



MINNESOTA STATE RETIREMENT SYSTEM

**SECTION 457(b) ELIGIBLE DEFERRED COMPENSATION PLAN
FOR GOVERNMENTAL EMPLOYERS**

Adopted By: Minnesota State Retirement System
Plan Sponsor

Minnesota Deferred Compensation Plan
Name of Plan

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TABLE OF CONTENTS
SECTION 457(b) ELIGIBLE DEFERRED COMPENSATION PLAN

		<u>Page</u>
	INTRODUCTION	4
SECTION I	DEFINITIONS	4
SECTION II	PARTICIPATION AND CONTRIBUTIONS	8
SECTION III	LIMITATIONS ON AMOUNTS DEFERRED	14
SECTION IV	LOANS	17
SECTION V	BENEFIT DISTRIBUTIONS	18
SECTION VI	ROLLOVERS AND TRANSFERS	26
SECTION VII	CREATION OF TRUST AND TRUST FUND	30
SECTION VIII	INVESTMENTS	32
SECTION IX	ADMINISTRATION	34
SECTION X	LEAVE OF ABSENCE	36
SECTION XI	AMENDMENT OR TERMINATION OF PLAN	37
SECTION XII	TAX TREATMENT OF AMOUNTS CONTRIBUTED	38
SECTION XIII	MISCELLANEOUS	39
SECTION XIV	DISCLAIMER	43
SECTION XV	INTERPRETATION	44

MINNESOTA STATE RETIREMENT SYSTEM

SECTION 457(b) ELIGIBLE DEFERRED COMPENSATION PLAN FOR GOVERNMENTAL EMPLOYERS

The State of Minnesota has established a Deferred Compensation Plan for eligible public employees pursuant to Minnesota Statutes §352.965 as provided in this Plan document. This Plan document authorizes Minnesota's public employers to implement the Plan on behalf of their employees under written or electronic agreements with employees which would qualify all deferred benefits in accordance with Section 457(b) of the Internal Revenue Code of 1986, as amended, applicable federal regulations and rulings, and Minnesota state law.

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Plan Administrator Information	The Executive Director of the Minnesota State Retirement System 60 Empire Drive Suite 300 St. Paul, MN 55103 651.296.2761
Plan Sponsor Tax ID Number	41-6111469
Name of Plan	Minnesota Deferred Compensation Plan
Plan Custodian	Great-West Trust Company, LLC 8115 East Orchard Road Greenwood Village, CO 80111
Plan Recordkeeper	Great-West Life & Annuity Insurance Company 8515 East Orchard Road Greenwood Village, CO 80111

SECTION 457(b) ELIGIBLE DEFERRED COMPENSATION PLAN

INTRODUCTION

In accordance with the provisions of §457(b) of the Internal Revenue Code of 1986, and Minnesota Statutes §352.965, the State of Minnesota hereby establishes this §457(b) Eligible Deferred Compensation Plan, hereinafter referred to as the “Plan.”

I. DEFINITIONS

- 1.01 “Account Balance” The bookkeeping account maintained with respect to each Participant which reflects the value of the deferred Compensation credited to the Participant, including the Participant’s Annual Pre-tax Contributions, the Participant’s designated Roth contributions, assets from a qualified pre-tax rollover, assets from a qualified Roth rollover, assets from a Roth in-plan conversion, the earnings or loss of the Fund (net of Fund expenses) allocable to the Participant, any transfers for the Participant’s benefit, and any distribution made to the Participant or the Participant’s Beneficiary. If a Participant has more than one Beneficiary at the time of the Participant’s death, then each beneficiary’s share of the Account Balance shall be treated as a separate account for each Beneficiary. The Account Balance includes any account established under Article VI for rollover contributions and plan-to-plan transfers made for a Participant, the account established for a Beneficiary after a Participant’s death, and any account or accounts established for an Alternate Payee (as defined in Code §414(p)(8)).
- 1.02 “Administrator” Administrator means the Minnesota State Retirement System Executive Director appointed by the Board of Directors to administer the Plan. Administrator shall not include the Recordkeeper or any company which issues policies, contracts, or investment media to the Plan in respect of a Participant.
- 1.03 “Alternate Payee” The spouse, former spouse, child or other dependent of a Participant who has acquired an interest in the Participant’s account pursuant to a Plan approved domestic relations order pursuant to section 13.02. Alternate Payees shall be treated as Beneficiaries for all purposes under the Plan except that Alternate Payees shall be allowed to request a distribution of all or a portion of their account balance at any time, subject to the terms of the Plan approved domestic relations order.
- 1.04 “Annual Deferral” The amount of the Participant’s Compensation deferred in any taxable year as a pre-tax deferral, Roth contribution, or both, if allowed by the Eligible Employer.
- 1.05 “Beneficiary” The person(s) or legal entity (or, if none, the Participant’s surviving spouse, if any, and then the participant’s estate) designated by the Participant who is entitled to receive benefits under the Plan after the death of a Participant.

- 1.06 “Code” The Internal Revenue Code of 1986, as now in effect or as hereafter amended. All citations to sections of the Code are to such sections as they may from time to time be amended or renumbered.
- 1.07 “Compensation” All compensation for services to the Employer, including salary, wages, fees, commissions, bonuses, and overtime pay, that is includible in the Participant’s gross income for the calendar year, plus amounts that would be cash compensation for services to the Employer includible in the Participant’s gross income for the calendar year but for a compensation reduction election under Code §125, 132(f), 401(k), 403(b), or 457(b) (including an election to defer compensation under Article III). To the extent permitted by Federal law and Treasury Regulations (“Treas. Regs.”) or other similar guidance, accrued bona fide sick, vacation or other leave pay may be paid by the later of two and one-half (2½) months after Participant’s Severance from Employment or by the end of the calendar year that includes the date of such Severance from Employment so long as the employee would have been able to use the leave if employment had continued.
- 1.08 “Custodian” The bank, trust company or other person, if any, selected by the Sponsor as indicated on page 3 of this Plan document and who is authorized to hold Plan assets in a custodial account in accordance with regulations issued by the Secretary of the Treasury pursuant to Code §401(f).
- 1.09 “Eligible Employee” Each natural person (individual) who is employed by an Employer; defined as follows:
- (a) an individual receiving compensation for services from the State of Minnesota including any elected official, appointed official, or employee of the State of Minnesota, including employees of departments, agencies, and instrumentalities, wherein the state legislature has specifically held the employees to be "state employees" for any one or more specific purposes such as, but not limited to, membership in the Minnesota State Retirement System, employee group insurance program, or unemployment compensation plan for state employees; or
 - (b) an individual receiving compensation for services performed for a political subdivision of the state including any elected official, appointed official, or employee of a political subdivision of the state, including any employee of the political subdivision or other employing unit entitled to membership in a public retirement plan listed in Minnesota Statute §356.20, subd. 2.
- 1.10 “Eligible Employer” The State of Minnesota, or a political subdivision of the State of Minnesota, or an agency or instrumentality of the State of Minnesota or its political subdivisions.
- 1.11 “Includible Compensation” An employee’s actual gross wages in box 1 of Form W-2 attributable to services performed for the Employer but subject to a maximum of \$275,000 (or such higher maximum as may apply under Code §401(a)(17)) and increased (up to the dollar maximum) by any compensation

reduction election under Sections 125, 132(f), 401(k), 403(b), or 457(b) of the Code (including an election to defer Compensation under Article III).

- 1.12 “Nonelective Employer Contribution” Nonelective Employer Contribution is a contribution made by an Eligible Employer for the Participant with respect to which the Participant does not have the choice to receive the contribution in cash or property. Such term may also include an Employer matching contribution.
- 1.13 “Normal Retirement Age” Age 70½, unless the Participant has elected an alternate Normal Retirement Age and delivered such election to the Administrator prior to beginning special §457(b) Catch-up contributions as described in section 3.04 of the Plan. Once a Participant has begun making special §457(b) Catch-up contributions, their Normal Retirement Age may not be changed.

For Participants eligible to receive benefits under the Employer’s basic defined benefit pension plan, defined contribution plan, or a money purchase pension plan (herein collectively referred to as “pension plan”), a Participant’s alternate Normal Retirement Age may not be earlier than the earliest date the Participant has the right to retire and receive immediate retirement benefits under such pension plan, without actuarial or similar reduction because of retirement before some later specified age, and the date selected may not be later than age 70½.

If the Participant is not eligible to receive benefits under a basic defined benefit pension plan, defined contribution plan, or money purchase pension plan, the Participant’s alternate Normal Retirement Age may not be earlier than age 65 nor later than age 70½.

A special rule shall apply to qualified police or firefighters under the Plan. Any qualified police or firefighter, as defined under §415(b)(2)(H)(ii)(I), who is participating in the Plan may not choose a Normal Retirement Age that is earlier than age 50 or later than age 70½.

- 1.14 “Participant” An individual who is currently deferring Compensation, or who has previously deferred Compensation under the Plan by salary reduction or received a Nonelective Employer Contribution and who has not received a distribution of his or her entire benefit under the Plan. Only individuals who perform services for the Employer as an Eligible Employee may defer Compensation under the Plan.
- 1.15 “Participation Agreement” The agreement entered into and filed by an Employee with the Administrator pursuant to Article II, in which the Employee elects to become a Plan Participant.
- 1.16 “Plan” The Plan named the Minnesota Deferred Compensation Plan.
- 1.17 “Plan Sponsor” Sponsor means the Minnesota State Retirement System Board of Directors as detailed in Minnesota Statutes §352.03 and §352.965.

