

# UMB Financial Corporation Information Security Statement



UMB Financial Corporation (UMB) believes that information security is an important part of our commitment to our clients, and a foundational aspect of delivering safe, secure and quality products and services. This belief is embedded in our culture and is emphasized throughout the organization by our Board of Directors, senior leaders, officers, managers and associates.

Our information security strategy is based on the security standards required by law or regulation, including those set forth in the Gramm-Leach-Bliley Act (GLBA), Sarbanes-Oxley (SOX), Health Insurance Portability and Accountability Act (HIPAA), state privacy laws, and on industry leading practices, including the Payment Card Industry Data Security Standard (PCI DSS) and the National Institute of Standards and Technology (NIST) Cyber Security Framework.

Guided by these applicable laws, regulations and standards, UMB's chief information security officer (CISO) and chief information officer (CIO) are responsible for ensuring that an agile, risk-based information security strategy is employed throughout the organization, comprised of the people, processes and technology required to maintain defense in depth.

UMB has extensive security policies, standards and procedures, including those related to physical security, access management, remote access, mobile devices, application and server security, network security, threat and vulnerability management and encryption. Access to information is granted on a "need to know" basis and all associates are trained throughout the year in order to minimize risk of improper disclosure.

In addition to internal examinations performed by UMB's Corporate Audit and Corporate Risk Services departments, our information security program is subject to regular oversight by numerous federal regulatory agencies, including the Securities Exchange Commission (SEC), the Federal Reserve Board (FRB), the Office of the Comptroller of Currency (OCC),

the Consumer Financial Protection Bureau (CFPB), and the Financial Industry Regulatory Authority (FINRA). We are also subject to the operating rules imposed by the Card Associations (i.e., Visa and MasterCard), and our security operations are regularly monitored by those associations.

Our service providers also have a fundamental responsibility to protect the sensitive health and financial information of our joint customers. UMB requires third parties accessing, processing or storing confidential information to adhere to the same information security standards as apply to UMB. Our comprehensive third party risk management framework ensures that each relationship is subject to in-depth due diligence procedures based on industry leading practices prior to establishing the relationship and during the course of the relationship. Third parties are contractually obligated to comply with specific requirements that incorporate these standards when handling sensitive health and financial information.

Our team of information security specialists is prepared to discuss this important area more fully with their counterparts in client and prospective client organizations, subject, of course, to appropriate nondisclosure agreements being in place prior to the initiation of such discussions.

**Information, in all its forms, is a valuable asset and UMB is committed to ensuring due care is exercised in its protection.**

**We believe that the protection of the information in our care is critical to the ongoing success of UMB and its clients and paramount to the safety, security and quality of the products and services we provide.**

# UMB BANK 403(b) CUSTODIAL AGREEMENT

[Revised February 2017]

## ARTICLE I: INTRODUCTION

- 1.1 Establishment of Account. This Agreement is intended to establish a 403(b) Custodial Account meeting the requirements of Code Section 403(b)(7) and any other applicable requirements of the Internal Revenue Code of 1986 and, to the extent (if any) applicable, the requirements of the Employee Retirement Income Security Act of 1974. This Agreement and the Application will be interpreted and administered so as to carry out such intent.
- Except to the extent otherwise required under Code Section 403(b) and the regulations thereunder, the Application signed by the Employee and Employer and accepted by UMB Financial Corporation (UMB Bank) as Custodian and this Agreement (which is incorporated by reference into the Application), as they may be amended from time to time, are the legal documents governing the Account and shall supersede any provisions of the Employer Plan which are inconsistent with the terms herein.
- 1.2 Effective Date. This Agreement will become effective on the date on which the Custodian accepts the Application signed by the Employee and Employer. Such acceptance is indicated by the Custodian (or its agent) opening the Account for the Employee's benefit, which will occur on the date when the Custodian receives and accepts a contribution to the Account. If all required forms and information are properly submitted, UMB Bank will accept appointment as Custodian of the Employee's Account. However, this Agreement (and the Application) is not binding upon the Custodian until the Employee has received a statement confirming the initial transaction for the Account. Receipt by the Employee of a confirmation of the purchase of Fund shares for the Account as directed in the Application will serve as notification of UMB Bank's acceptance of appointment as Custodian of the Employee's Account.

## ARTICLE 2: DEFINITIONS

- 2.1 Account or Employee's Account means the account established and maintained by the Custodian under this Agreement for the benefit of the Employee.
- 2.2 Annuity Contract means a nontransferable contract as described in Code Section 403(b)(1), established for an employee under the Employer Plan, that is issued by an insurance company qualified to issue annuities in a state, a political subdivision of a state, or any agency or instrumentality of a state (and including, for purposes of this definition, the District of Columbia) and that includes payment in the form of an annuity.
- 2.3 Application means the Lord Abbett 403(b) Application, which incorporates this Agreement, signed by the Employee and Employer, as it may be amended from time to time.
- 2.4 Agreement means this 403(b) Custodial Account Agreement with UMB Bank as Custodian, as it may be amended from time to time.
- 2.5 Beneficiary means an individual or entity designated by the Employee to receive payment of all or part of the amount in the Account upon the death of the Employee. (See also Article 9.)
- 2.6 Code means the Internal Revenue Code of 1986, as it may be amended from time to time, or any successor statute enacted in lieu thereof. Reference to any provision of the Code includes reference to any replacing provision or to any similar provision in a successor statute.
- 2.7 Custodian means UMB Bank, or any party serving as successor custodian in accordance with this Agreement.
- 2.8 Designated Vendor means a Vendor that is eligible to receive contributions under the Employer Plan.
- 2.9 Employee means the individual who signed the Application to establish the Account. At the time any Employer contributions to the Employee's Account are earned, the Employee must be a common law employee of an employer described in subsection 2.11(a), or a common law employee of an employer described in subsection 2.11(b) who performs services for an educational organization (as defined in Code Section 170(b)(1)(A)(iii)), or a minister described in Code Section 414(e)(5)(A). An independent contractor shall not be considered an Employee for purposes of the preceding sentence. An individual shall be deemed to be an Employee hereunder until he or she has received a distribution of his or her entire benefit under the Employer Plan.
- 2.10 Employer means the Employer of the Employee. The Employer must be:
- (a) an organization described in Code Section 501(c)(3) exempt from taxation under Code Section 501(a); or
  - (b) a state, political subdivision of a state, or an agency or instrumentality of any one or more of the foregoing; or
  - (c) the minister (if self-employed) or the entity employing a minister and with whom the minister shares common religious bonds.
- 2.11 Employer Plan means a plan described in Treasury Regulation Section 1.403(b)-3(b)(3) that the Employer has established and maintains for the benefit of its Employees.
- 2.12 ERISA means the Employee Retirement Income Security Act of 1974, as it may be amended from time to time, or any successor statute enacted in lieu thereof. Reference to any provision of ERISA includes reference to any replacing provisions or to any similar provision in a successor statute.
- 2.13 Exchange means any investment change from an Annuity Contract or Custodial Account to another Annuity Contract or Custodial Account that is not provided by a Designated Vendor, and that satisfies the requirements of Treasury Regulation Section 1.403(b)-10(b)(2).

- 2.14 Fund or Funds means one or more mutual funds the shares of which are available from time to time as investments for the Account, provided however that shares of the Fund may legally be offered for sale in the state where the Employee resides. The Fund(s) available will be designated in the Application or in another listing provided to the Employee. The Employer will have the power to designate the Funds available under the Employer Plan as investments for the Account. The Custodian will have no responsibility for such selections.
- 2.15 Fund Distributor means the entity that has a contract with the Fund to serve as distributor of such Fund's shares. If there is no Fund Distributor then the duties assigned hereunder to the Fund Distributor are performed by the Fund or an entity that has a contract to perform management or investment advisory services for the Fund.
- 2.16 Plan Administrator means the Employer, except to the extent the Employer designates one or more other persons in writing and such other person(s) agree in writing to serve as such.
- 2.17 Plan-to-Plan Transfer means a transfer of assets between an Annuity Contract or Custodial Account under the Employer Plan and an Annuity Contract or Custodial Account under another employer's plan described in Code Section 403(b) that satisfies the requirements of Treasury Regulation Section 1.403(b)-10(b)(3).
- 2.18 Related Employer means the Employer and any other entity which is under common control with the Employer under Code Sections 414(b) or (c).
- 2.19 Severance from Employment means severance from employment with the Employer and any Related Employer. A Severance from Employment occurs on any date on which an employee ceases to be an employee of the Employer or a Related Employer, even though the Employee may continue to be employed by another entity that is treated as the same employer where either the other entity is not an entity that can be an eligible employer (as defined in Code Section 403(b)(1)(A)) or in a capacity that is not employment with an eligible employer.
- 2.20 "Spouse" means an individual married to the Depositor under the laws of any jurisdiction. The term "spouse" shall include same-sex individuals whose marriage was validly entered into in a jurisdiction whose laws authorize such marriage even if the couple is domiciled in a jurisdiction that does not recognize the validity of same-sex marriages. The term "spouse" shall not include individuals (whether of the same or opposite sex) who have entered into a registered domestic partnership, civil union, or other similar relationship recognized under the laws of a jurisdiction that is not denominated as marriage under the laws of the jurisdiction. A Depositor and his or her spouse are deemed to be "married" for all purposes of this Agreement.
- 2.21 Vendor means the investment provider of an Annuity Contract or Custodial Account.

