

**THE CITY OF COLUMBIA, MISSOURI**  
**MONEY PURCHASE PLAN**  
**(January 1, 2015 Restatement)**

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**THE CITY OF COLUMBIA, MISSOURI  
MONEY PURCHASE PLAN  
(January 1, 2015 Restatement)**

PREAMBLE

THE CITY OF COLUMBIA, MISSOURI (the “*City of Columbia*”) established The City of Columbia, Missouri Money Purchase Plan (the “*Plan*”) effective as of December 10, 1990, for the benefit of eligible employees of the City of Columbia, Missouri in order to increase the effectiveness of the City of Columbia’s retirement benefit expenditures. The Plan is designed to constitute a qualified defined contribution (money purchase) pension plan, as described in section 401(a) of the Code.

Having amended the Plan on numerous prior occasions, including to amend and to restate the Plan to comply with qualification requirements imposed by “GUST,” as defined in Rev. Proc. 2001-6, § 3.03, to adopt provisions pursuant to the Economic Growth and Tax Relief Reconciliation Act of 2001 (“EGTRRA”), and other legislative and regulatory changes to the qualification requirements of the Code. The Plan is intended to be in good faith compliance with the requirements of Treasury Regulations Section 401(m), and to be in good faith compliance with certain of the requirements of the Pension Protection Act of 2006, effective January 1, 2007, except for certain provisions the effective dates of which are set forth herein. The Plan was most recently restated January 1, 2012. The City of Columbia, Missouri now desires to amend and to restate the Plan effective January 1, 2015 in connection with filing for a determination letter on the Plan with the Internal Revenue Service. The Internal Revenue Service issued on September 20, 2017 a favorable determination letter on the qualified status of the Plan effective January 1, 2015. Except as otherwise provided in this document, the Plan, as hereby amended and restated, shall be effective as of January 1, 2015. Unless the contrary rule is clearly stated, the provisions of this Plan shall not apply to the benefits payable to a Participant whose employment terminates prior to January 1, 2015. The rights and benefits of such former Participant shall be determined under the terms of the Plan as in effect when the Participant’s employment terminated.

## SECTION 1

### DEFINITIONS

The following words and phrases shall have the following meanings unless a different meaning is plainly required by the context:

1.1 **“Beneficiary”** means the person or persons entitled to receive benefits under the Plan after the death of a Participant in accordance with Section 7.7, and *“Designated Beneficiary”* means any individual who is designated as a Participant’s Beneficiary in accordance with Section 7.7.

1.2 **“Code”** means the Internal Revenue Code of 1986, as amended. Reference to a specific section of the Code shall include such section, any valid regulation promulgated thereunder, and any comparable provision of any future legislation amending, supplementing or superseding such section.

1.3 **“Compensation”** means the following amounts paid by the Employer to a Participant while an Eligible Employee during the relevant Plan Year:

- (a) Base pay amounts as determined by the written policy of the City Manager of the Employer. In addition, “Compensation” shall include floating holiday pay and sick leave cash-in;
- (b) “Compensation” shall exclude any additional payments not referred to in Section 1.3(a) above, including bonuses, overtime payments, overtime retroactive pay, meal allowances and adjustments, step-up pay, step-up overtime pay, standby pay, incentive pay, auto allowances, safety awards, health insurance allowances, moving allowances, Employer contributions to Social Security, Employer contributions under this Plan or any other retirement plan (except Compensation shall include elective deferrals as defined in section 402(g)(3) of the Code, or to a plan qualified under Section 125 of the Code, or (for Plan Years beginning on or after January 1, 2000) Compensation shall include elective amounts that are not includible in the gross income of the Eligible Employee by reason of Sections 457 or 132(f)(4) of the Code), the value of any other fringe benefits provided at the expense of the Employer, and expense reimbursements. Effective January 1, 2009, Compensation shall include any differential wage payments paid for at least thirty (30) days while on qualified military service; and
- (c) No portion of the Compensation of any Participant for a Plan Year that exceeds the dollar limit described in section 401(a)(17) of the Code (as

adjusted pursuant to sections 401(a)(17) and 415(d) of the Code) shall be taken into account for any purpose under the Plan for any Plan Year.

1.4 **“Deferrals”** means as to each Participant, amounts deferred under any of the Employer’s eligible deferred compensation plans (within the meaning of section 457 of the Code) (the “457 Plan”).

1.5 **“Disability”** means a physical or mental impairment which in the opinion of the Employer is of such permanence and degree that a Participant is unable because of such impairment to perform any gainful activity for which the Participant is suited by virtue of the Participant’s experience, training or education. The permanence and degree of such impairment shall be supported by medical evidence.

1.6 **“Eligibility Date”** means the first day of each payroll period.

1.7 **“Eligible Employee”** means each full-time permanent or part-time permanent Employee.

1.8 **“Employee”** means an individual who is employed by the Employer as a common-law employee.

1.9 **“Employer”** means the City of Columbia, Missouri.

1.10 **“Employer Contributions”** means the amounts contributed under the Plan by the Employer in accordance with Section 3.2.

1.11 **“ERISA”** means the Employee Retirement Income Security Act of 1974, as amended. Reference to a specific section of ERISA shall include such section, any valid regulation promulgated thereunder, and any comparable provision of any future legislation amending, supplementing or superseding such section.

1.12 **“Highly Compensated Employee”** means a Highly Compensated Active Employee or a Highly Compensated Former Employee, as defined below:

(a) *“Highly Compensated Active Employee”* means any Employee who performs services for the Employer during the Determination Year and who is either a 5% owner at any time during the Determination Year or the Look Back Year, or for the Look Back Year received Compensation from an Employer in excess of \$80,000 (indexed at the same time and in the same manner as the dollar limit in Section 415(d) of the Code is indexed except that the base period shall be the calendar quarter ending on September 30 of the prior calendar year).



(b) *“Highly Compensated Former Employee”* means with respect to a Determination Year any Employee who (1) separated (or was deemed to have separated) from service prior to the Determination Year, (2) performed no services for the Employer during the Determination Year, and (3) was a Highly Compensated Active Employee for either the separation year or any Determination Year ending on or after his or her 55th birthday, applying the definition of Highly Compensated Active Employee that was in effect for such Determination year or separation year.

(c) For purposes of applying this Section 1.12:

(1) *“Determination Year”* means the Plan Year for which the determination is being made;

(2) *“Look-Back Year”* means the Plan Year preceding the Determination Year, unless the Employer (in its discretion) elects to make Look-Back Year calculations based on the Determination Year; and

(3) *“Compensation”* means Testing Compensation as defined in Section 1.21(a).

1.13 **“Investment Fund”** means any investment fund described in Section 5.3.

1.14 **“Investment Manager”** means any investment manager appointed by the Employer in accordance with Section 9.4.

1.15 **“Normal Retirement Age”** means age 55.

1.16 **“Participant”** means an Eligible Employee who has become a Participant in the Plan pursuant to Section 2.1 and has not ceased to be a Participant pursuant to Section 2.3.

1.17 **“Participant’s Account”** or **“Account”** means as to any Participant the separate account maintained in order to reflect his or her interest in the Plan. Each Participant’s Account may be comprised of one or more of the following separate subaccounts:

(a) *“Employer Contribution Account”* is the subaccount maintained to record the Employer Contributions made on behalf of the Participant and the adjustments relating thereto.

(b) *“Rollover Account”* (formerly, the *“Portable Benefits Account”*) is the subaccount maintained to record any amounts transferred to the Trust Fund by or on behalf of the Participant in accordance with Section 10.4 and the adjustments relating thereto.

(c) *“Voluntary Contribution Account”* is the subaccount maintained to record any Voluntary Contributions made by the Participant and the adjustments relating thereto.

1.18 **“Plan”** means The City of Columbia, Missouri Money Purchase Plan, as set forth in this instrument and as heretofore and hereafter amended from time to time.

1.19 **“Plan Year”** means the calendar year.

1.20 **“Spousal Consent”** means the consent of the spouse of a Participant that:

(a) Is set forth in writing;

(b) Acknowledges the effect of the election, consent, waiver or designation made or other action taken by the Participant; and

(c) Is signed by the spouse and witnessed by a notary public.

(d) However, if the Participant establishes to the satisfaction of the Employer that Spousal Consent may not be obtained or is not required, either because the Participant has no spouse or the spouse cannot be located or because of other circumstances specified under section 417(a)(2) of the Code or in rules adopted by the Employer, the Participant’s election or other action shall be effective without Spousal Consent.

(e) Any Spousal Consent required under the Plan shall be valid Only (1) with respect to the spouse who signs the Spousal Consent, and (2) as to the particular choice made by the Participant in the election or other action requiring Spousal Consent.

(f) A Participant (without Spousal Consent) may revoke a prior election or other action at any time before its effective date. The number of such revocations shall not be limited.

