

**STATE OF MICHIGAN**

**457 PLAN**

**(Amended and Restated Effective January 1, 2008)**

STATE OF MICHIGAN  
457 PLAN

TABLE OF CONTENTS

<b>ARTICLE 1 ESTABLISHMENT OF PLAN AND TRUST .....</b>	<b>1</b>
1.1 Establishment of Plan. ....	1
1.2 Declaration of Trust. ....	1
1.3 Compliance With Law. ....	1
1.4 Effective Dates of Plan Provisions. ....	2
1.5 Application to Inactive and Former Participants. ....	2
<b>ARTICLE 2 DEFINITIONS .....</b>	<b>3</b>
<b>ARTICLE 3 ELIGIBILITY TO PARTICIPATE.....</b>	<b>6</b>
3.1 Eligibility Requirements. ....	6
3.2 Participation Rules. ....	6
<b>ARTICLE 4 CONTRIBUTIONS, ROLLOVERS, AND TRANSFERS TO PLAN .....</b>	<b>7</b>
4.1 Types of Contributions. ....	7
4.2 Elective Contributions. ....	7
4.3 Leave Program Contributions. ....	10
4.4 Return of Contributions. ....	10
4.5 Timing of Contributions. ....	10
4.6 Rollovers and Transfers. ....	10
<b>ARTICLE 5 ACCOUNTING.....</b>	<b>12</b>
5.1 Accounts. ....	12
5.2 Crediting of Contributions. ....	12
5.3 Forfeitures. ....	12
5.4 Accounting for Earnings, Losses, and Expenses; Revaluation of Assets. ....	13
<b>ARTICLE 6 DETERMINATION OF VESTED PERCENTAGE .....</b>	<b>14</b>
6.1 Vested Percentage. ....	14
6.2 Forfeitures. ....	14
<b>ARTICLE 7 DISTRIBUTIONS.....</b>	<b>15</b>
7.1 Distributive Events.....	15
7.2 Valuation for Distribution.....	16
7.3 Methods of Distribution.....	16

7.4	Time of Distribution. ....	17
7.5	Election of Method and Time of Distribution.....	18
7.6	Designation of Beneficiary. ....	18
7.7	Facility of Payment. ....	19
7.8	Direct Rollovers. ....	20
7.9	Transfers to Purchase Service Credits. ....	21
7.10	Minimum Distribution Requirements. ....	21
<b>ARTICLE 8 ADMINISTRATION OF THE PLAN .....</b>		<b>26</b>
8.1	Duties and Powers of the Employer.....	26
8.2	Employer Action. ....	26
8.3	Plan Administrator. ....	27
8.4	Administrative Committee.....	27
8.5	Duties and Powers of the Administrator. ....	27
8.6	Delegation of Administrative Duties and Powers.....	29
8.7	Interrelationship of Fiduciaries. ....	29
8.8	Compensation; Indemnification.....	29
8.9	Fiduciary Standards. ....	30
8.10	Claims Procedure. ....	30
8.11	Participant’s Responsibilities.....	31
<b>ARTICLE 9 INVESTMENT OF FUNDS.....</b>		<b>32</b>
9.1	Investment Responsibility.....	32
9.2	Authorized Investments. ....	32
9.3	Commingled Investment.....	32
9.4	Investment Direction by Participants.....	33
9.5	Loans.....	33
<b>ARTICLE 10 ADMINISTRATION OF THE TRUST.....</b>		<b>34</b>
10.1	Duties and Powers of the Trustee. ....	34
10.2	Accounting.....	36
10.3	Trustee Action.....	36
<b>ARTICLE 11 AMENDMENT .....</b>		<b>37</b>
11.1	Amendment.....	37
<b>ARTICLE 12 TERMINATION.....</b>		<b>38</b>
12.1	Right to Terminate or Discontinue Contributions. ....	38
12.2	Automatic Termination.....	38
12.3	Discontinuance of Contributions. ....	38
12.4	Effect of Termination or Partial Termination. ....	38

12.5	No Reversion of Assets.....	38
<b>ARTICLE 13 GENERAL PROVISIONS.....</b>		<b>39</b>
13.1	Spendthrift Provision.....	39
13.2	Effect Upon Employment Relationship.....	39
13.3	No Interest in Employer Assets.....	39
13.4	Construction.....	39
13.5	Severability.....	40
13.6	Governing Law.....	40
13.7	Nondiversion.....	40

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**STATE OF MICHIGAN  
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**ARTICLE 1**

**ESTABLISHMENT OF PLAN AND TRUST**

**1.1 Establishment of Plan.**

This eligible deferred compensation plan is established by the State of Michigan pursuant to M.C.L. 38.1151, for the exclusive benefit of eligible Employees and their beneficiaries. The State of Michigan originally adopted the Michigan State Eligible Deferred Compensation Plan I (457) by resolution of the Michigan Civil Service Commission, dated April 19, 1974. The Plan has been amended and restated since the Plan's original adoption and retitled as the "State of Michigan 457 Plan" (the "Plan"), and is hereby further amended and restated in its entirety, effective January 1, 2008, except as otherwise specifically provided.

**1.2 Declaration of Trust.**

The Trustee hereby declares that Plan assets delivered to it under this Plan will be held in trust (the "Trust") and administered under the terms of this Plan and Trust document. The Trust is established pursuant to Section 457(g) of the Internal Revenue Code of 1986, as amended ("Code"), and shall be operated for the exclusive benefit of Participants and their Beneficiaries. The Trust shall not be diverted to other purposes, except that Trust assets may be used to pay reasonable expenses of administration.

**1.3 Compliance With Law.**

This Plan is intended to constitute an "eligible deferred compensation plan" within the meaning of Code Section 457(b), and all regulations issued under the Code ("Regulations") to the extent applicable to a governmental plan. This Plan does not elect to be subject to provisions of the Code that are not applicable to a governmental plan, nor to any of the provisions of the Employee Retirement Income Security Act of 1974.

This amended and restated Plan further reflects (effective as noted) certain provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001, and the Pension Protection Act of 2006, which are intended to comply in good faith with the requirements of such statute and which shall be construed in accordance with such statute and guidance issued thereunder.

Notwithstanding any provision of this Plan to the contrary, contributions, benefits, and service credit with respect to qualified military service will be provided in accordance with Code Section 414(u). In addition, effective as of January 1, 2007, in the event a Participant dies while performing qualified military service (as defined in Code Section 414(u)), for purposes of determining any death benefits payable from the Plan with respect to the Participant, such Participant shall be treated as having resumed and then terminated employment on account of death.

#### **1.4 Effective Dates of Plan Provisions.**

The "Effective Date" of this restated Plan means January 1, 2008, unless a Plan provision specifies a different effective date. Each Plan provision applies from its effective date until the effective date of an amendment thereto.

#### **1.5 Application to Inactive and Former Participants.**

An amendment to this Plan shall apply to former Participants and to Participants not employed on the effective date of the amendment only if it amends a provision of the Plan that continues to apply to those Participants or only to the extent it expressly states that it is applicable. Except as specified in the preceding sentence, if a Participant is not employed on the effective date of an amendment, the amendment shall not become applicable to the Participant unless the Participant has an hour of service after the effective date of the amendment.

## ARTICLE 2

### DEFINITIONS

2.1 **Accounts** has the meaning set forth in Sections 5.1 and 5.2.

2.2 **Administrator** means the individual who from time to time holds the position of Director of the Michigan Department of Management and Budget, or the Director's designee.

2.3 **Age 50 Catch-Up Contributions** has the meaning set forth in Section 4.2(b)(iii).

2.4 **Banked Leave Time Program** means the Part B annual leave hours within the State of Michigan's Annual and Sick Leave Program approved by a ruling of the Internal Revenue Service on September 5, 2003, in which a pay reduction or other concessions are applied to a Participant in exchange for additional Part B annual leave hours.

2.5 **Beneficiary** has the meaning set forth in Section 7.6.

2.6 **Code** means the Internal Revenue Code of 1986, as amended.

2.7 **Compensation.**

(a) "Compensation" means the remuneration paid a Participant on account of the Participant's services rendered to the Employer, equal to the sum of the following:

(i) A Participant's W-2 earnings for services performed for the Employer;

(ii) Any amount contributed or deferred at the election of the Participant (both those which are excluded from the Participant's gross income, and those which are designated Roth contributions) pursuant to Code Sections 125, 132(f)(4), 401(k), 403(b) or 457;

(iii) The value of any unpaid furlough hours and the value of any unpaid hours exchanged for Part B annual leave hours, calculated at the Participant's then current hourly rate or rates of pay, for a period during which a Participant is participating in the Banked Leave Time Program; and

(iv) The value of hours not worked during which a Participant is on a voluntary or involuntary leave under the State of Michigan's Pay Reduction Plan A, on a one-day layoff, or on a designated temporary layoff, calculated at the Participant's then current hourly rate or rates of pay.

(v) The foregoing notwithstanding, any amount otherwise included in the above definition of Compensation (consisting of regular pay, overtime, shift differential, commissions, bonuses, or other similar payments, or unused accrued bona fide sick, vacation or other leave) that is paid to a Participant after the Participant's severance from employment, shall only be taken into account hereunder if: (A) such amount is actually paid by the later of 2-1/2 months after the Participant's severance date, or the end of the Plan Year in which the

Participant's severance occurs; and (B) such amount otherwise would have been paid or usable by the Participant prior to a severance, if the Participant had continued in employment with the Employer (and thereby constitute "compensation" as described in Code Section 415 and the Regulations thereunder; the provisions of which are incorporated by reference). Other post-severance payments shall not be taken into account hereunder.

(b) To the extent provided under policies or procedures adopted by the Administrator from time to time, "Compensation" for a judge of a District, Circuit or Probate Court in the State of Michigan, shall mean an amount up to the total amount of Compensation (as defined in (a) above) paid to such judge by the State of Michigan and any county, municipality or other governmental entity in the State of Michigan.