- 1.18 “Plan Year” The calendar year.
- 1.19 “Recordkeeper” The Recordkeeper, identified on page 3, is responsible for the administration of investments held in the Plan and for maintaining accurate Plan asset records.
- 1.20 “Severance from Employment” The date the Employee dies, retires, or otherwise has a separation from employment with the Employer. A Severance from Employment must last for at least 30 days unless an Employee qualifies for an unreduced public pension from a plan listed in Minnesota Statute §356.30. Also:
- (a) An Employee whose employment is interrupted by qualified military service under Code §414(u) for a period of more than 30 days shall be deemed severed from employment until such time as he or she is reemployed following the term of duty.
 - (b) The merger of multiple Eligible Employers does not in and of itself constitute a Severance from Employment.
 - (c) A change from full-time employment to part-time status is not considered a Severance from Employment.
 - (d) In the event an Employee terminates from one Eligible Employer, is rehired with another Eligible Employer sponsoring the Plan and begins deferrals, a Severance from Employment has not occurred.
- 1.21 “Trust or Custodial Agreement” The written agreement (or declaration) made by and between the Administrator and the Trustee under which the Trust Fund is maintained. Custodial accounts and annuity contracts described in §401(f) are treated as trusts under the rules described in Treas. Reg. §1.457-8(a)(2).
- 1.22 “Trust Fund” The trust fund created under and subject to the Trust or Custodial Agreement.
- 1.23 “Trustee” The Trustee duly appointed and currently serving under the Trust Agreement.
- 1.24 “Valuation Date” Each business day.

II. PARTICIPATION AND CONTRIBUTIONS

- 2.01 Eligibility Employees performing services for the Employer shall be eligible to participate in the Plan upon becoming employed by the Employer unless specifically restricted. At the request of an Employee, an Employer must allow participation in the Plan. The amount to be deferred must be provided in writing. The employing unit must implement the request within forty five (45) days (Minnesota Statute §352.965, subd 3).
- 2.02 Election Required for Participation An Employee may elect to become a Participant by executing a Participation Agreement to defer a portion of their Compensation (and have that amount contributed as an Annual Deferral on their behalf) and filing it in good order with the Administrator. In entering into the Participation Agreement, the Participant elects to participate in this Plan and consents to the deferral by the Employer of the amount specified in the Participation Agreement from the Participant's gross compensation if it is pre-tax deferral or net compensation for designated Roth contributions for each payroll period, and agrees to be bound by all the terms and conditions of the Plan. Such deferral shall continue in effect until modified, disallowed or revoked in accordance with the terms of this Plan, or until the Participant experiences a Severance from Employment with the Employer. In the event no such deferral is elected on the Participation Agreement, the Plan's established minimum deferral amount per payroll period will apply.

The Administrator retains the right to establish minimum deferral amounts per payroll period, and to change such minimums from time to time and to limit the number and/or timing of enrollments into the Plan in the Participation Agreement. No adjustment in future deferrals shall be made if a periodic deferral is missed or is less than the amount elected. The Administrator shall have the right to modify or disallow the periodic deferral of Compensation elected by the Participant:

- (a) In excess of the limitations stated in Article III;
- (b) In excess of the Participant's net Compensation for any payroll period;
- (c) Upon any change in the length of payroll period utilized by Employer. In such case the periodic deferral shall be adjusted so that approximately the same percentage of pay shall be deferred on an annual basis;
- (d) In order to round periodic deferrals to the nearest whole dollar amount;
- (e) To reduce the future deferrals in the event that the amount actually deferred for any payroll period exceeds, for any reason whatsoever, the amount elected by the Participant. In the alternative, such amount of excess deferral may be refunded to the Participant; or

- (f) If the deferral elected for any payroll period is less than the minimum amount specified by the Employer or Administrator.

The participation election, or such other form as approved by the Administrator, shall include the Employee's designation of investment funds. Any such election shall remain in effect until a new election is filed. A change in the investment direction shall take effect as of the date provided by the Administrator on a uniform basis for all Employees.

2.03 Election Required for Participation Upon Re-Employment Any prior Employee who was a Participant in the Plan and is rehired by another Eligible Employer may resume deferrals in the Plan by entering into a Participation Agreement so long as any distributions being taken from this Plan are terminated prior to the resumption of deferrals under the Plan. Additionally, if distributions had not begun pursuant to a prior Severance from Employment, any deferred commencement date elected by such Employee with respect to distribution of those prior Plan assets shall be null and void.

2.04 Designation of Account Beneficiary(ies) The Participant may designate a Beneficiary(ies) to receive any amounts that may be distributed in the event of death of the Participant prior to the complete distribution of benefits. A Participant may change the designated Beneficiary(ies) at any time by filing such change with the Administrator in a manner approved by the Administrator. A change in the Beneficiary designation shall take effect on the date received and deemed acceptable by the Administrator. If no such designation is in effect on the Participant's death, or to the extent that there is no beneficiary who is treated as surviving the Participant by 30 days, the Beneficiary shall be the Participant's surviving spouse if married at the time of death, or if none, the Participant's estate.

Except as set forth in section 13.02, in the event of marriage dissolution, any existing Beneficiary designation naming a former spouse of the Participant and all other Beneficiary designations become void. Following a divorce, a Participant may re-designate a former spouse or update other Beneficiary(ies) by filing such change with the Administrator in a manner approved by the Administrator. A change in the Beneficiary designation shall take effect on the date received and deemed acceptable by the Administrator.

2.05 Commencement of Participation

Voluntary Enrollment An Employee shall become a Participant as soon as administratively practicable following the date the Employee files a Participation Agreement pursuant to section 2.02. Such elections shall become effective no earlier than the calendar month following the month in which the election is made. A new Employee may defer compensation payable in the calendar month during which the Participant first becomes an Employee if an agreement providing for the deferral is entered into on or before the first day on which the Participant performs services for the Employer.

Automatic Enrollment Notwithstanding section 2.01 and section 2.02, to the extent permitted by applicable law, the Employer may establish procedures whereby, as a term or condition of employment, each employee automatically elects to participate in the Plan and consents to the deferral by the Employer of a specific amount for any payroll period for which a Participation Agreement is not in effect. If such procedures are in place, a Participant may elect a different deferral amount per payroll period, including zero, by entering into a Participation Agreement.

The Employer, not the Administrator, shall be responsible for informing the Employee, upon becoming an Employee, of the existence of any Plan and of their eligibility to participate. The Employee shall be responsible to take any action necessary to enroll in the Plan. Neither the Administrator, the Plan Sponsor nor the Employer shall be liable for any missed salary deferrals as a result of an Employee's failure to enroll.

The Employer shall agree to the Automatic Enrollment terms as detailed by the Administrator, including:

- (a) The Employer may elect an automatic salary deferral rate of at least one percent (1%) of gross salary (per pay period) or \$10 per pay period.
- (b) The Employer defined automatic salary deferral rate shall apply to all Employees within any given Employer.
- (c) The Employer may not offer inflationary increases.
- (d) The Employer must agree to provide the Plan demographic information of all eligible Employees, upon initial employment.
- (e) When remitting contributions to the Plan, the Employer must identify the Employee salary deferral contributions and Nonelective Employer Contributions separately.

Notwithstanding the foregoing, upon notification of a new Employee by the Employer, the Administrator shall, as soon as practical following the date of hire or rehire, notify each Employee of the Plan who is hired or rehired of:

- (a) the operation of the deemed Plan participation;
- (b) their rights and the timing to waive participation in the Plan;
- (c) procedures to increase, decrease, or terminate their salary deferral election;
- (d) the investment option that contributions will be invested in the absence of an investment election; and
- (e) the timing and procedures for obtaining a refund of any amounts contributed to the Plan pursuant to the Plan participation.

Within a reasonable period prior to the beginning of each calendar year, the Administrator shall provide notice to each Participant who has not made a subsequent investment election describing:

- (a) the operation of the deemed Plan participation;
- (b) procedures to increase, decrease, or terminate their salary deferral election;
- (c) the investment option that contributions will be invested in the absence of an investment election; and
- (d) procedures for making changes to such investment election.

- 2.06 Information Provided by the Participant Each Employee enrolling in the Plan should provide to the Administrator, at the time of initial enrollment, and later if there are any changes, any information necessary or advisable to administer the plan, in the sole discretion of the Administrator, for the Administrator to administer the plan, including, without limitation, whether the Employee is a participant in any other eligible plan under Code §457(b).
- 2.07 Contributions Made Promptly Annual Deferrals by the Participant under the Plan shall be transferred to the Trust Fund within a period that is not longer than is reasonable for the proper administration of the Participant's Account Balance. For this purpose, Annual Deferrals shall be treated as contributed within a period that is not longer than is reasonable for the proper administration if the contribution is made to the Trust Fund within 15 business days following the end of the month in which the amount would otherwise have been paid to the Participant.
- 2.08 Amendment of Annual Deferrals Election Subject to other provisions of the Plan, a Participant may at any time revise their participation election, including a change of the amount of their Annual Deferral. Unless the election specifies a later effective date, a change in the amount of the Annual Deferral shall take effect as of the first day of the next following month or when administratively practicable if later.
- 2.09 Leave of Absence A Participant who is granted a leave of absence by the Employer may continue to be a Participant in the Plan as long as the leave of absence is approved by the Employer and to the extent the Compensation continues. If an approved leave of absence is terminated by the Employer or Employee without the resumption of the employment relationship, the Participant shall be treated as having a Severance from Employment under the Plan.
- 2.10 Disability A disabled Participant may elect Annual Deferrals during any portion of the period of their disability to the extent that he or she has actual Compensation (not imputed Compensation and not disability benefits) from which to make contributions to the Plan and has not had a Severance from Employment.

