FORMER NINTH AND ELEVENTH DISTRICT EMPLOYERS
PENSION RESTORATION PLAN

(Amended through January 1, 2018)
TABLE OF CONTENTS

PREAMBLE

PART A – PROVISIONS OF GENERAL APPLICABILITY

ARTICLE I, DEFINITIONS

Section 1.01 Beneficiary
Section 1.02 Benefit
Section 1.03 Code
Section 1.04 Election Form
Section 1.05 Eleventh District Pension Plan
Section 1.06 Eleventh District Pension Restoration Benefit
Section 1.07 Employee
Section 1.08 Employer
Section 1.09 ERISA
Section 1.10 Foundations Administrative Agreement
Section 1.11 Ninth District Pension Plan
Section 1.12 Ninth District Pension Restoration Benefit
Section 1.13 Ninth District Spinoff Pension Plan
Section 1.14 Participant
Section 1.15 Participating Employer
Section 1.16 Plan
Section 1.17 Plan Administrator
Section 1.18 Plan Sponsor Committee
Section 1.19 Plan Year
Section 1.20 Separation from Service
Section 1.21 Spouse
Section 1.22 Trust

PART B – PROVISIONS RELATING SOLELY TO NINTH DISTRICT PENSION RESTORATION BENEFITS

ARTICLE II, PARTICIPATION AS TO NINTH DISTRICT PENSION RESTORATION BENEFITS

Section 2.01 Participation

ARTICLE III, NINTH DISTRICT PENSION RESTORATION BENEFIT PROVISIONS

Section 3.01 Definitions Used in Calculating Ninth District Pension Restoration Benefits
Section 3.02 Amount of Ninth District Pension Restoration Benefit if Retirement Eligible
Section 3.03 Amount of Ninth District Pension Restoration Benefit if not Retirement Eligible
Section 3.04 Effect of In-Service Distribution from Ninth District Pension Plan
Section 3.05 Effect of Transfer to Ninth District Spinoff Pension Plan
ARTICLE IV, VESTING OF NINTH DISTRICT PENSION RESTORATION BENEFIT

Section 4.01 Vesting of Ninth District Pension Restoration Benefit ........................................ 4.1

PART C – PROVISIONS RELATING SOLELY TO ELEVENTH DISTRICT PENSION RESTORATION BENEFITS

ARTICLE V, PARTICIPATION AS TO ELEVENTH DISTRICT PENSION RESTORATION BENEFITS

Section 5.01 Participation ................................................................. 5.1

ARTICLE VI, ELEVENTH DISTRICT PENSION RESTORATION BENEFIT PROVISIONS

Section 6.01 Definitions Used in Calculating Eleventh District Pension Restoration Benefits ........................................ 6.1
Section 6.02 Amount of Eleventh District Pension Restoration Benefit ........................................ 6.2
Section 6.03 Amount of Eleventh District Pension Restoration Benefit if not Retirement Eligible ........................................ 6.2
Section 6.04 Effect of In-Service Distribution from Eleventh District Pension Plan .......... 6.3
Section 6.05 Calculation of Intended Vested Benefit ........................................ 6.3
Section 6.06 Calculation of Actual Vested Benefit ........................................ 6.3
Section 6.07 Limitation on Benefits ........................................ 6.3
Section 6.08 Actuarial Offset for Prior Distributions ........................................ 6.3

ARTICLE VII, VESTING OF ELEVENTH DISTRICT PENSION RESTORATION BENEFIT

Section 7.01 Vesting of Eleventh District Pension Restoration Benefit ........................................ 7.1

PART D – PROVISIONS OF GENERAL APPLICABILITY

ARTICLE VIII, DISTRIBUTIONS

Section 8.01 Effective Date of Article ........................................ 8.1
Section 8.02 Legal Compliance ........................................ 8.1
Section 8.03 Distribution Event ........................................ 8.1
Section 8.04 Time of Distribution ........................................ 8.1
Section 8.05 Form of Distribution ........................................ 8.1
Section 8.06  Election as to Form of Distribution .......................................................... 8.2
Section 8.07  Default Form of Distribution ................................................................. 8.3
Section 8.08  Change of Election as to Form of Distribution ...................................... 8.4
Section 8.09  Earnings .................................................................................................. 8.5
Section 8.10  Beneficiary Designation ........................................................................... 8.7
Section 8.11  Reemployment Following a Separation from Service ................................ 8.8
Section 8.12  Permitted Acceleration Due to Failure of Plan Under Code § 409A .......... 8.8
Section 8.13  Tax Withholding ...................................................................................... 8.8

ARTICLE IX, PLAN ADMINISTRATION

Section 9.01  Plan Administration ................................................................................. 9.1
Section 9.02  Information .............................................................................................. 9.1
Section 9.03  Reliance on Tables, Valuations, Etc. ........................................................ 9.1
Section 9.04  Discretion ................................................................................................. 9.1

ARTICLE X, FUNDING

Section 10.01  Payment from General Assets ............................................................. 10.1
Section 10.02  No Specific Interest ............................................................................... 10.1
Section 10.03  Establishment of Trust .......................................................................... 10.1
Section 10.04  Funding of Trust .................................................................................... 10.1

ARTICLE XI, AMENDMENT AND TERMINATION

Section 11.01  Right to Amend or Terminate ................................................................ 11.1
Section 11.02  Restated Plan Following Amendment .................................................... 11.1
Section 11.03  Effect of Termination ............................................................................ 11.1

ARTICLE XII, MISCELLANEOUS

Section 12.01  Limitation of Rights ............................................................................. 12.1
Section 12.02  Nonassignability of Benefits ................................................................. 12.1
Section 12.03  Word Usage ......................................................................................... 12.1
Section 12.04  Severability ......................................................................................... 12.1
Section 12.05  Contract of Employment ..................................................................... 12.1
Section 12.06  State Law .............................................................................................. 12.1
Section 12.07  Effect on Benefit Plans ....................................................................... 12.1
Section 12.08  Titles ...................................................................................................... 12.2
FORMER NINTH AND ELEVENTH DISTRICT EMPLOYERS
PENSION RESTORATION PLAN

PREAMBLE
INTRODUCTION TO THE PLAN

The Former Ninth and Eleventh District Employers Pension Restoration Plan (the “Plan”) is sponsored and maintained for the benefit of the eligible employees of the Participating Employers in this Plan. Pursuant to the terms and conditions of the Foundations Administrative Agreement, the settlor functions associated with this Plan are divided between (a) the Participating Employers in this Plan and (b) the Plan Sponsor Committee. The Plan is intended to be an unfunded nonqualified deferred compensation plan for tax purposes and is not intended to meet the qualification requirements of Code § 401(a).

The Plan resulted from the merger of (a) the defined benefit restoration component of the Ninth Farm Credit District Nonqualified Benefit Restoration Plan (the “Ninth District Restoration Plan”) and (b) The Eleventh Farm Credit District Excess-Benefit Plan (the “Eleventh District Excess-Benefit Plan”). Upon the merger of the two plans, the name was changed to the “U.S. AgBank District Pension Restoration Plan,” and the Plan was amended and restated. The name of the Plan was changed again – to the “Former Ninth and Eleventh District Employers Pension Restoration Plan” – after U.S. AgBank, FCB merged with CoBank, FCB and ceased to be a Participating Employer in the Plan.

