

RTA EMPLOYEES DEFINED BENEFIT PLAN AND TRUST

Amended and Restated Effective

January 1, 1997

RTA EMPLOYEES DEFINED BENEFIT PLAN AND TRUST

INTRODUCTION

Effective July 21, 1986, the Corpus Christi Regional Transit Authority, no known as the Corpus Christi Regional Transportation Authority (herein the "Employer") adopted the RTA Employees Defined Benefit Plan and Trust (herein the "Plan") for the benefit of the eligible employees of the Employer.

Effective July 1, 1994, the above Plan was amended and restated to comply with the Tax Reform Act of 1986, and other applicable legislation and governmental regulations.

Effective June 1, 1998, the above Plan was amended to delete the disability benefit in lieu of disability insurance obtained separately by the Employer.

Effective January 1, 1997, the above Plan again was amended and restated to comply with the different legislation generally collectively referenced as "GUST". It is intended that this amended and restated Plan shall be submitted to the Internal Revenue Service for a determination that it satisfies the requirements of Section 401(a) of the Internal Revenue Code.

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SECTION 1

DEFINITIONS

As used herein, unless otherwise defined or required by the context, the following words and phrases shall have the meanings indicated. Some of the words and phrases used in the Plan may not be defined in this Section 1, but, for convenience, are defined as they are introduced into the text.

1.01 Accrued Benefit means, as of the date of determination, the amount of monthly retirement income payable to a Participant determined in the same manner as the Normal Retirement Benefit in Section 3.01B but based on Final Average Compensation and Years of Service as of the date of determination.

1.02 Act means Public Law No. 93-406, the Employee Retirement Income Security Act of 1974, as it may be amended from time to time.

1.03 Actuarial Equivalent means a benefit of equivalent value computed in accordance with the UP-84 Annuity Mortality Table with the interest at the rate of seven percent (7%) per annum for all forms of payment.

In the event this Section is amended, the Actuarial Equivalent of an individual's Accrued Benefit on or after the date of change shall be determined as the greater of:

- (1) the Actuarial Equivalent of the Accrued Benefit as of the date of change computed on the old basis, or
- (2) the Actuarial Equivalent of the total Accrued Benefit computed on the new basis.

1.04 Actuary or Enrolled Actuary means an Actuary (or a firm of Actuaries) who is enrolled under Subtitle C of Title III of the Act and selected by the Administrator.

1.05 Administrator means the individual, committee of individuals or corporation appointed by the Employer pursuant to Section 8 to administer the Plan. The Employer shall be the Administrator during any period of time when no other individual or corporation is serving as such.

1.06 Age shall mean age at last birthday.

1.07 Annuity Starting Date shall mean the first day of the first period for which an amount is payable as an annuity, or in the case of a benefit not payable in the form of an annuity, the first day on which all events have occurred which entitles the Participant to such benefit.

1.08 Board means the Board of Directors of the Employer.

1.09 Break in Service means a termination of service followed by the completion of a One-Year Break in Services.

1.10 Code means the Internal Revenue Code of 1986, and amendments thereto.

1.11 Compensation shall be the definitions of compensation as used throughout the Plan as defined below:

Definitions

(1) Compensation means compensation paid by an Employer to an Employee for services rendered to the Employer during a calendar year including regular salary, bonuses, overtime, commissions and any Employee salary reduction under Code Section 125, 457 or 414(h). Compensation shall exclude Employer contributions or benefits under this Plan or any other Plan, personal leave cashed in, personal leave or health leave paid at termination or retirement, car, tool, uniform and moving allowances, fringe benefits excludable from gross income under Code Section 132, and any other extraordinary compensation.

(2) Code §415 Compensation (current income definition) means the Employee's wages, salaries, fees for professional service and other amounts received for personal services actually rendered in the course of employment with the Employer maintaining the Plan to the extent that the amounts are includible in gross income (including, but not limited to, commissions paid salespersons, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips, bonuses, fringe benefits and reimbursements or other expense allowances under a nonaccountable plan as described in Treas.Reg. §1.62-2(c)). Code §415 compensation does not include:

(a) Employer contributions to a plan of deferred compensation to the extent the contributions are not included in the gross income of the Employee for the taxable year in which contributed, Employer contributions on behalf of an Employee to a Simplified Employee Pension Plan to the extent such contributions are excludible from the Employee's gross income, and any distributions from a plan of deferred compensations, regardless of whether such amounts are includible in the gross income of the Employee when distributed.

(b) Amounts realized from the exercise of a non-qualified stock option, or when restricted stock (or property) held by an Employee either becomes freely transferable or is no

longer subject to a substantial risk of forfeiture.

(c) Amounts realized from the sale, exchange or other disposition of stock acquired under a stock option described in Part II, Subchapter D, Chapter 1, Subtitle A of the Code.

(d) Other amounts which receive special tax benefits, such as premiums for group term life insurance (but only to the extent that the premiums are not includible in the gross income of the Employee), or contributions made by an Employer (whether or not under a salary reduction agreement) toward the purchase of an annuity contract described in Code

(4) Compensation Dollar Limitation. For any Plan Year, Compensation cannot be more than \$150,000 (or such larger or smaller amount as the Commissioner of Internal Revenue may prescribe) for any Participant.

1.12 Effective Date means July 1, 1997, the date which this amended and restated Plan

is effective. The original effective date of the Plan is July 21, 1986.

1.13 Employee means any person who is receiving remuneration for personal services rendered to the Employer, but excludes any person who is employed as an independent contractor. No Leased Employees shall be covered under the Plan. For testing purposes only, Employee shall include Leased Employees only to the extent applicable within the meaning of Section 414(n) and 414(o) of the Code unless such Leased Employees are covered by a "safe harbor plan" described in Code Section 414(n)(5) and such Leased Employees do not constitute more than 20% of the Employer's nonhighly compensated work force.

1.14 Employer means Corpus Christi Regional Transportation Authority, formerly known as Corpus Christi Regional Transit Authority, a political subdivision of the State of Texas.

1.15 Fiduciary means a party named as a fiduciary in Section 8.01. Any party shall be considered a fiduciary of the Plan only to the extent of the powers and duties specifically allocated to such party under the Plan.

1.16 Final Average Compensation means an annual average determined by dividing the total Compensation received by the Participant during his final three consecutive calendar years by the number of pay periods for which he received Compensation in such

period, multiplied by the number of pay periods in a complete calendar year.

1.17 Former Participant

means an Employee whose participation has terminated and has not resumed hereunder. A Highly Compensated former Participant shall mean a former Employee who had a separation year prior to the "determination year" and who was a highly compensated active Employee for either:

- (1) such Employee's separation year; or
- (2) any determination year ending on or after the Employee's 55th birthday.

Generally, a separation year is the determination year the Employee separates from service. The determination year is the Plan Year for which the determination of who is Highly Compensated is being made.

1.18 Fund

means the total assets of the Plan and Trust.

1.19 Highly Compensated Participant or Highly Compensated Employee

shall mean any Employee or Former Participant who is a highly compensated Employee as defined in Code Section 414(q) and the Regulations thereunder. Generally, any Employee or Former Participant is considered a Highly Compensated Participant if during the Plan Year or the Preceding Plan Year such Employee or Former Participant:

- (a) during the Plan Year or during the preceding Plan Year, is a more than 5% owner of the Employer (applying the constructive ownership rules of Code §318, and applying the principles of Code §318, for an unincorporated entity); or
- (b) during the preceding Plan Year had Compensation in excess of \$80,000 (as adjusted by the Commissioner of Internal Revenue for the relevant year) and was part of the top-paid 20% group of Employee (based on Compensation for the preceding Plan Year)

For purposes of this Section 1.19, “Compensation” means Compensation as defined in Section 1.11. The Administrator must make the determination of who is a Highly Compensated Employee, including the determinations of the number and identity of the top-paid 20% group, consistent with Code §414(q) and regulations issued under that Code section. The Employer hereby makes a calendar year data election to determine the Highly Compensated Employees for the Plan Year, as prescribed by Treasury regulations or by other guidance published in the Internal Revenue Bulletin.

1.20 Hour of Service

means each hour for which an Employee is paid, or entitled to payment, by the Employer by reason of:

- (1) the performance of duties; or
- (2) the nonperformance of duties; or

- (3) a back pay award or agreement with the Employer, irrespective of mitigation of damages.

No more than 501 Hours of Service shall be credited to an Employee for any single continuous period during which such employee performs no duties. The rules for recognizing Hours of Service to prevent a One-Year Break in Service are stated in Section 1.23.

Crediting Hours of Service to the applicable computation period as well as calculating Hours of Service for the nonperformance of duties shall be effectuated pursuant to Department of Labor Regulations S2530.200b-2(b), (c) and (f), (as presently constituted and as amended from time to time) which are herein incorporated by reference.

1.21 Leased Employee

Means any person (other than an Employee of the Employer) who pursuant to an agreement between the Employer and any other person (“leasing organization”) has performed services for the Employer (or any related person within the meaning of the Code Section 144(a)(3)) on a substantially full-time basis for a period of at least one year and who performs such services under the primary direction or control of the Employer within the meaning of Section 414 (n)(2). Except as described in Section 1.21(A), a Leased Employee is an Employee for purposes of the Plan. If a Leased Employee is an Employee for purposes of the Plan. If a Leased Employee is an Employee, “Compensation” includes Compensation from the leasing organization which is attributable to services performed for the Employer.

