to plan direct rollover distribution option provided in paragraph 9.7.

10.3 **No Withdrawal Restoration.** Amounts withdrawn from a Rollover Account may not be restored.

10.4 **Instructions to Trustee.** The Administrator, upon determination that a requested withdrawal is permissible under the Plan, shall immediately notify the Trustee, who shall pay from the Fund the amount of the withdrawal in accordance with the Administrator's instructions and shall deduct the amount thereof from the Participant's account in the Fund designated by the Administrator.

10.5 **Loans Not Available.** Loans are not available under the Plan.

ARTICLE XI
Trust Fund

11.1 **The Trust Fund.** All assets of the Plan shall be held and invested in the Fund in accordance with this Plan and the Trust Agreement.

ARTICLE XII
Plan Administrator

12.1 **Plan Administrator.** The Plan Administrator has full and complete authority and discretion to control and manage the operation of and shall decide all matters under the Plan pursuant to the Enabling Statute. The Plan Administrator has any and all powers as may be necessary or advisable to discharge its duties under the Plan including the power and authority to interpret the terms of the Plan. The Plan Administrator does not have any duties concerning a Participant's selection of plan investments.

12.2 **Responsibilities of Plan Administrator.** The Plan Administrator is responsible for performing all duties required for the operation of the Plan, and is responsible for supervising the performance of any other persons who may assist in the performance of the Plan Administrator's responsibilities pursuant to the Enabling Statutes.

12.3 **Information from Employer.** To enable the Plan Administrator to perform its responsibilities, the Employer(s) shall promptly provide to the Plan Administrator complete and accurate information on any matter that is required by the Plan Administrator in order to make any decision or determination under the Plan. The Plan Administrator shall rely upon this information as supplied by the Employer, and shall have no duty or responsibility to verify this information.

12.4 **Plan Administrator May Delegate or Contract.** Except as prohibited by the Enabling Statute or other State or local law, the Plan Administrator may, except when expressly prohibited by this Plan, delegate any of its duties to any Employer, or to any officers, employees, or agents of any kind. Except as prohibited by the Enabling Statute or other State or local law, the Plan Administrator may, except when expressly prohibited by this Plan, contract any of its duties to the Agent or otherwise.

12.5 **Plan Services.** The Plan Administrator may contract with any person to provide services to assist in the administration of the Plan. The Plan Administrator must make such contracts in compliance with the Enabling Statute and other applicable State and local law. Any person other than the Plan Administrator who performs services regarding the Plan (including but not limited to the Agent) is subject to the supervision and direction of the Plan Administrator, and does not have authority to control the operation of the Plan.

ARTICLE XIII
Amendment and Termination of Plan

13.1 **Termination of the Plan.** The Commonwealth reserves the right to terminate this Plan at any time, provided that no such termination shall reduce, suspend or terminate the Accrued Benefit otherwise payable to a Participant or Beneficiary hereunder as of the date of such termination. In the event of termination of this Plan, the various investment options provided for the Accrued Benefit, and all accounts invested therein, shall be immediately liquidated and all such Accrued Benefits shall be held in an account selected by the Plan Administrator, designed to insure the preservation of the assets of the terminated Plan. To the extent required by the exclusive benefit, any termination of the Plan shall not be effective to the extent that the amendment has the effect of causing any Plan assets to be diverted to or inure to the benefit of the Employer, or to be used for any purpose other than providing Accrued Benefits to Participants and Beneficiaries and defraying reasonable expenses of administering the Plan.

13.2 **Amendment of the Plan.** *[Effective July 1, 2008]* The Board of the Plan Sponsor may amend the Plan at any time, consistent with the Enabling Statute, provided that no such amendment shall reduce, suspend or terminate the Accrued Benefit otherwise payable to a Participant or Beneficiary hereunder as of the date of such amendment. To the extent required by the exclusive benefit, any amendment of the Plan shall not be effective to the extent that the amendment has the effect of causing any Plan assets to be diverted to or inure to the benefit of the Employer, or to be used for any purpose other than providing Accrued Benefits to Participants and Beneficiaries and defraying reasonable expenses of administering the Plan.

13.2(b) Notwithstanding the foregoing, the Board hereby delegates to the VRS Director the right to modify, alter, or amend the Plan in whole or in part to make any technical modification, alteration or amendment which in the opinion of counsel for the Plan Sponsor is required by law and is deemed advisable by the Director of VRS and to make any other modification, alteration or amendment which does not, in the view of the Director of VRS, substantially increase costs, contributions or benefits and does not materially affect the eligibility, vesting or benefit accrual or allocation provisions of the Plan. The Director shall inform the Board of any such amendment at its next regularly scheduled meeting.

ARTICLE XIV
Miscellaneous

14.1 **Non-assignability.**

14.1(a) The interests of each Participant hereunder the Plan are not subject to the claims of the Participant's creditors; and neither the Participant nor his Beneficiary, shall have any right to sell assign, transfer or otherwise convey the right to receive any payments hereunder or any interest under the Plan, which payments and interest are expressly declared to be non-assignable and non-transferable.

14.1(b) Notwithstanding the foregoing, the exceptions to the non-assignability provisions of 51.1-124.4.A of the Virginia Code shall apply to the Accrued Benefit under the Plan.

