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**ADOPTION AGREEMENT  
FOR THE DATAIR  
SECTION 403(b) ERISA  
BASE PLAN**

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BASE PLAN**

The DATAIR Section 403(b) ERISA Base Plan ("the Plan") is hereby adopted by:

\_\_\_\_\_  
\_\_\_\_\_  
(the "Employer").

The Plan as applicable to the Employer shall be known as:

\_\_\_\_\_

This Plan shall be an ERISA 403(b) Plan.

The Effective Date of the Plan is \_\_\_\_/\_\_\_\_/\_\_\_\_. (May not be earlier than the first day of the initial Plan Year).

- ☐ a. The Plan is an amendment of a preexisting Plan that was originally effective as of: \_\_\_\_/\_\_\_\_/\_\_\_\_.
- ☐ b. The Plan is an amendment and restatement of a preexisting Plan that was originally effective as of: \_\_\_\_/\_\_\_\_/\_\_\_\_.
- ☐ c. This Plan is an amendment and restatement of a preexisting Plan that was originally effective as of \_\_\_\_/\_\_\_\_/\_\_\_\_ and will not cover certain Vendor contracts issued before \_\_\_\_/\_\_\_\_/\_\_\_\_ to which no contribution are or have been made. (May not exclude contract issued after December 31, 2004.)

**NOTE:** If the Plan will use a Trust, an executed copy of the Trust Agreement must be attached to this Plan. The Plan and Trust Agreement must be read and construed together. The powers, rights, and responsibilities of the Trustee shall be those specified in the Trust Agreement.

**PART I.** The following identifying information pertains to the Employer, the Plan and the Trust, if applicable

1. **Employer Address:** : \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_, \_\_\_\_

2. **Employer Telephone:** \_\_\_\_\_

3. **Employer Tax ID:** \_\_\_\_\_

4. **Employer Fiscal Year:** \_\_\_\_/\_\_\_\_ to \_\_\_\_/\_\_\_\_

5. **Three Digit Plan Number:** \_\_\_\_

6. **Plan Year:** \_\_\_\_/\_\_\_\_ to \_\_\_\_/\_\_\_\_ (Must be 12 consecutive months period or a calendar year.)

7. **Short Plan Year:** \_\_\_\_/\_\_\_\_/\_\_\_\_ to \_\_\_\_/\_\_\_\_/\_\_\_\_

8. **Plan Agent:** \_\_\_\_\_  
☐ (same as Employer) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_, \_\_\_\_

9. **Plan Administrator:** \_\_\_\_\_  
☐ **Employer** \_\_\_\_\_  
☐ **Person** \_\_\_\_\_  
☐ **Committee** \_\_\_\_\_  
☐ **Committee** \_\_\_\_\_, \_\_\_\_  
☐ **Organization** \_\_\_\_\_  
☐ **Vendors with Information Sharing/Exchange Agreements with the Employer**

10. **Plan Administrator ID Number:** \_\_\_\_\_

11. **Legal Organization of Employer:**

- ☐ a. Tax-Exempt Organization described in Code Section 501(c)(3).  
☐ b. Public Educational Institute described in Code Section 170(b)(1)A.  
☐ c. Minister described in Code Section 414(e)(5)(A).  
☐ d. Other: \_\_\_\_\_

(Must be legal entity recognized under federal income tax laws as a 501(c)(3) organization.)

12. **Business Code:** \_\_\_\_\_

(as used on Form 5500; 6 digit NAICS)

13. **State of Legal Construction:** \_\_\_\_\_

14. **Date Business Commenced:** \_\_\_\_/\_\_\_\_/\_\_\_\_

15. **Other Members of a Controlled Group or Affiliated Service Group:**

(Only participating members should sign the Adoption Agreement.)

☐ **Controlled Group:** (List Participating Members)

☐ **Affiliated Service Group:** (List Participating Members)

SAMPLE

**PART II.** The Plan contains certain design features intended to provide the statutory requirement or most commonly adopted feature, but permits the selection of alternative features. **Unless specifically provided to the contrary, only one selection may be made for each design category.** Section references are to the Plan. All capitalized terms are defined in the Plan.

## A. Eligibility and Service Provisions

**A1. Eligible Employees.** - Section 2.1.1 - All Employees are eligible, except for non-resident aliens, unless otherwise provided below. An Employer that is a member of a controlled group or affiliated service group must adopt this Plan for its Employees to be eligible to participate in this Plan. (Select all applicable.)

<b>Elective Deferrals</b>	<b>Non-Elective Contributions</b>	<b>Matching Contributions</b>	
<input type="checkbox"/> a.1	<input type="checkbox"/> a.2	<input type="checkbox"/> a.3	All Employees are eligible, except non-resident aliens.
<input type="checkbox"/> b.1	<input type="checkbox"/> b.2	<input type="checkbox"/> b.3	Include non-resident aliens.
<input type="checkbox"/> c.1	<input type="checkbox"/> c.2	<input type="checkbox"/> c.3	Exclude Employees who will contribute \$200 or less annually.
<input type="checkbox"/> d.1	<input type="checkbox"/> d.2	<input type="checkbox"/> d.3	Exclude Students performing services described in section 3121(b)(10).
<input type="checkbox"/> e.1	<input type="checkbox"/> e.2	<input type="checkbox"/> e.3	Exclude Employees who normally work less than 20 hours per week, as determined by Code section 410(a)(3)(C) in 12 month computation period. Employees who work the required hours will be eligible:
<input type="checkbox"/> e.1.i	<input type="checkbox"/> e.2.i	<input type="checkbox"/> e.3.i	at the end of the 12 month period during which the required 1,000 Hours are satisfied.
<input type="checkbox"/> e.1.ii	<input type="checkbox"/> e.2.ii	<input type="checkbox"/> e.3.ii	as soon as the required hours are satisfied.
<input type="checkbox"/> f.1	<input type="checkbox"/> f.2	<input type="checkbox"/> f.3	Exclude Employees who participate in a 401(k) plan sponsored by the Employer.
<input type="checkbox"/> g.1	<input type="checkbox"/> g.2	<input type="checkbox"/> g.3	Exclude Employees who participate in a 457 plan sponsored by the Employer.
<input type="checkbox"/> h.1	<input type="checkbox"/> h.2	<input type="checkbox"/> h.3	Exclude Employees who participate in another 403(b) plan sponsored by the Employer.
<input type="checkbox"/> i.1	<input type="checkbox"/> i.2	<input type="checkbox"/> i.3	Exclude Employees covered by a collective bargaining agreement with the following unions, covered under another qualified plan sponsored by the Employer:
	<input type="checkbox"/> j.2	<input type="checkbox"/> j.3	Exclude the following from the Employer Contributions:
	<input type="checkbox"/> k.2	<input type="checkbox"/> k.3	Exclude Employees acquired in a Code section 410(b)(6)(c) Transaction.

