

Article XIII — Form of Benefits

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Article XIII — Form of Benefits

§ 18-1301 Definitions.

When used in this Article, the words and phrases defined in this Section shall have the following meaning, unless the context in which they are used clearly indicates a different meaning:

(a) Annuity Starting Date.

(1) Annuity. In the case of a distribution in the form of a commercial annuity, the term “Annuity Starting Date” shall mean the first day of the first period for which an amount is paid under the annuity.

(2) Lump Sum. In the case of a Lump Sum distribution, the term “Annuity Starting Date” shall mean the date the Lump Sum is distributed.

(b) Joint & Survivor Annuity. The term “Joint and Survivor Annuity” shall mean a non-transferable single-premium immediate commercial annuity contract which provides a level payment monthly annuity for the life of the Participant, with a survivor annuity for the life of the Participant’s Eligible Spouse which provides monthly payments in an amount equal to 50%, 66.67%, or 100% (as elected by the Participant) of the amount of each payment during their joint lives. All annuities purchased under this Plan shall be based on unisex mortality tables.

(c) **Life Annuity.** The term “Life Annuity” shall mean a nontransferable single-premium immediate commercial annuity contract which provides monthly level payments for the life of the annuitant. All annuities purchased under this Plan shall be based on unisex mortality tables.

(d) **Lump Sum.** The term “Lump Sum” shall mean the distribution of a given amount of benefits in a single cash payment.

(e) **Ten Year Certain Annuity.** The term “Ten Year Certain Annuity” shall mean a non-transferable single-premium immediate commercial annuity contract which provides level monthly payments during a period equal to the *greater* of the life of the annuitant *or* 120 months. Any amounts payable after the death of the Participant shall be paid to the beneficiary(ies) selected by the Participant or the default beneficiary(ies) provided under the annuity. All annuities purchased under this Plan shall be based on unisex mortality tables.

§ 18-1302 Form of Distribution.

(a) **Living Participant.** Except as provided in § 18-1405 (relating to Qualified Domestic Relations Orders), **if** the Participant is living at the time benefits commence with respect to his Plan accounts, **then** the benefits which commence shall be used to purchase a Life Annuity for the life of the Participant and the Participant’s benefits shall be distributed in that form, **except that** if the Participant files a timely election under § 18-1303 to receive the benefits in an optional form under § 18-1304, **then** the Participant’s benefits shall be paid in the optional form selected.

(b) **Deceased Participant.** Except as provided in § 18-1405 (relating to Qualified Domestic Relations Orders), **if** the Participant is not living at the time benefits commence with respect to his Plan accounts, **and** —

(1) **Beneficiary is Eligible Spouse.** The Participant’s Beneficiary is his Eligible Spouse, **then** the benefits which commence shall be used to purchase a Life Annuity for the life of the Eligible Spouse and be distributed in that form, **except that** if the Participant’s Eligible Spouse files a timely election under § 18-1303 to receive the benefits in a Lump Sum, **then** the Participant’s benefits shall be paid to the Eligible Spouse in a Lump Sum.

(2) **Beneficiary is not Eligible Spouse.** The Participant’s Beneficiary is not his Eligible Spouse (or there is no Eligible Spouse), **then** the benefits which commence shall be distributed to the Beneficiary in a Lump Sum.

(c) **Small Distributions.** Notwithstanding anything to the contrary in this Section, all Plan benefits with respect to a person whose total vested account balance is less than \$3,500.00 at the time of the given distribution, **and** whose total vested account balance was less than \$3,500.00 at the time of all previous distributions (if there were any) shall be distributed in the form of a Lump Sum.

§ 18-1303 Election by Participant to Receive Benefits in an Optional Form.

(a) **In General.** To be valid under this Section, a Participant's election to receive benefits in an optional form must:

- (1) be filed with the Administrator during the 90 day period ending on the Annuity Starting Date;
- (2) be in writing on forms provided by the Administrator;
- (3) contain an acknowledgment that the Participant has received the notice required under subsection (b); **and**
- (4) be signed by the Participant.