- 2.11 Revocation of Deferrals In addition to a Participant's ability to change or revoke an election as described in section 2.08, a Participant's request for a distribution in the event of an unforeseeable emergency as defined in section 5.08(b) shall be treated as a request for revocation of deferrals as of a date determined by the Administrator for the period of time determined under section 5.08(g). Revocation of deferrals is not a distributable event; however, and the Participant's Account may only be distributed as provided in Article V.
- 2.12 Re-Enrollment A Participant who revokes the Participation Agreement may again become a Participant at the times and in the manner authorized by the Administrator, by entering into a new Participant agreement to defer Compensation payable no earlier than the first payroll period after the first day of the month after such new Participation Agreement is entered into by the Participant and accepted by the Administrator.
- 2.13 Designated Roth Contributions
If authorized by the Eligible Employer each Participant may make designated Roth contributions; provided, however, that a Participant shall not make a designated Roth contribution to the Plan for any Plan Year to the extent such designated Roth contribution would exceed the limitations of Article III.
- (a) General Application. This subsection will apply to designated Roth contributions beginning with the effective date chosen by the Employer but in no event before the first taxable year beginning on or after January 1, 2012.
- (1) As of the effective date under (a), the Plan will accept elective deferrals designated as Roth contributions made on behalf of Participants. A Participant's designated Roth contributions will be allocated to a separate account maintained for such deferrals as described in (b).
- (2) Unless specifically stated otherwise, designated Roth contributions will be treated as elective deferrals for all purposes under the Plan.
- (b) Separate Accounting. Contributions and withdrawals of designated Roth contributions will separately be credited and debited to the Account maintained for each Participant.
- (1) The Plan will maintain a record of the amount of the designated Roth contributions in each Participant's Account.
- (2) Gains, losses and other credits or charges must be separately allocated on a reasonable and consistent basis to each Participant's Account and the Participant's other accounts under the Plan.
- (3) No contributions other than designated Roth contributions and properly attributable earnings will be credited to each Participant's Account.

- (c) Designated Roth Contributions Defined. A designated Roth contribution is an elective deferral that is:
- (1) Designated irrevocably by the Participant at the time of the deferral election as a Roth contribution that is being made in lieu of, all or a portion of, the pre-tax deferrals the Participant is otherwise eligible to make under the Plan; and
 - (2) Treated by the Employer as includible in the Participant's income at the time the Participant would have received that amount in cash if the Participant had not made a deferral election.

III. LIMITATIONS ON AMOUNTS DEFERRED

3.01 Minimum Annual Limitation The minimum deferral per pay period is \$10. The amounts to be deferred must be stated in whole dollars or whole percentages, where allowed. If a Participation Agreement indicates an amount including cents, the cents will be disregarded.

3.02 Basic Annual Limitation Effective for Calendar Years on and after January 1, 2002 The maximum amount of the Annual Deferral under the Plan for any calendar year shall not exceed the lesser of (i) the applicable dollar amount or (ii) the Participant's Includible Compensation for the calendar year. The applicable dollar amount is the amount established under Code §457(e)(15).

Each calendar year, the maximum applicable dollar limits are modified based on cost-of-living adjustments under Treas. Reg. §1.457-4.

The Annual Deferral amount does not include any rollover amounts received by the Plan under Treas. Reg. §1.457-10(e).

3.03 Age 50 Catch-up Annual Deferral Contributions A Participant who will attain age 50 or more by the end of the calendar year is permitted to elect an additional amount of Annual Deferrals, up to the maximum age 50 catch-up Annual Deferrals for the year.

Each calendar year, the maximum applicable dollar limits are modified based on cost-of-living adjustments under Treas. Reg. §1.457-4.

Age 50 catch-up contributions are subject to the requirements of Code §414(v).

3.04 Special §457(b) Catch-up Limitations for Calendar Years Beginning On and After January 1, 2002 If the applicable year is one of a Participant's last three (3) calendar years ending before the year in which the Participant attains Normal Retirement Age and the amount determined under this subsection exceeds the amount computed under sections 3.02 and 3.03, then the Annual Deferral limit under this section shall be the lesser of:

- (a) An amount equal to two (2) times the section 3.02 applicable dollar limit for such year;
- or
- (b) The sum of:

- (1) An amount equal to the aggregate section 3.02 limit for the current year plus each prior calendar year beginning after December 31, 2001, during which the Participant was an Employee under the Plan, minus the aggregate amount of Compensation that the Participant deferred under the Plan during such years, plus

- (2) An amount equal to the aggregate limit referred to in Code §457(b)(2) for each prior calendar year beginning after December 31, 1978, and before January 1, 2002, during which the Participant was an Employee (determined without regard to sections 3.03 and 3.04), minus the aggregate contributions to Pre-2002 Coordination Plan for such years.

However, in no event can the deferred amount be more than the Participant's Compensation for such years unless the Employer is making Nonelective Employer Contributions.

3.05 Coordination of Age 50 Catch-up with Special §457(b) Catch-up The age 50 catch-up does not apply for any taxable year for which a higher limitation applies under the Special §457(b) Catch-up described in section 3.04. A Participant who is eligible for the age 50 catch-up for a Plan Year and for whom the Plan Year is also one of the Participant's last three (3) taxable years ending before the Participant attains Normal Retirement Age is eligible for the larger of:

- (a) The basic annual limitation described in section 3.02 and the age 50 catch-up described in section 3.03, or
- (b) The basic annual limitation described in section 3.02 and the Special §457 catch-up described in section 3.04.

3.06 Special Rules For purposes of this Article III, the following rules shall apply:

- (a) Nonelective Employer Contribution (Employer Matching Contribution) If an Employer's personnel policy or collective bargaining agreement between the public employer and the exclusive representative of public employees includes matching contributions on a dollar-for-dollar basis, the Employer contribution may not exceed one-half of the available elective annual deferral per year per Employee under the Internal Revenue Code (Minnesota Statute §356.24, subd 1). All Nonelective Employer Contributions are included in the annual maximum deferral limits as stated in sections 3.02 and 3.03. Annual Deferrals made as Nonelective Employer Contributions must be designated pre-tax deferrals and are considered FICA taxable wages unless the employment is not treated as service subject to FICA taxes.
- (b) Participant Covered By More Than One Eligible Plan If the Participant is or has been a participant in one or more other eligible plans within the meaning of Code §457(b), then this Plan and all such other plans shall be considered as one plan for purposes of applying the foregoing limitations of this Article III. For this purpose, the Employer shall take into account any other such eligible plan maintained by the Employer and shall also take into account any other such eligible plan for which the Administrator receives from the Participant sufficient information concerning his or her participation in such other plan.

- (c) Pre-Participation Years In applying section 3.04, a year shall be taken into account only if the Participant was eligible to participate in the Plan during all or a portion of the year and Compensation deferred, if any, under the Plan during the year was subject to the Basic Annual Limitation described in section 3.02 or any other plan ceiling required by Code §457(b).
- (d) Pre-2002 Coordination Years For purposes of section 3.04 (b)(2), “contributions to Pre-2002 Coordination Plans” means any employer contribution, salary reduction or elective contribution under any other eligible Code §457(b) plan, or a salary reduction or elective contribution under any Code §401(k) qualified cash or deferred arrangement, Code §402(h)(1)(B) simplified employee pension (SARSEP), Code §403(b) annuity contract, and Code §408(p) simple retirement account, or under any plan for which a deduction is allowed because of a contribution to an organization described in Code §501(c)(18), including plans, arrangements or accounts maintained by the Employer or any employer for whom the Participant performed services. However, the contributions for any calendar year are only taken into account for purposes of section 3.04(b)(2) to the extent that the total of such contributions does not exceed the aggregate limit referred to in Code §457(b)(2) for that year.
- (e) Disregard Excess Deferral For purposes of sections 3.02, 3.03 and 3.04, an individual is treated as not having deferred compensation under a plan for a prior taxable year to the extent excess deferrals under the plan are distributed, as described in section 3.07. To the extent that the combined deferrals for pre-2002 years exceeded the maximum deferral limitations, the amount is treated as an excess deferral for those prior years.

3.07 Correction of Excess Deferrals If the Annual Deferral on behalf of a Participant for any calendar year exceeds the limitations described above, or the Annual Deferral on behalf of a Participant for any calendar year exceeds the limitations described above when combined with other amounts deferred by the Participant under any other eligible deferred compensation plan under Code §457(b) for which the Participant provides information that is accepted by the Administrator, then the Annual Deferral, to the extent in excess of the applicable limitation (adjusted for any income or loss in value, if any, allocable thereto), shall be distributed to the Participant as soon as administratively practicable after the Administrator determines that the amounts is an excess deferral and shall be includible in the Participant’s gross income in the taxable year deferred.

