

UCAR RETIREMENT PLAN

(AMENDED AND RESTATED EFFECTIVE JANUARY 1, 2007)

FEBRUARY 2007

Any statements regarding tax matters made herein, including any attachments, cannot be relied upon by any person to avoid tax penalties and are not intended to be used or referred to in any marketing or promotional materials. To the extent this communication contains a tax statement or tax advice, Holland & Hart LLP does not and will not impose any limitation on disclosure of the tax treatment or tax structure of any transactions to which such tax statement or tax advice relates.

TABLE OF CONTENTS

INTRODUCTION	5
ARTICLE 1. DEFINITIONS.....	6
1.1 <i>Account</i>	6
1.2 <i>Administrator</i>	6
1.3 <i>Adopting Employer</i>	6
1.4 <i>Annual Additions</i>	6
1.5 <i>Basic Contribution</i>	6
1.6 <i>Break in Service</i>	6
1.7 <i>Catch-Up Contribution</i>	6
1.8 <i>Code</i>	6
1.9 <i>Compensation</i>	6
1.10 <i>Computation Period</i>	7
1.11 <i>Controlled Group</i>	7
1.12 <i>Custodian</i>	7
1.13 <i>Date of Employment</i>	7
1.14 <i>Date of Reemployment</i>	7
1.15 <i>Elective Deferrals</i>	7
1.16 <i>Employee</i>	7
1.17 <i>Employer</i>	8
1.18 <i>ERISA</i>	8
1.19 <i>Excess Contributions</i>	8
1.20 <i>Excess Deferrals</i>	8
1.21 <i>Fund Sponsor</i>	8
1.22 <i>Funding Vehicle</i>	8
1.23 <i>Highly Compensated Employee</i>	8
1.24 <i>Hours of Service</i>	8
1.25 <i>Leave of Absence</i>	10
1.26 <i>Mandatory Contribution</i>	10
1.27 <i>Maternity Leave or Paternity Leave</i>	10
1.28 <i>Participant</i>	10
1.29 <i>Plan Year</i>	10
1.30 <i>Plan Sponsor</i>	10
1.31 <i>Record Keeper</i>	10
1.32 <i>Regulation</i>	10
1.33 <i>Retiree</i>	11
1.34 <i>TIAA</i>	11
1.35 <i>Year of Service</i>	11
ARTICLE 2. EMPLOYEES ENTITLED TO PARTICIPATE	12
2.1 <i>Eligibility to Participate</i>	12
2.2 <i>Effect of Reemployment on Eligibility</i>	12
2.3 <i>Leaves of Absence</i>	12
ARTICLE 3. SERVICE AND VESTING	13
3.1 <i>Service Counting Method</i>	13
3.2 <i>Controlled Group</i>	13
3.3 <i>Vested Percentage</i>	13
ARTICLE 4. CONTRIBUTIONS	14
4.1 <i>Elective Deferrals</i>	14

4.2	Mandatory Contributions	15
4.3	Basic Contributions	15
4.4	Dollar Limitation On Elective Deferrals	15
4.5	Annual Additions Limit	16
4.6	Rollovers From Other Plans	16
4.7	Transfers To and From The Account	17
	ARTICLE 5. REMISSION AND INVESTMENT OF CONTRIBUTIONS	18
5.1	Remission of Contributions	18
5.2	Timing of Contributions	18
5.3	Investment Alternatives	18
5.4	Fund Sponsors; Funding Vehicles	18
	ARTICLE 6. DISTRIBUTIONS	19
6.1	Permitted Distributions	19
6.2	Distribution of Account	19
6.3	Hardship Withdrawal	19
6.4	Distributions Prior to Separation from Service	20
6.5	Minimum Distributions	21
6.6	Direct Rollover	25
6.7	Spendthrift Provision	26
6.8	Qualified Domestic Relations Order	26
	ARTICLE 7. PARTICIPANT LOANS	27
7.1	Loans	27
7.2	Authorization	27
7.3	Suspension of Repayment During Qualified Military Service	27
	ARTICLE 8. ADOPTING EMPLOYERS	28
8.1	Adoption by Other Employers	28
8.2	Designation of Agent	28
8.3	Employee Transfers	28
8.4	Adopting Employer's Contribution	28
8.5	Amendment	29
8.6	Discontinuance of Participation	29
8.7	Administrator's Authority	29
	ARTICLE 9. PLAN ADMINISTRATION	30
9.1	Administrator's Appointment; Vacancies; Removal	30
9.2	Manner of Acting	30
9.3	Administrator's Powers and Duties; Reporting and Disclosure	30
9.4	Exclusive Power to Construe Plan	31
9.5	Investment Limitations and Authority	31
9.6	Expenses of Plan Administration	31
9.8	Claims Procedure	32
9.9	Employee Information	34
9.10	Referral to Claims Procedure	34
	ARTICLE 10. AMENDMENT, TERMINATION AND MERGER	35
10.1	Plan Sponsor Rights	35
10.2	Termination: No Liability for Further Contributions	35
10.3	Amendment to Vesting Schedule	35
10.4	Merger: Continuance of Plan	35
	ARTICLE 11. MISCELLANEOUS	36
11.1	Employer-Employee Relationship	36

11.2	Rules of Interpretation	36
11.3	Applicable Law	36
11.4	Qualified Military Service	36
	SCHEDULE A PLAN FUNDING OPTIONS	38

INTRODUCTION

University Corporation for Atmospheric Research (the “Employer”), originally established the University Corporation for Atmospheric Research Defined Contribution Plan (the “Plan”), effective July 18, 1960. The Defined Contribution Plan is now amended and restated, effective January 1, 2007, to make necessary and desirable amendments as provided or permitted by certain recent changes in the law, to change the name of the Plan to “UCAR Retirement Plan” and to incorporate the terms of the University Corporation for Atmospheric Research Tax-Deferred Annuity Plan, which contains the elective deferral contribution provisions, into the Plan. This amendment and restatement shall supersede all other restatements of the Plan.

This Plan is intended to be a plan which meets the requirements for qualification of Section 403(b) of the Internal Revenue Code of 1986.

ARTICLE 1. DEFINITIONS

1.1 **Account**

shall mean the separate account or accounts established and maintained by the Record Keeper for a Participant pursuant to this Plan. The Account(s) may be “custodial accounts” as defined in Code Section 403(b)(7).

1.2 **Administrator**

shall mean the Plan Sponsor or the individual or committee appointed by the Plan Sponsor pursuant to Section 9.1 to administer this Plan.

1.3 **Adopting Employer**

shall mean those employers that are Controlled Group members and that have adopted this Plan pursuant to Article 8.

1.4 **Annual Additions**

shall mean the sum, as allocated on behalf of a Participant for a Plan Year, of all (1) Elective Deferrals, (2) Mandatory Contributions, (3) Basic Contributions, and (3) contributions under all other defined contribution plans required to be aggregated with this Plan under Code Section 415.

1.5 **Basic Contribution**

shall mean a contribution by the Employer on behalf of a Participant pursuant to Section 4.3.

1.6 **Break in Service**

shall mean a Plan Year in which an Employee has not completed more than 500 Hours of Service and during which the Employee was not on a Leave of Absence.