(b) **Notice by Administrator.** Whenever benefits may commence under this Plan, the Administrator shall provide the affected Participant with a general description of the material features of the optional forms of benefit available under the Plan and an explanation of their relative values.

§ 18-1304 Optional Forms of Benefits.

(a) **In General.** The optional forms of benefits specified by this Section shall be—

- (1) **Lump Sum.** One immediate Lump Sum payment from the Trust Fund.
- (2) **Joint and Survivor Annuity.** The purchase of and delivery to the Participant by the Trustees of a 50% Joint and Survivor Annuity, a 66.67% Joint and Survivor Annuity, or a 100% Joint and Survivor Annuity.
- (3) **Ten Year Certain Annuity.** The purchase of and delivery to the Participant by the Trustees of a Ten Year Certain Annuity.

(b) **Limitations.** Notwithstanding anything in subsection (a) to the contrary, any form of benefit which is selected under this Section, and any payments to be made under a commercial annuity selected under this Section, must satisfy the requirements of § 18-1305 and § 18-1306.

§ 18-1305 Minimum Distribution Requirements—In General.

The following minimum distribution requirements, as construed in accordance with the provisions of § 18-1306, shall apply to any benefits received under an optional form permitted by § 18-1304, including any payments to be made under a commercial annuity:

(a) **Benefits to a Living Participant.** If a given group of benefits commence to a living Participant, the benefit payments in that group of benefits must be distributed over a period not extending beyond the life or life expectancy of the Participant or the lives or joint life and last survivor life expectancy of the Participant and a designated Beneficiary, **and** the amount required to be distributed for each calendar year beginning with the calendar year in which the Participant attains age 70 1/2 (or, if later, Separates from Service) shall be no less than—

(1) the remaining amount of the Participant's benefits under that group of benefits, **divided by**

(2) (A) if benefits are distributed over a period not extending beyond the life expectancy of the Participant: the life expectancy of the Participant;

(B) if subparagraph (A) does not apply, and the designated Beneficiary is the Participant's spouse: the joint and last survivor life expectancy of the Participant and the designated Beneficiary;

(C) if subparagraph (A) does not apply, and the designated Beneficiary is not the Participant's spouse: the **lesser** of—

(I) the joint and last survivor life expectancy of the Participant and the designated Beneficiary, **or**

(II) the applicable divisor determined from the table set forth in Treas. Regs. § 1.401(a)(9)-2, Q&A 4(a)(2).

(b) **Benefits to a Beneficiary which Originally Commenced to a Living Participant.** If any group of benefits which commenced to a living Participant are not completely distributed during the Participant's lifetime—

(1) **Death After Code § 401(a)(9) Required Beginning Date or Under Annuity.** If the Participant died on or after the April 1 following the calendar year in which he attained age 70 1/2 (or, if later, that he Separated from Service), **or** if the distribution to the Participant was made in the form of a commercial annuity which satisfies the requirements of Treas. Regs. § 1.401(a)(9)-1 [F-3] and [F-4], **then** any distributions made to Beneficiaries of those benefits must be made at least as rapidly as were distributions to the Participant during his lifetime. However, subparagraph (a)(2)(C)(II) shall not apply after the death of the Participant.

(2) **Death Before Code § 401(a)(9) Required Beginning Date In A Form Other Than An Annuity.** If paragraph (1) does not apply, any distributions made to Beneficiaries of those benefits must be made in accordance with the rules stated in subsections (c) and (d) below, as if those remaining benefits had commenced after the death of the Participant.

