

**Restatement  
of  
Nazarene 403(b) Retirement  
Savings Plan**

WHEREAS, the General Board of the Church of the Nazarene, hereinafter known as the “General Board,” has previously adopted a Section 403(b)(9) tax-sheltered annuity plan; and

WHEREAS, the General Board wishes to amend the plan in its entirety in compliance with final Section 403(b) Regulations issued by the United States Department of the Treasury;

NOW, THEREFORE, to carry the above intentions into effect, the General Board does enter into this amended and restated plan effective as of January 1, 2009, with the Board of Pensions and Benefits USA of the Church of the Nazarene as Plan Administrator. This Plan is intended to continue to constitute a retirement income account as defined in Section 403(b)(9) of the Code and Section 1.403(b)-9 of the Income Tax Regulations.

This plan shall continue to be known as the Nazarene 403(b) Retirement Savings Plan, formerly known as the Church of the Nazarene Single Defined Contribution Plan.

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## Article I

### Definitions

The words and phrases as used herein shall have the following meanings, unless a different meaning is plainly required by the context, and the following rules of interpretation shall apply in reading this instrument. The masculine pronoun shall include the feminine and the singular shall include the plural. All references herein to specific sections shall mean sections of this document unless otherwise qualified.

- 1.1 **“Account”** means the separate account or accounts established and maintained by the Custodian, Insurer, or Trustee for a Participant pursuant to a Custodial Agreement, Annuity Contract, or under the Nazarene 403(b) Retirement Savings Plan.
- 1.1A **“Account Balance”** means the bookkeeping account maintained for each Participant which reflects the aggregate amount credited to the Participant’s Account under all Accounts, including all Contributions, the earnings or loss (net of expenses) allocable to the Participant and any distributions made to the Participant or the Participant’s Beneficiary.
- 1.2 **“Annuity Contract”** means a nontransferable contract as defined in section 403(b)(1) of the Code, established for each Participant by the Administrator, or by each Participant individually, that is issued by an insurance company qualified to issue annuities in Missouri and that includes payment in the form of an annuity.
- 1.3 **“Beneficiary”** means, subject to Section 7.1, the person(s), trust(s), or other entities designated by the Participant to receive the balance of the Participant’s Accounts, if any, upon the Participant’s death.
- 1.4 **“Code”** means the Internal Revenue Code of 1986, as now in effect or as hereafter amended.
- 1.5 **“Compensation”** means for each Employee, for each Plan Year, all cash compensation for services to the Participating Employer, including salary, wages, fees, commissions, bonuses, and overtime pay, that is includible in the Employee’s gross income for the calendar year, plus amounts that would be cash compensation for services to the Employer includible in the Employee’s gross income for the calendar year but for a compensation reduction election under section 125, 132(f), 401(k), 403(b), or 457(b) of the Code (including an election under Article II made to reduce Compensation in order to have Salary Reduction Contributions under the Plan). Compensation or Includible Compensation includes an Employee’s compensation for a year for services to the Participating Employer, but subject to a maximum of \$200,000 (or such higher maximum as may apply under section 401(a)(17) of the Code) and increased (up to the dollar maximum) by any compensation reduction election under section 125, 132(f), 401(k), 403(b), or 457(b) of the Code (including any Salary Reduction Contributions under the Plan). The amount of Includible Compensation is determined without regard to any community property laws. For those persons defined in Section 1.13(d), “Compensation” shall be subject to the provisions of Code Section 414(e)(5)(D), if applicable.
- 1.6 **“Contributions”** means the aggregate of all contributions made hereunder by or for the benefit of each Participant including Salary Reduction Contributions, Employer Contributions, and Rollover/Transfer Contributions, as applicable, made to a Participant’s Account.

- 1.7 **“Custodial Account”** means the group or individual custodial account or accounts, as defined in Section 403(b)(7) of the Code, established for each Participant by the Administrator, or by each Participant individually, to hold assets of the Plan.
- 1.8 **“Custodial Agreement”** means the written agreement under Section 403(b)(7) of the Code between a Participant and a Custodian which establishes a Custodial Account into which Contributions made for the Participant hereunder are deposited.
- 1.9 **“Custodian”** means any person, organization, or entity which satisfies the requirements of Section 401(f)(2) of the Code and is designated to act as such under a Custodial Agreement entered into pursuant to this Plan.
- 1.10 **“Disability”** means that the Participant is under the age of 59½ (or under the age of 62 as to Employer Contributions) and is unable to engage in any substantially gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long, continued, and indefinite duration. The existence of a Participant’s Disability must be approved by a Participant’s Participating Employer, the Participant’s last Participating Employer prior to the Participant’s Severance from Employment or by the Social Security Administration.
- 1.11 **“Effective Date”** of this restated Plan means January 1, 2009.
- 1.12 **“Eligible Employee”** means any Employee who receives Compensation from a Participating Employer which is exempt under Section 501(c)(3) of the Code, including, but not limited to, the General Board of the Church of the Nazarene, the Nazarene Publishing House, Nazarene Theological Seminary, Nazarene Bible College, Nazarene Compassionate Ministries, Inc., the Church of the Nazarene Foundation, or the subsidiaries of any of such entities and including Employees of the Nazarene-affiliated colleges or universities and individuals described in Section 1.13(d) who are employed by an Employer as defined in Section 1.14(d).
- 1.13 **“Employee”** means any individual in the employ of a Participating Employer, who is subject to taxation in the United States. Leased Employees shall not be included as Employees hereunder. The term “Employee” includes “Ministerial Employees,” which latter term means (a) ordained ministers in the Church of the Nazarene, (b) district-licensed ministers, (c) those laypersons with district credentials who earned their full livelihood from the ministry as of December 31, 1985, but including only those laypersons having recognized district credentials or recognized district roles as Commissioned Minister of Christian Education, Commissioned Song Evangelist, Commissioned Minister of Music, or Consecrated Deaconess and whose ministry is performed in the area specified by such district credentials; provided, however, that service as a licensed Director of Christian Education, Licensed Deaconess, or registered song evangelist may be recognized if this service was equivalent to that performed by one holding one of the credentials or roles listed in this subsection (c), and (d) any “Ministerial Employee,” as defined in (a) or (b) above, serving under assignment as a Chaplain through Chaplaincy Ministries of the Church of the Nazarene and designated as such by the district on which such individual holds ministerial membership; provided, however, that such service shall be rendered as an employee with the United States Military or an entity whether or not such entity is a Code Section 501(c)(3) tax exempt organization.
- 1.14 **“Employer”** means (a) General Board of the Church of the Nazarene (the “General Board” or the “Sponsoring Employer”), (b) any other organization which is affiliated with the Church of the

Nazarene, (c) any other organization not affiliated with the Church of the Nazarene which qualifies under Section 501(c)(3) of the Code, solely as to any minister who is either district-licensed by the Church of the Nazarene or ordained in the Church of the Nazarene, thereby meeting the definition of employee under Section 414(e)(3)(B) of the Code, who provides services to such organization, if any such organization either makes Employer Contributions to the Plan on behalf of such a minister or permits Salary Reduction Contributions by such a minister to this Plan (the Employers referred to in this Section 1.14, also referred to as “Participating Employers”), and (d) any other organization not affiliated with the Church of the Nazarene whether or not exempt under Code Section 501(c)(3), solely for those persons defined in Section 1.13(d) above. An Employer to become a Participating Employer must execute a Participation Agreement, in the form specified by the Plan Administrator in order to adopt this Plan and become subject to its terms.

- 1.15 **“Employer Contributions”** means the aggregate contributions made hereunder by a Participating Employer, other than Salary Reduction Contributions or Rollover/Transfer Contributions, for each Employee eligible to receive such contributions.
- 1.16 **“Employer Contributions Account”** means any subaccount established and maintained on behalf of each Participant into which Employer Contributions are allocated (i.e., assets classified according to the recordkeeping agreement between the Trustee and Fidelity Investments Institutional Operations Company, Inc. (“Fidelity Investments”) as “Employer Contributions,” “Employer APS Contributions–P&B,” “Employer APS Contributions–Headquarters and NTS,” or “Employer APS Contributions–World Mission”).
- 1.17 **“Fund”** means the Pensions and Benefits Fund of the Church of the Nazarene.
- 1.17A **“Individual Agreement”** means the agreements between a Vendor and the Employer or a Participant that constitutes or governs a Custodial Account or an Annuity Contract.
- 1.18 **“Insurer”** means an organization providing Annuity Contracts.
- 1.19 **“Leased Employee”** means any individual deemed to be a leased employee within the meaning of Section 414(n)(2) or Section 414(o) of the Code and regulations issued thereunder.
- 1.20 **“Participant”** means any Eligible Employee included in the participation of the Plan as provided in Article II hereof.
- 1.21 **“Plan”** means the Nazarene 403(b) Retirement Savings Plan, as set forth herein. The Plan is intended to continue to meet the requirements of a “retirement income account” within the meaning of Section 403(b)(9) of the Code, and is exempt from the provisions of the Employee Retirement Income Security Act of 1974 (“ERISA”) because it meets the requirements of a “church plan” within the meaning of Section 414(e) of the Code and Section 3(33) of ERISA.
- 1.22 **“Plan Year”** means the calendar year.
- 1.22A **“Related Employer”** means the Participating Employer and any other entity which is under common control with the Participating Employer under section 414(b) or (c) of the Code. For this purpose, the Plan Administrator shall determine which entities are Related Employers based on a reasonable, good faith standard and taking into account the special rules applicable under Notice 89-23, 1989-1 C.B. 654.

- 1.23 **“Retirement”** means any termination of employment which occurs on or after a Participant’s 65th birthday.
- 1.24 **“Rollover/Transfer Contribution”** means the amount contributed to the Plan from an existing Section 403(b) Annuity Contract or Custodial Account maintained by an Employee, provided that the Custodial Account(s) and/or Annuity Contract(s) into which the Employee elects to transfer or rollover such amounts are eligible to receive such transfers or rollovers. No such transfer or rollover will be permitted unless the Plan Administrator agrees to receive such amounts as a Rollover/Transfer Contribution subject to the terms and conditions of the applicable Custodial Account, Annuity Contract, the Plan Trust or this Plan.
- 1.25 **“Rollover Account”** means the subaccount established and maintained on behalf of each Participant into which Rollover/Transfer Contributions made by the Participant (if any) are allocated.
- 1.26 **“Salary Reduction Contribution”** means an elective salary reduction deferral made by a Participant pursuant to Section 3.1 of the Plan, or by a local church on behalf of a Ministerial Employee.
- 1.27 **“Salary Reduction Contribution Account”** means any subaccount established and maintained on behalf of a Participant into which Salary Reduction Contributions (if any) are allocated (i.e., assets classified according to the recordkeeping agreement between the Trustee and Fidelity Investments Institutional Operations Company, Inc. (“Fidelity Investments”) as “Employee Salary Reduction Contributions”).
- 1.28 **“Severance from Employment,”** for purposes of the Plan, means termination of employment with a Participating Employer and any Related Entity.
- 1.29 **“Trustee”** means the Board of Pensions and Benefits USA of the Church of the Nazarene. The Trustee has established a separate Account for each Participant under the Plan Trust.
- 1.30 **“Vendor”** means the provider of an Annuity Contract or Custodial Account.