### ARTICLE 3: CONTRIBUTIONS TO ACCOUNT

3.1 Establishment of Account. The Custodian will open and maintain the Account in the name of the Employee.

3.2 Contributions to Account.

(a) Payroll Investment Contributions. In connection with the Account, the Employee and the Employer may enter into a payroll investment agreement, and the Employer will contribute to the Employee's Account all amounts by which the Employee's salary is reduced under such payroll investment agreement. The Employee's interest in such contributions to the Account will be nonforfeitable at all times.

Any payroll investment agreement between the Employer and the Employee will be effective only as to amounts earned by the Employee after such agreement becomes effective. A payroll investment agreement may not be retroactively revoked or modified with respect to amounts already earned by the Employee.

Either the Employee or the Employer may terminate a payroll investment agreement at the end of any payroll period. Following termination of a payroll investment agreement, the Employee may reinstate his or her payroll investment agreement or may enter into a new payroll investment agreement with the Employer. The Employee may modify the payroll investment agreement at any time. However, the Employer may impose reasonable restrictions on the frequency with which the Employee may terminate, reinstate, or modify a payroll investment agreement. Any termination, reinstatement, or modification will relate only to compensation not yet earned, and not to compensation already earned, by the Employee as of the effective date of such termination, reinstatement, or modification.

(b) Employer Contributions. In addition to (or instead of) payroll investment contributions under subsection (a) above, the Employer may make contributions to the Account.

The Custodian shall not be responsible for the timing of or for determining the amount of contributions the Employer may make on behalf of an Employee, nor shall the Custodian be responsible in any way to compel to Employer to make contributions to an Employee's Account.

Such a contribution may be a matching Employer contribution (a contribution which is contingent upon the Employee's making payroll investment contributions to the Account or other contributions under another arrangement) or a nonmatching Employer contribution (any contribution by the Employer other than a contribution pursuant to a payroll investment agreement with the Employee or a matching Employer contribution). Unless subject to a vesting schedule set forth in the Employer Plan, the Employee's interest in Employer contributions to the Account will be nonforfeitable at all times.

3.3 Designated Roth Contributions. If permitted under the terms of the Employer Plan and if so provided in the Application (or in the procedures adopted by the Custodian), the Employee may make payroll investment contributions in accordance with Treasury Regulation Section 1.403(b)-3(c), which requires:

(a) that the Employee irrevocably designate the payroll investment contribution at the time of his deferral election in his payroll investment agreement as a designated Roth contribution that is being made in lieu of all or a portion of the Code Section 403(b) pretax payroll investment that the Employee is otherwise eligible to make under the Employer Plan;

(b) that such contributions are treated by the Employer as includible in the Employee's gross income at the time the Employee would have received the amount in cash if the Employee had not entered into the payroll investment agreement; and

(c) that such contributions shall be maintained in a separate subaccount by the Custodian. Designated Roth contributions made hereunder shall be subject to the same requirements as pretax payroll investment contributions, including the distribution restrictions of Treasury Regulation Section 1.403(b)-6(d) and the minimum required distribution rules of Code Section 401(a)(9) and regulations thereunder.

### 3.4 Plan-to-Plan Transfers, Exchanges, and Rollovers to Account.

(a) Plan-to-Plan Transfers and Exchanges to Account. If and to the extent permitted under the Employer Plan, the Employee may by appropriate instructions direct a Plan-to-Plan Transfer or Exchange to the Account from an existing Custodial Account or Annuity Contract. Plan-to-Plan Transfers and Exchanges must be in cash. With respect to an Exchange to the Account, the Custodian will only accept such Exchange if an information sharing agreement is entered between the Fund Distributor and the Employer under which the Employer and the Fund Distributor will from time to time provide each other with information concerning the Employee's employment, information that takes into account other Section 403(b) contracts or qualified employer plans (such as information related to distribution restrictions and hardship withdrawals) and any information necessary to satisfy other tax requirements. No Plan-to-Plan Transfers or Exchanges will be accepted by the Custodian or Fund Distributor on or after the date such Fund Distributor no longer makes its Funds available to the Account.

(b) Rollovers to Account. The Custodian will accept cash rollover contributions from the Employee provided such amounts constitute rollover amounts under Code Section 403(b)(8), an eligible rollover distribution under Code Section 402(c)(4), a rollover amount under Code Section 457(e)(16), or rollover contributions under Code Section 408(d)(3)(A)(iii) (or other applicable Code section). Rollover contributions that include designated Roth contribution amounts will be accepted only if Employees are permitted to make designated Roth contributions. Notwithstanding the foregoing, rollover of amounts of aftertax employee contributions is not permitted. No rollover to the Account will be accepted by the Custodian or Fund Distributor on or after the date such Fund Distributor no longer makes its Funds available for rollovers to the Account.

(c) Conditions for Acceptance of Plan-to-Plan Transfers, Exchanges and Rollovers. To the extent required by regulations or Internal Revenue Service rulings, transfers or rollovers will be accepted only if the Custodian receives certification that the Annuity Contract or Custodial Account from which the Plan-to-Plan Transfer or Exchange is being made does not contain withdrawal or distribution restrictions that are more restrictive than those contained in this Agreement. The Employee will be responsible for insuring that any such transfer or rollover to the Account satisfies the requirements specified in this section and all other applicable provisions of the Code and Treasury regulations in order for the transfer or rollover to be a tax-free transaction.

The Employee will also be responsible for providing or ensuring that his or her Employer provides to the Fund Distributor any information concerning any Plan-to-Plan Transfers, Exchange, or rollover necessary to permit the Custodian to properly administer and/or report distributions from such Plan-to-Plan Transfer, Exchange, or rollover. Plan-to-Plan Transfers, Exchanges, and Rollovers by the Employee may be subject to a requirement that the Employer give consent to any such transaction.

3.5 Subaccounts. If the Account contains more than one type of contribution, transfer, exchange, or rollover under Sections 3.2, 3.3, or 3.4, the Custodian may agree to maintain separate subaccounts showing the amounts held in the Account derived from contributions under Section 3.2, 3.3, and/or 3.4, or the Custodian may require the maintenance of such separate subaccounts.

### 3.6 Limitations on Contributions.

(a) General Limitations on Contributions. The Employer shall have sole responsibility for determining that: (i) the aggregate Employer contributions made to an Account are made only with respect to the amount of the Employee's Compensation; (ii) the aggregate "elective deferrals" (within the meaning of Code Section 402(g)) made on the Employee's behalf by the Employer do not exceed the applicable limit on such elective deferrals prescribed in Code Section 402(g) for that year; (iii) the Employer matching Contributions credited to the Account do not exceed the applicable limit on such contributions prescribed in Code Section 401(m) (unless the Employer is a Church or the Employer Plan is a governmental plan within the meaning of Code Section 414(d) that is maintained by a state or local government or a political subdivision thereof (or an agency or instrumentality thereof); and (iv) Employer contributions to an Account (together with contributions made on behalf of such Employee to other "defined contribution" plans under the Code) do not exceed the limitations on annual additions contained in Code Section 415(c) and the Treasury regulations thereunder, subject to Code Section 415(k)(4).

(b) Catch-Up Contributions. If the Employee is age 50 or older by the end of any calendar year, the maximum payroll investment contributions to the Account by the Employee for such calendar year will be increased by the amount provided in Code Section 414(v) applicable to such year. In the event an employee is eligible for both the catch-up contribution under this subsection and the increased elective deferral limit under Code Section 402(g)(7), any additional amount contributed as a result of these increased limits shall be treated first as an amount contributed under the increased limit under Code Section 402(g)(7) and then as an age 50 catch-up contribution (to the extent the age 50 catch-up exceeds the amount of increase under 402(g)(7)).

(c) Aggregation. For purposes of this Article 3, if the Employee is or has been a participant in one or more other plans under Code Section 403(b) (and any other plan that permits elective deferrals under Code Section 402(g)), then the Employer Plan and all such other plans shall be considered as one Employer Plan for purposes of applying the foregoing limits of this Article 3. For this purpose, the Plan Administrator shall take into account any other such plan maintained by any Related Employer and shall also take into account any other plan for which the Plan Administrator receives from the Employee sufficient information concerning his or her participation in such other plan.

(d) Employer Matching Contributions. Matching Employer contributions may be subject to the nondiscrimination tests of Code Section 401(m).