**A2. Eligibility Requirements** - Section 2.1.1 - An Employee is immediately eligible to make Elective Deferrals in the Plan, under the "universal availability provision of Code section 403(b)(12)(A), unless the Sponsor of this Plan is a Church as defined in Code Section 3121(w)(A) or 3121(w)(B). An Employee is eligible to participate in the Employer's contribution section of the Plan if the Employee satisfies the following requirements:

<b>Non-Elective Contributions</b>	<b>Matching Contributions</b>	
<input type="checkbox"/> a.1	<input type="checkbox"/> a.2	Not Applicable

- |                              |                              |  |
|------------------------------|------------------------------|--|
| <input type="checkbox"/> b.1 | <input type="checkbox"/> b.2 | Immediate Eligibility.   |
| <input type="checkbox"/> c.1 | <input type="checkbox"/> c.2 | Anniversary Date of the Date of Hire.  |
| <input type="checkbox"/> d.1 | <input type="checkbox"/> d.2 | Minimum age of ____ years. (Not to exceed age 21).   |
| <input type="checkbox"/> e.1 | <input type="checkbox"/> e.2 | Minimum of one (1) Year of Service. An Employee completes a Year of Service based on the Service requirement elected in A4.  |
| <input type="checkbox"/> f.1 | <input type="checkbox"/> f.2 | ____ Hours of Service required (Cannot exceed 1000 hours) in ____ month computation period.  |
| <input type="checkbox"/> g.1 | <input type="checkbox"/> g.2 | ____ Hours of Service required (Cannot exceed 1000 hours) in ____ Plan Year computation period.  |
| <input type="checkbox"/> h.1 | <input type="checkbox"/> h.2 | Minimum of ____ calendar months of service in which the Employee is credited with ____ Hours of Service in each month. (Any Employee that completes one Year of Service shall also be eligible to enter the Plan.) |
| <input type="checkbox"/> i.1 | <input type="checkbox"/> i.2 | Minimum of ____ months of service. (Elect if using Elapsed Time Method or Work Period. The Plan cannot require more than 12 consecutive months.)   |
| <input type="checkbox"/> j.1 | <input type="checkbox"/> j.2 | Minimum of ____ Years of Service (Cannot exceed 2 years). If Plan requires 2 Years of Service, then they must provide for full and immediate vesting.  |

Note: For Special Eligibility Requirements, after specifying a date, you must elect at least one option under k and l.

- |                                |                                |  |
|--------------------------------|--------------------------------|--|
| <input type="checkbox"/> k.1   | <input type="checkbox"/> k.2   | Eligible Employees employed on ____/____/____ are eligible after meeting the: (Specify "employed on" date) |
| <input type="checkbox"/> k.1.A | <input type="checkbox"/> k.2.A | Age requirement  |
| <input type="checkbox"/> k.1.B | <input type="checkbox"/> k.2.B | Service requirement  |

Note: If no election is made, employees that would otherwise never work 1000 hours per year will enter the plan.

- |                                |                                |  |
|--------------------------------|--------------------------------|--|
| <input type="checkbox"/> l.1   | <input type="checkbox"/> l.2   | After meeting the requirement specified for k above, the employee will enter the Plan on the date specified below. (Prior to next Plan Entry Date) |
| <input type="checkbox"/> l.1.A | <input type="checkbox"/> l.2.A | The effective date of this document.   |
| <input type="checkbox"/> l.1.B | <input type="checkbox"/> l.2.B | The next Plan Entry Date.  |

**A3. Entry Date** - An Eligible Employee may enter the Plan: (Select option a. or b. when using Automatic Contribution Reduction elections in D6 or D7).

- | <b>Elective Deferrals</b>    | <b>Non-Elective Contributions</b> | <b>Matching Contributions</b> |  |
|------------------------------|-----------------------------------|-------------------------------|--|
| <input type="checkbox"/> a.1 | <input type="checkbox"/> a.2      | <input type="checkbox"/> a.3  | Effective Date of salary deferral elections.   |
| <input type="checkbox"/> b.1 | <input type="checkbox"/> b.2      | <input type="checkbox"/> b.3  | Next payroll date coincident with or next following the effective date of the salary deferral agreement  |
| <input type="checkbox"/> c.1 | <input type="checkbox"/> c.2      | <input type="checkbox"/> c.3  | Monthly. The ____ day of each calendar month of each Plan Year.  |
| <input type="checkbox"/> d.1 | <input type="checkbox"/> d.2      | <input type="checkbox"/> d.3  | Quarterly. Starting with ____/____ and the same day of the month occurring in each successive 3-month period   |
| <input type="checkbox"/> e.1 | <input type="checkbox"/> e.2      | <input type="checkbox"/> e.3  | Semi-Annually  |
|                              | <input type="checkbox"/> f.2      | <input type="checkbox"/> f.3  | First day of the Plan Year after satisfaction of the Eligibility Requirement, but in no event later than ____ months (not to exceed 6 months) after meeting these requirements.              |
|                              | <input type="checkbox"/> g.2      | <input type="checkbox"/> g.3  | First day of Plan Year coincident with or next following satisfaction of the eligibility requirements, but in no event later than ____ months after satisfying the eligibility requirements. |

- |                              |                              |
|------------------------------|------------------------------|
| <input type="checkbox"/> h.2 | <input type="checkbox"/> h.3 |
| <input type="checkbox"/> i.2 | <input type="checkbox"/> i.3 |
| <input type="checkbox"/> j.2 | <input type="checkbox"/> j.3 |
| <input type="checkbox"/> k.2 | <input type="checkbox"/> k.3 |

First day of the \_\_\_\_\_ month (not to exceed 6 months) after meeting the Eligibility Requirements, but in no event later than the first day of the next Plan Year.

Date on which the Eligibility Requirements are satisfied.

Anniversary Date of the Date of Hire.

Anniversary Date coincident with or next following the satisfaction of the eligibility requirements, but in no event later than the first day of the next Plan Year or 6 months after satisfying the eligibility requirements.

**A4. Service** - The Employer will credit service on the basis of: (Select one. If Hours of Service is elected, you may select c.2, c.3, c.4, or c.5 even if actual hours are normally maintained, as a fail-safe.)

- ☐ a. The Employer annual Work Period.
- ☐ b. Elapsed Time Method.
- ☐ c. Hours of Service.
  - ☐ c.1. Actual hours.
  - ☐ c.2. Days worked - An Employee will be credited with 10 Hours of Service if he or she is credited with at least 1 Hour of Service during the day.
  - ☐ c.3. Weeks worked - An Employee will be credited with 45 Hours of Service if he or she is credited with at least 1 Hour of Service during the week.
  - ☐ c.4. Semi-monthly or two-week payroll period - An Employee will be credited with 95 Hours of Service if he or she is credited with at least 1 Hour of Service during the payroll period.
  - ☐ c.5. Months worked - An Employee will be credited with 190 Hours of Service if he or she is credited with at least 1 Hour of Service during the month.
- ☐ d. Computation Period -- The Hours of Service requirement must be completed within the initial computation period. The initial computation period begins on the first day of employment and ends on the anniversary thereof. If an Employee fails to satisfy the Hours of Service requirement, the computation periods subsequent to the initial computation period will:
  - ☐ d.1. continue to be based on the anniversary date of the Employee's first day of employment.
  - ☐ d.2. change to the Plan Years beginning with the first Plan Year commencing prior to the first anniversary date of the Employee's first day of employment.

**A5. Change in Deferrals Election** - The Employer will permit an Employee to revise his or her salary reduction agreement: (Select all applicable) requirements

- ☐ a. Change the amount of his or her Elective Deferrals, (Select one)
  - ☐ a.1. At any time.
  - ☐ a.2. Monthly.
  - ☐ a.3. Quarterly.
  - ☐ a.4. Semi-Annually.
  - ☐ a.5. Annually.

**A6. Service with Predecessor Employers/Prior Employers** - Service with predecessor employers is treated as service for the Employer if the Employer maintains the plan of the predecessor employer. In all other cases predecessor service is granted as specified below. Where applicable, identify the predecessor employer(s) and

any document(s) that provide(s) for the crediting of service with such predecessor(s). requirements

- ☐ a. No predecessor service is being granted.
- ☐ b. Service with the following predecessor entities shall be credited as service under this Plan:

\_\_\_\_\_

Service with the above predecessor entities has been determined under the terms of the following plan documents, if any: \_\_\_\_\_

- ☐ c. Service with the following prior employers shall be credited as service under this Plan:

\_\_\_\_\_

SAMPLE



## B. Date Provisions

**B1. Valuation Date** - The Valuation Date is the date specified in the Individual Agreement or: (Select one.)

- ☐ a. Last day of the Plan Year.
- ☐ b. Semi-Annually on the last day of each 6 month period beginning with the first day of the Plan Year.
- ☐ c. Quarterly on the last day of each 3 month period beginning with the first day of the Plan Year.
- ☐ d. Monthly on the last day of each calendar month of the Plan Year.
- ☐ e. Daily.