Effective September 16, 2013, “spouse” means a person, as of the earlier of a Participant’s Annuity Starting Date or a Participant’s death, who is alive and to whom a Participant is legally married under the laws of the state where the marriage occurred (regardless of the laws of the state where the Participant or spouse are domiciled); provided such marriage is evidenced by a valid marriage certificate or other proof acceptable to the Employer. For the avoidance of doubt, any references to “spousal” or “married” in this Plan shall be determined in accordance with this Section 1.20.

1.21 **“Testing Compensation”** means:

(a) The sum of (1) his or her Total Compensation (as defined in Section 4.3.2(c)), and (2) other amounts that are contributed to an employee benefit plan by the Employer pursuant to a salary reduction agreement and are not includible in gross income under section 125, 401(k), 402(e)(3), 402(h), 403(b) or 414(h)(2) of the Code; or

(b) The amount of his or her compensation calculated by the Employer in a manner which satisfies applicable requirements of Treas. Reg. § 1.401(k)-1(g)(2)(i).

(c) No amount in excess of \$225,000 (as adjusted pursuant to sections 401(a)(17) and 415(d) of the Code) shall be taken into account for any Plan Year.

(d) Compensation for periods prior to the time that the individual becomes a Participant shall not be taken into account.

1.22 **“Trust Fund”** means the trust fund established by and maintained under the trust agreement entered into by and between the Employer and the Trustee, as amended from time to

time (the “Trust Agreement”), for the purpose of funding the benefits provided by the Plan as provided in Section 10.

1.23 **“Trustee”** means UMB Bank, n.a., and any additional or substituted trustee or trustees from time to time designated by the Employer to serve as Trustee of the Trust Fund.

1.24 **“Valuation Date”** means the last business day of each month or such other interval as is established pursuant to a written agreement between the Trustee and Employer.

1.25 **“Voluntary Contributions”** means the amounts contributed under the Plan by the Participant in accordance with Section 3.1.

## SECTION 2

### ELIGIBILITY AND PARTICIPATION

2.1 **Eligibility.** Subject to Section 2.2, each current or former Employee who was a Participant in the Plan on January 1, 2012 shall continue as a Participant. Each other Employee shall become a Participant in the Plan on the Eligibility Date that next follows the later of (a) the date on which he or she first elects to make deferrals under the 457 Plan, or (b) the date he or she becomes an Eligible Employee. A former Employee who is reemployed as an Eligible Employee shall become a Participant in the Plan on the date he or she is reemployed.

2.2 **Suspended Participation.** If a Participant (a) ceases to be an Eligible Employee because he or she ceases to meet the requirements of Section 1.7, and (b) is granted a leave of absence without pay, or is placed on layoff or furlough status, his or her participation (1) shall be suspended for each payroll period beginning during the continuation of the ineligible status, and (2) shall resume as of the first day of the payroll period during which he or she again becomes an Eligible Employee. However, his or her Account shall continue to share in the allocations of the earnings and gains (or losses) of the Trust Fund as provided in Section 5.5.

2.3 **Termination of Participation.** An individual who has become a Participant shall remain a Participant until his or her employment with the Employer terminates or, if later, until his or her entire Account balance is distributed or forfeited.

## SECTION 3

### CONTRIBUTIONS

3.1 **Voluntary Contributions.** Subject to the provisions of Section 4.3, each Participant may elect to make Voluntary Contributions to the Plan in whole percentages from 1% to 10% of his or her Compensation for each payroll period. Such Voluntary Contributions shall be credited to the Participant’s Voluntary Contribution Account under the Plan.

3.1.1 **Election.** Each Participant's election to make Voluntary Contributions shall be made in accordance with rules prescribed by the Employer and by giving written notice to the Employer in such manner and within such advance notice period as the Employer (in its discretion) shall specify.

3.1.2 **Changes or Cancellation.** A Participant may change the percentage determined under Section 3.1 as of the beginning of a payroll period in accordance with procedures prescribed by the Employer and by giving written notice to the Employer in such manner and within such advance notice period as the Employer (in its discretion) shall specify. A Participant may completely cancel his or her election, effective with respect to Compensation paid for payroll periods that begin on or after a specified Eligibility Date, by giving written notice to the Employer in such manner and within such advance notice period as the Employer (in its discretion) shall specify.

3.1.3 **Payment of Voluntary Contributions.** Subject to the provisions of Sections 3 and 4.3, the Employer shall pay to the Trust Fund the amounts deducted from Participants' Compensation as Voluntary Contributions pursuant to this Section 3.1. Any Voluntary Contributions to be contributed for a payroll period in accordance with the preceding sentence shall be paid to the Trust Fund on the earliest date on which such contributions can reasonably be segregated from the Employer's general assets, but in any event, effective February 3, 1997, within 15 business days of the month following the month in which such amounts would otherwise have been payable to the Employee in cash.

3.2 **Employer Contributions.** Subject to the provisions of Section 4.3, the Employer shall contribute to the Trust Fund as Employer Contributions amounts equal to 100% (the "*Matching Percentage*") of the Deferrals made for each payroll period by each Participant whose Deferrals for such payroll period are at least \$2.50. Only those Deferrals which do not exceed the "applicable percentage" of the Participant's Compensation shall be taken into account in calculating the amount of such Employer Contributions (if any) to be made in respect of the Participant's Deferrals. For purposes of the preceding sentence, the "applicable percentage" shall be the percentage (2% as of January 1, 1996) in effect under Section 19-110 in the Code of Ordinances of the City of Columbia, Missouri at the time the Participant earns the Compensation that is deferred under this Section 3.2. Effective September 30, 2012, the Employer shall cease

Employer Contributions under this Section 3.2 to a Participant who is employed by the Employer as a police employee or a firefighter employee.

3.3 **Reserved.**

3.4 **Timing.** Subject to the provisions of Section 4.3, Employer Contributions shall be paid to the Trust Fund on the earliest date on which such contributions can reasonably be segregated from the Employer's general assets, but in any event, effective February 3, 1997, within 15 business days of the month following the month in which such amounts would otherwise have been payable to the Employee in cash. The Employer intends the Plan to be permanent, but the Employer reserves the right, in its absolute and unlimited discretion, to amend the Plan to reduce or eliminate prospectively its obligation to accept Voluntary Contributions or to make Employer Contributions with respect to future Deferrals. No Participant shall have any vested contractual right under the Plan to continue to make Voluntary Contributions or to have Employer Contributions allocated to his or her Employer Contribution Account at the rate in effect prior to the effective date of any such change.

## **SECTION 4**

### **ALLOCATION OF CONTRIBUTIONS**

4.1 **Voluntary Contributions.** The Voluntary Contributions made by a Participant for a Plan Year shall be allocated in at least bi-weekly intervals to his or her Voluntary Contribution Account.

4.2 **Employer Contributions.** Except as limited by Section 4.3, the Employer Contributions made on behalf of a Participant for a Plan Year shall be allocated at bi-weekly intervals to his or her Employer Account.

4.3 **Limitations on Allocations.**

4.3.1 **Annual Addition Limitation.** Notwithstanding any contrary Plan provision, in no event shall the Annual Addition to any Participant's Account for any Plan Year exceed the lesser of (a) \$54,000 (effective January 1, 2017) (as adjusted annually for cost of living increases in accordance with section 415(d) of the Code), or (b) 100% (effective January 1, 2002) of the Participant's Total Compensation for the Plan Year; provided, however, that clause (b) shall not apply to Annual Additions described in clause (5) of Section 4.3.2(b).

4.3.2 **Definitions.** For purposes of this Section 4.3, the following definitions shall apply:

(a) “*Aggregated Plan*” means any defined contribution plan which is aggregated with this Plan pursuant to Section 4.3.3.

(b) “*Annual Addition*” means with respect to each Participant the sum for a Plan Year of (1) the share of the Employer Contributions made by the Employer to be credited to the Participant’s Employer Contribution Account; (2) the Voluntary Contributions made by the Participant to be credited to the Participant’s Voluntary Contribution Account; (3) the share of all contributions made by the Employer to be credited to the Participant’s account under any Aggregated Plan; (4) the aggregate after-tax contributions made by the Participant to be credited to the Participant’s account under any Aggregated Plan; and (5) any amount allocated to the Participant’s individual medical account (within the meaning of section 415(l) of the Code) under any defined benefit plan maintained by the Employer.