The Ninth District Restoration Plan was established on July 1, 1996, by the Farm Credit Bank of Wichita (which later changed its name to “U.S. AgBank, FCB”). All amounts attributable to the defined benefit restoration component of the Ninth District Restoration Plan that were not distributed on or prior to December 31, 2006, were transferred to this Plan, effective January 1, 2007.

The Eleventh District Excess-Benefit Plan was established on January 1, 1994, by the Western Farm Credit Bank (which later merged with the Farm Credit Bank of Wichita to form U.S. AgBank, FCB). All amounts in the Eleventh District Excess-Benefit Plan that were not distributed on or prior to December 31, 2006, were transferred to this Plan, effective January 1, 2007.

Effective January 1, 2012, U.S. AgBank, FCB merged into CoBank, FCB (the “AgBank-CoBank Merger”). Before the AgBank-CoBank Merger took effect, U.S. AgBank, FCB was a Participating Employer in the Plan. Immediately prior to the effective date of the AgBank-CoBank Merger, however, U.S. AgBank, FCB ceased to be a Participating Employer in the Plan and the benefits for its Participants and their Beneficiaries were transferred to a spinoff plan that is sponsored and maintained by CoBank, ACB. The transferred Participants from U.S. AgBank, FCB did not, however, experience a “Separation from Service” within the meaning of Code § 409A or this Plan because the “same desk rule” set forth in Treas. Reg. § 1.409A-1(h)(4) was utilized.
Participation in this Plan is limited to employers who are members of the federal Farm Credit System. The Farm Credit System is defined in the Farm Credit Act of 1971, as amended (12 U.S.C. § 2001 et seq.), to include “the Farm Credit Banks, the Federal land bank associations, the production credit associations, the banks for cooperatives, and such other institutions as may be made a part of the System, all of which shall be chartered by, and subject to, regulation by the Farm Credit Administration.” 12 U.S.C. § 2002(a).

Under the provisions of the Farm Credit Act of 1971, those Participating Employers that are Production Credit Associations and/or Federal Land Bank Associations are defined and declared by statute to be “federally chartered instrumentalities of the United States.” 12 U.S.C. §§ 2071(a) and 2091(a). Those Participating Employers that are Agricultural Credit Associations, Federal Land Credit Associations, and Service Corporations are similarly defined in the charters issued to them by the Farm Credit Administration. For this reason, the Plan is intended to be a “governmental plan” as that term is defined in Code § 414(d). For the same reason, the Plan is also intended to be a “governmental plan” as that term is defined in ERISA § 3(32). As such, the Plan is not subject to the provisions of Title I of ERISA. ERISA § 4(b)(1).

Because of the close relationship that exists between the Participating Employers in the Plan under the provisions of the Farm Credit Act of 1971 and the terms of their respective charters and because of their status as “instrumentalities of the United States,” this Plan, consistent with prior historical practice, is designed and intended to be a single employer plan.

The primary purpose of this Plan is to restore benefits under the Ninth District Pension Plan and the Eleventh District Pension Plan that are limited by Code §§ 401, 410, and 415 and by the exclusion of contributions to deferred compensation plans from the definition of “Compensation” in the Ninth District Pension Plan and from the definition of “Regulation Salary” in the Eleventh District Pension Plan.

This merged, amended, and restated Plan has been drafted to comply with the provisions of Code § 409A and the IRS and Treasury guidance issued thereunder. The merged Plan was initially amended and restated effective January 1, 2007. In adopting those amendments, the Participating Employers understood and intended that the amendments with respect to amounts that were earned and vested prior to January 1, 2005, constituted a “material modification” to the provisions of the Plan as those provisions were in effect on October 3, 2004, and that, as a result of such “material modification,” such amounts became subject to the provisions of Code § 409A. The Participating Employers did not intend, however, for such “material modification” to apply to or affect the “Harvest Plan Plus” component of the Ninth District Restoration Plan, which is a 401(k) “wrap around benefit” and that was merged into the Farm Credit Foundations Pre-409A Frozen Nonqualified Deferred Compensation Plan effective January 1, 2007.

The effective date of the merged Plan, as amended and restated, is January 1, 2007. Thereafter, the Plan document has been amended by the replacement page method, in which pages affected by the amendment are replaced (or, if necessary, added or deleted), without re-execution of the Plan document.
PART A – PROVISIONS OF GENERAL APPLICABILITY

Part A of this Plan is applicable to the entire Plan.

ARTICLE I
DEFINITIONS

Where the following words and phrases appear in this Plan, they shall have the respective meanings as set forth in this Article, unless the context clearly indicates otherwise. Where the defined meaning is intended, the term is capitalized. Additional words and phrases that appear only in Articles III and VI are set forth and defined in such Articles.

Section 1.01 “Beneficiary” means a person designated as a Participant’s beneficiary pursuant to Section 8.10.

Section 1.02 “Benefit” means, collectively, a Participant’s Ninth District Pension Restoration Benefit and Eleventh District Pension Restoration Benefit.

Section 1.03 “Code” means the Internal Revenue Code of 1986, as amended from time to time. Reference to any section or subsection of the Code includes reference to any comparable or succeeding provisions of any legislation that amends, supplements, or replaces such section or subsection.

Section 1.04 “Election Form” means the form or other document that a Participant uses to elect the form of his/her distribution of his/her Benefit under this Plan, as approved and prescribed by the Plan Administrator.

Section 1.05 “Eleventh District Pension Plan” means The Eleventh Farm Credit District Employees’ Retirement Plan, as amended from time to time.

Section 1.06 “Eleventh District Pension Restoration Benefit” means the benefit provided to a Participant under Part C of this Plan.

Section 1.07 “Employee” means any employee of a Participating Employer.

Section 1.08 “Employer” means, collectively, the Participating Employers in this Plan. The Employer is a single “service recipient,” as that term is defined in the IRS and Treasury guidance under Code § 409A.

Section 1.09 “ERISA” means the Employment Retirement Income Security Act of 1974, as amended. Reference to any section or subsection of ERISA includes reference to any comparable or succeeding provisions of any legislation that amends, supplements, or replaces such section or subsection.

Section 1.10 “Foundations Administrative Agreement” means the Farm Credit Foundations Administrative Agreement Regarding Employee Benefit Plans, as amended from time to time. Prior to January 1, 2012, the Foundations Administrative Agreement was known as the Farm Credit System Administrative Agreement Regarding Employee Benefit Plans.
Section 1.11 “Ninth District Pension Plan” means the Ninth Farm Credit District Pension Plan, as amended from time to time.

Section 1.12 “Ninth District Pension Restoration Benefit” means the benefit provided to a Participant under Part B of this Plan.

Section 1.13 “Ninth District Spinoff Pension Plan” means the Ninth Farm Credit District Spinoff Pension Plan, which plan was spunoff from the Ninth District Pension Plan effective September 30, 2007, as amended from time to time.

Section 1.14 “Participant” means an Employee who participates in the Plan in accordance with Section 2.01 and/or Section 5.01.

Section 1.15 “Participating Employer” means an employer that participates in the Ninth District Pension Plan and/or the Eleventh District Pension Plan and that has executed a Participating Employer Agreement for this Plan.

Section 1.16 “Plan” means the Former Ninth and Eleventh District Employers Pension Restoration Plan, as set forth herein and as amended from time to time.

