



NUECES COUNTY HOSPITAL DISTRICT

Administrative Offices

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BOARD OF MANAGERS RESOLUTION **JUNE 9, 2015**

A RESOLUTION AMENDING AND RESTATING THE TAX-SHELTERED ANNUITY PLAN OF THE NUECES COUNTY HOSPITAL DISTRICT

WHEREAS, the Nueces County Hospital District (the "Hospital District") is a body politic and corporate and a political subdivision of the State of Texas, established and created pursuant to the Texas Constitution, Article IX, Section 4 and the Texas Health and Safety Code (the "Health Code"), Chapter 281, and operated in accordance with the Health Code and other applicable laws of the State of Texas;

WHEREAS, the Hospital District's Board of Managers (the "Board") have been duly appointed pursuant to Health Code, §281.021(a);

WHEREAS, pursuant to collective authorities of Health Code, §281.047 and §281.048, the Board is the Hospital District's governing body and the Board has, and at the time of adoption of this Resolution had, full power and authority to manage, control, administer, and to adopt rules governing operation of the District;

WHEREAS, by letter dated August 23, 1999, the Internal Revenue Service re-affirmed the Hospital District's tax exempt status as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended ("Tax Code");

WHEREAS, on May 16, 2000, the Board established the Tax-Sheltered Annuity Plan of the Nueces County Hospital District (the "Plan") for the exclusive benefit of the Hospital District's employees pursuant to Internal Revenue Code Section 403(b) and as provided by Health Code, §281.029(b), and said Plan was approved by the Nueces County Commissioners Court on May 24, 2000, pursuant to Health Code, §281.029(a);

WHEREAS, the Plan qualifies as a "governmental plan" which is exempt from regulation by the Employee Retirement Income Security Act ("ERISA");

WHEREAS, the Plan had an original effective date of July 1, 2000;

WHEREAS, the Board has reserved the right to amend the Plan, and has amended and restated the Plan from time to time;

WHEREAS, the Hospital District's Administrator (the "Administrator") has recommended that various improvements be made to the design of the Plan, such as the addition of a Roth feature and hardship distributions;

WHEREAS, the Board has reviewed the proposed amendment and restatement of the Plan, which is attached hereto and identified as "Exhibit A" (the "Restated Plan"); and

WHEREAS, the Administrator has the full authority and power to perform the acts described and resolved by the Board hereunder and is legally authorized, as provided by Health Code, §281.026(e) and capable of performing such acts.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF MANAGERS OF THE NUECES COUNTY HOSPITAL DISTRICT, THAT:

1. The Board hereby amends and restates the Plan in the form attached hereto and identified as Exhibit "A," effective as of June 9, 2015.
2. This Resolution and the Restated Plan shall supersede (i) any and all previous Board of Managers Resolutions and rules attached thereto pertaining to the Plan and (ii) the Plan restatement effective January 1, 2008.
3. The Administrator, in his capacity as the Secretary of the Board of Managers, be and is hereby legally authorized and empowered to certify these resolutions and that the provisions hereof are in conformance with the laws of the State of Texas and the Governing Body Bylaws of the Hospital District.
4. This Resolution shall take effect and be in full force and effect upon and after its passage, unless modified by a majority vote of the Board of Managers as said vote is defined in its Bylaws.

[THIS SPACE INTENTIONALLY LEFT BLANK]

**NUECES COUNTY HOSPITAL DISTRICT
BOARD OF MANAGERS**

Van Huseman
Chairman

Claude C. Jennings, C.P.A.
Vice Chairman

Raymond F. Wetegrove
Member

Rodney J. Hart, P.E.
Member

Irma Caballero
Member

Robert N. Corrigan, Jr.
Member

John E. Valls
Member

CERTIFICATE FOR RESOLUTION

**A RESOLUTION AMENDING AND RESTATING
THE TAX-SHELTERED ANNUITY PLAN
OF THE NUECES COUNTY HOSPITAL DISTRICT**

THE STATE OF TEXAS §
 §
COUNTY OF NUECES §

THE UNDERSIGNED HEREBY CERTIFIES that:

1. The members of the Board of Managers (the "Board") of the Nueces County Hospital District (the "Hospital District") have been duly appointed pursuant to Texas Health and Safety Code (the "Health Code"), §281.021.

2. Pursuant to Health Code, §281.021(a), the Hospital District's Board of Managers (the "Board") have been duly appointed; pursuant to Health Code, §281.048, the Board is the governing body of the Hospital District; and pursuant to the collective authorities of Health Code, §281.047 and §281.048, the Board has, and the time of adoption of this Resolution had, full power and authority to manage, control, administer, and to adopt rules governing operation of the Hospital District.

3. On the 9th day of June, 2015 the Board convened in a regular meeting at the Hospital District's regular meeting place (the "Meeting"), the duly constituted members and officers of the Board being as follows:

Van Huseman, Chairman
Claude C. Jennings, C.P.A., Vice Chairman
Raymond F. Wetegrove
Rodney J. Hart, P.E.
Irma Caballero
Robert N. Corrigan, Jr.
John E. Valls

and all of said persons were present, except the following absentees:

and _____, thus constituting a quorum.

4. Among other business considered at the Meeting, the attached resolution entitled:

**A RESOLUTION AMENDING AND RESTATING
THE TAX-SHELTERED ANNUITY PLAN
OF THE NUECES COUNTY HOSPITAL DISTRICT**

is a true copy of a resolution introduced and submitted to the Board for consideration toward passage and adoption (the "Resolution"). After presentation and discussion, it was then duly moved and seconded that the Resolution be passed and adopted. The motion to pass and adopt the Resolution prevailed and carried by the following viva voce vote:

YEAS: _____
NAYS: _____
PRESENT NOT VOTING: _____
ABSENT: _____

all as shown in the official Minutes of the Board for the Meeting.

5. The attached Resolution is a true and correct copy of the original on file in the official records of the Hospital District; the duly qualified and acting members of the Board on the date of the Meeting are those persons shown above, and, according to the records of my office, each member of the Board was given actual notice of the time, place, and purpose of the Meeting and had actual notice that the Resolution would be considered; and the Meeting and deliberation of the aforesaid public business, was open to the public and written notice of said meeting, including the subject of the Resolution, was posted and given in advance thereof in compliance with the provisions of Chapter 551, Texas Government Code, as amended.

6. We the Board Secretary and General Counsel have been duly appointed by the Board.

7. The foregoing Resolution is in full force and effect; that the same has not been rescinded, nor has it been amended or modified in any way.

IN WITNESS WHEREOF, we have hereunto signed our names officially and affixed the seal of the Hospital District on this the 9th day of June, 2015.