(e) Neither the Custodian nor any affiliate of the Custodian shall be under any obligation to ensure that any contributions to the Account are in compliance with (i) the general limitations on contributions under subsection (a) above, (ii) the additional limitations on payroll investment contributions under subsection (b) above, or (iii) the nondiscrimination tests referenced in subsection (d) above, or to monitor compliance with such limitations or requirements, unless such obligation is expressly undertaken by separate written agreement between the Custodian and the Employer or Employee.

## ARTICLE 4: INVESTMENT OF CONTRIBUTIONS

4.1 Purchase of Shares. As soon as is practicable after the Custodian receives a contribution under Section 3.2 and/or Section 3.3, it will invest such contribution in shares or fractional shares of one or more Funds in accordance with the Employee's investment instructions. The Account may be invested in the shares of one or more Funds provided that any minimum investment requirements specified by the Funds' prospectuses are met.

The Employee will specify his or her investment instructions for the initial investment of contributions to the Account at the same time he or she completes the Application for the Account, and such instructions will remain in effect until the Custodian receives new instructions acceptable to the Custodian. However, if investment instructions for any contribution are not received from the Employee as required, or if any instructions

received by the Custodian are incomplete or ambiguous in the judgment of the Custodian, the Custodian may continue to invest contributions to the Account in accordance with the Employee's most recent investment instructions (if any) until such incompleteness or ambiguity has been resolved to the Custodian's satisfaction; alternatively, the Custodian may return any contributions received for the Employee's Account to the Employer or its authorized representative, or may hold any such contributions uninvested (or may invest them in a money market fund if available), until such instructions are provided by the Employee or until such incompleteness or ambiguity has been resolved to the Custodian's satisfaction. In either event, the Custodian will have no liability for interest or for loss or changes in investment values of Fund shares which occur pending the Employee's providing proper investment instructions or the resolution of such incompleteness or ambiguity (as the case may be). Any shares of a Fund held hereunder for the Employee's Account may be registered in the name of the Custodian or its nominee. All such shares and fractional shares shall be issued and accounted for as book entry shares, and no physical shares or share certificates will be issued.

- 4.2 Reports and Voting of Securities. The Custodian will deliver (or direct the delivery) to the Employee or, if applicable, his or her Beneficiary, all notices or reports to shareholders, prospectuses, financial statements, proxies, and proxy solicitation materials received by it with respect to shares of a Fund held in the Employee's Account. The Custodian will vote shares in accordance with the timely instructions of the Employee (or, if applicable, Beneficiary) as expressed in an executed proxy, if received timely by the Custodian. If no timely written instructions are received from the Employee (or Beneficiary), the Custodian will not vote the shares in the Account.
- 4.3 Dividends. The Custodian will invest all dividends and capital gains or other distributions received on the shares of a Fund held in the Account in additional shares and fractional shares of that Fund.
- 4.4 Change of Investments. Subject to any minimum investment requirement applicable to a Fund, the Employee (or his or her Beneficiary, if the Employee is deceased) may at any time direct the Custodian to redeem all or a specified portion of the shares of a Fund in the Employee's Account and to invest the net redemption proceeds in shares and fractional shares of one or more other Funds.

The Employee must give such directions in a form acceptable to the Custodian, and the Custodian will process such directions as soon as practicable after receipt thereof. If any such directions are incomplete or ambiguous in the judgment of the Custodian or otherwise not in good order, the Custodian will refrain from carrying out any transactions until such incompleteness or ambiguity or other defect has been resolved to its satisfaction, without liability for any loss or change in investment values of Fund shares which occur pending the resolution of such incompleteness or ambiguity.

Any sales or redemption fee or other charge payable in connection with any redemption will be paid from the Employee's Account if not paid from the redemption proceeds.

In the event that any Fund held in the Employee's Account is liquidated or is otherwise made unavailable by the sponsor or distributor of such Fund as a permissible investment for the Account hereunder, the liquidation or other proceeds of such Fund shall be invested in accordance with the instructions of the Employee; if the Employee does not give such instructions, or if such instructions are unclear or incomplete in the opinion of the Custodian, the Custodian may invest such liquidation or other proceeds in such other Fund (including a money market fund if available) as the sponsor or distributor of the Fund designates, and the Custodian will have no responsibility for such investment.

- 4.5 Others Who May Give Instructions. Any instructions concerning the purchase of shares, voting, or changes of investments under Section 4.1, 4.2, or 4.4 above may be given by the Employee's Beneficiary following the Employee's death (or if there is no surviving Beneficiary, by the executor or administrator of the Employee's estate).

In addition, the Employee (or, following the Employee's death, the Beneficiary or, if none, the executor or administrator of the Employee's estate) may by acceptable written instructions to the Custodian, authorize an agent or investment advisor to act on his or her behalf in giving instructions to the Custodian concerning the purchase of shares, voting, or change of investments under Section 4.1, 4.2, or 4.4 above, and the Custodian will be fully protected in following the instructions of such authorized agent or investment advisor. The Employee's (or Beneficiary's) appointment of any such agent or investment advisor will also be deemed to be instructions to the Custodian to pay such agent's or investment advisor's fees from the Account hereunder without additional authorization by the Employee (or Beneficiary).

## ARTICLE 5: WITHDRAWALS AND LOANS

- 5.1 Instructions to Custodian. The Custodian will process written directions from the Employer to make withdrawals. However, the Employer must ensure that withdrawals comply with the requirements of this article. No withdrawals will be processed upon the death of the Employee unless the Custodian has been notified in writing of the Employee's death, and the Custodian has been provided with verification of such death that is adequate in its judgment. Directions for withdrawals may be subject to a requirement that the Employer consent, or that the Employer will have the sole power to give such directions.
- 5.2 Withdrawals by Employee. Withdrawals from the Account may be made upon evidence satisfactory to the Employer on a form acceptable to and filed with the Custodian, subject to the provisions of this section.
  - (a) Events Permitting Withdrawal of Payroll Investment Contributions. Withdrawal from the Account may be made upon the occurrence of:
    - (i) the date the Employee reaches age 59½;
    - (ii) the date of the Employee's Severance from Employment;
    - (iii) the date the Employee becomes disabled; as used in this subsection (iii), "disabled" means unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or to be of long-continued and indefinite duration, as determined by the Employer, which may require the Employee to furnish a certificate of a licensed physician stating that the Employee is so disabled or may require the Employee to provide satisfactory evidence that the Employee has been awarded Social Security disability benefits before processing any withdrawals on account of the Employee's disability;

(iv) if and to the extent permitted under the Employer Plan, the termination of the Employer Plan as provided in Article 11: or

(v) if and to the extent permitted under the Employer Plan, the date the Employee encounters financial hardship within the meaning of Code Section 403(b)(7)(A)(ii) and applicable Treasury regulations and the provisions of this subsection (v), but only with respect to payroll investment contributions (but not earnings thereon) for years beginning after December 31, 1988. The Employee is required to provide to the Plan Administrator adequate verification of the existence of such a financial hardship and the amount needed to meet the financial hardship as the Plan Administrator determines. The Plan Administrator must determine that the withdrawal is for a purpose that is an immediate and heavy financial need of the Employee and the withdrawal does not exceed the amount of the financial need. The following circumstances have been deemed pursuant to Treasury Regulation Section 1.401(k)-1(d)(3)(iii)(B) to constitute an immediate and heavy financial hardship of the Employee:

(A) Expenses for medical care described in Code Section 213(d) previously incurred by the Employee, the Employee's spouse, designated Beneficiary, or any dependents of the Employee or necessary for these persons to obtain such medical care;

(B) Costs directly related to the purchase of a principal residence for the Employee (excluding mortgage payments);

(C) Payment of tuition, related educational fees, and room and board expenses, for the next 12 months of postsecondary education for the Employee, or the Employee's spouse, children, designated Beneficiary, or dependents;

(D) Payments necessary to prevent the eviction of the Employee from the Employee's principal residence or foreclosure on the mortgage on that residence.

(E) Payments for burial or funeral expenses for the Employee's deceased parent, spouse, designated Beneficiary, children, or dependents (as defined in Code Section 152(d)(1)(B)); or

(F) Expenses for the repair of damage to the Employee's principal residence that would qualify for the casualty deduction under Code Section 165 (without regard to whether the loss exceeds 10% of adjusted gross income).

A hardship withdrawal shall be permitted only if the withdrawal is not in excess of the amount of the immediate and heavy financial need of the Employee (including any amounts necessary to pay any federal, state, or local income taxes or penalties reasonably anticipated to result from the withdrawal), the Employee has obtained all distributions other than hardship withdrawals, and all nontaxable loans currently available under all plans maintained by the Employer, unless obtaining such loan would increase the severity of the Employee's hardship, and the Employee may not make any payroll investment contributions to the Account (or to any other plan maintained by the Employer) for a period of six months after receiving the hardship withdrawal. When the Employee resumes payroll investment contributions to the Account, the limit on payroll investment contributions under Code Section 402(g) will be reduced to the extent required by and in a manner consistent with any applicable regulations or rulings of the Internal Revenue Service on suspension of contributions following a hardship withdrawal.