Section 1.17 “Plan Administrator” means the Farm Credit Foundations Trust Committee, which is established pursuant to the Foundations Administrative Agreement and appointed as Plan Administrator of this Plan pursuant to the terms and conditions of the Foundations Administrative Agreement.

Section 1.18 “Plan Sponsor Committee” means the Farm Credit Foundations Plan Sponsor Committee, as established pursuant to the terms and conditions of the Foundations Administrative Agreement.

Section 1.19 “Plan Year” means the fiscal year of the Plan, a 12-consecutive month period ending every December 31.

Section 1.20 “Separation from Service” means a Participant’s termination of employment with the Employer for any reason; provided, however, a determination as to whether termination of employment has occurred shall be in compliance with Code § 409A and the IRS and Treasury guidance issued thereunder. An Employee does not have a Separation from Service if the Employee’s new employer is a Participating Employer in this Plan.

Section 1.21 “Spouse” means the person of the same or opposite sex to whom a Participant is legally married under the laws of the jurisdiction in which the marriage was entered into (as such laws existed at the time the marriage was entered into), regardless of whether the marriage would be recognized by the jurisdiction(s) in which the parties to the marriage currently reside. A common law marriage to a person of the same or opposite sex shall be considered to be a legal marriage if the common law marriage was entered into in a state that recognizes common law marriage and if the common law marriage is recognized as valid under the laws of that state. The Plan Administrator shall have the authority to determine whether a person is a Spouse, including the authority to request such documents as may be necessary, in its discretion, to establish the existence of a legal marriage (including, as may be applicable, the existence of a common law marriage).
Section 1.22  “Trust” means the trust established pursuant to the Farm Credit Foundations Trust Agreement for Nonqualified Plans, as amended.
PART B – PROVISIONS RELATING SOLELY TO NINTH DISTRICT PENSION RESTORATION BENEFITS

Part B of this Plan contains provisions that are applicable only to the Ninth District Pension Restoration Benefits. Part C of this Plan contains provisions that are applicable only to the Eleventh District Pension Restoration Benefits.

ARTICLE II
PARTICIPATION AS TO NINTH DISTRICT PENSION RESTORATION BENEFITS

Section 2.01 Participation. An Employee becomes a Participant in this Plan as to the Ninth District Pension Restoration Benefits as of the later of:

(A) The date on which the Employee first participates in the Ninth District Pension Plan; or

(B) July 1, 1996.
ARTICLE III
NINTH DISTRICT PENSION RESTORATION BENEFIT PROVISIONS

Section 3.01 Definitions Used in Calculating Ninth District Pension Restoration Benefits. Where the following words and phrases appear in this Article, they shall have the respective meanings as set forth in this Section, unless the context clearly indicates otherwise. Where the defined meaning is intended, the term is capitalized. Such words and phrases are used in calculating a Participant’s Ninth District Pension Restoration Benefit and are not to be used in calculating a Participant’s Eleventh District Pension Restoration Benefit.

(A) “Actuarial Equivalent” means a form of benefit differing in time, period, and/or manner of payment from another form of benefit but having the same value when computed using the Applicable Interest Rate and the Applicable Mortality Table.

(B) “Applicable Benefit Formula” means the formula in the Ninth District Pension Plan that is used to calculate the amount of the actual benefit the Participant will receive under the Ninth District Pension Plan.

(C) “Applicable Interest Rate” means the interest rate used for calculating an “Actuarial Equivalent” (as that term is defined in the Ninth District Pension Plan) benefit in the Ninth District Pension Plan, as such interest rate is in effect on the date of the required calculation(s) pursuant to this Article. As of January 1, 2011, such interest rate was 8%, as set forth in Section 1.04(A) of the Ninth District Pension Plan.

(D) “Applicable Mortality Table” means the mortality table used for calculating an “Actuarial Equivalent” (as that term is defined in the Ninth District Pension Plan) benefit in the Ninth District Pension Plan, as such mortality table is in effect on the date of the required calculation(s) pursuant to this Article. As of January 1, 2011, such mortality table was the 1994 Uninsured Pensioner Mortality Table, weighted 70% male and 30% female, as set forth in Section 1.04(A) of the Ninth District Pension Plan.

(E) “In-Service Distribution” means a distribution under the Ninth District Pension Plan to or on behalf of a Participant which occurs prior to such Participant’s Separation from Service under this Plan.

(F) “Ninth District Pension Benefit Limitations” means (i) the limitations on the Participant’s accrued benefit under the Ninth District Pension Plan that result from the imposition of Code §§ 401, 410, and 415 and (ii) any limitation on benefits under the Ninth District Pension Plan caused by the exclusion of contributions to any plan of deferred compensation from “Compensation,” as that term is defined in the Ninth District Pension Plan.

(G) “Normal Retirement Date” means “Normal Retirement Date,” as that term is defined in the Ninth District Pension Plan.
“Qualified Retirement Date” means the earliest date on which a Participant may elect to receive retirement benefits under the Ninth District Pension Plan.

“Retirement Eligible” means that a Participant is eligible to receive retirement benefits under the Ninth District Pension Plan because the Participant has attained his/her Qualified Retirement Date.

Section 3.02 Amount of Ninth District Pension Restoration Benefit if Retirement Eligible. Except as otherwise provided in Section 3.04 and Section 3.05, if a Participant is Retirement Eligible upon his/her Separation from Service, the amount of the Participant’s Ninth District Pension Restoration Benefit shall be the present value of an immediate monthly annuity, as calculated on the first administratively practicable date following the Participant’s Separation from Service and using the Applicable Interest Rate and the Applicable Mortality Table. Such immediate monthly annuity shall be calculated as follows:

(A) The Participant’s intended vested benefit under the Ninth District Pension Plan, as calculated pursuant to Section 3.06, less

(B) The Participant’s actual vested benefit under the Ninth District Pension Plan, as calculated pursuant to Section 3.07.

Once a Participant’s Ninth District Pension Restoration Benefit is calculated pursuant to this Section, it shall not increase, except through the accrual of earnings pursuant to Section 8.09.

Section 3.03 Amount of Ninth District Pension Restoration Benefit if not Retirement Eligible. Except as otherwise provided in Section 3.04 and Section 3.05, if a Participant is not Retirement Eligible upon his/her Separation from Service, the amount of the Participant’s Ninth District Pension Restoration Benefit under this Plan shall be the Actuarial Equivalent present value, as calculated on the first administratively practicable date following the Participant’s Separation from Service, of the monthly annuity that is calculated as follows:

(A) The Participant’s intended vested benefit under the Ninth District Pension Plan, as calculated pursuant to Section 3.06, less

(B) The Participant’s actual vested benefit under the Ninth District Pension Plan, as calculated pursuant to Section 3.07.

For purposes of calculating the amounts in Subsections (A) and (B) when the Participant’s Separation from Service is for a reason other than the Participant’s death, it shall be assumed that the benefit under the Ninth District Pension Plan commences on the Participant’s Normal Retirement Date. For purposes of calculating the amounts in Subsections (A) and (B) when the Participant’s Separation from Service is due to the Participant’s death, it shall be assumed that the benefit under the Ninth District Pension Plan commences on the later of (a) the Participant’s Qualified Retirement Date or (b) the Participant’s actual date of death.
Once a Participant’s Ninth District Pension Restoration Benefit is calculated pursuant to this Section, it shall not increase, except through the accrual of earnings pursuant to Section 8.09.