## Article II

### Participation in the Plan

- 2.1 **Current Participants.** Each Eligible Employee who was participating in the Plan on December 31, 2008, shall automatically continue as a Participant hereunder.
- 2.2 **New Participants.** Each Employee who qualifies as an Eligible Employee on or before the Effective Date shall be deemed a Participant as of the Effective Date. Each other Eligible Employee shall become a Participant on the first day of the month next following becoming an Eligible Employee.
- 2.3 **Participation for Salary Reduction Contribution.** Each Eligible Employee may begin to make Salary Reduction Contributions to the Plan as of the payroll period immediately following the date on which the Employee qualifies as an Eligible Employee. A re-employed Employee shall be eligible to make Salary Reduction Contributions as of his date of re-employment.
- 2.4 **Administrative Forms.** Participants shall complete appropriate administrative forms designated by the Plan Administrator.



## Article III

### Types of Contributions

- 3.1 **Salary Reduction Contributions.** Unless a Participant qualifies for an alternative limitation under Section 402(g)(8) of the Code, each Participant may authorize the Participating Employer to reduce his Compensation by an amount which shall not exceed \$15,500 (as adjusted by Section 402(g)(5) of the Code). Such amount shall be deposited as a Salary Reduction Contribution hereunder to the Participant's Salary Reduction Contribution Account. Each Eligible Employee shall file a written election form with the Participating Employer prior to the date that he becomes a Participant specifying the portion of his Compensation that is to be contributed to the Plan as a Salary Reduction Contribution. The election of a Participant shall remain in effect until the Participant files a new election with the Plan Administrator.
- 3.2 **Employer Contributions.** A Contribution may be made by the Participating Employer for each Participant eligible to receive an Employer Contribution. Such Contributions shall be deposited into the Employer Contribution Account of each Participant who is eligible to receive such contribution.
- 3.3 **Adjustments to Contributions.** Unless otherwise limited by an investment vehicle held under the Plan Trust in which the Participant elects to have his Contribution invested, (a) Participants may increase or decrease the rate of Salary Reduction Contributions, and (b) Participants may suspend Salary Reduction Contributions at any time by submitting written notice to the Participating Employer.
- 3.4 **Contributions for Ministerial Employees.** Subject to the applicable provisions of Section 1.13, Article IV, and Sections 3.5 and 3.6, for Ministerial Employees of a Participating Employer (other than those described in Section 3.7), an Employer Contribution shall be made for each Plan Year from the Pensions and Benefits Fund of the Church of the Nazarene (the "Fund"). Such amount shall be equal to an amount determined for each Plan Year by the Trustee; provided, however, the provisions of this Section 3.4 shall not apply to any Ministerial Employee who is classified as a missionary by the General Board if such a missionary is an employee of a church (as defined in Section 3121(w)(3)(A) of the Code) or of a church-controlled organization (as defined in Section 3121(w)(3)(B) of the Code) and shall not apply to those persons defined in Section 1.13(d) above and shall not apply to those persons receiving benefits under the Church of the Nazarene Single Defined Benefit Pension Plan except those Ministerial Employees who are receiving surviving spouse benefits under the Nazarene Single Defined Benefit Plan and are otherwise eligible for contributions under this Section 3.4.
- 3.5 **Further Provisions on Contributions for Ministerial Employees.**
- (a) In the event that the Participating Employer of a Ministerial Employee shall fail to contribute to the Fund for a period of five consecutive years prior to a Plan Year, no contribution shall be made to the Plan for such Ministerial Employee under Section 3.4 for such Plan Year or for any subsequent Plan Year, unless such Ministerial Employee's Participating Employer commences contributions to the Fund. The provisions of this Section 3.5(a) shall not apply to evangelists and those Participants not serving in local church assignments.

- (b) Ministerial Employees of a Participating Employer having membership on Districts that contribute to the Pensions and Benefits Fund shall receive a contribution in addition to the contribution specified in Section 3.4 for each Plan Year. Such additional contribution shall be equal to an amount determined for each Plan Year by the Trustee and shall be further subject to the following provisions:
  - (1) Ministerial Employees serving in roles designated as District Assignment as shown in district journals, Evangelists, and District Superintendents shall receive the additional contribution by virtue of their assignment.
  - (2) Ministerial Employees serving local Nazarene congregations shall receive the additional contribution provided that either their local church pays 100 percent of their Pensions and Benefits Fund allocation or their district pays 100 percent or more of their Pensions and Benefits Fund amount.

**3.6 Service by a Ministerial Employee.** In order for a Ministerial Employee of a Participating Employer to be eligible for a contribution under Section 3.4, such a Ministerial Employee must accrue “Service” or a “Year of Service” which includes the following:

- (a) “Year of Service” means each year of full-time active service credited to a Participant as shown in district journals for service as a district-licensed or ordained minister or for service as a district-credentialed lay person serving in the full-time ministry as of December 31, 1985 (as more fully provided in Section 1.13), commencing as of the January 1 next following the commencement of such full-time active service. A Participant shall receive a full one Year of Service credit for the year in which the Participant terminates from full-time service.
- (b)
  - (1) Full-time associate ministers who are district-licensed or ordained receive a Year of Service credit when earning their full livelihood from such ministry. For this purpose, full livelihood shall mean 30 hours per week of paid service for 30 or more weeks during the year.
  - (2) Effective as of January 1, 2006, full-time evangelists and full-time co-evangelists receive a Year of Service credit for conducting services for 30 or more Sundays per year in Nazarene churches on districts participating in the payment of the Fund. In the event this criteria is not met, full-time evangelists and full-time co-evangelists can receive a Year of Service credit for conducting 26 or more revival events per year (as defined by the General Board of the Church of the Nazarene) in Nazarene churches on districts participating in the payment of the Pensions and Benefits Fund. To receive such a Year of Service credit, an evangelist must satisfy one or the other of such alternative criteria, which may not be used in combination for such purpose.
- (c) In the event that two Participants shall be serving as co-pastors or co-evangelists, each such Participant shall receive credit for one Year of Service for each year of active ministerial service, as defined in this Section 3.6 for all such years after 1995.
- (d) For purposes of Sections 3.4 and 3.5, any Year of Service in which a Participant is eligible for participation in another Church institutional plan is not eligible to be counted as a Year of Service under this Plan.

- 3.7 **Contributions for Certain Employees.** Subject to the applicable provisions of Section 1.13 and Article IV, for Employees who are employed by the General Board at the Headquarters of the Church of the Nazarene in Kansas City, Missouri, Employees of the Nazarene Publishing House, Nazarene Theological Seminary, Nazarene Bible College, Nazarene Compassionate Ministries, Inc., the Church of the Nazarene Foundation, or their subsidiaries, who elect to participate in this Plan, an Employer Contribution shall be made for each Plan Year to be made by such an Employee's Participating Employer; provided, however, the provisions of this Section 3.7 shall not apply to any Employee who is classified as a missionary by the General Board if such a missionary is an employee of a church (as defined in Section 3121(w)(3)(A) of the Code) or of a church-controlled organization (as defined in Section 3121(w)(3)(B) of the Code). Except for Employees of the Nazarene Publishing House and the Nazarene Bible College, such amount shall be equal to an amount determined for each Plan Year by the Trustee. For Employees of the Nazarene Publishing House, such amount shall be equal to zero (0) until such time as agreed to between the Nazarene Publishing House and the Trustee. For Employees of the Nazarene Bible College, such amount shall be equal to zero (0) until such time as agreed to between the Nazarene Bible College and the Trustee.
- 3.8 **Contributions for Foreign Missionaries.** In the case of foreign missionaries, amounts contributed to the Plan after December 31, 1996, whether Salary Reduction or Employer Contributions, are investment in the contract even though the amounts, if paid directly to the missionary would have been excludable under Code Section 911. Such contributions shall not be considered subject to tax liability at the time of distribution.
- 3.9 **Contributions for Certain Missionaries.** Subject to the applicable provisions of Section 1.13 and Article IV, for Employees who are classified as Missionaries by the General Board, if such Missionaries are an Employee of a church (as defined in Section 3121(w)(3)(A) of the Code) or of a church-controlled organization (as defined in Section 3221(w)(3)(B) of the Code), which is a Participating Employer, and, effective for the Plan Year beginning January 1, 1998, an Employer Contribution shall be made for each Plan Year to be made by the General Board, through the World Mission Department, if the contract between such a Missionary and the General Board provides for the contribution described in this Section. Such amount shall be equal to an amount determined for each Plan Year by the Trustee.

## Article IV

### Limitations on Plan Contributions

- 4.1 **Basic Salary Reduction Contribution Limitation.** Except as provided in Section 4.3 or 4.4, the maximum amount of the Salary Reduction Contribution under the Plan for any calendar year shall not exceed the lesser of (a) the applicable dollar amount or (b) the Participant's Includible Compensation for the calendar year. The applicable dollar amount is the amount established under section 402(g)(1)(B) of the Code, which is \$15,500 for 2008, and is adjusted for cost-of-living after 2008 to the extent provided under section 415(d) of the Code.
- 4.2 **Maximum annual addition.** The annual addition that may be contributed or allocated to a Participant's Account under the Plan for any limitation year shall be limited as provided in Article IVA.
- 4.3 **Special Section 403(b) Catch-up Limitation for Employees With 15 Years of Service.** For a Participating Employer which is a qualified organization (within the meaning of § 1.403(b)-4(c)(3)(ii) of the Income Tax Regulations), the applicable dollar amount under Section 4.1 for any "qualified employee" is increased (to the extent provided in the Individual Agreements) by the least of:
- (a) \$3,000;
  - (b) The excess of:
    - (1) \$15,000, over
    - (2) The total special 403(b) catch-up elective deferrals made for the qualified employee by the qualified organization for prior years; or
  - (c) The excess of:
    - (1) \$5,000 multiplied by the number of years of service of the employee with the qualified organization, over
    - (2) The total Salary Reduction Contributions made for the employee by the qualified organization for prior years.

For purposes of this Section 4.3, a "qualified employee" means an employee who has completed at least 15 years of service taking into account only employment with the Employer. If elected by a Participant who is described in Section 415(c)(7) of the Code, such a Participant may make an election under such Section of the Code.

- 4.4 **Age 50 Catch-up Salary Reduction Contributions.** An Employee who is a Participant who will attain age 50 or more by the end of the calendar year is permitted to elect an additional amount of Salary Reduction Contributions, up to the maximum age 50 catch-up Salary Reduction Contributions for the year. The maximum dollar amount of the age 50 catch-up Salary Reduction Contributions for a year is \$5,000 for 2008, and is adjusted for cost-of-living after 2008 to the extent provided under the Code.