(A) Safe Harbor Plan Exception. A Leased Employee is not an Employee if the leasing organization covers the employee in a safe harbor plan and, prior to application of this safe harbor plan

exception, 20% or less of the Employer's Employees (other than Highly Compensated Employees) are Leased Employees. A safe harbor plan is a money purchase pension plan providing immediate participation, full and immediate vesting, and a nonintegrated contribution formula equal to at least 10% of the employee's compensation, without regard to employment by the leasing organization on a specified date. The safe harbor plan must determine the 10% contribution on the basis of compensation as defined in Code §415(c)(3).

(B) Other Requirements. The Administrator must apply this Section 1.21 in a manner consistent with Code §§414(n) and 414(o) and the regulations issued under those Code sections. If a Participant is a Leased Employee covered by a plan maintained by the leasing organization, the Administrator will determine the allocation of Employer contributions and Participant forfeitures on behalf of the Participant under the Plan without taking into account the Leased Employee's allocation, if any, under the leasing organization's plan.

1.22 Non-Highly Compensated Participant

means any Participant or Former Participant (and his Beneficiary) who is not a Highly Compensated Participant.

1.23 One-Year Break in Service

means a Plan Year during which the Employee has not completed more than 500 Hours of Service with the Employer. Solely for the purpose of determining whether a Participant has incurred a One-Year Break in Service, Hours of Service shall be recognized for the following authorized leaves of service:

- (1) "Authorized leave of absence" means an unpaid, temporary cessation from active employment with the Employer pursuant to an established nondiscriminatory policy, whether occasioned by illness, military service, or any other reason.

(2) A “maternity or paternity leave of absence” shall mean an absence from work for any period by reason of the Employee’s pregnancy, birth of the Employee’s child, placement of the child with the Employee in connection with the adoption of such child, or any absence for the purpose of caring for such child for a period immediately following such birth or placement.

(3) A “family/medical leave of absence” as required under the Family and Medical Leave Act.

No credit shall be given under this provision unless the Employee provides to the Administrator on a timely basis such information as is reasonably required to establish that the absence is for a reason described in this Subsection and the period of absence attributable to such reason. The total Hours of Service required to be credited for a “maternity or paternity leave of absence” or “family/medical leave” shall not exceed 501 Hours of Service. Hours of Service, which would normally have been credited but for the absence, shall be credited in the calendar year in which the absence begins, if needed to prevent a Break in Service, or in the calendar year immediately following the calendar year in which the absence begins.

Qualified Military Service. Hour of Service also includes any Service the Plan must credit for contributions and benefits in order to satisfy the crediting of Service requirements of Code §414(u). The provisions of this Section 1.23 apply beginning December 12, 1994, or if the Employer’s Plan is effective after that date, as of the Plan’s Effective Date.

- 1.24 Participant means any Employee covered by the Plan in accordance with the terms of Section 2 hereof.
- 1.25 Plan means the RTA Employees' Defined Benefit Plan and Trust, the terms of which are set forth herein, including the Trust as contained herein and all amendments hereto which may hereafter be made.
- 1.26 Plan Year/
Limitation Year means any twelve month period beginning on January 1st and ending on the last day of December.
- 1.27 Rollover means a qualified distribution transferred from another employer's qualified retirement plan or a qualified distribution transferred from this Plan to an Individual Retirement Annuity (IRA) or another employer's qualified plan. This Plan will not accept Rollovers; however, the Plan will make a direct transfer of any qualified distribution that is not an annuity payment to an IRA or other qualified plan in accordance with the Participant's instructions and the Unemployment Compensation Amendments of 1992.
- 1.28 Severance
from Service
Date means the earlier of:
(1) the date on which the Employee resigns, is discharged or dies; or

(2) the first anniversary of a period in which the Employee remains absent from employment (with or without pay) for any reason other than maternity or paternity leave of absence, resignation, discharge or death (such as vacation, holiday, sickness, disability, leave of absence or layoff).

(3) the second anniversary of a period in which the Employee remains absent from employment (with or without pay) for a maternity or paternity leave including:

- (i) the individual's pregnancy; or
- (ii) childbirth; or
- (iii) adoption of a child; or
- (iv) child care immediately after the birth or adoption of a child;

provided, however, the period between the first and second anniversary will be treated as neither a period of severance nor a period of service.

1.29 Spouse means, as of any applicable date, a person who was recognized under the laws of the state of domicile as being married to the Participant.

1.30 Termination Date means the last day an Employee performs an Hour of Service for the

Employer as determined by the personnel records of the Employer.

1.31 Trust or Trust Agreement means the agreement of trust between the Employer and Trustee as contained herein and forming a part of the Plan, which governs the continuation and maintenance of the trust fund, and all amendments thereto which may hereafter be made.

1.32 Trustee means such corporation, individual or individuals appointed by the Employer and named herein, or any substitute or successor Trustee.

1.33 Year of Service means a Plan Year in which an Employee completes 1,000 or more Hours of Service. If a Participant has fewer than 1,000 Hours of Service in his first and/or last Year of Service, his Years of Service shall be adjusted (to the nearest month) to reflect the number of months in his first and last Years of Service in which he completed at least 83 Hours of Service as a Participant.

Years of Service shall be adjusted, as applicable, for the following:

- (1) if any nonvested Former Participant is reemployed by the Employer before five consecutive One-Year Breaks in Service, his Years of Service prior to his reemployment shall be reinstated; and

- (2) if any vested Former Participant is reemployed by the Employer before benefit commencement, his Years of Service prior to his reemployment shall be reinstated; and
- (3) if any vested Former Participant is reemployed by the Employer and such Former Participant had received a distribution prior to his reemployment, his Years of Service prior to his reemployment shall be reinstated only after repayment of the prior distribution in full with interest at the rate of 5% per annum. Repayment must be made not later than the earlier of two years after reemployment or such time as the Former Participant incurs five consecutive One-Year Breaks in Service commencing after the distribution.

All Years of Service shall be aggregated for purposes of calculating a Participant's Accrued Benefit.

For purposes of vesting only, "Years of Service" shall include one year for each consecutive twelve-month period a Participant was employed by the City of Corpus Christi, Texas in its transit division immediately prior to becoming an Employee of the Employer under this Plan.

SECTION 2

ELIGIBILITY AND PARTICIPATION

2.01 ELIGIBILITY

Any Employee shall be eligible to participate in the Plan on the date of commencement of full-time employment or reemployment. For purposes of this Section, a full-time Employee shall be defined as any Employee who receives compensation from the Employer on the basis of an average of at least 40 hours of employment per week.

2.02 PARTICIPATION

Each Employee shall automatically become a Participant hereunder when first eligible as provided in Section 2.01 above.

Once an Employee has become a Participant, he will continue to be a Participant as long as he continues to be an Employee without a Break in Service and thereafter as long as he or his Beneficiary retains any right to benefits under the Plan.

SECTION 3

RETIREMENT DATES AND BENEFITS

3.01 NORMAL RETIREMENT

Normal retirement under the Plan is retirement of a Participant from the employ of the Employer on his Normal Retirement Date. In the event of normal retirement, payment of retirement income shall be governed by the following provisions of this Section 3.01.

- A. Normal Retirement Date: The Normal Retirement Date of a Participant shall be the first day of the calendar month coincident with or immediately following the date he attains age 62. A Participant shall have a nonforfeitable right to his normal retirement benefit on the attainment of his Normal Retirement Age.

- B. Amount of Retirement Income: The amount of annual retirement income payable to a Participant who retires on his Normal Retirement Date shall be an amount equal to 2% of his Final Average Compensation multiplied by his Years of Service. The annual retirement income shall be converted to a monthly retirement benefit by dividing by twelve.

- C. Amount of Benefit - Other Forms of Payment: The monthly retirement benefit payable to a Participant who retires and who elects to receive a form of payment (or who fails or refuses to elect a form of payment and thereby receives the form of

payment specified in paragraph 5.01) shall be an actuarially adjusted amount which is the Actuarial Equivalent of the benefit described in 3.01D.

- D. Payment of Retirement Benefit: The retirement income payable in the event of normal retirement shall be payable as a Joint and 50% Survivor Annuity if married and as a Life Annuity if unmarried. The first payment shall be made on the Participant's Normal Retirement Date and the last payment shall be the payment due in accordance with the Option in effect.

- E. Reemployment of Normal Retired Participant: If a Participant receiving monthly retirement benefit payments is reemployed as an Employee by the Employer, retirement benefits shall be suspended during any period of such reemployment. Upon his subsequent retirement, the Participant's Accrued Benefit will be recalculated based on his total aggregate Years of Service and Final Average Compensation at his subsequent retirement; provided, however, that his Accrued Benefit will be reduced by the Actuarial Equivalent value of the payments previously received.