**2.8 Earliest Retirement Age** has the meaning set forth in Appendix A.

**2.9 Effective Date** means January 1, 2008, unless a Plan provision specifies a different effective date.

**2.10 Elective Contributions** has the meaning set forth in Section 4.2.

**2.11 Elective Deferral Limit** has the meaning set forth in Section 4.2(b)(i).

**2.12 Employee** has the meaning set forth in Section 3.1(a).

**2.13 Employer** means the State of Michigan, any participating political subdivisions of the State of Michigan, and any participating agencies or instrumentalities of the State of Michigan or of any political subdivision of the State of Michigan, as determined by the Administrator pursuant to Section 3.1(b).

**2.14 Excess Deferral** has the meaning set forth in Section 4.2(d).

**2.15 Forfeitures** has the meaning set forth in Section 5.3.

**2.16 Investment Manager** means a person or entity that is a registered investment adviser under the Investment Advisors Act of 1940, a bank (as defined in the Investment Advisors Act of 1940), or an insurance company licensed to manage, acquire, and dispose of assets of qualified retirement plans under the laws of more than one state, and which acknowledges in writing that it is a fiduciary with respect to this Plan and Trust.

**2.17 Leave Program Contributions** has the meaning set forth in Section 4.3.

**2.18 Minimum Distribution** has the meaning set forth in Section 7.10.

**2.19 Normal Retirement Age** has the meaning set forth in Section 4.2(b)(ii).

**2.20 Normal Retirement Age Catch-Up Contributions** has the meaning set forth in Section 4.2(b)(ii).



**2.21 Participant** means any eligible Employee who has been admitted or readmitted to participation in the Plan as set forth in Section 3.1, including any former Employee who continues to have any Vested Account Balance under the Plan.

**2.22 Plan** means the eligible deferred compensation plan that is created by this document, and all amendments thereto, known as the "State of Michigan 457 Plan."

**2.23 Plan Year** means the 12-consecutive month period ending on December 31. Prior to January 1, 1999, Plan Year means the 12-month period beginning each October 1, except for the period October 1 through December 31, 1998, when a "short Plan Year" shall be deemed to have occurred.

**2.24 QDRO** has the meaning set forth in Section 7.1(f).

**2.25 Regulations** means all applicable regulations issued under the Code.

**2.26 Required Beginning Date** means the April 1 following the calendar year in which the Participant attains age 70 ½ or, if later, the April 1 following the calendar year in which the Participant retires.

**2.27 Trust** means the trust established pursuant to Code Section 457(g) that is created by this document, and all amendments thereto.

**2.28 Trustee** means the individual who from time to time holds the position of Director of the Michigan Department of Management and Budget, or the Director's designee.

**2.29 Vested Account Balance** means the total value at any time of the vested portion (determined under Section 6.1) of all of the Participant's account balances under the Plan.

## ARTICLE 3

### ELIGIBILITY TO PARTICIPATE

#### 3.1 Eligibility Requirements.

Employees of the State of Michigan are eligible for participation under the Plan, but only to the extent the Administrator has approved participation for the classification of State employees in which the individual is employed. An eligible Employee shall become a "Participant" in this Plan on the date the Employee is employed. If the Employee is not initially employed in a category where he is eligible to participate in the Plan, the Employee shall become a Participant on the first subsequent day on which the Employee is eligible. Such eligibility, however, shall terminate any time employment with the State is terminated.

(a) Employee. "Employee" means an individual who is employed by the Employer and who receives Compensation for personal services performed for the Employer that is subject to withholding for federal income tax purposes. Such term excludes Leased Employees; a "Leased Employee" is an individual who has performed services for the Employer pursuant to an agreement between the Employer and a leasing organization on a full-time basis for at least a one-year period, and such services are performed under primary direction or control by the Employer.

(b) Other. The Administrator may also determine the extent to which some or all of the individuals working under the auspices of some or all of the following entities and/or departments of the Employer, political subdivisions of the State of Michigan, and other agencies or instrumentalities of the State of Michigan or of any political subdivision of the State of Michigan, shall be eligible to participate in the Plan as Participants:

- (i) Revenue Bond employees of the Mackinac State Park Commission;
- (ii) Blind Vending Stand Operators in Government Owned Buildings (under license from the Commission for the Blind); and
- (iii) Judges of the Probate Courts in the State of Michigan.

#### 3.2 Participation Rules.

Participation shall terminate upon the earlier of the date the Participant is not an Employee and has been paid the full amount due under this Plan, or the date of the Participant's death. A former Participant shall become a Participant immediately upon reemployment, if he is reemployed in a classification where he is eligible to participate in the Plan as determined under Section 3.1.

## ARTICLE 4

### CONTRIBUTIONS, ROLLOVERS, AND TRANSFERS TO PLAN

#### 4.1 Types of Contributions.

As set forth in more detail in the following Sections of this Article 4, the following types of contributions may be made under the Plan:

(a) Elective Contributions.

(b) Rollovers and Transfers.

(c) Restoration of Forfeiture. When restoration of a forfeiture is required with respect to a missing Participant or Beneficiary under Section 6.2(a) and other forfeitures and Trust earnings are insufficient or are not applied for that purpose, the Employer shall contribute the additional amount necessary to restore such forfeiture.

(d) Leave Program Contributions.

#### 4.2 Elective Contributions.

A Participant may elect to reduce his Compensation by pretax payroll deductions, in a percentage or fixed dollar amount and subject to such minimum and maximum amounts, as determined by the Administrator from time to time. The Employer shall contribute such amounts to the Trust on behalf of the Participant as "Elective Contributions."

(a) Payroll Deductions. Absent alternative policies or procedures specified by the Administrator, any election to authorize, modify, suspend, or resume payroll deductions shall be in writing and signed by the Participant and shall be subject to the following: A Participant may make a new election or change a prior election effective as of any succeeding payroll period. The election shall then continue in effect until modified or suspended. A Participant may elect to suspend payroll deductions at any time, and such election shall be effective for the first administratively feasible payroll period following the election. Notwithstanding the foregoing, a Participant's election to make Elective Contributions from his Compensation (or any change thereto) must be entered into before the first day of the month in which such Compensation is paid or made available, in order for such election (or any change thereto) to be effective with respect to such Compensation.

To the extent that a Participant elects to make Elective Contributions from any accumulated sick pay, accumulated vacation pay or back pay that is payable in conjunction with such Participant's severance from employment (and that is not contributed as a non-elective employer contribution to the Plan [under Section 4.3] or to the State of Michigan 401K Plan), then: (i) the Participant's election must be entered into before the first day of the month in which such amounts would otherwise be paid or made available; (ii) such amount must actually be paid by the later of 2-1/2 months after the Participant's severance date, or the end of the Plan Year in

which the Participant's severance occurs; and (iii) such amount must have otherwise been paid or usable by the Participant prior to a severance, if the Participant had continued in employment with the Employer (and thereby constitute "compensation" as described in Code Section 415 and the Regulations thereunder; the provisions of which are incorporated by reference).

(b) Limits On Elective Contributions. Elective Contributions are subject to the following limits:

(i) "Elective Deferral Limit." Except as modified in subsection (ii) below, a Participant's total Elective Contributions under this Plan and any other elective deferrals for a calendar year under Code Section 457, shall not exceed the lesser of: (A) the "applicable dollar amount" limitation under Code Section 457(b)(2)(A) (the provisions of which are incorporated by reference, and which limit is adjusted for increases in the cost of living in accordance with Code Section 415(d)); or (B) 100% (or such lower percentage as determined by the Administrator from time to time) of the Participant's Compensation (determined after excluding the value of any hours referred to in Sections 2.7(a)(iii) and (iv)). The Elective Deferral Limit shall be determined without reference to gains or losses credited to the Participant's Elective Contributions Account, and any Age 50 Catch-Up Contributions under Code Section 414(v) made pursuant to subsection (iii) below.

(ii) "Normal Retirement Age Catch-Up Contributions." Notwithstanding subsection (i), during any one or more of the three calendar years prior to the year a Participant attains his Normal Retirement Age, if the amount determined under this subsection (ii) exceeds the amount computed under subsection (i), then such Participant may elect to make a Normal Retirement Age Catch-Up Contribution in lieu of a regular Elective Contribution. The Normal Retirement Age Catch-Up Contribution for any calendar year shall not exceed the lesser of:

(A) An amount equal to two times the "applicable dollar amount" limitation for such year as set forth in subsection (i); or

(B) The sum of:

(1) the aggregate total of the contribution limit referred to in subsection (i) for the current year and each prior calendar year beginning after December 31, 2001 during which the Participant was eligible to participate under the Plan; less the aggregate total during such period of the amounts the Participant actually elected to defer under the Plan; plus

(2) the aggregate total of the contribution limit referred to in Code Section 457(b)(2) for each prior calendar year beginning after December 31, 1978 and before January 1, 2002 during which the Participant was eligible to participate under the Plan; less the aggregate total during such period of any employer contributions and salary reduction or elective contributions under the Plan or any other eligible Code Section 457(b) plan, and any salary reduction and elective contributions under any Code Section 401(k) qualified cash-or-deferred arrangement, Code Section 402(h)(1)(B) simplified employee pension (SARSEP), Code Section 403(b) annuity contract, or Code Section 408(p) simple retirement

account, or under any plan for which a deduction is allowed because of a contribution to an organization described in Code Section 501(c)(18), including plans, arrangements or accounts maintained by the Employer or any employer for whom the Participant performed services (provided, that contributions for any calendar year are only taken into account to the extent that the total of such contributions did not exceed the aggregate limit referred to in Code Section 457(b)(2) for that year).