3.08 Protection of Persons Who Serve in a Uniformed Service An Employee whose employment is interrupted by qualified military service under Code §414(u) may elect to make additional Annual Deferrals upon resumption of employment with the Employer equal to the maximum Annual Deferrals that the Employee could have elected during the period of qualified military service if the Employee’s employment with the Employer had continued (at the same level of Compensation) without the interruption or leave, reduced by the Annual Deferrals, if any, actually made for the Employee during the period of the interruption or leave. This right applies for three

(3) times the period of the interruption or leave but shall not exceed five (5) years following the resumption of employment.

IV. LOANS

4.01 Loans Loans against a Participant's Plan account assets are not permitted.

V. BENEFIT DISTRIBUTIONS

5.01 Distributions from the Trust The payment of benefits from the Trust in accordance with the terms of the Plan may be made by the Trustee(s) or other person so authorized by the Administrator to make such distribution. Neither the Trustee, nor any other person shall be liable with respect to any distribution from the Trust made at the direction of the Administrator or a person authorized by the Administrator to give disbursement direction.

5.02 Conditions for Distributions

Payments from a Participant's §457(b) Deferred Compensation account shall not be made to the Participant or Beneficiary unless:

- (a) the Participant has a Severance from Employment and payments are made pursuant to section 5.06;
- (b) the Participant dies and payments are made pursuant to section 5.09;
- (c) the Participant's account meets all of the requirements for an in-service distribution pursuant to section 5.07(a) and/or (b) and/or (c);
- (d) the Participant incurs an approved unforeseeable emergency pursuant to section 5.08; or
- (e) the Plan is terminated under section 11.01.

5.03 Distribution to Participant

- (a) Required Minimum Distribution Distribution of the balance of a Participant's Account shall be made in accordance with Section 401(a)(9) of the Code and the regulations thereunder and as set forth below. If there is any conflict between the requirements of this Section 5.03(a) and the Code and the Treas. Regs. issued under Section 401(a)(9), Section 401(a)(9) of the Code and the Treas. Regs. shall apply.

In no event shall any distribution to a Participant under this Article V begin later than April 1 of the year following the calendar year in which the Participant attains age 72 or April 1 of the year following the year in which the Participant has a Severance from Employment, whichever is later. If the Participant delays the distribution due in the calendar year he turns age 72 or has a Severance from Employment, as applicable, to the following calendar year, a second required minimum distribution must be taken by the end of that calendar year.

The provision of this section (5.03(a)) requiring minimum distributions shall not apply for the 2009 and 2020 distribution calendar year.

The age 72 provision of this section (503(a)) shall not apply to a Participant who attains age 70½ prior to January 1, 2020. In no event shall any distribution to a Participant who attains age 70½ prior to January 1, 2020, under this Article V begin later than April 1 of the year following the calendar year in which the Participant attains age 70½ or April 1 of the year following the year in which the Participant has a Severance from Employment, whichever is later.

- (b) Forms of Distribution A Participant's election of a payment option may commence no earlier than thirty (30) calendar days following Severance from Employment. If a timely election of a payment option is not made, benefits shall be paid in accordance with section 5.04. Subject to applicable law and other provisions of this Plan, distributions may be made in accordance with one of the following payment options.
- (1) A single lump-sum payment of the entire Account Balance;
 - (2) A single lump-sum payment of a partial portion of the Account Balance;
 - (3) Installment payments for a period of years (payable on a monthly, quarterly, semi-annual, or annual basis) which extends no longer than the life expectancy of the Participant as permitted under Code §401(a)(9) using the Uniform Lifetime Table at Treas. Reg. §1.041(a)(9)-9, A-2 for the Participant's age on Participant's birthday for that year. If the Participant's age is less than age 70, the distribution period is 27.4 plus the number of years that the Participant's age is less than age 70. The Account Balance for this calculation (other than the final installment payment) is the Account Balance as of the end of the year prior to the year for which the distribution is being calculated;
 - (4) Partial lump-sum payment of a designated amount, with the balance payable in installment payments for a period of years, as described in subsection (3);
 - (5) Annuity payments (payable on a monthly, quarterly, semi-annual, or annual basis) for the lifetime of the Participant or for the lifetimes of the Participant and Beneficiary in compliance with Code §401(a)(9); or
 - (6) Such other forms of installment payments as may be approved by the Administrator consistent with the requirements of Code §401(a)(9).

5.04 Default Distribution Option In the absence of an effective election by the Participant as to the commencement and/or form of benefits, distributions shall be

made in accordance with the applicable requirements of Code §401(a)(9) and 457(d), and final Treas. Regs. thereunder. In the absence of an effective election by the Beneficiary or Alternate Payee as to the commencement and/or form of benefits, distribution shall be made in a lump sum.

5.05 Rollovers If a Participant has a separate account attributable to rollover contributions to the Plan, the Participant may at any time elect to receive a distribution of all or any portion of the amount held in the rollover account(s).

5.06 Severance from Employment for any Reason, Including Retirement

(a) With the exception of section 5.06(b) and (c), distributions to a Participant shall commence no earlier than thirty (30) calendar days following Severance from Employment, as elected by the Participant, in a form and manner determined pursuant to sections 5.03 and 5.10. If the Participant does not elect otherwise, the distribution shall be paid commencing on the Participant's required beginning date under a payment method meeting the requirements of Code §401(a)(9) and the Treas. Regs. thereunder.

(b) This Plan may mandate distributions of Account Balances of \$1,000 or less with no account activity within the last three years. For purposes of this provision, contributions to or distributions from a Participant's Plan Account will constitute account activity. The Plan Administrator will notify all such Participants in writing requesting their option for distribution. The Participant may elect a direct rollover to an eligible retirement plan specified by the Participant or receive the distribution in a lump sum payment. If the Participant does not respond with an election, then the Administrator will pay the distribution in a lump sum to the Participant at the Participant's last known mailing address.

(c) Involuntary Lump Sum Distribution If the value of the Participant's Account does not exceed \$200 (at the time of distribution), and there have been no contributions to a Participant's Plan Account in the last three years, the Plan Administrator may distribute the Participant's Plan Account in a lump sum payable after the Participant's Severance from Employment date. Such payment will be made to the Participant's last known mailing address.

5.07 In-Service Distributions

(a) Voluntary In-Service Distribution of De Minimis A Participant who is an active Employee may elect to receive a distribution of the total amount payable to the Participant under the Plan if the following requirements are met:

- (1) The portion of the total amount payable to the Participant under the Plan does not exceed \$5,000;
 - (2) The Participant has not previously received an in-service distribution of the total amount payable to the Participant under the Plan; and
 - (3) No amount has been deferred under the Plan with respect to the Participant during the two-year period ending on the date of the in-service distribution.
- (b) FICA Replacement Participants in a plan that is a retirement system providing FICA replacement retirement benefits pursuant to regulations under Code §3121(b)(7)(F) are not eligible for in-service de minimis distributions.
- (c) Age 59½ In-Service Distribution A Participant who is an active Employee may elect to receive distributions pursuant to section 5.07 after their age has exceeded age 59½.

5.08 Unforeseeable Emergency Distributions

- (a) Distribution If the Participant or the Participant's Beneficiary has an unforeseeable emergency before retirement or other Severance from Employment, the Participant may elect to receive a lump sum distribution equal to the amount requested or the maximum amount determined by the Administrator to be permitted to be distributed under this section 5.08, whichever is less.
- (b) Unforeseeable emergency defined An unforeseeable emergency is defined as a severe financial hardship of the Participant resulting from:
- an illness or accident of the Participant or Beneficiary, the Participant's or Beneficiary's spouse, or the Participant's or Beneficiary's dependent (as defined in Code §152(a));
 - loss of the Participant's or Beneficiary's property due to casualty (including the need to rebuild a home following damage to a home not otherwise covered by homeowner's insurance, e.g., as a result of a natural disaster);
 - the need to pay for the funeral expenses of the Participant's Beneficiary or the Participant's or Beneficiary's spouse or dependent (as defined in Code §152(a));
 - or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the Participant.

For example, the imminent foreclosure of or eviction from the Participant's or Beneficiary's primary residence may constitute an unforeseeable emergency. In addition, the need to pay for medical expenses, including non-refundable deductibles, as well as for the cost of prescription drug medication, may constitute an unforeseeable emergency.

Except as otherwise specifically provided in this section 5.08, neither the purchase of a home, payment of income taxes, interest or penalties, unpaid utility bills, nor the payment of tuition is an unforeseeable emergency.