- F. Benefit Suspension Notice: If a Participant continues in the employ of his Employer past his Normal Retirement Date, then payments to such Participant shall not begin until his termination of employment. Any Participant whose benefits have been suspended pursuant to this subsection shall be notified of such suspension by personal delivery of first class mail during the first calendar month following the Participant's Normal Retirement Date. Such notice shall contain the following:

- (1) A description of the specific reasons why benefit payments are being suspended;
- (2) A general description of the Plan provisions relating to the suspension of payments;
- (3) A copy of the suspension provisions in the Plan;
- (4) The procedure contained in the Plan for affording a review of the suspension of benefits;
- (5) The procedure contained in the Plan for calculation of benefits upon termination of employment.

3.02 EARLY RETIREMENT

A Participant who has both attained his 55th birthday and has completed at least ten (10) Years of Service may retire at any time by giving at least 120 days prior written notice to the Employer. In the event of early retirement, payment of retirement income shall be governed by the following provisions of this Section 3.02.

- A. Early Retirement Date: The Early Retirement Date of a Participant shall be the first day of the month coincident with or immediately following the date he retires from the service of an Employer under the provisions of this Section.

- B. Amount of Retirement Income: The amount of monthly retirement income payable to a Participant who retires early under the provisions of this Section shall be equal to his Accrued Benefit reduced by 5% for each year by which the Participant's Early Retirement Date precedes his Normal Retirement Date.
- C. Amount of Benefit - Other Forms of Payment: The monthly retirement benefit payable to a Participant who retires and who elects to receive a form of payment (or who fails or refuses to elect a form of payment and thereby receives the form of payment specified in paragraph 5.01) shall be an actuarially adjusted amount which is the Actuarial Equivalent of the benefit described in Section 3.02D.
- D. Payment of Retirement Income: The normal retirement benefit payable in the event of early retirement shall be payable as a Joint and 50% Survivor Annuity if married and as a Life Annuity if unmarried. The first payment shall be made as of the Participant's Early Retirement Date and the last payment shall be the payment due in accordance with the Option in effect.
- E. Reemployment of Early Retiree: If a Participant receiving monthly retirement benefit payments is reemployed as an Employee by the Employer, retirement benefits shall be suspended during any period of reemployment. Upon subsequent retirement, the Participant's Accrued Benefit will be recalculated based on his total aggregate Years of Service and Final Average Compensation at his subsequent retirement; provided,

however, that his Accrued Benefit will be reduced by the Actuarial Equivalent value of the payments previously received by the Participant.

3.03 DISABILITY RETIREMENT

[This Section intentionally omitted effective June 1, 1998; provided that Employees with pre-existing medical conditions who are not eligible for the long-term disability insurance benefit provided by the Employer shall be entitled to the disability retirement benefit under the Plan prior to Amendment Two until June 1, 1999.]

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3.04 POSTPONED RETIREMENT

Postponed retirement under the Plan is retirement of an Employee from the service of the Employer after his Normal Retirement Date. In the event of postponed retirement, payment of retirement income shall be governed by the following provisions of this Section.

- A. Postponed Retirement Date: The Postponed Retirement Date of a Participant shall be the first day of the month coincident with or immediately following the date he retires from the service of the Employer after his Normal Retirement Date.
- B. Amount of Retirement Income: The amount of monthly retirement income payable to a Participant who retires under the provisions of this Section shall be equal to his Accrued Benefit as of his Postponed Retirement Date.

- C. Amount of Benefit - Other Forms of Payment: The monthly retirement benefit payable to a Participant who retires and who elects to receive a form of payment (or who fails or refuses to elect a form of payment and thereby receives the form of payment specified in paragraph 5.01), shall be an actuarially adjusted amount which is the Actuarial Equivalent of the benefit described in 3.04D.
- D. Payment of Retirement Benefit: The retirement income payable in the event of delayed retirement shall be payable as a Joint and 50% Survivor Annuity if married and as a Life Annuity if unmarried. The first payment shall be made as of the Participant's Postponed Retirement Date and the last payment shall be the payment due in accordance with the Option in effect.
- E. Reemployment of Postponed Retired Participant: If a Participant receiving monthly retirement benefit payments is reemployed as the Employee by the Employer, retirement benefits shall be suspended during any period of such reemployment. Upon his subsequent retirement, the Participant's Accrued Benefit will be recalculated based on his total aggregated Years of Service and Final Average Compensation at his subsequent retirement; provided, however, that his Accrued Benefit will be reduced by the Actuarial Equivalent value of the payments previously received by the Participant.

3.05 BENEFIT ON TERMINATION OF EMPLOYMENT

- A. Non-Vested Benefit: A Participant who terminates employment with the Employer prior to the completion of three (3) Years of Service shall not be entitled to receive

any benefits under the Plan. Further, such Participant who is zero percent vested shall be deemed to have been cashed out in accordance with Section 5.03 with respect to the value of his Accrued Benefit at his Termination Date.

- B. Vested Benefit: A Participant who terminates employment prior to his Normal Retirement Date, for any reason other than his death or disability, after he has completed at least three (3) Years of Service, shall be entitled to a deferred monthly retirement benefit commencing on his Normal Retirement Date, provided he is then alive, in an amount equal to a vested percentage of his Accrued Benefit as follows:

<u>Years of Service</u>	<u>Vested Percent</u>
Less than 3 years	0%
3 years	20%
4 years	40%
5 years	60%
6 years	80%
- 7 or more years	100%

C. Reemployment with an Employer:

- (1) If a Participant's employment with the Employer is terminated while he is entitled to the retirement income described in Section 3.05B hereof, and he subsequently reenters the employ of the Employer without having commenced benefit payments, he shall be entitled to the Years of Service he had as of his previous Termination Date in lieu of the Accrued Benefit to which he was entitled on such date.

- (2) If a Former Participant who received a cashout of his entire vested Accrued Benefit is reemployed as an Employee by the Employer, repayment of the prior distribution in full with interest at the rate of 5% per annum is required for restoration of his Years of Service prior to his reemployment.

3.06 DEATH BENEFIT PRIOR TO RETIREMENT

A. If the employment of a Participant is terminated by reason of his death prior to the completion of three (3) Years of Service, no death benefit shall be payable under the Plan.

B. If the employment of a Participant is terminated by reason of his death while in the employment of the Employer after the completion of three (3) Years of Service or after having terminated with at least three (3) Years of Service, then a death benefit shall be payable to the Participant's surviving Spouse equal to the "Qualified Pre-retirement Survivor Annuity". The "Qualified Pre-retirement Survivor Annuity" means a survivor annuity for the life of the deceased Participant's Spouse which provides payments to the surviving Spouse that are equal to the amounts that would have been paid to the surviving Spouse assuming:

- (1) the Participant had separated from service on the earlier of his Termination Date or his date of death (service shall include period of disability),

- (2) the Participant had survived to the earliest date he could have retired and elected the Qualified Joint and 50% Survivor Annuity Option.
- (3) the Participant retired on such date, and
- (4) the Participant died on the day after his benefits commenced.

If the Participant does not have a surviving Spouse, no death benefit shall be payable.

3.07 DEATH BENEFIT AFTER RETIREMENT

If a Participant dies after retirement and was receiving monthly payments at the date of his death, no monthly benefit shall be continued to his designated Beneficiary, unless the Participant elected an option under Section 5.02 which provided for benefit payments to continue after his death.

3.08 PAYMENT OF DEATH BENEFITS

Notwithstanding any provision in this Plan to the contrary, if a Participant dies before benefit payments have commenced, such distribution payable upon death shall be available for payment to the surviving Spouse as of the first day of the month coincident with or next following the date the Participant would have attained his earliest retirement age or the date of death, if later; and shall be distributed in the form of a Life Annuity or one lump sum payment provided the lump sum payment is less than or equal to \$3,500.

3.09 MAXIMUM BENEFIT

Notwithstanding any other provision of the Plan, in no event may a Participant's annual retirement income under the Plan exceed the limitations set forth in this Section.

The annual net current income payable to a Participant shall not exceed the lesser of (1) \$90,000, or (2) 100% of the Participant's 415 Compensation averaged over the three consecutive Limitation Years during which the Participant had the greatest aggregate 415 Compensation from the Employer, subject to the following:

- A. The maximum shall apply to the retirement benefit payable to the Participant as a Qualified Joint and Survivor Annuity described in Section 5.02; but if the retirement benefit is payable in a form other than the foregoing and other than a single life annuity, the maximum shall apply to the single life annuity which is the Actuarial Equivalent of such retirement benefit.

- B. If the retirement benefit of a Participant commences before the Participant's age 62, the Defined Benefit Dollar Limitation shall be adjusted so that it is the Actuarial Equivalent of an annual benefit of \$90,000, multiplied by the Adjustment Factor, as prescribed by the Secretary of the Treasury, beginning at Participant's age 62. The adjustment provided for in the preceding sentence shall not reduce the Defined Benefit Dollar Limitation below \$75,000 if the benefit begins at or after age 55 or if the benefit begins before age 55, the equivalent of the \$75,000 limitation for age 55.