(c) “*Total Compensation*” means, except as otherwise provided in this Section 4.3.2, “Compensation” means all amounts paid or made available to an Employee by an Employer which are treated as compensation under Treasury Regulation Section 1.415(c)-2(d)(2)(i), and that are not excluded from compensation under Treasury Regulation Section 1.415(c)-2(d)(3) as follows a Participant’s wages (within the meaning of section 3401(a) of the Code) and all other payments of compensation which the Employer is required to report in Box 1 (“wages, tips or other compensation”) of IRS Form W-2 (or its successor), but (1) excluding amounts paid or reimbursed by the Employer for moving expenses incurred by the Participant, to the extent that at the time of payment it is reasonable to believe that such amounts are deductible by the employee under section 217 of the Code, and (2) determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the agricultural labor exception). Total Compensation shall include regular pay after severance from employment if: (i) the payment is regular compensation for services during the Participant’s regular working hours, or compensation for services outside the Participant’s regular working hours (such as overtime or shift differential), commissions, bonuses or other similar payments; (ii) the payment would have been paid to the Participant prior to a severance from employment if the Participant had continued in employment with the Employer; and (iii) the amounts are paid by the later of 2 ½ months after severance from employment or by the end of the limitation year that includes the date of such severance from employment. Leave cashouts shall be included in Total Compensation if: (i) those amounts would have been included if they were paid prior to the Participant’s severance from employment, and the amounts are payment for unused accrued bona fide sick, vacation, or other leave, but only if the Participant would have been able to use the leave if employment had continued; and (ii) the amounts are paid by the later of 2 ½ months after severance from employment or by the end of the limitation year that includes the date of such severance from employment.

**4.3.3 Other Defined Contribution Plans.** All defined contribution plans (terminated or not) maintained by the Employer shall be considered as one plan in applying the limitations of this Section 4.3.

4.3.4 **Adjustments.** If, as a result of a reasonable error in estimating a Participant's Total Compensation or other circumstances which the Internal Revenue Service finds justify the availability of the rule stated in this Section 4.3.4, any of the limitations of this Section 4.3 otherwise would be exceeded with respect to any Participant for any Plan Year, then the Plan may be corrected only in accordance with the Employee Plans Compliance Resolution System (EPCRS) as set forth in Revenue Procedure 2008-50 or any superseding guidance, including, but not limited to, the preamble of the final Code Section 415 regulations.

4.3.5 **Limitation Year.** For purposes of applying the limitations of section 415 of the Code the limitation year shall be the Plan Year.

## SECTION 5

### ACCOUNTS AND INVESTMENT

5.1 **Participants' Accounts.** The Employer shall establish and maintain for each Participant, as appropriate:

(a) A Voluntary Contribution Account, to which shall be credited the Voluntary Contributions he or she made pursuant to Section 3.1;

(b) An Employer Contribution Account, to which shall be credited his or her share of the Employer Contributions made pursuant to Section 3.2; and

(c) A Rollover Account, to which shall be credited amounts transferred to the Trust Fund by or on behalf of the Participant pursuant to Section 10.4. Each Participant's Account shall also reflect the total value of its proportionate interest in each of the Investment Funds as of each Valuation Date. The maintenance of a separate Account for each Participant shall not be deemed to segregate for the Participant, nor to give the Participant any ownership interest in, any specific assets of the Trust Fund.

5.2 **Trust Fund Assets.** The Trust Fund shall consist of the Participants' Voluntary Contributions, Employer Contributions, amounts transferred in accordance with Section 10.4, all investments and reinvestments made therewith, and all earnings and gains (less any losses) thereon. The Trustee shall hold and administer all assets of the Trust Fund in the Investment Funds, and each Participant and his or her Account shall have only an undivided interest in any of the Investment Funds.

5.3 **Investment Funds.** The Trustee, at the direction of the Employer, shall establish one (1) or more Investment Funds which shall be maintained for the purpose of investing such portions of Participants' Accounts as are properly allocable to each such Fund pursuant to Section 5.4.

5.3.1 **Investment Media.** Except to the extent that such investment responsibility has been transferred to the Trustee or an Investment Manager in accordance with Section 9.4, the Employer shall direct the Trustee to invest each Investment Fund in units, shares or other interests in one or more common, pooled or other collective investment funds or any other investment vehicles which are (a) designated by the Employer, and (b) either (1) maintained by any person described in section 3(38) of ERISA or an affiliate of such person, (2) registered under the Investment Company Act of 1940, as amended, or (3) was an investment vehicle maintained by the Plan on June 4, 1996, but only to the extent maintained on that date.

5.3.2 **Changes.** The Employer may from time to time change the number, identity or composition of the Investment Funds made available under this Section 5.3. Except to the extent that such investment responsibility has been transferred to the Trustee or an Investment Manager in accordance with Section 9.4, the Employer may redesignate the collective investment funds or other investment vehicles in which any Investment Fund shall be invested.

5.3.3 **Reinvestments and Cash.** Except as provided otherwise in the following sentence, all interest, dividends or other income realized from the investments of any of the Investment Funds shall be reinvested in the Investment Fund that realized such income. Notwithstanding the foregoing, any dividends or other income realized from shares of Wal-Mart Stores or McDonald's Corporation (listed as WMT and MCD, respectively, on the New York Stock Exchange) held by the Plan will not be reinvested in the Investment Fund that realized such income, but will be reinvested in the same manner as the Participant's other Accounts. Temporary cash balances arising in any of the Investment Funds shall be invested in a manner which produces a reasonable rate of return and is consistent with the liquidity needs of the Fund.

5.4 **Investment Directions.** The Trustee shall invest a Participant's Account pursuant to the Participant's investment directions made under this Section 5.4. Each Participant shall indicate, in such manner and at such times as the Employer shall specify, the percentages of all amounts allocated to his or her Account that are to be invested in each of the Investment Funds. The Participant may specify as to any Investment Fund any percentage that is a whole multiple of one percent (1 %), provided that the total of the percentages elected shall equal 100%.

5.4.1 **Changes.** The instructions of a Participant, including a Participant whose employment has terminated but whose entire Account balance has not yet been distributed,



concerning the investment of the amounts allocated to his or her Account may be changed in accordance with such procedures as the Employer may designate from time to time. The designated procedures at all times shall permit Participants to make investment changes once each calendar quarter, effective as of the first day of the following calendar quarter, by making a new investment election in such manner and within such advance notice period as the Employer shall specify.

**5.4.2 Default Rule.** If a Participant fails to direct the manner in which the amounts allocated to his or her Account are to be invested, such amounts shall be invested in the Investment Fund designated by the Employer for such purpose.

**5.5 Valuation of Participants' Accounts.** The Trustee shall determine the fair market values of the assets of the Investment Funds, and the Employer shall determine or cause to be determined the fair market value of each Participant's Account, as of each Valuation Date. In making such determinations and in crediting net earnings and gains (or losses) in the Investment Funds to the Participants' Accounts, the Employer may employ, and may direct the Trustee to employ, such accounting methods as the Employer deems appropriate in order fairly to reflect the fair market values of the Investment Funds and each Participant's Account, and may charge the Account of a Participant for the expenses attributable to such Participant's Account, including the expenses of carrying out his or her investment directions under Section 5.4. For this purpose the Trustee and the Employer (as appropriate) may rely upon information provided by the Employer, the Trustee, any Investment Manager or other persons believed by the Trustee or the Employer to be competent.

**5.6 Statements of Participants' Accounts.** Each Participant shall be furnished with periodic statements reflecting his or her interest in the Plan, at least annually.

## **SECTION 6**

### **VESTING**

A Participant's interests in his or her Voluntary, Employer and Rollover Accounts at all times shall be 100% vested and nonforfeitable. Upon termination of the Participant's employment with the Employer for any reason at any time, the entire balances credited to his or her Voluntary, Employer Contribution and Rollover Accounts (if any) shall become distributable to him or her in the manner and at the times set forth in Section 7.1.

**SECTION 7**  
**DISTRIBUTIONS**

7.1 **Events Permitting Distribution.** The balance credited to a Participant's Account shall become distributable only in the following circumstances:

- (a) Upon termination of the Participant's employment with the Employer;
- (b) Upon the creation or recognition of an Alternate Payee's (as defined in Section 8.3) right to all or a portion of a Participant's Account under a domestic relations order which the Employer determines is a QDRO (as defined in Section 8.3), but only as to the portion of the Participant's Account that the QDRO states is payable to the Alternate Payee;
- (c) Upon the Participant's exercise of his or her withdrawal rights as to his or her Voluntary Contribution Account as provided in Section 8.2.

7.2 **Times for Distribution.** Subject to Sections 7.5 and 7.6, distributions from a Participant's Account shall normally be made or commenced as soon as practicable after the Valuation Date that next follows the later of (a) the date of the event permitting the distribution, or (b) the date on which the Employer receives any consent required under Section 7.2.2.

7.2.1 **Distribution Deadlines.** All distributions not made or commenced sooner pursuant to the preceding sentence shall be made or commenced no later than 90 days after the end of the Plan Year in which a distribution event described in Section 7.1 occurs or a Participant attains Normal Retirement Age (whichever is later), subject to the following:

- (a) Upon a Participant's written request, the Employer shall direct that distribution of his or her Account be deferred to a date which is not later than the later of the April 1 that next follows the calendar year in which he or she attains age 70 ½, or the April 1 that next follows the calendar year in which he or she retires;
- (b) If a Participant continues in employment after attaining Normal Retirement Age, distribution of his or her Account shall be made or commenced no later than the April 1 that next follows the calendar year in which his or her employment with the Employer terminates; and
- (c) If the amount of the distribution or the location of a Participant or his or her Beneficiary (after a reasonable search) cannot be ascertained by the applicable deadline described in this Section 7.2.1, distribution shall be made or commenced no later than 60 days after the earliest date on which such amount or location (as appropriate) is ascertained.