- (c) Unforeseeable emergency distribution standard A distribution on account of unforeseeable emergency may not be made to the extent that such emergency is or may be relieved through reimbursement or compensation from insurance or otherwise, by liquidation of the Participant's or the Beneficiary's assets, to the extent the liquidation of such assets would not itself cause severe financial hardship, or by cessation of deferrals under the Plan.
- (d) Distribution necessary to satisfy emergency need Distributions because of an unforeseeable emergency may not exceed the amount reasonably necessary to satisfy the emergency need (which may include any amounts necessary to pay any federal, state, or local income taxes or penalties reasonably anticipated to result from the distribution).
- (e) The Administrator shall have the right to request and review all pertinent information necessary to assure that unforeseeable emergency withdrawal requests are consistent with the provisions of Code §457(b).
- (f) Unforeseeable emergency distribution appeal After a second unfavorable decision, a Participant may appeal the decision within 30 calendar days to the Administrator. The Participant shall provide the appeal in writing with any supporting documentation relevant for the appeal. The Administrator shall provide final outcome of the appeal within ten business days. Once the appeal has been reviewed and a determination has been made, that decision is final and will not be subject to further appeal.
- (g) The Employer or Administrator may suspend the Participant's deferral election during the pendency of the Participant's request for an unforeseeable emergency distribution. Payment of an unforeseeable emergency distribution shall result in mandatory suspension of deferrals for a minimum of six (6) months from the date of payment (or such other period as mandated in applicable Treasury regulations).
- (h) Participants in a Plan that is a retirement system providing FICA replacement retirement benefits pursuant to regulations under Code §3121(b)(7)(F) are not eligible for unforeseeable emergency distributions.

5.09 Death Benefit Distributions In the event of the death of any Participant, either before or after Severance from Employment, the full amounts credited to the Participant's Account, less any federal or state income tax required to be withheld, shall be distributed to the Participant's Beneficiary or Beneficiaries at the time and in the manner designated by the Participant in their written designation of Beneficiary or Beneficiaries. If the Participant has made no election of the time or form of distribution as to a Beneficiary, such Beneficiary shall, within a reasonable period of time after the date of the Participant's death, designate the time and manner of distribution to himself or herself, provided however, that payments to the Beneficiary shall not commence until after the close of such period. Choices of form of distribution of benefits shall be as provided in section 5.03(a); provided, however that:

- (a) If distribution begins before the death of the Participant, the manner of distribution to the Beneficiary must be at least as rapid as the method of distribution being used as of the date of the Participant's death; or
- (b) If distribution has not begun before the death of the Participant, then the Participant's Account shall be paid to the Participant's Beneficiary by December 31 of the calendar year which contains the fifth anniversary of Participant's death, or if the designated Beneficiary so elects, over a period not to exceed the remaining life expectancy of the Beneficiary so long as such distribution begins by December 31 of the calendar year which contains the first anniversary of the Participant's death. If the Beneficiary is the surviving spouse of the Participant, the date distributions are required to begin shall not be earlier than the date the Participant would have obtained age 72, and if the surviving spouse dies before distribution begins, distribution will be made under this subsection (b) as if the surviving spouse were the Participant.
- (c) Beneficiary Election of Five-Year Rule Where Death Occurs Prior to the Participant's Required Beginning Date The Participant's designated Beneficiary is deemed to have elected the five-year rule if distributions have not begun by December 31 of the calendar year in which distributions would be required to begin under subsection 5.09(b). If the Participant has no designated Beneficiary, as defined under Code §401(a)(9) and Treas. Reg §1.401(a)(9)-4, or if the designated Beneficiary does not timely begin distributions, distribution of the Participant's entire interest must be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

5.10 Eligible Rollover Distributions

- (a) General Notwithstanding any provision of the Plan to the contrary that would otherwise limit an election under this section, a Participant, the surviving spouse of a Participant (or a Participant's former spouse who is the Alternate Payee under a qualified domestic relations order as defined in Code §414(p))

(herein collectively called “distributee”) may elect, at the time and in the manner prescribed by the Administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan in a direct rollover or an in-plan Roth direct rollover (of at least \$500).

A non-spousal beneficiary may elect, at the time and in the manner prescribed by the Administrator, to have any portion of an eligible rollover distribution paid directly to an inherited individual retirement account, as described in Code §402(c)(11).

(b) Definitions For purposes of this section, the following definitions shall apply.

(1) Eligible Rollover Distribution An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee or the non-spousal beneficiary, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life or life expectancy of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee’s designated beneficiary, or for a specified period of ten (10) years or more; any distribution to the extent such distribution is required under Code §401(a)(9); any deemed distribution under the provisions of Code §72(p); the portion of any distribution that is not includable in gross income; any distribution of excess deferrals; and any distribution on account of an unforeseeable emergency.

(2) Eligible Retirement Plan An eligible retirement plan is an individual retirement account described in Code §408(a), an individual retirement annuity described in Code §408(b), a SIMPLE individual retirement account described in Code §408(p) which meets the two-year requirement, an annuity plan described in Code §403(a) that accepts the distributee’s eligible rollover distribution, a qualified trust described in Code §401(a) (including §401(k)) that accepts the distributee’s eligible rollover distribution, a tax sheltered annuity described in Code §403(b) that accepts the distributee’s eligible rollover distribution, or another eligible deferred compensation plan described in Code §457(b) that accepts the distributee’s eligible rollover distribution or to the inherited individual retirement account specified by the non-spousal beneficiary.

(3) Distributee A distributee includes an Employee or former Employee, the Employee’s or former Employee’s Beneficiary or surviving spouse and the Employee’s or former Employee’s spouse or former spouse who is the Alternate Payee under a qualified domestic relations order, as defined in Code §414(p), are distributees with regard to the interest of the spouse or former spouse.

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

5.11 Elections under this section shall be made in such form and manner as the Administrator may specify from time to time. To the extent permitted by and in accordance with the Code, any irrevocable elections as to the form or timing of distributions executed prior to January 1, 2002, are hereby revoked.

5.12 Practices and Procedures The Administrator may establish policies and procedures applicable to existing and new distribution elections.

5.13 Taxation of Distributions To the extent required by law, income and other taxes shall be withheld from each benefit payment and payments shall be reported to the appropriate government agency or agencies.

5.14 Public Safety Officer Insurance Premium Withholding To comply with the Pension Protection Act of 2006 and Code Section 402(l), the Administrator may make available to eligible retired and public safety officers the ability to withhold and pay certain qualified insurance premiums from the Plan. A public safety officer is defined by section (1204(9)(A) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b(9)(A)). Generally, public safety officer refers to anyone covered by the following Minnesota public retirement plans: State Patrol, Correctional, Judges and PERA Police and Fire. Also eligible are probation and parole officers, regardless of the plan that covers their service. Qualified insurance premiums include health, dental or long-term care insurance coverage for the Participant, their spouse, and legal dependents.

Neither the Plan Sponsor, Administrator, Custodian, nor any agent of the Plan is responsible for late premium payments, lapsed insurance policy coverage, or any other benefit issue that may arise between the participant and the insurance provider. Participants who elect to participate in this premium withholding program release the Plan Sponsor, Administrator, Custodian and all agents of the Plan from any and all liability for income taxation including, but not limited to, penalties and interest, arising from the payment of qualified insurance premiums under the Plan.

5.15 Beneficiary Interest Disclaimer Under Code Section 2518, a person may execute a qualified disclaimer of their beneficiary interest in an account in which they are the primary Beneficiary if they do so in writing within nine months of the death of the Participant. The Beneficiary must disclaim their entire interest; they cannot disclaim a designated dollar amount or percentage. The disclaimer may not direct to whom payment is to be made. The interest will pass to any contingent Beneficiary(ies), or if none, to the Participant's spouse, or if none, to the Participant's estate.

VI. ROLLOVERS AND TRANSFERS

6.01 Eligible Rollover Contributions to Plan

- (a) A Participant, who is entitled to receive an eligible rollover distribution from another eligible retirement plan, may request to have all or a portion of the eligible rollover distribution paid to the Plan. The Administrator may require such documentation from the distributing plan as it deems necessary to effectuate the rollover in accordance with Code §402 and to confirm that such plan is an eligible retirement plan within the meaning of Code §402(c)(8)(B).
- (b) **In Plan Roth Rollover** If the Eligible Employer elects to participate in the Roth plan, and only to the extent so specified, a Participant may elect, at the time and in the manner prescribed by the Plan Administrator, to have any portion of an eligible rollover distribution (of at least \$500) paid to the Plan in an in-plan Roth rollover to the Participant's Account. The amount rolled over in an in-plan Roth direct rollover continues to be taken into consideration for mandatory distributions.
- (c) For purposes of section 6.01(a), an eligible rollover distribution means any distribution of all or any portion of a Participant's benefit under another eligible retirement plan, except that an eligible rollover distribution does not include (1) any installment payment for a period of 10 years or more, (2) any distribution made as a result of an unforeseeable emergency or other distribution which is made upon hardship of the employee, (3) any deemed distribution under the provisions of Code §72(p), (4) the portion of any distribution that is not includable in gross income, (5) any distribution of excess deferrals or (6) for any other distribution, the portion, if any, of the distribution that is a required minimum distribution under Code §401(a)(9). In addition, an eligible retirement plan means an individual retirement account described in Code §408(a), an individual retirement annuity described in Code §408(b), a qualified trust described in Code §401(a), an annuity plan described in Code §403(a) or §403(b), or an eligible governmental plan described in Code §457(b), that accepts the eligible rollover distribution.
- (d) A Participant may contribute to the Plan in cash as a rollover contribution a qualified rollover amount from a qualified plan under Code Section 401(a), an individual retirement account or annuity, a deferred compensation Plan under Code Section 457, or a tax-sheltered annuity under Code Section 403(b), provided that the Administrator, in its discretion, determines that the contribution satisfies all applicable requirements of the Code and the applicable Treas. Regs.
 - (1) The Plan shall establish and maintain for the Participant a separate account for any eligible rollover distribution or designated Roth

contributions paid to the Plan from any eligible retirement plan that is not an eligible governmental plan under Section 457(b) of the Code.