- C. If the retirement benefit of a Participant commences after the Participant's age 65, the Defined Benefit Dollar Limitation shall be adjusted so that it is the Actuarial Equivalent of a benefit of \$90,000 beginning at the Participant's age 65, multiplied by the Adjustment Factor as provided by the Secretary of the Treasury, based on the lesser of the interest rate assumption under the Plan or on an assumption of five percent (5%) per year.
- D. If the Participant has fewer than ten Years of Service at retirement, the applicable maximum (the Defined Benefit Dollar Limitation and the limitations described in Sections 415(b)(1)(B) and 415(b)(4) of the Code) shall be multiplied by a fraction, in which the numerator is his Years of Service and the denominator is 10.
- E. For all purposes of this Plan, the maximum Dollar Limitation of \$90,000 shall be automatically increased as permitted by Treasury Department regulations to reflect cost-of-living adjustments. The "Adjustment Factor" under Section 415(d) of the code shall apply after December 31, 1987.

As a result of such an adjustment, a retirement benefit which has been limited by the provisions of this Section in a previous Plan Year may be increased with respect to future payments to the lesser of the adjusted Dollar Limitation amount or the amount of retirement benefit which would have been payable under this Plan without regard to the provisions of this Section.

The adjusted Dollar Limitation is effective as of the January 1st of each calendar year and applies with respect to the Limitation Year ending with or within that calendar year.

F. Notwithstanding anything herein to the contrary, for purposes of this Subsection hereof, Compensation shall mean 415 Compensation as defined in Section 1.11(2).

G. Notwithstanding the foregoing, the otherwise permissible annual benefits for any Participant under his Plan may be further reduced to the extent necessary, as determined by the Employer, to prevent disqualification of the Plan under Section 415 of the Internal Revenue Code, which imposes the following additional limitations on the benefits payable to Participants who also may be participating in another tax qualified pension, profit sharing, savings or stock bonus plan of the Employer. If an individual is a Participant at any time in both a defined benefit plan and a defined contribution plan maintained by the Employer, the sum of the defined benefit plan fraction and the defined contribution plan fraction for any Plan Year may not exceed 1.0. The defined benefit plan fraction for any Plan Year is a fraction, the numerator of which is the Participant's projected annual benefit under the Plan (determined at the close of the Plan Year) and the denominator of which is the lesser of (a) 1.25 multiplied by the larger of the Dollar Limitation, as adjusted, or (b) 1.4 multiplied by the Compensation Limitation. The defined contribution plan fraction for any Plan Year is a fraction, the numerator of which is the sum of the Annual Additions the Participant's accounts in such Plan Year and for all prior Plan Years and the

denominator of which is the sum of the applicable maximum amounts of Annual Additions which could have been made under Section 415(c) of the Internal Revenue Code for such Plan Year and for all prior years of such Participant's employment (assuming for this purpose, that said Section 415(c) had been in effect during such prior years). The applicable maximum amount for any Plan Year shall be equal to the lesser of 1.25 multiplied by the dollar limitation in effect for such Plan Year under subsection 415(c)(1)(A) of the Internal Revenue Code, or 1.4 multiplied by 25% of the Participant's total annual 415 Compensation for such Plan Year.

For purposes of computing the defined contribution plan fraction of Section 415(e)(1) of the Code, "Annual Addition" shall mean the amount allocated to a Participant's account during the Limitation Year as a result of:

- (1) Employer contributions,
- (2) Employee contributions,
- (3) Forfeitures, and
- (4) Amounts described in Sections 415(e)(1) and 419(A)(d)(2) of the Code.

The Annual Addition for any Limitation Year beginning before January 1, 1987 shall not be recomputed to treat all Employee Contributions as an Annual Addition.

H. For purposes of the above limitation, all defined benefit plans of the Employer, whether or not terminated, are to be treated as one defined benefit plan and all defined contribution plans of the Employer, whether or not terminated, are to be treated as one defined contribution plan. The extent to which the benefit payable under this Plan shall be reduced as compared with the extent to which the annual benefit under any other defined benefit plans or defined contribution plans shall be reduced in order to achieve compliance with the limitations of Section 415 of the Code shall be determined by the Employer in such a manner so as to maximize the aggregate benefits payable to such Participant. If such reduction is under this Plan, the Employer shall advise affected Participants of any additional limitation on their annual benefits required by this paragraph.

For purposes of the above limitation, if the Employer is a participant of a controlled group of corporations, trades or businesses under common control (as defined by Code Section 1563(a) or Code Section 414(b) and (c) as modified by Code Section 415(h)) or is a participant of an affiliated service group (as defined by Code Section 414(m)), all Employees of such Employers shall be considered to be employed by a single Employer.

I. If the Current Accrued Benefit of an individual who is a Participant as of the first day of the Limitation Year beginning on or after January 1, 1987, exceeds the benefit limitations under Section 415(b) of the Code as modified by the Tax Reform Act, then, for purposes of Code Section 415(b) and (e), the Defined Benefit Dollar

Limitation with respect to such individual shall be equal to such Current Accrued Benefit. "Current Accrued Benefit" shall mean a Participant's Accrued Benefit under the Plan, determined as if the Participant had separated from service as of the close of the last Limitation Year beginning before January 1, 1987, when expressed as an annual benefit within the meaning of Section 415(b)(2) of the Code. In determining the amount of a Participant's Current Accrued Benefit, the following shall be disregarded:

- (1) any change in the terms and conditions of the Plan after May 5, 1986; and
- (2) any cost of living adjustment occurring after May 5, 1986.

J. The above limitations are intended to comply with the provisions of Section 415 of the Internal Revenue Code, as amended, so that the maximum benefits provided by Plans of the Employer shall be exactly equal to the maximum amounts allowed under Section 415 of the Internal Revenue Code and regulations thereunder. If there is any discrepancy between the provisions of this Subsection and the provisions of Section 415 of the Internal Revenue Code and regulations thereunder, such discrepancy shall be resolved in such a way as to give full effect to the provisions of Section 415 of the Code.

SECTION 4

JOINT ANNUITANT

4.01 DESIGNATION OF JOINT ANNUITANT

- A. Each unmarried Participant who elects a Joint and Survivor Annuity Option shall, on a form provided for that purpose, designate a Joint Annuitant to receive the benefits, if any, which may be payable in the event of his death after retirement pursuant to the provisions of Section 5.

- B. Each married Participant's Joint Annuitant is automatically his Spouse. A married Participant may not designate someone other than his Spouse as his Joint Annuitant.

SECTION 5
OPTIONAL FORMS OF RETIREMENT INCOME

5.01 ELECTION OF RETIREMENT BENEFITS

- (A) Prior to his Early Retirement Date, Normal Retirement Date, Postponed Retirement Date, or Disability Retirement Date, whichever is applicable, each Participant shall elect the form in which his retirement income shall be paid from the authorized forms of payment described in Section 5.02.
- (B) At least 30 days and not more than 90 days prior to the Participant's annuity starting date, the Administrator must provide a written notice (or a summary notice as permitted under Treasury regulations) to a Participant who is eligible to make an election under Section 5.01 ("distribution notice"). The distribution notice must explain the optional forms of benefit in the Plan, including the material features and relative values of those options, and the Participant's right to postpone distribution until the applicable date described in this Section. For all purposes of this Section 5, the term "annuity starting date" means the first day of the first period for which the Plan pays an amount as an annuity or in any other form but in no event is the "annuity starting date" earlier than a Participant's Separation from Service.
- (C) A Participant must consent, in writing, following receipt of the distribution notice, to any distribution under this Section 5.01, if at the time of the distribution to the Participant, the Participant's Vested Account Balance exceeds \$5,000 and the Participant has not attained the later of Normal Retirement Age or age 62. Accounts which are distributable prior to the foregoing applicable age are "immediately distributable." Furthermore, the Participant's spouse also must consent, in writing, to any distribution other than a Qualified Joint and Survivor Annuity. The Participant may reconsider his/her distribution election at any time prior to the annuity starting date and elect to commence distribution as of any other distribution date permitted under the Plan. A Participant may elect to receive distribution at any administratively practicable time which is earlier than 30 days following the Participant's receipt of the distribution notice, by waiving in writing the balance of the 30 days. However, if spousal consent is required, the Participant may not elect to commence distribution less than 7 days following the Participant's receipt of the distribution notice.

5.02 DESCRIPTION OF OPTIONS

The optional forms of payment available on a Participant's Annuity Starting Date shall be the Actuarial Equivalent of the normal form of payment, the Life Annuity for unmarried Participants and the Qualified Joint and 50% Survivor Annuity for married Participants. Spousal consent is not required for election of an optional form of payment, since only the Spouse may be the Joint Annuitant of the Participant and only a Joint and Survivor Annuity Option is available to a married Participant. The normal forms and all optional forms of payment available are as follows:

Normal Form for Unmarried Participants - Life Annuity:

A monthly retirement benefit payable to the Participant during his lifetime, with payments to cease upon his death.

Normal Form for Married Participants - Qualified Joint and Survivor Annuity:

A monthly retirement benefit which shall be payable during the retired Participant's lifetime, with 50% of the benefit amount continuing to the Spouse after the death of the Participant for the lifetime of the Spouse.

Option A - Joint and Survivor Annuity Options:

A modified monthly retirement benefit which shall be payable during the retired Participant's lifetime, with a previously designated percentage (50%, 66 2/3%, 75% or 100%) of the benefit amount continuing to the Joint Annuitant after the death of the Participant

for the lifetime of the Joint Annuitant. A married Participant may not designate someone other than his Spouse as his Joint Annuitant.