7.2.2 **Consent Requirements.** If the balance credited to a Participant's Account exceeds \$5,000 (effective January 1, 1998) as to the Valuation Date that next precedes the date on which a distribution is to be made or commenced, no distribution shall be made or

commenced before the Participant attains or (in the event of his or her death) would have attained Normal Retirement Age, unless (a) the Participant or (if the Participant is deceased and his or her Beneficiary is his or her surviving spouse) the Participant's Beneficiary has consented in writing to receive an earlier distribution, and (b) if the distribution is not being made in the form of a Qualified Joint and Survivor Annuity (as defined in Section 7.6.3(b)), the Participant's consent is granted with Spousal Consent.

### 7.3 **Limitations on Deferral (for Distributions before January 1, 2003).**

Notwithstanding any contrary Plan provision, the following provisions shall govern all distributions from the Plan before January 1, 2003:

7.3.1 **General Rule.** Distribution of the balance credited to a Participant's Account:

(a) Shall be completed no later than the Deadline Date; or

(b) Shall be commenced no later than the Deadline Date and paid in such a manner that the balance credited to the Account will be distributed (1) in the case of a life annuity form of distribution, over the life of the Participant or the joint lives of the Participant and his or her Designated Beneficiary, or (2) in the case of a distribution in the form of periodic payments, over a period certain that does not extend beyond the Participant's life expectancy or the joint and last survivor life expectancy of the Participant's and his or her Designated Beneficiary.

(c) The amount to be distributed for each calendar year under paragraph (b) above, beginning with the year that immediately precedes the year in which the Deadline Date occurs (the "*first Distribution Year*"), shall equal or exceed the lesser of (1) the balance credited to the Account, or (2) the quotient obtained by dividing (A) the balance of the Account as of the last Valuation Date of the preceding calendar year, by (B) the applicable life expectancy.

(d) The distribution of the First Distribution Year shall be made by the Deadline Date, and each later distribution shall be made by the end of the year to which it relates.

7.3.2 **Life Expectancies.** For purposes of applying this Section 7.3 and Section 7.4.2, life expectancies shall be computed using the expected return multiples set forth in Tables V and VI of Treas. Reg. § 1.72-9 or their successors. Applicable life expectancies shall be calculated as of the date payments first commence without further recalculation.

7.3.3 **Incidental Benefit Rule.** If the Participant's spouse is not his or her sole primary Designated Beneficiary, the minimum distribution required to be made under Section 7.3.1(b) shall not be less than the quotient obtained by dividing (a) the balance of the

Participant's Account as of the last Valuation Date of the preceding year, by (b) the applicable divisor, as determined under the incidental death benefit requirements of section 401(a)(9) of the Code.

7.3.4 "**Deadline Date**" means, for purposes of applying this Section 7.3, the later of the April 1 that next follows the calendar year in which a Participant attains age 70 ½, or the April 1 that next follows the calendar year in which a Participant retires.

**7.3.A Limitations on Deferral (for Distributions on and after January 1, 2003).**

The following rules shall apply to determining minimum required distributions from the Plan on and after January 1, 2003, and all distributions required under this Section 7.3.A will be determined and made in accordance with Treasury regulations issued under section 401(a)(9) of the Code:

- (a) **Required Beginning Date for Participants**. Notwithstanding anything in the Plan to the contrary, the Participant's entire Account will be distributed, or will begin to be distributed, no later than the applicable Required Beginning Date (as defined in Section 7.3.4 (the "Deadline Date")). However, if the amount of distribution required to commence on the date determined under this Section 7.3.A(a) cannot be ascertained by such date, or if it is not possible to make such distribution on such date because the Employer has been unable to locate the Participant after making reasonable efforts to do so, a distribution retroactive to that date shall be made no later than 60 days after the earliest date on which the amount of such distribution can be ascertained under the Plan or the date on which the Participant is located (whichever is applicable).
- (b) **Death of Participant Before Distributions Begin**. If the Participant dies before distributions begin, the Participant's entire Account will be distributed, or will begin to be distributed, no later than as follows:
  - (1) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary, then except as provided in Section 7.3.A(h)

below, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70½, if later.

(2) If the Participant's surviving spouse is not the Participant's sole Designated Beneficiary, then except as provided in Section 7.3.A(h) below, distributions to the Designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year of the Participant's death.

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

(4) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this Section 7.3.A(b), other than Section 7.3.A(b)(1), will apply as if the surviving spouse were the Participant.

(5) For purposes of this Section 7.3.A(b) and Section 7.3.A(e), unless Section 7.3.A(b)(4) applies, distributions are considered to begin on the Participant's Required Beginning Date. If Section 7.3.A(b)(4) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under Section 7.3.A(b)(1). If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's Required Beginning Date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under Section 7.3.A(b)(1),

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

(c) **Forms of Distribution.** Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the Required Beginning Date, as of the first Distribution Calendar Year distributions will be made in accordance with Sections 7.3.A(d) and 7.3.A(e) of this Section 7.3.A. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of section 401(a)(9) of the Code and the Treasury regulations.

(d) **Required Minimum Distributions During Participant's Lifetime.**

(1) **Amount of Required Minimum Distribution For Each Distribution**

**Calendar Year.** During the Participant's lifetime, the minimum amount that will be distributed for each Distribution Calendar Year is the lesser of:

- (A) the quotient obtained by dividing the Participant's Account balance by the distribution period in the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the Treasury regulations, using the Participant's age as of the Participant's birthday in the Distribution Calendar Year; or
- (B) if the Participant's sole Designated Beneficiary for the Distribution Calendar Year is the Participant's spouse, the quotient obtained by dividing the Participant's account balance by the number in the Joint and Last Survivor Table set forth in section 1.401(a)(9)-9 of the Treasury regulations,

using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the Distribution Calendar Year.

(2) Lifetime Required Minimum Distributions Continue Through Year of Participant's Death. Required minimum distributions will be determined under this Section 7.3.A(d) beginning with the first Distribution Calendar Year and up to and including the Distribution Calendar Year that includes the Participant's date of death.

(e) **Required Minimum Distributions After Participant's Death.**

(1) Death On or After Date Distributions Begin.

(A) Participant Survived by Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is a Designated Beneficiary, the minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the longer of the remaining life expectancy of the Participant or the remaining life expectancy of the Participant's Designated Beneficiary, determined as follows:

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

(II) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary, the remaining life expectancy of the surviving spouse is

calculated for each Distribution Calendar Year after the year of the Participant's death using the surviving spouse's age as of the spouse's birthday in that year. For Distribution Calendar Years after the year of the surviving spouse's death, the remaining life expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.

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

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



(f) **Death Before Date Distributions Begin.**

(1) Participant Survived by Designated Beneficiary. Except as provided in Section 7.3.A(h), if the Participant dies before the date distributions begin and there is a Designated Beneficiary, the minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the remaining life expectancy of the Participant's Designated Beneficiary, determined as provided in Section 7.3.A(e).

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

(3) Death of Surviving Spouse Before Distributions to Surviving Spouse Are Required to Begin. If the Participant dies before the date distributions begin, the Participant's surviving spouse is the Participant's sole Designated Beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under Section 7.3.A(b)(1), this Section 7.3.A(f) will apply as if the surviving spouse were the Participant.

(g) **Special One-Time Election to Suspend Payments.** A Participant (1) who attained age 70 ½ before January 1, 1996, and (2) whose benefit distribution commenced on the April 1 of the calendar year following such calendar year, may make a One-Time election to have his or her Required Beginning Date determined as if he or she attained age 70 ½ after

December 31, 1995, in accordance with Section 7.3.4 above. Such an election will have the effect of suspending future benefit payments until such Required Beginning Date; provided, however, that the distribution of benefit to such Participant ceases prior to January 1, 2002, and until his Required Beginning Date as so determined.

(h) **5-Year Rule.**

(1) **Election to Apply 5-Year Rule to Distributions to Designated**

**Beneficiaries.** If the Participant dies before distributions begin and there is a Designated Beneficiary, distribution to the Designated Beneficiary is not required to begin by the date specified in Section 7.3.A(b)(1)-(3) of the Plan, but the Participant's entire interest will be distributed to the Designated Beneficiary by December 31 of the calendar year containing the fifth anniversary of the Participant's death. If the Participant's surviving spouse is the Participant's sole Designated Beneficiary and the surviving spouse dies after the Participant but before distributions to either the Participant or the surviving spouse begin, this election will apply as if the surviving spouse were the Participant.