Jonny F. Hipp
Secretary, Board of Managers

{DISTRICT SEAL}

Wm. DeWitt Alsup
General Counsel

Exhibit "A"

NUECES COUNTY HOSPITAL DISTRICT

**AMENDED AND RESTATED TAX-SHELTERED ANNUITY PLAN
OF THE NUECES COUNTY HOSPITAL DISTRICT**

As of June 9, 2015

TAX SHELTERED ANNUITY PLAN OF
THE NUECES COUNTY HOSPITAL DISTRICT

Amended and Restated Effective June 9, 2015

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TAX SHELTERED ANNUITY PLAN
OF THE NUECES COUNTY HOSPITAL DISTRICT

ARTICLE I
PURPOSE OF PLAN

This document is an amendment and restatement of the Tax Sheltered Annuity Plan of The Nueces County Hospital District. The Plan was originally adopted effective July 1, 2000; the effective date of this amendment and restatement is June 9, 2015 except as otherwise provided herein or except as otherwise required to have an earlier effective date for compliance purposes. The terms of the Plan are intended to comply with section 403(b) of the Code and Treasury regulations thereunder. None of the Plan assets may be used for purposes other than the exclusive benefit of Participants or their Beneficiaries.

ARTICLE II
DEFINITIONS

2.1 **Definitions.** Where the following words and phrases appear in the Plan, they shall have the respective meanings set forth below, unless their context clearly indicates to the contrary.

- (1) **Account.** With respect to each Participant, the accumulated value of his Custodial Account(s) and/or Annuity Contract(s) representing the Participant's interest in the Plan. A Participant's Account shall be divided into an Elective Deferral Subaccount (which is further divided into a Pre-Tax Elective Deferral Subaccount and a Roth Elective Deferral Subaccount), an Employer Matching Subaccount, and a Rollover/Transfer Subaccount.
- (2) **Account Distribution Date.** With respect to each Participant, the first date on which all or a portion the Participant's Account is distributed to him (or his Beneficiary in the event of his death).
- (3) **Annuity Contract.** One or more annuity contract(s) which are not transferable within the meaning of section 401(g) of the Code and satisfy the qualified annuity requirements of section 403(b) of the Code. The Plan Administrator, in its sole discretion, shall select the Annuity Contract(s) and the underlying investment fund(s) available under the Plan.
- (4) **Beneficiary.** Any person, estate, or trust designated by a Participant to receive the death benefits payable under the Plan.
- (5) **Catch-Up Contributions.** Contributions made to the Plan by an Employer on a Participant's behalf pursuant to Section 4.2.
- (6) **Code.** The Internal Revenue Code of 1986, as amended.
- (7) **Compensation.** The total of all cash amounts paid by the Employer to or for the benefit of a Participant for services rendered and labor performed while a

Participant (including overtime, call time, shift differential and amounts which he could have received in cash had he not entered into a salary reduction agreement pursuant to the Plan or a salary reduction agreement pursuant to any of sections 125, 132(f), 401(k), 403(b) or 457(b) of the Code), excluding, however, bonuses, lump sum merit payments, severance pay, cash payments under the Employer's paid time off and sick-time buy-back policy and contributions to any other deferred compensation program. The Compensation of any Participant taken into account for purposes of the Plan shall be limited to \$200,000 for any Plan Year with such limitation to be (A) adjusted automatically to reflect any amendments to section 401(a)(17) of the Code and any cost-of-living increases authorized by section 401(a)(17) of the Code; and (B) prorated for a Plan Year of less than twelve months and to the extent otherwise required by applicable law.

- (8) **Custodial Account.** One or more account(s) held by a Custodian which are invested in the stock of a regulated investment company registered under the Investment Company Act of 1940 and which meet the requirements of section 403(b)(7) of the Code. The Plan Administrator, in its sole discretion, shall select the Custodial Account(s) and underlying investment funds) available under the Plan.
- (9) **Custodian.** Any custodian qualifying under section 403(b)(7) of the Code selected for the Plan by the Plan Administrator.
- (10) **Designated Beneficiary.** The individual who is designated as a Participant's Beneficiary under Sections 8.2 or 8.3 of the Plan.
- (11) **Direct Rollover.** A payment by the Plan to an Eligible Retirement Plan specified by a Distributee.
- (12) **Distributee.** A Participant or beneficiary who is entitled to an Eligible Rollover Distribution. In addition, a Participant's former spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the Code, is a Distributee with regard to the interest of such spouse or former spouse in an Eligible Rollover Distribution. Further, any individual who is a designated beneficiary with the meaning of the section 401(a)(9)(E) of the Code of a Participant and who is not the surviving spouse of the Participant shall be a Distributee with respect to an Eligible Rollover Distribution payable to such Distributee.
- (13) **Distribution Calendar Year.** A calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first Distribution Calendar Year is the calendar year immediately preceding the calendar year which contains the Participant's Required Beginning Date. For

distributions beginning after the Participant's death, the first Distribution Calendar Year is the calendar year in which distributions are required to begin under Section 12.2. The required minimum distribution for the Participant's first Distribution Calendar Year will be made on or before the Participant's Required Beginning Date. The required minimum distribution for other Distribution Calendar Years, including the required minimum distribution for the Distribution Calendar Year in which the Participant's Required Beginning Date occurs, will be made on or before December 31 of that Distribution Calendar Year.

- (14) **Effective Date.** The Plan was originally adopted effective July 1, 2000; the effective date of this amendment and restatement is June 9, 2015 except as otherwise provided herein or except as otherwise required to have an earlier effective date for compliance purposes.
- (15) **Elective Deferral.** A Salary Reduction Contribution made to the Plan pursuant to Article IV and which is subject to the limitations of Section 11.1, 11.2, and/or 4.2. Such contribution may be made on a pre-tax basis or is designated as a Roth Elective Deferral.
- (16) **Elective Deferral Subaccount.** A subaccount of a Participant's Salary Reduction Subaccount containing amounts attributable to Elective Deferrals, whether made on a pre-tax basis or designated as Roth Elective Deferrals.
- (17) **Eligible Retirement Plan.** Any of: an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, a Roth IRA described in Section 408A of the Code, an annuity plan described in section 403(a) of the Code, a qualified plan described in section 401(a) of the Code, which, under its provisions does, and under applicable law may, accept a Distributee's Eligible Rollover Distribution, an annuity contract described in section 403(b) of the Code and an eligible plan under section 457(b) of the Code which is maintained by a state, political subdivision of a state, or agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for the amounts transferred into such plan from this Plan. Further, an individual retirement plan which has been established for the purpose of receiving a distribution with respect to a deceased Participant shall be an Eligible Retirement Plan with respect to a Distributee who is a designated beneficiary as described in section 409(a)(9)(E) of the Code of the deceased Participant and who is not a surviving spouse of the Participant. The definition of Eligible Retirement Plan shall also apply in the case of a distribution to a surviving spouse or to a spouse or former spouse who is an alternate payee under a qualified domestic relations order, as defined in section 414(p) of the Code. The Plan Administrator shall not be responsible for determining the eligibility of any Distributee to make a rollover to a Roth IRA.