Option B – Automatic Cashout under \$5,000.00:

A single lump sum payment computed on the basis of Actuarial Equivalence specified in Section 1.03 will be paid in accordance with Section 5.04 in lieu of a monthly benefit, provided the lump sum payment is equal to or less than \$5,000.00.

Unless a Participant elects otherwise, payment of Accrued Benefits shall begin not later than the 60th day after the closed of the Plan Year in which occurs the latest of:

- (a) the Participant's 62nd birthday;
- (b) the 10th anniversary of the year in which the Participant commenced participation in the Plan; or
- (c) the Participant's termination date.

5.03 CASHOUT PROVISIONS:

- A. Termination of Employment: In accordance with Section 5.02, Option B, if the Actuarial Equivalent of the Accrued Benefit at the time of payment is equal to or less than \$5,000, the terminated Participant will automatically be paid a single lump sum payment in lieu of a monthly benefit. In accordance with Section 3.05A, a

for the lifetime of the Joint Annuitant. A married Participant may not designate someone other than his Spouse as his Joint Annuitant.

Option B – Automatic Cashout under \$5,000.00:

A single lump sum payment computed on the basis of Actuarial Equivalence specified in Section 1.03 will be paid in accordance with Section 5.04 in lieu of a monthly benefit, provided the lump sum payment is equal to or less than \$5,000.00.

Unless a Participant elects otherwise, payment of Accrued Benefits shall begin not later than the 60th day after the closed of the Plan Year in which occurs the latest of:

- (a) the Participant's 62nd birthday;
- (b) the 10th anniversary of the year in which the Participant commenced participation in the Plan; or
- (c) the Participant's termination date.

5.02 CASHOUT PROVISIONS:

A. Termination of Employment: In accordance with Section 5.02, Option B, if the Actuarial Equivalent of the Accrued Benefit at the time of payment is equal to or less than \$5,000, the terminated Participant will automatically be paid a single lump sum payment in lieu of a monthly benefit. In accordance with Section 3.05A, a

Participant who is zero percent vested shall be deemed to be cashed out as of his date of termination of employment. Payments made under this paragraph shall discharge all rights of a Participant under the Plan except as provided in Section 5.03B below, and shall be made to the Participant by the end of the second Plan Year following the Plan Year in which such Participant incurs a One-Year Break in Service.

- B. Reemployment: Any Participant who received a distribution of his entire nonforfeitable benefit as provided in Subsection A immediately above, and resumes employment covered under this Plan with the Employer, shall have his Years of Service restored upon reemployment if repayment of the previously distributed amount is made with interest at 5% per annum.

5.04 RESTRICTION ON COMMENCEMENT OF BENEFIT PAYMENTS

Notwithstanding any provision of the Plan, each Participant's benefits payable under the Plan shall be distributed, or distributions will commence, no later than April 1 following the calendar year in which he retires or attains age 70-1/2, if later. All distributions under this Section shall be made in accordance with the requirements of Code Section 401(a)(9) and the regulations thereunder, including the incidental death benefit requirements of 1.401(a)(9)-2. The provisions of this Section override any distribution options under the Plan if inconsistent with the requirements of Section 401(a)(9).

5.05 ELIGIBLE ROLLOVER DISTRIBUTIONS

In accordance with the Unemployment Compensation Amendments of 1992, notwithstanding any provision of the Plan to the contrary, a distributee may elect, at the time and in the manner prescribed by the Administrator, to have any portion of an eligible rollover distribution made on or after January 1, 1993 paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: 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 or more years; any distribution to the extent such distribution is required under the Age 70 1/2 rules of Code Section 401(a)(9), and the portion that is not includable in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities).

An eligible retirement plan is an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, an annuity plan described in Section 403(a) of the Code, or a qualified trust described in Section 401(a) of the Code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity (IRA).

Distributee includes any active or inactive Participant with a vested benefit. In addition, the Participant's surviving spouse or the Participant's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code, are distributees with regard to the interest of the spouse or former spouse.

A direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee.

SECTION 6

METHOD OF FINANCING

6.01 ESTABLISHMENT OF FUND

The Employer shall designate the Trustee to serve as herein provided. The Trust Agreement, the terms of which are, or shall be, incorporated herein, as applicable, shall govern the establishment of the Fund from which the benefits provided by the Plan shall be paid.

6.02 EMPLOYER CONTRIBUTIONS

The Employer shall contribute to the Fund from time to time amounts based upon the recommendations of the Plan's Actuary, in order to fund the costs of the Plan on an acceptable basis. All Employer contributions when made to the Fund and all property and funds of the Fund, including income from investments and from all other sources, shall be retained for the exclusive benefit of Participants and their Beneficiaries, and shall be used to pay retirement income provided hereunder or to pay expenses of administration of the Plan and the Fund.

6.03 PARTICIPANT CONTRIBUTIONS

No contributions shall be required of or permitted by any Participant under this Plan.

6.04 FUNDING POLICY

The Employer shall establish a funding policy and method consistent with Plan objectives in order that the long range and short range financial needs of the Plan may be determined and communicated to the Trustee.

6.05 MISCELLANEOUS

- A. Any actuarial gains arising from actual experience or forfeitures under the Plan shall be used to reduce the Employer contributions and will not be used to increase any benefits payable under this Plan.

- B. No person shall have any interest in or right to the Fund or any part thereof, except as expressly provided in the Plan.

SECTION 7

AMENDMENT AND TERMINATION

7.01 AMENDMENT OF THE PLAN

The Employer shall have the right, at any time, to amend any or all of the provisions of the Plan by resolution of the Board; provided, however, that no such amendment shall authorize or permit any part of the Fund to be diverted to purposes other than for the exclusive benefit of Participants and their beneficiaries; and further provided that no amendment shall have the effect of revesting in the Employer any portion of the Fund. No such amendment which affects the rights, duties or responsibilities of the Trustee may be made without the Trustee's written consent. Any such amendment shall become effective as provided therein upon its execution. The Trustee shall not be required to execute any such amendment unless the Trust provisions contained herein are a part of this agreement and the amendment affects the duties of the Trustee hereunder.

7.02 TERMINATION OF THE PLAN

It is expected that this Plan will be continued indefinitely, but the Employer expressly reserves the right to terminate or partially terminate the Plan and its contributions thereunder at any time by resolution of its Board and by giving written notice of such termination or discontinuation of its contribution to the Trustee. Such resolution shall specify the effective date, which shall not be earlier than the first day of the Plan Year which includes the date of resolution. If the Employer terminates or partially terminates the Plan, or if it is otherwise entirely terminated, the Trustee shall continue to administer the Fund

as instructed by the Administrator. In the event of the termination, partial termination or complete discontinuance of Employer contributions, the Accrued Benefit of each affected Participant, to the extent funded, shall become fully vested and nonforfeitable as of the date of such termination, partial termination or complete discontinuance of contributions in the manner hereinafter provided in this Section 7.02. No further contributions will be made by the Employer. As soon as it may do so, the Employer shall cause all amounts held in the Trust Fund to be allocated and distributed in the manner set forth in Section 7.03.

7.03 DISTRIBUTION OF FUNDS UPON TERMINATION

In the event the Plan shall be terminated or partially terminated, the present value of benefits shall be determined as of the Plan termination date and the assets of the Trust Fund shall be allocated to the extent they shall be sufficient, after providing for expenses of administration, in the order or precedence set forth below:

A. FIRST,

- (1) To benefits which are being paid as of three years prior to the date of termination of the Plan, with the amount to be allocated to each such benefit, based on the provisions of the Plan in effect during the five-year period immediately preceding the date of termination under which such benefit would be least.

- (2) To benefits which would have been paid as of three years prior to date of termination (i) if the Participant had retired prior to the three-year period and (ii) if his benefits had commenced (in the normal form of annuity under the Plan) as of the beginning of such three-year period, with the amount to be allocated to each such benefit determined under the provisions of the Plan in effect during the five-year period preceding the date of termination under which the benefit would be the least.

For purposes of (1) above, the lowest benefit in pay status during a three-year period shall be considered the benefit in pay status for such period.

- B. SECOND, to all other vested Accrued Benefits as determined under Section 3.05.
- C. THIRD, to all other Accrued Benefits attributable to non-vested Participants.

If the assets available for allocation to any class specified above are insufficient to satisfy in full the benefits of all individuals within that class, the assets shall be allocated pro rata among such individuals on the basis of present value (as of the termination date) of their respective benefits.

7.04 METHOD OF PAYMENT

The Employer shall arrange for the Trustee to liquidate the assets held in the Fund and shall secure a statement of the liquidated value of such assets. The Employer may direct the

purchase from an insurance company of an annuity contract or contracts which provides the benefits to which each Participant or his beneficiary is entitled or to pay a lump sum amount to each Participant or his beneficiary, such lump sum amount to be the Actuarial Equivalent of the benefit to which such person is entitled. The Trustee shall distribute the assets in accordance with the directions of the Employer.

SECTION 8

MANAGEMENT AND ADMINISTRATION

8.01 IDENTIFICATION OF THE FIDUCIARIES

The parties listed below are the Fiduciaries of the Plan who have authority to control and manage the operation and administration of the Plan.