**B2. Normal Retirement Age** - For each Participant the Normal Retirement Age is:

- ☐ a. Age \_\_\_\_.
- ☐ b. Age \_\_\_\_ and \_\_\_\_ Years of Service. (Must satisfy both requirements.)
- ☐ c. Age \_\_\_\_ and the \_\_\_\_ anniversary of employment. (Must satisfy both requirements.)

**B3. Normal Retirement Date** - The Normal Retirement Date is:

- ☐ a. The actual date Normal Retirement Age is attained.
- ☐ b. The first day of the month in which Normal Retirement Age is attained.
- ☐ c. The first day of the month coincident with or next following the date Normal Retirement Age is attained.
- ☐ d. The last day of the month coincident with or next following the date Normal Retirement Age is attained.
- ☐ e. The Anniversary Date coincident with or next following the date Normal Retirement Age is attained.

**B4. Limitation Year** - The Limitation Year for purposes of the limitation imposed by Code section 415 is the calendar year, unless one of the following is selected.

- ☐ a. The Plan Year.
- ☐ b. Calendar year coinciding with or ending within the Plan Year.
- ☐ c. Twelve consecutive month period ending \_\_\_\_/\_\_\_\_.
- ☐ d. Employer Fiscal Year ending with or within Plan Year. Employer Fiscal Year ends: \_\_\_\_/\_\_\_\_.

## C. Compensation

**C1. Compensation** - Unless otherwise elected, a Participant's Compensation is based on all cash compensation for services performed for the Employer during the calendar year that is "Includible Compensation" for the Employee. Compensation for the Plan will be increased by amounts not includible in gross income pursuant to a reduction election under section 125, 132(f), 401(k), 403(b), or 457(b) of the Code; including any Deemed Section 125 Compensation; unless excluded under the selected definition. (Select a definition of Compensation a. or b., and any applicable exclusion.)

- ☐ a. Compensation as defined for Wages, Tips and Other Compensation Box on Form W-2. (Must exclude all of a.2 through a.8 for Code section 414(s) safe harbor compensation.)

Exclude: (Select either a.1. or any combination of a.2. through a.8)

- ☐ a.1. All of the items listed in a.2 through a.8.
- ☐ a.2. 402(h)(1)(B) (SEP deferrals).
- ☐ a.3. 125 (Cafeteria Plan).
- ☐ a.4. Deemed Section 125 Compensation.
- ☐ a.5. 132(f)(4) (Transportation).
- ☐ a.6. 402(e)(3) (401(k) and 403(b) deferrals).
- ☐ a.7. 457(b) deferrals.
- ☐ a.8. Post Severance Compensation.

- ☐ b. Compensation as defined in Code section 3401(a). (Must exclude all of b.2 through b.8 for Code section 414(s) safe harbor compensation.)

Exclude: (Select either b.1. or any combination of b.2. through b.8)

- ☐ b.1. All of the items listed in b.2 through b.8.
- ☐ b.2. 402(h)(1)(B) (SEP deferrals).
- ☐ b.3. 125 (Cafeteria Plan).
- ☐ b.4. Deemed Section 125 Compensation.
- ☐ b.5. 132(f)(4) (Transportation).
- ☐ b.6. 402(e)(3) (401(k) and 403(b) deferrals).
- ☐ b.7. 457(b) deferrals.
- ☐ b.8. Post Severance Compensation.

**C2. Modifications to Compensation** - A Participant's Compensation shall exclude compensation that is:

- ☐ a. overtime.
- ☐ b. commissions.
- ☐ c. discretionary bonuses.
- ☐ d. bonuses.
- ☐ e. other exclusion - Specify: \_\_\_\_\_.

## D. Contribution and Allocation

### D1. Elective Deferrals - Section 2.2.2(a) (Select all applicable.)

- ☐ a. No limits on Elective Deferrals.
- ☐ b. Elective Deferrals must be at least \_\_\_\_% of Compensation.
- ☐ c. Elective Deferrals cannot exceed \_\_\_\_% of Compensation.
- ☐ d. Elective Deferrals must be at least \$\_\_\_\_\_ (Must result in at least \$200.00 of Elective Deferral per Plan Year.)
  - ☐ d.1. per pay period.
  - ☐ d.2. per Plan Year.
- ☐ e. Bonuses: (You must select e.1 or e.2. You may select e.3 and or e.4 with e.1.)
  - ☐ e.1. Bonuses are subject to deferral election.
  - ☐ e.2. Bonuses are not subject to deferral election.
  - ☐ e.3. A special election shall be provided for bonuses.
  - ☐ e.4. Bonuses paid within 2½ months after the end of the Plan Year shall be subject to the deferral election for the prior Plan Year.

### D2. Roth 403(b) Deferrals - Section 2.2.2(b)

- ☐ a. Not applicable - No Roth 403(b) Deferrals permitted.
- ☐ b. Roth 403(b) Deferrals are permitted after \_\_\_\_/\_\_\_\_/\_\_\_\_. (Enter a date if later than the Plan's effective date.)
- ☐ c. Roth 403(b) Deferrals are permitted after \_\_\_\_/\_\_\_\_/\_\_\_\_. (Enter a date if later than the Plan's effective date.) A Participant's Elective Deferrals must be all after-tax or all pre-tax.
- ☐ d. Roth 403(b) Deferrals will not be matched.

### D3. Age 50 Catch-up Contributions - Section 2.2.4

- ☐ a. Not applicable - No Age 50 Catch-up Contributions are permitted.
- ☐ b. Age 50 Catch-up Contributions are permitted after \_\_\_\_/\_\_\_\_/\_\_\_\_. (Enter a date if later than the Plan's effective date.)
- ☐ c. Age 50 Catch-up Contributions will not be matched. (Note, excluding Age 50 Catch-up Contributions from Matching Contributions may require additional monitoring, to avoid calculation problems.)

### D4. Special Section 403(b) Catch-up Contributions - Section 2.2.5 - All "qualified employees" with 15 years of service may increase their Elective Deferrals, to the extent provided in the Individual Agreements and not to exceed limits in section 2.2.5.

- ☐ a. Not applicable - The Employer is not a "qualified organization".
- ☐ b. Special Section 403(b) Catch-up Contributions are not permitted.
- ☐ c. Special 403(b) Catch-up Contributions are permitted.
- ☐ d. Special 403(b) Catch-up Contributions will not be matched. (Note, excluding Special 403(b) Catch-up Contributions from Matching Contributions may require additional monitoring, to avoid calculation problems.)

Note: To allow Special Catch-up Contributions in the Plan, the Employer must be a "qualified organization" (meaning an educational organization described in section 170(b)(1)(A)(ii); a hospital; a health and welfare service agency; including a home health service agency; a church-related organization; or any organization described in section 414(e)(3)(B)(ii)).

**D5. Voluntary Employee Contributions (After-Tax Only) - Section 2.2.6**

- ☐ a. Plan does not permit Voluntary Employee Contributions.
- ☐ b. Plan permits Voluntary Employee Contributions.

**D6. Automatic Compensation Reduction (ACR) - Section 2.2.3(a)**

- ☐ a. Not applicable - No Automatic Compensation Reduction.
- ☐ b. The Automatic Compensation Reduction under Section 2.2.3(a) shall be equal to \_\_\_\_% of Compensation. (Select all applicable.)
  - ☐ b.1. Apply to new Participants.
  - ☐ b.2. Apply to current Participants without an election.
  - ☐ b.3. Apply to all Participants with prior year elections that are less than the automatic reduction percentage.