- 4.4A **Coordination.** Amounts in excess of the limitation set forth in Section 4.1 shall be allocated first to the special 403(b) catch-up under Section 4.3 and next as an age 50 catch-up contribution under Section 4.4. However, in no event can the amount of the Salary Reduction Contributions for a year be more than the Participant's Compensation for the year.
- 4.4B **Special Rule for a Participant Covered by Another Section 403(b) Plan.** For purposes of this Article IV, if the Participant is or has been a participant in one or more other plans under section 403(b) of the Code (and any other plan that permits elective deferrals under section 402(g) of the Code), then this Plan and all such other plans shall be considered as one plan for purposes of applying the foregoing limitations of this Article IV. For this purpose, the Participating Employer shall take into account any other such plan maintained by any Related Employer and shall also take into account any other such plan for which the Participating Employer receives from the Participant sufficient information concerning his or her participation in such other plan. Notwithstanding the foregoing, another plan maintained by a Related Entity shall be taken into account for purposes of Section 4.3 only if the other plan is a § 403(b) plan.
- 4.4C **Correction of Excess Elective Deferrals.** If the Salary Reduction Contribution on behalf of a Participant for any calendar year exceeds the limitations described above, or the Salary Reduction Contribution on behalf of a Participant for any calendar year exceeds the limitations described above when combined with other amounts deferred by the Participant under another plan of the employer under section 403(b) of the Code (and any other plan that permits elective deferrals under section 402(g) of the Code for which the Participant provides information that is accepted by the Participating Employer), then the Salary Reduction Contribution, to the extent in excess of the applicable limitation (adjusted for any income or loss in value, if any, allocable thereto), shall be distributed to the Participant.
- 4.5 **Actual Contribution Percentage (ACP) Test.** Matching Contributions made on behalf of each Participant who is an Employee of Nazarene Publishing House or of a Nazarene-related college or university shall be tested for non-discrimination as follows:
- 4.5A.1 **Prior Year Testing.** The Actual Contribution Percentage ("ACP") for a Plan Year for Participants who are Highly Compensated Employees for each Plan Year and the prior year's ACP for Participants who were Non-Highly Compensated Employees for the prior Plan Year must satisfy one of the following tests:
- (a) The ACP for a Plan Year for Participants who are Highly Compensated Employees for the Plan Year shall not exceed the prior year's ACP for Participants who were Non-Highly Compensated Employees for the prior Plan Year multiplied by 1.25; or
- (b) The ACP for a Plan Year for Participants who are Highly Compensated Employees for the Plan Year shall not exceed the prior year's ACP for Participants who were Non-Highly Compensated Employees for the prior Plan Year multiplied by 2, provided that the ACP for the Participants who are Highly Compensated Employees does not exceed the ACP for Participants who were Non-Highly Compensated Employees in the prior Plan Year by more than 2 percentage points.
- 4.5A.2 **Current Year Testing.** The ACP tests in (a) and (b), above, will be applied by comparing the current Plan Year's ACP for Participants who are Highly Compensated Employees for each Plan Year with the current Plan Year's ACP for Participants who are Non-Highly Compensated Employees. Once made, the Employer can elect Prior Year Testing for a Plan Year only if the Plan has used Current Year Testing for each of the preceding 5 Plan Years (or if lesser, the

number of Plan Years the Plan has been in existence) or if, as a result of a merger or acquisition described in Code section 410(b)(6)(C)(i) of the Code, the Employer maintains both a plan using Prior Year Testing and a plan using Current Year Testing and the change is made within the transition period described in section 410(b)(6)(C)(ii) of the Code.

### **Special Rules**

- 4.5A.3 A Participant is a Highly Compensated Employee for a particular Plan Year if he or she meets the definition of a Highly Compensated Employee in effect for that Plan Year. Similarly, a Participant is a Non-Highly Compensated Employee for a particular Plan Year if he or she does not meet the definition of a Highly Compensated Employee in effect for that Plan Year.
- 4.5A.4 For purposes of this section, the Contribution Percentage for any Participant who is a Highly Compensated Employee and who is eligible to have Contribution Percentage Amounts allocated to his or her account under two or more plans or arrangements described in Code sections 401(a) or 403(b) of the Code that are maintained by the Employer, shall be determined as if the total of such Contribution Percentage Amounts was made under each plan and arrangement. If a Highly Compensated Employee participates in two or more such plans or arrangements that have different plan years, all Contribution Percentage Amounts made during the Plan Year under all such plans and arrangements shall be aggregated.
- 4.5A.5 In the event that this Plan satisfies the requirements of Code sections 401(m), 401(a)(4) or 410(b) of the Code only if aggregated with one or more other plans, or if one or more other plans satisfy the requirements of such sections of the Code only if aggregated with this Plan, then this section shall be applied by determining the ACP of Employees as if all such plans were a single plan. If more than 10 percent of the Employer's Non-Highly Compensated Employees are involved in a plan coverage change as defined in Regulations section 1.401(m)-2(c)(4), then any adjustments to the Non-Highly Compensated Employees' ACP for the prior year will be made in accordance with such Regulations. Plans may be aggregated in order to satisfy Code section 401(m) only if they have the same Plan Year and use the same ACP testing method.
- 4.5A.6 For purposes of the ACP test, Matching Contributions and Qualified Nonelective Contributions will be considered made for a Plan Year if made no later than the end of the 12-month period beginning on the day after the close of the Plan Year.

### **Definitions**

- 4.5A.7 "Actual Contribution Percentage" ("ACP") means, for a specified group of Participants (either Highly Compensated Employees or Non-Highly Compensated Employees) for a Plan Year, the average of the Contribution Percentages of the Eligible Participants in the group.
- 4.5A.8 "Contribution Percentage" means the ratio (expressed as a percentage) of the Participant's Contribution Percentage Amounts to the Participant's Compensation for the Plan Year.
- 4.5A.9 "Contribution Percentage Amounts" means the sum of the Employee Contributions and Matching Contributions made under the Plan on behalf of the Participant for the Plan Year. The Employer may include Qualified Nonelective Contributions in the Contribution Percentage Amounts.
- 4.5A.10 "Eligible Participant" means any Employee who is eligible to make an Employee Contribution, or to receive a Matching Contribution. If an Employee Contribution is required as a condition of participation in the Plan, any Employee who would be a Participant in the Plan if such Employee

made such a contribution shall be treated as an eligible Participant on behalf of whom no Employee Contributions are made.

- 4.5A.11 “Matching Contribution” means an Employer contribution made to this Plan on behalf of a Participant on account of an Employee Contribution made by such Participant, or on account of a Participant’s Elective Deferral under a plan maintained by the Employer.
- 4.5B.1 If the Employer has elected to use the Current Year Testing method, in lieu of distributing Excess Aggregate Contributions, the Employer will make Qualified Nonelective Contributions on behalf of the Participants that are sufficient to satisfy the Actual Contribution Percentage test.
- 4.5B.2 Qualified Nonelective Contributions will be allocated to participants who are Non-Highly Compensated Employees in the ratio which each such Participant’s Compensation for the Plan Year bears to the total Compensation of all such Participants for such Plan Year.
- 4.5B.3 “Qualified Nonelective Contributions” means contributions (other than Matching Contributions) made by the Employer and allocated to Participant’s accounts that the Participants may not elect to receive in cash until distributed from the Plan and that are distributable only in accordance with the distribution provisions (other than for hardships) applicable to Elective Deferrals.
- 4.6.1 Notwithstanding any other provisions of the Plan, Excess Aggregate Contributions, plus any income and minus any loss allocable thereto, shall be distributed no later than 12 months after a Plan Year to Participants to whose accounts such Excess Aggregate Contributions were allocated for such Plan Year. Excess Aggregate Contributions are allocated to the Highly Compensated Employees with the largest Contribution Percentage taken into account in calculating the Actual Contribution Percentage test for the year in which the excess arose, beginning with the largest amount of such Contribution Percentage Amounts and continuing in descending order until all the Excess Aggregate Contributions have been allocated. If such Excess Aggregate Contributions are distributed more than 2½ months after the last day of the Plan Year in which such excess amounts arose, a 10-percent excise tax will be imposed on the Employer maintaining the Plan with respect to those amounts. Excess Aggregate Contributions shall be treated as Annual Additions under the Plan even if distributed.
- 4.6.2 **Determination of Income or Loss.** Excess Aggregate Contributions shall be adjusted for any income or loss. The income or loss allocable to Excess Aggregate Contributions allocated to each Participant is the income or loss allocable to the Participant’s Employee Contribution account, Matching Contribution account, and, if applicable, Qualified Nonelective Contribution account for the Plan year multiplied by a fraction, the numerator of which is such Participant’s Excess Aggregate Contributions for the year and the denominator is the Participant’s Account Balance(s) attributable to Contribution Percentage Amounts without regard to any income or loss occurring during such Plan Year.
- 4.6.3 **Accounting for Excess Aggregate Contributions.** Excess Aggregate Contributions allocated to a Participant shall be distributed on a pro-rata basis from the Participant’s Employee Contribution account, Matching Contribution account, (and, if applicable, the Participant’s Qualified Nonelective Contribution account).

## Definitions

“Excess Aggregate Contributions” means, with respect to any Plan Year, the excess of:

- (a) The aggregate Contribution Percentage Amounts taken into account in computing the numerator of the Contribution Percentage actually made on behalf of Highly Compensated Employees for such Plan Year, over
- (b) The maximum Contribution Percentage Amounts permitted by the ACP test (determined by hypothetically reducing contributions made on behalf of Highly Compensated Employees in order of their Contribution Percentages beginning with the highest of such percentages).

Such determination shall be made after first determining Excess Elective Deferrals.