- (2) In addition, the Plan shall establish and maintain for the Participant a separate account for any eligible rollover distribution or any designated Roth contributions paid to the Plan from any eligible retirement plan that is an eligible governmental plan under Section 457(b) of the Code.
- (e) Notwithstanding the above, unless otherwise established by the Eligible Employer, the Plan will accept a rollover contribution from another Roth Account under an applicable retirement plan described in §402A(e)(1) and only to the extent the rollover is permitted under the rules of §402(c) and Treas. Reg. §1.402A-2. The Plan Administrator or other responsible party must provide the Plan with a statement indicating the first year of the five-taxable-year period and the portion of the rollover distribution that is attributable to the investment in the contract under §72 or a statement that the distribution is a qualified distribution.

6.02 Direct Transfers Among Plans of the Same Employer

A transfer from this Plan to another eligible governmental plan as the same Employer and a transfer to this Plan from another eligible governmental plan of the same Employer is permitted under the following conditions:

- (a) The transfer is from an eligible governmental plan to another eligible governmental plan of the same employer (and, for this purpose, the employer is not treated as the same employer if the participant's compensation is paid by a different entity);
- (b) The transferor plan provides for transfers;
- (c) The receiving plan provides for the receipt of transfers;
- (d) The Participant or Beneficiary whose amounts deferred are being transferred will have an amount deferred immediately after the transfer at least equal to the amount deferred with respect to that Participant or Beneficiary immediately before the transfer;
- (e) The Participant or Beneficiary whose deferred amounts are being transferred is not eligible for additional annual deferrals in the receiving plan unless the Participant or Beneficiary is performing services for the entity maintaining the receiving plan, and
- (f) The amount so transferred shall be credited to the Participant's Account as pre-tax deferral or a designated Roth contribution and shall be held, accounted for, administered and otherwise treated in the same manner as the Annual Deferral by the Participant under the Plan, except that the transferred amount shall not be considered an Annual Deferral under the Plan in determining the maximum deferral under Article III.

6.03 Plan-to-Plan Transfers from the Plan to the Plan of Another Employer

- (a) At the direction of the Employer, the Administrator may permit a class of Participants and Beneficiaries to elect to have all or any portion of their Account transferred to another eligible governmental plan within the meaning of Section 457(b) of the Code and Treas. Reg. §1.457-2(f). A transfer is permitted under this section 6.03(a) for the Participant only if the Participant has had a Severance from Employment with the Employer and is an employee of the entity that maintains the other eligible governmental plan. Further, a transfer is permitted under this section 6.03(a) only if the other eligible governmental plan provides for the acceptance of plan-to-plan transfers only with respect to the Participants and Beneficiaries and for each Participant and Beneficiary to have an amount deferred under the other plan immediately after the transfer at least equal to the amount transferred.
- (b) Upon the transfer of assets under this section 6.03, the Plan's liability to pay benefits to the Participant or Beneficiary under this Plan shall be discharged to the extent of the amount so transferred for the Participant or Beneficiary. The Administrator may require such documentation from the receiving plan as it deems appropriate or necessary to comply with this section 6.03 (for example to confirm that the receiving plan is an eligible governmental plan under section 6.03(a) and to assure that the transfer is permitted under the receiving plan) or to effectuate the transfer pursuant to Treas. Reg. §1.457-10(b).

6.04 Plan-to-Plan Transfers to the Plan At the direction of the Employer, the Administrator may permit a class of Participants who are participants in another eligible governmental plan under Section 457(b) of the Code to transfer assets to the Plan as provided in the section. Such a transfer is permitted only if the other plan provides for the direct transfer of each Participant's interest therein to the Plan. The Administrator may require in its sole discretion that the transfer be in cash or other property acceptable to the Administrator. The Administrator may require such documentation from the other plan as it deems necessary to effectuate the transfer in accordance with §Section 457(e)(10) of the Code and Treas. Reg. §1.457-10(b) and to confirm that the other plan is an eligible governmental plan as defined in Treas. Reg. §1.457-2(f).

6.05 Transfer of Amounts in Self-Directed Brokerage Accounts

Plan assets held in a self-directed brokerage account are not eligible for a plan-to-plan transfer. Participants must first move any self-directed brokerage account assets they wish to transfer to another eligible government plan to the Plan's core investment options before a plan-to-plan transfer can be executed.

6.06 Permissive Service Credit Transfers

- (a) If a Participant is also a participant in a tax-qualified defined benefit governmental plan (as defined in Code §414(d)) that provides for the acceptance of plan-to-plan transfers with respect to the Participant, then the Participant may elect to have any portion of the Participant's Account Balance transferred to the defined benefit governmental plan. A transfer under this section 6.06(a) may be made before the Participant has had a Severance from Employment.
- (b) A transfer may be made under section 6.06(a) if the transfer is either for the purchase of permissive service credit (as defined in Code §415(n)(3)(A)) under the receiving defined benefit governmental plan or a repayment to which Code §415 does not apply by reason of Code §415(k)(3), or as otherwise allowed by the Internal Revenue Service.

VII. CREATION OF TRUST AND TRUST FUND

- 7.01 Establishment of Trust A Trust is hereby created to hold all of the assets of the Plan for the exclusive benefit of its Participants and Beneficiaries, thus satisfying the trust requirement of the Internal Revenue Code §457(g). The Administrator has entered into a separate written trust agreement with the Plan Custodian as mentioned in page 3 whereby a custodial account is established to hold the contributions, the investment earnings, and the assets yet to be invested in the Plan. All contributions and the earnings thereon less payments made under the terms of the Plan, including fees and expenses, shall constitute the Trust.
- 7.02 Trust Fund All amounts of Annual Deferrals, all property and rights purchased with such amounts, and all income attributable to such amounts, property, or rights shall be held and invested in the Trust Fund in accordance with the Plan document and/or the Custodial Agreement. The Trust Fund shall be established pursuant to a written agreement that constitutes a valid trust under applicable Minnesota law. The Trustee(s) shall ensure that all investments, amounts, property, and rights held under the Trust Fund are held for the exclusive benefit of Participants and their Beneficiaries. The Trust Fund shall be held in trust pursuant to a Trust Agreement for the exclusive benefit of Participants and their Beneficiaries and defraying reasonable expenses of the Plan and of the Trust Fund. It shall be impossible prior to the satisfaction of all liabilities with respect to Participants and their Beneficiaries, for any part of the assets and income of the Trust Fund to be used for, or diverted to, purposes other than for the exclusive benefit of Participants and their Beneficiaries.
- 7.03 Appointment and Termination of Trustee The appointment and termination of Trustees must be made in accordance with Minnesota Statutes §352.03. The Trustees of the Plan are the Executive Director and the Board of Directors of the Minnesota State Retirement System.
- 7.04 Control of Plan Assets The assets of the Trust shall be administered by the Trustees under the terms of Article VII of this plan document and under the separate written trust agreement with the Plan Custodian as mentioned on page 3.
- 7.05 General Duties of the Plan Recordkeeper The Plan Recordkeeper in the employ of the Administrator shall be responsible for the administration of investments held in the Plan. The Plan Recordkeeper's duties shall include:
- (a) Receiving contributions under the terms of the Plan;
 - (b) Making distributions from Plan assets held in Trust in accordance with written instructions received from an authorized representative of the Plan Administrator; and

- (c) Keeping accurate records reflecting its administration of the Trust assets and making such records available to the Plan Administrator.

The Plan Recordkeeper's duties shall be limited to those described above. The Administrator shall be responsible for any other administrative duties required under the Plan or by applicable law.

7.06 Exclusive Benefit Rules No part of the Trust assets shall be used for, or diverted to, purposes other than for the exclusive benefit of Participants, former Participants with an interest in the Plan, and the Beneficiary or Beneficiaries of a deceased Participant having an interest in the Trust assets at the death of the Participant.

7.07 Trustee Actions Every action taken by the Trustees shall be presumed to be a fair and reasonable exercise of the authority vested in or the duties imposed upon him, her, or it. The Trustee(s) shall be deemed to have exercised reasonable care, diligence and prudence and to have acted impartially as to all persons interest, unless the contrary be proven by affirmative evidence. The Trustee(s) shall not be liable for amounts of Compensation deferred by Participants or for other amounts payable under the Plan.

7.08 Division of Duties and Indemnification

- (a) The Trustee(s) shall have the authority and discretion to manage and govern the Trust assets to the extent provided in this instrument, but does not guarantee the Trust in any manner against investment loss or depreciation in asset value, or guarantee the adequacy of the Trust assets to meet and discharge all or any liabilities of the Plan.
- (b) In accordance with Minnesota Statute §356A.04, subd 2, a fiduciary identified in section §356A.02 shall act in good faith and shall exercise that degree of judgment and care, under the circumstances then prevailing, that persons of prudence, discretion, and intelligence would exercise in the management of their own affairs, not for speculation, considering the probable safety of the plan capital as well as the probable investment return to be derived from the assets.
- (c) All directions issued to the Trustee by the Administrator shall be in accordance with the terms of the Plan and not contrary to the provisions of the Internal Revenue Code, the applicable Treas. Regs., and Minnesota Law.
- (d) The Trustee shall be indemnified and held harmless from reasonable costs or expenses incurred as a result of any actual or threatened litigation or other proceedings in accordance with Minnesota Statute §356A.11, subd 2.
- (e) The Trustee shall not be responsible in any way for the application of any payments it is directed to make or for the adequacy of the Trust assets to meet and discharge any all liabilities under the Plan.