1.7 **Catch-Up Contribution**

shall mean a contribution by the Employer on behalf of a Participant pursuant to Section 4.1(c).

1.8 **Code**

shall mean the Internal Revenue Code of 1986, as amended from time to time.

1.9 **Compensation**

shall mean –

- (a) The amount paid or made available to an Employee for that portion of a Plan Year during which the Employee is eligible to participate in the Plan that is reported as wages on the Employee’s Form W-2, and shall include Elective Deferrals and Mandatory Contributions.
- (b) **Compensation** shall exclude bonuses, overtime, lump-sum payments for accrued benefits such as unused vacation, severance payments, Basic Contributions, Employer contributions to any other health, welfare, insurance or other employee benefit plan, qualified transportation expenses or reimbursement for expenses.

- (c) The annual Compensation of each Participant taken into account in determining allocations for any Plan Year shall not exceed \$200,000, as adjusted for cost-of-living increases in accordance with Code Section 401(a)(17)(B). Annual Compensation means Compensation during the Plan Year or such other consecutive 12-month period over which Compensation is otherwise determined under the Plan (the determination period). The cost-of-living adjustment in effect for a calendar year applies to annual Compensation for the determination period that begins with or within such calendar year.

1.10 Computation Period

shall mean a 12-consecutive-month period, beginning on an Employee's Date of Employment, or any succeeding 12-consecutive month period beginning with the Plan Year that includes the first anniversary of the Employee's Date of Employment.

1.11 Controlled Group

shall mean those organizations that are exempt from tax under Code Section 501(a) (an "exempt organization"), of which the Employer is a part, that are under common control. For this purpose, common control exists between exempt organizations if at least 80% of the directors or trustees of one organization are either representatives of, or directly or indirectly controlled by, the other organization. A director or trustee is controlled by another organization if the other organization has the power to remove such trustee or director and designate a new trustee or director.

1.12 Custodian

shall mean JPMorgan Chase Bank or any other bank or person who satisfies the requirements of Code Section 401(f)(2).

1.13 Date of Employment

shall mean the date on which an Employee first completes an Hour of Service with the Employer.

1.14 Date of Reemployment

shall mean the date on which the Employee first completes an Hour of Service with the Employer after a Break in Service.

1.15 Elective Deferrals

shall mean a contribution by the Employer on behalf of a Participant pursuant to Section 4.1.

1.16 Employee

shall mean any individual who is employed by the Employer, including any Adopting Employer, but excluding (a) persons classified as independent contractors; (b) persons classified as leased employees; and (c) Retirees.

1.17 **Employer**

shall mean University Corporation for Atmospheric Research and its successors. Employer shall also include any **Adopting Employer** except as otherwise indicated or interpreted by the Administrator in its sole discretion.

1.18 **ERISA**

shall mean the Employee Retirement Income Security Act of 1974, as amended from time to time.

1.19 **Excess Contributions**

shall mean Annual Additions that exceed the limitations described in Section 4.5.

1.20 **Excess Deferrals**

shall mean Elective Deferrals that exceed the Elective Deferral Limit (as defined in Section 4.4(a)) or Elective Deferrals designated by the Participant as Excess Deferrals.

1.21 **Fund Sponsor**

shall mean an insurance, variable annuity or investment company or Custodian that provides the Funding Vehicles available under the Plan.

1.22 **Funding Vehicle**

shall mean the nontransferable annuity contracts or custodial accounts that satisfy the requirements of Code Section 401(f) issued by a Fund Sponsor or the Custodian to fund benefits under this Plan.

1.23 **Highly Compensated Employee**

shall mean --

- (a) Any Employee who, for the preceding year, had compensation from the Employer in excess of \$80,000 (as adjusted pursuant to Code Section 414(q)).
- (b) A former Employee shall be treated as a Highly Compensated Employee if: (1) such Employee was a Highly Compensated Employee when such Employee separated from service, or (2) such Employee was a Highly Compensated Employee at any time after attaining age 55.
- (c) The determination of who is a Highly Compensated Employee shall be made in accordance with Code Section 414(q) and the Regulations thereunder.
- (d) For purposes of this Section 1.23, the term "**Compensation**" means compensation within the meaning of Code Section 415(c)(3).

1.24 **Hours of Service**

shall mean hours computed according to the following rules:

- (a) **Method of Counting.** The number of Hours of Service to be credited to an Employee will be calculated on the basis of actual hours for which the Employee is paid or entitled to payment. If such actual hours cannot be determined, the number of Hours of Service will be calculated using 190 Hours of Service for each month during which the Employee would be required to be credited with at least one Hour of Service under Department of Labor Regulation Section 2530.200b-2.
- (b) **Hours of Service** shall include the following:
- (1) **Paid Duty.** Each Employee shall be credited with one Hour of Service for each hour for which the Employee is paid, or entitled to payment, by the Employer for the performance of duties. Such Hours of Service shall be credited to the Employee for the Computation Period during which the duties are performed, irrespective of when payment is made.
 - (2) **Paid Non-Duty.** In addition, each Employee shall be credited with one Hour of Service for each hour for which the Employee is paid, or entitled to payment, by the Employer on account of a period of time during which no duties are performed (irrespective of whether the employment relationship has terminated) due to vacation, holiday, illness, incapacity (including disability), layoff, jury duty, military duty or leave of absence; provided, however, that Hours of Service shall not be credited by reason of payment of unemployment or worker's compensation or by reason of reimbursement for medical expenses; and provided further that no more than 501 Hours of Service shall be credited under this section with respect to any single continuous period when the Employee performs no services.
 - (3) **Back Pay.** Each Employee shall be credited with one Hour of Service for each hour for which back pay is awarded or agreed to, irrespective of mitigation of damages.

The Employer shall not credit an Hour of Service under more than one of the above classifications described in subsections (b)(1) through (b)(3).

- (c) **Absence.** No more than 501 Hours of Service will be credited to an Employee for any single continuous period during which duties are not performed by the Employee (whether or not such period occurs in a single Computation Period).
- (d) **Special Rules.** The number of Hours of Service credited to an Employee on account of a period of time during which no duties are performed, and the Computation Periods to which such Hours of Service are credited, shall be determined in accordance Regulation

Sections 2530.200b-2(b) and (c)), as amended from time to time, which Regulations are incorporated in this section by this reference. To the extent required by law, the Employer shall credit Hours of Service the Employee completes for related employers and shall credit Hours of Service the Employee completed as a leased employee within the meaning of Code Section 414(n).

1.25 *Leave of Absence*

shall mean any absence from work for service in the Armed Forces (other than career military service), or an absence of not over 12 months approved by the Employer in accordance with reasonable nondiscriminatory standards and policies consistently applied by the Employer, including Maternity Leave or Paternity Leave.

1.26 *Mandatory Contribution*

shall mean Participant contributions that are required as a condition of employment pursuant to Section 4.2.

1.27 *Maternity Leave or Paternity Leave*

shall mean any absence from work because of (a) the pregnancy of the Employee, (b) the birth of a child of the Employee, (c) the placement of a child with the Employee in connection with the adoption of such child by the Employee, or (d) the need to care for such child for a period beginning immediately following such birth or placement. The Employee may be required to furnish information necessary to establish that the absence was for one of the reasons specified above and the number of days for which there was such an absence.