- A. The Employer
- B. The Administrator
- C. The Trustee(s)

8.02 GENERAL FIDUCIARY DUTIES

- A. Fiduciaries of the Plan shall discharge their duties under the Plan solely in the interest of the Participants and their beneficiaries for the exclusive purpose of providing benefits to Participants and their beneficiaries and for defraying reasonable expenses of administering the Plan.
- B. Fiduciaries of the Plan shall not have the authority to delegate fiduciary responsibilities except as otherwise provided in Section 8.03, and without prior approval of such delegation by the Employer.
- C. Plan Fiduciaries shall have authority to delegate non-fiduciary powers and duties to other parties pursuant to their authority to administer the Plan. Such delegation shall not cause the delegates to become Fiduciaries under the Plan.

- D. Each Plan Fiduciary is responsible for the duties and responsibilities which are specifically allocated to him under Section 8.03, and is responsible for no other duties under the Plan.
- E. A Plan Fiduciary may serve, upon approval by the Employer, in more than one Fiduciary capacity with respect to the Plan.
- F. A Plan Fiduciary may employ one or more persons to render advice with regard to any responsibility he has under the Plan.

8.03 ALLOCATION OF FIDUCIARY RESPONSIBILITIES

The Plan Fiduciaries shall have the powers and duties as specified herein, and shall be responsible for no other powers and duties under the Plan.

A. The Employer

The Employer shall be responsible for establishing and amending the Plan, terminating the Plan, and appointing the Administrator and other parties as provided herein.

The Employer will make contributions to the Plan in amounts sufficient to provide the benefits specified by the Plan. The Employer will indemnify and hold harmless the Administrator, members of the respective Board and any other person or organization which is deemed to be a "Fiduciary" under either statutory or common law, from and against any damages, judgments, settlements, costs, charges or expenses incurred in connection with the defense of any action, suit or proceedings to which they may be a party or with which they may be threatened or in connection with any

appeal therefrom by virtue of any act or omission not involving willful or gross negligence in their respective capacities for the Plan; provided, however, that notwithstanding anything to the contrary herein, the foregoing indemnification shall be extended and be effective only to the extent that the same shall be valid and enforceable under all applicable laws.

B. The Administrator

The Administrator shall have complete control of the administration of the Plan hereunder, with all powers necessary to enable it properly to carry out its duties in that respect. Not in limitation, but in amplification of the foregoing, the Administrator shall have the power to construe said Plan and to determine all questions that shall arise thereunder, and shall also have all the powers elsewhere herein conferred upon it. It shall decide all questions relating to the eligibility of Employees to participate in the benefits of this Plan, and shall determine the benefits of this Plan to which any Participant or his Beneficiary may be entitled, subject to the Claims Procedure of the Employer, as set forth in Section 10.

The Administrator shall not have the power in any way to modify or amend the Plan. It shall have the power to appoint an enrolled actuary, advisors, consultants, and such other experts as it deems necessary. The Administrator shall not, in its delegation of responsibilities, have the power to transfer, delegate, or restrict fiduciary responsibility for the Plan unless approved by the Employer as an amendment to the Plan.

The Administrator shall approve forms and establish rules and procedures to be followed by the Participants or their beneficiaries in filing application for benefits and

in furnishing and verifying proofs necessary to establish age, Years of Service, Compensation, and any other matter required in order to establish the right to benefits in accordance with the Plan.

The Administrator shall receive all applications for benefits and, upon receipt of such an application, it shall determine all facts which are necessary to establish the right of the applicant to benefits under the provisions of the Plan and the amount thereof as herein provided. Upon request, the Administrator shall afford any applicant the right of a hearing with respect to any findings of fact or determination following procedures in Section 10.13.

A summary of the significant acts and determinations of the Administrator shall be duly recorded, and all such records, together with such other documents as may be necessary for the administration of the Plan shall be preserved. Such records and documents shall, at all times, be open for inspection by the Employer.

The Administrator shall have prepared and distributed to Participants information concerning the Plan, at the expense of the Employer, and in such manner as it shall deem appropriate.

To enable the Administrator to perform its functions, the Employer shall provide such personnel and services as may be needed and shall supply full and timely information to the Administrator of all matters regarding Participants which relate to Compensation, length of Year of Service, retirement, death or other causes for termination of the employment, and such other pertinent facts as the Administrator

may require. The Employer shall furnish any records to the Administrator for their examination which the Administrator shall deem necessary to execute its duties under the Plan.

The Administrator shall advise the Trustee of such facts and issue such instruction as may be required in the administration of the Plan.

The Administrator and the Employer shall be entitled to rely upon all tables, valuations, certificates and reports made by a qualified public accountant. The Administrator, the Employer and its officers, the Trustee shall not incur liability with respect to any action taken or suffered by them in good faith in reliance upon the advice or opinion of any enrolled actuary, qualified public accountant or attorney.

C. The Trustee

The Trustee shall be appointed by the Employer and shall have the powers and duties as set forth in Section 9 of this Plan document.

8.04 NON-FIDUCIARY FUNCTIONS

A. Authority

The named Fiduciaries in Section 8.01 shall be the only parties empowered by the Plan with any discretionary authority or discretionary control over the Plan, and shall be the only persons with fiduciary responsibility as defined in Section 8.01. All other individuals associated with the operation and administration of the Plan shall be limited and restricted in power and responsibility such that they serve in an advisory

capacity only, with no final discretionary authority or control; all action being subject to review and approval by the applicable Fiduciary.

B. Advisors

The Employer shall have the authority to appoint advisors to the Plan as it sees fit so that the Fiduciaries may better perform their functions. All recommendations and decisions of these Advisors will be in an advisory role only and will be reviewed by, and subject to approval of, the applicable Fiduciary.

C. Personnel

The Employer may designate an individual or a single department of the Employer, to be responsible for direct contact with the Participants of the Plan except as otherwise herein provided. It shall keep all personnel records as required by law or as is necessary to administer the Plan.

SECTION 9

TRUST FUND AND TRUSTEE

9.01 TRUST FUND

The assets of the Fund shall be held, administered, and invested by the Trustee. The Fund shall consist of all payments by the Employer to the Trustee as provided in Section 6 and earnings from investments. The assets of the Fund shall be valued as of the end of each Plan Year at the then existing market value.

9.02 AMENDMENT OF TRUST

The Employer shall have the right at any time, by an instrument in writing duly executed, acknowledged and delivered to the Trustee, to modify, alter or amend this Plan and Trust Agreement in whole or in part; provided, however, that the duties, powers and liability of the Trustee hereunder shall not be changed without its written consent, and provided further, that no such amendment shall have the effect of revesting in the Employer any part of the principal or income of the Fund.

9.03 DISCONTINUANCE OF TRUST AND VESTING

The Employer expressly reserves the right to terminate this Plan and Trust Agreement at any time. Upon termination of the Plan by the Employer, or complete discontinuance of contributions thereunder, having the effect of termination, the rights of each Participant to benefits accrued to the date of such termination or discontinuance, to the extent then funded, shall be nonforfeitable. In either case, the Trustee shall, upon instructions from

the Employer, continue to administer the Fund as provided in Section 7.02. No part of the Fund shall at any time revert to the Employer.

9.04 APPOINTMENT

The Trustee shall be appointed by and serve at the pleasure of the Employer. If a vacancy should occur, a successor Trustee shall be appointed by the Employer.

9.05 POWERS OF TRUSTEE

The Trustee shall retain the contributions received by it and shall hold, invest, and manage the Trust and income therefrom pursuant to the terms of the Plan and perform its duties with the care, skill, and prudence under the circumstances then prevailing that a man in a like capacity and familiar with such matters would use in the conduct of a similar enterprise with similar aims.

The Trustee shall be accountable for all Contributions actually received by it but need not inquire into the source of any money or property transferred to it, nor into the authority or right of the transferor of such money or property to transfer such to the Trustee. All responsibility for determining the amount, timing, and type of payments made to the Trustee, or otherwise establishing a funding policy consistent with the objectives of the Plan shall be upon the Employer.

The Trustee shall have no duty or obligation to require payment of any contributions to the Trust, or to see that any payment made to it is computed in accordance with the provisions

of the Plan, or to be otherwise responsible for the adequacy of the Trust to meet and discharge any liabilities under the Plan.

The Trustee shall have all the powers and authority necessary, proper, or convenient for the performance of its Trustee duties and for the preservation, management, and direction of the Fund, including all powers granted by law and other sections or provisions of this Plan and Trust, and including by way of example and not by way of limitation, the following powers:

- A. Purchase and Sale of Property: To purchase, sell, subscribe for, exchange, convey, transfer, or otherwise dispose of any property, real or personal, or securities and to hold and retain the same in the Fund.

- B. Exercise of Owner's Rights: To vote upon any stocks, bonds or other securities; to give general or special proxies or powers of attorney with or without power of substitution; to exercise any conversion privileges, subscription rights, or other options, and to make any payments incidental thereto; to oppose or consent to or otherwise to participate in, corporate reorganizations or other changes affecting corporate securities, and to delegate discretionary powers, and to pay any assessments or charges in connection therewith; and generally to exercise any of the powers of an owner with respect to stocks, bonds, securities or other property held as part of the Fund.