The Employer shall be solely responsible for determining that the hardship withdrawal is in accordance with the Employer Plan, that the withdrawal is for an immediate and heavy financial hardship of the Employee, that the withdrawal does not exceed the amount of the financial need, and that the distribution is only of payroll investment contributions and not earnings thereon.

A financial hardship withdrawal under this subsection (v) may not include any earnings or investment gains on the payroll investment contribution amounts while held in the Account. The Employer will make final determination of a financial hardship and shall notify the Custodian of a financial hardship withdrawal.

(b) **Withdrawal of Excess Contributions or Deferrals.** If for any taxable year, any portion of the contributions to the Employee's Account is an excess contribution under Code Section 4973, the Employer may instruct the Custodian to pay such amount (plus earnings) to the Employee and the Custodian will process such withdrawal (subject to the requirements of subsection (a) above). Alternatively, the Employee may designate such amount as a contribution for a subsequent taxable year by appropriate written instructions to the Custodian.

If, on or before March 1 following the close of a calendar year, the Employee notifies the Custodian in writing that an amount in the Account constitutes a deferral (including payroll investment contributions) in excess of the applicable limit in Code Section 402(g) and requests to withdraw such amount (plus earnings), the Custodian will process such withdrawal and pay such amount (and any earnings allocable to such amount) to the Employee (or to his or her order) on or before the next following April 15.

(c) **Excess Matching Employer Contributions.** If any matching Employer contributions on behalf of the Employee to the Account exceed the limitations on such contributions under the applicable provisions of the Code (including Code Section 401(m) and regulations thereunder), the Employer may direct the Custodian to distribute the amount necessary to correct the excess to the Employee or the Employer.

(d) **Required Start of Withdrawals.** An employee must begin taking withdrawals from the Account no later than the April 1 of the year following the year in which the Employee reaches age 70½, or the April 1 following the Employee's retirement or termination of employment from the Employer, if later (the "required beginning date").

5.3 **Form of Distribution.** The Employee may elect to receive a cash distribution of the value of his or her Account, in either or any combination of the following forms, as directed by the Employee (subject, however, to Section 5.4 or 5.6 if applicable):

(a) A single sum.

(b) In withdrawals at such times and in such amounts as the Employee specifies, which can include specification of a regular program of monthly, quarterly, or annual installment payments, provided that the amount withdrawn in any distribution calendar year satisfies the requirements of Code Section 401(a)(9) and the regulations thereunder as applicable to custodial accounts operating under Code Section 403(b)(7) (for this purpose, a "distribution calendar year" is any calendar year with respect to which a distribution from the Account is required to satisfy Code Section 401(a)(9) and the regulations thereunder). The first distribution calendar year is the calendar year in which the Employee reaches age 70½ or the year of the Employee's retirement or termination of employment from the Employer, whichever is later. Each subsequent calendar year during the Employee's lifetime is also a distribution calendar year. The required minimum distribution for the Employee's first distribution calendar year must be withdrawn by the Employee by no later than the Employee's required beginning date. The required minimum distribution for each subsequent distribution calendar year must be withdrawn by the Employee before the end of such distribution calendar year. In general, the required minimum distribution for any distribution calendar year is the balance in the Employee's Account as of December 31 of the calendar year preceding such

distribution calendar year divided by the appropriate divisor based upon the Employee's age in such distribution calendar year in accordance with regulations under Code Section 401(a)(9); however, if the Employee's sole designated beneficiary is the Employee's spouse, and the spouse is more than 10 years younger than the Employee, the divisor is the joint life expectancy of the Employee and his or her spouse based on their attained ages for such distribution calendar year determined under applicable Treasury regulations.

The Employee may satisfy the minimum distribution requirements applicable to the Account by taking distributions from another Code Section 403(b) arrangement. The Custodian will not distribute any assets from the Employee's Account in the absence of a written withdrawal direction in good order from the Employee (or, if applicable, the Employee's Beneficiary, or, if none, the executor or administrator of the Employee's estate), and the Custodian will have no liability or responsibility for not making a distribution.

If the Employee fails to elect the time or form of distribution of benefits, the Custodian will assume that the Employee is satisfying any minimum distribution requirements from another Code Section 403(b) arrangement in such event.

(c) Distributions under \$1,000. Unless the Employer Plan provides otherwise, and notwithstanding Sections 5.4 and 5.6, if the value of an Account derived from Employer and Employee contributions does not exceed \$1,000 (or such other amount as may be specified in Code Sections 411(a)(11), 417(e) and 401(a)(31)) at the time of the Employee's Severance from Employment, the Employer or Plan Administrator may direct the Custodian to distribute the Account to the Employee in a single lump sum without regard to the consent of the Employee or the Employee's spouse. For purposes of applying the preceding sentence to distributions, the value of an Account shall be determined without regard to that portion of the Account that is attributable to rollover Contributions (and earnings allocable thereto) within the meaning of Code Sections 402(c), 402A(c)(3), 403(a)(4), 403(b)(8), 408(d)(3)(A)(ii), and 457(e)(16), unless the Employer Plan provides otherwise. In no event will the Custodian make such a distribution unless directed in writing to do so by the Employer or Plan Administrator.

(d) Unless the Employer Plan provides otherwise, subject to Code Section 401(a)(31), notwithstanding Sections 5.4 or 5.6, if the value of an Account derived from Employer and Employee contributions exceeds \$1,000 (including rollover contributions) but does not exceed \$5,000 (excluding rollover contributions, unless otherwise provided in the Employer Plan) (or such other amount as may be specified in Code Sections 411(a)(11) or 417(e)) at the time the Employee has a Severance from Employment, and the Employee does not affirmatively elect to have such distribution paid directly to him or her or to an "eligible retirement plan" as provided in Code Section 401(a)(31)(B), the Employer or Plan Administrator may direct the Custodian to distribute the Account to the Employee to an individual retirement account or annuity under Code Section 408 and/or 408A established for the Employee pursuant to a written agreement between the Employer and the provider of such individual retirement account or annuity that meets the requirements of Code Section 401(a)(31) and the regulations thereunder. In no event will the Custodian make such a distribution unless directed in writing to do so by the Employer or Plan Administrator.

#### 5.4 Qualified Joint and Survivor Annuity.

(a) In General. If the Employer Plan is subject to the qualified joint and survivor annuity requirements of ERISA Section 205, a married Employee's election to receive distributions in any form other than a qualified joint and survivor annuity will be invalid unless the Employee's spouse consents in writing to the election, and such spousal consent acknowledges the effect of the election. Such consent must be witnessed by a notary public, or by a representative of the Employer Plan if acceptable to the Custodian. If a married Employee does not elect a form of distribution, the distribution will be made in the form of a qualified joint and survivor annuity. If an unmarried Employee does not elect a different form of distribution, the distribution will be made in the form of an annuity for the Employee's life.

(b) Qualified Joint and Survivor Annuity Defined. A qualified joint and survivor annuity is a fixed or variable annuity contract purchased from an insurance company and distributed to the Employee, providing periodic payments for the life of the Employee, with a survivor annuity for the Employee's spouse (to whom the Employee was married when the annuity contract was purchased) in an amount equal to no less than 50% and no more than 100% of the amount payable during the joint lives of the Employee and the Employee's spouse.

(c) Disclosure Requirement. If subsection (a) applies, the Employer or Plan Administrator must furnish to the Employee a written notice at least 30 days, but no more than 90 days, before any distribution from the Account commences, which explains:

- (i) the terms and conditions of the qualified joint and survivor annuity;
- (ii) the Employee's right to make, and the effect of, an election to receive distributions in a form other than a qualified joint and survivor annuity;
- (iii) the right of the Employee's spouse to withhold consent to such an election; and
- (iv) the Employee's right to revoke any such election before the commencement of distributions.

Notwithstanding the foregoing, the Employee may elect to waive (with spousal consent) the 30-day minimum notice period described above, provided distribution begins no earlier than seven days after the notice is provided to the Employee.

(d) Waiver of Qualified Joint and Survivor Annuity. The Employee may elect to waive the qualified joint and survivor annuity, and elect another form of distribution described in Section 5.3, at any time during the 90-day period ending on the date of distribution. The spouse must give written consent to any such election by the Employee and acknowledge the effect of the Employee's election. A spouse's consent is only effective if the spouse's consent is witnessed by a notary public or, if agreed to by the Custodian, a representative of the Employer Plan.

(e) Missing Spouse. Notwithstanding the foregoing, if the Employee is married and certifies in writing to the Employer or Plan Administrator that such written consent may not be obtained because the spouse cannot be located, or because of other circumstances as set forth in the Code and applicable regulations, spousal consent is not required.