**Section 3.04  Effect of In-Service Distribution from Ninth District Pension Plan.** If a Participant receives an In-Service Distribution from the Ninth District Pension Plan, the present value of the immediate monthly annuity calculated pursuant to Section 3.02 or of the monthly annuity calculated pursuant to Section 3.03 shall be calculated on the first administratively practicable date following such In-Service Distribution, rather than on the first administratively practicable date following the Participant’s Separation from Service. Once a Participant’s Ninth District Pension Restoration Benefit is calculated pursuant to this Section, it shall not increase, except through the accrual of earnings pursuant to Section 8.09.

**Section 3.05  Effect of Transfer to Ninth District Spinoff Pension Plan.** If a Participant’s pension benefit is provided under the Ninth District Spinoff Pension Plan (rather than under the Ninth District Pension Plan) upon the spinoff of the Ninth District Spinoff Pension Plan from the Ninth District Pension Plan, the Participant’s Ninth District Pension Restoration Benefit will be determined pursuant to Section 3.02 or Section 3.03 (as applicable) as though the Participant’s Separation from Service occurred on September 30, 2007. Once a Participant’s Ninth District Pension Restoration Benefit is calculated pursuant to this Section, it shall not increase, except through the accrual of earnings pursuant to Section 8.09(A).

**Section 3.06  Calculation of Intended Vested Benefit.** As required by Section 3.02(A) and Section 3.03(A), the amount of a Participant’s intended vested benefit under the Ninth District Pension Plan shall be calculated using the Applicable Benefit Formula without regard to the Ninth District Pension Benefit Limitations.

**Section 3.07  Calculation of Actual Vested Benefit.** As required by Section 3.02(B) and Section 3.03(B), the amount of a Participant’s actual vested benefit under the Ninth District Pension Plan shall be calculated using the Applicable Benefit Formula.

**Section 3.08  Limitation on Benefits.** The combined total of a Participant’s accrued benefit under the Ninth District Pension Plan, the Participant’s accrued benefit under the Ninth District Spinoff Pension Plan, and the Participant’s Ninth District Pension Restoration Benefit may not exceed the benefit the Participant would have received from the Ninth District Pension Plan if the Participant’s benefit under the Ninth District Pension Plan had not been limited or reduced as a result of the Ninth District Pension Benefit Limitations.
Section 3.09  **Actuarial Offset for Prior Distributions.** In the event that a distribution is made from this Plan and/or the Ninth District Pension Plan prior to the date that a Participant’s Ninth District Pension Restoration Benefit would otherwise be distributed pursuant to Section 8.04, the Plan Administrator shall have the authority to offset the Participant’s benefit under this Plan by whatever amount is actuarially necessary, using the Applicable Interest Rate and the Applicable Mortality Table, to reflect such distribution(s). Such distribution(s) may include, but are not limited to, a distribution that is made from the Ninth District Pension Plan pursuant to a qualified domestic relations order (a “QDRO”) or a distribution from this Plan that is made pursuant to Section 8.12. The intent of this Section is to prevent a Participant from experiencing a windfall in the event that part or all of the Participant’s benefit under the Ninth District Pension Plan is distributed prior to the date that the Participant’s benefit is calculated under this Plan.
ARTICLE IV
VESTING OF NINTH DISTRICT PENSION RESTORATION BENEFIT

Section 4.01 Vesting of Ninth District Pension Restoration Benefit. A Participant shall become vested in his/her Ninth District Pension Restoration Benefit at the same rate he/she would have become vested in any such benefit under the Ninth District Pension Plan. A Participant whose pension benefit is provided under the Ninth District Spinoff Pension Plan (rather than under the Ninth District Pension Plan) shall be 100% vested in his/her Ninth District Pension Restoration Benefit on September 30, 2007. A Participant’s nonvested interest in his/her Ninth District Pension Restoration Benefit shall be forfeited if the Participant incurs a forfeiture of his/her nonvested benefits under the Ninth District Pension Plan.
PART C – PROVISIONS RELATING SOLELY TO ELEVENTH DISTRICT PENSION RESTORATION BENEFITS

Part C of this Plan contains provisions that are applicable only to the Eleventh District Pension Restoration Benefits. Part B of this Plan contains provisions that are applicable only to the Ninth District Pension Restoration Benefits.

ARTICLE V
PARTICIPATION AS TO ELEVENTH DISTRICT PENSION RESTORATION BENEFITS

Section 5.01 Participation. An Employee becomes a Participant as to the Eleventh District Pension Restoration Benefits as of the later of:

(A) The date on which the Employee first participates in the Eleventh District Pension Plan; or

(B) October 21, 1992.
ARTICLE VI
ELEVENTH DISTRICT PENSION RESTORATION BENEFIT PROVISIONS

Section 6.01 Definitions Used in Calculating Eleventh District Pension Restoration Benefits. Where the following words and phrases appear in this Article, they shall have the respective meanings as set forth in this Section, unless the context clearly indicates otherwise. Where the defined meaning is intended, the term is capitalized. Such words and phrases are used in calculating a Participant’s Eleventh District Pension Restoration Benefit and are not to be used in calculating a Participant’s Ninth District Pension Restoration Benefit.

(A) “Actuarial Equivalent” means a form of benefit differing in time, period, and/or manner of payment from another form of benefit but having the same value when computed using the Applicable Interest Rate and the Applicable Mortality Table.

(B) “Applicable Benefit Formula” means the formula in the Eleventh District Pension Plan that is used to calculate the amount of the actual benefit the Participant will receive under the Eleventh District Pension Plan.

(C) “Applicable Interest Rate” means the interest rate for immediate and deferred lump sum factors that is specified in the Eleventh District Pension Plan, as such interest rate is in effect on the date it is used for the required calculation(s) under this Article.

(D) “Applicable Mortality Table” means the mortality table for immediate and deferred lump sum factors that is specified in the Eleventh District Pension Plan, as such mortality table is in effect on the date it is used for the required calculation(s) under this Article.

(E) “Eleventh District Pension Benefit Limitations” means (i) the limitations on the Participant’s accrued benefit under the Eleventh District Pension Plan that result from the imposition of Code §§ 401, 410, and 415 and (ii) any limitation on benefits under the Eleventh District Pension Plan caused by the exclusion of contributions to any plan of deferred compensation from “Regular Salary,” as that term is defined in the Eleventh District Pension Plan.

(F) “In-Service Distribution” means a distribution under the Eleventh District Pension Plan to or on behalf of a Participant which occurs prior to such Participant’s Separation from Service under this Plan.

(G) “Normal Retirement Date” means “Normal Retirement Date,” as that term is defined in the Eleventh District Pension Plan.

(H) “Qualified Retirement Date” means the earliest date on which a Participant may elect to receive retirement benefits under the Eleventh District Pension Plan.
(I) “Retirement Eligible” means that a Participant is eligible to receive retirement benefits under the Eleventh District Pension Plan because the Participant has attained his/her Qualified Retirement Date.