(2) **Election to Allow Participants or Beneficiaries to Elect 5-Year**

**Rule.** Participants or Beneficiaries may elect on an individual basis whether the 5-year rule or the life expectancy rule in Sections 7.3.A(b)(1)-(3) and 7.3.A(f) of the Plan applies to distributions after the death of a Participant who has a Designated Beneficiary. The election must be made no later than the earlier of September 30 of the calendar year in which distribution would be required to begin under Section 7.3.A(b), or by September 30 of

the calendar year which contains the fifth anniversary of the Participant's (or, if applicable, surviving spouse's) death. If neither the Participant nor Beneficiary makes an election under this paragraph, distributions will be made in accordance with Sections 7.3.A(b)(1)-(3) and 7.3.A(f) of the Plan and, if applicable, the elections in Section 7.3.A(h)(1) above.

(3) **Election to Allow Designated Beneficiary Receiving Distributions Under 5-Year Rule to Elect Life Expectancy**

**Distributions.** A Designated Beneficiary who is receiving payments under the 5-year rule may make a new election to receive payments under the life expectancy rule until December 31, 2003, provided that all amounts that would have been required to be distributed under the life expectancy rule for all distribution calendar years before 2004 are distributed by the earlier of December 31, 2003 or the end of the 5-year period.

(i) **Definitions.** As used in this Section 7.3.A, the following terms shall have the following meanings:

(1) "Designated Beneficiary" means the individual who is designated as the Beneficiary as defined in Section 1.1 of the Plan and is the "Designated Beneficiary" under section 401(a)(9) of the Code and section 1.401(a)(9)-1, Q&A-4, of the Treasury regulations.

(2) "Distribution Calendar Year" means a calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first Distribution Calendar Year is the calendar year immediately preceding the calendar year which contains the Participant's Required Beginning Date. For distributions beginning after the Participant's death, the first

Distribution Calendar Year is the calendar year in which distributions are required to begin under Section 7.3.A(b) of the Plan. The required minimum distribution for the Participant's first Distribution Calendar Year will be made on or before the Participant's Required Beginning Date. The required minimum distribution for other Distribution Calendar Years, including the required minimum distribution for the Distribution Calendar Year in which the Participant's Required Beginning Date occurs, will be made on or before December 31 of that Distribution Calendar Year.

- (3) "Life Expectancy" means life expectancy as computed by use of the Single Life Table in section 1.401(a)(9)-9 of the Treasury regulations.
- (4) "Participant's Account Balance" means the balance as of the last Valuation Date in the calendar year immediately preceding the Distribution Calendar Year ("valuation calendar year") increased by the amount of any contributions made and allocated or forfeitures allocated to the account balance as of dates in the valuation calendar year after the Valuation Date and decreased by distributions made in the valuation calendar year after the Valuation Date. The account balance for the valuation calendar year includes any amounts rolled over or transferred to the Plan either in the valuation calendar year or in the Distribution Calendar Year if distributed or transferred in the valuation calendar year.

**7.4 Death Distributions.** Upon the death of a Participant who has elected a distribution method other than the Qualified Joint and Survivor Annuity (as defined in Section

7.6.3(b)) under Section 7.5, distribution of the balance of his or her Account shall be made in accordance with this Section 7.4.

**7.4.1 Post-Commencement Death.** If a Participant dies *after* distributions have commenced under this Section 7 but before the entire balance credited to his or her Account has been distributed, then the remainder of such balance shall be paid as a death benefit to his or her Beneficiary in accordance with the distribution method in effect as of the date of the Participant's death. Notwithstanding the foregoing, the Beneficiary may elect to accelerate payments of the remaining balance, including but not limited to, a lump sum distribution.

**7.4.2 Pre-Commencement Death.** If a Participant dies *before* distribution of his or her Account has been made or commenced under this Section 7, the balance credited to the Participant's Account shall be paid as a death benefit to his or her Beneficiary as soon as administratively practicable following the Participant's death, but not later than the end of the calendar year that contains the fifth anniversary of the Participant's death. However, if (a) any portion of the Participant's Account is payable to (or for the benefit of) his or her Designated Beneficiary, and (b) distribution of that portion commences (1) by the end of the calendar year that next follows the Participant's death, or (2) if the Designated Beneficiary is the Participant's surviving spouse, before the end of the calendar year in which the Participant would have attained age 70 ½, then the Designated Beneficiary may elect that distribution of that portion shall be made in periodic payments over a period certain which does not extend beyond his or her own life expectancy.

**7.4.3 Surviving Spouse Beneficiaries.** If the Participant's surviving spouse is his or her Designated Beneficiary and dies before distributions have commenced to him or her, this Section 7.4 shall be applied as if the spouse were the Participant and had died on the same date as the Participant.

## **7.5 Distribution Methods.**

**7.5.1 Forms of Distribution.** Distribution of the balance credited to a Participant's Account shall be made by the Trustee, at the direction of the Employer, in one of the following distribution methods which satisfies all provisions of this Section 7 and is elected by the Participant or (in the event of death) his or her Beneficiary:

- (a) One lump sum payment or a series of payments of cash (or its equivalent) comprising a complete distribution of the balance credited to the Participant's Account within one calendar year;

(b) A series of periodic payments of cash (or its equivalent) over a period certain that does not extend beyond the Participant's life expectancy (or the joint life and last survivor expectancy of the Participant and his or her Designated Beneficiary);

(c) A series of equal payments of cash (or its equivalent) in an amount chosen by the Participant continuing until his or her Account is exhausted; or

(d) By the purchase and distribution of a fully paid, nontransferable annuity contract providing for payment in (1) a form described in paragraph (a), (b), or (c) above, or (2) a series of periodic payments of cash (or its equivalent) over the Participant's life (or the joint lives of the Participant and his or her Designated Beneficiary).

Subject to Sections 7.2, 7.5.2 and 7.6, if the distributee fails to elect a distribution method under this Section 7.5, distribution shall be made in the form of a Qualified Joint and Survivor Annuity (as defined in Section 7.6.3(b)).

**7.5.2 Balance Not in Excess of \$5,000 (effective January 1, 1998).** If the balance credited to a Participant's Account does not exceed \$5,000 (effective January 1, 1998) as of the Valuation Date that next precedes the date on which a distribution event described in Section 7.1 occurs, the balance shall be distributed to the Participant as soon as practicable in the form of an immediate lump sum payment.

**7.6 Qualified Joint and Survivor Annuity and Preretirement Survivor Annuity Requirements.** Notwithstanding the foregoing provisions of this Section 7, this Section 7.6 shall apply to each distribution to be made from a Participant's Account, but only if the balance credited to the Account exceeds \$5,000 (effective January 1, 1998) as of the Valuation Date that next precedes the date on which the distribution is to be made.

**7.6.1 Qualified Joint and Survivor Annuity.** Unless a Qualified Election has been made within the 180-day period ending on the date on which distribution to a Participant is to be made or commence (the "*Annuity Starting Date*"), the balance credited to the Participant's Account shall be applied toward the purchase of a nontransferable annuity contract providing for payments in the form of a Qualified Joint and Survivor Annuity.

**7.6.2 Qualified Preretirement Survivor Annuity.** If a Participant dies before the distribution of any portion of his or her Account has commenced and the Participant is survived by his or her spouse, the Account shall be applied toward the purchase of a nontransferable annuity contract providing for the payment of an annuity for the life of the surviving spouse, unless the Participant's surviving spouse elects an alternate form of distribution following the Participant's death. Payments under the annuity contract shall not commence before the date the Participant (if not deceased) would have attained Normal Retirement Age, unless the surviving spouse elects (or consents to) (a) the earlier commencement of payments, or (b) the payment of the Participant's Account in the form of a lump sum (rather than as an annuity), in a written instrument which is signed by the spouse and received by the Employer not more than 180 days before the earlier commencement date. A surviving spouse who is a Participant's Beneficiary may make that election (or give his or her consent) at any time after the Participant's death.

7.6.3 **Definitions.** For purpose of applying this Section 7.6, the following definitions shall apply:

(a) “*Qualified Election*” means a written waiver of a Qualified Joint and Survivor Annuity. A waiver shall be ineffective in the absence of Spousal Consent.

(b) “*Qualified Joint and Survivor Annuity*” or “QJSA” means:

(1) In the case of a Participant who is married on the Annuity Starting Date, an immediate annuity for the life of the Participant, with a survivor annuity for the life of his or her spouse which provides for periodic payments of 50% or (if the Participant so elects) 100%, 75% or 66 2/3% of the annuity payable during the joint lives of the Participant and the spouse; or

(2) In the case of a Participant who is *not* married on the Annuity Starting Date, an immediate annuity for the life of the Participant, with no survivor annuity; and

which (in either case) provides the annuity benefit that is purchased with the entire balance credited to the Account.

7.6.4 **QJSA Notice Requirements.** With respect to a Qualified Joint and Survivor Annuity, the Employer shall provide to each Participant, no less than 30 days and no more than 180 days before the Annuity Starting Date, a written notice explaining:

(a) The terms and conditions of the Qualified Joint and Survivor Annuity form of payment;

(b) The Participant’s right to waive (and the effect of waiving) the Qualified Joint and Survivor Annuity;

(c) The rights of a Participant’s spouse; and

(d) The Participant’s right to revoke (and the effect of revoking) a prior waiver of the Qualified Joint and Survivor Annuity.