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- (18) **Eligible Rollover Distribution.** Any distribution of all or any portion of the Account of a 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 years or more; (B) any distribution to the extent such distribution is required under section 401(a)(9) of the Code; and (C) the portion of any distribution that is not includable in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities). Notwithstanding the foregoing or any other provision of the Plan: (A) any amount that is distributed from the Plan on account of hardship shall not be an Eligible Rollover Distribution and the Distributee may not elect to have any portion of such a distribution paid directly to an Eligible Retirement Plan; and (B) a portion of the distribution shall not fail to be an Eligible Rollover Distribution merely because the portion consists of after-tax employee contributions that are not includible in income, provided, however, that such portion may only be transferred either to a qualified trust or to an annuity contract described in section 403(b) of the Code and such trust or contract provides for 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 or to 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 (other than an endowment contract).
- (19) **Employee.** Each individual employed by the Employer other than any "leased employee" within the meaning of Section 414(n) of the Code.
- (20) **Employer.** The Nueces County Hospital District, a political subdivision of the State of Texas which has been determined by the Internal Revenue Service to constitute an exempt organization described in section 501(c)(3) of the Code.
- (21) **Employer Matching Contributions.** Contributions made to the Plan by the Employer on a Participant's behalf pursuant to Section 4.5.
- (22) **Employer Matching Subaccount.** A subaccount of a Participant's Account containing the amounts attributable to the Employer Matching Contributions made to the Plan on his behalf.
- (23) **Hardship Distribution.** A distribution made on account of an immediate and heavy financial need of a Participant and that is necessary to satisfy the financial need, as further described in Treasury Regulation 1.401(k)-1(d)(3)(iv)(E).

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- (24) **Hours of Service.** With respect to an individual, each hour during an applicable computation period (including periods prior to July 1, 2000) for which he is directly or indirectly paid, or entitled to payment, by the Employer for the performance of duties and for reasons other than the performance of duties for which he receives regular holiday pay, regular sick pay or regular vacation pay, including, but not limited to, any authorized leave of absence. In the case of an individual who was actively employed by the Employer on July 1, 2000, such individual's Hours of Service shall also include hours prior to July 1, 2000 for which the individual was directly or indirectly paid, or entitled to payment, by any of the Hospital District d/b/a Memorial Medical Center, the Hospital District d/b/a Memorial Hospital and any other Employer-owned and operated predecessor hospital entities; provided however, that in no event shall an individual receive credit for a period of employment pursuant to this sentence if such individual already received credit for such period of employment pursuant to the preceding sentence.
- (25) **Insurer.** Any legal reserve life insurance company selected for the Plan by the Plan Administrator.
- (26) **Life Expectancy.** Life expectancy as computed by use of the Single Life Table in section 1.401(a)(9)-9 of the Treasury regulations.
- (27) **Limitation Year.** The calendar year.
- (28) **Normal Retirement Date.** The date upon which the Participant attains his sixty-fifth birthday.
- (29) **Participant.** An Employee who has elected to participate in the Plan. For purposes of Article VI, the Beneficiary of a deceased Participant and any alternate payee under a qualified domestic relations order (as defined in Section 15.6) shall have the rights of a Participant.
- (30) **Participant's Account Balance.** The balance in a Participant's Account as of the Valuation Date immediately preceding the Distribution Calendar Year (valuation calendar year) increased by the amount of any contributions made and allocated to the Participant's Account 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. A Participant's 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.

- (31) **Plan.** This Tax Sheltered Annuity Plan of the Nueces County Hospital District, as amended from time to time.
- (32) **Plan Administrator.** The person or organization responsible for administering the Plan. The Employer shall be the Plan Administrator.
- (33) **Plan Year.** The twelve-month period beginning with January 1 of each year.
- (34) **Pre-Tax Elective Deferral Subaccount.** A further subaccount of a Participant's Elective Deferral Subaccount containing amounts attributable to Elective Deferrals that are made on a pre-tax basis.
- (35) **Required Beginning Date.** With respect to a Participant or Beneficiary, the date described in Section 7.2 of the Plan as of which his Account Distribution Date must occur.
- (36) **Rollover/Transfer Subaccount.** A subaccount of a Participant's Account containing the amounts attributable to rollover or transfer contributions effected by such Employee pursuant to Sections 4.6 and 4.7.
- (37) **Roth Elective Deferral.** A Salary Reduction Contribution made to the Plan which is designated as a Roth elective deferral pursuant to Section 4.3 of the Plan.
- (38) **Roth Elective Deferral Subaccount.** A further subaccount of a Participant's Elective Deferral Subaccount containing amounts attributable to Elective Deferrals that are designated as Roth Elective Deferrals. Contributions and withdrawals of Roth Elective Deferrals will be credited and debited to this subaccount, and a record of the amount of Roth Elective Deferrals in this subaccount will be maintained. Gains, losses, and other credits and charges shall be separately allocated on a reasonable and consistent basis to this subaccount and a Participant's other subaccounts under the Plan. No contributions other than Roth Elective Deferrals and properly attributable earnings will be credited to this subaccount.
- (39) **Salary Reduction Agreement.** An agreement between a Participant and the Employer whereby the Participant agrees to a reduction in his Compensation pursuant to Section 4.1. Such Salary Reduction Agreement shall not be applicable to any service performed or Compensation earned before the day such agreement is executed.
- (40) **Salary Reduction Contributions.** Contributions to the Plan on behalf of a Participant pursuant to a Salary Reduction Agreement and which are credited to

the Participant's Pre-Tax Elective Deferral subaccount or Roth Elective Deferral Subaccount, as directed by the Participant.

- (41) **Salary Reduction Subaccount.** A subaccount of a Participant's Account containing the amounts attributable to the Salary Reduction Contributions made to the Plan on his behalf.
- (42) **Valuation Date.** The last day of each calendar year and such other valuation dates as may be established by the Plan Administrator.
- (43) **Year of Service.** The completion by a Participant of 1,000 or more Hours of Service during any calendar year.

2.2 **Number and Gender.** Whenever appropriate, words used in the Plan in the singular may be read as the plural or the plural may include the singular; or the masculine gender may include the feminine gender.

ARTICLE III ELIGIBILITY

3.1 **Eligibility.** Each employee of the Employer may become a Participant on or after the first day of a calendar quarter (January 1, April 1, July 1, or October 1) immediately following the date he is employed the first day of any calendar quarter thereafter provided he agrees to make Salary Reduction Contributions and enters into a Salary Reduction Agreement with the Employer in accordance with Section 4.1. An employee who ceases to be a Participant under the Plan in accordance with Section 4.4 shall again become a Participant as of the first day of any calendar quarter if he again agrees to make Salary Reduction Contributions and enters into a Salary Reduction Agreement with the Employer in accordance with Section 4.1.

3.2 **Binding Force.** A Participant shall be conclusively deemed to have assented to the terms of the Plan, to any subsequent amendments, and to the terms of the Custodial Account and/or Annuity Contract purchased on his behalf, and shall be bound thereby.