- ☐ c. Annual Increase in a Participant's ACR shall be \_\_\_\_% up to a maximum ACR of \_\_\_\_% Compensation.
- ☐ d. Permissive Withdrawal of Elective Deferrals within 90 days of the first automatic contribution under the ACR will be allowed.  
Note: By electing option "d" the ACR will be considered an Eligible Automatic Compensation Arrangement (EACA).

**D7. Qualified Automatic Contribution Arrangement (QACA) - Section 2.2.3(c) - The QACA provisions apply to all Employees who meet the eligibility requirements in A2.**

- ☐ a. Not applicable - No Qualified Automatic Contributions Arrangement.
- ☐ b. Plan permits an automatic enrollment arrangement under the QACA provisions according to the following automatic escalator method: (Elective Deferral contributions will increase each year but will not exceed 10% of Compensation. The initial contribution may not be less than 3%. For example: First year 3%, Second year 4%, Third year 5% and Fourth year and years thereafter 6%. This percent is based on each eligible participant.)
  - ☐ b.1. Initial deferral of \_\_\_\_% will be withheld for each eligible employee.
  - ☐ b.2. Will increase by \_\_\_\_% each year beginning the year following the initial year their automatic participation commenced.
  - ☐ b.3. Maximum Automatic Contribution amount is \_\_\_\_%. (Must not exceed 10%.)
- ☐ c. Matching Contributions

- ☐ c.1. Not applicable - No Matching Contributions.
- ☐ c.2. 100% of Elective Deferrals up to 1% of Compensation PLUS 50% of Elective Deferrals in excess of the first 1% of Compensation up to 6% of Compensation.

☐ d. Non-Elective Contributions

- ☐ d.1. Not applicable - No Non-Elective Contributions.
- ☐ d.2. \_\_\_\_\_% (at least 3%) (No Elective Deferrals are required).

☐ e. Vesting options for Matching Contributions

- ☐ e.1. 100% Vested after 2 Years of Service.
- ☐ e.2. 100% immediate vesting.
- ☐ e.3. Other: (Optional vesting schedule must be at least as favorable as e.1. or e.2.)

Year(s) of Service Percent Vesting

Less than 1 \_\_\_\_\_  
 1 but less than 2 \_\_\_\_\_  
 2 or more 100% \_\_\_\_\_

☐ f. Vesting options for Non-Elective Contributions

- ☐ f.1. 100% Vested after 2 Years of Service.
- ☐ f.2. 100% immediate vesting.
- ☐ f.3. Other: (Optional vesting schedule must be at least as favorable as f.1. or f.2.)

Year(s) of Service Percent Vesting

Less than 1 \_\_\_\_\_  
 1 but less than 2 \_\_\_\_\_  
 2 or more 100% \_\_\_\_\_

These QACA provisions are effective on \_\_\_\_/\_\_\_\_/\_\_\_\_. (Must be effective January 1, 2008 or later)

Note: The QACA election will satisfy the ACP testing requirements.

Note: Code section 403(b) requires that the right of an Employee, in his or her Accounts, be fully vested and non-forfeitable at all times. Non-vested amounts shall be treated as a contract to which Code section 403(c) applies. Treasury Regs. sections 1.403(b)-3(a)(2) and 3(d)(3).

**D8. The ACP Test Safe Harbor Contribution - Section 2.2.7 - All Safe Harbor Contributions shall be non-forfeitable (immediately 100% vested).**

- ☐ a. The Basic Matching Contribution of 100 percent of the Elective Deferral that does not exceed 3% of Compensation, plus 50 percent of the Elective Deferral that exceeds 3% of Compensation but does not exceed 5% of Compensation.
- ☐ b. An Enhanced Matching Contribution equal to 150 percent of the first 3% of Compensation deferred.
- ☐ c. An Enhanced Matching Contribution equal to 100 percent of the first 4% of Compensation deferred.
- ☐ d. An Enhanced Matching Contribution equal to the sum of:

- ☐ d.1. \_\_\_\_\_% (not less than 100%) of the Participant's Elective Deferrals that do not exceed \_\_\_\_%

of Compensation, plus \_\_\_\_% of the Elective Deferrals that exceed \_\_\_\_% of Compensation, not to exceed \_\_\_\_% of Compensation.

(In the second blank in d.1. and the fourth blank insert a number that is equal to or greater than 3 but not greater than 6. The first and last blanks in d.1. must be completed so that, at any rate of Elective Deferrals, the Matching Contribution is at least equal to the Matching Contribution receivable if the Employer were making the Basic Matching Contribution of item a. The rate of match cannot increase as the Elective Deferrals increase.)

☐ d.2. \_\_\_\_% of Elective Deferrals that do not exceed 6% of Compensation for the Plan Year.

☐ d.3. A discretionary percentage (Determined by the Employer for the Plan Year) of Elective Deferrals that do not exceed 6% of a Participant's Compensation.

Note: The ACP Safe Harbor Matching contribution formula can not result in a Matching Contribution that exceeds four (4) percent of the Participant's Compensation.

☐ e. Safe Harbor Non-Elective Contribution to each eligible Participant in an amount equal to \_\_\_\_% of Compensation. (Must be 3% or more.)

**D9. Requirement to Share in Non-Elective Contribution or Matching Contribution Allocation** - In order for a Participant to share in the allocation of the Employer's contribution a Participant: (Select all applicable)

<b>Non-Elective</b>	<b>Matching</b>	
<input type="checkbox"/> a.1	<input type="checkbox"/> a.2	Not Applicable or No Requirement to receive an allocation.
<input type="checkbox"/> b.1	<input type="checkbox"/> b.2	complete ____ calendar months of service in which the Employee is credited with ____ Hours of Service in each month.
<input type="checkbox"/> c.1	<input type="checkbox"/> c.2	completes ____ months of service. (Elect if using Elapsed Time Method or Work Period)
<input type="checkbox"/> d.1	<input type="checkbox"/> d.2	complete ____ Hours of Service
<input type="checkbox"/> e.1	<input type="checkbox"/> e.2	complete ____ Hours of Service (cannot exceed 1000), or is employed on the last day of the Plan Year
<input type="checkbox"/> f.1	<input type="checkbox"/> f.2	complete ____ (cannot exceed 1000) Hours of Service and is employed on the last day of the Plan Year.
<input type="checkbox"/> g.1	<input type="checkbox"/> g.2	Must have received Compensation since the prior Allocation Date
<input type="checkbox"/> h.1	<input type="checkbox"/> h.2	Must be employed on the date the Employer Contributions are allocated.
<input type="checkbox"/> i.1	<input type="checkbox"/> i.2	Must be employed on the last day of Plan Year.

Regardless of the selections in D.9.b - i:

☐ j.1.A Non-Elective Contributions on behalf of a Former Employee, (see Section 2.3.6) Non-Elective contributions of \_\_\_\_% of compensation shall be made through the end of the \_\_\_\_ (insert a period not to exceed) taxable year of the Employee following the year in which the Employee terminated employment.

☐ j.1.B ☐ j.2.B HEART Act Allocations): In the case of death or disability resulting from active military service, the Participant shall be eligible for an allocation as if he returned to employment with the Employer prior to death or disability, provided the death or disability occurred on or after \_\_/\_\_/\_\_\_\_ (no earlier than 01/01/08).

☐ k. Allocation if Participant dies during the Plan Year. An Employee will receive an allocation: (regardless of the election in D9 b – j).