Section 6.02 Amount of Eleventh District Pension Restoration Benefit. Except as otherwise provided in Section 6.04, if a Participant is Retirement Eligible upon his/her Separation from Service, the amount of the Participant’s Eleventh District Pension Restoration Benefit under this Plan shall be the present value of an immediate monthly annuity, as calculated on the first administratively practicable date following the Participant’s Separation from Service and using the Applicable Interest Rate and the Applicable Mortality Table. Such immediate monthly annuity shall be calculated as follows:

(A) The Participant's intended vested benefit under the Eleventh District Pension Plan, as calculated pursuant to Section 6.05, less

(B) The Participant’s actual vested benefit under the Eleventh District Pension Plan, as calculated pursuant to Section 6.06.

Once a Participant’s Eleventh District Pension Restoration Benefit is calculated pursuant to this Section, it shall not increase, except through the accrual of earnings pursuant to Section 8.09.

Section 6.03 Amount of Eleventh District Pension Restoration Benefit if not Retirement Eligible. Except as otherwise provided in Section 6.04, if a Participant is not Retirement Eligible upon his/her Separation from Service, the amount of the Participant’s Eleventh District Pension Restoration Benefit under this Plan shall be the Actuarial Equivalent present value, as calculated on the first administratively practicable date following the Participant’s Separation from Service, of the monthly annuity that is calculated as follows:

(A) The Participant's intended vested benefit under the Eleventh District Pension Plan, as calculated pursuant to Section 6.05, less

(B) The Participant’s actual vested benefit under the Eleventh District Pension Plan, as calculated pursuant to Section 6.06.

For purposes of calculating the amounts in Subsections (A) and (B) when the Participant’s Separation from Service is for a reason other than the Participant’s death, it shall be assumed that the benefit under the Eleventh District Pension Plan commences on the Participant’s Normal Retirement Date. For purposes of calculating the amounts in Subsections (A) and (B) when the Participant’s Separation from Service is due to the Participant’s death, it shall be assumed that the benefit under the Eleventh District Pension Plan commences on the later of (a) the Participant’s Qualified Retirement Date or (b) the Participant’s actual date of death.

Once a Participant’s Eleventh District Pension Restoration Benefit is calculated pursuant to this Section, it shall not increase, except through the accrual of earnings pursuant to Section 8.09.
Section 6.04 Effect of In-Service Distribution from Eleventh District Pension Plan. If a Participant receives an In-Service Distribution from the Eleventh District Pension Plan, the present value of the immediate monthly annuity calculated pursuant to Section 6.02 or of the monthly annuity calculated pursuant to Section 6.03 shall be calculated on the first administratively practicable date following such In-Service Distribution, rather than on the first administratively practicable date following the Participant's Separation from Service. Once a Participant's Eleventh District Pension Restoration Benefit is calculated pursuant to this Section, it shall not increase, except through the accrual of earnings pursuant to Section 8.09.

Section 6.05 Calculation of Intended Vested Benefit. As required by Section 6.02(A) and Section 6.03(A), the amount of a Participant's intended vested benefit under the Eleventh District Pension Plan shall be calculated using the Applicable Benefit Formula without regard to the Eleventh District Pension Benefit Limitations.

Section 6.06 Calculation of Actual Vested Benefit. As required by Section 6.02(B) and Section 6.03(B), the amount of a Participant’s actual vested benefit under the Eleventh District Pension Plan shall be calculated using the Applicable Benefit Formula.

Section 6.07 Limitation on Benefits. The combined total of a Participant’s accrued benefit under the Eleventh District Pension Plan and the Participant’s Eleventh District Pension Restoration Benefit may not exceed the benefit the Participant would have received from the Eleventh District Pension Plan if the Participant’s benefit under the Eleventh District Pension Plan had not been limited or reduced as a result of the Eleventh District Pension Benefit Limitations.

Section 6.08 Actuarial Offset for Prior Distributions. In the event that a distribution is made from this Plan and/or the Eleventh District Pension Plan prior to the date that a Participant’s Eleventh District Pension Restoration Benefit would otherwise be distributed pursuant to Section 8.04, the Plan Administrator shall have the authority to offset the Participant’s benefit under this Plan by whatever amount is actuarially necessary, using the Applicable Interest Rate and the Applicable Mortality Table, to reflect such distribution(s). Such distribution(s) may include, but are not limited to, a distribution that is made from the Eleventh District Pension Plan pursuant to a qualified domestic relations order (a “QDRO”) or a distribution from this Plan that is made pursuant to Section 8.12. The intent of this Section is to prevent a Participant from experiencing a windfall in the event that part or all of the Participant’s benefit under the Eleventh District Pension Plan is distributed prior to the date that the Participant’s benefit is calculated under this Plan.
ARTICLE VII
VESTING OF ELEVENTH DISTRICT PENSION RESTORATION BENEFIT

Section 7.01 Vesting of Eleventh District Pension Restoration Benefit. A Participant shall have a 100% vested interest at all times in his/her Eleventh District Pension Restoration Benefit.
PART D – PROVISIONS OF GENERAL APPLICABILITY

Part D of this Plan is applicable to the entire Plan.

ARTICLE VIII
DISTRIBUTIONS

Section 8.01 Effective Date of Article. The provisions of this Article apply to any distributions from this Plan made on or after January 1, 2005.

Section 8.02 Legal Compliance. No distributions shall be made pursuant to this Plan except as permitted by Code § 409A and the IRS and Treasury guidance issued thereunder.

Section 8.03 Distribution Event. Except as otherwise provided in this Article, any accrued Benefit to which a Participant or a Beneficiary is entitled under this Plan shall be payable to or with respect to a Participant only upon a Participant’s Separation from Service.

Section 8.04 Time of Distribution. The time of distribution of a Participant’s Benefit under this Plan shall be determined as follows:

(A) General Rule. Except as otherwise provided in this Article, the time of distribution of a Participant’s Benefit under this Plan (including earnings attributable thereto) shall be any day during the month of January that is in the Plan Year immediately following the Plan Year in which the Participant’s Separation from Service occurs.

(B) Special Rule for the Eleventh District Through 2007. If a Participant’s Separation from Service occurred on or before December 31, 2007, the Participant’s Eleventh District Pension Restoration Benefit shall be distributed at the same time as the time at which the Participant’s benefit under the Eleventh District Pension Plan is distributed.

The actual date of payment may be later than the specified time of distribution if there are administrative delays in calculating the Benefit or for other delays permitted by Code § 409A.

Section 8.05 Form of Distribution. The form of distribution of a Participant’s Benefit under this Plan shall be determined as follows:

(A) General Rule. Except as otherwise provided in this Article, a Participant’s Benefit under this Plan (including earnings attributable thereto) shall only be distributed in one of the following alternate forms of distribution:

(1) Lump Sum Payment. A lump sum payment; or

(2) Installment Payments. Annual installment payments over a two (2) to ten (10) year installment period, subject to the following:
(a) One installment payment shall be made during each month of January in the installment period elected by the Participant, beginning with the month of January immediately following the Participant’s Separation from Service.

(b) The amount of each installment payment shall be equal and shall be determined as of December 31 of the Plan Year in which such Participant’s Separation from Service occurs by first determining the total amount of the Participant’s Benefit under this Plan (including earnings attributable thereto as calculated pursuant to Section 8.09) and then dividing by the number of installment payments.