A Participant may not elect to have this provision of the Plan apply more than once, whether or not a Normal Retirement Age Catch-Up Contribution is made in all of the three taxable years ending before the Participant's Normal Retirement Age, and whether or not the Participant or former Participant rejoins the Plan or participates in another eligible deferred compensation plan under Code Section 457 after retirement. "Normal Retirement Age" shall mean the age elected by the Participant, which may be any age: (A) that is on or after the Participant's "Earliest Retirement Age" as set forth on the attached Appendix A (which is made a part of this Plan); and (B) that is not later than age 70-1/2.

(iii) "Age 50 Catch-Up Contributions." An eligible Employee who has attained age 50 (or older) before the close of any Plan Year shall also be eligible to make Elective Contributions for the Plan Year that will be treated as catch-up contributions, in accordance with and subject to the "applicable dollar amount" limitation of Code Section 414(v) (the provisions of which are incorporated by reference, and which limit is adjusted for increases in the cost of living in accordance with Code Section 415(d)), and as determined by the Administrator from time to time. Age 50 Catch-Up Contributions shall not be taken into account for purposes of the provisions of the Plan implementing the required limitations of Code Section 457(b)(2) (subsection (i) above). The Plan also shall not be treated as failing to satisfy the provisions of the Plan implementing any other applicable requirements of the Code, by reason of the making of any Age 50 Catch-Up Contributions. Notwithstanding the foregoing, no Age 50 Catch-Up Contributions shall be made for any Plan Year during which the Participant makes a Normal Retirement Age Catch-Up Contribution described in subsection (ii) above.

(c) Prevention of Excess Deferrals. If the Administrator determines that the Elective Deferral Limit or any of the other limits set forth in subsection (b) above has been or may be exceeded, the Administrator may reduce or suspend Elective Contributions for individual Employees, as necessary.

(d) Correction of Excess Deferrals.

(i) All of a Participant's Excess Deferral, plus attributable income or loss (in the event such distribution occurs after the calendar year in which such Excess Deferral is made), shall be distributed to the Participant as soon as is administratively feasible after the Administrator determines that an Excess Deferral has occurred. For this purpose, "Excess Deferral" means a Participant's Elective Contributions to this Plan alone that exceed the Elective Deferral Limit or any of the other limits set forth in subsection (b) above.

(ii) All or any portion of a Participant's Elective Contributions, plus attributable income or loss (in the event such distribution occurs after the calendar year in which

such Elective Contribution is made), shall also be distributed to the Participant as soon as is administratively feasible after the Participant informs the Administrator that the Participant's total contributions to this Plan and any other elective deferrals under other plans for a calendar year under Code Section 457 exceeded the Elective Deferral Limit. The Participant must request distribution of such Elective Contributions no later than the February 15th following the calendar year for which such amount was contributed. The request must specify the amount to be distributed and contain an acknowledgment that the amount to be distributed exceeds the Elective Deferral Limit. If the written request is timely, the distribution shall be made by the April 15th following receipt of the request. If such request is not timely, any such amount shall be retained in this Plan for later distribution in accordance with Article 7.

#### **4.3 Leave Program Contributions.**

Subject to the limits set forth in Section 4.2(b), the Employer shall make a non-elective "Leave Program Contribution" for any Participant for the Plan Year(s) during, or immediately prior to, which the Participant retires or otherwise severs from employment, in an amount equal to the value of the unused leave time retained by such Participant under the Banked Leave Time Program (or any other similar leave program as is maintained by the Employer from time to time); provided that such contributions shall be made only to the extent that (i) such amounts have not been deposited as non-elective employer contributions to the State of Michigan 401K Plan, and (ii) the Participant has no ability to receive cash in lieu of actually utilizing such unused leave time. The timing, valuation and other aspects of such leave program contributions, shall be subject to such policies or procedures as are determined by the Administrator from time to time.

#### **4.4 Return of Contributions.**

Part or all of any contribution made under the Plan by mistake of fact may be returned to the Employer, upon demand, within one year after payment of the contribution or as otherwise permitted under applicable Regulations. The amount that may be returned shall be the excess of the amount contributed over the amount that would have been contributed if the mistake of fact had not occurred. Earnings attributable to the excess amount shall not be returned, but losses through the date of repayment that are attributable to the excess amount shall reduce the amount returned. The amount returned shall not reduce a Participant's account to less than the account balance would have been, had the excess amount not been contributed.

#### **4.5 Timing of Contributions.**

Any Elective Contribution amounts withheld from a Participant's Compensation for contribution to this Plan shall be paid to the Trustee as soon as is administratively feasible, but no later than the 15<sup>th</sup> business day of the month following the month in which such amounts are withheld from the Participant's Compensation.

#### **4.6 Rollovers and Transfers.**

(a) The Trustee, at any time on behalf of a Participant who is actively employed or during the first twelve (12) months following the retirement or other severance from employment of any other Participant who was formerly employed by the Employer, may accept, administer,

and distribute an amount that is either: (i) a direct plan-to-plan transfer of funds held under another eligible deferred compensation plan or trust described in Code Section 457(b) for a Participant that is not an eligible rollover distribution; or (ii) an eligible rollover distribution within the meaning of Section 7.8(b) from another eligible deferred compensation plan described in Code Section 457(b).

(b) If a rollover amount is determined not to be a qualifying rollover or constitutes a prohibited transfer, the amount, plus any earnings and minus any losses, shall be distributed to the Participant immediately. Any amount transferred to this Plan which the Administrator determines, due to actuarial error or other recalculation, was improper, may be returned to the eligible deferred compensation plan or trust from which such transfer was made.

## ARTICLE 5

### ACCOUNTING

#### 5.1 Accounts.

(a) The Administrator shall maintain at least one account for each Participant who elects to make Elective Contributions to the Plan. The Administrator may maintain additional accounts on behalf of a Participant, including a separate account for each other type of contribution and for each rollover or transfer of assets to this Plan. Separate accounts shall be maintained for accounting purposes only and shall not require segregated investment of amounts credited to separate accounts except as specified in Article 9.

(b) Separate accounts shall not be required if (i) the separation is not necessary for compliance with any requirement of the Code and Regulations, (ii) the consolidation would not deprive a Participant of any tax or transfer opportunity, and (iii) the accounts are subject to the same vesting schedule or are fully vested.

#### 5.2 Crediting of Contributions.

Contributions to this Plan shall be credited to Participants' accounts when made, as follows:

(a) Elective Contributions. Each Participant's Elective Contributions shall be credited to the Participant's Elective Contributions Account.

(b) Rollovers and Transfers. Each Participant's rollover or transfer contributions shall be credited to the Participant's Rollover/Transfer Contributions Account.

(c) Restoration of Forfeiture. If a forfeited amount is required to be restored under Section 6.2(a), that amount shall be recredited to the account from which the amount was originally forfeited.

(d) Leave Program Contributions. Each Participant's Leave Program Contributions shall be credited to the Participant's Leave Program Contributions Account.

#### 5.3 Forfeitures.

Forfeitures shall occur as of the dates specified in Section 6.2. Forfeitures that occur during a Plan Year shall be credited to the Forfeitures Account and invested by the Trustee in accordance with the provisions of Articles 9 and 10 of the Plan. Forfeitures shall be applied first during the Plan Year to restore any forfeited amounts that are required to be restored under the limited circumstances set forth in Section 6.2(a). The balance of any forfeitures and earnings thereon remaining in the Forfeitures Account at the end of any Plan Year may be used by the Administrator to pay administrative expenses of the Plan or other costs incurred by the Plan.



#### **5.4 Accounting for Earnings, Losses, and Expenses; Revaluation of Assets.**

(a) Under policies or procedures adopted by the Administrator from time to time, a Participant's accounts shall be credited or debited from time to time to reflect any expenses incurred by or charged to such accounts and the earnings, gains and losses which have been realized from the investments of such accounts under the Trust, in accordance with the Participant's directions pursuant to Section 9.4. The Administrator and Trustee will coordinate their efforts to maintain sufficient accounting records to identify the individual account balances and the changes thereto under the Trust, for all Participants of the Plan. Daily valuation record keeping shall be used by the Plan, unless another valuation method is implemented by the Administrator.

(b) With respect to a loan made to a Participant pursuant to Section 9.5, interest and principal payments shall be credited directly to the Participant's accounts, and will then be reinvested in accordance with the Participant's investment direction in effect at such time. Any expenses associated with making and administering such loan, may be charged directly to the accounts of the Participant under policies or procedures adopted by the Administrator from time to time.

## ARTICLE 6

### DETERMINATION OF VESTED PERCENTAGE

#### 6.1 Vested Percentage.

Except as provided in Section 6.2, each Participant shall have a 100% vested percentage in all of the Participant's accounts under this Plan at all times.

#### 6.2 Forfeitures.

(a) If a Participant or Beneficiary entitled to a payment cannot be located, the Participant's accounts related thereto shall be forfeited as of the date the Administrator certifies to the Trustee that the Participant or Beneficiary cannot be located. The Participant's Vested Account Balance that is so forfeited shall be restored to the Participant's account if the Participant or Beneficiary entitled to the payment later submits a written election of method of payment.

(b) Any provision of this Plan to the contrary notwithstanding, a Participant and/or his or her Beneficiaries shall forfeit the Participant's accounts, and any rights under this Plan: (i) as otherwise provided under the laws of the State of Michigan that permit such forfeiture; (ii) as the Administrator deems necessary to satisfy the State of Michigan's claims arising from embezzlement or fraud committed by the Participant and/or any Beneficiary; or (iii) with respect to such de minimis account balances as the Administrator may determine from time to time.

**ARTICLE 7**  
**DISTRIBUTIONS**

**7.1 Distributive Events.**

The following events shall permit distribution.