(f) Purchase of Annuity Contract. If distribution of the Employee's Account is to be in the form of a qualified joint and survivor annuity or a life annuity to the Employee under subsection (a) above, the Employer or Plan Administrator will specify the insurance company and the form of contract to be purchased (subject to the requirements of this section), and will direct the Custodian to pay the amount in the Account (net of any applicable Account termination or other fees or expenses) to the insurer as premium for such contract. Any contract issued pursuant to this section must provide that it is nontransferable and that the provisions of such contract are subject to the provisions of this Agreement and/or the Employer Plan.

(g) Limitation on Custodian's Responsibilities. The Custodian does not assume, and shall not have, any responsibility under this Section 5.4 with regard to any required notices or elections, unless the Custodian expressly agrees to undertake such responsibility by a separate written agreement between the Custodian and the Employer.

#### 5.5 Distributions after the Employee's Death.

(a) In General. At the Employee's death, distributions will be made in the form elected by the Beneficiary (subject, however, to Section 5.4 or Section 5.6 if applicable). The Beneficiary and the Employer must notify the Custodian in writing of the Employee's death and provide such evidence of the Employee's death as the Custodian requests. The Custodian will not distribute any assets from the Account following the Employee's death until the foregoing requirements have been satisfied, and the Custodian will have no liability for any resulting delays in distribution. To the extent the Beneficiary may elect the form of distribution, the Beneficiary must provide written notice to the Custodian listing the date on which distribution will commence, and the manner in which and the period over which distribution will be made, subject to the other provisions of this Section 5.5. The Custodian will have no liability or responsibility for following the written directions of the Beneficiary (or the Employee) or for not acting in the absence of such written directions.

(b) Form of Distribution: Death of Employee Before Required Beginning Date. If the Employee dies before his or her required beginning date (see Section 5.2(d)), any form of distribution to the Beneficiary must comply with the following requirements:

(i) Nonspousal Beneficiary. If the Beneficiary to receive the Employee's Account following the Employee's death is not the Employee's surviving spouse, the rules in this subsection apply. The Beneficiary must withdraw the entire amount in the Employee's Account by the end of the fifth calendar year following the calendar year of the Employee's death. Alternatively, the Beneficiary may withdraw the amount in the Account in a single sum, or in regular or irregular installment withdrawals at such times and in such amounts as the Beneficiary specifies, which can include specification of a regular program of monthly, quarterly, or annual installment payments, provided that the amount withdrawn in any Beneficiary distribution calendar year satisfies the applicable requirements of Code Section 401(a)(9) and the regulations thereunder as applicable to custodial accounts operating under Code Section 403(b)(7). The first distribution calendar year to the Beneficiary is the calendar year following the year in which the Employee died. Each subsequent calendar year during the Beneficiary's life expectancy period (see below) is also a Beneficiary distribution calendar year. The required minimum distribution for any Beneficiary distribution calendar year must be withdrawn no later than the end of such year. In general, the required minimum distribution for any distribution calendar year to the Beneficiary is the balance in the Account as of the end of the preceding calendar year divided by the life expectancy of the Beneficiary determined based upon the Beneficiary's age at his or her birthday during the first distribution calendar year to the Beneficiary and reduced by one for each subsequent distribution calendar year to the Beneficiary. The life expectancy will be determined in accordance with the regulations under Code Section 401(a)(9).

If the Beneficiary dies before distribution of the entire Account, an eligible inheriting beneficiary of that Beneficiary may continue to take the required minimum distributions over the remaining life expectancy period of the Beneficiary.

(ii) Spousal Beneficiary. If the Employee's sole Beneficiary is the Employee's surviving spouse, withdrawals must be made in accordance with subsection (b)(i) above, except that withdrawals are not required to be made by the Beneficiary until the end of the calendar year following the year of the Employee's death or the end of the calendar year in which the Employee would have attained age 70½ [had the Employee survived], whichever is later. In addition, the amount to be distributed for any distribution calendar year of the Beneficiary is the balance in the Account as of the end of the preceding calendar year divided by the Beneficiary's life expectancy determined based upon the Beneficiary's age at his or her birthday during such distribution calendar year.

If the Beneficiary dies before the date that required minimum distributions to the Beneficiary must begin, the rules in subsection (i) above will be applied as if the Beneficiary were the Employee. If the Beneficiary dies after required minimum distributions to the Beneficiary have begun, then required minimum distributions must continue over a period equal to the remaining life expectancy of the Beneficiary determined as of his or her age on his or her birthday in the year of his or her death.

(iii) Determination of Beneficiary. The person or persons who are considered the Employee's Beneficiary(ies) for purposes of applying the rules of this Section 5.5(b) will be determined as of September 30 of the calendar year following the calendar year of the Employee's death. No person may be a designated Beneficiary unless he or she was designated as such by the Employee during the Employee's lifetime; however, such a designated person will not be considered a Beneficiary for purposes of such rules if such person executed a valid disclaimer or received payment of his or her entire interest before the beneficiary determination date.

(iv) Special Rules. If there is no surviving Beneficiary designated by the Employee as of the beneficiary determination date, the entire amount in the Employee's Account must be distributed before the end of the fifth calendar year following the year of the Employee's death.

If a Beneficiary designated by the Employee survived the Employee but is not living on the beneficiary determination date, an eligible inheriting beneficiary of that Beneficiary may take required minimum distributions over the remaining unused life expectancy period of the beneficiary.

If any Beneficiary for the Account is not an individual, the amount in the Account must be distributed by the end of the fifth calendar year following the year of the Employee's death.

If there are multiple individual Beneficiaries, the rules of subsection (i) above will be applied based upon the life expectancy of the oldest Beneficiary. However, if there are multiple Beneficiaries and if, by the date for the determination of the Beneficiary(ies) [see subsection (iii) above], separate subaccounts have been established within the Account for each Beneficiary in a manner that complies with the requirements of regulations under Code Section 401(a)(9), the rules of this subsection (b) will be applied separately with respect to each Beneficiary.

(c) Form of Distribution: Death of Employee after Required Beginning Date. If the Employee dies after his or her required beginning date (see Section 5.2(d)), any form of distribution to the Beneficiary must comply with the following requirements:

(i) The required minimum distribution for the distribution calendar year of the Employee's death will be determined in accordance with the rules of Section 5.3.

(ii) Nonspousal Beneficiary. Notwithstanding the provisions of Section 5.1(d) of the Agreement, if the Beneficiary to receive the Employee's Account following the Employee's death is not the Employee's surviving spouse, the rules in this subsection apply. The Beneficiary may withdraw the amount in the Account in a single sum, or in regular or irregular installment withdrawals at such times and in such amounts as

the Beneficiary specifies, which can include specification of a regular program of monthly, quarterly, or annual installment payments, provided that the amount withdrawn in any Beneficiary distribution calendar year satisfies the applicable requirements of Code Section 401(a)(9) and the regulations thereunder as applicable to custodial accounts operating under Code Section 403(b)(7). The first distribution calendar year to the Beneficiary is the calendar year following the year in which the Employee died. Each subsequent calendar year during the Beneficiary's expectancy period (see below) is also a Beneficiary distribution calendar year. The required minimum distribution for any Beneficiary distribution calendar year must be withdrawn no later than the end of such year. In general, the required minimum distribution for any distribution calendar year to the Beneficiary is the balance in the Account as of the end of the preceding calendar year divided by the life expectancy of the Beneficiary determined based upon the Beneficiary's age at his or her birthday during the calendar year following the year of the Employee's death and reduced by one for each subsequent distribution calendar year to the Beneficiary. The life expectancy will be determined in accordance with the regulations under Code Section 401(a)(9). If the Beneficiary dies before distribution of the entire Account, required minimum distributions must continue over the remaining life expectancy period of the beneficiary.

(iii) Spousal Beneficiary. If the Employee's sole Beneficiary is the Employee's surviving spouse, withdrawals will be made in accordance with subsection (c)(ii) above, except that the amount to be distributed for any distribution calendar year of the Beneficiary is the balance in the Account as of the end of the preceding calendar year divided by the Beneficiary's life expectancy determined based upon the Beneficiary's age at his or her birthday during such distribution calendar year.

If the Beneficiary dies before the distribution of the entire Account, then required minimum distributions must continue over a period equal to the remaining life expectancy of the Beneficiary determined as of his or her age on her birthday in the year of his or her death.

(iv) Determination of Beneficiary. The person or persons who are considered the Employee's Beneficiary(ies) for purposes of applying the rules of this Section 5.5(c) will be determined under the rules specified in Section 5.5(b)(iii) above.

(v) Special Rules. If there is no surviving Beneficiary designated by the Employee as of the beneficiary determination date, or if any Beneficiary is not an individual, the amount remaining in the Employee's Account must be distributed over a period equal to the life expectancy of the Employee (determined as of the Employee's birthday in the year of his or her death), with the required minimum distribution determined by dividing the remaining Account balance by the life expectancy period as so determined, reduced by one for each subsequent distribution calendar year.