- |                                |                                |   |
|--------------------------------|--------------------------------|---|
| <input type="checkbox"/> k.1.A | <input type="checkbox"/> k.2.A | No Hours of Service requirement.                            |
| <input type="checkbox"/> k.1.B | <input type="checkbox"/> k.2.B | Only if the Participant meets Hours of Service requirement. |
- If the Participant retires during the Plan Year:
- |                                |                                |   |
|--------------------------------|--------------------------------|---|
| <input type="checkbox"/> l.1.A | <input type="checkbox"/> l.2.A | No Hours of Service requirement.                            |
| <input type="checkbox"/> l.1.B | <input type="checkbox"/> l.2.B | Only if the Participant meets Hours of Service requirement. |
- If the Participant becomes Disabled during the Plan Year
- |                                |                                |   |
|--------------------------------|--------------------------------|---|
| <input type="checkbox"/> m.1.A | <input type="checkbox"/> m.2.A | No Hours of Service requirement.                            |
| <input type="checkbox"/> m.1.B | <input type="checkbox"/> m.2.B | Only if the Participant meets Hours of Service requirement. |

Allocation if Participant is disabled during the Plan Year. Contribution on behalf of an Employee will be based on imputed Compensation. (Select one of the A – F options below).

- |                                |                                |   |
|--------------------------------|--------------------------------|---|
| <input type="checkbox"/> n.1.A | <input type="checkbox"/> n.2.A | Will not make contributions on behalf of Disabled Participants based on imputed Compensation.   |
| <input type="checkbox"/> n.1.B | <input type="checkbox"/> n.2.B | Will make contributions on behalf of Disabled Participants who are not Highly Compensated Employees on the basis of the Compensation each such Participant would have received for the Limitation Year if the Participant had been paid at the rate of Compensation paid immediately before becoming Disabled. Such imputed Compensation for the Disabled Participant may be taken into account only if the contributions made on behalf of such Participant will be non-forfeitable when made. |
| <input type="checkbox"/> n.1.C | <input type="checkbox"/> n.2.C | Will make contributions on behalf of Disabled Participants on the basis of the Compensation each such Participant would have received for the Limitation Year if the Participant had been paid at the rate of Compensation paid immediately before becoming Disabled. Such imputed Compensation for the Disabled Participant may be taken into account only if the contributions made on behalf of such Participant will be non-forfeitable when made.  |

Note: If B or C. is selected above, you must select one of the following D, E or F options below. A Disabled Participant must be 100% vested in their Employer's contributions.

Contributions for Disabled Participants based on imputed Compensation shall:

- |                                |                                |   |
|--------------------------------|--------------------------------|---|
| <input type="checkbox"/> n.1.D | <input type="checkbox"/> n.2.D | Be made for only the Plan Year in which he becomes Disabled.          |
| <input type="checkbox"/> n.1.E | <input type="checkbox"/> n.2.E | Be made for ____ Plan Years provided he continues to be Disabled.     |
| <input type="checkbox"/> n.1.F | <input type="checkbox"/> n.2.F | Be made until the end of the Plan Year in which he attains Normal Age |

Fail Safe Allocations (Section 2.3.8) - Allocations will be given to Employees who normally would not be given an allocation of Non-Elective Contributions in order to satisfy nondiscrimination requirements. If a fail safe is not elected, the Plan must be amended if the test fails.

- |                                |   |
|--------------------------------|---|
| <input type="checkbox"/> o.1.A | No fail safe. (Warning: If a Plan with this option fails the 410(b) tests, it must be amended within 9½ months after the end of the Plan Year to bring it into compliance.) |
| <input type="checkbox"/> o.1.B | Fail Safe if the Plan fails the ratio percentage test of IRC section 410(b).  |
| <input type="checkbox"/> o.1.B | Fail Safe if the Plan fails the ratio percentage test and the average benefits test of IRC section 410(b).  |
- ☐ p.1      ☐ p.2      Other: \_\_\_\_\_

**D10. Non-Elective Contribution** - Section 2.3.1 - The Employer's Non-Elective Contribution to the Plan shall be:  
(Select one)

- |                             |   |
|-----------------------------|---|
| <input type="checkbox"/> a. | Not applicable - No Non-Elective Contributions.                       |
| <input type="checkbox"/> b. | Discretionary.  |
| <input type="checkbox"/> c. | An amount necessary to meet the allocation requirements in D11 below. |

- ☐ d. Discretionary by Employee Classification in D11.g.
- ☐ e. \_\_\_\_\_% of eligible Compensation. (not to exceed 25).

**D11. Allocation Method** - The Employer Non-Elective Contribution is allocated to Participants on the basis selected below.

- ☐ a. Not applicable - No Non-Elective Contributions.
- ☐ b. Proportionate to salary - Based upon each Participant's Compensation in proportion to the Compensation of all Participants.
- ☐ c. Each Participant will receive: (Must select at least age or service.)

- c.1. \_\_\_\_\_ points for each year of age.
  - c.2. \_\_\_\_\_ points for each Year of Service. A Year of Service for this purpose is based on the Service requirement elected in D9.

- ☐ 2.A. All service.
  - ☐ 2.B. Service as a Participant.
  - ☐ 2.C. Service limited to \_\_\_\_\_ years.

- c.3. \_\_\_\_\_ points for each \$\_\_\_\_\_ of Compensation. (not to exceed \$200)
  - c.4. Each Participant will be limited to \_\_\_\_\_ total points.

Each Participant's allocation shall bear the same relationship to the Employer contribution as his or her total points bears to all points awarded.

- ☐ d. A flat dollar amount that is the same for all Participants.
- ☐ e. \$\_\_\_\_\_ per Hour of Service credited to each Participant for the Plan Year.
  - ☐ e.1. Do not limit Hours of Service.
  - ☐ e.2. Limit Hours of Service in allocation to \_\_\_\_\_ hours.
- ☐ f. Integrated with Social Security - The Employer shall contribute \_\_\_\_\_% of each Participant's Compensation, plus \_\_\_\_\_% (Not to exceed the Base Contribution Percentage by more than the Permitted Disparity Rate) of each Participant's Compensation in excess of the Social Security Integration Level. (Select one of f.1. through f.6. below.)

The Integration Level is equal to the taxable wage base (TWB) under section 230 of the Social Security Act:

- ☐ f.1. \_\_\_\_\_ in effect as of the first day of the Plan Year.
- ☐ f.2. \$\_\_\_\_\_. (Not to exceed the TWB in effect as of the first day of the Plan Year.)
- ☐ f.3. \_\_\_\_\_% (not to exceed 100) of the TWB in effect as of the first day of the Plan Year.
- ☐ f.4. The greater of \$10,000 or 20% of the TWB in effect as of the first day of the Plan Year.
- ☐ f.5. 80% of the TWB in effect as of the first day of the Plan Year plus \$1.00.
- ☐ f.6. 80% of the TWB in effect as of the first day of the Plan Year rounded up to the next \$1,000.

NOTE: The Employer contribution allocable to Compensation in excess of the Integration Level (IL) may not exceed 5.4% if the IL is more than 80% but less than 100% of the Taxable Wage Base (TWB) under section 230 of the Social Security Act in effect as of the first day of the Plan Year, and may not exceed



4.3% if the IL is greater than 20% of the TWB, but not more than 80% of the TWB, and greater than \$10,000.

This Plan may not provide for permitted disparity if the Employer maintains any other plan that provides for permitted disparity or imputes permitted disparity and benefits any of the same Participants.

- ☐ g. Participant Group Allocation. The Employer shall contribute an amount necessary to meet the allocation requirements in g.1 or g.2 below.
- ☐ g.1. Plan Participants will be divided into groups by classification of Participant. Each group (one or more) must be clearly defined and may not be subject to Employer Discretion, which would cause the plan to fail to have a definite allocation formula.