1.28 *Participant*

shall mean (a) any Employee or former Employee who has an Account and (b) any Employee who has become eligible to participate under the Plan.

1.29 *Plan Year*

shall mean a year ending on December 31. The Plan Year shall be the limitation year.

1.30 *Plan Sponsor*

shall mean University Corporation for Atmospheric Research.

1.31 *Record Keeper*

shall mean TIAA or any other individual or entity that provides record keeping services in connection with the operation and administration of the Plan.

1.32 *Regulation*

shall mean any rule or regulation promulgated by the Department of the Treasury, the Department of Labor, or their delegates.

1.33 **Retiree**

shall mean a former Employee who is rehired by the Employer on a temporary basis and who satisfied the following requirements when he or she initially retired:

- (a) the Retiree's age plus Years of Service with the Employer equaled or exceeded 65;
- (b) the Retiree was age 50 or greater at the time he or she initially retired; and
- (c) the Retiree completed a minimum of five (5) Years of Service at the time he or she initially retired.

1.34 **TIAA**

shall mean the Teachers Insurance and Annuity Association of America.

1.35 **Year of Service**

shall mean any Computation Period during which the Employee completes 1,000 Hours of Service.

***** End of Article 1 *****

ARTICLE 2. EMPLOYEES ENTITLED TO PARTICIPATE

2.1 Eligibility to Participate.

- (a) ***Elective Deferrals.*** All Employees are eligible to make Elective Deferrals as of their Date of Employment.
- (b) ***Mandatory Contributions and Basic Contributions.***
 - (1) With respect to an Employee who is regularly scheduled to work under an appointment of at least six (6) months, such Employee shall participate in Mandatory Contributions and Basic Contributions as of his or her Date of Employment.
 - (2) Any other Employee shall participate on the first day of the month coinciding with or next following the date such Employee completes a Year of Service.

2.2 Effect of Reemployment on Eligibility.

- (a) A former Participant shall become a Participant on his or her Date of Reemployment.
- (b) For purposes of Section 2.1(b) only, a former Employee who was not a Participant in the Plan shall become a Participant upon satisfying the requirements set forth in Section 2.1(b).
- (c) If an Employee who satisfies the eligibility requirements set forth in Section 2.1(b) terminates employment with the Employer before he or she becomes a Participant, he or she shall become a Participant on his or her Date of Reemployment if such date is after the date on which he or she would otherwise have become a Participant, provided that if the Employee incurs a Break in Service prior to his or her Date of Reemployment, and if the number of consecutive one-year Breaks in Service incurred by such Employee equals or exceeds the greater of five (5) or the aggregate number of Years of Service prior to the break, then all service of the Employee prior to such Break in Service shall be disregarded for eligibility purposes.

2.3 Leaves of Absence.

Any Employee who is a Participant at the time the Employee is granted a paid Leave of Absence shall continue to participate in all contributions during the Employee's Leave of Absence to the extent of any Compensation actually paid to the Employee by the Employer during the Leave of Absence. Regardless of whether the Leave of Absence is a paid leave, the Employee's Account shall continue to be subject to its proportionate share of gains or losses and other adjustments therein.

***** End of Article 2 *****

ARTICLE 3. SERVICE AND VESTING

3.1 Service Counting Method.

All Employees shall be credited with service on the Hours of Service method for purposes of determining eligibility to participate.

3.2 Controlled Group.

For purposes of determining an Employee's eligibility service, service with the Employer shall be deemed to include service with a member of the Controlled Group, performed during the time that the Controlled Group member is or was actually under common control with the Plan Sponsor.

3.3 Vested Percentage.

Each Participant's interest in amounts accumulated in the Participant's Account as a result of Elective Deferrals, Catch-Up Contributions, Mandatory Contributions and Basic Contributions, and in any income or loss thereon, shall at all times be fully vested and nonforfeitable.

*** * * * End of Article 3 * * * ***

ARTICLE 4. CONTRIBUTIONS

4.1 Elective Deferrals.

- (a) **Deferrals.** Subject to the applicable limits of this Plan, each Participant may elect to have the Employer deduct a percentage or specified amount of his or her Compensation not to exceed 75%. Elective Deferrals shall be made in whole percentages and in accordance with Section 5.2.
- (b) **Election.** A Participant may elect to make, modify, or discontinue his or her Elective Deferrals by filing notice with the Administrator, or its representative, in accordance with procedures established by the Administrator; provided, however, in no event may a Participant's deferral election apply to Compensation that is currently available to the Participant. A Participant's election to make, modify or discontinue his or her Elective Deferrals election shall be effective as soon as administratively practicable following receipt by the Administrator, or its representative, of the Participant's request to make, modify or discontinue such contributions. Notwithstanding anything herein to the contrary, if the Administrator determines that a Participant's Elective Deferrals will exceed any limitations of this Plan that apply to such contributions, the Administrator may at any time amend the Participant's election to the extent necessary to adhere to such limitations. Participants will be notified of any changes to deferral elections that are made by the Administrator.
- (c) **Catch-Up Contributions.** All employees who are eligible to make Elective Deferrals and who have attained age 50 before the close of the Plan Year shall be eligible to make Catch-Up Contributions in accordance with, and subject to the limitations of, Code Section 414(v). Catch-Up Contributions shall be made at such times and in such manner as shall be determined in accordance with a uniform policy to be established by the Administrator. Catch-Up Contributions shall be allocated to the Participant's Account and shall be treated as Elective Deferrals. Notwithstanding the foregoing, Catch-Up Contributions shall not be taken into account for purposes of the provisions of the Plan implementing the required limitations of Code Sections 402(g) and 415.
- (d) **Source of Deferrals.** The amount each Participant receives from the Employer as Compensation shall be reduced by the amount that the Participant elected to have the Employer contribute to the Plan as Elective Deferrals and Catch-Up Contributions pursuant to this Section 4.1. Amounts contributed to the Participant's Account pursuant to this Section 4.1 shall for all purposes be deemed to be Employer contributions.

4.2 **Mandatory Contributions.**

Each Participant who has satisfied the requirements set forth in Section 2.1(b) shall, as a condition of employment, make Mandatory Contributions to the Plan by reducing his or her Compensation by five percent (5%) and having the Employer contribute such amount to his or her Account in the Plan on a pre-tax basis. Mandatory Contributions shall be made in accordance with Section 5.2.

4.3 **Basic Contributions.**

The Employer shall contribute on behalf of each Participant who has met the eligibility requirements of Section 2.1(b), from the general assets of the Employer, an amount equal to ten percent (10%) of the Participant's Compensation. Basic Contributions shall be made whether or not the Participant is employed by the Employer on the last day of the Plan Year.