- (a) Normal Retirement Age. A Participant's severance from employment at or after the Participant's Normal Retirement Age.
- (b) Earliest Retirement Age. A Participant's severance from employment at or after the Participant's Earliest Retirement Age.
- (c) Death. A Participant dies.
- (d) Other Severance from Employment. A Participant's severance from employment for any reason; provided, that if the Participant is rehired as an Employee prior to payment of any requested distribution of the Participant's accounts under the Plan, any such pending payment(s) from the Plan will be stopped or discontinued by the Administrator to the extent administratively feasible. A Participant's transfer to a category of employment with the Employer where a Participant is no longer eligible to participate in the Plan does not constitute a severance from employment.
- (e) Attainment of Age 70 ½. A Participant attains age 70 ½.
- (f) QDRO. This Plan receives a QDRO and the Administrator directs the Trustee to pay benefits to an alternate payee as set forth in the QDRO.

"QDRO" means a "qualified domestic relations order," as determined under Code Section 414(p), as modified by Code Section 414(p)(11).

- (g) Plan Termination. Termination of this Plan with respect to all Participants.
- (h) Hardship Withdrawal. A Participant requests a hardship withdrawal in the event of an unforeseeable emergency which satisfies the following conditions:
  - (i) Amount. The amount of the withdrawal shall not exceed the amount reasonably necessary to satisfy the emergency need, which may include any amounts necessary to pay any federal, state or local income taxes or penalties reasonably anticipated to result from the distribution.
  - (ii) Unforeseeable Emergency. The following severe financial hardships of the Participant shall constitute "unforeseeable emergencies" for purposes of this Plan: (A) an illness or accident of the Participant, or the Participant's Spouse or dependents (as defined in Code Section 152, without regard to Code Sections 152(b)(1), (b)(2) and (d)(1)(B)); (B) loss of the Participant's property due to casualty; or (C) other similar extraordinary and unforeseeable

circumstances arising as a result of events beyond the control of the Participant (including, but not limited to, imminent foreclosure of or eviction from the Participant's primary residence, and the need to pay burial or funeral expenses of a Participant's deceased spouse or dependent). For this purpose, a primary Beneficiary designated by a Participant under the Plan who is other than the Participant's Spouse, or dependent, shall be treated in the same manner as the Participant's Spouse or dependent in determining whether the Participant has incurred an "unforeseeable emergency;" provided that such primary Beneficiary is an individual who has an unconditional right to all or a portion of the Participant's Vested Account Balance upon the Participant's death.

(iii) **Other Resources.** The amount needed to meet the emergency need must not be reasonably available from other resources of the Participant. Other resources include the liquidation of personal assets (if such liquidation would not create a severe financial hardship), reimbursement or compensation from insurance or otherwise, or borrowing the amount needed. The Administrator may reasonably rely on the representations of a Participant regarding the availability of other financial resources. A Participant must elect to receive all available plan loans under this Plan and any other retirement plan in which the Participant participates. The Participant's right to make Elective Contributions under this Plan and all other retirement plans maintained by the Employer, and cafeteria plans under Code Section 125, but excluding other health and welfare benefit plans, shall be suspended for a period of at least six (6) months after the withdrawal.

(i) **Withdrawal of Rollover or Transfer Contributions.** A Participant requests a withdrawal from the Participant's Rollover/Transfer Contributions Account, provided that no amount deposited in such account as the result of a direct plan-to-plan transfer (and the earnings thereon) may be so withdrawn.

## **7.2 Valuation for Distribution.**

The Participant's Vested Account Balance shall be valued for purposes of making distributions hereunder, based on daily valuation record keeping, unless another valuation method is implemented by the Administrator. The amount to be distributed shall be reduced by the amount of any loan outstanding at any time.

## **7.3 Methods of Distribution.**

Distribution of a Participant's Vested Account Balance shall be made in one or a combination of the following methods, subject to policies or procedures adopted by the Administrator from time to time:

(a) **Lump Sum.** Distribution shall be made in a single payment or, if necessary, in one or more payments within one taxable year of the recipient. A lump sum within the meaning of the preceding sentence shall be the only permitted method of distribution for the following:

- (i) Termination of the Plan under Section 7.1(g) and Article 12;
- (ii) Small accounts with a value of \$5,000 or less;

(iii) A requested withdrawal from the Participant's Rollover/Transfer Contributions Account under Section 7.1(i); and

(iv) Distribution upon the death of a Participant or Beneficiary, if such amount is payable to the Participant's legal representative or estate under Section 7.6(c).

(b) Direct Rollovers to Another Plan. At a Participant's election, and subject to the provisions of Section 7.8, the Administrator shall direct the Trustee to make a direct rollover of all or any portion of the Participant's Vested Account Balance in a lump sum to the Trustee or custodian of another eligible retirement plan to be held and distributed under the terms of that plan.

(c) Installments. Distribution shall be made in installments paid annually, or more frequently if permitted by the Administrator, over an elected period of years not exceeding the life expectancy of the Participant or the joint life expectancy of the Participant and a Beneficiary.

(i) The amount of the installment payments distributed each calendar year shall be equal to the quotient obtained by dividing the Participant's Vested Account Balance by the remaining number of years in the period; other methods of determining the installment amount payable may be authorized by policies or procedures adopted by the Administrator from time to time. The elected installment payment schedule may be changed or the remainder may be paid in a lump sum, but a Participant may not elect payments smaller than the Minimum Distribution required under the applicable provisions of Section 7.10.

(ii) Life expectancy, as of the calendar year in which payment begins, shall be determined in the manner described in the applicable provisions of Section 7.10.

#### **7.4 Time of Distribution.**

(a) Immediate Distribution. Distribution shall begin on the Earliest Distribution Date.

(i) "Earliest Distribution Date" means the first date on which distribution is administratively feasible following the distributive event and election of a distribution by the Participant, Beneficiary or other recipient, under policies or procedures adopted by the Administrator from time to time. A Participant may elect to defer distribution to any date not later than the applicable date in (b) below; such deferral shall be deemed to have been elected by the Participant in the event the Administrator fails to receive a distribution election form from a Participant.

(ii) Exceptions.

(A) Death. The time of distribution following death of a Participant is determined under the applicable provisions of Section 7.10.

(B) QDRO. Distribution to an alternate payee under a QDRO shall be paid to the alternate payee at the time specified in the order, whether or not the Participant has attained a specific age and even though the Participant continues to be an Employee.

(b) Required Distribution. If not made or begun under (a) above, distribution to a Participant shall begin not later than the Participant's Required Beginning Date. Unless paid during the calendar year before the Participant's Required Beginning Date, the Minimum Distribution for that calendar year shall be paid not later than the Required Beginning Date. The Minimum Distribution for each subsequent calendar year shall be paid by the last day of the calendar year for which it is required.

#### **7.5 Election of Method and Time of Distribution.**

(a) To the extent permitted under this Article, the Participant or other recipient may elect the method and time of distribution. Except as provided in subsection (b) below, however, no distribution may be made prior to the date the Participant attains age 70-1/2, without the Participant's consent. The consent shall be given by making an election of distribution. The election shall be made not later than the date distribution actually begins or, if earlier, the date when distribution must begin. An election (including any election, whether or not irrevocable, made prior to January 1, 2002) may be revoked or changed at any time, whether before or after distribution begins. An election shall be made in a form acceptable to and as determined by the Administrator from time to time. The Administrator may require additional election, application or information forms required by law or deemed necessary or appropriate by the Administrator in connection with any distribution.

(b) Notwithstanding subsection (a) above or any other provision of this Plan to the contrary and subject to such policies or procedures as determined by the Administrator from time to time, where at a Participant's retirement, death or other severance from employment the total value of the Participant's Vested Account Balance is \$200 or less, the Administrator shall upon or as soon as is administratively feasible after such event direct the Trustee to pay such amount to the Participant in a lump sum. Further, a Participant's distribution election shall not cause a reduction in the minimum amount or delay the required time of payment of any Minimum Distribution or any distribution required after the death of a Participant.

#### **7.6 Designation of Beneficiary.**

(a) "Beneficiary." Subject to the restrictions set forth below, a Participant may designate one or more Beneficiaries to receive the Participant's Vested Account Balance under the Plan after the Participant's death, by filing a signed designation with the Administrator in the form approved by the Administrator; such designation may be changed or revoked by the Participant in writing at any time. The Participant's will is not effective for this purpose. The Beneficiary shall receive the same rights allowed the Participant should the Participant die, except for the right to change any other beneficiary(ies) previously named by the Participant.

(b) Death of Designated Beneficiary. Unless otherwise indicated in writing by the Participant in his or her signed Beneficiary designation described above: If all of the primary Beneficiaries designated by the Participant predecease the Participant and then the Participant dies before complete distribution, the remaining amount of the Participant's Vested Account Balance shall be paid to the Participant's contingent Beneficiary(ies) (if any). If distribution is being made to a sole primary Beneficiary designated by the Participant who dies before complete distribution, the remaining amount of the Participant's Vested Account Balance shall be paid to

the Participant's contingent Beneficiary(ies) (if any). If distribution is being made to more than one primary Beneficiary, then upon the death of a primary Beneficiary distribution shall continue to the survivor or survivors of them, and any remaining amount in the Participant's Vested Account Balance upon the death of the last surviving primary Beneficiary shall be paid to the Participant's contingent Beneficiary(ies) (if any). Similarly, if distribution is being made to more than one contingent Beneficiary, then upon the death of a contingent Beneficiary distribution shall continue to the survivor or survivors of them. The foregoing notwithstanding, in accordance with applicable Michigan law relating to substitute gifts, any Beneficiary designation by the Participant of the Participant's grandparent, the descendant of a grandparent of the Participant, or a stepchild of the Participant, shall be interpreted to include the issue of such Beneficiary, per stirpes, if the Beneficiary predeceases the Participant or dies before complete distribution.

(c) No Beneficiary. If a deceased Participant fails to designate a Beneficiary, or has no surviving Beneficiary on the date a distribution is payable, the remaining amount of the Participant's Vested Account Balance shall (subject to the applicable provisions of Sections 7.3 and 7.10) be paid to the Participant's Spouse, or if there is no surviving Spouse, to the Participant's legal representative, or if there is no legal representative, to the Participant's estate, if then under the active administration of a probate or similar court, or if not, to those persons who would then take the Participant's personal property under the Michigan intestate laws then in force and in the proportions provided therein, as though the Participant had died at such time. "Spouse" means the Participant's husband or wife at any specified time as a result of marriage (as defined under Chapter 551 of the Michigan Compiled Laws, as amended, and Article I, Section 25 of the Michigan Constitution, as amended); a former Spouse shall not be a Spouse except to the extent specified in a QDRO.