VIII. INVESTMENTS

8.01 Investment Options The Minnesota State Board of Investments (SBI) shall have the sole discretion to select one or more investment options to be offered under the Plan. These investment options that may be offered are specified in Minnesota Statute §352.965, subd 4. It shall be the sole responsibility of the SBI to ensure that all investment options offered under the Plan are appropriate and in compliance with any and all state laws pertaining to such investments.

The Plan is maintained pursuant to an instrument that authorizes it to participate in the Fidelity Diversified International Commingled Pool and the State Street Bank and Trust Company Investment Funds for Tax Exempt Retirement Plans or in any other common, collective, or commingled trust fund. The Minnesota State Retirement System as Trustees of the Plan hereby adopts in substance and effect the Declaration of Trust for the Fidelity Diversified International Commingled Pool and the Minnesota Target Retirement Funds as a part of the employee benefit plan, to the extent of the plan's interest therein or as otherwise required by law. Furthermore, the assets in the Plan may be commingled in a Group Trust in accordance with Revenue Ruling 2011-1, as modified and amended.

8.02 Participant Investment Direction Participants shall have the option to direct the investment of their Account(s) from among the investment options offered by the Plan. The Participant's right to transfer among or out of any such investment options, shall be subject to any timing or other restrictions imposed upon Participants by the providers of the investment options chosen by the Participant, including, but not limited to market-timing restrictions, excessive trading restrictions and redemption fees. The Trustee or Custodian, as applicable, shall hold title to such investment options. A Participant's right to direct the investment of Account balances shall apply only to making selections among the options made available under the Plan and only to the extent specified by the Administrator pursuant to uniform rules. The terms of this paragraph, including any trading restrictions or fees, shall also apply to Beneficiary and Alternate Payee accounts.

(a) Each Participant shall designate on the form prescribed by the Administrator one or more investment options in which they wish to have their Account invested and may change such investment directions in accordance with and at the time or times specified under uniform rules established by the Administrator or the investment provider, as applicable. The Participant's Account shall be debited or credited as appropriate to reflect all gains or losses on such investments. A Participant has the right to direct the investments of their Account. If a Participant does not provide such direction, the Participant's Account shall be invested in the default investment option selected by the Administrator.

- (b) Neither the Administrator, the Trustee, the Custodian, nor any other person shall be liable for any loss incurred by virtue of following the Participant's directions or by reason of any reasonable administrative delay in implementing such directions.
- (c) The Minnesota State Board of Investment (SBI) may from time to time change the investment options made available under the Plan pursuant to uniform rules established by the Administrator. If an investment option is eliminated, all Participants who chose that investment option shall have money remaining in the eliminated investment option on the elimination date reinvested in the replacement investment option. The Participants shall have no right to require the Administrator to select or retain any investment option. Any change with respect to investment options made by the Administrator, however, shall be subject to the terms and conditions (including any rules or procedural requirements) of the affected investment options.

8.03 Participant Accounts The Administrator shall maintain or cause to be maintained one or more individual accounts for each Participant. Such accounts shall include separate accounts, as necessary, for Code §457(b) Deferred Compensation, Code §457(b) rollovers, IRA rollovers, other qualified plan and Code §403(b) plan rollovers, and such other accounts as may be appropriate from time-to-time for plan administration. At regular intervals established by the Administrator, each Participant's account(s) shall be credited with the amount of any Deferred Compensation paid into the Trust; debited with any applicable administrative or investment expense, including, but not limited to, fees charged to Participants, allocated on a reasonable and consistent basis; credited or debited with investment gain or loss, as appropriate; and debited with the amount of any distribution. Each Participant shall be notified in writing (including by means of electronic medium such as email) of the balance in their Account at least once a year.

IX. ADMINISTRATION

- 9.01 Appointment and Termination of Administrator The appointment, duties, powers, and fiduciary duties of the Administrator are detailed in Minnesota Statutes §352.03 and §352.965.
- 9.02 Duties of Administrator The Administrator is subject to applicable laws and approvals required by Minnesota Statutes §352.03 and §352.965. The Administrator, per Minnesota Statute §352.965, shall have authority to interpret, alter, amend, or revoke any rules, regulations or procedure adopted. Duties of the Administrator include:
- (a) Directing the custodian with respect to payments from the Plan assets held in Trust;
 - (b) Communicating with participants regarding their participation and benefits under the plan, including the administration of all claim procedures;
 - (c) Filing any returns and reports with the Internal Revenue Service or any other governmental agency;
 - (d) Reviewing and approving any financial reports, investment reviews, or other reports prepared by any party appointed by the Administrator;
 - (e) Establishing a funding policy and investment objectives consistent with the purposes of the Plan; and
 - (f) Construing and resolving any question of Plan interpretations. The Administrator's interpretation of Plan provisions including eligibility and benefits under the Plan is final.
- 9.03 Administrative Fees and Expenses The Board of Directors has authority to establish the allocation of administrative costs of the Plan to Participants (Minnesota Statute §352.965, subd 6). Fees cannot be charged on contributions made to the Minnesota Supplemental investment funds prior to July 1, 1992. Reasonable costs, changes and expenses incurred by the Administrator in connection with plan administration shall be paid from Plan assets.
- 9.04 Actions of Administrator Every action taken by the Administrator shall be presumed to be a fair and reasonable exercise of the authority vested in or the duties imposed upon him, her or it. The Administrator shall be deemed to have exercised reasonable care, diligence and prudence and to have acted impartially as to all persons interest, unless the contrary be proven by affirmative evidence. The Administrator shall not be liable for amounts of Compensation deferred by Participants or for other amounts payable under the Plan.

- 9.05 Delegation Subject to any applicable laws and any approvals required by the State of Minnesota, the Administrator may delegate any or all powers and duties to another person, persons, or entity, and may pay reasonable compensations for delegated services/tasks.
- 9.06 Investment and Service Providers Any company that issues policies, contracts, or investment media to the Plan or a Plan Participant is not a party to this Plan and such company shall have no responsibility, accountability, or liability to the Plan, Administrator, any Participant, or any Beneficiary with regard to the operation or adequacy of this Plan.

X. LEAVE OF ABSENCE

10.01 Leave of Absence If a Participant is on an approved leave of absence from the Employer, it does not constitute a Severance from Employment, therefore, said Participant's participation in the Plan may continue. Upon termination of an unpaid leave of absence and return to active status, the Participant may enter into a new Participation Agreement to be effective when permitted by section 2.08.

In the event that such leave of absence becomes a Severance from Employment, said Participant shall have separated from service with the Employer for purposes of this Plan.

10.02 Military Leave Benefits Notwithstanding any provision of the Plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the Code. Effective for years beginning after December 31, 2008, the Plan shall not be treated as failing to meet the requirements of any provision described in Section 414(u)(1)(C) of the Code by reason of any contribution or benefit which is based on a differential wage payment (as described in Section 3401(h)(2) of the Code.) The preceding sentence shall apply only if all Employees who are performing service in the uniformed services (as described in Section 3401(h)(2)(A) of the Code) are entitled to receive differential wage payments on reasonably equivalent terms and, if eligible to participate in a retirement plan maintained by the Employer, to make contributions based on the payments on reasonably equivalent terms (taking into account Sections 410(b)(3), (4), and (5) of the Code).

If a Participant dies while performing qualified military service on or after January 1, 2007, the survivors of the Participant are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the Plan as if the Participant had resumed employment and then experienced a Termination of Employment on account of death.

XI AMENDMENT OR TERMINATION OF PLAN

11.01 Termination The Plan is authorized by Minnesota Statute §352.965 and governed by Internal Revenue Code Section §457(b). The Plan may be terminated in order to comply with Minnesota Statute, the Internal Revenue Code, or applicable final federal regulations.

11.02 Amendment The Board of Directors may amend the provisions of this Plan at any time; provided, however, that no amendment shall affect the amount of benefits which at the time of such amendment shall have accrued for Participants or Beneficiaries, to the extent of Compensation deferred before the time of the amendment and income thereon accrued to the date of the amendment, calculated in accordance with section 8.03 and the terms and conditions of the investment options hereunder; and provided further, that no amendment shall affect the duties and responsibilities of the Custodian unless approved by the Custodian.

To the extent permitted by applicable law, the Administrator has the authority to adopt policies or procedures from time to time as may be necessary or desirable to conform Plan provisions to, or to elaborate Plan provisions in light of, technical amendments to the Code, Treasury regulations or other guidance issued under the Code, and such rules, regulations or procedures are hereby ratified by the Employer as having the force and effect of Plan amendments.

11.03 Copies of Amendments The Administrator shall provide a copy of any Plan amendment to the Custodian, the Recordkeeper, and to the issuers of any investment options selected pursuant to section 8.01.