4.4 **Dollar Limitation On Elective Deferrals.**

- (a) **General Rule.** The dollar amount of any Participant's Elective Deferrals under Section 4.1 shall not exceed the dollar limitation imposed by Code Section 402(g) for the taxable year of the Participant (the "Elective Deferrals Limit"). If the Employer determines the Participant's Elective Deferrals for a calendar year would exceed the Elective Deferrals Limit, the Employer shall suspend the Participant's Elective Deferrals until the following January 1. If a Participant makes Elective Deferrals to a cash or deferred arrangement, or contributes under a simplified employee pension cash or deferred arrangement, Code Section 403(b) annuity, Code Section 457 plan, or Code Section 501(c)(18) plan (irrespective of whether the Employer maintains the other plan), and the Participant's contributions exceed the Elective Deferrals Limit, the Participant shall have the right to provide the Administrator with a written claim for Excess Deferrals made for any calendar year. The Participant shall submit the claim no later than the March 1 following the close of the particular calendar year and the claim shall specify the amount of the Participant's Elective Deferrals under this Plan which are Excess Deferrals.
- (b) **Distribution of Excess Deferrals.** If, after the close of a calendar year, the Administrator determines a Participant's Elective Deferrals exceed the Elective Deferrals Limit, the Administrator shall distribute the Excess Deferrals, as adjusted for allocable income or loss, to the Participant. If the Administrator receives a timely claim as described in the preceding paragraph, it shall distribute the Excess Deferrals specified by the Participant in his or her claim. The Administrator shall make all distributions under this subsection (b) no later than April 15 of the calendar year following the calendar year in which the Excess Deferrals occurred. If the Administrator distributes the Excess

Deferrals by the appropriate April 15, it may make the distribution irrespective of any other provision under this Plan or under the Code.

- (c) ***Determination of Allocable Income or Loss to Excess Deferrals.*** The Administrator shall adjust Excess Deferrals for any income or loss up to the end of the Plan Year in accordance with Regulations under Code Section 401(k). The Administrator may use any reasonable method for computing income or loss, provided such method does not violate Code Section 401(a)(4), is used consistently for all Participants and for all corrective distributions under the Plan, and is used by the Plan for allocating income to the Participant's Accounts. Prior to January 1, 2008, the Administrator shall also adjust Excess Deferrals for income or loss after the close of the Plan Year and to the date of distribution in accordance with Regulations under Code Section 401(k).

4.5 Annual Additions Limit.

Notwithstanding any other provision of this Plan, in no event shall the sum of the Annual Additions to any Participant's Account exceed the limitations set forth in Code Section 415(c). The Administrator shall comply with the requirements of Code Section 415 and the Regulations thereunder, which are incorporated herein by this reference.

- (a) ***Correction of Excess Contributions Caused by This Plan.*** Excess Contributions shall be corrected in any method allowed under applicable Regulations or guidance.
- (b) ***Annual Addition Limit.*** Except to the extent permitted under Section 4.1(c) and Code Section 414(v), the Annual Addition that may be contributed or allocated to a Participant's Account under the Plan for any limitation year shall not exceed the lesser of:
- (1) \$40,000, as adjusted for increases in the cost of living under Code Section 415(d); or
 - (2) 100% of the Participant's compensation, within the meaning of Code Section 415(c)(3)(E), for the limitation year.

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

4.6 Rollovers From Other Plans.

The Plan may accept direct rollovers of eligible rollover distributions (as defined in Code Section 402(c)(4)) from an eligible retirement plan (as defined in Code Section 402(c)(8)). The acceptance of direct rollovers of eligible rollover distributions are

subject to approval by the Record Keeper, and once transferred into the Participant's Account, such assets shall be invested, distributed and otherwise dealt with under the terms of this Plan.

4.7 Transfers To and From The Account.

All direct and indirect asset transfers to an Account from an existing Account shall be in cash unless the Record Keeper otherwise consents.

****** End of Article 4 ******

ARTICLE 5. REMISSION AND INVESTMENT OF CONTRIBUTIONS

5.1 Remission of Contributions.

The Administrator shall remit all contributions made pursuant to the Plan on behalf of each Participant to the Record Keeper. The Record Keeper shall cause such contributions to be invested in accordance with the Participant's most recent investment instructions. In remitting contributions, the Administrator shall specify the amount of contribution made on behalf of each Participant and the portion of each contribution attributable to Elective Deferrals, Catch-Up Contributions, Mandatory Contributions and Basic Contributions.

5.2 Timing of Contributions.

Basic Contributions shall be remitted by the Administrator to the Record Keeper not later than the due date of the Plan Sponsor's federal income tax return for the year and may be remitted to the Record Keeper on a more frequent basis, or within such period as may be designated from time to time by the Code as the period within which such contributions may be deducted from income tax for the year. Elective Deferrals, Catch-Up Contributions and Mandatory Contributions shall be remitted by the Administrator to the Record Keeper as soon as reasonably segregated from the Employer's general assets, but in any event, no later than the 15th business day of the month following the month in which such amounts would otherwise have been payable to the Participant in cash, or such other maximum time period permitted by ERISA or the Code.

5.3 Investment Alternatives.

At such times and under such procedures as the Administrator shall designate, each Participant shall have the right to direct the investment of contributions on behalf of such Participant in one or more Funding Vehicles offered by one or more Fund Sponsors selected by the Administrator in its sole discretion, and may elect to transfer all or any portion of the funds previously contributed on such Participant's behalf, and any income or loss thereon, among such available investment alternatives. The Administrator shall give written notice to Participants of the investment alternatives available to them for election, if any. The Administrator may change, add to, or subtract from the investment alternatives available at any time.

5.4 Fund Sponsors; Funding Vehicles.

The Fund Sponsors and their Funding Vehicles under the Plan are set forth in Schedule A, which may be amended from time to time. At the time Plan contributions are invested in a Funding Vehicle on behalf of a Participant, an Account shall be established by the Record Keeper for the Participant. The value of the Participant's Account shall include all Plan contributions plus credited investment earnings less any expense charges.

***** End of Article 5 *****

ARTICLE 6. DISTRIBUTIONS

6.1 Permitted Distributions.

Except as otherwise provided in Section 6.3, the Participant's Account shall not be payable to the Participant before the Participant attains age 59½, unless the Participant terminates employment with the Employer, becomes disabled (as defined in the Contract) or dies. Notwithstanding anything to the contrary herein, a Participant's Account shall be distributed no later than required under Section 6.5 of the Plan.

6.2 Distribution of Account.

The Participant's Account shall be payable to the Participant or the Participant's beneficiary (as defined in the Contract) at such times and in such manner as set forth in the Funding Vehicles, and the terms of such Funding Vehicles relating to distributions are incorporated herein by reference. The Administrator shall verify with the Record Keeper that the terms of each Funding Vehicle meet all applicable provisions of the Code and ERISA, including without limitation Code Sections 403(b)(7) (relating to custodial accounts and distributions thereunder) and 403(b)(10) (relating to minimum required distributions), and ERISA Sections 206(a) (relating to distributions), 203(e) and 204(d) (relating to cash-outs), and 205 (relating to qualified joint and survivor annuities and pre-retirement survivor annuities).

6.3 Hardship Withdrawal.

A Participant who is currently employed by the Employer at the time the request for a hardship withdrawal is made may receive a hardship withdrawal of all or part of the amount in his or her Account attributable to Elective Deferrals (exclusive of earnings allocated thereon) only to the extent permitted by the following rules.