(d) Determination. The Administrator shall apply the provisions of this section to determine the proper persons to whom payment should be made. The decision of the Administrator shall be final and binding on all persons.

## **7.7 Facility of Payment.**

Any payment made in accordance with this Section shall fully discharge the Administrator, Employer and Trustee from all future liability with respect to the amount so paid.

(a) If a Participant or Beneficiary entitled to a payment under the Plan is legally, physically, or mentally incapable of receiving or acknowledging payment, the Administrator may direct the payment to any of the following: the recipient; the recipient's legal representative; the Spouse, child, or other relative by blood or marriage of the recipient; the individual with whom the recipient resides; or by expending the payment directly for the benefit of the recipient. A payment made to any person other than the recipient shall be used for the recipient's exclusive benefit.

(b) In determining the identity or whereabouts of a Participant or Beneficiary entitled to a payment under the Plan, the Administrator may rely upon such affidavits or other information as it deems appropriate, and shall further be authorized to direct payment to a

successor Beneficiary or another person or entity in reliance thereupon. Any person not receiving any such payment shall have no rights with respect to payments so made.

(c) The Employer shall not be required to commence probate proceedings or to secure the appointment of a legal representative in connection with any payment made in accordance with this Section.

## 7.8 Direct Rollovers.

(a) Election of Direct Rollover. Notwithstanding any provision of the Plan 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 Administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

### (b) Definitions.

(i) Eligible Rollover Distribution. Effective as of January 1, 2007, an "eligible rollover distribution" is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Code Section 401(a)(9); the portion of any distribution that is not includible in gross income (except to the extent that such portion is paid (A) to an individual retirement account or annuity described in Code Sections 408(a) or (b) ("IRA"), or (B) to a qualified plan described in Code Section 401(a), or an annuity contract described in Code Section 403(b), that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible); and any amount distributed on account of hardship, regardless of the type of plan from which such amount is distributed.

(ii) Eligible Retirement Plan. An "eligible retirement plan" that accepts the distributee's eligible rollover distribution is (A) an individual retirement account described in Code Section 408(a), an individual retirement annuity described in Code Section 408(b), an annuity plan described in Code Section 403(a), a qualified trust described in Code Section 401(a), or an annuity contract described in Code Section 403(b), (B) an eligible plan under Code Section 457(b) which is maintained by a state, political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state, which agrees to separately account for amounts transferred into such plan from this Plan, or (C) a Roth IRA under Code Section 408A, subject to the rules that apply to rollovers from a traditional IRA to a Roth IRA generally.

(iii) Distributee. A "distributee" includes an Employee or former Employee. In addition, the Employee's or former Employee's surviving Spouse and the Employee's or former Employee's spouse who is the alternate payee under a QDRO, are distributees with regard to the interest of the Spouse or former spouse.



(iv) **Direct Rollover.** A “direct rollover” is a payment by the Plan to the eligible retirement plan specified by the distributee.

(c) **Nonspousal Beneficiary Rollovers.** Effective as of October 1, 2007, in the event that a non-Spouse Beneficiary of the Participant (as determined under Section 7.6) is entitled to a payment under the Plan, such Beneficiary shall be treated as a distributee under this section and may elect, at the time and in the manner prescribed by the Administrator, to have any portion of such payment treated as a direct rollover under this section that will be paid in a direct trustee-to-trustee transfer to an individual retirement account or annuity described in Code Section 408(a) or 408(b) that is established for the purposes of receiving such distribution on behalf of the Beneficiary and that will be treated as an inherited IRA pursuant to the provisions of Code Section 402(c)(11). In order to be able to roll over the distribution, the distribution otherwise must satisfy the definition of an eligible rollover distribution. A non-Spouse rollover will not be subject to the direct rollover requirements under Code Section 401(a)(31), the rollover notice requirements under Code Section 402(f), or the mandatory withholding requirements under Code Section 3405(c).

## **7.9 Transfers to Purchase Service Credits.**

Notwithstanding any other provision of this Plan to the contrary and subject to such policies or procedures as determined by the Administrator from time to time, upon application by any Participant at any time prior to the Participant’s severance from employment with the Employer (regardless of whether the Participant is otherwise entitled to a distribution from the Plan), the Administrator shall direct the Trustee to transfer directly to the trustee of any defined benefit retirement plan maintained by the Employer under Code Section 401(a) in which the Participant also participates, that portion of the Participant’s Vested Account Balance which the Participant requests be so transferred, for the purpose of purchasing permissive service credits (as defined in Code Section 415(n)(3)(A)) that will be counted in determining the Participant’s benefits under such defined benefit plan. Any such amounts that are so transferred will remain nonforfeitable and be credited periodically with applicable interest (if any) under such defined benefit plan, and will not be distributed from such plan prior to the Participant’s death, disability, retirement or other severance from employment.

## **7.10 Minimum Distribution Requirements.**

### **(a) General Rules.**

(i) **Effective Date.** The provisions of this Section will apply for purposes of determining required minimum distributions (“Minimum Distribution”) for distribution calendar years beginning with the 2003 calendar year.

(ii) **Precedence.** The requirements of this Section will take precedence over any inconsistent provisions of the Plan.

(iii) **Requirements of Regulations Incorporated.** All distributions required under this Section will be determined and made in accordance with the Regulations under Code Section 401(a)(9).

(b) Time and Manner of Distribution.

(i) **Required Beginning Date.** The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's Required Beginning Date.

(ii) **Death of Participant Before Distributions Begin.** If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

(A) If the Participant's surviving Spouse is the Participant's sole designated Beneficiary then, except as provided in (C) below, distributions to the surviving Spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70½, if later.

(B) If the Participant's surviving Spouse is not the Participant's sole designated Beneficiary then, except as provided in (C) below, distributions to the designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.

(C) If there is a designated Beneficiary, distribution to the Participant's Beneficiary is not required to begin by the date specified in (A) or (B) above, but the Participant's entire interest must be distributed to the designated Beneficiary by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(D) If there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(E) If the Participant's surviving Spouse is the Participant's sole designated Beneficiary and the surviving Spouse dies after the Participant but before distributions to the surviving Spouse begin, this Section 7.10(b)(ii), other than Section 7.10(b)(ii)(A), will apply as if the surviving Spouse were the Participant.

For purposes of this Section 7.10(b)(ii) and Section 7.10(d), distributions are considered to begin on the Participant's Required Beginning Date. If Section 7.10(b)(ii)(E) applies, distributions are considered to begin on the date distributions are required to begin to the surviving Spouse under Section 7.10(b)(ii)(A). If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's Required Beginning Date (or to the Participant's surviving Spouse before the date distributions are required to begin to the surviving Spouse under Section 7.10(b)(ii)(A)), the date distributions are considered to begin is the date distributions actually commence.

(iii) **Forms of Distribution.** Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the Required Beginning Date, as of the first distribution calendar year distributions will be made in accordance with Sections 7.10(c) and 7.10(d). If the Participant's interest is distributed in the

form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Code Section 401(a)(9) and the Regulations thereunder.

(c) Required Minimum Distributions During Participant's Lifetime.

(i) Amount of Required Minimum Distribution For Each Distribution Calendar Year. During the Participant's lifetime, the minimum amount that will be distributed for each distribution calendar year is the lesser of:

(A) the quotient obtained by dividing the Participant's account balance by the distribution period in the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Regulations, using the Participant's age as of the Participant's birthday in the distribution calendar year; or

(B) if the Participant's sole designated Beneficiary for the distribution calendar year is the Participant's Spouse, the quotient obtained by dividing the Participant's account balance by the number in the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9 of the Regulations, using the Participant's and Spouse's attained ages as of the Participant's and Spouse's birthdays in the distribution calendar year.

(ii) Lifetime Required Minimum Distributions Continue Through Year of Participant's Death. Required minimum distributions will be determined under this Section 7.10(c) beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the Participant's date of death.

(d) Required Minimum Distributions After Participant's Death.

(i) Death On or After Date Distributions Begin.

(A) Participant Survived by Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is a designated Beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the longer of the remaining life expectancy of the Participant or the remaining life expectancy of the Participant's designated Beneficiary, determined as follows:

(1) The Participant's remaining life expectancy is calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

(2) If the Participant's surviving Spouse is the Participant's sole designated Beneficiary, the remaining life expectancy of the surviving Spouse is calculated for each distribution calendar year after the year of the Participant's death using the surviving Spouse's age as of the Spouse's birthday in that year. For distribution calendar years after the year of the surviving Spouse's death, the remaining life expectancy of the surviving Spouse is calculated using the age of the surviving Spouse as of the Spouse's birthday in the calendar year of the Spouse's death, reduced by one for each subsequent calendar year.

(3) If the Participant's surviving Spouse is not the Participant's sole designated Beneficiary, the designated Beneficiary's remaining life expectancy is calculated using the age of the Beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.

(B) No Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is no designated Beneficiary as of September 30 of the year after the year of the Participant's death, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the Participant's remaining life expectancy calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

(ii) Death Before Date Distributions Begin.

(A) Participant Survived by Designated Beneficiary. If the Participant dies before the date distributions begin and there is a designated Beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the remaining life expectancy of the Participant's designated Beneficiary, determined as provided in Section 7.10(d)(i).

(B) No Designated Beneficiary. If the Participant dies before the date distributions begin and there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(C) Death of Surviving Spouse Before Distributions to Surviving Spouse Are Required to Begin. If the Participant dies before the date distributions begin, the Participant's surviving Spouse is the Participant's sole designated Beneficiary, and the surviving Spouse dies before distributions are required to begin to the surviving Spouse under Section 7.10(b)(ii)(A), this Section 7.10(d)(ii) will apply as if the surviving Spouse were the Participant.