ARTICLE IV CONTRIBUTIONS TO THE PLAN

4.1 **Salary Reduction Contributions.** In order to become a Participant in the Plan, an Employee must elect to make Salary Reduction Contributions equal to any fixed dollar amount or percentage (in both cases, not to exceed 80%) of his Compensation (not to exceed, in either case, the maximum amount of compensation deferrals permitted under the applicable provisions of the Code and Treasury Regulations, as described in Section 4.2 and Article XI) but not less than \$200 per Plan Year. Such Salary Reduction Contributions shall be increased or decreased to

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reflect changes in the Participant's Compensation as of the payroll period coincident with such change. Each Employee who agrees to make such Salary Reduction Contributions shall enter into a Salary Reduction Agreement, executed and filed with the Employer within such time period as the Plan Administrator may prescribe prior to the date on which he first becomes a Participant, specifying the percentage or dollar amount by which the Participant's Compensation is to be reduced and payable to the Plan as Salary Reduction Contributions, and specifying whether such Salary Reduction Contributions should be contributed to the Participant's Pre-Tax Elective Deferral Subaccount and/or Roth Elective Deferral subaccount.

4.2 Catch-up Salary Reduction Contributions. A Participant who would attain the age of 50 or older before the end of a Plan Year may elect to have Catch-Up Contributions made to the Plan by the Employer for such Plan Year. Compensation deferrals made pursuant to Section 4.1 will be treated as Catch-Up Contributions to the extent that they:

(a) Exceed the elective deferral dollar limit provided in section 402(g)(1)(A) of the Code for a Plan Year, determined as of the last day of Plan Year in which they were made to the Plan; or

(b) Exceed the limitations described in Sections 11.1 and 11.2, determined as of the last day of the Limitation Year ending with or within the Plan Year.

A Participant's Catch-Up Contributions shall be treated as Salary Reduction Contributions that are Elective Deferrals for all purposes of the Plan. An eligible Participant may elect to defer Compensation as Catch-Up Contributions by a special election made at any time during a Plan Year pursuant to procedures established by the Plan Administrator. In the event that any Compensation deferrals effected on behalf of a Participant pursuant to a regular Compensation deferral election under Section 4.1 qualify as Catch-Up Contributions, they will automatically be treated as such for all purposes of the Plan unless the Participant affirmatively elects, by completing the form prescribed by the Plan Administrator and filing same with the Plan Administrator, for them not to be so treated or the Internal Revenue Service issues guidance to the effect that such automatic treatment is impermissible. A Participant's Catch-Up Contributions to the Plan for a Plan Year, as applicable, may not exceed the dollar limits then in effect under section 414(v) of the Code. If a Participant is eligible to make Catch-Up Contributions to this Plan and is also eligible to make catch-up contributions pursuant to section 414(v) of the Code to another plan of the Employer and the Catch-Up Contributions made to the Plan for a Plan Year when aggregated with catch-up contributions made pursuant to section 414(v) of the Code to such other plan or plans and which were treated as such contributions under such other plan or plans shall not exceed the dollar limitations imposed under section 414(v) of the Code. Catch-up Contributions made to the Plan on a Participant's behalf shall be allocated to his Pre-Tax Elective Deferral Subaccount, unless the Participant makes a Roth Designation pursuant to Section 4.3 in which case the Catch-Up Contributions shall be allocated to the Roth Elective Deferral Subaccount. For each Plan Year and as of the last day of such Plan Year, the Plan Administrator shall determine if any Catch-Up Contributions made to the Plan for

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a Participant during such Plan Year exceed the limit then in effect under section 414(v) of the Code. Any amounts which are treated as Catch-Up Contributions for a Participant for a Plan Year and which exceed the limit described in section 414(v) shall be distributed to such Participant not later than the April 15 of the next following Plan Year.

4.3 **Roth Designation.** A Participant may irrevocably designate that all or a portion of his Elective Deferrals made to the Plan by the Employer pursuant to a Salary Reduction Agreement shall be Roth elective deferrals that are being made in lieu of all or a portion of the Pre-Tax Elective Deferrals the Participant is otherwise eligible to make under this Plan. Such contributions are includible in the Participant's gross income at the time of contribution, are nonforfeitable when made, and are subject to the distribution restrictions of this Plan.

4.4 **Change or Discontinuance of Salary Reduction Contributions.** A Participant who has entered into a Salary Reduction Agreement with the Employer may change his deferral election percentage as to his Compensation, as well as the designation of any deferrals as Roth Contributions, effective as of the first day of the first full pay period beginning on or after the first day of any calendar quarter (January 1, April 1, July 1, or October 1) by entering into a new Salary Reduction Agreement with the Employer at least two weeks prior to the end of such calendar quarter. A Participant may terminate his Salary Reduction Agreement with the Employer as of the first day of any pay period by completing the appropriate termination of participation form prescribed by the Administrator. If a Participant terminates his Salary Reduction Agreement with the Employer, he shall no longer be a Participant on the day the termination is effective. A Participant who discontinues his Salary Reduction Contributions may resume such contributions by entering into a new Salary Reduction Agreement with the Employer, to be effective pursuant to the terms of this Section 4.4.

4.5 **Employer Matching Contributions.** For each payroll period, the Employer shall contribute Employer Matching Contributions to the Plan on behalf of each Participant who has as of the first day of such payroll period completed at least one Year of Service with the Employer and who elects Salary Reduction Contributions (including any Salary Reduction Contributions designated as Roth Contributions) to the Plan for such payroll period. The amount of Employer Matching Contributions which the Employer will contribute to the Plan for the benefit of a Participant for a given payroll period shall be equal to 100% of the Participant's Salary Reduction Contributions contributed to the Plan for such payroll period up to a maximum percentage of Compensation based upon the Participant's Years of Service in accordance with the following schedule:

<u>Participant's Years of Service as of First Day of the Payroll Period</u>	<u>Maximum Compensation Percentage Match</u>
Less than 7 Years of Service	5%
7 or more but less than 15 Years of Service	6%
15 or more Years of service	7%

Notwithstanding the foregoing, Jonny Hipp shall not be eligible to receive any Employer Matching Contributions.

4.6 Rollover/Transfer Contributions. Rollover contributions may be made to the Plan provided that they are made pursuant to and in accordance with applicable provisions of the Code. A direct rollover contribution of amounts that are “eligible rollover distributions” within the meaning of section 402(f)(2)(a) of the Code may be made to the Plan irrespective of whether such eligible rollover distribution was paid to Employee or paid to the Plan as a “direct” rollover contribution. A rollover contribution may be made to the Roth Elective Deferral Subaccount only if it is a direct rollover from another Roth elective deferral account under an applicable retirement plan described in section 402A(e)(1) of the Code and only to the extent the rollover is permitted under section 402(c) of the Code. An employee who has participated in an annuity contract under section 403(b) of the Code attributable to his employment with a prior employer may elect to transfer all or a portion of the amount accumulated under such annuity contract to this Plan provided that such transfer is effected in a manner consistent with the terms of such other annuity contract as well as the terms of this Plan and provided that such transfer qualifies as a tax-free transfer under generally accepted interpretations of the Code. An Employee who has made a rollover or transfer contribution in accordance with this Section, but who has not otherwise become a Participant in the Plan in accordance with Article IV, shall become a Participant coincident with such rollover or transfer contribution.