14.1(c) Neither the Employer, the Trustee, the Plan Administrator, the Agent nor any person serving under contract or otherwise with respect to the Plan shall be obligated to incur any cost to defend against or set aside any judgment, decree, or order relating to the division, attachment, garnishment, or execution of or levy upon the Participant's Accrued Benefit or any distribution, including (but not limited to) any order in any bankruptcy proceeding of any kind. Notwithstanding the foregoing, if any such person is joined in any proceeding, the party may take such action as it considers necessary or appropriate to protect any and all of its legal rights, and the Participant (or Beneficiary or Alternate Payee) shall reimburse all actual fees of lawyers and legal assistants and expenses reasonably incurred by such party.

14.2 **Binding Effect.** The Plan shall be binding upon and inure to the benefit of the Plan Sponsor, its successors and assigns, and the Participant and his heirs, executors, administrators and legal representatives.

14.3 **Construction.** The Plan is intended to be a money purchase pension defined contribution plan within the meaning of Section 401(a) of the Code and maintained by a state, political subdivision of a state or any agency or instrumentality of a state or political subdivision of a state and the provisions of the Plan shall be interpreted and administered as such. Additionally, the plan is established and maintained with the intent that the Plan conform to the applicable requirements of the Enabling Statute. The provisions of the Plan shall be interpreted whenever possible conform to the applicable requirements of the Enabling Statute. When the Enabling Statute is amended or interpreted through subsequent legislation or regulations or an attorney general opinion, the Plan should be construed as consistent with such amendment or interpretation of the applicable law.

14.4 **Gender and Number.** In construction of the Plan, the masculine shall include the feminine or neuter and the singular shall include the plural and vice-versa in all cases where such meanings would be appropriate.

14.5 **Governing Law.** The Plan shall be construed, enforced and administered in accordance with the laws of the Commonwealth of Virginia, including any law preventing an individual or person claiming through him from acquiring property or receiving benefits as a result of the death of a decedent where such individual caused the death.

14.6 **No Rights Created by Allocation.** Any allocation of contributions or investment earnings to any Account shall not cause the Participant to have any right, title, interest, in any of the Plan, except as expressly provided by the Plan.

14.7 **Service of Legal Process.** Requests for information, claims or demands, legal process, and court orders are properly delivered when delivered to the Plan Administrator's principal place of business.

14.8 **Severability.** If any provision of the Plan should for any reason be declared invalid or unenforceable by a court of competent jurisdiction, the remaining provisions shall nevertheless remain in full force and effect.

14.9 **Signatures and Broad Acceptance of Writings.**

14.9(a) Except as provided in subparagraph 14.9(b), all notices required to be given in writing and all elections, consents, applications and the like required to be made in writing, under any provision of the Plan, shall be invalid unless made on such forms as may be provided or approved by the Administrator and, in the case of a notice, election, consent or application by a Participant or Beneficiary, unless executed by the Participant or Beneficiary giving such notice or making such election, consent or application.

14.9(b) Subject to limitations under applicable provisions of the Code, the Administrator is authorized in its discretion to accept other means for receipt of effective notices, elections, consents, applications and/or other forms or communications by Participants and/or Beneficiaries, including but not limited to electronic transmissions through e-mail, voice mail, recorded messages on electronic telephone systems, and other permissible methods, on such basis and for such purposes as it determines from time to time.

14.10 **Statute of Limitations.** As to any action at law or in equity under or with respect to this Plan (other than as described by the other sentence of this paragraph), the action shall be governed by (or precluded by) the relevant statute of limitations or statute of repose for actions upon a written contract according to the internal laws (without regard to the law of conflicts) of the Commonwealth of Virginia. For any dispute that was resolved by arbitration, to the extent that the statute of limitations or statute of repose relating to any arbitration proceeding or arbitration award or any other matter relating to arbitration shall be governed by the internal laws (without regard to the law of conflicts) of the Commonwealth of Virginia.

14.11 **Conclusiveness of Employer Records.** The records of the Employer with respect to age, service, employment history, compensation, absences, illnesses and all other relevant matters shall be conclusive for purposes of the administration of the Plan.

14.12 **Right to Require Information and Reliance Thereon.** The Plan Sponsor, the Administrator and the Trustee shall have the right to require any Participant, Beneficiary or other person receiving benefit payments to provide it with such information, in writing, and in such form as it may deem necessary to the administration of the Plan and may rely thereon in carrying out its duties hereunder. Any payment to or on behalf of a Participant or Beneficiary in accordance with the provisions of the Plan in good faith reliance upon any such written information provided by a Participant or any

other person to whom such payment is made shall be in full satisfaction of all claims by such Participant and his Beneficiary; and any payment to or on behalf of a Beneficiary in accordance with the provisions of the Plan in good faith reliance upon any such written information provided by such Beneficiary or any other person to whom such payment is made shall be in full satisfaction of all claims by such Beneficiary.

14.13 **Titles and Captions**. Titles and captions and headings herein have been inserted for convenience of reference only and are to be ignored in any construction of the provisions hereof.

IN WITNESS WHEREOF, the undersigned has executed this Restatement of the Plan this 30th day of January, 2002.

THE COMMONWEALTH OF VIRGINIA
Virginia Retirement System

By: /s/ Wallace G. Harris
Wallace G. Harris
Acting Director

[Effective July 1, 2010]

APPENDIX A

**Supplemental Contributions by Employers and
Alternative Pick-up Methods**

(As of July 1, 2010)

<u>Employer</u>	<u>Post-June 30, 2010 Participants Supplemental Contribution (not to exceed 0.4%)</u>	<u>Alternative Pick-up Method Elected/ Effective Date</u>
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