If there are multiple individual Beneficiaries, the rules of subsection (i) above will be applied based upon the life expectancy of the oldest Beneficiary. However, if there are multiple Beneficiaries and if, by the date for the determination of the Beneficiary(ies) (see subsection (iv) above), separate subaccounts have been established within the Account for each Beneficiary in a manner that complies with the requirements of regulations under Code Section 401(a)(9), the rules of this subsection (c) will be applied separately with respect to each Beneficiary.

## 5.6 Qualified Preretirement Survivor Annuity.

(a) In General. If the Account is part of an Employer Plan that is subject to the qualified preretirement survivor annuity requirements of ERISA Section 205, upon the death of a married Employee before distribution to the Employee has commenced under Section 5.3 or 5.4, distribution must be in the form of a qualified preretirement survivor annuity to the Employee's surviving spouse unless the Employee designates another Beneficiary or another form of distribution and the Employee's spouse consents in writing to the election. Such spousal consent must acknowledge the effect of the election and must be witnessed by a notary public, or by a representative of the Employer Plan if acceptable to the Custodian.

(b) Qualified Preretirement Survivor Annuity Defined. A qualified preretirement survivor annuity is a fixed or variable annuity contract purchased from an insurance company and distributed to the Employee's surviving spouse, providing payments for the lifetime of the surviving spouse, in the amount that can be purchased with one-half of the Account. The other one-half of the Employee's Account will be distributed in accordance with the other provisions of this Agreement.

(c) Disclosure Requirement. If subsection (a) applies, the Employer or Plan Administrator must furnish to the Employee a written notice that explains:

- (i) the terms and conditions of the qualified preretirement survivor annuity;
- (ii) the Employee's right to make, and the effect of, an election to waive the qualified preretirement survivor annuity;
- (iii) the right of the Employee's spouse to withhold consent to such an election; and
- (iv) the Employee's right to revoke the Employee's waiver of a qualified preretirement survivor annuity prior to the commencement of distributions.

The foregoing notice must be furnished during whichever the following applies to the Employee and ends last: (i) the period beginning with the calendar year in which the Employee attains age 32 and ending with the close of the calendar year in which the Employee attains age 35; (ii) a reasonable period after the Employee establishes the Account; or (iii) in the case of an employee who terminates employment with the Employer before attaining age 35, a reasonable period after such termination of employment.

(d) Waiver of Qualified Preretirement Survivor Annuity. The Employee may elect to waive the qualified preretirement survivor annuity, and elect another beneficiary or another form of distribution described in Section 5.5, at any time during an election period beginning on the first day of the calendar year in which the Employee attains age 35 (or when the Employee establishes the Account if later) and ending on the date of the Employee's death. If the Employee terminates employment with the Employer before the first day of the calendar year in which he attains age 35, the election period will begin upon such termination of employment. The Employee may make an earlier election to waive the qualified preretirement survivor annuity (subject to the requirements of this section), provided that such waiver will expire on the first day of the calendar year in which the Employee attains age 35, whereupon the Employee may again elect to waive the qualified preretirement survivor annuity subject to the retirements of this section.

(e) Missing Spouse. Notwithstanding the foregoing, if the Employee is married and certifies in writing to the Employer or Plan Administrator that such written consent may not be obtained because the spouse cannot be located, or because of other circumstances as set forth in the Code and applicable regulations, spousal consent is not required.

(f) Purchase of Annuity Contract. If distribution of one-half of the Employee's Account is to be in the form of a preretirement survivor annuity under subsection (a) above, the Employer will specify the insurance company and the form of contract to be purchased (subject to the requirements of this section), and will direct the Custodian to pay one-half of the amount in the Account (net of any applicable Account termination or other fees or expenses) to the insurer as premium for such contract. Any contract issued pursuant to this section must provide that it is nontransferable and that the provisions of such contract are subject to the provisions of this Agreement and/or the Employer Plan.

(g) Limitation on Custodian's Responsibilities. The Custodian does not assume, and shall not have, any responsibility under this Section 5.6 with regard to any required notices or elections, unless the Custodian expressly agrees to undertake such responsibility by a separate written agreement between the Custodian and the Employer.

5.7 Incompetent Recipient. If an amount is payable to a person known by the Custodian to be a minor or under a legal disability, the Custodian may, in its absolute discretion, pay all or any part of such amount to (a) a parent of such person, (b) the guardian, committee, or other legal representative, wherever appointed, of such person, including a custodian for such person under a Uniform Transfers to Minors Act or similar act, (c) any person having the control and custody of such person, or (d) to such person directly.

5.8 Distributions under a Qualified Domestic Relations Order.

(a) Notwithstanding any other provision hereof (except for subsection (b) below), the right to receive benefits payable hereunder may be assigned to the Employee's spouse, former spouse, child, or other dependent ("alternate payee") pursuant to the terms of a domestic relations order if the order is determined to be a qualified domestic relations order within the meaning of Code Section 414(p) and ERISA Section 206 ("QDRO"). The existence and validity of a QDRO shall be determined by the Employer. Any distribution pursuant to a QDRO shall be effected only at the direction of the Employer or other Plan Administrator, accompanied by such other information as the Custodian may reasonably require including, without limitation, a statement that the distribution is subject to and in accordance with Code Section 414(p) and ERISA Section 206.

(b) To the extent provided in a QDRO, a separate Account may be established for the benefit of the alternate payee under such QDRO. In such event, the alternate payee will be treated as though he or she were the Employee with respect to such Account (and, for example, will have power to direct the investment of such Account among the available Funds), except that the provisions of Section 5.4 or Section 5.6 will not apply to the spouse of an alternate payee under a QDRO.

5.9 Withdrawals Payable in Cash or in Shares. All withdrawals or distributions will be paid in cash or in shares of one or more Funds. To pay a withdrawal in cash, the Custodian will redeem sufficient shares of one or more Funds in the Employee's Account to provide the amount necessary; any such redemptions will be in accordance with the Employee's instructions (or, in the absence of such instruction, in proportion to the value of the shares of each Fund held in the Account, and the Custodian will be fully protected in so doing). Payment in shares will be effected by registering the shares in the name of the payee.

5.10 Plan-to-Plan Transfers and Exchanges from Account. If and to the extent permitted by the Employer Plan, the Employee may by appropriate instructions (certified by the Employer) direct a Plan-to-Plan Transfer or Exchange from the Account, and the Custodian will redeem a portion or all of the shares of one or more Funds in the Account and will transfer the redemption proceeds, less any charges, to another Custodial Account or Annuity Contract, as specified by the Employee. Neither the Custodian nor any Fund hereunder (or any entity or person affiliated with the Custodian or a Fund) will have any responsibility to determine whether such Custodial Account or Annuity Contract meets the requirements of Section 403(b) or whether such Plan-to-Plan Transfer or Exchange will constitute a tax-free transaction. The Employer shall furnish such information to the Fund Distributor as it requires to insure that such Plan-to-Plan Transfer or Exchange meets the requirements of Treasury Regulation Section 1.403(b)-10(b) or such Internal Revenue Service rule as applicable to the Custodian.

5.11 Direct Rollovers. If and to the extent permitted by the Employer Plan and notwithstanding any provision of this Agreement to the contrary that would otherwise limit a distributee's election under this section, a distributee may elect, at the time and in the manner prescribed by the Custodian, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. For purposes of this section, the following terms have the definitions given.

(a) Eligible rollover distribution: An eligible rollover distribution is any withdrawal or distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any withdrawal or distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more; any withdrawal or distribution to the extent such distribution is required under Code Section 401(a)(9); the portion of any withdrawal or distribution that is not includible in gross income (except to the extent provided in the Code); and, any hardship withdrawal under Section 5.2(a)(iv).

(b) 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 an arrangement described in Code Section 403(b), that accepts the distributee's eligible rollover distribution. In addition, an eligible retirement plan includes an employer plan that is qualified under Code Section 401(a) with a trust that is tax-exempt under Code Section 501(a) or a plan maintained under Code Section 457 by a governmental employer. Any arrangement described in Code Section 403(b), 401(a), or 457 shall be an eligible retirement plan only if the distributee is a participant in such plan and such plan permits the acceptance of direct rollovers. In the case of a distribution to a Beneficiary who, at the time of an Employee's death, was not the spouse of the Employee (or former spouse and alternate payee under a qualified domestic relations order), a direct rollover is payable only to an individual retirement account or individual retirement annuity (IRA) that has been established on behalf of the Beneficiary as an inherited IRA (within the meaning of Code Section 408(d)(3)(C)).

(c) Distributee: A distributee includes the Employee. In addition, the Employee's surviving spouse and the employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Code Section 414(p) (if applicable), are distributees with regard to the interest of the spouse or former spouse. A distributee also includes a Beneficiary who, at the time of an Employee's death was not the spouse of the Employee (or former spouse and alternate payee under a qualified domestic relations order).