- 4.7 “Highly Compensated Employee” means any Employee who for the preceding year had compensation from the Employer in excess of \$110,000 and, if the Employer so elects, was in the top-paid group for the preceding year. This compensation limitation is adjusted at the same time and in the same manner as under section 415(d) of the Code for periods after 2009, except that the base period is the calendar quarter. For this purpose, the applicable year of the Plan for which a determination is being made is called a determination year and the preceding 12-month period is call a look-back year. A Highly Compensated former Employee is based on the rules applicable to determining Highly Compensated Employee status as in effect for that determining year, in accordance with section 1.414(q)-IT, A-4 of the Treasury Regulations and IRS Notice 97-45.
- 4.8 “**Matching Contribution,**” solely for the purpose of Section 4.5, means a contribution made on behalf of a Participant who is an Employee of Nazarene Publishing House or of a Nazarene-affiliated college or university, whether or not based on the amount of such Participant’s Salary Reduction Contribution.
- 4.9 “**Non-Highly Compensated Employee**” (NHCE) means any Employee who does not qualify as a Highly Compensated Employee.
- 4.10 The “**Universal Availability Rules**” of Section 1.403(b)-5(b) of the Income Tax Regulations shall apply to the Nazarene Publishing House and any Nazarene-related college or university that is a Participating Employer under the Plan.
- 4.10A **Responsibility for Compliance.** Responsibility for compliance with the provisions of Sections 4.5, 4.5A, 4.5B, 4.6, 4.7, 4.8, 4.9, and 4.10, and the provisions of the Code with pertain thereto, shall be solely the responsibility of the Nazarene Publishing House or of a Nazarene-affiliated college or university (which is not a qualified church-controlled organization, as defined in Section 3121(w)(3)(B) of the Code), as the case may be, which is a Participating Employer under this Plan.
- 4.11 **Protection of Persons Who Serve in a Uniformed Service.** An Employee whose employment is interrupted by qualified military service under section 414(u) of the Code or who is on a leave of absence for qualified military service under section 414(u) of the Code may elect to make additional Salary Reduction Contributions upon resumption of employment with the Employer equal to the maximum Salary Reduction Contributions that the Employee could have elected during that period if the Employee’s employment with the Employer had continued (at the same level of Compensation) without the interruption or leave, reduced by the Salary Reduction Contributions, if any, actually made for the Employee during the period of the interruption or leave. Except to the extent provided under section 414(u) of the Code, this right applies for five



years following the resumption of employment (or, if sooner, for a period equal to three times the period of the interruption or leave).

## Article IVA

### Limitations on Annual Additions

- 4A.1.1 **General Limitation on Annual Additions.** A Participant cannot receive an allocation for a Limitation Year greater than the Maximum Annual Addition as set forth in section 4A.2.4 below.
- 4A.1.2 **Aggregation of Section 403(b) Contracts.** All Section 403(b) Annuity Contracts purchased by the Employer (including plans purchased through compensation reduction elections) for the Participant are treated as one section 403(b) Annuity Contract and contributions received under all section 403(b) Annuity Contracts of the Employer will be aggregated for purposes of this Article IVA. For purposes of this Article, the term “Annuity Contract” includes Custodial Accounts maintained pursuant to section 403(b) of the Code. Contributions made for a Participant are aggregated to the extent applicable under Section 414(b) and (c) (each as modified by section 415(h) of the Code).
- 4A.1.3 **Aggregation where Participant is in Control of Employer.** If a Participant receives an allocation under an Annuity Contract and such Participant is in control of any employer for a Limitation Year, the Annuity Contract will be considered a defined contribution plan maintained by both the controlled employer and the Participant for such Limitation Year. Accordingly, the Annuity Contract will be aggregated with all defined contribution plans maintained by the controlled employer and the limitations of section 415(c) will be applied in the aggregate to all annual additions allocated to the Participant in the Annuity Contract and all other defined contribution plans of the controlled employer. For purposes of this paragraph, a Participant is in control of an employer based upon the rules of section 414(b) and 414(c) (each as modified by section 415(h) of the Code).
- 4A.1.4 **Coordination of Limitation on Annual Additions Where Employer Maintains a Section 403(b) Prototype Plan or Participant is in Control of Employer.** The Annual Additions which may be credited to a Participant’s Account under this Plan for any Limitation Year will not exceed the Maximum Annual Addition under section 3A.2.4, reduced by the Annual Additions recited to the Participant’s Account under any section 403(b) prototype plans maintained by the Employer in addition to this Plan and under any defined contribution plans maintained by an employer that is controlled by the Participant, provided in the later case that the Administrator receives sufficient information from the Participant concerning his or her participation in such defined contribution plan. The contributions allocated to the Participant’s Account under this Plan will be reduced to the extent necessary to prevent this limitation from being exceeded.
- 4A.1.5 **Excess Annual Additions.**
- (a) Notwithstanding Article IV and sections 4A1.1 through 4A1.4, if a participant’s Annual Additions under this Plan, or under this Plan and any section 403(b) prototype plans maintained by the Employer and any defined contribution plans maintained by an employer controlled by the Participant, result in an excess Annual Addition for a Limitation Year, the excess Annual Addition will be deemed to consist of the Annual Addition last allocated, except Annual Additions to a defined contribution plan maintained by an employer controlled by the Participant will be deemed to have been allocated first.

- (b) If an excess Annual Addition was allocated to a Participant on an allocation date of this Plan which coincides with an allocation date of a section 403(b) Prototype Plan maintained by the Employer, the excess Annual Addition attributable to this Plan will be the product of:
  - (1) the total excess Annual Addition allocated as of such date, times
  - (2) the ratio of (i) the Annual Allocation allocated to the participant for the Limitation Year as of such date under the Plan to (ii) the total Annual Additions allocated to the participant for the Limitation Year as of such date under this and all section 403(b) Prototype Plans maintained by the Employer.
- (c) Any excess Annual Addition attributable to this Plan will be corrected in the manner described in section 4A.1.7.

**4A.1.6 Coordination of Limitation on Annual Additions Where Employer Maintains a Section 403(b) Plan that is Not a Prototype Plan.** If the Participant is covered under another section 403(b) plan maintained by the Employer which is not a section 403(b) Prototype Plan, Annual Additions which may be credited to the Participant's account under this Plan for any Limitation Year will be limited in accordance with sections 4A.1.4 and 4A.1.5 as though the other plans were a section 403(b) Prototype Plan.

**4A.1.7 Correction of Excess Annual Additions.** The portion of the section 403(b) contract that includes the excess Annual Additions attributable to this Plan fails to be a Section 403(b) Annuity Contract and the remaining portion of the contract is a Section 403(b) Annuity Contract. The issuer of the section 403(b) contract that includes the Excess Annual Addition shall maintain a separate account for such Excess Annual Addition for the year of the excess and for each year thereafter. In the case where a Participant is in control of an employer and the Excess Annual Addition needs to be maintained in a separate account under this Plan, the Administrator shall only be required to establish such separate account if it receives sufficient information from the Participant concerning his or her participation in such other defined contribution plan controlled by the Participant.

### **Definitions**

**4A.2.1 Annual Additions.** The sum of the following amounts credited to a Participant's Account for the Limitation Year under this Plan, any other section 403(b) plan of the Employer, or a defined contribution plan maintained by an Employer controlled by the Participant:

- (a) Employer contributions;
- (b) Employee contributions; and
- (c) Forfeitures, if any.

**4A.2.2 Includible Compensation**

- (a) "Includible Compensation" for purposes of this Article IVA means an Employee's compensation received from the Employer that is includible in the Participant's gross income for Federal income tax purposes (computed with regard to section 911 of the Code relating to United States citizens or residents living abroad) for the most recent period that is a Year of

Service. Includible Compensation also includes any elective deferral or other amount contributed or deferred by the Employer at the election of the Employee that would be includible in gross income but for the rules of section 125, 132(f)(4), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b) of the Internal Revenue Code. The amount of Includible Compensation is determined without regard to any community property laws. The amount of Includible Compensation of each Participant taken into account in determining contributions shall not exceed \$245,000, as adjusted for cost-of-living increases in accordance with section 403(a)(17)(B) of the Code for periods after 2009.

- (b) For purposes of applying the limitations on Annual Additions to nonelective employer contributions pursuant to section 415 of the Code, Includible Compensation for a Participant who is permanently and totally disabled (as defined in section 22(e)(3) of the Code) is the compensation such Participant would have received for the Limitation Year if the Participant had been paid at the rate of compensation paid immediately before becoming permanently and totally disabled.

4A.2.3 **Limitation Year.** The Limitation Year means the Plan Year. However, if the Participant is in control of an Employer pursuant to section 4A.1.3 above, the Limitation Year shall be the Limitation Year in the defined contribution plan controlled by the Participant.

4A.2.4 **Maximum Annual Additions.** Except for Age 50 Catch Up contributions described in Code section 414(v) of the Code, the Annual Addition that may be contributed or allocated to a Participant's account under the Plan for any Limitation Year shall not exceed the lesser of:

- (a) \$49,000, as adjusted for increases in the cost-of-living under Section 415(d) of the Code for periods after 2009, or
- (b) 100 percent of the Participant's Includible Compensation for the Limitation Year.

4A.2.5 The Includible Compensation limit referred to in 4A.2.4(b) shall not apply to any contribution for medical benefits after separation from service (within the meaning of section 401(h) or section 419A(f)(2) of the Code) which is otherwise treated as an Annual Addition.

4A.2.6 **Section 403(b) Prototype Plan.** A Section 403(b) Prototype Plan means a section 403(b) plan the form of which is the subject of a favorable opinion letter from the Internal Revenue Service.

4A.2.7 **Employer.** Solely for purposes of Article IVA, "Employer" means the employer that has adopted the Plan and any employer required to be aggregated with that employer under section 414(b) and (c) (each as modified by section 415(h)), (m), (o), of the Code and section 1.414(c)-5 of the Treasury Regulations.

## Article V

### Participant Accounts

- 5.1 **Establishment of Accounts.** Appropriate Accounts shall be established for each Participant hereunder. These Accounts shall reflect the Participants' Contributions, the Employer's Contributions, and Rollover/Transfer Contributions, if any, made for the Participant. The Accounts shall reflect investment earnings or losses in accordance with Section 5.2 hereof and shall record and reflect reductions in the Account balance occurring as a result of withdrawals or distributions made therefrom.
- 5.2 **Valuation of Account.** The Account of each Participant shall be adjusted in accordance with the terms of the investment options selected by the Participant to reflect any appreciation or depreciation in the fair market value of the Participants' Accounts. The fair market value of each Participant's Account shall represent the fair market value of all securities or other property held for each Participant, plus cash and accrued earnings, less accrued expenses and proper charges against each Participant's Account as of each Valuation Date. "Valuation Date" shall mean each business day.
- 5.3 **Investments.** Participants may elect to invest Contributions made on their behalf into an investment option provided for under the Plan Trust. Any investments made hereunder shall be subject to the terms and conditions of the investment vehicle into which such Contributions are deposited and any restrictions placed thereon by a Participant's Employer. Notwithstanding the provisions of this Section 5.3, all Contributions made under Section 3.4 shall be invested solely as assets classified as "Employer APS Contributions-P&B" under the recordkeeping agreement between the Trustee and Fidelity Investments Institutional Operations Company, Inc. ("Fidelity Investments"); all Contributions made under Section 3.7 shall be invested solely as assets classified as "Employer APS Contributions-Headquarters and NTS" under the recordkeeping agreement between the Trustee and Fidelity Investments; and all Contributions made under Section 3.9 shall be invested solely as assets classified as "Employer APS Contributions-World Mission" under the recordkeeping agreement between the Trustee and Fidelity Investments.
- 5.4 **Available Investments.** To control administrative costs, the General Board shall authorize the deposit of Contributions made hereunder into investment vehicles authorized or approved by the Investment Committee of the General Board.
- 5.5 **Default Investment.** In the event that a Participant fails to designate an investment option with respect to a Contribution other than a Contribution pursuant to Section 3.4, 3.7, or Section 3.9, the Plan Administrator shall invest any such Contribution for the Participant in the age appropriate Fidelity Freedom Fund under the recordkeeping agreement between the Trustee and Fidelity Investments. In the event that a Participant fails to designate an investment option with respect to a Contribution pursuant to Section 3.4, 3.7, or 3.9, the Plan Administrator shall invest any such Contribution for the Participant in the age appropriate Fidelity Freedom Fund under the recordkeeping agreement between the Trustee and Fidelity Investments.
- 5.6 **Administration of Investments.** Contributions made by or on behalf of a Participant shall continue to be invested in the manner selected by the Participant until a new designation has been properly completed and filed by the Participant. Unless otherwise restricted by an investment option, a designation filed by a Participant changing his investment option may apply to investment of future deposits and/or to amounts already accumulated in his Accounts

as the Participant elects. A Participant may change his investment options only as permitted under the applicable investment vehicles.