(e) Definitions.

(i) Designated Beneficiary. The individual who is designated as the Beneficiary under Section 7.6 of the Plan and is the designated Beneficiary under Code Section 401(a)(9) and Section 1.401(a)(9)-4, Q&A-1, of the Regulations.

(ii) Distribution calendar year. A calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's Required Beginning Date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to Section 7.10(b)(ii). The required minimum distribution for the Participant's first distribution calendar year will be made on or before the Participant's Required Beginning Date. The required minimum distribution for other distribution calendar years,

including the required minimum distribution for the distribution calendar year in which the Participant's Required Beginning Date occurs, will be made on or before December 31 of that distribution calendar year.

(iii) Life expectancy. Life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9 of the Regulations.

(iv) Participant's account balance. A Participant's Vested Account Balance under the Plan as of the last valuation date in the calendar year immediately preceding the distribution calendar year (valuation calendar year) increased by the amount of any contributions made and credited or forfeitures credited to the account balance as of dates in the valuation calendar year after the valuation date and decreased by distributions made in the valuation calendar year after the valuation date. The account balance for the valuation calendar year includes any amounts rolled over or transferred to the Plan either in the valuation calendar year or in the distribution calendar year if distributed or transferred in the valuation calendar year.

(v) Required Beginning Date. The date specified in Section 2.26 of the Plan.

## ARTICLE 8

### ADMINISTRATION OF THE PLAN

#### 8.1 Duties and Powers of the Employer.

(a) Duties of the Employer. The Employer shall have the following duties:

(i) Determining the amount and timing of contributions in compliance with this Plan, and paying, ceasing, or suspending contributions; including making additional contributions if necessary to correct an error in the crediting of contributions, vesting, or distribution of a Participant's interest (subject to such timing and other limitations as are determined by the Administrator from time to time);

(ii) Serving as the agent for service of process;

(iii) Appointing the Trustee; and

(iv) Amending this Plan and Trust, as required by applicable law or Regulations, or as the Employer shall otherwise determine pursuant to Section 11.1.

(b) Powers of the Employer. The Employer may exercise the following discretionary powers:

(i) Appointing one or more Investment Managers, who shall have the power to acquire, manage, or dispose of any or all Trust assets; provided, that the functions of the Investment Manager shall be limited to those specified services and duties for which the Investment Manager is engaged, and the Investment Manager shall have no other duties, obligations, or responsibilities under this Plan or Trust;

(ii) Appointing one or more agents to act as custodians of a portion of the Trust assets transferred to each such custodian that are subject to an Investment Manager;

(iii) Designating a person or entity other than the Employer as the Administrator;

(iv) Paying administrative expenses incurred in the operation, administration, management, and control of this Plan or the Trust, unless the Employer directs payment from the Trust;

(v) Revoking this instrument and terminating this Plan and Trust; and

(vi) Merging this Plan with another eligible deferred compensation plan maintained by the Employer or dividing this Plan into multiple plans.

#### 8.2 Employer Action.

An action required to be taken by the Employer shall be taken by the Administrator, to the extent consistent with any legislation and/or governmental orders under which this Plan is established.

### **8.3 Plan Administrator.**

The Administrator is a named fiduciary for operation and management of the Plan and shall have the responsibilities conferred upon the "Administrator" by this Plan, and by any legislation and/or governmental orders under which this Plan is established.

### **8.4 Administrative Committee.**

(a) The Administrator may, but shall not be required to, appoint an administrative committee to perform the duties involved in the daily operation of this Plan. The number of members of the administrative committee shall be determined by the Administrator. The Administrator shall appoint the members of the administrative committee and may remove or replace them at any time. Any member of the administrative committee who is an Employee shall serve without compensation.

(b) The administrative committee is an agent of the Employer. The administrative committee shall have the powers and duties delegated to it by the Administrator. Except to the extent the administrative committee is expressly named a fiduciary with respect to this Plan, the administrative committee will be responsible only to the Employer for its actions and will not be a named fiduciary for operation and management of this Plan.

(c) The administrative committee shall act by a majority of its members then in office. Any member of the administrative committee who is a Participant shall not vote or act on a matter that relates solely to that Participant; if that Participant is the only member of the administrative committee, the necessary action shall be exercised by the Administrator. Action may be taken either by a vote at a meeting or in writing without a meeting. Actions of the administrative committee may be evidenced by written instrument executed by the chairman or the secretary of the administrative committee. The administrative committee shall keep records of its proceedings. The administrative committee shall report to the Administrator when requested with respect to the administration, operation, and management of this Plan.

### **8.5 Duties and Powers of the Administrator.**

(a) Duties of the Administrator. Except to the extent properly delegated, the Administrator shall have the following duties:

(i) Interpreting this instrument (including resolving an inconsistency or ambiguity or correcting an error or an omission);

(ii) Subject to Section 8.10, determining the rights of Participants and Beneficiaries under the terms of this Plan and communicating that information to the Trustee;

(iii) Being responsible for determining that this Plan complies with all applicable limitations under the Code and Regulations;

(iv) Determining which Participants are entitled to a share of the contributions and other available amounts for a Plan Year;

(v) Correcting errors in the records and actions of this Plan, including (but not limited to) errors in determining the investment experience, or distribution of a Participant's interest, by making adjustments to the accounts, recovering overpayments, making up underpayments, etc. (subject to such timing and other limitations as are determined by the Administrator from time to time);

(vi) Establishing or approving the manner of making an election, designation, application, claim for benefits, and review of claims;

(vii) Directing the Trustee as to the recipient, timing and elected form of any distribution, and with respect to any direct plan-to-plan transfer of funds to another eligible deferred compensation plan for any Participant or group of Participants who cease to participate in the Plan for any reason;

(viii) Establishing procedures to determine whether or not a domestic relations order is a QDRO, to notify the Participant and any alternate payee of this determination, and to administer distributions pursuant to a QDRO;

(ix) Establishing procedures for and supervising the establishment and maintenance of all records necessary and appropriate for the proper administration of this Plan;

(x) Preparing and (A) filing any required annual and periodic reports (if any) required under Regulations; and (B) distributing any required disclosure documents;

(xi) Reporting and paying any applicable penalty tax or excise taxes incurred by this Plan or the Employer in connection with this Plan on the proper tax form designated by the Internal Revenue Service and within the time limits specified for the tax form;

(xii) Adopting policies, procedures and rules for the implementation and administration of this Plan, including the conduct of the hearings provided in Section 8.10;

(xiii) Applying all policies, procedures, and other acts without discrimination among Participants; and

(xiv) Reviewing compliance with any applicable bonding requirements.

(b) Powers of the Administrator. The Administrator may exercise the following discretionary powers:

(i) Obtaining to the extent reasonably possible all information necessary for the proper administration of this Plan;

(ii) Employing attorneys, actuaries, accountants, clerical employees, agents, or other persons or entities who are necessary for operation, administration, and management of this Plan;



(iii) Presenting to the Trustee for payment (if not paid by the Employer) or reimbursement (if advanced by the Employer) all reasonable and necessary expenses, fees and charges, including fees for attorneys, actuaries, accountants, clerical employees, agents, or other persons or entities, incurred in connection with the administration, management, or operation of this Plan;

(iv) Assessing to any Participant's accounts all expenses, fees and charges incurred in connection with such accounts, including those relating to Plan loans made to the Participant, to procurement of investment advice by the Participant, and to direction of investments pursuant to Section 9.4;

(v) Prescribing policies or procedures governing and/or restricting investment directions by Participants made pursuant to Section 9.4, including those restricting investment trading practices (including, but not limited to, "market timing") determined by the Administrator to be inappropriate or disadvantageous to the Plan investments of other Participants; and

(vi) Exercising all other powers and duties necessary or appropriate under this Plan, except those powers and duties allocated to another named fiduciary.

#### **8.6 Delegation of Administrative Duties and Powers.**

The Administrator may delegate an administrative duty or power to a fiduciary.

(a) The written delegation shall specify (i) the date of the action and the effective date of the delegation; (ii) the responsibility delegated; (iii) the name, office, or other reference of each fiduciary to whom the responsibility is delegated; and (iv) if a responsibility is delegated to more than one fiduciary, the allocation of the responsibility among the fiduciaries.

(b) The delegation shall be communicated to the fiduciary to whom the responsibility is assigned, and written acceptance of the responsibility shall be made by the fiduciary. A fiduciary shall retain the responsibility until the fiduciary resigns or rejects the responsibility in writing, or the Administrator takes a superseding action.

(c) If a fiduciary's powers or actions conflict with those of the Administrator, the powers of and actions of the Administrator will control.

#### **8.7 Interrelationship of Fiduciaries.**

A person or entity may serve in more than one fiduciary capacity with respect to this Plan and Trust. Each fiduciary shall act in accordance with this Plan and Trust. Each fiduciary shall be responsible for the proper exercise of its responsibilities. Except as required by applicable laws, each fiduciary may rely upon the action of another fiduciary and is not required to inquire into the propriety of any action.

#### **8.8 Compensation; Indemnification.**

An Employee fiduciary who is compensated on a full-time basis by the Employer shall not receive compensation from this Plan, except for reimbursement of expenses. The Employer may, consistent with Michigan law, indemnify and hold harmless each of its Employees to whom responsibilities for the operation and administration of this Plan have been delegated from any and all claims, loss, damages, expense, and liability arising from any action or failure to act. Indemnification shall not be required if an Employee's action or inaction is judicially determined to be due to gross negligence or willful misconduct of the Employee. The Employer may purchase and maintain liability insurance covering itself or an Employee against part or all of any claim, loss, damage, expense, and liability.