Example. If (i) a Participant’s Separation from Service occurs on September 30, 2011; (ii) the Participant is due to receive the first of ten installment payments in January 2012, and (iii) the value of the Participant’s Benefit is $100,000 on October 1, 2011, then the value of such Participant’s Benefit as of December 31, 2011, will be $102,000 (assuming an Applicable Interest Rate of 8%). Using an Applicable Interest Rate of 8%, the total amount of payments to the Participant over the 10-year installment period will be $140,750. Therefore, each annual installment payment will be $14,075, and the total earnings over the 10-year installment period will be $38,750.

(B) Special Rule for the Eleventh District Through 2007. Notwithstanding any other provision of this Plan, if a Participant’s Separation from Service occurred on or before December 31, 2007, the Participant’s Eleventh District Pension Restoration Benefit (including earnings attributable thereto) shall be distributed in the same form as the form in which the Participant’s benefit under the Eleventh District Pension Plan is distributed.

Section 8.06 Election as to Form of Distribution. A Participant may make an election as to the form of distribution of his/her Benefit under this Plan (including earnings attributable thereto) as follows:

(A) Rule for Existing Participants. Participants who participated in this Plan prior to January 1, 2007, were permitted, in the sole discretion of the Plan Administrator, to make an election as to one of the alternate forms of distribution allowed pursuant to Section 8.05(A). Such an election had to be made on an Election Form and filed on or before December 31, 2007. The election shall apply to all distributions of the Participant’s Benefit under this Plan (including earnings attributable thereto). Except as provided in Subsection (C), such election shall be effective as of the date it is accepted by the Plan Administrator, but no earlier than January 1, 2007.
30-Day Rule for New Participants. Except as otherwise provided in this Section, an Employee who becomes a Participant on or after January 1, 2007, may, in the sole discretion of the Plan Administrator, make an election as to one of the alternate forms of distribution allowed pursuant to Section 8.05(A) (including, if installment payments are elected, the number of installment payments). Such an election must be made on an Election Form and filed within thirty (30) days following the earliest of the following dates:

(1) The date on which the Employee first becomes eligible to make deferrals of compensation into any plan of deferred compensation, which deferrals would be excluded from “Compensation,” as that term is defined in the Ninth District Pension Plan;

(2) The date on which the Employee first becomes eligible to make deferrals of compensation into any plan of deferred compensation, which deferrals would be excluded from “Regular Salary,” as that term is defined in the Eleventh District Pension Plan;

(3) January 1 of the year immediately following the first year in which the Employee’s accrued benefit under either the Ninth District Pension Plan or the Eleventh District Pension Plan is limited by the imposition of Code §§ 401, 410, and/or 415; or

(4) The date on which the Employee first becomes eligible to participate in any agreement, method, program, or other arrangement that is treated as a single plan with this Plan under the plan aggregation rules of the IRS and Treasury guidance issued under Code § 409A.

Such an election shall apply to all distributions of the Participant’s Benefit under this Plan (including earnings attributable thereto). Except as provided in Subsection (C), such election shall be effective as of the date it is accepted by the Plan Administrator.

Special Rule for the Eleventh District. An election pursuant to Subsections (A) or (B) that applies to a Participant’s Eleventh District Pension Restoration Benefit and that was accepted by the Plan Administrator on or before December 31, 2007, shall become effective on January 1, 2008.

If an election pursuant to this Section would violate the transition rules set forth in Section 8.08(E), then such election is not effective, and the Participant’s Benefit shall be distributed at the time and in the form required by good faith, operational compliance with Code § 409A; provided, however, an election pursuant to Section 8.06(B) is never subject to the transition rules in Section 8.08(E).

Section 8.07 Default Form of Distribution. If a Participant does not make a valid election pursuant to Section 8.06, the default form of distribution of the Participant’s Benefit under this Plan (including earnings attributable thereto) shall be determined as follows:
(A) **General Rule.** Except as otherwise provided in this Section, if a Participant does not make a valid election pursuant to Section 8.06 as to the form of distribution, the default form of distribution of the Participant’s Benefit under this Plan (including earnings attributable thereto) shall be as if the Participant elected installment payments over a 3-year installment period pursuant to Section 8.05(A)(2).

(B) **Special Rules for Ninth District.** If a Participant (i) participated in this Plan prior to January 1, 2007, (ii) had a Separation from Service on or after January 1, 2005, but before December 31, 2007, and (iii) did not make a valid election pursuant to Section 8.06(A), then the default form of distribution of his/her Ninth District Pension Restoration Benefit (including earnings attributable thereto) shall be a lump sum payment; provided, however, if the value of such Participant’s Ninth District Pension Restoration Benefit (excluding earnings attributable thereto) exceeds $25,000 (valued as of the date of the Participant’s Separation from Service), the default form of distribution of such Benefit (including earnings attributable thereto) shall be as if the Participant elected installment payments over a 5-year installment period pursuant to Section 8.05(A)(2).

If the default form of distribution pursuant to this Section would violate the transition rules set forth in Section 8.08(E), then the Participant’s Benefit shall be distributed in the time and form required by good faith, operational compliance with Code § 409A.

**Section 8.08 Change of Election as to Form of Distribution.** Except as otherwise provided in this Article, a Participant may elect to change the form of distribution of his/her Benefit under the Plan (except a form of distribution determined pursuant to Section 8.05(B)), subject to all of the following conditions:

(A) **Limitation on New Form of Distribution.** The Participant is limited to the alternate forms of distribution allowed pursuant to Section 8.05(A);

(B) **12-Month Delay in Effective Date.** The election may not take effect until twelve (12) months after the date of such election;

(C) **5-Year Rule.** The Participant’s time of distribution must be changed to a month of January that is at least five (5) years from the month of January such distribution would otherwise have occurred (or, in the case of a distribution in the form of installment payments, a month of January that is at least five (5) years from the month of January in which the first installment was otherwise scheduled to be made). If a Participant fails to specify such a month, the new time of distribution shall be the month of January that is five (5) years after the month of January in which such distribution would otherwise have occurred (or, in the case of distribution in the form of installment payments, the month of January that is five (5) years from the month of January in which the first installment payment was otherwise scheduled to be paid);
(D) **Latest Payout Allowed.** A Participant is not permitted to change his/her election as to the form of distribution if such change (i) would cause the new time of distribution to be later than the month of January that is ten years after the time of distribution specified in Section 8.04 or (ii) would cause the final installment payment to be made more than ten (10) years after the installment payment would have been made if the time of distribution was the month of January specified in Section 8.04. For example, a Participant may not change his/her form of distribution from a lump sum payment to installment payments over a 10-year period, because the provisions of Subsection (C) would require some of the installment payments to be paid later than ten years after the month of January that is in the Plan Year immediately following the Plan Year in which the Participant’s Separation from Service occurs. Therefore, this Subsection would prohibit the Participant from making such a change in the form of distribution;

(E) **Transition Rules.** In accordance with the Code § 409A transition relief provided by the Treasury and the IRS, an election change that occurred during 2006 or 2007 as to the form of distribution of a Participant’s Benefit under this Plan is not required to comply with the rules specified in Subsections (B) and (C), provided that the election change satisfies the following requirements:

1. **2006 Rules.** If the election change was made in 2006, it may apply only to those amounts that would not otherwise be payable in 2006 and may not cause an amount to be paid in 2006 that would not otherwise be payable in 2006; and

2. **2007 Rules.** If the election change was made in 2007, it may apply only to those amounts that would not otherwise be payable in 2007 and may not cause an amount to be paid in 2007 that would not otherwise be payable in 2007.