(c) **Benefits which Commence to a Beneficiary.** If the Participant dies before a given group of benefits commence, the benefit payments in that group of benefits must meet **one** of the following two criteria (*except* as provided in subsection (d)):

(1) **Five Year Period.** The entire amount of the benefits in such group of benefits must be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(2) **Over Life Expectancy of Beneficiary.**

(A) **Spousal Beneficiary.** If the designated Beneficiary is the surviving spouse of the Participant, **and** no other individual is designated as a primary beneficiary in addition to the surviving spouse as of the date of the Participant's death—

(I) The benefits must be distributed to the spouse-Beneficiary (and any contingent Beneficiaries) over the course of the spouse's life or a period not extending beyond the spouse's life expectancy;

(II) the distributions must begin not later than the **later** of—

(i) December 31 of the calendar year immediately following the calendar year in which the Participant died, **or**

(ii) December 31 of the calendar year in which the Participant would have attained age 70 1/2;

(III) the method of distribution must be *elected* (irrevocably) by the Participant or by his surviving spouse not later than the **earlier** of—

(i) December 31 of the calendar year which contains the fifth anniversary of the death of the Participant, **or**

(ii) the date specified in clause (II); **and**

(IV) the amount required to be distributed for each calendar year beginning with distributions for the **later** of—

(i) the calendar year immediately following the calendar year in which the Participant died, **or**

(ii) the calendar year in which the Participant would have attained age 70 1/2,

shall be no less than—

(iii) the remaining amount of the Participant's benefits under that group of benefits, **divided by**

(iv) the life expectancy of the spouse-Beneficiary.

(B) Nonspouse Beneficiary. If subparagraph (A) does *not* apply, but there is a designated Beneficiary—

(I) The benefits must be distributed to all Beneficiaries (primary or contingent) over the course of the designated Beneficiary's life or a period not extending beyond his life expectancy;

(II) the distributions must begin not later than December 31 of the calendar year immediately following the calendar year in which the Participant died;

(III) the method of distribution must be *elected* (irrevocably) by the Participant or by his Beneficiary not later than the date specified in clause (II); **and**

(IV) the amount required to be distributed for each calendar year beginning with distributions for the calendar year immediately following the calendar year in which the Participant died shall be no less than—

(i) the remaining amount of the Participant's benefits under that group of benefits, **divided by**

(ii) the life expectancy of the designated Beneficiary.

(d) Benefits Which Commence to Another Beneficiary Because Surviving Spouse Died. If the Participant's surviving spouse is the Participant's designated Beneficiary (and only Beneficiary, other than beneficiaries contingent upon the death of the spouse) and such spouse dies after the Participant but before the date specified in subparagraph (c)(2)(A)(II) and before the date benefits actually commence (or, in the case of the distribution of a commercial annuity which satisfies the requirements of Treas. Regs. § 1.401(a)(9)-1 [F-3] and [F-4], before the date payments begin under the annuity), the remaining benefit payments in that group of benefits must meet **one** of the following two criteria:

(1) **Five Year Period.** The entire amount of the remaining benefits in such group of benefits must be distributed by December 31 of the calendar year containing the fifth anniversary of the death of the surviving spouse.

(2) **Over Life Expectancy of Beneficiary.** If there is a new designated Beneficiary —

(A) The remaining benefits must be distributed to all remaining Beneficiaries over the course of the new designated Beneficiary's life or a period not extending beyond his life expectancy;

(B) The distributions must begin not later than December 31 of the calendar year immediately following the calendar year in which the Participant's surviving spouse died;

(C) The method of distribution must be *elected* (irrevocably) by the Participant or by his Beneficiary not later than the date specified in subparagraph (B); **and**

(D) The amount required to be distributed for each calendar year beginning with distributions for the calendar year immediately following the calendar year in which the Participant's spouse died shall be no less than —

(I) the remaining amount of the Participant's benefits under that group of benefits, **divided by**

(II) the life expectancy of the designated Beneficiary.

§ 18-1306 Minimum Distribution Requirements—Special Rules.

(a) **Treatment of Payments to Children.** For purposes of § 18-1305, any amount paid to a child of the Participant shall be treated as if it had been paid to the surviving spouse of the Participant if such amount will become payable to the surviving spouse when such child reaches majority.