<u>Classification</u>	<u>Description</u>
A	
B	
C	
D	
E	
F	
G	
H	
I	
J	

A list shall be prepared for each Plan Year, which outlines for each classification the associated percentage or dollar amount allocated and provided to the Plan Administrator not later than the time prescribed by law for filing the return for such applicable taxable year (including any extensions), and shall be maintained as part of the administrative records of the Plan.

- ☐ g.2. A Percentage of Compensation or Dollar Amount Per Participant. Each Eligible Employee of the Employer will constitute a "separate allocation group" for purposes of allocating contributions

A list shall be prepared on an annual basis, for each Plan Year, of each classification and the associated percentage or dollar amount allocated and provided to the Plan Administrator, not later than the time prescribed by law for filing the return for such applicable taxable year (including any extensions), and shall be maintained as part of the administrative records of the Plan.

NOTE: The specific grouping of participants should be such that resulting allocations are provided in a definite predetermined formula that complies with 1.401-1(b)(1)(ii).

- ☐ h. Other: \_\_\_\_\_.

**D12. Matching Contribution** - Section 2.3.2 - The Employer's Matching Contribution to the Plan shall be: (Select one)

- ☐ a. Not applicable - No Matching Contributions.
- ☐ b. Discretionary.
- ☐ c. An amount necessary to meet the allocation requirements in D13 below.

**D13. Allocation Method for Matching Contributions** - Matching Contributions shall be allocated to eligible Participants in an amount:

- ☐ a. Not applicable - No Matching Contributions.
- ☐ b. Proportionate to the Elective Deferrals made on behalf of a Participant.
- ☐ c. Based on a discretionary percentage allocated proportionate to Elective Deferrals or levels of deferrals or flat dollar amount allocated on a uniform basis to all Participants, as determined by the Employer.
- ☐ d. Equal to \_\_\_\_\_% of the Elective Deferrals made on behalf of a Participant.
- ☐ e. Graded based on the dollar amount of the Elective Deferral of each Participant as follows:

_____	% of the first \$ _____	plus
_____	% of the first \$ _____	plus
_____	% of the first \$ _____	plus
_____	% of the first \$ _____	plus
_____	% thereafter	

- ☐ f. Graded based on a percentage of each Participant's Compensation contributed as an Elective Deferral as follows:

_____	% of the first _____%	plus
_____	% of the first _____%	plus
_____	% of the first _____%	plus
_____	% of the first _____%	plus
_____	% thereafter	

- ☐ g. Graded based on each Participant's Years of Service or participation as follows:

- ☐ g.1. Based on Service
- ☐ g.2. Based on participation

Exceeding _____	Matching Percentage
-----------------	---------------------

_____ years	_____%
_____ years	_____%
_____ years	_____%
_____ years	_____%
_____ years	_____%
_____ years	_____%

*NOTE: Graded percentages entered in e. through g. must decrease as percentage or amount of Elective Deferral increases in order to meet safe harbor requirements.*

- ☐ h. Other: \_\_\_\_\_.

**D14. Limitations on Matching Contributions** - The Employer shall not make Matching Contributions: (Select all applicable.)

- ☐ a. Not applicable - No Matching Contribution or no limit.
- ☐ b. With respect to Elective Deferrals in excess of \_\_\_\_\_% of a Participant's Compensation.
- ☐ c. In excess of \$\_\_\_\_\_ for any Participant.

**D15. Allocation Date for Non-Elective Contributions and Matching Contributions** - For the purposes of this Plan,

Non-Elective Contributions and Matching Contributions are allocated as of:

**Non-Elective Contributions**

- ☐ a. Not applicable - No Non-Elective Contribution.
- ☐ b. The last day of the Plan Year.
- ☐ c. The Valuation Date coincident with or next following the date the Non-Elective Contribution is made.
- ☐ d. The period based upon ☐ Pay period ☐ Monthly ☐ Bi-monthly  
☐ Quarterly ☐ Semi-Annually ☐ Bi-weekly  
☐ Weekly periods ending with or within the Plan Year
- ☐ d.1. No True-up.
- ☐ d.2. True-up to the current period for the Plan Year to date.
- ☐ d.3. True-up at the end of the Plan Year.

**Matching Contributions**

- ☐ e. Not applicable - No Matching Contribution.
- ☐ f. The last day of the Plan Year.
- ☐ g. The Valuation Date coincident with or next following the date the Matching Contribution is made.
- ☐ h. The period based upon ☐ Pay period ☐ Monthly ☐ Bi-monthly  
☐ Quarterly ☐ Semi-Annually ☐ Bi-weekly  
☐ Weekly periods ending with or within the Plan Year
- ☐ h.1. No True-up.
- ☐ h.2. True-up to the current period for the Plan Year to date.
- ☐ h.3. True-up at the end of the Plan Year.

**Skip Question E1 - E3 , if you have not completed question D9 - D15.**

## E. Vesting

**E1. Vesting Schedule** - Employer's contributions shall vest: (Select a., b., c., d., or f. Also, select e. if applicable.)

### Non-Elective

☐

a.1

☐

b.1

☐

c.1

☐

d.1

☐

e.1

☐

e.1.A

☐

e.1.B

☐

e.1.C

☐

f.1

\_\_\_\_\_%  
\_\_\_\_\_%  
\_\_\_\_\_%  
\_\_\_\_\_%  
\_\_\_\_\_%  
\_\_\_\_\_%  
\_\_\_\_\_%  
\_\_\_\_\_%

### Matching

☐

a.2

☐

b.2

☐

c.2

☐

d.2

☐

e.2

☐

e.2.A

☐

e.2.B

☐

e.2.C

☐

f.2

\_\_\_\_\_%  
\_\_\_\_\_%  
\_\_\_\_\_%  
\_\_\_\_\_%  
\_\_\_\_\_%  
\_\_\_\_\_%  
\_\_\_\_\_%  
\_\_\_\_\_%

Not applicable.

At the rate of 20% each year after 2 Years of Vesting Service (20% vested in second year).

100% vesting after \_\_\_\_ Year(s) of Vesting Service (not to exceed 3).

100% vesting upon participation.

100% vesting if any of the following occurs while the Participant is still an Employee: (Must select another alternative.)

Attainment of Age \_\_\_\_ (You must specify an Age.)

Death.

Disability.

Other: (Optional vesting schedule must be at least as favorable as b. or c. above)

Less than 1

1 but less than 2

2 but less than 3

3 but less than 4

4 but less than 5

5 but less than 6

6 or more

**E2. Prior Vesting Schedule** - Section 3.5.2(b) provides that if the vesting schedule has been amended to a less favorable schedule, Participants may be entitled to have their vested interest calculated under the prior schedule. Complete the following ONLY if this is an amended plan that has a new vesting schedule that is less favorable than the prior schedule.

☐ a. The prior schedule for Employer Non-Elective Accounts was:

Less than 1	_____
1 but less than 2	_____
2 but less than 3	_____
3 but less than 4	_____
4 but less than 5	_____
5 but less than 6	_____
6 but less than 7	_____
7 or more	_____

☐ b. The prior schedule for Matching Accounts was:

Less than 1	
1 but less than 2	
2 but less than 3	
3 but less than 4	
4 but less than 5	
5 but less than 6	
6 or more	

Effective date of new schedule: \_\_\_\_/\_\_\_\_/\_\_\_\_

## F. Limitations

### F1. The ACP Test - Section 2.6.2 - The Plan will use: (Select all applicable)

- ☐ a. Prior Year Testing.

Use a.1. only if this is the first Plan Year, this Plan allows Matching Contributions, and it is not a successor plan.

- ☐ a.1. The ACP for NHCEs shall be 3%.  
☐ a.2. The ACP for NHCEs shall be the ACP for the Current Year.

- ☐ b. Current Year Testing (See Section 2.6.2(b) for rules to change this election.)