With respect to Annuity Starting Dates on or after January 1, 1997, such information may be provided without regard to the requirement that it be provided more than 30 days before the Annuity Starting Date if it is provided more than seven days before a distribution to the Participant begins.

7.7 **Beneficiary Designations.** Each Participant may designate one or more Beneficiaries and contingent Beneficiaries in a signed writing delivered to the Employer on such form as it shall specify.

7.7.1 **Spousal Consent.** If a Participant designates a person other than or in addition to his or her spouse as a primary Beneficiary, the designation shall be ineffective in the absence of Spousal Consent.

7.7.2 **Designation Changes.** A Participant may designate different Beneficiaries (or may revoke a prior designation) at any time by delivering a new designation (or revocation of a prior designation) in like manner. Any designation shall become effective only upon its receipt by the Employer before the Participant’s death, but when the designation is received, it shall be operative as of the date it was executed (whether or not the Participant is

alive), but without prejudice to the Employer on account of any payment made before the change is recorded. Any designation shall cease to be effective if a Participant's revocation of the designation is received by the Employer before his or her death. The last effective designation received by the Employer before the Participant's death shall supersede all prior designations.

**7.7.3 Failed Designations.** If a Participant dies without having effectively designated a Beneficiary, or if no Beneficiary survives the Participant, (a) his or her Account shall be payable to his or her surviving spouse, or (b) if the Participant is not survived by his or her spouse, the Account shall be paid to the legal representative of his or her estate.

**7.8 Direct Rollovers.** Notwithstanding any contrary Plan provision, if the Distributee of an Eligible Rollover Distribution from this Plan, (1) elects to have all or any portion of such Distribution paid directly to one individual retirement account or annuity (an "IRA") or other eligible retirement plan (within the meaning of section 401(a)(31)(E) of the Code, including effective January 1, 2008 a Roth IRA described in Code Section 408A provided that a direct rollover under this Section 7.8 meets the requirements of Code Section 408A(e)), and (2) specifies such IRA or plan on such form, at such time and subject to such permissible restrictions as the Employer may specify, such distribution or elected portion thereof shall be made in the form of a direct rollover to such IRA or plan, in accordance with and subject to the conditions and limitations of section 401(a)(31) and related provisions of the Code.

(a) "*Distributee*" means a Participant, a Beneficiary (if the surviving spouse of a Participant), or an Alternate Payee (as defined in Section 8.3) (if the surviving spouse of a Participant under a QDRO (as defined in Section 8.3)). The term "Distributee" includes a non-spouse Beneficiary of a deceased Participant, provided the Distributee elects a Direct Rollover to an Eligible Retirement Plan which is an individual retirement account described in section 408(a) of the Code or an individual retirement annuity described in section 408(b) of the Code.

(b) "*Eligible Rollover Distribution*" means a distribution of any portion of the balance credited to the Account of a Participant which is not one of a series of substantially equal periodic payments made over (1) a specified period of ten years or more or (2) the life expectancy of the Distributee, to the extent that it constitutes an eligible rollover distribution (within the meaning of section 401(a)(31)(D) of the Code).

(c) In the case of any mandatory distribution made on or after March 28, 2005, if the vested balance of the Distributee's Accounts is greater than \$1,000 and less than or equal to \$5,000, and if the Distributee does not elect to have such distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover or to receive the distribution directly in accordance with Section 7.8, then the Employer will pay the distribution in a Direct Rollover to an individual retirement plan designated by the Employer.

**7.9 Payments to Incompetents.** If any individual to whom a benefit is payable under the Plan is a minor, or if the Employer determines that any individual to whom a benefit is payable under the Plan is physically or mentally incompetent to receive such payment or to give a valid release therefor, payment shall be made to the guardian, Employer or other representative of the estate of the minor or incompetent which has been duly appointed by a court of competent jurisdiction. If no guardian, committee or other representative has been appointed, payment may be made to any person as custodian for the minor or incompetent under the Missouri Uniform



Transfers to Minors Act (or comparable law of another state) or may be made to or applied to or for the benefit of the minor or incompetent, his or her spouse, children or other dependents, the persons or institution maintaining him or her, or any of them, in such proportions as the Employer from time to time shall determine; and the release of the person or institution receiving the payment shall be a valid and complete discharge of any liability of the Plan with respect to any benefit so paid.

7.10 **Undistributable Accounts.** Each Participant and (in the event of death) his or her Beneficiary shall keep the Employer advised of his or her current address. If the Employer is unable to locate the Participant or Beneficiary to whom a Participant's Account is payable under this Section 7, (a) the Account shall be closed 30 months after the date the Account first became distributable to the Participant or Beneficiary, and (b) the balance credited to the Account shall be forfeited and applied to reduce the amount otherwise to be paid by the Employer as Employer Contributions pursuant to Section 3.2 for the Plan Year in which the forfeiture occurs. If the Participant or Beneficiary whose Account was forfeited under the preceding sentence later files a claim for distribution of his or her Account, and if the Employer determines that the claim is valid, then the balance previously forfeited shall be restored to the Account by means of a special Employer Contribution to the Plan.

## SECTION 8

### LOANS, WITHDRAWALS AND QUALIFIED DOMESTIC RELATIONS ORDERS

#### 8.1 Loans to Participants.

8.1.1 **General Loan Rules.** A Participant may, upon application to the Employer in such manner as the Employer shall prescribe, obtain a loan from his or her Account in accordance with the provision of this Section 8.1. Loans shall be available to all Participants on a reasonably equivalent basis. Notwithstanding any other provision of this Section 8.1 to the contrary, no new loan shall be made or entered into under the Plan to a Participant on or after October 1, 2014.

(a) **Amount.** The amount of the loan shall be neither less than \$1,000 nor more than the excess of (1) the greater of (A) \$10,000 or (B) 50% of the Participant's Available Balance, determined as of the Valuation Date that next preceded the date the loan is approved, over (2) the sum of the outstanding balances (including both principal and accrued interest) on all prior outstanding loans to the Participant under this Plan. Notwithstanding the foregoing sentence, in no event shall the Plan lend a Participant an amount that, when added to the outstanding balance of all other loans to the Participant from the Plan, exceeds the Participant's Available Balance.

(b) **"Available Balance"** means the balance credited to the Participant's Account as of the applicable date, reduced by the amount allocated to a subaccount of the Participant's Account for any Alternate Payee under a QDRO (as defined in Section 8.3).

(c) **Additional Limits.** The amount borrowed under this Section 8.1 shall not cause the sum of (1) the amount of the loan, plus (2) the aggregate outstanding balance (including both principal and accrued interest) on all prior loans to the Participant under this Plan or any other qualified plan maintained by the Employer (an "*Other Plan*"), to exceed an amount equal to \$50,000, reduced by the excess (if any) of (A) the highest aggregate outstanding balance on all loans under this Plan and all Other Plans during the one-year period ending on the day

before the date the loan is to be made, over (B) the aggregate balance on all such loans on the date the loan is made.

(d) **Number of Loans.** No Participant shall be permitted to borrow under this Section 8.1 if the borrowing would result in his or her having more than three loans outstanding under this Plan.

8.1.2 **Minimum Requirements of Each Loan.** The terms of any loan made under this Section 8.1 shall be evidenced by a promissory note signed by the Participant, and such terms shall satisfy the following minimum requirements:

(a) **Separate Accounting.** Each loan shall be considered as a separate, earmarked investment of the Participant's Account from which it is made. The investment gains or losses attributable to the loan (including any gain or loss attributable to interest payments or default) shall not be included in the calculation or allocation of the increase or decrease in the fair market value of the general assets of the Plan, but shall instead be allocated solely to the Account of the Participant to whom the loan is made.

(b) **Term.** The term of the loan shall not exceed five (5) years, or if sooner, upon the Participant's termination of employment with the Employer.

(c) **Interest Rate.** Each loan shall bear a reasonable rate of interest, as determined by the Employer, which shall be comparable to the interest rate which is charged under similar circumstances by persons in the business of lending money.

(d) **Repayment Schedule.** A definite repayment schedule shall be established for each loan which shall require level and periodic payments of both principal and interest over the agreed term of the loan, with payments not less frequently than quarterly and payment in full being required at the end of the loan term. A Participant may prepay at any time any of or the entire amount remaining due under the loan.

(e) **Withholding.** No loan shall be made unless the Participant agrees to make principal and interest payments on each loan, together with any and all charges imposed by the Trustee in connection with the loan by payroll withholding.

(f) **Security.** Each loan shall be adequately secured by the Participant's Account balance and such other collateral as the Employer may require to secure his or her repayment obligations under the loan.

(g) **Spousal Consent.** No loan may be made to a Participant who is married at the time the loan is to be made without Spousal Consent, given no more than 90 days before the date of the loan, in which the Participant's spouse consents in writing to the loan and to the possible reduction of the balance credited to the Participant's Account in the event the loan is in default. The same Spousal Consent requirement shall apply with respect to any renegotiation, renewal or other revision of the loan.