4.7 Rollover/Transfer Contribution Elections. Any Employee desiring to effect rollover or transfer contributions to the Plan must execute and file with the Plan Administrator the form described by the Plan Administrator for such purpose. A direct rollover contribution to the Plan may be effectuated only by wire transfer directed to the Custodian or by issuance of a check made payable to the Custodian that is negotiable only by the Custodian and that identifies the Employee for whose benefit the rollover contribution is being made. The Plan Administrator may require as a condition to accepting any rollover or transfer contributions that such an Employee furnish any evidence that the Plan Administrator in its discretion deems satisfactory to establish that the proposed rollover or transfer contribution is in fact eligible for rollover or

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transfer to the Plan and is made pursuant to and in accordance with applicable provisions of the Code and Treasury regulations. All rollover or transfer contributions to the Plan must be made in cash.

4.8 **Allocation of Rollover Contributions.** A rollover contribution shall be credited to the Rollover/Transfer Account of the Eligible Employee making such rollover contribution, except that a rollover of Roth elective deferrals shall be credited to such person's Roth Elective Deferral Subaccount.

4.9 **Payment of Contributions.** The Employer shall transfer to the Custodial Accounts and/or Annuity Contracts, on behalf of the Participants, the Salary Reduction Contributions provided in Section 4.1 and the Employee Matching Contributions provided in Section 4.5. Transfers of such contributions for a payroll period shall be made as soon as practicable after the end of such payroll period.

ARTICLE V VESTING

5.1 **Salary Reduction Contributions.** Participants shall be 100% vested at all times in the value of the portions of their Accounts which are attributable to their Salary Reduction Contributions.

5.2 **Matching Contributions.** Participants shall be vested in the portions of the value of their Accounts which are attributable to Matching Contributions based on their respective Years of Service in accordance with the following schedule:

<u>Full Years of Years of Service</u>	<u>Vested Percentage</u>
Less than 1 year	0%
1 year	20%
2 years	40%
3 years	60%
4 years	80%
5 years or more	100%

If a Participant who terminates employment with the Employer for any reason is reemployed by the Employer, he shall be treated as a new Participant, his service with the Employer prior to such reemployment shall be disregarded for purposes of determining his vesting with respect to Matching Contributions made after such reemployment and his service with the Employer after such

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reemployment shall not be applied to increase his vesting with respect to Matching Contributions made prior to such reemployment. A Participant shall be 100% vested upon the occurrence of total and permanent disability (as determined by the Employer, and unless waived by the Employer as unnecessary, supported by a written medical opinion that such Participant will be permanently incapable of performing his job for physical or mental reasons); termination of employment with the Employer on or after attaining age sixty-five; or termination of employment with the Employer by reason of death.

5.3 **Forfeitures.** The forfeitable amount credited to a Participant's Account as of the date next preceding his termination of employment with the Employer shall become a forfeiture as of the date he terminates his employment with the Employer and shall be applied to reduce the Matching Contributions next coming due pursuant to Section 4.5. Such forfeiture shall not be subject to reinstatement for any reason if such Participant is reemployed by the Employer.

ARTICLE VI INVESTMENTS

6.1 **Investment Vehicles.** The Employer shall invest in one or more Custodial Accounts and/or Annuity Contracts for each Participant within a reasonable time after the Participant's entry into the Plan. The Employer shall apply all contributions made to the Plan in accordance with Article V to such Custodial Accounts and/or Annuity Contracts.

6.2 **Custodial Accounts.** The Custodial Accounts for the Participants shall comply with the provisions of section 403(b)(7) of the Code. Custodial Account agreements shall evidence the Custodial Accounts of the Participants. All Custodial Accounts shall be subject to the restrictions as set forth in the Plan. Participants may, as permitted in the sole discretion of the Plan Administrator, be given investment options in various investment funds respecting their Custodial Accounts in accordance with the terms thereof which will affect the accumulated value of such Custodial Accounts.

6.3 **Provisions Relating to Custodian.** The Custodian's liability shall be limited to the provisions of any Custodial Account, respectively, issued hereunder, and the Custodian shall not be required to take or permit any action contrary to the provisions thereof. The Custodian shall not be deemed a party to the Plan for any purpose.

6.4 **Annuity Contracts.** The Annuity Contracts for the Participants shall comply with the provisions of section 403(b) of the Code. Annuity Contract agreements shall evidence the Annuity Contracts of the Participants. All Annuity Contracts shall be subject to the restrictions as set forth in the Plan. Participants may, as permitted in the sole discretion of the Plan Administrator, be given investment options in various investment funds respecting their Annuity Contracts in accordance with the terms thereof which will affect the accumulated value of such Annuity Contracts.

ARTICLE VII
RETIREMENT AND TERMINATION OF BENEFITS

7.1 **Restrictions on Payment of Benefits.** Except as otherwise provided in Articles VIII and IX, a Participant's Account may be distributed only on or after the date the Participant terminates employment with the Employer.

7.2 **Time of Payment.** A Participant shall be entitled to benefits based upon his Account as of his Account Distribution Date. A Participant's Account Distribution Date shall be determined as follows:

(a) Subject to the provisions of Section 7.1 and Section 7.4 and unless otherwise elected by a Participant, a Participant's Account Distribution Date shall be the first day of the month following his Normal Retirement Date.

(b) A Participant may request an earlier Account Distribution Date as of any date after the date of his termination of employment with the Employer.

(c) A Participant may request a later Account Distribution Date that is any date after the date of his termination of employment with the Employer which is on or before the April 1 of the calendar year following the later of (A) the calendar year in which the Participant attains the age of seventy and one-half, or (B) the calendar year in which the Participant terminates employment with the Employer (provided, however, that clause (B) of this sentence shall not apply in the case of a Participant who is a "five-percent owner" (as defined in section 416 of the Code) with respect to the Plan Year ending in the calendar year in which such Participant attains the age of seventy and one-half. This Paragraph shall be interpreted so as to cause all distributions under the Plan to be in compliance with section 401(a)(9) of the Code. For purposes of determining minimum required distributions under such section, the Participant (or his Beneficiary) may elect whether or not to recalculate life expectancies, but if no such election is made, life expectancies shall be recalculated.

(d) Any request pursuant to Paragraph (b) of this Section 7.2 for an earlier Account Distribution Date must be made within one hundred and eighty days of such requested Account Distribution Date. No less than thirty days (unless such thirty-day period is waived by an affirmative election in accordance with applicable Treasury regulations) and no more than one hundred and eighty days before his Account Distribution Date, the Plan Administrator shall inform the Participant of his election rights and his transfer rights pursuant to Section 7.5 below, if applicable. In the case of a married Participant, an election for an earlier Account Distribution Date shall not be valid unless either (A) such spouse has consented to such election or (B) the Participant's benefit is to be paid in the form of a joint and survivor annuity, with the spouse as the survivor.