**5.7 Valuation Adjustments.** The Participant's Account balance shall be adjusted, in accordance with Section 5.2, based on the performance of the investment option selected by the Participant. Each investment option shall be valued separately.

## Article VI

### Distributions

- 6.1 **Distributions From Plan.** Unless otherwise restricted by the terms of the Custodial Agreement, Annuity Contract, or the Plan Trust, in the case of a Participant who elects any investment option other than those selected for the Employer Contributions Account, and except as permitted in the case of excess Elective Deferrals, amounts rolled over into the Plan, a distribution made in the event of hardship, a qualified reservist distribution as defined in section 72(t)(2)(G) of the Code, or termination of the Plan, distributions of the accumulation value attributable to Elective Deferrals from a Participant's Account may not be made earlier than the date on which the Participant has a Severance from Employment, dies, becomes disabled (within the meaning of section 72(m)(7) of the Code), or attains age 59-1/2. Unless otherwise restricted by the terms of the Custodial Agreement, Annuity Contract, or the Plan Trust, in the case of a Participant who elects an investment under those selected for the Employer Contributions Account, a Participant who attains age 62, dies, or incurs Disability shall be entitled to receive a distribution of the accumulation value in the Participant's Account. A Participant's Beneficiary shall be entitled to receive the Participant's Account balance in the event of the Participant's death. A Participant or Beneficiary who is entitled to payment hereunder shall receive a distribution in accordance with the terms of the Annuity Contracts, Custodial Accounts, or the Plan Trust in which the Participant has elected to deposit Contributions made hereunder. Unless otherwise provided under the provisions of such Annuity Contracts, Custodian Accounts, or the Plan Trust, a Participant or Beneficiary may elect distribution under one, or any combination, of the following methods: (a) by payment in a lump sum or (b) by payment in monthly, quarterly, or annual installments over a fixed period of time, not exceeding the life or the life expectancy of the Participant, or the joint and last survivor expectancy of the Participant and such Participant's Beneficiary. However, notwithstanding any provision to the contrary herein, any distribution payable hereunder must commence on or before the date specified in Article VIA. If the Plan distributes any Annuity Contract, the contract must be a Nontransferable Annuity. A "Nontransferable Annuity" is an annuity which by its terms provides that it may not be sold, assigned, discounted, pledges as collateral for a loan or security for the performance of an obligation or for any purpose to any person other than the insurance company.
- 6.2 **Election of Benefits.** The Participant (or his Beneficiary, if applicable) shall notify the Plan Administrator, in writing, of his election to receive his Account balance. If the Participant is married, any election to receive the Participant's Account balance shall also include the written consent of the Participant's spouse. Unless otherwise prohibited by a Custodial Account, Annuity Contract, or the Plan Trust, an election may be revoked and a new written election may be filed with the Plan Administrator any time prior to the commencement of benefits. Payment of benefits shall commence as soon as practicable under the option the Participant has designated, but in no event shall benefits commence on a date later than permitted under Article VIA.
- 6.3 **[Reserved]**
- 6.4 **[Reserved]**
- 6.5 **Earnings on Undistributed Benefits.** Unless otherwise provided under the terms of a Custodial Agreement, Annuity Contract, or the Plan Trust, the undistributed portion of a Participant's Account balance shall share in investment income and/or depreciation in accordance with the provisions of Article V.

6.6 **In-Service Distributions From Rollover Account.** If a Participant has a separate Account attributable to rollover contributions to the Plan, to the extent permitted by the applicable Individual Agreement, the Participant may at any time elect to receive a distribution of all or any portion of the amount held in the Rollover Account.

6.7 **Financial Hardship Distributions.** A hardship distribution is one which is necessary to satisfy an immediate and heavy financial need of the Participant. A Financial Hardship Distribution will be made only from a Participant's Salary Reduction Contributions and requires the approval of the Participant's Participating Employer.

(a) An immediate and heavy financial need of the Participant must fall under one of the following categories:

- (1) medical expenses (as defined in Code Section 213(d)) which are incurred by the Participant or his family;
- (2) purchase of a principal residence for the Participant (excluding mortgage payments);
- (3) payment of tuition for the next 12 months of post secondary education for the Participant or his family;
- (4) to prevent eviction of the Participant from his principal residence or foreclosure on the mortgage of that residence.
- (5) payment for burial or funeral expenses for the Participant's deceased parent, spouse, children or dependents; or
- (6) payment of expenses for the repair of damage to the Participant's principal residence that would qualify as a casualty loss under Section 165 of the Code (without regard to the 10 percent adjusted gross income limitation).

(b) A distribution is deemed necessary to satisfy an immediate and heavy financial need of a Participant if the following requirements are satisfied:

- (1) the distribution is not in excess of the amount of the immediate and heavy financial need of the Participant;
- (2) the Participant has obtained all distributions and nontaxable loans currently available under all plans maintained by the Participating Employer;
- (3) the Participant is prohibited from making Salary Reduction Contributions to the Plan and all other plans maintained by the Participating Employer for at least 12 months after receipt of the hardship distribution.

A hardship distribution shall not constitute an Eligible Rollover Distribution, as described in Section 6.8.

A Participant who receives a distribution of elective deferrals after December 31, 2001, on account of hardship shall be prohibited from making elective deferrals and employee



contributions under this and all other Plans of the General Board for 6 months after receipt of the distribution.

- 6.7A **Financial Hardship Distributions.** (a) A financial hardship distribution shall be permitted under the Plan to the extent permitted by the Individual Agreements controlling the Account assets to be withdrawn to satisfy the hardship.
- (b) The Individual Agreements shall provide for the exchange of information among the Participating Employer and the Vendors to the extent necessary to implement the Individual Agreements, including, in the case of a hardship withdrawal that is automatically deemed to be necessary to satisfy the Participant's financial need (pursuant to § 1.401(k)-1(d)(3)(iv)(E) of the Income Tax Regulations), the Vendor notifying the Employer of the withdrawal in order for the Participating Employer to implement the resulting 6-month suspension of the Participant's right to make Salary Reduction Deferrals under the Plan. In addition, in the case of a hardship withdrawal that is not automatically deemed to be necessary to satisfy the financial need (pursuant to § 1.401(k)-1(d)(3)(iii)(B) of the Income Tax Regulations), the Vendor shall obtain information from the Participating Employer or other Vendors to determine the amount of any plan loans and rollover accounts that are available to the Participant under the Plan to satisfy the financial need.

- 6.8 **Direct Rollover of Eligible Rollover Distributions.** A Participant may elect, at the time and in the manner prescribed by the Plan Administrator, to have any portion of such Participant's eligible rollover distribution paid directly to an eligible retirement plan specified by the Participant in a direct rollover designation. For purposes of this Section 6.8, a Participant includes a Participant's surviving spouse and the Participant's spouse or former spouse who is an alternate payee under a qualified domestic relations order.

The following definitions apply to this Section 6.8:

- (1) **Eligible Rollover Distribution.** An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the Account of the Participant, except an eligible rollover distribution does not include: any distribution which is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Participant or the joint lives (or joint life expectancies) of the Participant and the Participant's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent required under Code Section 401(a)(9); and the portion of any distribution which is not included in gross income.
- (2) **Eligible Retirement Plan.** An eligible retirement plan is an individual retirement account described in Code Section 408(a), an individual retirement annuity described in Code Section 408(b), or a plan described in Code Section 403(b), which accepts the Participant'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.
- (3) **Direct Rollover.** A direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee.
- (4) (a) **Modification of definition of eligible retirement Plan.** For purposes of the direct rollover provisions in section 6.8 of the Plan, an eligible retirement Plan shall also

mean an annuity contract described in section 403(b) of the Code and an eligible Plan under section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such Plan from this Plan. The definition of eligible retirement Plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relation order, as defined in section 414(p) of the Code.

- (b) **Modification of definition of eligible rollover distribution to exclude hardship distributions.** For purposes of the direct rollover provisions in section 6.8 of the Plan, any amount that is distributed on account of hardship shall not be an eligible rollover distribution and the distributions may not elect to have any portion of such a distribution paid directly to an eligible retirement Plan.
- (c) **Modification of definition of eligible rollover distribution to include after-tax employee contributions.** For purposes of the direct rollover provisions in section 6.8 of the Plan, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in section 408(a) or (b) of the Code, or to a qualified defined contribution Plan described in section 401(a) or 403(a) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.
- (d) Each Vendor shall be separately responsible for providing, within a reasonable time period before making an initial eligible rollover distribution, an explanation to the Participant of his or her right to elect a direct rollover and the income tax withholding consequences of not electing a direct rollover.

(5) Direct Rollovers:

The Plan will accept a direct rollover of an eligible rollover distribution from:

a qualified Plan described in section 401(a) or 403(a) of the Code, excluding after-tax employee contributions.

a qualified Plan described in section 401(a) or 403(a) of the Code, including after-tax employee contributions.

an annuity contract described in section 403(b) of the Code, excluding after-tax employee contributions.

an eligible Plan under section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state.

However, in no event does the Plan accept a rollover contribution from a Roth elective deferral account under an applicable retirement plan described in section 402A(e)(1) of the Code or a Roth IRA described in section 408A of the Code.

(6) **Participant Rollover Contributions from Other Plans:**

The Plan will accept a participant contribution of an eligible rollover distribution from:

a qualified Plan described in section 401(a) or 403(a) of the Code.

an annuity contract described in section 403(b) of the Code.

an eligible Plan under section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state.

**Participant Rollover Contributions from IRAs:**

The Plan will accept a participant rollover contribution of the portion of a distribution from an individual retirement account or annuity described in section 408(a) or 408(b) of the Code that is eligible to be rolled over and would otherwise be includible in gross income.

(7) **Direct Rollover of Non-Spousal Distribution.**

(a) **Non-Spouse Beneficiary Rollover Right.** For distributions after December 31, 2006, a non-spouse beneficiary who is a “designated beneficiary” under Code § 401(a)(9)(E) and the regulations thereunder, by a direct trustee-to-trustee transfer (the “direct rollover”), may roll over all or any portion of such beneficiary’s distribution to an individual retirement account that beneficiary establishes for purposes of receiving a distribution. In order to be able to roll over the distribution, a distribution otherwise must satisfy the definition of an eligible rollover distribution.