- (a) **Procedures.** A Participant may request a hardship withdrawal from his or her Account attributable to Elective Deferrals (exclusive of earnings) in accordance with the procedures authorized by the Administrator. The Administrator shall grant such a request only to the extent the distribution is made on account of an immediate and heavy financial need of the Participant and the distribution is necessary to satisfy the financial need. The Administrator shall direct the Record Keeper to make the hardship withdrawal as soon as administratively practicable after the Participant makes a valid request. If the Administrator denies the request, such denial shall be subject to the provisions of Section 9.8.
- (b) **Immediate and Heavy Financial Need.** A distribution shall be deemed to be necessary to satisfy the immediate and heavy financial need of the Participant only if the distribution is made on account of any of the following:

- (1) medical expenses that would be deductible under Code Section 213(d) (determined without regard to whether the expenses exceed 7.5% of adjusted gross income);
 - (2) the purchase (excluding mortgage payments) of the Participant's principal residence;
 - (3) post-secondary education tuition and related expenses for the next 12 months of the Participant or of the Participant's spouse, children, or dependents (as defined in Code Section 152 without regard to Code Sections 152(b)(1), (b)(2) and (d)(1)(B));
 - (4) to prevent the eviction of the Participant from his or her principal residence or the foreclosure on the mortgage of the Participant's principal residence;
 - (5) burial or funeral expenses of the Participant's deceased parent, spouse, children or other dependents (as defined in Code Section 152 without regard to Code Sections 152(b)(1), (b)(2) and (d)(1)(B));
 - (6) expenses for the repair of damage to the Participant'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); or
 - (7) any other event that the Commissioner of the Internal Revenue Service determines to be an immediate and heavy financial need within the meaning of the safe harbor provisions of the Regulations.
- (c) **Other Requirements.** Any hardship withdrawal from the Plan shall not exceed the amount of the immediate and heavy financial need of the Participant and the Participant shall obtain all distributions (other than the hardship distribution) and all nontaxable loans available under all qualified plans of the Employer before receiving a hardship withdrawal. Upon receiving a hardship withdrawal, the Participant's Elective Deferrals shall be suspended for a six-month period.

6.4 Distributions Prior to Separation from Service.

To the extent permitted by the Funding Vehicle –

- (a) **Distribution from Rollover Contribution Account.** Prior to separating from service with the Employer, a Participant may elect to receive a distribution of any rollover contributions made to the Participant's Account on or after January 1, 2002, subject to the Participant's spouse's rights to survivor benefits.

- (b) **Age 59½ Distributions.** Prior to separating from service with the Employer, a Participant who has reached age 59½ and is employed on a part-time basis (as defined by the Employer), may elect to receive a distribution of all or any portion of the Participant's vested Account in the form of a lump sum distribution, subject to the Participant's spouse's rights to survivor benefits.

6.5 Minimum Distributions.

This Section 6.5 shall take precedence over any inconsistent provisions of the Plan. All distributions required by this Section 6.5 shall be determined and made in accordance with the final Regulations under Code Section 401(a)(9).

- (a) **Effective Date.** This Section 6.5 shall apply for purposes of determining minimum distributions for calendar years beginning with the 2003 calendar year.

This Section 6.5 shall apply to all benefits accruing after December 31, 1986 (including earnings or contributions made before January 1, 1987), as required by Code Section 403(b)(10) and Regulation Section 1.403(b)-3.

(b) **Time and Manner of Distribution.**

- (1) Required Beginning Date. The Participant's Account shall be distributed, or begin to be distributed, to the Participant no later than the Participant's required beginning date.
- (2) Form of Distribution. Unless the Participant's Account is distributed in a single sum on or before the required beginning date, as of the first distribution calendar year, distributions will be made in accordance with subsections (c), (d) and (e).

(c) **Determination of Amount to be Distributed Each Year.**

- (1) General Annuity Requirements. Payments under an annuity form of payment shall satisfy the following requirements:
- (A) The annuity distributions will be paid in periodic payments made at intervals not longer than one year.
- (B) The distribution period will be over the life of the Participant (or the lives of the Participant and the designated beneficiary) or over a period certain not longer than the period described in subsections (d) and (e).

- (C) Once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted.
 - (D) Payments will be non-increasing or increase only in accordance with Regulation Section 1.401(a)(9)-6, Q&A-14.
- (2) Amount Required to be Distributed by Required Beginning Date. The amount that must be distributed on or before the Participant's required beginning date (or, if the Participant dies before distributions begin, the date distributions are required to begin under subsection (e)(1)(A)) is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received (bi-monthly, monthly, semi-annually or annually). All of the Participant's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the Participant's required beginning date.
- (3) Additional Accruals after First Distribution Calendar Year. Any additional benefits accruing to the Participant in a calendar year after the first distribution calendar year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.
- (d) ***Distributions During Participant's Lifetime.***
- (1) Joint Life Annuities Where the Beneficiary is Not the Participant's Spouse. If the Participant's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the Participant and a non-spouse beneficiary, annuity payments to be made on or after the Participant's required beginning date to the designated beneficiary after the Participant's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the Participant using the table set forth in Regulation Section 1.401(a)(9)-6, Q&A-2. If the form of distribution combines a joint and survivor annuity for the joint lives of the Participant and non-spouse beneficiary and a period certain annuity, the requirements of the preceding sentence will apply to annuity payments to be made to the designated beneficiary after the expiration of the period certain.

- (2) Period Certain Annuities. Unless the Participant's spouse is the sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the Participant's lifetime may not exceed the applicable distribution period for the Participant under the Uniform Lifetime Table in Regulation Section 1.401(a)(9)-9 for the calendar year that contains the annuity starting date. If the annuity starting date precedes the year in which the Participant reaches age 70, the applicable distribution period for the Participant is the distribution period for age 70 under the Uniform Lifetime Table plus the excess of 70 over the age of the Participant as of the Participant's birthday in the year that contains the annuity starting date. If the Participant's spouse is the Participant's sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the Participant's applicable distribution period, as determined under this subsection (d)(2), or the joint life and last survivor expectancy of the Participant and the Participant's spouse as determined under the Joint and Last Survivor Table set forth in Regulation Section 1.401(a)(9)-9, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the calendar year that contains the annuity starting date.
- (e) ***Death of Participant Before Distributions Begin.***
- (1) Participant Survived by Designated Beneficiary. If the Participant dies before the date distribution of his or her Account begins and there is a designated beneficiary, the Participant's entire Account shall be distributed as follows:
- (A) *Surviving Spouse is the Sole Designated Beneficiary*. If the Participant's surviving spouse is the Participant's sole designated beneficiary, then distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died or, if later, by December 31 of the calendar year in which the Participant would have attained age 70½. If the surviving spouse dies before distributions to the surviving spouse begin, this subsection (e) will apply as if the surviving spouse were the Participant, except that the time by which distributions must begin will be the December 31 immediately following the calendar year in which the surviving spouse died.
- (B) *Surviving Spouse is Not the Sole Designated Beneficiary*. If the Participant's surviving spouse is not

the Participant's sole designated beneficiary, then distributions to the designated beneficiary shall begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.

(C) *Amount of Distributions.* The Participant's Account shall be distributed, beginning no later than the time described in subsections (e)(1)(A) and (B) above, over the life of the designated beneficiary or over a period certain not exceeding:

- (i) the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the Participant's death, unless the annuity starting date is before the first distribution calendar year, then:
- (ii) the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year that contains the annuity starting date.