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7.3 **Form of Payment.** The Plan benefit of any Participant shall be paid in one or more of the alternative settlement forms offered in the Annuity Contract and/or Custodial Accounts as selected by the Participant or, in the absence of such selection, by the Employer, provided, however, that the period and method of payment of any such form or forms shall be in compliance with the provisions of section 401(a)(9) of the Code and applicable Treasury regulations thereunder. If a Participant, who terminated his employment under circumstances such that he was entitled to a Plan benefit, dies prior to the time that any funds from his Accounts have been paid, or irrevocably committed to be paid, to provide a benefit pursuant to this Section, the amount of the benefit to which he was entitled shall be paid pursuant to this Section 7.3 just as if such Participant had died while employed by the Employer.

7.4 **Cashouts.** If a Participant terminates his employment and the value of his Account is not in excess of \$5,000, such Participant's benefit shall be paid in one lump sum payment in lieu of any other form of benefit herein provided. Such payment shall be made as soon as practicable following his termination of employment, subject to the provisions of Section 7.6.

7.5 **Elective Rollovers.** Notwithstanding any provision of the Plan to the contrary that would otherwise limit a Distributee's election under this Paragraph, a Distributee may elect, at the time and in the manner prescribed by the Plan Administrator, to have any portion of an Eligible Rollover Distribution (other than any portion attributable to the offset of an outstanding loan balance of such Participant pursuant to the Plan's loan procedure) paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover. Any portion of an Eligible Rollover Distribution attributable to a Roth Elective Deferral Subaccount may only be made to another Roth elective deferral account under an Eligible Retirement Plan or a Roth IRA described in section 402A(e)(1) of the Code and only to the extent permitted under section 402(c) of the Code. Prior to any Direct Rollover pursuant to this Paragraph, the Distributee shall furnish the Plan Administrator with a statement from the plan, account or annuity to which the benefit is to be transferred that it is, or is intended to be, an Eligible Retirement Plan.

7.6 **Mandatory Rollovers.** In the event of a "mandatory distribution" (within the meaning of section 401(a)(31)(B) of the Code) to a Participant that is greater than \$1,000, 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 Section 7.5 or to receive the distribution directly in accordance with Section 7.2, then the Plan Administrator will pay the distribution in a direct rollover to an individual retirement plan designated by the Plan Administrator.

ARTICLE VIII PAYMENT OF ACCOUNTS AT DEATH

8.1 **Alternative Forms of Death Benefit.** The Plan benefit for a deceased Participant who dies while employed by the Employer shall be paid to his beneficiary designated in accordance

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with the provisions of Section 8.2 in one or more of the optional settlement forms provided in the Annuity Contrast and/or Custodial Account for payment of death benefits; provided, however, that the period and method of payment of any such form shall be in compliance with the provisions of section 401(a)(9) of the Code and applicable Treasury regulations thereunder.

8.2 **Beneficiary Designation.** Each Participating Employee who is not survived by a spouse or who has elected not to have his death benefit paid in the standard survivor spouse annuity form shall have the right to designate the Beneficiary or Beneficiaries to receive his Account in the event of his death. Each such designation shall be made by executing the Beneficiary designation form prescribed by the Plan Administrator and filing such forms with the Plan Administrator. Any such designation may be changed at any time by such Participant by execution and filing of a new designation in accordance with this Section.

8.3 **Effect of Lack of Beneficiary Designation.** If no designated Beneficiary survives the Participant and benefits are payable following the Participant's death, the Plan Administrator shall direct that the benefits be made payable to the following persons and in the order of priority set out below:

- (1) The Participant's spouse; then
- (2) The Participant's descendants, per stirpes; then
- (3) The Participant's parents; then
- (4) The Participant's brothers and sisters; and then
- (5) The Participant's estate.

8.4 **Effect of Divorce.** To the extent not prohibited by state or federal law, if a Participant is divorced from his spouse and at the time of his death is not remarried to the person from whom he was divorced, any designation of such divorced spouse as his Beneficiary under the Plan filed prior to the divorce shall be null and void unless the contrary is expressly stated in writing filed with the Plan Administrator by the Participant. The interest of such divorced spouse failing hereunder shall vest in the persons specified in Section 8.3 above, as applicable, as if such divorced spouse did not survive the Participant.

8.5 **Cashout of Death Benefits.** If a Participant dies and the value then in his Account is not in excess of \$1,000, such benefit shall be paid to his designated beneficiary in one lump sum cash payout in lieu of any other form of benefit herein provided. Such payment shall be made as soon as practicable following the deceased Participant's death.

ARTICLE IX WITHDRAWALS

9.1 **Age 59½ Withdrawals.** A Participant who has attained the age of 59½ may at any time upon 15 days notice to the Administrator withdraw any or all of the then value of his Vested Interest in his Elective Deferral and Employer Matching Contributions Subaccounts. Any such withdrawal shall be distributed in a lump sum cash payment.

9.2 **Withdrawals of Rollover/Transfer Subaccount.** A Participant may at any time withdraw any or all of the then-balance of his Rollover/Transfer Subaccount in accordance with the withdrawal procedures established by the Plan Administrator.

9.3 **Hardship Distributions.** A Participant may request a Hardship Distribution to the extent it does not exceed the total amount of the Participant's Elective Deferrals made to the Plan as of the date of the distribution, reduced by the amount of previous distributions of Elective Deferrals. Upon verification by the Plan Administrator or Insurer of a Participant's eligibility to receive the Hardship Distribution, it shall be made as soon as practicable in one lump sum. A Participant who receives a Hardship Distribution shall have any Salary Reduction Agreement suspended for a six-month period beginning on the date of the Hardship Distribution.

9.4 **Distributions Upon Disability.** A Participant who is an Employee and who has experienced a total and permanent disability (as determined by the Employer, and unless waived by the Employer as unnecessary, supported by a written medical opinion that such Participant will be permanently incapable of performing his job for physical or mental reasons) may at any time request a distribution any or all of the then value of his Account. Such distribution shall be made as soon as practicable in any form allowed under Section 7.3.

ARTICLE X LOANS

10.1 **Loans From Annuity Contracts/Custodial Accounts.** Upon application by any Participant who is an active Participant, the Plan Administrator may in its discretion direct the Insurer to make a loan or loans to such Participant from his Account. Such loans shall be made pursuant to the provisions of the Plan Administrator's written loan procedure, which procedure is hereby incorporated by reference as a part of the Plan. The amount of a loan made to a Participant under this Section shall not exceed an amount equal to the difference between:

- (1) the lesser of \$50,000 (reduced by the excess, if any, of (A) the highest outstanding balance of loans from the Plan during the one-year period ending on the day before the date on which the loan is made, over (B) the outstanding balance of loans from the Plan on the date on which the loan is made) or one-half of the

present value of the Participant's total nonforfeitable accrued benefit in under the Plan and all qualified plans of the Employer, minus

- (2) the total outstanding loan balance of the Participant under all other loans from the Plan and all qualified plans of the Employer.

Any loan application shall be subject to the time of payment requirements of Section 7.2 and to the election and any applicable spousal consent requirements respecting repayment from the pledged portion of the Participant's Account upon default of the loan. Such requirements shall be contained in the loan application and must be made and obtained within the one hundred and eighty day period prior to making the loan.