If the IRS and Treasury publish additional Code § 409A transition relief for periods after 2007 regarding changes of election as to the form of distribution of a Participant’s Benefit, Participants shall be permitted to make such changes in accordance with such transition relief; and

(F) **Election Form Required.** A change of election pursuant to this Section shall be made by filing an Election Form with the Plan Administrator.

**Section 8.09 Earnings.** Earnings on a Participant’s Benefit under this Plan shall accrue as follows:

(A) **Earnings After Transfer to Ninth District Spinoff Pension Plan.** A Participant’s Ninth District Pension Restoration Benefit (including earnings attributable thereto) that is calculated pursuant to Section 3.05 shall accrue interest at a rate of five percent (5%), beginning on September 30, 2007, and ending on the date that such Participant’s Ninth District Pension Restoration Benefit is fully distributed.
(B) **Earnings After In-Service Distribution of Pension Benefits.**

(1) **From Ninth District Pension Plan.** If a Participant receives an In-Service Distribution (as that term is defined in Section 3.01) from the Ninth District Pension Plan, his/her Ninth District Pension Restoration Benefit (including earnings attributable thereto) shall accrue interest using the Applicable Interest Rate (as that term is defined in Section 3.01), beginning on the date that such In-Service Distribution begins and ending on the date of such Participant’s Separation from Service.

(2) **From Eleventh District Pension Plan.** If a Participant receives an In-Service Distribution (as that term is defined in Section 6.01) from the Eleventh District Pension Plan, his/her Eleventh District Pension Restoration Benefit (including earnings attributable thereto) shall accrue interest using the Applicable Interest Rate (as that term is defined in Section 6.01), beginning on the date that such In-Service Distribution begins and ending on the date of such Participant’s Separation from Service.

(C) **Earnings After Separation from Service.** Except as provided in Subsection (A) regarding Participants whose pension benefit is provided under the Ninth District Spinoff Pension Plan, beginning on the first day of the month immediately following a Participant’s Separation from Service and ending on the December 31 immediately prior to the date a Participant’s entire Benefit is scheduled to be fully distributed, earnings shall accrue on the Participant’s Ninth District Pension Restoration Benefits (including earnings attributable thereto) using the Applicable Interest Rate as defined in Section 3.01 and on the Participant’s Eleventh District Pension Restoration Benefits (including earnings attributable thereto) using the Applicable Interest Rate as defined in Section 6.01.

(D) **Earnings for Delayed Lump Sum Payment.** Except as provided in Subsection (A) regarding Participants whose pension benefit is provided under the Ninth District Spinoff Pension Plan, if the form of distribution of a Ninth District Pension Restoration Benefit or Eleventh District Pension Restoration Benefit is a lump sum payment, additional earnings shall accrue, beginning on the January 1 immediately following the Plan Year in which such Separation from Service occurs and ending on the date the lump sum payment is made, but only if the lump sum payment is made later than the January 31 immediately following the Plan Year in which such Separation from Service occurs. Such earnings shall accrue on a Ninth District Pension Restoration Benefit (including earnings attributable thereto) using the Applicable Interest Rate as defined in Section 3.01 and on an Eleventh District Pension Restoration Benefit (including earnings attributable thereto) using the Applicable Interest Rate as defined in Section 6.01. Earnings pursuant to this Subsection shall be compounded daily on the amount of the Participant’s unpaid Benefit.

(E) **Compounding of Earnings.** Earnings pursuant to this Section shall be compounded quarterly, except pursuant to Subsection (D).
Section 8.10  **Beneficiary Designation.** A Participant’s Beneficiary shall be designated as follows:

(A) **Designation Procedure.** A Participant from time to time may designate a Beneficiary, in writing, who is or may become entitled to a Benefit pursuant to the Plan. Such Beneficiary may be any person(s) (including a trust or other entity), contingently or successively, to whom the Participant’s Benefit under this Plan will be distributed in the event of the Participant’s death. The Plan Administrator shall prescribe the form for the Participant’s written designation of Beneficiary and, upon the Participant’s filing of the form with the Plan Administrator, all Beneficiary designations filed prior to that date by the same Participant are effectively revoked.

(B) **Failure to Make Designation.** If this Article requires distribution to a Beneficiary and the Participant either fails to name a Beneficiary in accordance with Subsection (A) or the Beneficiary named by a Participant predeceases the Participant, then distribution of the Participant’s Account shall be made in the following order of priority:

1. The Participant’s surviving Spouse; and if no surviving Spouse to
2. The Participant’s surviving children, including adopted children, in equal shares; and if none to
3. The Participant’s surviving parents, in equal shares; and if none to
4. The Participant’s estate.

If the Beneficiary designated by the Participant survives the Participant but dies prior to distribution of the Participant’s entire Benefit under this Plan, the remaining Benefit shall be paid to such Beneficiary’s estate unless the Participant’s Beneficiary designation provides otherwise.

(C) **Exception for Special Survivor’s Benefit Under the Eleventh District Pension Plan.** Notwithstanding Subsections (A) and (B), a Participant’s surviving Spouse shall be his/her Beneficiary as to any Eleventh District Pension Restoration Benefit (or portion thereof) attributable to any death benefit under the Eleventh District Pension Plan that is, by the terms of such plan, only payable to his/her surviving Spouse.

Upon the death of the Participant, the Beneficiary designated pursuant to this Section shall have all of the same rights and duties pursuant to the Plan as did the Participant.
Section 8.11 Reemployment Following a Separation from Service.

(A) Effect on Ninth District Pension Restoration Benefits. If a Participant has a Separation from Service and is subsequently reemployed by the same Participating Employer or another Participating Employer that participates in the Ninth District Pension Plan, any Ninth District Pension Restoration Benefit attributable to such reemployment shall be offset by the value of the Ninth District Pension Restoration Benefit attributable to such Separation from Service. The Plan Administrator shall have the authority to prescribe the method by which any such offset shall be calculated. Distribution of a Participant's Ninth District Pension Restoration Benefit shall continue as required pursuant to this Article, regardless of the Participant's employment or reemployment by any employer following a Separation from Service.

(B) Effect on Eleventh District Pension Restoration Benefits. If a Participant has a Separation from Service and is subsequently reemployed by the same Participating Employer or another Participating Employer that participates in the Eleventh District Pension Plan, any Eleventh District Pension Restoration Benefit attributable to such reemployment shall be offset by the value of the Eleventh District Pension Restoration Benefit attributable to such Separation from Service. The Plan Administrator shall have the authority to prescribe the method by which any such offset shall be calculated. Distribution of a Participant's Eleventh District Pension Restoration Benefit shall continue as required pursuant to this Article, regardless of the Participant's employment or reemployment by any employer following a Separation from Service.

Section 8.12 Permitted Acceleration Due to Failure of Plan Under Code § 409A. The time or schedule (in the case of installment payments) of any distribution of a Participant's Benefit under this Plan may be accelerated, in the Plan Administrator’s sole discretion, at any time the Plan fails to meet the requirements of Code § 409A and the IRS and Treasury guidance issued thereunder; provided, however, such distribution may not exceed the amount required to be included in income as a result of the failure to comply with the requirements of Code § 409A and the IRS and Treasury guidance issued thereunder.