(b) **Designated Beneficiary.** For purposes of § 18-1305, the existence and identity of “designated” Beneficiaries, and of “the” designated Beneficiary for purposes of measuring life expectancies, shall be determined in accordance with Treas. Regs. § 1.401(a)(9)-1 [part D] and [E-5] (which contain special rules for multiple beneficiaries, substitute beneficiaries, class beneficiaries, trust beneficiaries, the date for determining designated beneficiaries, etc.).

(c) **Spouse.** For purposes of § 18-1305 and this Section, the existence and identity of a Participant's “spouse”, shall be determined in accordance with Treas. Regs. § 1.401(a)(9)-1 [H-3A] and [H-4] (which contain special rules for determining the date as of which the spouse is identified and the effect of Qualified Domestic Relations Orders, etc.).

(d) **Life Expectancies.**

(1) **In General.** For purposes of § 18-1305, life expectancies and joint and last survivor expectancies are computed by the use of the return multiples contained in Treas. Regs. § 1.72-9, Tables V and VI.

(2) **Participant and Spouse.** The life expectancy of a Participant and his spouse shall be *recalculated* in each calendar year, using the attained age of each individual as of the in-

dividual's birthday during the calendar year. Upon the death of the Participant or his spouse, the recalculated life expectancy of the Participant or spouse will be reduced to zero in the calendar year following the calendar year of death. Joint and last survivor life expectancies in cases where one life expectancy is being recalculated and the other is not are illustrated in Treas. Regs. § 1.401(a)(9)-1 [E-8].

(3) Non-spouse Beneficiary. The life expectancy of a non-spouse Beneficiary may not be recalculated. The life expectancy of a non-spouse Beneficiary in any given calendar year is equal to—

(A) the life expectancy of such Beneficiary as of his birthday during:

(I) in the case of a commercial annuity which meets the requirements of Treas. Regs. § 1.401(a)(9)-1 [F-3] and [F-4]: the calendar year in which payments commence under the annuity;

(II) except as provided in subclause (I), for purposes of § 18-1305(a): the calendar year in which the Participant attains age 70 1/2;

(III) except as provided in subclause (I), for purposes of § 18-1305(c)(2)(B): the calendar year following the calendar year in which the Participant died;

(IV) except as provided in subclause (I), for purposes of § 18-1305(d)(2): the calendar year following the calendar year in which the Participant's surviving spouse died;

minus

(B) the number of years between the first day of the given calendar year and the first day of the calendar year specified in subparagraph (A).

(e) Time of Distributions. The minimum distribution required under § 18-1305 for any given calendar year must be made on or before December 31 of such calendar year, **except** that the minimum distribution required under § 18-1305(a) for the calendar year in which the Participant attains age 70 1/2 (or, if later, Separates from Service) must be made on or before April 1 of the following calendar year. Any amount distributed under this exception between January 1 and April 1 of the following calendar year shall not be treated as a distribution which satisfies the minimum distribution required under § 18-1305 for the following calendar year.

(f) Remaining Amount of Benefits. For purposes of § 18-1305, the “remaining amount of a Participant's benefits” as of any given calendar year is the balance of the Participant's benefits within a given group of benefits valued as of the last valuation date under § 18-402 in the calendar year immediately preceding the given calendar year **less** all distributions of such benefits since that time.

(g) Annuities. If a commercial annuity contract is purchased to pay benefits from this Plan, only the payments under the annuity contract, and not the distribution of the contract, will be considered in determining whether the distribution satisfies the minimum distribution rules of § 18-1305 and this Section. An annuity contract must also meet the applicable requirements of Treas. Regs. § 1.401(a)(9)-1 [F-1(e)], [F-3], [F-3A], and [F-4], and § 1.401(a)(9)-2 [Q&A 4(b), 5, 6, and 7]. The provisions of those regulations expressly supersede §§ 18-1305(a)(1), 18-1305(a)(2), 18-1305(c)(2)(A)(IV), 18-1305(c)(2)(B)(IV), 18-1305(d)(2)(D) (all relating to the minimum amount to be distributed in each year), and § 18-1306(d)(2) (relating to recalculation of life expectancies) in the case of annuity contracts.