(b) **Certain Requirements Not Applicable.** Although a non-spouse beneficiary may roll over directly a distribution as provided in this Section 6.8, such a distribution is not subject to the direct rollover requirements of Code § 401(a)(31), the notice requirements of Code §402(f) or the mandatory withholding requirements of Code § 3405©). If a non-spouse beneficiary receives a distribution from the Plan, the distribution is not eligible for a “60 day rollover.”

(c) **Trust Beneficiary.** If a Participant’s named beneficiary is a trust, the Plan may make a direct rollover to an individual retirement account on behalf of the trust, provided the trust satisfies the requirements to be a designated beneficiary within the meaning of Code § 401(a)(9)(E).

(d) **Required Minimum Distributions Not Eligible for Rollover.** A non-spouse beneficiary may not roll over an amount which is a required minimum distribution, as determined under applicable Treasury regulation and other Internal Revenue Service guidance. If the Participant dies before such Participant’s required beginning date and the non-spouse beneficiary rolls over to an individual retirement account the maximum amount eligible for rollover, the beneficiary may elect to use either the five year rule or the life expectancy rule, pursuant to Treasury Regulation § 1.401(a)(9)-3,A-4(c) in determining the

required minimum distribution from the individual retirement account that receives the non-spouse beneficiary's distribution.

- 6.8A Plan-to-Plan Transfers to the Plan.** (a) The Administrator may, but is not required, to permit a transfer of assets to the Plan as provided in this Section 6.8A. Such a transfer is permitted only if the other plan provides for the direct transfer of each person's entire interest therein to the Plan and the Participant is an Employee or former Employee of a Participating Employer. The Administrator and any Vendor accepting such transferred amounts may require that the transfer be in cash or other property acceptable to it. The Administrator or any Vendor accepting such transferred amounts may require such documentation from the other plan as it deems necessary to effectuate the transfer in accordance with § 1.403(b)-10(b)(3) of the Income Tax Regulations and to confirm that the other plan is a plan that satisfies section 403(b) of the Code.
- (b) The amount so transferred shall be credited to the Participant's Account Balance, so that the Participant or Beneficiary whose assets are being transferred has an accumulated benefit immediately after the transfer at least equal to the accumulated benefit with respect to that Participant or Beneficiary immediately before the transfer.
- (c) To the extent provided in the Individual Agreements holding such transferred amounts, the amount transferred shall be held, accounted for, administered and otherwise treated in the same manner as an Salary Reduction Contribution by the Participant under the Plan, except that (1) the Individual Agreement which holds any amount transferred to the Plan must provide that, to the extent any amount transferred is subject to any distribution restrictions required under section 403(b) of the Code, the Individual Agreement must impose restrictions on distributions to the Participant or Beneficiary whose assets are being transferred that are not less stringent than those imposed on the transferor plan and (2) the transferred amount shall not be considered a Salary Reduction Contribution under the Plan in determining the maximum deferral under Article IV.

**6.8B Plan-to-Plan Transfers from the Plan.**

- (a) The Administrator may, but is not required, to permit Participants and Beneficiaries to elect to have all or any portion of their Account Balance transferred to another plan that satisfies section 403(b) of the Code in accordance with § 1.403(b)-10(b)(3) of the Income Tax Regulations. A transfer is permitted under this Section 6.8B only if the Participants or Beneficiaries are Employees or former Employees of a Participating Employer under the receiving plan and the other plan provides for the acceptance of plan-to-plan transfers with respect to the Participants and Beneficiaries and for each Participant and Beneficiary to have an amount deferred under the other plan immediately after the transfer at least equal to the amount transferred.
- (b) The other plan must provide that, to the extent any amount transferred is subject to any distribution restrictions required under section 403(b) of the Code, the other plan shall impose restrictions on distributions to the Participant or Beneficiary whose assets are transferred that are not less stringent than those imposed under the Plan. In addition, if the transfer does not constitute a complete transfer of the Participant's or Beneficiary's interest in the Plan, the other plan shall treat the amount transferred as a continuation of a pro rata portion of the Participant's or Beneficiary's interest in the transferor plan (e.g., a pro rata

portion of the Participant's or Beneficiary's interest in any after-tax employee contributions).

- (c) Upon the transfer of assets under this Section 6.8B, the Plan's liability to pay benefits to the Participant or Beneficiary under this Plan shall be discharged to the extent of the amount so transferred for the Participant or Beneficiary. The Administrator may require such documentation from the receiving plan as it deems appropriate or necessary to comply with this Section 6.8B (for example, to confirm that the receiving plan satisfies section 403(b) of the Code and to assure that the transfer is permitted under the receiving plan) or to effectuate the transfer pursuant to § 1.403(b)-10(b)(3) of the Income Tax Regulations.

**6.8C Contract and Custodial Account Exchanges.** (a) Subject to the approval by the Administrator, a Participant or Beneficiary may be permitted to change the investment of his or her Account Balance among the Vendors under the Plan, subject to the terms of the Individual Agreements and this Plan. However, an investment change that includes an investment with a Vendor that is not eligible to receive contributions under Article II (referred to below as an exchange) is not permitted unless the Administrator determines that the conditions in paragraphs (b) through (d) of this Section 6.8C are satisfied.

- (b) The Participant or Beneficiary must have an Account Balance immediately after the exchange that is at least equal to the Account Balance of that Participant or Beneficiary immediately before the exchange (taking into account the Account Balance of that Participant or Beneficiary under both section 403(b) contracts or custodial accounts immediately before the exchange).
- (c) The Individual Agreement with the receiving Vendor has distribution restrictions with respect to the Participant that are not less stringent than those imposed on the investment being exchanged.
- (d) The Participating Employer enters into an agreement with the receiving Vendor for the other contract or custodial account under which the Participating Employer and the Vendor will from time to time in the future provide each other with the following information:
  - (1) Information necessary for the resulting contract or custodial account, or any other contract or custodial accounts to which contributions have been made by the Participating Employer, to satisfy section 403(b) of the Code, including the following: (i) the Participating Employer providing information as to whether the Participant's employment with the Participating Employer is continuing, and notifying the Vendor when the Participant has had a separation from service (for purposes of the distribution restrictions in Section 6.1); (ii) the Vendor notifying the Participating Employer of any hardship withdrawal under Sections 6.7 and 6.7A if the withdrawal results in a 6-month suspension of the Participant's right to make Elective Deferrals under the Plan; and (iii) the Vendor providing information to the Participating Employer or other Vendors concerning the Participant's or Beneficiary's section 403(b) contracts or custodial accounts or qualified employer plan benefits (to enable a Vendor to determine the amount of any plan loans and any rollover accounts that are available to the Participant

under the Plan in order to satisfy the financial need under the hardship withdrawal rules of Sections 6.7 and 6.7A); and

- (2) Information necessary in order for the resulting contract or custodial account and any other contract or custodial account to which contributions have been made for the Participant by the Participating Employer to satisfy other tax requirements, including the following: (i) the amount of any plan loan that is outstanding to the Participant in order for a Vendor to determine whether an additional plan loan satisfies the loan limitations of Section 6.9, so that any such additional loan is not a deemed distribution under section 72(p)(1); and (ii) information concerning the Participant's or Beneficiary's after-tax employee contributions in order for a Vendor to determine the extent to which a distribution is includible in gross income.

- (e) If any Vendor ceases to be eligible to receive Salary Reduction Deferrals under the Plan, the Participating Employer will enter into an information sharing agreement as described in Section 6.8C(d) to the extent the Participating Employer's contract with the Vendor does not provide for the exchange of information described in Section 6.8C(d)(1) and (2).

**6.9 Loans.** A Participant (or his Beneficiary in the event of the Participant's death) is eligible to apply for a loan from his Salary Reduction Contributions Account, subject to the limits of Code Section 72(p) and loan procedures adopted by the Plan Administrator.

**6.9A Information Coordination Concerning Loans.** Each Vendor is responsible for all information reporting and tax withholding required by applicable federal and state law in connection with distributions and loans. To minimize the instances in which Participants have taxable income as a result of loans from the Plan, the Participating Employer shall take such steps as may be appropriate to coordinate the limitations on loans set forth in Section 6.9A, including the collection of information from Vendors, and transmission of information requested by any Vendor, concerning the outstanding balance of any loans made to a Participant under the Plan or any other plan of the Participating Employer. The Administrator shall also take such steps as may be appropriate to collect information from Vendors, and transmission of information to any Vendor, concerning any failure by a Participant to repay timely any loans made to a Participant under the Plan or any other plan of the Participating Employer.

**6.9B Maximum Loan Amount.** No loan to a Participant under the Plan may be made except with the consent of the Participant's spouse and approval by the Participant's Participating Employer. A Participant may have no more than one loan from the Plan outstanding at any one time. No loan may exceed the lesser of:

- (a) \$50,000, reduced by the greater of (i) the outstanding balance on any loan from the Plan to the Participant on the date the loan is made or (ii) the highest outstanding balance on loans from the Plan to the Participant during the one-year period ending on the day before the date the loan is approved by the Administrator (not taking into account any payments made during such one-year period); or
- (b) one half of the value of the Participant's vested Account Balance (as of the valuation date immediately preceding the date on which such loan is approved by the Administrator).

For purposes of this Section 6.9B, any loan from any other plan maintained by the Employer and any Related Employer shall be treated as if it were a loan made from the Plan, and the Participant's vested interest under any such other plan shall be considered a vested interest under this Plan; provided, however, that the provisions of this paragraph shall not be applied so as to allow the amount of a loan to exceed the amount that would otherwise be permitted in the absence of this paragraph.

**6.10 Distributions to Alternate Payees Under a Qualified Domestic Relations Order.**

Notwithstanding any other provisions of this plan, an alternate payee shall be eligible to receive an immediate lump-sum distribution of amounts assigned by a Qualified Domestic Relations Order under Section 9.2(c).

**6.11 Deminimus Distributions.** Notwithstanding the provisions of Section 6.1 of the Plan, upon a Participant's attainment of age 62 and ceasing to be an Employee for any reason other than death, if the Participant's Account is valued at less than \$1,000, the Trustee will distribute to the Participant such Participant's entire Account in a lump sum as soon as administratively practicable. Upon receipt of such a distribution, such Participant shall cease to have any further interest in the Plan Trust.