(2) No Designated Beneficiary. If the Participant dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's Account shall be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(3) Required Beginning Date. For purposes of this subsection (e), distributions are considered to begin on the Participant's required beginning date (or the date distributions are required to begin to the surviving spouse under subsection (e)(1)(A)). If annuity payments irrevocably commence to the Participant before the Participant's required beginning date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under subsection (e)(1)(A)), the date distributions are considered to begin is the date distributions actually commence.

(f) ***Definitions.***

(1) Designated beneficiary shall mean the individual who is designated as the beneficiary according to procedures established by the Administrator or the Record Keeper and is the designated beneficiary under Code Section 401(a)(9) and Regulation Section 1.401(a)(9)-1, Q&A-4.

- (2) Distribution calendar year shall mean a calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's required beginning date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to subsection (e)(2).
- (3) Life expectancy shall mean life expectancy as computed by use of the Single Life Table in Regulation Section 1.401(a)(9)-9.
- (4) Required beginning date shall mean, as required by Regulation Section 1.403(b)-3(c)(1), the April 1 of the calendar year following the later of (A) the calendar year in which the Participant attains age 70½, or (B) the calendar year in which the Participant retires from employment with the Employer.

6.6 Direct Rollover.

In accordance with Regulations promulgated under Code Section 401(a)(31), each Participant, spouse beneficiary and spouse alternate payee (as defined in Code Section 414(p)), shall be entitled to direct the Administrator to have any portion of an "eligible rollover distribution" (as defined in Code Section 402(c)(4)) paid directly to an "eligible retirement plan" (as defined in Code Section 402(c)(8)) that is specified by the Participant, spouse beneficiary or spouse alternate payee and that provides for the acceptance of such distribution. Effective for distributions made after December 31, 2006, a non-spouse beneficiary may roll all or any portion of an eligible rollover distribution in a direct rollover to an individual retirement account, which shall be treated as an inherited IRA pursuant to Code Section 408(d)(3)(C).

Notwithstanding anything herein to the contrary, an eligible rollover distribution under this Plan shall not include: (i) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary; (ii) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for a specified period of ten years or more; (iii) any distribution to the extent the distribution is required under Code Section 401(a)(9); (iv) any portion of any distribution that is not includible in gross income, as determined without regard to the exclusion for net unrealized appreciation of employer securities; or (v) any amount that is distributed on account of hardship. To the extent that the recipient does not elect to have an eligible rollover distribution from this Plan paid to an eligible retirement plan, or to the extent that such distribution is not an eligible rollover distribution, such distribution shall be subject to the applicable tax withholding requirements of Code Section 3405 in accordance with applicable Regulations.

6.7 Spendthrift Provision.

No Participant shall have the right to assign, transfer, encumber or anticipate his or her Account, or any payments to be made thereunder, and no benefits or payments, rights or interest of a Participant of any kind or nature shall be in any way subject to any legal process to levy upon, garnishee or attach the same for payment of any claim against a Participant, except as provided in Section 6.8, nor shall any Participant have any right to receive such distributions except as are lawfully made as and when due and payable under the terms of this Plan. Notwithstanding anything herein to the contrary, to the extent permitted by Code Section 401(a)(13), the benefits payable under this Plan may be offset by an amount set forth in a court order, judgment, consent order, decree or settlement agreement in connection with a breach of fiduciary duty owed to the Plan.

6.8 Qualified Domestic Relations Order.

All rights and benefits, including elections, provided to a Participant in this Plan shall be subject to the rights afforded to any "alternate payee" under a "qualified domestic relations order" as those terms are defined in Code Section 414(p). Notwithstanding any other provision in this Article 6, the distribution of all or the portion of a Participant's Account that is assigned to an alternate payee under a qualified domestic relations order shall commence as soon as reasonably practicable after the later of the following dates: (i) the date on which the Administrator determines that the domestic relations order pertaining to the alternate payee is a qualified domestic relations order, or (ii) the date specified in the qualified domestic relations order; provided, that the Administrator first obtains the alternate payee's consent.

***** End of Article 6 *****

ARTICLE 7. PARTICIPANT LOANS

7.1 Loans.

A Participant may request a loan by notifying the Administrator, or its representative, in accordance with procedures established by the Administrator or its representative; provided, however, that all such procedures shall comply with Code Section 72(p), including Regulations thereunder, and ERISA Section 408, including Regulations thereunder.

7.2 Authorization.

All loans shall be subject to the approval of the Administrator or its representative and such approval shall be granted or withheld in a uniform and nondiscriminatory manner and in accordance with the rules and procedures as the Administrator or its representatives may adopt.

7.3 Suspension of Repayment During Qualified Military Service.

Loan repayments under the Plan shall be suspended as required under Code Section 414(u) in connection with any period of a Participant's military service.

***** End of Article 7 *****

ARTICLE 8. ADOPTING EMPLOYERS

8.1 Adoption by Other Employers.

Notwithstanding anything herein to the contrary, members of the Controlled Group may adopt this Plan and participate in the Plan by entering into a participation agreement with the Plan Sponsor. An Adopting Employer which has executed a participation agreement shall be an "Adopting Employer" effective as of the date of the applicable participation agreement, with such participation conditioned on the timely payment by the Adopting Employer of its proportional share of contributions under the Plan and, as required by the Plan Sponsor, on the timely payment by the Adopting Employer of its proportional share of expenses resulting from administration of the Plan. Subject to such Adopting Employer's right to withdraw from the Plan, the Adopting Employer has no power or obligation to amend or consent to any amendment made by the Plan Sponsor, and agrees to be bound by all the provisions, conditions, and limitations of the Plan, as amended from time to time, as fully as if the Adopting Employer was an original party to the Plan.

8.2 Designation of Agent.

Each Adopting Employer shall be deemed to be a part of this Plan; provided, however, that with respect to all of its relations with the Record Keeper, Custodian, Fund Sponsor and/or Administrator for the purpose of this Plan, each Adopting Employer, by entering into a participation agreement with the Plan Sponsor, irrevocably designates the Plan Sponsor as its agent.

8.3 Employee Transfers.

In the event of a transfer of an Employee between entities participating in the Plan, the transferred Employee shall retain his or her accumulated service and eligibility. No such transfer shall effect a separation from service hereunder, and the Employer to which the Employee is transferred shall thereupon become obligated hereunder with respect to such Employee in the same manner as was the Employer from whom the Employee was transferred.

8.4 Adopting Employer's Contribution.

All contributions made by an Adopting Employer shall be determined in accordance with this Plan separately by each Adopting Employer, but the assets of this Plan shall, on an ongoing basis, be available to pay benefits to all Participants and beneficiaries under the Plan without regard to the Employer that contributed such assets, subject to all of the terms and conditions of this Plan. On the basis of the information furnished by the Administrator, the Record Keeper shall keep separate books and records concerning the affairs of each Adopting Employer hereunder and as to the accounts and credits of the Employees of each Adopting Employer.

8.5 Amendment.

By entering into a participation agreement with the Plan Sponsor, each Adopting Employer grants to the Plan Sponsor the right to amend the Plan at any time without the consent of such Adopting Employer.

8.6 Discontinuance of Participation.

An Adopting Employer shall be permitted to discontinue or revoke its participation in the Plan upon its ceasing to be a member of the Controlled Group, establishment of a qualified plan for its employees, or such other circumstances approved by the Plan Sponsor. The Plan Sponsor shall have the right, in its sole discretion, to discontinue, revoke or otherwise terminate at any time the participation of an Adopting Employer.