- C. Registration of Investments: To cause any securities or other property held as part of the Fund to be registered in its own name or in the name of one or more of its nominees, and to hold any investments in bearer form, but the books and records of the Trustee shall at all times show that all such investments are part of the Fund.
- D. Borrowing and Lending: To borrow or raise money from any source permitted by the Act for the purposes of the Trust in such amount, and upon such terms and conditions, as the Trustee shall deem advisable; and, for any such amount so borrowed, to issue a promissory note signed by the Trustee, and to secure the repayment thereof by pledging all, or any part, of the Fund.
- E. Retention of Cash: The assets of the Trust Fund may consist, in whole or in part, of deposits in the Trustee, an affiliate or any other bank or similar financial institution which is a fiduciary of the Plan if (i) such bank or financial institution is supervised by the United States or a State and (ii) such deposits bear a reasonable rate of interest.
- F. Retention of Property Acquired: To accept and retain for such time as it may deem advisable, any securities or other property received or acquired by it as Trustee hereunder, whether or not such securities or other property would normally be purchased as investments hereunder.
- G. Execution of Instruments: To make, execute, acknowledge and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted.

- H. Settlement of Claims and Debts: To settle, compromise or submit to arbitration any claims, debts or damages due or owing to or from the Fund, to commence or defend suits or legal administrative proceedings and to represent the Fund in all suits and legal and administrative proceedings, at the cost and expense of the Trust.

- I. Employment of Agents and Counsel: To employ suitable agents and counsel (who may, but need not be, counsel for the Employer), and pay their reasonable expenses and compensation from the Trust, unless paid by the Employer.

- J. Mutual Funds: To invest and reinvest all or any part of the Fund through the medium of any mutual funds managed or sponsored by or through affiliates of the Trustee.

- K. Collateralized Loans: To lend securities held in the fund to institutions, such as broker-dealers, where such securities are secured continuously by collateral in cash, cash equivalents, or U.S. Government Securities maintained on a current basis at an amount at least equal to the market value of the securities loaned.

- L. Releases: To require, before making any payment, such releases, indemnities, or other documents from any local, state, or federal taxing authority, governmental body, department, or agency, or from any person or persons claiming an interest in the Trust as the Trustee may consider necessary or proper for its protection without any liability for payment of interest on funds retained by it pending receipt by it or such releases, indemnities, or other documents.

M. Power to do any Necessary Act: To the extent permitted by the Act, to do all such acts, take all such proceedings and exercise all such rights and privileges, although not specifically mentioned herein, as the Trustee may deem necessary to administer the Fund, and to carry out the purposes of this Trust.

9.06 INVESTMENTS OF TRUST

- A. General Investment Powers of Trustee: Subject to the provisions of this Section 9.06 and Section 9.07, the Trustee is expressly granted the right to sell at public or private sale, for cash or upon credit, upon such terms as the Trustee may consider advisable, or otherwise to dispose of any property, real or personal, in which the Trust may from time to time be invested or reinvested, to invest and reinvest any cash, principal and any non-distributable income received or held by the Trustee in such stocks (whether common or preferred) and in such bonds, securities, insurance contracts, and other property, real or personal, as the Trustee in its discretion may deem prudent and advisable, whether or not productive of income, and the Trustee in its choice of investments or reinvestments shall be limited to those which are permissible for Trustees under law or by agreement between the Employer and the Trustee, it being the Employer's intention to give the Trustee unlimited power of investment and reinvestment in real and personal property to the extent permitted by law as though they were the absolute owner in fee simple of the Trust property.
- B. Investment in Pooled Fund: Notwithstanding the provisions of Section 9.06, if a bank is acting as Trustee, the Employer specifically authorizes the Trustee to invest

all or any portion of the assets comprising the Trust Fund in any collective investment trust which at the time of the investment provides for the pooling of the assets of Plans described in Code Section 401(a). This authorization applies solely to a collective investment trust the Trustee maintains and only if the Trustee has received a determination letter from the Internal Revenue Service to the effect the collective investment trust is exempt from Federal income tax or has an application pending for such a letter. The provisions of the collective investment trust agreement, as amended by the Trustee from time to time, are by this reference incorporated within the Plan and Trust. The provision of the collective investment trust shall govern any investment of Plan assets in that trust. Further, said bank, if Trustee, may invest in its own certificates of deposit, savings accounts or other time deposit accounts and may maintain certain trust assets in its own checking accounts, without liability for interest thereon.

9.07 DIRECTING THE TRUSTEES

The Employer may provide the Trustees with written investment policy guidelines and directions to assist the Trustee respecting investments, and shall be responsible for making periodic reviews of the investment performance of the Trustee. The Trustee shall have no liability in properly following such guidelines and directions, but will be subject to the General Fiduciary Duties of Section 8.02 hereof.

In the event responsibility for direction of the management and investment of all or any of the assets of the Trust is given to any other person other than the Trustee pursuant to

direction of the Employer, the Trustee shall be relieved of all liability with respect to the management and investment of such assets so long as such person retains such responsibility and may conclusively rely upon and shall be protected in acting on any written order from the Employer, and the Trustee's responsibility shall be limited to holding such assets as a custodian, providing account services, disbursing benefits as authorized, and executing such investment instructions only as directed by the Employer.

9.08 RESIGNATION OF TRUSTEE

The Trustee may resign as Trustee of the Fund, at any time by giving sixty (60) days prior written notice to the Employer and to the Board, or with the consent of the Employer, may resign at any time. If the Trustee should resign, at such time as the resignation becomes effective, the Trustee shall render to the Employer an account of its administration of the Fund during the period following that covered by its last annual account, and shall perform all acts necessary to transfer and deliver the assets of the Fund to its successor.

9.09 REMOVAL OF TRUSTEE

The Employer may remove the Trustee at any time upon the delivery of sixty (60) days prior written notice to the Trustee. In the event of such removal, the Trustee shall be under the same duty to account for, transfer and deliver the assets of the Fund to the successor as provided in the case of the Trustee's resignation.

9.10 SUCCESSOR TRUSTEE

In the event of vacancy in the trusteeship of this Trust occurring at any time, the Employer shall designate and appoint a qualified successor Trustee. Any such successor Trustee shall have all the rights and powers herein conferred upon the original Trustee. In such event, on the appointment of such successor, the retiring Trustee shall promptly turn over to such successor all assets held by the Trustee and shall make a final accounting to the Employer. The successor Trustee shall have no responsibility except to receive such money and property from the retiring Trustee and to hold and administer the same thereafter in accordance with this Plan and Trust and shall not be responsible for any act or omission of the retiring Trustee, and shall not be required to make any claim against the retiring Trustee unless the Employer shall in writing request the successor to make demand against such retiring Trustee. Any such successor Trustee shall have and may exercise all the rights, powers and duties of the Trustee as fully and to the same extent as if it had originally been named Trustee herein.

9.11 ACCOUNTING

The Trustee shall, within sixty (60) days after the end of such Plan Year, render to the Employer a report of its administration of this Trust during the preceding Plan Year.

9.12 LIABILITY OF TRUSTEE

The Trustee shall not be liable for the making, retention or sale of any investment authorized hereunder nor for a failure to make, retain or sell any investment nor shall the Trustees be liable for any loss to or diminishment of the Fund.

9.13 EXPENSES

The Employer may pay all expenses incurred in the administration of the Plan, including expenses and fees of the Trustee, but it shall not be obligated to do so; except that any such expenses and fees not so paid by the Employer shall be paid from the Fund. All expenses not paid by the Employer and all other proper charges and disbursements of the Trustee including taxes of any kind whatsoever which may be levied or assessed under existing or future laws upon or in respect to the Fund or the Trust created hereby, shall be paid by the Trustee out of, and shall constitute a first charge upon, the Fund.

9.14 NOTIFICATION TO TRUSTEE

Any action by the Employer pursuant to any of the provisions of this agreement shall be evidenced by a resolution of the Board certified by an officer of the Employer or the Administrator. Any notice, direction, order, request, certification or instruction of the Employer or Administrator to the Trustee shall be in writing. The Trustee shall be entitled to rely conclusively upon any and all such notices, directions, orders, requests, certifications and instructions received by it from the Employer or Administrator, and shall act and be fully protected in acting in accordance therewith. The Employer shall furnish the Trustee from time to time with certified copies of resolutions evidencing the appointment and termination of the Administrator and the Trustee shall be entitled to rely conclusively upon such resolutions as evidence of the identity of the Administrator and shall not be charged with notice of any change with respect thereto until the Employer shall have furnished the Trustee with certified copies of resolutions relative to such change.

9.15 DISBURSEMENTS

Upon written direction (which may be a continuing direction) from the Administrator as to the name of any person to whom money is to be paid from the Fund and the amount thereof, the Trustee shall draw checks in the name of the person designated by the Administrator and deliver such checks in such manner and in such amounts and at such time as the Administrator shall direct. In the event the Trustee shall deem it necessary to withhold any distribution pending compliance with legal requirements with respect to probate of wills, appointment of personal representatives, payment of or provision for estate or inheritance taxes, or for death duties or otherwise, the Trustee shall notify the Administrator and shall thereafter take no action pending receipt of the Administrator's instructions to distribute and an agreement from the Employer in form satisfactory to the Trustee, protecting it from any liability arising out of noncompliance with such requirements. When the Administrator directs that any payment is to be made only during or until the time a certain condition exists regarding the payee, any payment made by the Trustee in good faith, without actual notice or knowledge of the changed status or condition of the payee, shall be considered to have been properly made by the Trustee and made in accordance with the direction of the Administrator.