XII. TAX TREATMENT OF AMOUNTS CONTRIBUTED

It is intended that pursuant to Code §457(b), the Amount Deferred shall not be considered current compensation for purposes of federal income taxation except to the extent that the amount deferred is Designated Roth Contributions. This rule shall also apply to state income taxation unless applicable state laws provide otherwise. Such amounts shall, however, be included as compensation to the extent required under the Federal Insurance Contributions Act (FICA). Payments under this Plan shall supplement retirement and death benefits payable under the Employer's group insurance and retirement plans, if any.

XIII. MISCELLANEOUS

- 13.01 Non-Assignability Pursuant to Minnesota Statute §352.965, subd 8, except as provided in sections 13.02 and 13.03, the interests of each Participant or Beneficiary under the plan are not subject to the claims of the Participant's or Beneficiary's creditors, and neither the Participant nor any 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.
- 13.02 Plan Approved Domestic Relations Order Domestic relations orders approved by the Administrator shall be administered as follows.
- (a) Notwithstanding section 13.01, if a final judgment, decree, or order (including approval of a property settlement) that is related to the marital property rights of a spouse or former spouse (herein called an Alternate Payee) is made pursuant to the domestic relations law of any State and meets the requirements of Code §414(p), then such order shall be referred to as a Plan approved domestic relations order (domestic relations order). If a domestic relations order is duly filed upon the Administrator, then the amount of the Participant's Account Balance shall be set aside in a separate account for Alternate Payee(s) as elected by the Alternate Payee. Payments to the Alternate Payee shall be made without regard to whether the Participant is eligible for a distribution of benefits under the Plan; however, a required minimum distribution to the Alternate Payee(s) must commence once the original participant reaches age 72 or has a Severance from Employment, whichever is later (see section 5.03(a)). The Administrator shall establish reasonable procedures for determining the status of any such decree or order and for effectuating distribution pursuant to the domestic relations order and may charge the Participant and Alternate Payee a fee as established from time to time.
 - (b) Where necessary to carry out the terms of such a domestic relations order, a separate account shall be established with respect to the Alternate Payee(s) and such persons shall be entitled to make investment selections with respect thereto in the same manner as the Participant, except to the extent restricted by the Administrator or a specific investment option under the Plan. All costs and charges incurred in carrying out the investment selection shall be deducted from the account created for the Alternate Payee making the investment selection. The Alternate Payee may select from among the forms of payment available to Participants except a joint and survivor annuity naming the Alternate Payee and a subsequent spouse. Withholding and income tax reporting shall be done with respect to the Alternate Payee under the terms of the Code as amended from time to time.
 - (c) The Administrator's liability to pay benefits to a Participant shall be reduced to the extent that amounts have been paid or set aside for payment to a former spouse pursuant to this section. No amount shall be paid or set aside

unless the Administrator has been provided with satisfactory evidence releasing them from any further claim by the Participant with respect to these amounts. The Participant shall be deemed to have released the Administrator from any claim with respect to such amounts in any case in which the Administrator has been notified of or otherwise joined in a proceeding relating to a domestic relations order which sets aside a portion of the Participant's account for former spouse and the Participant fails to obtain an order of the court in the proceeding relieving the Administrator from the Obligation to comply with the domestic relations order.

- (d) The Administrator shall not be obligated to comply with any judgment, decree or order that attempts to require the Plan to violate any Plan provision or any provision of Code §457(b). The Administrator shall not be obligated to defend against or set aside any judgment, decree, or order described herein or any legal order relating to the division of a Participant's benefits under the Plan unless the full expense of such legal action is borne by the Participant. In the event that the Participant's action (or inaction) nonetheless causes the Administrator to incur such expense, the amount of the expense may be charged against the Participant's account and thereby reduce the Administrator's obligation to pay benefits to the Participant. In the course of any proceeding relating to divorce, the Administrator shall be authorized to disclose information relating to Participant's individual account to the Participant's spouse or former spouse (including the legal representatives of the spouse or former spouse), or to a court.

13.03 IRS Levy Notwithstanding section 13.01, the Administrator may pay from a Participant's or Beneficiary's Account Balance the amount that the Administrator finds is lawfully demanded under a levy issued by the Internal Revenue Service with respect to that Participant or Beneficiary or is sought to be collected by the United States Government under a judgment resulting from an unpaid tax assessment against the Participant or Beneficiary.

13.04 Mistaken Contributions If any contribution (or any portion of a contribution) is made to the Plan by a good faith mistake of fact, then within one year after the payment of the contribution, and upon receipt in good order of a proper request approved by the Administrator, the amount of the mistaken contributions (adjusted for any income, or loss in value, if any, allocable thereto) shall be returned directly to the Participant or, to the extent required or permitted by the Administrator, shall be credited to the Employer's current contributions.

13.05 Account Corrections It shall be the Participant's obligation to review all confirmation statements and quarterly statements for discrepancies or errors. Account corrections will be made only for errors which are communicated by the Participant to the Administrator within 60 calendar days of the last quarter end. After this 60 days, account information shall be deemed accurate and acceptable. If the Participant notifies the Administrator after this 60 day period, the correction will only be made from the date of notification forward and not on a retroactive basis.

13.06 Payments to Minors and Incompetents To the extent the Administrator determines that the following procedure meets applicable state or local law, if a Participant or Beneficiary entitled to receive any benefits hereunder is a minor the Administrator will require that a guardian/custodian for the financial estate of the minor be appointed by the court prior to the payment of any benefits. If the Beneficiary is a person determined under law to be incompetent or incapacitated, distribution will be made to the guardian or custodian appointed by a court of competent jurisdiction.

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.

13.07 Procedure When Distributee Cannot be Located The Administrator shall make all reasonable attempts to determine the identity and address of a Participant or a Participant's Beneficiary entitled to benefits under the Plan. For this purpose, a reasonable attempt includes providing notice through certified mail to the last known mailing address, a review of plan and employment records and other publicly available records, attempted contact to a designated Plan Beneficiary, and a reasonable use of either a commercial locator service, a credit reporting agency, or a proprietary internet search tool for locating individuals. 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 Trust Fund shall continue to hold the benefits due such person.

13.08 Self Directed Brokerage Platform The Administrator may choose to make available a self directed brokerage option for Plan Participants. The Administrator will select the self directed brokerage provider available to Participants; the provider must be a properly registered broker-dealer with the Securities and Exchange Commission under the Securities Exchange Act of 1934. The Administrator reserves the right to substitute an alternative self directed brokerage provider. If a new provider is chosen, the Administrator will provide all affected Participants reasonable notice of such change. Participation is optional for participants and an additional fee may be charged for this service.

13.09 Advisory Services The Administrator may choose to make available investment advisory services to Plan Participants. Investment advisory services shall be provided by an independent, federally registered investment advisory firm that has entered into a separate written agreement with the Administrator. The advisory provider may offer investment guidance, investment advice, and/or advisory managed account services. These services are optional to Plan Participants and are subject to additional account fees.

XIV. DISCLAIMER

The Employer and the Administrator make no endorsement, guarantee or any other representation and shall not be liable to the Plan or to any Participant, Beneficiary, or any other person with respect to (a) the financial soundness, investment performance, fitness or suitability (for meeting a Participant's objectives, future obligations under the Plan, or any other purpose) of any investment option offered pursuant to section 8.01 or any investment vehicle in which amounts deferred under the Plan are actually invested, or (b) the tax consequences of the Plan to any Participant, Beneficiary or any other person.

XV. INTERPRETATION

- 15.01 Governing Law This Plan shall be construed under the laws of Minnesota Statute §352.965.
- 15.02 §457(b) This Plan is intended to be an eligible governmental deferred compensation plan within the meaning of Code §457(b), and shall be interpreted so as to be consistent with such section and all Treas. Regs. promulgated thereunder.
- 15.03 Word Usage Words used herein in the singular shall include the plural and the plural the singular where applicable, and one gender shall include the other genders where appropriate.
- 15.04 Headings The headings of sections or other subdivisions hereof are included solely for convenience of reference, and if there is any conflict between such headings and the text of the Plan, the text shall control.
- 15.05 Limitation on Rights Neither the establishment or maintenance of the Plan, any amendment thereof, nor any act or omission under the Plan (or resulting from the operation of the Plan, shall be construed as:
- (a) conferring upon any Participant, Beneficiary, or any other person a right or claim against the Plan, Administrator, or any Employer, except to the extent that such right or claim shall be specifically expressed and provided in the Plan;
 - (b) creating any responsibility or liability of an Employer for the validity or effect of the Plan;
 - (c) a contract, including an employment agreement between an Employer and any Participant or other person;
 - (d) being consideration for, or an inducement or condition of, employment of any Participant or other person, or as affecting or restricting in any manner or to any extent whatsoever, the rights or obligations of an Employer, any Participant, or other person to continue or terminate the employment relationship at any time; or
 - (e) giving any Participant the right to be retained in the service of an Employer or to interfere with the right of an Employer to discharge any Participant or other person at any time.
- 15.06 Entire Plan This Plan document, the documents incorporated by reference herein, and any properly adopted amendment to the Plan shall constitute the only legally governing documents for the Plan. All statements made by the Plan Sponsor or the Administrator shall be deemed representations and not warranties. No such statements shall void or reduce coverage under the Plan or be used in defense to a claim unless in writing signed by the Administrator.