### F2. Excess Aggregate Contributions - Vested Excess Aggregate Contributions shall be distributed to the Participant. Forfeitures of Excess Aggregate Contributions (Matching Contributions) pursuant to Section 2.6.5 shall be:

- ☐ a. Distributed and included in Participant's gross income.  
☐ b. Segregated and treated as a non-qualified Code section 403(c) contract.  
☐ c. Held and applied to reduce Employer contributions to the Participant's account in the next Limitation Year.

### F3. Highly Compensated Employee Determination - Highly Compensated Employee means any Employee who: (1) was a 5-percent owner at any time during the year or the preceding year, or (2) for the preceding year had compensation from the Employer in excess of \$115,000 for 2012 (as adjusted by the Secretary pursuant to Code section 415(d)) and, if the Employer so elects, was in the Top-Paid Group for the preceding year. The Top-Paid Group Election and the Calendar Year Data Election must apply consistently to the determination years of all plans of the Employer. (Select all applicable.)

- ☐ a. Plan Provision.  
☐ b. Top-Paid Group Election - Highly Compensated Employee determination limited to top 20% of Employees by pay.  
☐ c. Calendar Year Data Election - Method for determining greater than \$115,000 in compensation for 2012 (as adjusted by the Secretary pursuant to Code section 415(d)). Uses compensation paid during the calendar year beginning with or within the Look-Back Year. (Not available for calendar year plans)

### F4. Qualified Non-Elective Contribution(QNEC). In computing the ACP Ratio:

- ☐ a. QNECs are not permitted.  
☐ b. QNECs shall be made at the Employer's discretion.  
☐ c. QNECs shall be allocated on behalf of: (Select one)  
☐ c.1. All Participants.  
☐ c.2. Solely on behalf of Participants who are not Highly Compensated Employees.

☐ d. Who are eligible to receive an allocation of: (Select one)

- ☐ d.1. Non-Elective Contributions.
- ☐ d.2. Elective Deferrals.
- ☐ d.3. Matching Contributions.

☐ e. The amount of the QNECs that shall be allocated: (select one)

- ☐ e.1. In proportion to a Participant's Compensation.
- ☐ e.2. As a uniform dollar amount.
- ☐ e.3. To the extent necessary to satisfy the ACP test, (This election can only be used with Current Year testing method (F.1.b.) is selected.)

**Warning:** To use the QNEC in the ACP test, you must comply with Reg. 1.401(m)-2(a)(6)(v), which require the QNEC to either be less than 5% of a Participant's compensation or no more than twice a "representative contribution rate" determined by analyzing the QNECs provided to all Non-Highly Compensated Employees. QNEC must be made within the 12-month period following the last day of the Prior Year.

## G. Distribution Provisions

**G1. Method of Distribution** - Section 2.5.4 - The Employer may elect to permit Plan distributions to be made in the form of: (Select all applicable; must select at least one.)

- ☐ a. Lump sums.
- ☐ b. Installments.
- ☐ c. Annuity.
- ☐ d. In any form permitted under the Individual Agreement.
- ☐ e. Minimum distributable amount to a non-vested Participant shall be the lesser of \$\_\_\_\_\_ or the Account balance.

**G2. Mandatory Cash Out Provisions** - Section 2.5.4(b) - Unless otherwise provided below, if the Account Balance does not exceed \$5,000, then the distribution will be made in the form of a lump-sum payment, without the consent of the Participant or Beneficiary. The \$5,000 Account Balance shall be determined without regard to any separate account that holds rollover contributions allowed under Section 3.6.5. (Select all applicable and if the mandatory cash-out threshold exceeds \$1,000, complete item d.)

- ☐ a. The Plan will not require mandatory cash outs.
- ☐ b. The Plan will require a mandatory cash-out threshold of \$\_\_\_\_\_. (less than or equal to \$5,000)
- ☐ c. Exclude Rollover Contributions when determining the value of the Participant's non-forfeitable Account balance for purposes of the Plan's involuntary cash-out rules.
- ☐ d. Automatic Rollover. Absent a distribution election from a Participant or Beneficiary with a Small Account Balance \$\_\_\_\_\_, the Plan Administrator shall automatically roll the distribution into an individual retirement account.

**G3. Time of Distribution** - Section 2.5.1 - Distributions to Participants who resign, die, have a Disability, or are discharged prior to retirement shall be:

- ☐ a. Made as soon as administratively feasible.
- ☐ b. Made as soon as administratively feasible after the Anniversary Date.
- ☐ c. Deferred until the Normal Retirement Date.

**G4. Hardship Distributions of Elective Deferrals and Roth 403(b) Deferrals** - Section 2.5.8 - The Employer may permit distributions of Elective Deferrals to Participants while employed in the event of financial hardship as specified in the Plan: (To select e. you must elect to permit Hardships under a. and/or b.)

- ☐ a. Hardship distributions of Pre-tax Elective Deferrals are permitted.
- ☐ b. Hardship distributions of Roth 403(b) Deferrals are permitted.
- ☐ c. Hardship distributions of Pre-tax Elective Deferrals are not permitted.
- ☐ d. Hardship distributions of Roth 403(b) Deferrals are not permitted.
- ☐ e. Hardship distributions are permitted only when an agreement to exchange information or an Information Sharing Agreement exists between the Vendor and the Employer.

Hardship distributions may be made from a Participant's Elective Account, provided that Hardship distributions of earnings on Pre-tax Elective Deferrals may only be made on such earnings credited to the Participant's Account as



of the end of the last Plan Year ending before July 1, 1989.

- G5. In-Service Distributions** - Section 2.5.9 - The Employer may permit a Participant who is age 59½ to withdrawal from their: (Select all applicable.)

**Elective Deferrals From Annuity Contracts, (or Retirement Income Accounts)**

- ☐ a. Not Applicable.
- ☐ b. In-service distributions are not permitted.
- ☐ c. In-service distributions are permitted.
- ☐ d. In-service distributions are permitted only when an agreement to exchange information or an Information Sharing Agreement exists between the Vendor and the Employer.

**Elective Deferrals From Custodial Accounts**

- ☐ e. Not Applicable.
- ☐ f. In-service distributions are not permitted.
- ☐ g. In-service distributions are permitted.
- ☐ h. In-service distributions are permitted only when an agreement to exchange information or an Information Sharing Agreement exists between the Vendor and the Employer.

**Other Accounts** The Employer may permit a Participant to request a withdrawal from their Employer contribution accounts after: (Select all applicable.)

- ☐ i. In-service distributions from Accounts not subject to age 59½ restrictions are not permitted.
- ☐ j. In-service distributions from Accounts not subject to age 59½ restrictions are permitted.
  - ☐ j.1. Age \_\_\_\_
  - ☐ j.2. \_\_\_\_ Years of Participation
  - ☐ j.3. \_\_\_\_ Years of Service
  - ☐ j.4. Amount have been allocated for \_\_\_\_ Years
- ☐ k. In-service distributions from Accounts not subject to age 59½ are permitted only when an agreement to exchange information or an Information Sharing Agreement exists between the Vendor and the Employer. (To select this option, you must elect to permit in-service distributions under option j.)
- ☐ l. In-service distributions from Rollover Accounts or Voluntary Employee Account are permitted at anytime.

**In-Plan Roth Conversion of In-Service Distribution.** If the Plan permits Roth Deferral, the Employer will permit a Participant to:

- ☐ m. Establish an In-Plan Roth Conversion Account for Participant, if the Plan and Individual Agreement permits an in-service distributions from
  - ☐ m.1. Non-Elective Contribution Account
  - ☐ m.2. Matching Contribution Account

Note: The amounts converted must be an Eligible Rollover Distribution from Non-Elective Contribution or Matching Contribution Account under the Plan.