8.7 Administrator's Authority.

The Administrator shall have authority to make any and all necessary rules or regulations, binding upon all Adopting Employers and all Participants, to effectuate the purpose of this Plan.

***** End of Article 8 *****

ARTICLE 9. PLAN ADMINISTRATION

9.1 Administrator's Appointment; Vacancies; Removal.

The Administrator shall be the Plan Sponsor or the individual or committee appointed by the Plan Sponsor to administer this Plan. The Administrator shall be a "named fiduciary" as that term is defined in ERISA and the Regulations promulgated thereunder. The Plan Sponsor shall fill vacancies due to resignation, death, removal or other causes. No resignation shall be effective on less than 15 days' written notice to the Plan Sponsor unless the Plan Sponsor shall waive such notice. The Administrator or any individual member thereof may be removed by the Plan Sponsor from time to time, with or without cause.

9.2 Manner of Acting.

The rights, duties and functions of the Administrator with respect to the operation, administration and management of the Plan are those defined in this Plan. If the Administrator is a committee, the Plan Sponsor shall appoint a chair and the committee shall act by majority agreement of its members; provided, however, that if any committee vote results in a tie, the chair shall be afforded an additional vote to break the tie. Any committee action may be taken either at a meeting, or in writing without a meeting. The Administrator may authorize any individual to execute any document, documents or class of documents or to take other action or types of action on behalf of the Administrator, in which event the Administrator shall notify the Plan Sponsor in writing of such authorization and the name or names of the persons so designated. The Plan Sponsor may rely on such authorization until the Administrator revokes it in writing.

9.3 Administrator's Powers and Duties; Reporting and Disclosure.

The Administrator shall:

- (a) Cause to be prepared and filed with appropriate governmental authorities and/or furnished or made available to each Participant such reports, documents, income tax returns and other information as may from time to time be required under applicable federal or state law.
- (b) Cause each Participant described in Code Section 6057(a)(2)(C) to be furnished an individual statement setting forth the information with respect to such Participant required to be contained in the registration statement.
- (c) Make available at reasonable hours to each Participant and beneficiary a copy of the Plan, the Summary Plan Description, the Plan's latest annual report and such of its records available to the Administrator as may pertain to the assets held for the benefit of such Participant or beneficiary.

- (d) Maintain records sufficient to enable the Administrator properly to perform its duties under this Plan and applicable law, and preserve such records for a period not less than six years after the filing date of the documents based on information which such records contain.
- (e) Adopt, publish and enforce such rules and regulations as the Administrator shall deem necessary and proper for the efficient administration of the Plan.
- (f) Establish and maintain procedures for review of the performance of persons to whom functions are delegated under any provision of this Plan. This review may consist of day-to-day supervision, periodic formal review, a combination of the two, or such other procedures as the Administrator shall deem prudent and appropriate under the circumstances.
- (g) Nothing in this Plan shall be interpreted to require reporting or disclosure from which the Plan, the Employer, the Administrator or the Fund Sponsor is exempt under any applicable federal or state law, Regulation or administrative ruling.

9.4 Exclusive Power to Construe Plan.

The Administrator shall have the exclusive power to construe the Plan and to determine questions which may arise hereunder, including, but not limited to:

- (a) Questions submitted by the Fund Sponsor on all matters necessary for it properly to discharge its powers, duties and obligations.
- (b) Questions regarding the entitlement of Participants and beneficiaries to such benefits as are provided for under the Plan.

9.5 Investment Limitations and Authority.

Nothing in this Plan shall be construed to give the Administrator any right, power or duty to direct or control the Fund Sponsor in the investment and management of contributions, except that the Administrator may determine and communicate to the Fund Sponsor any elections of Participants as to investment.

9.6 Expenses of Plan Administration.

The Administrator shall serve without compensation. The Administrator may employ such agents, clerical, and other services, and such lawyers and accountants, and may incur such other costs as may be necessary for the purpose of administering the Plan. Either the Employer or the Plan shall pay such costs.

9.7 Liability and Indemnification.

The decisions of the Administrator made in good faith on any matter within the scope of its authority shall be final, subject to the provisions of Section 9.8, and, to the extent permitted by law, shall not give rise to any liability to any person, but the Administrator at all times shall act in a uniform manner and according to uniform principles of interpretation and administration. Any liability incurred by the Administrator (including any member of an administrative committee) or its duly authorized agents in the course of performance of their duties hereunder shall, to the extent permitted by law, be indemnified by the Employer. All expenses incurred in defending any action, suit or proceeding brought against the Administrator or its duly authorized agents shall be paid by the Employer in advance of the final disposition of such action, suit or proceeding upon receipt of a written undertaking by or on behalf of the Administrator or its duly authorized agent against whom the action, suit or proceeding is brought to repay such amount if it shall ultimately be determined that he or she is not permitted to be indemnified under law. Nothing herein shall be construed to prohibit the Plan, the Employer or the Administrator from insuring against any liability.

9.8 Claims Procedure.

The following claims procedures shall apply for all claims.

- (a) **Filing a Claim.** All claims shall be filed in writing by the Participant, beneficiary or the authorized representative of the Participant or beneficiary (the "claimant") by completing the procedures required by the Administrator. The procedures shall be reasonable and may include the completion of forms and the submission of documents and additional information. For purposes of this Section 9.8, a request for a hardship withdrawal in accordance with Section 6.3 shall be considered a claim.
- (b) **Review of Claim.** The Administrator shall review all materials and shall decide whether to approve or deny a claim. If a claim is denied in whole or in part, the Administrator shall provide written notice of denial to the claimant within a reasonable period of time no later than 90 days after the Administrator receives the claim, unless special circumstances require an extension of time for processing the claim. If an extension is required, the Administrator shall notify the claimant in writing before the end of the 90-day period and indicate the special circumstances requiring an extension of time and the date by which the Administrator expects to render a decision on the claim. The extension shall not exceed an additional 90 days. The notice of denial shall be written in a manner calculated to be understood by the claimant and shall include the following:
 - (1) the specific reason(s) for the adverse determination;

- (2) specific references to pertinent Plan provisions on which the adverse determination is based;
 - (3) a description of any additional material or information necessary for the claimant to perfect his or her claim and the reason why such material or information is necessary; and
 - (4) a description of the Plan's review procedures and time limits applicable to such procedures, including a statement of the claimant's right to bring a civil action under ERISA Section 502(a) following an adverse determination on review.
- (c) **Appeal Process.** If the claimant wishes a review of the denied claim, the claimant shall be provided, upon request and free of charge, reasonable access to, and copies of, all documents, records and other information relevant to the claimant's claim for benefits. The claimant may submit to the Administrator in writing any issues, documents, records, comments or other information he or she may have regarding his or her claim for benefits under the Plan. Such request for an appeal must be made by the claimant in writing within 60 days after receipt of notice that his or her claim has been denied by the Administrator.

A document, record or other information shall be considered "relevant" to claim if such document, record or other information (i) was relied upon in making the benefit determination, (ii) was submitted, considered or generated in the course of making the benefit determination, without regard to whether such document, record or other information was relied upon in making the benefit determination, or (iii) demonstrates compliance with the administrative processes and safeguards required pursuant to ensure and to verify that benefit claim determinations are made in accordance with the Plan and that, where appropriate, the Plan provisions have been applied consistently with respect to similarly situated claimants.