## Article VIA

### Minimum Distribution Requirements

#### Section 1. General Rules

- 6A1.1 **Effective Date.** The provisions of this article will apply for purposes of determining required minimum distributions for calendar years beginning with the 2003 calendar year, and sections 6.3 and 6.4 of the Plan shall be deleted from the Plan. The distribution rules provided in this Article apply to all benefits under Code Section 403(b) contracts accruing after December 31, 1986 (post-'86 account balance). In applying the distribution rules of this Article, only the post-'86 account balance is used to calculate the required minimum distribution in a calendar year. The pre-'87 account balance must be distributed in accordance with the incidental benefit requirement of Section 1.401-1(b)(1)(I) of the Treasury Regulations.
- 6A1.2 **Precedence.** The requirements of this article will take precedence over any inconsistent provisions of the plan.
- 6A1.3 **Requirements of Treasury Regulations Incorporated.** All distributions required under this article will be determined and made in accordance with the Treasury regulations under section 401(a)(9) of the Internal Revenue Code, and Section 1.403(b)-3, 11.1 to 11.4 of the Treasury regulations.

#### Section 2. Time and Manner of Distribution.

- 6A2.1 **Required Beginning Date.** The participant's entire interest will be distributed, or begin to be distributed, to the participant no later than the participant's required beginning date.
- 6A2.2 **Death of Participant Before Distributions Begin.** If the participant dies before distributions begin, the participant's entire interest will be distributed, or begin to be distributed, no later than as follows:
- (a) If the participant's surviving spouse is the participant's sole designated beneficiary, then distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the participant died, or by December 31 of the calendar year in which the participant would have attained age 70 ½, if later.
  - (b) If the participant's surviving spouse is not the participant's sole designated beneficiary, then distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the participant died.
  - (c) If there is no designated beneficiary as of September 30 of the year following the year of the participant's death, the participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the participant's death.
  - (c) If the participant's surviving spouse is the participant's sole designated beneficiary and the surviving spouse dies after the participant but before distributions to the



surviving spouse begin, this section 6A2.2, other than section 6A2.2(a), will apply as if the surviving spouse were the participant.

For purposes of this section 6A2.2 and section 4, unless section 6A2.2(d) applies, distributions are considered to begin on the participant's required beginning date. If section 6A2.2(d) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under section 6A2.2(a). If distributions under an annuity purchased from an insurance company irrevocably commence to the participant before the participant's required beginning date (or to the participant's surviving spouse before the date distributions are required to begin to the surviving spouse under section 6A2.2(a)), the date distributions are considered to begin is the date distributions actually commence.

6A2.3 **Forms of Distribution.** Unless the participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with sections 3 and 4 of this article. If the participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of section 401(a)(9) of the Code and the Treasury regulations.

### **Section 3. Required Minimum Distributions During Participant's Lifetime.**

6A3.1 **Amount of Required Minimum Distribution For Each Distribution Calendar Year.** During the participant's lifetime, the minimum amount that will be distributed for each distribution calendar year is the lesser of:

- (a) the quotient obtained by dividing the participant's account balance by the distribution period in the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the Treasury regulations, using the participant's age as of the participant's birthday in the distribution calendar year; or
- (b) if the participant's sole designated beneficiary for the distribution calendar year is the participant's spouse, the quotient obtained by dividing the participant's account balance by the number in the Joint and Last Survivor Table set forth in section 1.401(a)(9)-9 of the Treasury regulations, using the participant's and spouse's attained ages as of the participant's and spouse's birthdays in the distribution calendar year.

6A3.2 **Lifetime Required Minimum Distributions Continue Through Year of Participant's Death.** Required minimum distributions will be determined under this section 3 beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the participant's date of death.

### **Section 4. Required Minimum Distributions After Participant's Death.**

6A4.1 **Death On or After Date Distributions Begin.**

- (a) **Participant Survived by Designated Beneficiary.** If the participant dies on or after the date distributions begin and there is a designated beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the participant's death is the quotient obtained by dividing the participant's account

balance by the longer of the remaining life expectancy of the participant or the remaining life expectancy of the participant's designated beneficiary, determined as follows:

- (1) The participant's remaining life expectancy is calculated using the age of the participant in the year of death, reduced by one for each subsequent year.
  - (2) If the participant's surviving spouse is the participant's sole designated beneficiary, the remaining life expectancy of the surviving spouse is calculated for each distribution calendar year after the year of the participant's death using the surviving spouse's age as of the spouse's birthday in that year. For distribution calendar years after the year of the surviving spouse's death, the remaining life expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.
  - (3) If the participant's surviving spouse is not the participant's sole designated beneficiary, the designated beneficiary's remaining life expectancy is calculated using the age of the beneficiary in the year following the year of the participant's death, reduced by one for each subsequent year.
- (b) **No Designated Beneficiary.** If the participant dies on or after the date distributions begin and there is no designated beneficiary as of September 30 of the year after the year of the participant's death, the minimum amount that will be distributed for each distribution calendar year after the year of the participant's death is the quotient obtained by dividing the participant's account balance by the participant's remaining life expectancy calculated using the age of the participant in the year of death, reduced by one for each subsequent year.

#### **6A4.2 Death Before Date Distributions Begin.**

- (a) **Participant Survived by Designated Beneficiary.** If the participant dies before the date distributions begin and there is a designated beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the participant's death is the quotient obtained by dividing the participant's account balance by the remaining life expectancy of the participant's designated beneficiary, determined as provided in section 6A4.1.
- (b) **No Designated Beneficiary.** If the participant dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the participant's death, distribution of the participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the participant's death.
- (c) **Death of Surviving Spouse Before Distributions to Surviving Spouse Are Required to Begin.** If the participant dies before the date distributions begin, the participant's surviving spouse is the participant's sole designated beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under section 6A2.2(a), this section 6A4.2 will apply as if the surviving spouse were the participant.

## Section 5. Definitions.

- 6A5.1 **Designated beneficiary.** The individual who is designated as the beneficiary under section 1.3 of the plan and is the designated beneficiary under section 401(a)(9) of the Internal Revenue Code and section 1.401(a)(9)-1, Q&A-4, of the Treasury regulations.
- 6A5.2 **Distribution calendar year.** A calendar year for which a minimum distribution is required. For distributions beginning before the participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the participant's required beginning date. For distributions beginning after the participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin under section 6A2.2. The required minimum distribution for the participant's first distribution calendar year will be made on or before the participant's required beginning date. The required minimum distribution for other distribution calendar years, including the required minimum distribution for the distribution calendar year in which the participant's required beginning date occurs, will be made on or before December 31 of that distribution calendar year.
- 6A5.3 **Life expectancy.** Life expectancy as computed by use of the Single Life Table in section 1.401(a)(9)-9 of the Treasury regulations.
- 6A5.4 **Participant's account balance.** The account balance as of the last valuation date in the calendar year immediately preceding the distribution calendar year (valuation calendar year) increased by the amount of any contributions made and allocated or forfeitures allocated to the account balance as of dates in the valuation calendar year after the valuation date and decreased by distributions made in the valuation calendar year after the valuation date. The account balance for the valuation calendar year includes any amounts rolled over or transferred to the plan either in the valuation calendar year or in the distribution calendar year if distributed or transferred in the valuation calendar year.
- 6A5.5 **Required beginning date.** The required beginning date is April 1 of the calendar year following the later of the calendar year in which the participant attains 70 ½ or the calendar year in which the participant retires from the employ of the Employer maintaining this plan.
- 6A6.1 **2009 Required Minimum Distributions.** Notwithstanding any other provisions of Section 6A of the Plan, a participant or beneficiary who would have been required to receive required minimum distributions for 2009 but for the enactment of Section 401(a)(9)(H) of the Code ('2009 RMDs'), and who would have satisfied that requirement by receiving distributions that are (1) equal to the 2009 RMDs or (2) one or more payments in a series of substantially equal distributions (that include the 2009 RMDs) made at least annually and expected to last for the life (or life expectancy) of the participant, the joint lives (or joint life expectancy) of the participant and the participant's designated beneficiary, or for a period of at least ten years ('Extended 2009 RMDs'), will receive those distributions for 2009 unless the participant or beneficiary chooses not to receive such distributions. Participants and beneficiaries described in the preceding sentence will be given the opportunity to elect to stop receiving the distributions described in the preceding sentence. A direct rollover will be offered only for distributions that would be eligible rollover distributions without regard to Section 401(a)(9)(H) of the Code.

## Article VII

### Designation of Beneficiary

- 7.1 **Named Beneficiary.** Each Participant may complete a written designation of a Beneficiary(ies) to whom, in the event of the Participant's death, all benefits or any unpaid balance of benefits shall be payable. The Beneficiary so designated may be changed by the Participant at any time; provided, however, if the Participant is married, the Participant's spouse must consent in writing to the Plan Administrator to the designation of a beneficiary other than the Participant's spouse. The facts as shown by the records of the Plan Administrator at the time of death shall be conclusive as to the identity of the proper payee and the amount properly payable, and payment made in accordance with such facts shall constitute a complete discharge of any and all obligations hereunder. If the Beneficiary does not predecease the Participant, but dies prior to distribution of the Participant's entire accumulation value, the Trustee will pay the remaining accumulation value to the Beneficiary's estate unless the Participant's Beneficiary designates a Beneficiary.
- 7.2 **No Named Beneficiary.** If no Beneficiary designation is on file with Plan Administrator at the time of death of the Participant, or if such designation is not effective for any reason, then such death benefit shall be payable to the deceased Participant's spouse, if living. If such spouse is not living, payment shall be made as follows:
- (a) to the Participant's children, per stirpes, then
  - (b) if no such children survive the Participant, to the executors or administrators of the deceased Participant's estate.

## Article VIII

### Deposit of Contributions

- 8.1 **Salary Reduction Contributions.** The Participating Employer shall make payment of the Salary Reduction Contribution to the Custodian, Insurer, or Trustee under the terms hereof no later than fifteen (15) business days following the end of the month in which the amount would otherwise have been paid to the Participant.
- 8.2 **Leave of Absence.** Unless an election is otherwise revised, if an Employee is absent from work by leave of absence, Salary Reduction Contributions under the Plan shall continue to the extent that Compensation continues.
- 8.3 **Other Contributions.** The Participating Employer shall deposit all Non-Salary Reduction Contributions with the Custodian(s), Insurer(s), or the Trustee within a reasonable period of time.