(h) **Compliance with Regulations.** This Section and § 18-1305 shall be interpreted in accordance with the more detailed provisions of Treas. Regs. §§ 1.401(a)(9)-1 and -2, and are intended to comply with those regulations. To the extent that this Section and § 18-1305 are in conflict with such regulations, this Section and § 18-1305 shall be deemed modified so as to comply with such regulations.

§ 18-1307 Direct Rollovers of Distributions.

(a) **In General.** Notwithstanding any provision of the Plan to the contrary that would otherwise limit a Distributee's election under this Article, a 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 specified by the Distributee in a Direct Rollover.

(b) **Definitions.** When used in this Section, the words and phrases defined in this subsection shall have the following meaning:

(1) **Direct Rollover.** A "Direct Rollover" is a payment by the Plan to the Eligible Retirement Plan specified by the Distributee.

(2) **Distributee.** A "Distributee" includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the Alternate Payee under a Qualified Domestic Relations Order, as defined in Code § 414(q), are "Distributee's" with regard to the interest of the spouse or former spouse. A "Distributee" also includes the employee's or former employee's nonspouse designated beneficiary, in which case the distribution can only be transferred to a traditional IRA (under Code § 408(a) or (b)) or Roth IRA (under Code § 408A) established on behalf of the nonspouse designated beneficiary for the purpose of receiving the distribution.

(3) **Eligible Rollover Distribution.** An "Eligible Rollover Distribution" is any distribution of all or any portion of the balance to the credit of the Distributee, *except* that an Eligible Rollover Distribution does *not* include:

(A) 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;

(B) any distribution to the extent such distribution is required under Code § 401(a)(9); and

(C) any hardship distribution.

(4) **Eligible Retirement Plan.**

(A) **In General.** Except as provided in subparagraph (B), an "Eligible Retirement Plan" is—

(I) an individual retirement account or annuity described in Code § 408(a) or (b);

(II) a Roth individual retirement account or annuity described in Code § 408A;

(III) a qualified trust described in Code § 401(a), including both defined benefit and defined contribution plans;

(IV) an annuity plan described in Code § 403(a);

(V) an annuity contract described in Code § 403(b); **or**

(VI) an eligible deferred compensation plan described in Code § 457(b) which is maintained by an eligible governmental employer described in Code § 457(e)(1)(A), and which agrees to separately account for the amounts transferred into such plan from this Plan, that accepts the Distributee's Eligible Rollover Distribution.

(B) After-Tax Employee Contributions. In the case of any portion of a distribution that consists of after-tax employee contributions which are not includible in gross income, an "Eligible Retirement Plan" is—

(I) an individual retirement account or annuity described in Code § 408(a) or (b) or a Roth individual retirement account or annuity described in Code § 408A; **or**

(II) a qualified plan under Code § 401(a), or an annuity contract described in Code § 403(b), that agrees to separate accounting for amounts so transferred (and earnings thereon), including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible, that accepts the Distributee's Eligible Rollover Distribution.

(c) Automatic Rollovers. In the event of a mandatory distribution made from the Plan to a Participant in an amount greater than One Thousand Dollars (\$1,000.00), which is made before the Participant attains age 62 and without the Participant's consent, if the Participant does not elect to have such distribution paid directly to an Eligible Retirement Plan specified by the Participant in a Direct Rollover in accordance with this Section, and does not affirmatively elect to receive the distribution directly from the Plan at the time and in the manner prescribed by the Administrator, then the Administrator will pay the distribution in a Direct Rollover to an individual retirement account or annuity described in Code § 408(a) or (b) designated by the Administrator. The Administrator shall notify the Participant of this possibility as required by law, and shall notify the Participant that the distribution may be transferred to another individual retirement plan. *See* IRS Notice 2005-5; 29 CFR 2550.404a-2.