9.16 INDEMNIFICATION OF TRUSTEE

The Employer agrees to defend the Trustee against any claim, and to indemnify the Trustee against any liability including any tax, and including reasonable attorney's fees, incurred as a result of a claim asserted by any person or persons or entity (including a governmental entity) under the laws of any state or of the United States with respect to any action of the Trustee pursuant to a direction of the Administrator, the Employer or the agent thereof.

SECTION 10

MISCELLANEOUS

10.01 HEADINGS

The headings and subheadings in this Plan have been inserted for convenience of reference only and are to be ignored in any construction of the provisions hereof.

10.02 CONSTRUCTION

In the construction of the Plan, the masculine shall include the feminine and the singular the plural in all cases where such meanings would be appropriate.

The laws of the State of Texas shall govern, control and determine all questions arising with respect to the Plan and the interpretation and validity of the provisions of this Plan.

10.03 SPENDTHRIFT CLAUSE

Subject to the exception provided below, all benefits are intended for the protection of the Participants and their Beneficiaries. No benefit under the Plan shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance or charge, and any attempt so to anticipate, alienate, sell, transfer, assign, pledge, encumber or charge the same shall be void, nor shall any such benefit be in any manner liable for or subject to the debts, contracts, liabilities, engagement or torts of the person entitled to such benefit, except as specifically provided in the Plan.

This provision shall not apply to a "qualified domestic relations order" defined in Code Section 414(p), and those other domestic relations orders permitted to be so treated by the Administrator under the provisions of the Retirement Equity Act of 1984. The Administrator shall establish a written procedure to determine the qualified status of domestic relations orders and to administer distributions under such qualified orders. Further, to the extent provided under a "qualified domestic relations order," a former spouse of a Participant shall be treated as the spouse or surviving spouse for all purposes under the Plan.

10.04 EMPLOYMENT

Participation in the Plan shall not give any Employee the right to be retained in the employ of any Employer, nor, upon dismissal or upon his voluntary termination of employment, to have any right or interest in the Fund other than as herein provided.

10.05 LEGALLY INCOMPETENT

If any Participant or Payee is a minor, or, in the judgment of the Administrator, is otherwise legally incapable of personally receiving and giving a valid receipt for any payment due him hereunder, the Administrator may, unless and until claim shall have been made by a duly appointed guardian or trust for such person, direct that such payment or any part thereof be made to such person's spouse, child, parent, brother or sister or other person deemed by the Administrator to have incurred expense for or assumed responsibility for the expenses of such person.

10.06 UNIFORM ADMINISTRATION

The Employer, through the Administrator, shall administer the Plan in a uniform and consistent manner with respect to all Participants and shall not permit discrimination.

10.07 BENEFITS SUPPORTED ONLY BY FUND

Neither the Trustee, the Administrator, nor the Employer guarantees the Trust from loss or depreciation, nor do they guarantee any payment to any person. The liability of the Trustee, the Employer, and the Administrator to make any payment is limited to the available assets of the Trust. In no event will the Employer, or any of its officers, participants of the Employer or agents of the Employer, be liable in their individual capacities to any person whomsoever, under the provisions of the Plan, except that any officer or employee, while serving as a Fiduciary under the Plan, will have the responsibility provided therein.

10.08 PARTICIPANT STATEMENTS

The Employer shall provide to each Participant or any surviving Spouse or beneficiary receiving benefits under the Plan, at least once each year, a statement of such person's interest in the Plan.

10.09 FORFEITURE OF VESTED BENEFITS

The vested portion of any Employer provided benefit may be forfeited or suspended only under the following circumstances:

- (1) Suspended for any period of reemployment with same employer, or
- (2) Forfeited on account of the Participant's death (subject to the Qualified Pre-Retirement Survivor Annuity, the Qualified Joint and Survivor Annuity and the early or normal retirement annuity options selected by the Participant).

Forfeitures arising from any cause whatsoever under this Plan shall not be applied to increase the benefits any Participant would otherwise receive under the Plan at any time prior to the termination of the Plan or the complete discontinuance of Employer contributions hereunder. Forfeitures shall be applied to reduce the Employer's contributions under the Plan in the then current or subsequent years.

10.10 DISAPPEARANCE OF PARTICIPANT OR PAYEE

In the event that any Participant, beneficiary or Joint Annuitant receiving or entitled to receive benefits under the Plan should disappear and fail to respond within sixty (60) days to a written notice sent him by the Administrator by registered or certified mail (return receipt requested), postage prepaid, informing him of his entitlement to receive benefits under the Plan, the Administrator shall suspend benefits payable until either the Participant or his beneficiary (whichever is applicable) is located or a court of competent jurisdiction directs payment.

10.11 COMPLIANCE WITH APPLICABLE LAWS

The Employer, through the Administrator, shall interpret and administer the Plan in such manner that the Plan shall remain in compliance with applicable subsections of Sections 401 and 501 of the Internal Revenue Code and with Texas Government Code - Title 8, Subtitle A regarding public retirement systems.

10.12 MERGER

In the event of any merger or consolidation of the Plan with any other Plan, or the transfer of assets or liabilities by the Plan to another Plan, each Participant must be entitled to receive (assuming that the Plan then terminated) a benefit immediately after the merger, consolidation, or transfer which is equal to or greater than the benefit such Participant would have been entitled to receive immediately before the merger, consolidation, or transfer (assuming that the Plan had then terminated). The foregoing shall not be deemed to require continuation of the Plan in the event of merger or other reorganization of the Employer and the Employer reserves the right to terminate the Plan according to the terms hereof.

10.13 CLAIMS PROCEDURE

A. Initial Stage

In the event the Administrator denies a claim for benefits under the Plan submitted by a Participant, Joint Annuitant or beneficiary, hereinafter referred to as Claimant, the Administrator shall provide adequate notice in writing to the Claimant, within a

reasonable time after receipt of the claim, setting forth, in a manner calculated to be understood by the Claimant, the following:

- (1) specific reason(s) for the denial;
- (2) specific reference(s) to Plan provisions on which the denial is based;
- (3) a description of any materials or information necessary to perfect the claim and why they are necessary;
- (4) an explanation of the appeal procedure of the Plan.

Upon request, the Administrator shall afford any claimant the right of a hearing with respect to any finding of fact or determination.

B. Appellate Stage

A claimant shall have sixty (60) calendar days from the date of the denial of a claim for benefits by the Administrator, in order to appeal such denial. In order to perfect an appeal, a claimant or his duly authorized representative, must request such appeal in writing. Such request must be made to the Administrator within the aforementioned sixty (60) day period. A claimant or his duly authorized representative shall be allowed to review pertinent documents and submit issues and comments to the Administrator in writing relative to the appeal. The Administrator shall afford

the claimant a full and impartial hearing on his claim for benefits. At such hearing, Administrator shall review all written comments and issues submitted by the claimant as well as hear and review oral arguments, if any, presented by the claimant or his authorized representative.

The Administrator shall make a decision relative to the claim. Such decision will be rendered within a reasonable time following receipt of the written request for review submitted by the claimant. The decision on review shall be in writing and shall include specific reasons for the decision and specific references to plan provisions on which the decision is based, and shall be written in a manner calculated to be understood by the Claimant.

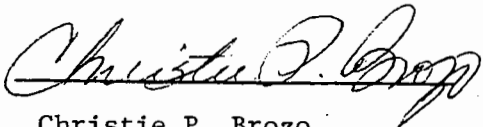
10.14 INTERNAL REVENUE SERVICE APPROVAL

Notwithstanding anything to the contrary elsewhere provided in this Plan, this amended and restated Plan and Trust is made on the condition that the same shall be approved and qualified initially by the Secretary of the Treasury, or a duly authorized representative, as meeting the requirements of the Internal Revenue Code of 1986 as amended and the regulation issued thereunder, and in the event qualification is denied, or cannot be obtained by amendment, the Plan and Trust shall thereupon become null and void and of no effect.

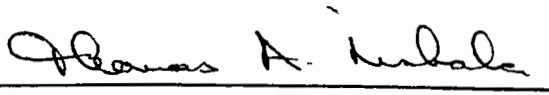
IN WITNESS WHEREOF, the Employer and Trustee have caused Plan and Trust Agreement to be duly executed this 9th day of August, 1994.

ATTEST:

EMPLOYER:
CORPUS CHRISTI REGIONAL TRANSIT
AUTHORITY



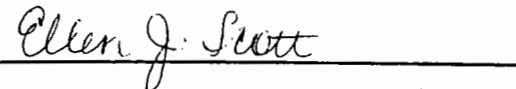
Christie P. Brozo
Assistant Secretary to the Board

By: 

Thomas A. Niskala
General Manager

ATTEST:

TRUSTEE:

By: 

Ellen J. Scott
Trust Officer
Victoria Bank & Trust