Section 8.13 Tax Withholding. All federal, state, or local taxes that the Plan Administrator determines are required to be withheld from any distributions made pursuant to this Article shall be withheld.
ARTICLE IX
PLAN ADMINISTRATION

Section 9.01 Plan Administration. The Plan shall be administered by the Plan Administrator. The Plan Administrator shall have full power and authority to administer the Plan. The Plan Administrator’s duties and responsibilities include, but are not limited to, the following:

(A) Keeping track of which individuals are Participants;

(B) Keeping track of elections as to the form of distribution of Participants’ Benefit;

(C) Keeping track of Beneficiaries;

(D) Transmitting important communications to the Participants and Participating Employers and obtaining relevant information from Participants and Participating Employers; and

(E) Filing any reports that may be required to be submitted to governmental agencies.

The Plan Administrator may adopt such rules and procedures as it deems to be necessary, including claim and appeal procedures, may act in accordance with such rules and procedures, may delegate its duties and responsibilities, may appoint officers and agents to carry out its duties and responsibilities, and may receive reimbursements and compensation.

Section 9.02 Information. The Plan Administrator may require each Participant (or, if the Participant is deceased, the Participant’s Beneficiary(ies)) to supply such information and to sign such documents as are necessary to implement this Plan.

Section 9.03 Reliance on Tables, Valuations, Etc. The Plan Administrator shall be generally entitled, to the extent permitted by law, to rely conclusively upon such tables, valuations, certificates, opinions, data, and reports which are furnished by any actuary, legal counsel, accountant, controller, or other person with whom the Plan Administrator may contract for specific services or advice with respect to the Plan.

Section 9.04 Discretion. The Plan Administrator shall have full discretionary authority to interpret the Plan as it deems appropriate. Any discretion or judgment to be exercised by the Plan Administrator shall be exercised in the Plan Administrator’s sole and absolute discretion. Any interpretations, determinations, regulations, and calculations made by the Plan Administrator shall be final and binding.
ARTICLE X
FUNDING

Section 10.01 Payment from General Assets. Except as otherwise provided under Section 10.03, any Benefit distributed to or on behalf of a Participant shall be the obligation of the Participating Employer that employed the Participant; provided, however, if the Participant was employed by more than one Participating Employer, each Participating Employer is only obligated for the Benefit that is attributable to the Participant's employment with such Participating Employer. Benefits hereunder shall be paid in cash from the general assets of such Participating Employer. No Participating Employer shall be required to pay any Benefit under this Plan that is the obligation of another Participating Employer. The Plan, at all times, shall be entirely unfunded for tax purposes.

Section 10.02 No Specific Interest. No Participant, Beneficiary, or other person shall have any right, title, or interest in any particular assets of any Participating Employer by reason of the right to receive a Benefit under the Plan. To the extent the Participant, Beneficiary, or other person acquires a right to receive a Benefit under this Plan, such right shall be no greater than the right of any unsecured general creditor of the Participating Employer that is obligated to pay the Benefit pursuant to Section 10.01.

Section 10.03 Establishment of Trust. The Trust has been established to be used to pay Benefits arising under this Plan and may be used to pay all costs, charges, and expenses relating to the Plan. To the extent that the funds held in a Participating Employer’s subtrust account within the Trust are insufficient to pay such Benefits, costs, charges, and expenses for which the Participating Employer is obligated, the Participating Employer shall pay such Benefits, costs, charges, and expenses. It is the intention of each Participating Employer that the establishment of the Trust shall not cause this Plan to cease to be an unfunded plan for tax purposes.

Section 10.04 Funding of Trust. Each Participating Employer, in its discretion and in accordance with the requirements of the Foundations Administrative Agreement, may contribute to the Trust the amount it deems necessary to fund the cost of Benefits provided by this Plan for any Plan Year.
ARTICLE XI
AMENDMENT AND TERMINATION

Section 11.01 Right to Amend or Terminate. The Plan may only be amended or terminated according to the provisions of the Foundations Administrative Agreement; provided, however, no amendment or termination shall be made except as permitted by Code § 409A and the IRS and Treasury guidance issued thereunder. Any approved change will be added to the Plan in writing and communicated to Participants at such time and in such manner as the Plan Administrator deems necessary.

Section 11.02 Restated Plan Following Amendment. In the event that this Plan is amended, it may be simultaneously restated to incorporate such amendment(s) without the need for new Participating Employer Agreements to be executed. The Chair of the Plan Sponsor Committee shall sign the restated Plan document and/or any other amendment-related documents. The previously executed Participating Employer Agreements for all Participating Employers shall be fully applicable to any post-amendment restatement of the Plan.

Section 11.03 Effect of Termination. In the event of a termination of the Plan pursuant to this Article, unpaid Benefits will continue to be an obligation of the Participating Employer that is so obligated pursuant to Section 10.01 and shall be distributed pursuant to Article VIII. No Participating Employer shall be required to pay Benefits under this Plan that are the obligation of another Participating Employer.
ARTICLE XII
MISCELLANEOUS

Section 12.01 Limitation of Rights. Neither the establishment of this Plan nor any amendment thereof will be construed as giving to any Employee or other person any legal or equitable right against the Plan Sponsor Committee, the Plan Administrator, any Participating Employer, or any Participating Employer's officers or directors, except as expressly provided herein, and in no event will the terms of employment or service of any Participant be modified or in any way affected hereby.

Section 12.02 Nonassignability of Benefits. Benefits payable under this Plan are not subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, charge, garnishment, execution, or levy of any kind, either voluntary or involuntary, including any such liability that is for alimony or other payments for the support of a Spouse, former Spouse, or any other relative of the Participant. Any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, charge, or otherwise dispose of any right to Benefits payable under this Plan is void. No Participating Employer is in any manner liable for or subject to the debts, contracts, liabilities, engagements, or torts of any person entitled to Benefits under this Plan.

Section 12.03 Word Usage. Wherever any words are used herein in the feminine, masculine, or neuter gender, they shall be construed as though they were used in the feminine, masculine, or neuter gender, as the context may require, and vice versa, and wherever any words are used herein in the singular form they shall be construed as though they were also used in the plural form, as the context may require, and vice versa.

Section 12.04 Severability. If any provision of this Plan shall be held invalid or unenforceable, such invalidity or unenforceability shall not affect any other provisions thereof, and the Plan shall be construed and enforced as if such provisions had not been included.

Section 12.05 Contract of Employment. Nothing contained herein shall be construed to constitute a contract of employment between any Participating Employer and any Employee. Nothing contained herein shall be deemed to give any Employee the right to be retained in the employ of any Participating Employer or to interfere with the right of any Participating Employer to discharge any of its Employees at any time without regard to the effect such discharge might have on such Employees as Participants.

Section 12.06 State Law. The laws of the State of Delaware will determine all questions arising with respect to the provisions of this Plan except to the extent superseded by Federal law.

Section 12.07 Effect on Benefit Plans. Except to the extent otherwise specifically provided under a particular employee benefit plan sponsored by a Participating Employer, amounts paid pursuant to the terms of this Plan to a Participant who is employed by such Participating Employer shall not be considered to be salary or other compensation with respect to the Participant for purposes of computing benefits to which he/she may be entitled under any pension plan or other employee benefit plan or arrangement sponsored by the Participating Employer.
Section 12.08  Titles. The titles of Articles and Sections in the Plan are placed herein for convenience of reference only, and the Plan is not to be construed by reference thereto.