## Article IX

### Administration

- 9.1 **Appointment of Plan Administrator.** The Board of Pensions and Benefits USA of the Church of the Nazarene (the “Board”) shall act as Plan Administrator or Administrator. The Plan Administrator may be removed by the General Board at any time and may resign at any time by submitting a written resignation to the General Board. A new Plan Administrator shall be appointed by the General Board as soon as possible in the event that the Plan Administrator is removed or resigns from such position.
- 9.2 **Responsibilities and Duties.** The Plan Administrator shall:
- (a) be responsible for the day-to-day administration of the Plan. The Plan Administrator may appoint other persons or entities to perform any fiduciary functions. Such appointment shall be made and accepted by the appointee in writing and shall be effective upon the written approval of the Board. The Plan Administrator and any such appointee may employ advisors and other persons necessary or convenient to help carry out such Plan Administrator’s duties, including fiduciary duties. The Plan Administrator shall have the right to remove any such appointee from such a position. Any person, group of persons, or entity may serve in more than one fiduciary capacity.
  - (b) maintain or shall cause to be maintained accurate and detailed records and accounts of Employees and of their rights under the Plan and of all investments, receipts, disbursements, and other transactions. Such accounts, books, and records relating thereto shall be open at all reasonable times to inspection and audit by the General Board and by persons designated thereby. The Plan Administrator shall have no responsibility to determine that Contributions made to the Plan Trust by a Participating Employer comply with the provisions of the Plan, nor shall the Plan Administrator have any responsibility to collect or monitor the making or the accuracy of any Contributions payable or made by a Participating Employer to the Plan Trust.
  - (c) upon receipt of a domestic relations order, promptly notify the Participant and alternate payee of receipt of the order and the Plan’s procedures for determining whether the order is qualified. Within a reasonable time after receipt of the order, the Plan Administrator will determine whether the order is qualified and notify the Participant and alternate payee of the determination.

**Domestic Relation Orders.** Notwithstanding Section 13.2, if a judgment, decree or order (including approval of a property settlement agreement) that relates to the provision of child support, alimony payments, or the marital property rights of a spouse or former spouse, child, or other dependent of a Participant is made pursuant to the domestic relations law of any State (“domestic relations order”), then the amount of the Participant’s Account Balance shall be paid in the manner and to the person or persons so directed in the domestic relations order. Such payment shall be made without regard to whether the Participant is eligible for a distribution of benefits under the Plan. The Administrator shall establish reasonable procedures for determining the status of any such decree or order and for effectuating distribution pursuant to the domestic relations order.

9.3 **Claims Procedure.** Each Participant or Beneficiary must claim any benefit to which he is entitled under this Plan by a written notification to the Plan Administrator. If a claim is denied, it must be denied within a reasonable period of time, and be contained in a written notice from the Plan Administrator stating the following:

- (a) The specific reason for the denial.
- (b) Specific reference to the Plan provision on which the denial is based.
- (c) Description of additional information necessary for the claimant to present his claim, if any, and an explanation of why such material is necessary.
- (d) An explanation of the Plan's claim review procedure.

The claimant will have sixty (60) days to request a review of the denial by the Plan Administrator, which will provide a full and fair review. The request for review must be written and submitted to the Plan Administrator. The claimant may review pertinent documents, and he may submit issues and comments in writing. The decision by the Plan Administrator with respect to the review must be given within sixty (60) days after receipt of the request, unless special circumstances require an extension (such as for a hearing). In no event shall the decision be delayed beyond one hundred and twenty (120) days after receipt of the request for review. The decision shall be written in a manner calculated to be understood by the claimant, and it shall include specific reasons and refer to specific Plan provisions as to its effect.

9.4 **Authority of the Plan Administrator.** The Plan Administrator shall have exclusive power and authority in its sole and absolute discretion to control and manage the operation and administration of the Plan and shall have all powers necessary to accomplish these purposes. The responsibility and authority of the Plan Administrator shall include, but shall not be limited to the following:

- (a) Establishing, communicating, and administering a claims procedure, including the processing and all determinations of appeals thereunder; and
- (b) Interpreting the provisions of the Plan, including the establishment of rules for the regulation and administration of the Plan as in the Plan Administrator's sole and absolute discretion may be deemed necessary or advisable.

9.5 **Indemnification.** The Employer shall indemnify the Board and any individual who is serving for the Board or who is acting on its behalf in any capacity on behalf of the Board as to this Plan. Such individual shall be indemnified from any and all liability that may arise by reason of his action or failure to act concerning this Plan, excepting any willful misconduct or criminal acts.

9.6 **Liability of Employer.** Neither the Employer nor any of its Employees or representatives shall be liable for any loss due to an error or omission in administration of the Plan, unless the loss is due to the gross negligence or willful misconduct of the party to be charged, or due to the failure of any authorized individual(s) to exercise a fiduciary responsibility with care, skill, prudence, and diligence under the circumstances that a prudent person acting in a like capacity and familiar with such matters would use in similar circumstances.

- 9.7 **Manner of Investment.** All Salary Reduction Contributions or other amounts contributed to the Plan, all property and rights purchased with such amounts, and all income attributable to such amounts, property, or rights shall be held and invested in the Plan Trust or one or more Annuity Contracts or Custodial Accounts. Each Custodial Account shall provide for it to be impossible, prior to the satisfaction of all liabilities with respect to Participants and their Beneficiaries, for any part of the assets and income of the Custodial Account to be used for, or diverted to, purposes other than for the exclusive benefit of Participants and their Beneficiaries.
- 9.8 **Current and Former Vendors.** The Administrator shall maintain a list of all Vendors under the Plan. Such list is hereby incorporated as part of the Plan. Each Vendor and the Administrator shall exchange such information as may be necessary to satisfy section 403(b) of the Code or other requirements of applicable law. In the case of a Vendor which is not eligible to receive Salary Reduction Contributions under the Plan (including a Vendor which has ceased to be a Vendor eligible to receive Salary Reduction Contributions under the Plan and a Vendor holding assets under the Plan), the Employer shall keep the Vendor informed of the name and contact information of the Administrator in order to coordinate information necessary to satisfy section 403(b) of the Code or other requirements of applicable law.
- 9.9 **Payments to Minors and Incompetents.** If a Participant or Beneficiary entitled to receive any benefits hereunder is a minor or is adjudged to be legally incapable of giving valid receipt and discharge for such benefits, or is deemed so by the Administrator, benefits will be paid to such person as the Administrator may designate for the benefit of such Participant or Beneficiary. Such payments shall be considered a payment to such Participant or Beneficiary and shall, to the extent made, be deemed a complete discharge of any liability for such payments under the Plan.
- 9.10 **Mistaken Contributions.** If any contribution (or any portion of a contribution) is made to the Plan by a good faith mistake of fact, then within one year after the payment of the contribution, and upon receipt in good order of a proper request approved by the Administrator, the amount of the mistaken contribution (adjusted for any income or loss in value, if any, allocable thereto) shall be returned directly to the Participant or, to the extent required or permitted by the Administrator, to the Participating Employer, or, in the case of a mistaken contribution made from the Pensions and Benefits Fund, to the Administrator..
- 9.11 **Procedure When Distributee Cannot Be Located.** The Administrator shall make all reasonable attempts to determine the identity and address of a Participant or a Participant's Beneficiary entitled to benefits under the Plan. For this purpose, a reasonable attempt means (a) the mailing by certified mail of a notice to the last known address shown on an Employer's or the Administrator's records, (b) notification sent to the Social Security Administration or the Pension Benefit Guaranty Corporation (under their program to identify payees under retirement plans), and (c) the payee has not responded within 6 months. If the Administrator is unable to locate such a person entitled to benefits hereunder, or if there has been no claim made for such benefits, the funding vehicle shall continue to hold the benefits due such person.
- 9.12 **Incorporation of Individual Agreements.** The Plan, together with the Individual Agreements, is intended to satisfy the requirements of section 403(b) of the Code and the Income Tax Regulations thereunder. Terms and conditions of the Individual Agreements are hereby incorporated by reference into the Plan, excluding those terms that are inconsistent with the Plan or section 403(b) of the Code.



**Article X**

**[Reserved]**

**Article XI**

**[Reserved]**

## Article XII

### Amendments and Termination

- 12.1 **Authority to Amend and Terminate.** The Board reserves the right to amend, and the General Board reserves the right to discontinue or terminate the Plan at any time, subject to any contractual limitations which may modify the rights of the Board or the General Board, as the case may be, to so act.
- 12.2 **Restrictions on Amendments.** No discretionary amendment shall be given retroactive effect by the Board. Notwithstanding the preceding, any amendment which conforms the Plan to the requirements of any applicable laws or regulations shall be effective as of the date required for continued qualification under Section 403(b) of the Code.
- 12.3 **Modifications From Related Instruments.** The provisions of this Plan are subject to the terms and conditions of separate documents, contracts, agreements, and the Plan Trust which the General Board, the Employer, the Board, or the Participants may enter into with the Trustee, Insurer(s), and/or Custodian(s). To the extent such documents, contracts, or agreements are inconsistent with the provisions of this Plan, the provisions of this Plan shall govern.
- 12.4 **Distribution Upon Termination of the Plan.** The General Board may provide that, in connection with a termination of the Plan and subject to any restrictions contained in the Individual Agreements, all Accounts will be distributed, provided that the General Board and any Related Employer on the date of termination do not make contributions to an alternative section 403(b) contract that is not part of the Plan during the period beginning on the date of plan termination and ending 12 months after the distribution of all assets from the Plan, except as permitted by the Income Tax Regulations.

## Article XIII

### Miscellaneous

- 13.1 **No Liability for Employer.** The Employer shall have no liability for the payment of benefits or otherwise under the Plan, except to pay over to the Custodian, Insurer, or Trustee selected by the Participant such Contributions as are made by the Employer and all Contributions made by Participants. The Employer shall have no liability with respect to the administration of any investment option, and each Participant and/or Beneficiary shall look solely to the Plan Trust for receipt of any payments or benefits under the Plan.
- 13.2 **Nonalienability.** No interest of any Participant or Beneficiary held under this Plan shall be subject in any manner to anticipation, alienation, sale, transfer, pledge, encumbrance, trustee process, garnishment, attachment, execution, or levy of any kind, except for Qualified Domestic Relations Orders (as defined under Section 414(p) of the Code), payment of expenses to a Custodian or Insurer or their agents as may be authorized under separate contract, or as otherwise may be required by law.
- 13.3 **No Guarantee of Employment.** Nothing contained in this Plan or Plan Trust shall be held or construed to create any liability upon the Employer to retain any Employee in its employ. The Employer reserves the right to discontinue the services of any Employee without any liability except for salary or wages that may be due and unpaid whenever, in its judgment, its best interests so require.
- 13.4 **Construction.** It is intended that this Plan qualify under Section 403(b)(9) of the Code. In accordance with such intent, this Plan shall be construed and administered in a manner consistent with the purpose and all applicable laws and regulations.
- 13.5 **Incorporation.** The terms of the Plan Trust are incorporated herein.
- 13.6 **State Law.** The Plan shall be construed, administered, and governed in all respects in accordance with the laws of the State of Missouri to the extent such laws are not superseded by federal law. If any provision herein is held by a court of competent jurisdiction to be invalid or unenforceable, the remaining provision hereof shall continue to be fully effective.

IN WITNESS WHEREOF, the General Board of the Church of the Nazarene and the Board of Pensions and Benefits USA of the Church of the Nazarene hereby execute this Plan as of the day and year first written above.

GENERAL BOARD OF THE CHURCH OF THE  
NAZARENE

By: \_\_\_\_\_

Title: \_\_\_\_\_

BOARD OF PENSIONS AND BENEFITS USA OF  
THE CHURCH OF THE NAZARENE

By: \_\_\_\_\_

Title: \_\_\_\_\_