- (d) **Review of Appeal.** The Administrator shall make its decision on review solely on the basis of the written record, including documents and written materials submitted by the claimant. The Administrator shall make a decision on the review within a reasonable period of time, not later than 60 days after the Administrator receives the claimant's written request for review unless special circumstances require additional time for review of the claim. If an extension is required, the Administrator shall notify the claimant in writing before the end of the 60-day period and indicate the special circumstances requiring an extension of time and the date by which the Administrator expects to render a decision on the claim. The extension shall not exceed an additional 60 days. The decision on review will be written in a manner calculated to be understood by the claimant. If the claim is denied, the written notice shall include the following:

- (1) the specific reason(s) for the adverse determination;
- (2) specific references to pertinent Plan provisions on which the adverse determination is based;
- (3) a statement that the claimant shall be entitled, upon request and free of charge, reasonable access to, and copies of, all documents, records and other information relevant to the claimant's claim for benefits (as "relevant" is defined in this section); and
- (4) a statement of the claimant's right to bring a civil action under ERISA Section 502(a).

The Administrator shall have full discretion and power to decide all claims and reviews of denied claims, respectively, including determining eligibility, status and the rights of all individuals under the Plan and construing any and all terms of the Plan. Following the approval of a claim for benefits, the Administrator shall have the authority to construe and administer the Plan in a manner that is consistent with the payment of benefits in accordance with the approved claim.

Notwithstanding anything herein to the contrary, any notification from the Administrator to the claimant under this section may be made electronically, provided that such notification complies with Regulation Sections 2520.104b-1(c)(1)(i), (iii), and (iv).

9.9 Employee Information.

The Administrator shall determine the status of Employees for the purposes of the Plan on the basis of information furnished it by the Employer, which information shall be sufficient for the Administrator properly to perform its duties. Such information shall include, without limitation, an Employee's name, address, age, Date of Employment and Compensation.

9.10 Referral to Claims Procedure.

The Administrator shall be entitled to rely upon any information furnished by the Employer; provided, however, that when any Employee or beneficiary believes that an error has been made in such information or in any determination made by the Administrator on the basis of such information, such Employee shall have the right to file a claim for review under the provisions of Section 9.8.

***** End of Article 9 *****

ARTICLE 10. AMENDMENT, TERMINATION AND MERGER

10.1 Plan Sponsor Rights.

The Plan Sponsor reserves the right at any time and from time to time to modify, suspend, amend, terminate or merge the Plan in whole or in part (including the provisions relating to contributions) by delivering to the Administrator and any Adopting Employer a copy of such modification, suspension, amendment, termination or merger executed by an authorized officer of the Plan Sponsor; provided, however, that the Plan Sponsor shall have no power to modify, suspend, amend, terminate or merge the Plan in such manner as shall have the effect of rendering the nonforfeitable percentage of the amounts accumulated in a Participant's Account, determined as of the later of the date such amendment is adopted or the date such amendment becomes effective, less than such nonforfeitable percentage computed without regard to such amendment.

10.2 Termination: No Liability for Further Contributions.

Notwithstanding anything herein to the contrary, the Employer, upon any termination of the Plan, shall have no obligation or liability whatsoever to make any further payments (including all or any part of any contribution payable prior to the termination of the Plan), and neither the Administrator nor any Participant, Employee or other person shall have any right to compel the Employer to make any such payments after the termination of the Plan.

10.3 Amendment to Vesting Schedule.

If any amendment shall be adopted changing the vesting under the Plan, any Participant having at least three Years of Service as of the last day of the election period shall have the right, at any time during the election period beginning on the date such amendment is adopted and ending 60 days following the later of the date the amendment is adopted, becomes effective, or the Participant receives notice of such amendment, to elect in writing to have his nonforfeitable percentage computed without regard to such amendment. Such election shall be irrevocable.

10.4 Merger: Continuance of Plan.

In the event of a merger, consolidation, reorganization, sale, or other transfer of assets, or other transaction in which a successor in interest (other than the Employer itself) takes over and carries on the business of the Employer, the successor in interest to the Employer may adopt and continue this Plan and thereafter shall be deemed to be the Employer hereunder.

***** End of Article 10 *****

ARTICLE 11. MISCELLANEOUS

11.1 Employer-Employee Relationship.

Neither the adoption of the Plan, nor any modification hereof shall be construed as giving to any Participant or other person any legal or equitable right against the Employer, or any officer, partner, or employee thereof, or the Administrator, except as expressly provided for in the Plan, and in no event shall the terms of employment of any Participant be modified or in any way affected thereby.

11.2 Rules of Interpretation.

Whenever appropriate, words used herein in the singular may be read in the plural, or words used herein in the plural may be read in the singular; and the masculine may include the feminine. Any reference in this Plan to a statute or Regulation shall be considered also to mean and refer to any subsequent amendment or replacement of that statute or Regulation.

11.3 Applicable Law.

The provisions of the Plan shall be construed and administered according to the laws of the State of Colorado, to the extent not preempted by federal law.

11.4 Qualified Military Service.

Notwithstanding any provision to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Code Section 414(u).

***** End of Article 11 *****

IN WITNESS WHEREOF, the Employer has caused this Plan to be executed effective as of the day and year first above written.

**UNIVERSITY CORPORATION FOR
ATMOSPHERIC RESEARCH
EMPLOYER**

By: _____

Title: _____

Date: _____

SCHEDULE A PLAN FUNDING OPTIONS

TIAA-CREF Annuity Contracts:

- (1) TIAA Traditional Annuity
- (2) TIAA Real Estate Account
- (3) CREF Stock Account
- (4) CREF Money Market Account
- (5) CREF Bond Market Account
- (6) CREF Social Choice Account
- (7) CREF Global Equities Account
- (8) CREF Growth Account
- (9) CREF Equity Index Account
- (10) CREF Inflation-Linked Bond Account

TIAA-CREF Mutual Funds:

- (1) TIAA-CREF Lifecycle Funds 2010, 2015, 2020, 2025, 2030, 2035, 2040
- (2) TIAA-CREF Large Cap Value Fund
- (3) TIAA-CREF Small Cap Equity Fund
- (4) TIAA-CREF Mid Cap Value Fund
- (5) TIAA-CREF Mid Cap Growth Fund
- (6) TIAA-CREF International Equity Fund

Scudder Investment Options:

- (1) Cash Investment Trust
- (2) U.S. Treasury Money Fund
- (3) GNMA Fund
- (4) Income Fund

- (5) International Bond Fund
- (6) Short Term Global Income Fund
- (7) Short Term Bond Fund
- (8) Zero Coupon Fund 1995
- (9) Zero Coupon Fund 2000
- (10) Capital Growth Fund
- (11) Development Fund
- (12) Global Fund
- (13) Growth and Income Fund
- (14) International Fund
- (15) Quality Growth Fund
- (16) The Japan Fund
- (17) Gold Fund

The Scudder funds are only available for transfers from other Fund Sponsors and their Funding Vehicles. Contributions shall not be directly made to this Fund Sponsor.