#### **8.9 Fiduciary Standards.**

Each fiduciary shall act solely in the interest of Participants and Beneficiaries:

- (a) With the care, skill, and diligence of a prudent person;
- (b) For the exclusive purpose of providing benefits and paying expenses of administration under the Plan; and
- (c) To avoid engaging in a prohibited transaction under the Code unless an exemption for the transaction is available or obtained.

#### **8.10 Claims Procedure.**

Participant claims generally are handled by the Plan's third party administrator, as appointed by the Administrator. If a Participant or Beneficiary disputes a decision made by the third party administrator, he or she may send a written request for review of that decision to the Office of Retirement Services, State of Michigan. In that event, the following procedures shall apply:

- (a) Initial Determination. Upon receipt of a written request by a Participant or Beneficiary, the Office of Retirement Services shall make an initial determination and communicate the determination to the Participant or Beneficiary within 90 days after receipt of the written request.
- (b) Method. The decision of the Office of Retirement Services shall be in writing. The decision shall set forth an explanation of the procedure for further review of the decision.
- (c) Further Review. Within 60 days of receipt of the initial determination decision, the Participant or Beneficiary (or an authorized representative) may make a request for redetermination by the Office of Retirement Services' Specialist for the 401K/457 Plans. The Participant or Beneficiary (or the authorized representative) may review all pertinent documents and submit issues, comments, and arguments.
- (d) Redetermination. The Specialist for the 401K/457 Plans shall provide the Participant or Beneficiary with the final decision within 60 days of receipt of an written request for redetermination, unless special circumstances require a longer period of time (but not longer than 120 days after receipt). The final redetermination decision shall set forth (i) the decision

and the specific reasons for the decision; (ii) specific reference to the Plan provisions on which the decision is based; (iii) a description of additional material, information, or acts that may change or modify the decision; and (iv) an explanation of the procedure for further review of the decision.

(e) Waiver. The Specialist for the 401K/457 Plans may waive the requirement for issuance of an initial determination and issue a final decision where the specialist deems that appropriate. If the Specialist takes such action, the Specialist shall advise the Participant or Beneficiary of such waiver in the final decision.

(f) Hearing. Following a final decision by the Specialist, a Participant or Beneficiary may request a hearing on a claim involving his or her rights under this Plan. Upon such written request, the Administrator shall provide for a hearing that shall be conducted pursuant to Chapter 4 of the Administrative Procedures Act of 1969 (Public Act 306 of 1969), as amended. A Participant or Beneficiary may be represented by counsel or other duly authorized agent at the hearing.

(g) Final Decision and Order. The Proposal for Decision of the Hearing Officer shall be presented to the Administrator for issuance of a final decision and Order.

#### **8.11 Participant's Responsibilities.**

All requests for action of any kind by a Participant or Beneficiary under this Plan shall be made in writing, executed by the Participant or Beneficiary, and shall be subject to any other Plan policies or procedures applicable to any specific type of request.

## ARTICLE 9

### INVESTMENT OF FUNDS

#### 9.1 Investment Responsibility.

Except to the extent investment responsibility is expressly granted to an Investment Manager or to a Participant pursuant to Section 9.4, the Trustee shall have the authority and responsibility for the investment, management, and control of Trust assets; provided, that the Trustee's efforts in this regard shall be subject to the provisions of Executive Order No. 1999-7.

#### 9.2 Authorized Investments.

The Trust may be invested and reinvested in common or preferred stocks, bonds, mortgages, leases, notes, debentures, mutual funds, guaranteed investment contracts, other securities, and other real or personal property, including, without limitation, the following types of investments, except that investment in collectibles (as that term is defined in Code Section 408(m)) shall not be permitted if the Participant directs the investment of the Participant's account.

(a) Interest-Bearing Deposits. The Trust may be invested in deposits, certificates, or share accounts of a bank, savings and loan association, credit union, or similar financial institution, including a fiduciary, if the deposits bear a reasonable rate of interest, whether or not the deposits or certificates are insured or guaranteed by an agency of the United States Government.

(b) Pooled Investment Funds of a Custodian. The Trust may be invested through ownership of assets or shares in a common or group trust fund, pooled investment fund, or mutual fund maintained by a custodian, or an affiliate of the custodian, that allows participation by a trust fund established under an eligible governmental deferred compensation plan that meets the requirements of Code Section 457(b), and including those that also allow participation by a qualified retirement plan that meets the requirements of Code Section 401(a) (to the extent permitted by applicable Regulations). For this purpose, the terms and provisions of the declaration of trust or other governing documents through which the common trust fund, pooled investment fund, or mutual fund is established or maintained by the custodian, or an affiliate of the custodian, are incorporated in, and made applicable to, this Plan.

(c) Unallocated Funds. Any contribution or other amounts held by the Trustee pending crediting to Participants' accounts may be held in cash or invested in interest-bearing obligations maturing before the date the allocation is required.

(d) Right of Trustee To Hold Cash. The Trustee may hold a reasonable portion of the Trust in cash pending investment or payment of expenses and distributions.

#### 9.3 Commingled Investment.

The Trust may be commingled for investment with other funds or assets similarly invested for investment purposes, and without distinction between principal and income.

#### **9.4 Investment Direction by Participants.**

(a) All Participants of the Plan shall be afforded the ability to direct the investment of their accounts under the Plan, in accordance with such investment choices as are made available and those policies or procedures as are determined by the Trustee and the Administrator from time to time; provided, that the Trustee's efforts in this regard shall be subject to the provisions of Executive Order No. 1999-7. Investment directions by a Participant shall be in the format and subject to the policies or procedures prescribed through the Plan's automated system or in another manner as determined by the Administrator from time to time, and shall be effective only as provided under such policies or procedures. In the event the Administrator finds that a Participant has engaged in an investment trading practice (including, but not limited to, "market timing") determined by the Administrator to be inappropriate or disadvantageous to the Plan investments of other Participants, the Administrator may impose restrictions on the investment options available to such Participant (including, but not limited to, suspending or eliminating the availability of certain investment options), subject to such policies or procedures as are adopted by the Administrator from time to time.

(b) The Trustee may rely upon any such investment direction from the Participant and upon the continuance of the direction contained therein until it is revoked or modified in the same manner. If the Trustee determines in its sole discretion that any investment direction received from a Participant is not sufficiently clear or is not authorized under the terms of the Plan, the Trustee may ignore such direction and request that the Participant file a new direction. The Trustee may hold in temporary cash equivalents (or in any other investment medium as determined in the Trustee's discretion) that portion of the Participant's accounts for which inadequate or no investment direction is in effect.

(c) The Trustee shall act only as custodian with respect to any Participant's accounts that are directed (or deemed directed) in accordance with this Section 9.4, and neither the Administrator nor the Trustee shall be responsible for the investment performance of the assets of such accounts.

#### **9.5 Loans. [Reserved]**

## ARTICLE 10

### ADMINISTRATION OF THE TRUST

#### 10.1 Duties and Powers of the Trustee.

(a) Duties of the Trustee. The Trustee shall be a named fiduciary having the following duties:

(i) To control, manage, and invest Trust assets, to the extent provided in Article 9; provided, that the Trustee's efforts in this regard shall be subject to the provisions of Executive Order No. 1999-7;

(ii) To carry out the instructions of the Administrator; and

(iii) To maintain records and to prepare and file reports required by law or Regulations, other than those for which the Administrator is responsible under the terms of this Plan.

(b) Powers of the Trustee. The Trustee may exercise the following discretionary powers:

(i) To hold, manage, improve, repair, and control all property, real or personal, forming part of the Trust;

(ii) To invest Trust assets subject to the limitations in this Plan;

(iii) To sell, convey, transfer, exchange, partition, lease for any term (even extending beyond the duration of the Trust), or otherwise dispose of a Trust asset from time to time, in the manner, for the consideration, and upon the terms and conditions that the Trustee, in its discretion, determines;

(iv) To employ and to compensate from the Trust agents, advisers, and legal counsel reasonably necessary in managing the Trust and advising the Trustee as to its powers, duties, and liabilities;

(v) To prosecute, defend, settle, arbitrate, compromise, or abandon all claims and demands in favor of or against the Trust, with or without the assistance of legal counsel;

(vi) To vote a corporation's stock or other securities, either in person or by proxy, for any purpose;

(vii) To exercise, refrain from the exercise of, or convey a conversion privilege or subscription right applicable to a Trust asset;

(viii) To demand, collect, and receive the principal, dividends, interest, income, and all other moneys or other property due upon Trust assets;

(ix) To consent to, oppose, or take another action in connection with a bankruptcy, composition, arrangement, reorganization, consolidation, merger, liquidation, readjustment of the financial structure, or sale of assets of a corporation or other organization, the securities of which may constitute a portion of the Trust;

(x) To cause securities or other property forming part of the Trust to be issued, held, or registered in the individual name of the Trustee, in the name of its nominee or in such form that title will pass by delivery, provided that the records of the Trustee shall indicate the ownership of the property or security;

(xi) To borrow money for the benefit of the Trust without binding itself individually, and to secure the loan by pledge, mortgage, or creation of another security interest in the property;

(xii) To make distributions from the Trust as directed by the Administrator;

(xiii) Unless paid by the Employer, to pay from the Trust all reasonable fees, taxes, commissions, charges, premiums, and other expenses, including the reasonable fees of the Trustee, incurred by the Trustee or Administrator, in connection with the administration of this Plan or Trust;

(xiv) To insure Trust assets through a policy or contract of insurance;

(xv) To incorporate (or participate in an incorporation) under the laws of any state for the purpose of acquiring and holding title to any property that is part of the Trust;

(xvi) To keep on deposit with a custodian in the United States any part of the Trust; and

(xvii) To perform all other acts the Trustee deems necessary, suitable, or desirable for the control and management of the Trust and discharge of its duties.

(c) Limitation on Duties and Powers of the Trustee. The Trustee shall not be required to exercise a responsibility assigned to the Employer or Administrator under this instrument.