(d) Direct rollover: A direct rollover is a payment from the Account to the eligible retirement plan specified by the distributee. Neither the Custodian, the Fund Distributor, nor any Fund hereunder (or any entity or person affiliated with the Custodian, Fund Distributor or a Fund) will have any responsibility to determine whether such eligible retirement plan meets the requirements of Code Section 401(a), 403(b), 408, or 457 whether the direct rollover will constitute a tax-free rollover.

- 5.12 Loans. Loans shall be permitted from an Employee's Account on a nondiscriminatory basis and only to the extent provided under the terms of the Employer's 403(b) plan document and if so provided in the Adoption Agreement (or in procedures adopted by the Custodian). A loan may be made to an Employee from his or her Account as soon as reasonably practicable following receipt of the Participant's loan request in accordance with such procedures as adopted by the Custodian. Loans from the Employee's Account shall not be treated as having been received as a distribution provided that such loan meets the requirements of Code section 72(p)(2) (relating to loans that do not exceed a maximum amount and that are repayable in accordance with certain terms) and Treasury Regulation Section 1.72(p)-1. Loans made hereunder shall be subject to such other rules and procedures as established by the Custodian.

## ARTICLE 6: THE CUSTODIAN

- 6.1 Duties. The Custodian will perform the following duties related to the administration of the Employee's Account (subject to the provisions of this Agreement):
- (a) Receive contributions under Section 3.2, 3.3, and 3.4 (unless the Fund Distributor is not a Designated Vendor or no longer accepts contributions, Exchanges, Plan-to-Plan Transfers, or rollovers to the Employee's Account), invest such contributions in shares of one or more Funds in accordance with the Employee's investment instructions, and credit such shares to the Employee's Account.
  - (b) Maintain accounting records showing the number of Fund shares credited to the Account.
  - (c) Collect income and reinvest such income as provided in this Agreement.
  - (d) Carry out the Employee's (or Beneficiary's) instructions for the purchase, sale, or exchange of shares of Funds for the Account and make settlements in accordance with general practice; however, sales of Fund shares in order to make a loan or pay a withdrawal or distribution to the Employee (or Beneficiary) are subject to a requirement that the Employer give consent to such transaction.
  - (e) Determine based upon information provided by the Employee and/or the Employer, his or her eligibility for a withdrawal and upon a determination of eligibility following the Employee's request for a withdrawal, making such withdrawal; provided that the Employer shall be required to consent to any such withdrawal.
  - (f) Maintain records of all transactions in the Account.
  - (g) Not less frequently than quarterly, provide the Employee appropriate statements of the Account showing all transactions of the Account.
  - (h) File with the Internal Revenue Service and/or any other government agency such returns, reports, forms, and other information (if any) as may be required of it as Custodian.
  - (i) Perform such other duties and services as may be necessary under this Agreement.
- The Custodian may appoint one or more service providers or contractors (including an affiliate of the Custodian or a contractor or affiliate of a Fund or the transfer agent for a Fund) to carry out any or all of its duties hereunder.
- 6.2 Share Redemptions. If cash is needed to pay taxes, fees, or other expenses properly chargeable to the Account or to make payments under Article 5, the Employee will instruct the Custodian in writing which Fund should be redeemed or sold if the Account is invested in more than one Fund. In the absence of such written instructions, the Custodian will redeem shares of all Funds in the Account in proportion to the value of the shares of each such Fund held in the Account and will be fully protected in so doing.
- 6.3 Limitations on Liabilities and Duties.
- (a) The Custodian will be fully protected in acting in accordance with or in reliance upon any document, order, or other direction believed by the Custodian to be genuine and properly given, or in not acting in the absence of proper instructions or when it believes that any document, order, or other direction either is not genuine or was not properly given, or is otherwise not in good order.
  - (b) To the extent permitted by law, 30 days after providing to the Employee any statement referred to in Section 6.1, the Custodian will be released and discharged from all liability to the Employee and any other person as to the matters contained in such statement unless the Employee files written objections with the Custodian within such 30-day period.
  - (c) The Employee will be solely responsible for his or her investment directions and the selection of the Fund(s) in which the Account is invested. Neither the Custodian nor any Fund (nor any entity or person affiliated with the Custodian or a Fund) will be under any fiduciary or other duty to the Employee with respect to the selection of investments or be liable for any loss or diminution in value incurred on account of a selected investment. The Employee acknowledges that the Custodian will not provide investment advice or recommendations hereunder.
  - (d) Neither the Custodian nor any Fund (nor any entity or person affiliated with the Custodian or a Fund) will have any responsibility for determining the amount of any contribution or for collecting any contribution from any person. None of them (nor any such other person) will have any responsibility for determining whether the amount of any contribution is within any applicable limitation under the Code, or for any taxes or penalties imposed on excess contributions or deferrals. The Employer will have sole responsibility for the computation of the limitation on contributions under Code Section 415(c), any limit on elective deferrals (including payroll investment contributions) under Code Section 402(g) or 414(v), determining that contributions meet the requirements of Code Section 401(m) (if applicable), and any and all matters relating to any tax consequences with respect to contributions, earnings, withdrawals, transfers, or rollovers to or from the Account.
  - (e) Neither the Custodian nor any Fund (nor any entity or person affiliated with the Custodian or a Fund) will be responsible for determining the propriety, amount, or timing of any loan to or withdrawal by the Employee or Beneficiary, or for any taxes or penalties imposed because of taxable loans or improper, premature, or insufficient withdrawals.

(f) The Custodian shall have no responsibility to carry out any transaction with respect to the Account except upon the written order of the Employer or Plan Administrator or Employee (or Beneficiary if the Employee is deceased), as applicable, and shall be entitled to receive any and all applications, certificates, tax waivers, signature guarantees, releases, indemnification agreements, and other documents (including proof of any legal representative's authority) deemed necessary or advisable by the Custodian, but the Custodian will not be responsible for complying with any order or instruction which appears on its face to be genuine (and the Custodian will have no duty of further inquiry with respect to any such order or instruction). The Custodian will not be required to carry out any incomplete or ambiguous instructions or any instructions otherwise not given in accordance with this Agreement or not in good order. Neither the Custodian nor any Fund (nor any entity or person affiliated with the Custodian or a Fund) will be liable for loss of income, or for appreciation or depreciation in share value resulting from the Custodian's failure to follow any incomplete or ambiguous instructions or any instructions otherwise not given in accordance with this Agreement or not in good order, or for any delay pending the receipt of any additional document or information requested by the Custodian.

(g) The Custodian will have no responsibility to pay any withdrawal directed by the Employer or Plan Administrator unless such written withdrawal instructions state the reason for the withdrawal and contain all signature guarantees, certifications, and other documents or assurances requested by the Custodian.

(h) Neither the Custodian nor any Fund (nor any entity or person affiliated with the Custodian or a Fund) will have any liability to the Employee or Beneficiary for any tax penalty or other damages resulting from any inadvertent failure by the Custodian to pay a withdrawal when requested by the Employee or Beneficiary or for the inadvertent payment of an ineligible withdrawal when requested by the Employee or Beneficiary.

(i) Neither the Custodian nor any Fund (nor any entity or person affiliated with the Custodian or any Fund) will have any liability to the Employee or anyone claiming through the Employee as a result of transferring the amount in the Account to the proper state authority in accordance with any applicable law relating to escheat or abandoned or unclaimed property.

(j) To the extent permitted by law, the Employee and Employer or Plan Administrator (or where applicable the Beneficiary) agree to indemnify the Custodian and hold it harmless from any and all liability whatsoever which may arise either (i) in connection with this Agreement and the Employee's Account (except liability arising from the Custodian's fraud or willful misconduct) or (ii) with respect to making or failing to pay any withdrawal, other than for failure to make any distribution in accordance with instructions therefor which are in full compliance with this Agreement.

(k) The Custodian will not be obligated to commence or to defend a legal action or proceeding in connection with this Agreement unless the Custodian agrees to do so and is first indemnified to its satisfaction.

(l) Neither the Employer or Plan Administrator nor any Fund (nor any entity or person affiliated with a Fund) will have any responsibility or liability for any acts or omissions of the Custodian hereunder. The Custodian (and any affiliate of the Custodian) will have no responsibility or liability for any acts or omissions of the Employee, the Employer (if applicable) or any Fund (or any affiliate or representative of any of them).

(m) The limitations on the liabilities and duties of the Custodian, and the protections accorded the Custodian, in this Section 6.3 are not exclusive, but rather are in addition to any other limitations on the Custodian's liabilities and duties and any other protections accorded the Custodian under this Agreement.