8.1.3 **Commencement of Distributions.** If any amount remains outstanding as a loan obligation of a Participant upon commencement of distributions from the Participant's Account under Section 8, the balance credited to the Account shall include the Participant's note reflecting the loan.

8.2 **Withdrawals.** A Participant may withdraw any amount from the balance credited to his or her Voluntary Contribution Account. Applications for withdrawals under this Section

8.2 shall be submitted to the Employer in such form as it shall prescribe. No Participant may withdraw any amount from his or her Employer Contribution Account except in accordance with the distribution rules set forth in Section 7.

**8.3 Qualified Domestic Relations Orders.** The Employer shall determine whether a domestic relations order purporting to dispose of any portion of a Participant's Account is a qualified domestic relations order (within the meaning of section 414(p) of the Code) and otherwise complies with the requirements of applicable law (a "QDRO"). No payment shall be made to any person designated in a domestic relations order (an "*Alternate Payee*") until the Employer (or a court of competent jurisdiction reversing an initial adverse determination by the Employer) determines that the order is a QDRO. Payment shall be made to each Alternate Payee as specified in the QDRO. Such payment may be made to each Alternate Payee immediately, if so specified in the QDRO. If immediate payment is not specified in the QDRO, the payment to each Alternate Payee shall not be made prior to the Participant reaching the Participant's earliest retirement age (as defined in section 414(p) of the Code), unless the Participant's employment with the Employer terminates prior to that date. If the QDRO does not provide for an immediate payment to an Alternate Payee, the Employer shall establish a subaccount to record the Alternate Payee's interest in the Participant's Account. All investment decisions with respect to amounts credited to such subaccount shall be made by the Alternate Payee in the manner provided in Section 5.4.

## SECTION 9

### ADMINISTRATION OF THE PLAN

**9.1 Plan Administration.** The Plan shall be administered by the Employer, and the Employer is hereby designated as the administrator of the Plan (within the meaning of section 414(g) of the Code). The Employer shall have the authority to control and manage the operation and administration of the Plan in the same manner as a named fiduciary under section 402(a)(1) of ERISA.

**9.2 Powers of Employer.** The Employer shall have all powers necessary to supervise the administration of the Plan and to control its operation in accordance with its terms, including, but not by way of limitation, the following discretionary powers:

- (a) To interpret the provisions of the Plan and to determine any question arising under, or in connection with the administration or operation of, the Plan;
- (b) To determine any questions concerning the eligibility of an Employee to become a Participant or remain a Participant of the Plan;
- (c) To cause one or more separate Accounts to be maintained for each Participant;
- (d) To establish and revise accounting methods for the Plan, as provided in Section 5.5;
- (e) To determine the manner and form, and to notify the Trustee, of any distribution to be made under the Plan;
- (f) To determine the status and rights of Participants and their spouses, Beneficiaries or estates;

(g) To employ such counsel, agents and advisers, and to obtain such legal, clerical and other services, as it may deem necessary or appropriate in carrying out the provisions of the Plan;

(h) To prescribe the form and manner in which any Participant, or his or her spouse or other Beneficiary, shall make any election, claim or designation required for any purpose under the Plan;

(i) To establish rules for the performance of all powers and duties regarding the administration of the Plan;

(j) To provide to each terminated Participant notice of his or her vested interest under the Plan and the written explanation described in section 402 (f) of the Code;

(k) To determine the liabilities of the Plan, and to establish and communicate a funding policy to the Trustee and any Investment Manager having responsibility for Plan investments, which funding policy shall contain such information as is necessary or helpful to coordinate the Plan's investment policy with the Plan's requirements for funds to pay expenses and benefits as they become due;

(l) To keep all Plan records and to prepare all reports and disclosures necessary for purposes of complying with any reporting and disclosure requirements of the Code or applicable Missouri law;

(m) To purchase or to arrange for the purchase of any bond required for employees involved in the administration of the Plan, Employer members or others under applicable Missouri law;

(n) To purchase or to arrange for the purchase of insurance in order to relieve employees involved in the administration of the Plan, Employer members or the Trustee from liability for any act or omission to act or any error in judgment made in good faith in the administration of the Plan or the Trust Fund and any responsibility, obligation or duty imposed by applicable Missouri law;

(o) To delegate to any person or persons, severally or jointly, the authority to perform for and on behalf of the Employer one or more of its fiduciary and/or ministerial functions under the Plan;

(p) To advise, instruct and direct the Trustee as to the establishment of Investment Funds and the investment of Plan assets held in the Investment Funds, as provided in Section 5.3;

(q) To appoint one or more Investment Managers, as provided in Section 9.4;

(r) To grant or deny loan applications under Section 8; and

(s) To delegate to any person or persons, severally or jointly, the authority to perform for and on behalf of the Employer one or more of its functions under the Plan.

**9.3 Fiduciary Responsibilities.** To the extent permissible under applicable Missouri law, any person may serve in more than one fiduciary capacity with respect to the Plan. Except as required by specific provisions of applicable Missouri law, no person who is a fiduciary with

respect to the Plan shall be under any obligation to perform any duty or responsibility with respect to the Plan which has been specifically allocated to another fiduciary.

**9.4 Investment Responsibilities.** The Employer (in its discretion) may transfer investment responsibility for any designated portions of the Trust Fund to the Trustee or, in accordance with this Section 9.4, to one or more Investment Managers. Subject to the provisions of this Section 9.4 and any contrary provision of the Plan and Trust Agreement, exclusive authority and discretion to manage and control the assets of the Trust Fund shall be vested in the Trustee, and the Trustee from time to time shall review the assets and make its determinations as to the investments of the Trust Fund.

**9.4.1 Investment Manager Appointment.** The Employer in its discretion may appoint, and thereafter may discharge, one or more investment managers (the "*Investment Managers*") to manage the investment of the one or more of the Investment Funds. In the event of any such appointment, the Trustee shall follow the instruction of the Investment Manager in investing and administering Trust Fund assets managed by the Investment Manager. Alternatively, the Employer may delegate investment authority and responsibility with respect to any Investment Fund directly to any Investment Manager which has investment management responsibility for any collective investment fund in which the Investment Fund is invested.

**9.4.2 Eligibility.** Any person, firm or corporation appointed as Investment Manager (a) shall be a person described in section 3(38) of ERISA, (b) shall make such representations from time to time as the Employer may require in order to determine its qualifications to be appointed and to continue to serve in such capacity, and (c) shall acknowledge in writing to the Employer its status as a fiduciary with respect to the Plan upon acceptance of its appointment.

**9.5 Decisions of Employer.** All decisions of the Employer, any action taken by the Employer in respect of the Plan and within the powers granted to it under the Plan, and any interpretation of provisions of the Plan by the Employer, shall be conclusive and binding on all persons, and shall be given the maximum possible deference allowed by law.

**9.6 Administrative Expenses.** All expenses properly and actually incurred in connection with the administration of the Plan by the Employer or the Trustee (including recordkeeping charges, Investment Manager fees and expenses, legal fees and costs, and premiums for any bonds or insurance purchased pursuant to Sections 9.2(m) or (n)) shall be paid in reasonable amounts by the Trustee from the Trust Fund if not paid by the Employer.

**9.7 Eligibility to Participate.** No Employee shall be excluded from participating in the Plan if otherwise eligible, but he or she shall not be entitled to act or pass upon any matters pertaining specifically to his or her own Account under the Plan.

**9.8 Indemnification.** The Employer shall, and hereby does, indemnify and hold harmless any employees who may be deemed to be fiduciaries of the Plan, from and against any and all losses, claims, damages or liabilities (including attorneys' fees and amounts paid, with the approval of the Employer, in settlement of any claim) arising out of or resulting from the implementation of a duty, act or decision with respect to the Plan, so long as such duty, act or decision does not involve gross negligence or willful misconduct on the part of any such individual. Any individual so indemnified shall, within 10 days after receipt of notice of any action, suit or proceeding, notify the Employer and offer in writing to the Employer the

opportunity (at its own expense) to handle and defend the action, suit or proceeding, and the Employer shall have the right, but not the obligation, to conduct the defense in the action, suit or proceeding. Failure to give the Employer such notice shall relieve the Employer of any liability under this Section 9.8. The Employer may satisfy its obligations under this provision (in whole or in part) by the purchase of one or more insurance policies.

#### 9.9 **Claims and Appeals Procedure.**

9.9.1 **Claims Procedure.** Any person who believes that he or she is entitled to a benefit under the Plan may file with the Employer a written notice of claim for the benefit. Within 90 days after it receives the written notice of claim, the Employer shall either grant or deny the claim, unless circumstances beyond the control of the Employer require an extension of time for processing, in which case a decision shall be made within 180 days after receipt of the claim. The Employer shall provide to each claimant whose claim is denied a statement setting forth:

- (a) The specific reasons for the denial,
- (b) Specific reference to the pertinent Plan provisions on which the denial is based,
- (c) A description of any additional material or information necessary for the claimant to perfect the claim and an explanation of why the material or information is necessary, and
- (d) An explanation of the Plan's appeal procedure.