(d) Limitation on Duties and Powers of the Trustee When Investment Manager Appointed. If an Investment Manager is appointed to manage and invest some or all of the Trust assets, the Investment Manager shall have, and the Trustee shall not have, the specified duties and powers with respect to investment of Trust assets subject to the Investment Manager's control. The Trustee shall have no obligation or power to exercise discretionary authority or control with respect to the investment of the assets subject to management by the Investment Manager or to render advice regarding the investment of such assets. The Trustee shall not be liable for the investment performance of the assets subject to management by the Investment Manager. The powers and duties of the Trustee with respect to such assets shall be limited to the following:

(i) Unless otherwise provided, to have custody of the Trust assets not transferred to the custody of the Investment Manager or its agent, and to protect the assets in its custody from loss by theft, fire, or other cause;

(ii) To act as custodian of Trust assets unless the Employer appoints another custodian;

(iii) To acquire additional assets for the Trust in accordance with the direction of the Investment Manager;

(iv) To sell or otherwise dispose of Trust assets in accordance with the direction of the Investment Manager;

(v) To account for and render accountings with respect to the Trust (except for assets held by a broker or the Investment Manager);

(vi) To take authorized actions for and on behalf of the Trust in accordance with the direction of the Investment Manager; and

(vii) To perform other ministerial and custodial tasks in accordance with the direction of the Investment Manager.

(e) Limitation on Duties and Powers of the Trustee with respect to Participant-Controlled Investments. Consistent with the granting of investment responsibility to Participants with respect to their accounts under the Trust pursuant to Section 9.4, the Trustee shall have only those limited ministerial and custodial responsibilities with respect to the Trust funds represented by such accounts as are set forth in Section 9.4 or as are similar to those set forth in subsection (d) above.

## **10.2 Accounting.**

The Trustee shall maintain accurate and detailed records of all investments, receipts, disbursements, and other transactions for the Trust. The records shall be available for inspection at all reasonable times by persons designated by the Administrator. As soon as administratively feasible after the end of each Plan Year and each other date agreed to by the Administrator and the Trustee, the Trustee shall prepare and furnish to the Administrator a statement of account. A dispute concerning the Trustee's records or statement of account may be settled by a suit for an accounting brought by a person having an interest in the Trust.

## **10.3 Trustee Action.**

Actions taken by a Trustee shall be by written instrument executed by the Trustee.



## ARTICLE 11

### AMENDMENT

#### 11.1 Amendment.

The Employer, acting through the Administrator, may amend this Plan and Trust document, to the extent consistent with any legislation and/or governmental orders under which this Plan is established. An amendment may be retroactive or prospective, in the sole discretion of the Administrator, except where prohibited by the Code. An amendment may be made without the consent of any other person or entity, except that an amendment shall not (unless required to keep the Plan in compliance with applicable provisions of the Code and Regulations):

- (a) Decrease the amount credited to a Participant's accounts;
- (b) Reduce a Participant's vested percentage, as of the later of the date of adoption of the amendment or the effective date of the amendment; or
- (c) Alter the duties, powers, or liabilities of the Trustee without the consent of the Trustee.

## ARTICLE 12

### TERMINATION

#### **12.1 Right to Terminate or Discontinue Contributions.**

The Employer, acting through the Administrator, reserves the right to revoke this instrument and terminate this Plan and Trust, or to cease or suspend further contributions, to the extent consistent with any legislation and/or governmental order under which this Plan is established.

#### **12.2 Automatic Termination.**

This Plan shall automatically terminate, or partially terminate when applicable, and contributions to the Trust shall cease where required by the Code.

#### **12.3 Discontinuance of Contributions.**

If the Employer determines that it is no longer possible or desirable to make any contributions to the Trust, it may, without terminating this Plan, take appropriate action to permanently discontinue further contributions. Upon discontinuance of contributions, the accounts of all affected Participants shall be nonforfeitable. This Plan and Trust will remain in force, and the Administrator and the Trustee will continue to administer this Plan and Trust under its provisions except for those provisions relating to the making of new contributions.

#### **12.4 Effect of Termination.**

Upon termination of this Plan, the accounts of affected Participants shall be nonforfeitable, and the Administrator shall direct the Trustee to make distributions to affected Participants under Article 7.

#### **12.5 No Reversion of Assets.**

The Employer shall not receive an amount from the Trust upon termination or discontinuance of contributions.

## ARTICLE 13

### GENERAL PROVISIONS

#### 13.1 Spendthrift Provision.

An interest in the Trust shall not be subject to assignment, conveyance, transfer, anticipation, pledge, alienation, sale, encumbrance, or charge, whether voluntary or involuntary, by a Participant or Beneficiary, unless otherwise provided in this Plan or by the Administrator, or under a QDRO, or as permitted in subsection (a).

(a) An interest shall not provide collateral or security for a debt of a Participant or Beneficiary or be subject to garnishment, execution, assignment, levy, or to another form of judicial or administrative process or to the claim of a creditor of a Participant or Beneficiary, through legal process or otherwise, except for a claim the Trustee may have against the same as security for a Participant loan or as otherwise permitted under the Code.

(b) An attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, charge, or otherwise dispose of benefits payable, before actual receipt of the benefits, or a right to receive benefits, shall be void. The Trust shall not be liable for, or subject to, the debts, contracts, liabilities, engagements, or torts of a Participant or Beneficiary entitled to benefits. The benefits and Trust assets under this Plan shall not be considered an asset of a Participant or Beneficiary in the event of insolvency or bankruptcy.

#### 13.2 Effect Upon Employment Relationship.

The adoption of this Plan shall not create a contract of employment between the Employer and an Employee, confer upon an Employee a legal right to continuation of employment, limit or qualify the right of the Employer to discharge or retire an Employee at will, or affect the right of the Employee to remain in service after the Normal Retirement Date.

#### 13.3 No Interest in Employer Assets.

Nothing in this Plan and Trust shall be construed to give an Employee, Participant, or Beneficiary an interest in the assets or the business affairs of the Employer, or the right to examine the books and records of the Employer. A Participant's rights are solely those granted by this instrument.

#### 13.4 Construction.

The singular includes the plural, and the plural includes the singular, unless the context clearly indicates the contrary. Capitalized terms (except those at the beginning of a sentence or part of a heading) have the meaning specified in this Plan. If a capitalized term is not defined, the term shall have the general, accepted meaning of the term. If a term that is defined does not have the first letter capitalized, and the definition is applicable at that location in this Plan, the term shall have the stated definition.

Any period of time described in this Plan shall consist of consecutive days, months, or years, as appropriate.

**13.5 Severability.**

If any provision of this Plan is invalid, unenforceable, or disqualified under the Code or Regulations, for any period of time, the affected provisions shall be ineffective but the remaining provisions shall be unaffected.

**13.6 Governing Law.**

This Plan and Trust shall be interpreted, administered, and managed in compliance with the Code and Regulations, but only to the extent applicable to a governmental retirement plan or as incorporated by reference herein as a Plan provision. To the extent not preempted by federal law, this Plan and Trust shall be interpreted, administered, and managed in compliance with the laws of the State of Michigan.

**13.7 Nondiversion.**

The Trust is established and shall be administered for the exclusive benefit of Participants and their Beneficiaries.

IN WITNESS WHEREOF, this amended and restated Plan is executed this 30 day of December, 2008, effective as of the date set forth above.

STATE OF MICHIGAN

By: *Phillip J. Stoddard*  
Phillip J. Stoddard, Administrator  
Senior Deputy Director, Michigan Office of  
Retirement Services

**ACCEPTANCE**

The undersigned Trustee accepts the duties, powers and responsibilities of the Trustee as described in Articles 9 and 10 of the foregoing amended and restated State of Michigan 457 Plan.

Dated: December 30, 2008

By: *Phillip J. Stoddard*  
Phillip J. Stoddard, Trustee  
Senior Deputy Director, Michigan Office of  
Retirement Services



## APPENDIX A

For purposes of determining the timing of a Participant's making Normal Retirement Age Catch-Up Contributions pursuant to Section 4.2(b)(ii) of the Plan, the "Earliest Retirement Age" for a Participant means the following:

- (1) For any Participant who participates in the State of Michigan 401K Plan, but who does not participate in any defined benefit plan sponsored by the Employer, the "Early Retirement Date" as defined in the State of Michigan 401K Plan (currently the later of the date on which a Participant attains age 50 or completes 4 years of service under such plan).
- (2) For any Participant who does participate in a defined benefit plan sponsored by the Employer, the earliest age on or after which the Participant has the right to retire without the consent of the Employer and to immediately receive unreduced retirement benefits under the basic defined benefit plan sponsored by the Employer that is applicable to such Participant's job category, as follows:
  - A. For all such Participants, except as otherwise specified below - age 55 or older with 30 years of qualified Employer service, or age 60 or older with 10 years of qualified Employer service, whichever applies.
  - B. Michigan State Police Officers - the age a Participant achieves 25 years of Michigan State Police service.
  - C. Conservation Officers - the age a Participant achieves 25 years of Employer service, with at least 23 of the 25 years (including the last 2 years) served as a Conservation Officer.
  - D. Correction Officers and other Participants in covered positions - age 51 or older with 25 years of Employer service in a "covered" position, or age 56 or older with 10 years in a "covered" position; provided in either case that the last three years are served in a "covered" position. "Covered" positions (as defined by the applicable State of Michigan retirement statute) are generally jobs that involve direct contact with prison residents.
  - E. Judges - any of: (i) the age a Participant achieves 25 years of Employer service, (ii) age 55 or older with 18 years of Employer service, or (iii) age 60 or older with 10 years of Employer service.
  - F. Legislators - age 55 or older with 8 years of Employer service.

Notwithstanding the foregoing, in the event a Participant who is participating in a defined benefit plan sponsored by the Employer has been employed by the Employer in more than one capacity set forth above, such Participant's Earliest Retirement Age shall be the earlier of the ages set forth above that is applicable to such Participant.