- 6.4 Compensation. The Custodian will receive the fees specified in its then current fee schedule. The Custodian may substitute a revised fee schedule from time to time upon 30 days' written notice to the Employee. The Custodian will be entitled to such reasonable additional fees as it may from time to time determine for services required of it in addition to those reflected in the fee schedule.
- 6.5 Removal or Resignation. The Employer hereby delegates to the Fund Distributor the power and authority to remove the Custodian. The Fund Distributor may remove the Custodian at any time upon notice to the Custodian. The Custodian may resign by giving at least 30 days' written notice to the Fund Distributor and the Employer. In the event of the removal or resignation of the Custodian, the Fund Distributor will give at least 30 days' written notice of such event to the Employer and the Employee, and will designate a successor 403(b) or individual retirement account custodian to which the assets of the Account are to be transferred. Such notice, to be effective, shall be accompanied by the successor's written acceptance. If the Fund Distributor does not timely designate a successor custodian or individual retirement account, the incumbent Custodian may designate a successor by giving at least 30 days' written notice of such successor to the Fund Distributor, and the Fund Distributor will be deemed to have consented to such appointment unless, within such period, the Distributor directs the Custodian to transfer the Employee's Account to a different custodian. On the effective date of its resignation, the incumbent Custodian will transfer to the successor custodian the assets and records (or copies thereof) of the Account; provided, however, that the Custodian may retain whatever assets it deems necessary for payment of its fees, costs, expenses, and any other liabilities that constitute a charge on or against the assets of the Account or on or against the Custodian.

## ARTICLE 7: FEES, TAXES, AND OTHER EXPENSES

Any income or other taxes that may be levied or assessed upon the Account (including any transfer taxes incurred in connection with the investment and reinvestment of Account assets), expenses, fees, and administrative costs incurred by the Custodian in the performance of its duties (including fees for legal services rendered to the Custodian), and the Custodian's compensation under Section 6.4 will constitute a charge upon the assets of the Account.

If not paid by the Employee within 30 days after being billed therefor by the Custodian, the Custodian will withdraw such fee, tax, or expense from the Account and may redeem sufficient shares of any Fund held in the Account to effect such payment without liability for any loss incurred thereby. Any fees charged by the Fund Distributor may be charged against the Employee's Account and will be disclosed by the Fund Distributor to the Employee in a separate document.

## ARTICLE 8: PROTECTION OF ACCOUNT

No part of the Account will be used for purposes other than for the exclusive benefit of the Employee (and the payment of fees, expenses, and charges as provided herein). To the extent permitted by law, no right or benefit under this Agreement will be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or charge, and any attempt at such will be void. To the extent permitted by law, no right or benefit hereunder will be subject to the debts, contracts, liabilities, engagements, or torts of the person who is entitled to such right or benefit, or be subject to attachment or legal process for or against such person. However, the Custodian will carry out the requirements of any valid QDRO relating to the Account.

## ARTICLE 9: BENEFICIARY DESIGNATION

The Employee may submit to the Custodian a signed written designation of beneficiary acceptable to the Custodian. Any such designation of beneficiary will be effective when filed with the Custodian during the Employee's lifetime. Whether or not fully dispositive of the Account, the most recently filed designation of beneficiary accepted by the Custodian will revoke all previously filed designations. If, in the opinion of the Custodian, any designation of beneficiary is unclear or incomplete, in addition to any documents or assurances the Custodian may request under Section 6.3, the Custodian shall be entitled to request and receive such clarification or additional instructions as the Custodian in its discretion deems necessary to determine the correct Beneficiary(ies) following the Employee's death. (Note: If the Employer Plan is not subject to ERISA, a married Employee who resides in a community property or marital property state (Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, or Wisconsin), may need to obtain spousal consent if he or she has not designated the spouse as the primary Beneficiary for at least half of the Account. The Employee should consult a lawyer or other tax professional for additional information and advice.)

Any amount payable as a result of the Employee's death that is not disposed of by a designation of beneficiary (including any primary or contingent designated beneficiaries), for any reason whatsoever, will be paid to the Employee's estate. If a Beneficiary dies while receiving distributions, the portion of the Account to which the Beneficiary would have been entitled (had he or she survived) shall be paid to the Beneficiary's beneficiary or beneficiaries (or to the Beneficiary's estate) provided the Custodian receives notification and evidence acceptable to it of the Beneficiary's death.

## ARTICLE 10: AMENDMENT

10.1 Amendment. The Custodian may amend this Agreement in its entirety or any portion thereof, and the Employer and the Employee consent to each such amendment. The Custodian will provide notice of such amendment to the Employee. The notice shall direct the Employee to the amendment on a Website that is easily accessible, and shall also inform the Employee of his or her right to request and obtain a paper copy of such amendment. Upon written request, the Employee will be furnished a paper copy of the amendment. The amendment will remain on the Website for a reasonable period of time after the Employee is notified of its availability. Nothing in this Agreement will impose on the Custodian an affirmative obligation to amend the Agreement. The Employer may amend the Agreement by amendment of the Application.

10.2 Limitations. No amendment will be made:

(a) that would cause or permit any part of the Account to be diverted to purposes other than for the exclusive benefit of the Employee (or Beneficiary) (including the payment of fees and expenses as provided for herein), or cause or permit any portion of such assets to revert to or become the property of the Employer, or

(b) that would retroactively deprive any Employee of any benefit to which he or she was entitled under the Agreement, unless such amendment is necessary, in the opinion of counsel to the Custodian, to conform the Agreement to, or satisfy the conditions of, Code Section 403(b) or any other applicable law.

## ARTICLE 11: TERMINATION

11.1 Automatic Termination on Distribution. The Employer is permitted to terminate the Employer Plan and allow for an employee's Account to be distributed upon termination provided the conditions set forth in Code Section 403(b) and applicable Treasury regulations have been satisfied. This Agreement will terminate when all the assets held in the Account have been distributed or otherwise transferred out of the Account.

11.2 Termination on Disqualification. This Agreement will terminate if, after notification by the Internal Revenue Service that the Employee's Account does not qualify under Code Section 403(b)(7), the Custodian does not make such amendments as are necessary to so qualify the Account. On such termination of this Agreement, the Custodian will distribute all assets in the Account to the Employee or, in the event of the Employee's death, to the Beneficiary, subject to the Custodian's right to reserve funds as provided in Section 6.5.

11.3 Survival. The provisions for the protection of the Custodian, including specifically but without implied limitation Section 6.3(j) and (k), will survive the termination of this Agreement.

## ARTICLE 12: MISCELLANEOUS

12.1 Nondiscrimination Requirements. If the Employer permits Employees to make payroll investment contributions, the Employer (unless the Employer is a church) must permit each individual employed by the Employer (other than those individuals permitted to be excluded pursuant to Code Section 403(b)(12) and Treasury Regulation Section 1.403(b)-5(b)(4)(iii)) to make a payroll investment contribution of more than \$200 pursuant to a payroll investment agreement. The Employer will be responsible for compliance with the requirements of Code Section 403(b)(12), and the Custodian will have no responsibility for insuring that the Employer so complies except to the extent provided herein or otherwise required under Code Section 403(b) or regulations issued thereunder.

12.2 Applicable Law. This Agreement will be construed, administered, and enforced in accordance with the laws of the Commonwealth of Massachusetts, which is the state where the principal offices of the Custodian are located, and any action involving the Custodian brought by any other party must be brought in a state or federal court in such Commonwealth.

12.3 Change of Address. The Employer or the Employee will notify the Custodian in writing of any change of address within 30 days of such change.

12.4 Notices.

(a) Any notice or payment from the Custodian to the Employer or the Employee under this Agreement will be effective when sent by U.S. mail to the address of the Employer or Employee as then shown on the Custodian's records. Any notice to the Custodian under this Agreement will be by first class mail addressed to its principal office or such other address as the Custodian specifies.

(b) If any provision of this Agreement calls for written notice to the Custodian, such notice may, if permitted by the Custodian, be given by telephonic, automatic voice response system, or other electronic means. The Employee acknowledges and agrees that any telephone calls to the Custodian may be recorded.

- 12.5 Successors. This Agreement will be binding upon and inure to the benefit of the successors in interest of the parties hereto.
- 12.6 Severability. If any provision of this Agreement is held invalid or illegal for any reason, such determination will not affect any remaining provisions of this Agreement, but this Agreement will be construed and enforced as if such invalid or illegal provision had never been included in this Agreement.
- 12.7 Code Section 403(b), etc. As provided in Section 1.1 above, this Agreement and the Application are intended to meet the requirements of Code Section 403(b) and all other applicable legal requirements. If Code Section 403(b) or applicable regulations or other legal rules are amended or changed, it is anticipated that this Agreement will be correspondingly amended effective as of the effective date of such amendment or change. Pending the adoption of an amendment to this Agreement, the Account may be operated in accordance with the amended or changed requirements of Code Section 403(b) or applicable regulations or other legal rules so as to preserve the intended tax and other benefits of the Account.
- 12.8 Reference to Employee. Following the death of the Employee, the rights and responsibilities of the Employee under this Agreement will be carried out by the Beneficiary (or if none, or no Beneficiary survives the Employee, the executor or administrator of the Employee's estate), and any reference herein to the Employee will be deemed to be a reference to the Beneficiary (or the executor or the administrator of the Employee's estate).