9.9.2 **Appeal Procedure.** Each claimant shall have the right to appeal the denial of his or her claim to the Employer for a full and fair review at any time within 60 days after the claimant receives written notice of the denial. The Employer shall thereupon afford the claimant or his or her duly authorized representative the opportunity (a) to review documents pertinent to the claim, and (b) to discuss the documents and issues with the Employer. The final decision of the Employer shall be made promptly, not later than 60 days after it receives a request for review from the claimant, unless circumstances beyond the control of the Employer require an extension of time for processing, in which case a decision shall be made within 120 days after receipt of the review request. The decision shall be made in writing and shall include specific reasons for the decision, written in a manner calculated to be understood by the claimant, and specific references to pertinent Plan provisions on which the decision is based. The final decision of the Employer shall be conclusive and binding on the claimant and his or her Beneficiaries (if any), and shall be given the maximum possible deference allowed by law.

## SECTION 10

### FUNDING AND CONTRIBUTIONS

10.1 **Funding.** Subject to the provisions of Section 11.1, all Employer Contributions shall be deposited in the Trust Fund for the purposes provided in the Plan. All assets of the Plan shall be held in the Trust Fund and administered in trust by the Trustee under and subject to the terms of the Plan and the Trust Agreement under which the Trust Fund is maintained from time to time. The Trust Agreement shall be deemed a part of the Plan. All obligations and liabilities of the Trustee shall be governed solely by the provisions of the Trust Agreement.

**10.2 No Diversion of Assets.** Each Employee, Participant, Beneficiary and other person receiving or entitled to receive benefits under the Plan shall look solely to the assets of the Trust Fund for distributions under the Plan. Notwithstanding any contrary Plan provision, at no time shall any assets of the Plan be used for, or diverted to, purposes other than for the exclusive benefit of Employees, Participants, Beneficiaries and other persons receiving or entitled to receive benefits or payments under the Plan. Except to the limited extent permitted by Section 10.3, no assets of the Plan shall ever revert to or become the property of the Employer.

**10.3 Continuing Conditions.** Any obligation to make Employer Contributions under the Plan after initial qualification is hereby conditioned upon the continued qualification of the Plan under section 401(a) of the Code and the exempt status of the Trust Fund under section 501(a) of the Code. That portion of any Employer Contribution which is contributed or made by reason of a good faith mistake of fact shall be returned to the Employer as promptly as practicable, but not later than one year after the contribution was made. The amount returned pursuant to the preceding sentence shall be an amount equal to the excess of the amount actually contributed over the amount that would have been contributed if the mistake had not been made; *provided, however*, that gains attributable to the returnable portion shall be retained in the Trust Fund; and provided, further, that the returnable portion shall be reduced (a) by any losses attributable thereto, and (b) to avoid a reduction in the balance of any Participant's Account below the balance that would have resulted if the mistake had not been made.

**10.4 Rollover Contributions.** Notwithstanding any contrary Plan provision, the Employer may direct the Trustee to accept a transfer of cash (or its equivalent) to the Trust Fund, but only if the transfer (a) is made by or at the direction of a Participant, and (b) qualifies as a rollover under section 402(c) or 408(d)(3)(A)(ii) of the Code.

**10.4.1 Rollover Account.** Any amount transferred to the Trust Fund pursuant to this Section 10.4 shall be credited to the Participant's Rollover Account. The Participant shall indicate, in such manner as the Employer shall specify, the percentage of his or her Rollover Account that is to be invested in each of the Investment Funds. In all other respects Rollover Account investments shall be subject to the provisions of Section 5.4.

**10.4.2 Nonqualifying Rollovers.** If it is later determined that a transfer to the Trust Fund made pursuant to this Section 10.4 did not in fact qualify as a rollover under section 402(c) or 408(d)(3)(A)(ii) of the Code, then the balance credited to the Participant's Rollover Account shall immediately be (a) segregated from all other Plan assets, (b) treated as a nonqualified trust established by and for the benefit of the Participant, and (c) distributed to the Participant. Any such nonqualifying rollover shall be deemed never to have been a part of the Trust Fund.

## SECTION 11

### MODIFICATION OR TERMINATION OF PLAN

**11.1 Employer's Obligations Limited.** The Plan is voluntary on the part of the Employer, and the Employer shall have no responsibility to satisfy any liabilities under the Plan. Furthermore, the Employer does not guarantee to continue the Plan, and the Employer may, by appropriate amendment of the Plan, suspend or discontinue Employer Contributions, for any reason at any time. Complete discontinuance of all Employer Contributions shall be deemed a

termination of the Plan. If Employer Contributions are suspended, each Participant shall be notified of the suspension.

**11.2 Right to Amend or Terminate.** The Employer reserves the right, by ordinance, to alter, amend or terminate the Plan, or any part thereof, in such manner as it may determine. Any such alteration, amendment or termination shall take effect upon the date indicated in the document embodying such alteration, amendment or termination, provided that (a) no such alteration or amendment shall divest any portion of an Account that is then vested under the Plan, and (b) any alteration, amendment or termination of the Plan or any part thereof shall be subject to Section 10.2 with respect to the restriction against diversion of the assets of the Plan.

**11.3 Effect of Termination.** If the Plan is terminated or partially terminated, or if there is a complete discontinuance of Employer Contributions, then the interests of all Participants affected by such termination or discontinuance in their Accounts shall remain 100% vested and nonforfeitable, and the balances credited to their Accounts shall be distributed, after payment of all costs and expenses properly chargeable against the Plan assets, to the Participants in the manner set forth in Section 7.

## **SECTION 12 GENERAL PROVISIONS**

**12.1 Plan Information.** Each Participant shall be advised of the general provisions of the Plan and, upon written request addressed to the Employer, shall be furnished with any information requested, to the extent required by applicable law, regarding his or her status, rights and privileges under the Plan.

**12.2 Inalienability.** Except to the extent otherwise directed by a domestic relations order which the Employer has determined is a QDRO (as defined in Section 8.3) or as mandated by applicable law, in no event may any Participant, former Participant or his or her spouse, Beneficiary or estate sell, transfer, anticipate, assign, hypothecate, or otherwise dispose of any right or interest under the Plan; and such rights and interests shall not at any time be subject to the claims of creditors nor be liable to attachment, execution or other legal process.

**12.3 Rights and Duties.** No person shall have any rights in or to the Trust Fund or other assets of the Plan, or under the Plan, except as, and only to the extent, expressly provided for in the Plan. To the maximum extent permissible under applicable Missouri law, neither the Employer nor the Trustee shall be subject to any liability or duty under the Plan except as expressly provided in the Plan, or for any action taken, omitted or suffered in good faith.

**12.4 No Enlargement of Employment Rights.** Neither the establishment or maintenance of the Plan, the making of any Employer Contributions, nor any action of the Employer or the Trustee, shall be held or construed to confer upon any individual any right to be continued as an Employee nor, upon dismissal, any right or interest in the Trust Fund or other asset of the Plan other than as provided in the Plan.

**12.5 Apportionment of Costs and Duties.** The costs of the Plan may be equitably apportioned by the Employer among its budgetary units or other subdivisions. Whenever the Employer is permitted or required under the terms of the Plan to do or perform any act, matter or thing, it shall be done and performed by any employee who is thereunto duly authorized by the Employer.



12.6 **Applicable Law.** The provisions of the Plan shall be construed, administered and enforced in accordance with applicable laws of the State of Missouri and in a manner consistent with the intention that the Plan qualify for favorable tax treatment under section 401(a) of the Code.

12.7 **Severability.** If any provision of the Plan is held invalid or unenforceable, its invalidity or unenforceability shall not affect any other provisions of the Plan, and the Plan shall be construed and enforced as if such provision had not been included.

12.8 **Captions.** The captions contained in the table of contents prefixed to the Plan are inserted only as a matter of convenience and for reference and in no way define, limit, enlarge or describe the scope or intent of the Plan nor in any way shall affect the construction of any provision of the Plan.

12.9 **Plan Document Controls.** In the event of any conflict between the terms of this Plan document and any administrative services agreement with respect to the duties and responsibilities of the Employer, the terms of this Plan document shall control.

12.10 **USERRA Compliance.** Notwithstanding any provision of this Plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with section 414(u) of the Code (and effective January 1, 2007 in accordance with Code Section 401(a)(37)).

## EXECUTION

IN WITNESS WHEREOF, the Employer, by its duly authorized officer, has executed this January 1, 2015 Restatement of The City of Columbia, Missouri Money Purchase Plan on the date indicated below.

**THE CITY OF COLUMBIA, MISSOURI**

By \_\_\_\_\_

Title \_\_\_\_\_

Dated \_\_\_\_\_

20402358.2