10.2 **Loan Restrictions.** Section 10.1 to the contrary notwithstanding, loans shall only be made available under the Plan if the Plan Administrator affirmatively elects to make such loans available by adoption and communication of a loan procedure for the Plan. Further, any loan procedure adopted by the Plan Administrator for the Plan may restrict loans to certain Subaccounts under Participants' Accounts and may otherwise impose limitations and restrictions upon Plan loans provided that such limitations and restrictions are applied uniformly in a nondiscriminatory manner with respect to all Plan participants.

ARTICLE XI LIMITATIONS

11.1 **Basic Annual Limitation.** Except as provided in Sections 4.2 and 11.2, the maximum amount of a Participant's Salary Reduction Contributions under the Plan for any calendar year shall not exceed the lesser of (A) the applicable dollar amount or (B) the Participant's Compensation for the calendar year. The applicable dollar amount is the amount established under section 402(g)(1)(B) of the Code, which is \$18,000 for 2015, and is adjusted for cost-of-living after 2015 to the extent provided under section 415(d) of the Code.

11.2 **Special Section 403(b) Catch-Up Limitation for Employees with 15 Years of Service.** The applicable dollar amount under Section 11.1 for any "qualified employee" is increased by the least of:

- (a) \$3,000;
- (b) The excess of:

(1) \$15,000, over

(2) The total special 403(b) catch-up elective deferrals made for the qualified employee by the qualified organization for prior years; or

(c) The excess of:

(1) \$5,000 multiplied by the number of years of service of the employee with the qualified organization, over

(2) The total Salary Reduction Contributions made for the employee by the qualified organization for prior years.

For purposes of this Section 11.2, a “qualified employee” means an employee who has completed at least 15 years of service taking into account only employment with the Employer.

11.3 Coordination. Amounts in excess of the limitations set forth in Section 11.1 shall be allocated first to the special 403(b) catch-up under Section 11.2 and next as a Catch-Up Contribution under Section 4.2. However, in no event can the amount of the Salary Reduction Contributions for a year be more than the Participant’s Compensation for the year.

11.4 Special Rule for a Participant Covered by Another Section 403(b) Plan. If the Participant is or has been a participant in one or more other plans under section 403(b) of the Code (and any other plan that permits elective deferrals described in section 402(g)(3) of the Code), then this Plan and all such other plans shall be considered as one plan for purposes of applying the limitations of Sections 11.1 and 11.2. For this purpose, the Plan Administrator shall take into account any other such plan maintained by the Employer and shall also take into account any other such plan for which the Plan Administrator receives from the Participant sufficient information concerning his or her participation in such other plan. Notwithstanding the foregoing, another plan maintained by the Employer shall be taken into account for purposes of Section 11.1 and 11.2 only if the other plan is a Code section 403(b) plan.

11.5 Correction of Excess Salary Reduction Contributions. If the Salary Reduction Contributions on behalf of a Participant for any calendar year exceed the limitations described above, or the Salary Reduction Contributions on behalf of a Participant for any calendar year exceeds the limitations described above when combined with other amounts deferred by the Participant under another plan of the Employer under section 403(b) of the Code (and any other plan that permits elective deferrals under section 402(g)(3) of the Code for which the Participant provides information that is accepted by the Plan Administrator), then the Salary Reduction Contributions, to the extent in excess of the applicable limitation (adjusted for any income or loss in value, if any, allocable thereto), shall be distributed to the Participant.

11.6 **Maximum Annual Additions.** In no event shall the allocations to a Participant's Accounts for any Limitation Year exceed the maximum annual additions limit described in this Section 11.6. The maximum annual additions of a Participant for any Limitation Year shall mean the lesser of (A) \$53,000 (with such amount to be adjusted automatically to reflect any cost-of-living adjustment authorized by section 415(d) of the Code) or (B) 100% of such Participant's 415 Compensation during such Limitation Year, except that the limitation in this Clause (B) shall not apply to any contribution for medical benefits (within the meaning of section 419A(f)(2) of the Code) after separation from service with the Employer that is otherwise treated as an annual addition or to any amount otherwise treated as an annual addition under section 415(l)(1) of the Code. For purposes of determining the limits under Code section 415, all defined contribution plans of the Employer are to be treated as one defined contribution plan. The annual additions of a Participant for any Limitation Year shall not include a Participant's Catch-Up Contributions made pursuant to Section 4.2 of the Plan and section 414(v) of the Code. For purposes of the foregoing, the term "415 Compensation" means a Participant's includible compensation determined under section 403(b)(3) of the Code.

ARTICLE XII

MINIMUM DISTRIBUTION REQUIREMENTS

12.1 **Effect of Article.** The requirements of this Article XII will take precedence over any inconsistent provisions of the Plan. The Plan shall comply with the minimum distribution requirements of section 401(a)(9) of the Code and the regulations thereunder. For purposes of applying the distribution rules of section 401(a)(9) of the Code, a Participant's Account is treated as an individual retirement account and distributions shall be made in accordance with the provisions of §1.408-8 of the Income Tax Regulations, except as provided in §1.403(b)-6(e) of the Income Tax Regulations.

12.2 **Commencement of Distribution.** The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's Required Beginning Date. If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

(a) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary, then distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70¹/₂, if later.

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

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

(d) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this Paragraph (disregarding item (a) above), will apply as if the surviving spouse were the Participant.

For purposes of this Section 12.2 and Section 12.5 below, unless item (d) above applies, distributions are considered to begin on the Participant's Required Beginning Date. If item (d) above applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under item (a) above. 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 item (a) above), the date distributions are considered to begin is the date distributions actually commence. 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 12.4 and 12.5 of this Article XII, whichever is applicable. 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.

12.3 Distribution Amounts. 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.

Required minimum distributions will be determined under this Section 12.3 beginning with the first Distribution Calendar Year and up to and including the Distribution Calendar Year that includes the Participant's date of death.

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12.4 Effect of Death After Commencement. 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:

(a) 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.

(b) 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.

(c) 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 Designated Beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.

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.

12.5 Effect of Death Before Commencement. 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 item (a), (b) or (c) of Section 12.4, whichever is applicable. 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. 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 item (9) of Section 12.2, this Section 12.5 will apply as if the surviving spouse were the Participant.

ARTICLE XIII ADMINISTRATION OF THE PLAN

13.1 **Administration.** The Plan shall be administered by the Plan Administrator. The Plan Administrator may delegate one or more of the duties and responsibilities pertaining to the general administration of the Plan to the Custodian and, with respect to any such delegation, references in the Plan to the “Plan Administrator” shall be deemed reference to the “Custodian”.

13.2 **General Duties.** The Plan Administrator shall have the exclusive duty and discretionary authority to interpret the provisions of the Plan, to decide any disputes which may arise regarding the rights of Participants and their Beneficiaries, and to direct the general administration of the Plan. Any disputes arising under the Plan shall be resolved by the Plan Administrator, and its decision shall be binding on all concerned parties.