**G6. Qualified Domestic Relations Orders** - Section 3.7.6 - The Employer may elect to permit distributions to an Alternate Payee pursuant to the terms of a Qualified Domestic Relations Order even if the Participant continues to be employed.

- ☐ a. Distributions to an Alternate Payee are not permitted while the Participant continues to be employed.
- ☐ b. Distributions to an Alternate Payee are permitted while the Participant continues to be employed on or after the date a Domestic Relations Order is determined to be a Qualified Domestic Relations Order by the Plan Administrator.

**G7. Required Minimum Distributions** - Section 2.5.3

- ☐ a. Required Beginning Date - a Participant must begin taking receipt of a minimum distribution by April 1 of the calendar year following the calendar year in which the Participant attains age 70½ or the calendar year in which the employee retires.
  - ☐ a.1. Required Beginning Date is age 70½ for all Participants.
  - ☐ a.2. The Required Beginning Date for Participants who are not 5-Percent Owners shall be the later of April 1st of the calendar year following the calendar year in which the Participant attains age 70½, or April 1st of the calendar year following the calendar year in which the Participant retires. (This election must be selected by a Governmental Plan or Church Plan.)
- ☐ b. If selected, Participants or Beneficiaries may elect to apply the 5-year rule to distributions regarding a Participant who dies before distributions begin.

## H. Other Administrative Provisions

**H1. Loans** - Section 3.3.1 - The Employer may elect to permit loans to Participants and Beneficiaries in accordance with a Participant loan program. (To select c. you must elect to permit Loans under option b, which can be limited under option c.)

- ☐ a. Loans are not permitted.
- ☐ b. Loans are permitted.
- ☐ c. Loans are permitted only when an agreement to exchange information or an Information Sharing Agreement exists between the Vendor and the Employer.

**H2. Rollovers** - Section 3.6.5 - The Employer permits rollovers of Eligible Rollover Distributions from other qualified plans and IRAs into this Plan. (Select a, b, or c.)

- ☐ a. Rollover contributions are not permitted.
- ☐ b. Rollover contributions are permitted only from other plans of the Employer.
- ☐ c. A Rollover is permitted if the distribution is an Eligible Rollover Distribution: (Select c.1 and/or c.2.)
  - ☐ c.1. As a Direct Rollover.
  - ☐ c.2. As an Indirect Rollover.
- ☐ d. A Rollover is permitted if the distribution is an Eligible Rollover Distribution from: (Select all applicable.)
  - ☐ d.1. a qualified plan described in Code sections 401(a) or 403(a), excluding after-tax employee contributions.
  - ☐ d.2. a qualified plan described in Code sections 401(a) or 403(a), including after-tax employee contributions.
  - ☐ d.3. an annuity contract described in Code sections 403(b), excluding after-tax employee contributions.
  - ☐ d.4. an annuity contract described in Code sections 403(b), including after-tax employee contributions.
  - ☐ d.5. an eligible plan under Code section 457(b) that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state.
  - ☐ d.6. a Roth Deferral account in a qualified plan described in Code sections 401(a) or 403(a).
  - ☐ d.7. an Individual Retirement Account or Annuity described in Code sections 408(a) or (b) that is eligible to be rolled over and would otherwise be includible in gross income.
  - ☐ d.8. a custodial account described in Code sections 403(b), excluding after-tax employee contributions.
  - ☐ d.9. a custodial account described in Code sections 403(b), including after-tax employee contributions.
- ☐ e. Rollovers are accepted:
  - ☐ e.1. only from a Participant.
  - ☐ e.2. from an Employee before he or she become a Participant.

**H3. Non-Spouse Rollover** - Section 2.5.6 - The Plan will allow a Direct Rollover on behalf of a deceased Participant's non-spouse Beneficiary into an Individual Retirement Account.

- ☐ a. Non-Spouse Rollovers are not permitted.
- ☐ b. Non-Spouse Rollovers are permitted.

**H4. Plan-to-Plan Transfers into the Plan** - Section 3.6.4 - The Employer may direct the Plan Administrator to directly transfer the assets for a class of Employees who are participants or beneficiaries in another 403(b) plan into the Plan.

- ☐ a. Plan-to-Plan Transfers will not be allowed into the Plan.
- ☐ b. Plan-to-Plan Transfers will be permitted into the Plan.

**H5. Plan-to-Plan Transfers from the Plan** - Section 3.6.3 - The Employer may direct the Plan Administrator to directly transfer all or a portion of the assets for a class of Employees (or former Employees), who are Participants or Beneficiaries from the Plan to another 403(b) plan. (May select c. along with b.)

- ☐ a. Plan-to-Plan Transfers will not be permitted from the Plan.
- ☐ b. Plan-to-Plan Transfers will be permitted from the Plan.
- ☐ c. Plan-to-Plan Transfers will be permitted from the Plan into a qualified defined benefit governmental plan, to purchase permissive service credits or to make a repayment under a defined benefit governmental plan pursuant to Section 3.6.7.

**H6. Investment Control** - The Employer may elect to permit Participants to control the investment of their Accounts. (May select d., along with b. or c.)

- ☐ a. Participants may not control their investments.
- ☐ b. Participants may control all their investments.
- ☐ c. Participants may control their investments solely with respect to amounts held in a Rollover Account
- ☐ d. Investments will be restricted to the Vendor(s) listed on the Funding Vehicle Addendum.
- ☐ e. This Plan is intended to comply with ERISA section 404(c). (Plan Administrator or appropriate Fiduciary shall ensure that the Plan provides Participants with the minimum options and information required by ERISA section 404(c) and any related regulations.)

**H7. Contract Exchanges** - Section 3.6.6 - The Employer may elect to permit Participants to exchange their Annuity Contract. (Such an exchange is treated as a change in investment.)

- ☐ a. Contract Exchanges shall not be allowed between Vendors.
- ☐ b. Contract Exchanges shall be allowed between Vendors listed in the Funding Vehicle Addendum.

**H8. Life Insurance Authorization** - Life Insurance contracts/policies shall not be purchased. (See Code section 1.403(b)-8)

- ☐ a. Life Insurance Contracts issued before September 24, 2007 will continue to be apart of the Plan.
- ☐ b. Life Insurance Contracts issued before September 24, 2007 will not be apart of the Plan.

The name, address and telephone number of the Employer is:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_, \_\_\_\_\_

This Adoption Agreement may be used only in conjunction with DATAIR Section 403(b) ERISA Base Plan Document.

The Plan, together with the Individual Agreements, is intended to satisfy the requirements of Code section 403(b) and the Income Tax Regulations thereunder. Terms and conditions of the Individual Agreements are hereby incorporated by reference into the Plan, excluding those terms that are inconsistent with the Plan or section 403(b) of the Code.

The Employer or Plan Administrator must keep a list of all current Vendor(s) issuing Annuity Contract(s), Custodial Account(s) or Retirement Income Account(s) to Employees or Participants of the Employer under the Plan.

The Employer or Plan Administrator must keep a list of all former Vendor(s) who issued Annuity Contract(s), Custodial Account(s) or Retirement Income Account(s) to Employees or Participants of the Employer between September 15, 2007 and January 1, 2009 under the Plan.

Therefore, all Vendors must be listed on the Funding Vehicle Addendum. Upon execution, the Funding Vehicle Addendum, along with any future amendments or modifications, will become apart of the Plan.

This Adoption Agreement may be used only in conjunction with the DATAIR Section 403(b) ERISA Base Plan Document.

\* \* \*

The Employer hereby adopts the Plan as evidenced by the foregoing Adoption Agreement on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**Employer:**

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Representative Name, Title

\_\_\_\_\_  
Representative Signature

**Affiliated Employer:**

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Representative Name, Title

\_\_\_\_\_  
Representative Signature