13.3 **Claims Procedures.** A Participant shall make a claim for benefits by making a request for benefits in accordance with this Plan and any forms issued by the Plan Administrator and/or Insurer. If a claim is wholly or partially denied, a written decision shall be furnished to the Participant within 90 days after receipt of the request for benefits by the Plan Administrator. If the request for benefits is denied, the Participant has the right to appeal the denial of the request to the Human Resources Specialist, if such appeal is filed within 90 days after the date the Participant is sent written notification of the denial of the request for benefits. The Human Resources Specialist shall render his decision on the appeal within 90 days after it receives the appeal. If the Human Resources Specialist upholds the denial of request for benefits, the Participant may appeal this decision to the Administrator of the Employer, if such appeal is filed within 90 days after the date the Participant is sent written notification of the denial of the initial appeal. The Administrator of the Employer shall render his decision within 90 days after it receives the appeal.

13.4 **Plan Administrator Records.** The Plan Administrator shall maintain records of all relevant data pertaining to the Plan. Any Participant may inspect any records pertaining to him during business hours.

13.5 **Compensation.** If an employee of the Employer is the Plan Administrator, he shall not be compensated for his services.

13.6 **Expenses.** All administrative expenses of the Plan Administrator shall be paid by the Employer.

13.7 **Information.** The Employer shall supply full and timely information relating to the compensation of Participants and such other pertinent facts as the Plan Administrator may require.

13.8 **Administrative Powers.** The Plan Administrator shall enforce the terms of the Plan and shall have powers necessary to accomplish that purpose including, but not by way of limitation, the following powers:

- (a) to determine in its discretion all questions relating to eligibility;
- (b) to determine in its discretion all questions involving benefits payable to Participants and their Beneficiaries;
- (c) to hire legal counsel;
- (d) to interpret Plan provisions and make and publish rules for the administration of the Plan; and
- (e) to delegate administrative duties to the Custodian or to others which are not inconsistent with the terms of the Plan.

13.9 **Bonding.** To the extent required by applicable law, or required by the Employer, the Plan Administrator shall furnish bond or security for the performance of their duties hereunder.

13.10 **Temporary Restrictions.** In order to ensure an orderly transition in the transfer of assets to the Trust Fund from another trust fund maintained under the Plan or from the trust fund of a plan that is merging into the Plan or transferring assets to the Plan or to ensure an orderly transition of recordkeeping, valuation or other administrative activities from one service provider to another service provider, the Plan Administrator may, in its discretion, temporarily prohibit or restrict withdrawals, loans, changes to contribution elections, changes of investment designation of future contributions, transfers of amounts from one Investment Fund to another Investment Fund, or such other activity as the Plan Administrator deems appropriate; provided that any such temporary cessation or restriction of such activity shall be in compliance with all applicable law and the Plan Administrator shall have provided to Participants, their Beneficiaries and alternate payees the notices and information required to be provided with respect to such temporary cessation or restriction of such activity by applicable and regulations.

ARTICLE XIV AMENDMENT AND TERMINATION

14.1 **Right to Amend Reserved.** The Employer reserves the right to amend the Plan at any time by action of its Board of Managers. The Employer shall promptly forward a copy of any such amendment to the Plan Administrator; provided, however:

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(a) no amendment shall increase the duties or liability of the Plan Administrator without its written consent;

(b) no amendment shall provide that Plan assets be used for purposes other than for the exclusive benefit of Participants or their Beneficiaries, or that any Plan assets shall ever revert to or be used or enjoyed by the Employer; and

(c) no amendment shall deprive a Participant or any Beneficiary of any vested benefit under the Plan.

14.2 **Termination of Plan.** The Employer may terminate the Plan at any time by action of its Board of Managers and by filing a written notice at least fifteen days before termination with the Custodian, the Plan Administrator, and the Participants; provided, however, no such termination shall deprive a Participant or any Beneficiary of any vested benefits under the Plan.

14.3 **Automatic Termination of Plan.** The Plan shall terminate if the Employer is legally dissolved, declared bankrupt or makes a general assignment for the benefit of its creditors.

ARTICLE XV MISCELLANEOUS PROVISIONS

15.1 **Rights Reserved by Employer.** The Plan shall not be construed as creating any contract of employment. The Employer shall retain the right to deal with its Employees and to terminate their employment at any time, to the same extent as though the Plan has not been created. Participation in the Plan shall not give any Participant any right or interest other than is expressly provided.

15.2 **Legal Effect of Payment to Participant.** Payments to a Participant, or to his legal representative or Beneficiary, in accordance with the provisions of the Plan, to the extent thereof, shall be in full satisfaction of all claims hereunder against the Custodian, the Plan Administrator, and the Employer, any of whom may require as a condition precedent to such payment, the execution of an acceptable receipt.

15.3 **Agreement to Comply.** All parties to the Plan and all persons claiming any interest whatsoever hereunder agree to perform any and all acts and execute any and all documents which may be necessary or desirable for the administration of the Plan.

15.4 **Partial Invalidity of Unenforceability.** If any provision of the Plan is declared invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision.

15.5 **Limitation of Liability.** Neither the Employer nor the Plan Administrator shall be responsible for the validity of any Custodial Account; for the failure of the Custodian to make any payment or provide any benefit under any Custodial Account; or for the action of any person which may render any Custodial Account invalid or unenforceable. Neither the Employer nor the Plan Administrator shall be responsible for any inability to perform, or for any delay in performing any action occasioned by any restriction or provision of any Custodial Account agreement. In case it becomes impossible for the Employer or the Plan Administrator to perform any action under the Plan, that act shall be performed which in the judgment of the Employer or the Plan Administrator will most nearly carry out the intent and purposes of the Plan. All parties to the Plan or in any way interested herein shall be bound by any actions performed under such conditions.

15.6 **Non-Assignability of Interests.** All rights or claims to any Plan assets shall not be assignable, nor subject to garnishment, attachment, execution or levy of any kind. Any attempt to transfer, assign or pledge the same will not be recognized by the Plan Administrator except as to “qualified domestic relations orders” and certain judgments and settlements pursuant to Code sections 401(a)(13) and 414(p) except to such an extent as may otherwise be required by law. The Plan Administrator shall comply with the terms and provisions of any “qualified domestic relations orders” and certain judgments and settlements and shall establish appropriate procedures to effect the same.

15.7 **Governing Law.** The Plan shall be construed, administered and governed in all respects by the laws of the State of Texas, except to the extent preempted by federal law.

15.8 **Qualified Military Service.** 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. An Employee whose employment is interrupted by military service under section 414(u) of the Code or who is on a leave of absence for qualified military service under section 414(u) of the Code may elect to make additional Salary Reduction Contributions upon resumption of employment with the Employer equal to the maximum Salary Reduction Contributions that the Employer could have elected during that period if the Employee’s employment with the Employer had continued (at the same level of Compensation) without the interruption or leave, reduced by the Elective Deferrals, if any, actually made for the Employee during the period of the interruption or leave. Except to the extent provided under section 414(u) of the Code, this right applies for five years following the resumption of employment (or, if sooner, for a period equal to three times the period of the interruption or leave).

EXECUTED this _____ day of _____, 2015.

NUECES COUNTY HOSPITAL DISTRICT

By: _____
Name: _____
Title: _____