LEGISLATIVE SUMMARY SHEET
Tracking No. 0069-21

DATE: March 31, 2021

TITLE OF RESOLUTION: AN ACTION RELATING TO THE BUDGET AND FINANCE COMMITTEE; APPROVING AND ADOPTING AN AMENDMENT AND RESTATEMENT OF THE NAVAJO NATION 401(k) SAVINGS PLAN TO AMEND THE PLAN'S AUTOMATIC CONTRIBUTION, AUTOMATIC ENROLLMENT ARRANGEMENT, AND HARDSHIP PROVISIONS

PURPOSE: The purpose of this resolution is to approve amendments to the Navajo Nation 401(k) Savings Plan.

This written summary does not address recommended amendments as may be provided by the standing committees. The Office of Legislative Counsel requests each Council Delegate to review each proposed resolution in detail.

5-DAY BILL HOLD PERIOD: VSpeanose
Website Posting Time/Date: April 7, 2021 4:35pm
Posting End Date: April 12, 2021
Eligible for Action: April 13, 2021

Budget & Finance Committee

PROPOSED STANDING COMMITTEE RESOLUTION

24th NAVAJO NATION COUNCIL – Third Year, 2021

INTRODUCED BY

(Prime Sponsor)

TRACKING NO. 0069-21

AN ACTION

RELATING TO THE BUDGET AND FINANCE COMMITTEE; APPROVING AND ADOPTING AN AMENDMENT AND RESTATEMENT OF THE NAVAJO NATION 401(k) SAVINGS PLAN TO AMEND THE PLAN'S AUTOMATIC CONTRIBUTION, AUTOMATIC ENROLLMENT ARRANGEMENT, AND HARDSHIP PROVISIONS

BE IT ENACTED:

SECTION ONE. AUTHORITY

A. The Budget and Finance Committee is empowered to coordinate and review all fiscal, financial, and investment activities of the Navajo Nation. 12 N.N.C. §301(B)(5).

B. The Budget and Finance Committee is empowered to promulgate policies and regulations concerning fringe benefits of Navajo Nation officials and employees. 2 N.N.C. § 301(B)(8).

SECTION TWO. FINDINGS

A. The Budget and Finance Committee approved the Navajo Nation Retirement Savings Plan, effective October 1, 1984, by approving the revised Retirement Plan for Employees of the Navajo Tribe and Certain Tribal Affiliates and incorporating into the Retirement Plan an employer-matched 401(k) Savings Plan through Resolution BFJN-71-86.

B. The Budget and Finance Committee amended and restated the Navajo Nation 401(k) Savings Plan (the "401(k) Savings Plan") through Resolutions BFJN-65-02 and BFD-49-10.

C. The Plan document authorizes the Employer to modify, alter, or amend the 401(k) Savings Plan, pursuant to section 16.1.

D. Pursuant to the authority delegated under Section 16.1 of the 401(k) Savings Plan, the Chair of the Budget and Finance Committee on October 27, 2018, certified the Approval and Ratification of the amended and restated Plan effective November 10, 2020 as approved and adopted by RSPAC-03-20.

E. Pursuant to the authority delegated under Section 16.1 of the 401(k) Savings Plan, the Chair of the Budget and Finance Committee on October 27, 2018, certified the Approval and Ratification of the amended and restated Plan effective January 1, 2016, as approved and adopted by RSPAC-01-16.

F. The amendments recommended to the 401(k) Savings Plan are as follows:

1. Section 3.1, to allow for automatic enrollment of all Eligible Employees in the 401(k) Savings Plan, unless they make a contrary election, to be effective October 1, 2021,
2. Section 3.2, to provide for Automatic Escalation of Participants' Pre-Tax Contributions by automatically increasing a Participant's Pre-Tax Contribution by 1% each year, until the contribution reaches 6% of compensation or until the Participant opts out of auto-escalation, to be effective October 1, 2021,
3. Section 4.1, to increase Automatic Employee Contributions from 2% to 3% of employee compensation, to be effective October 1, 2021, and
4. Section 10.1, to implement a number of mandatory and optional changes with respect to hardships, to be effective October 1, 2021.

G. The Retirement Savings Plan Administration Committee ("RSPAC"), in concurrence with the Department of Retirement Services, recommends the Budget and Finance Committee approve the amendments as described in Paragraph F above, and in Resolution RSPAC-02-20, "Approving and Recommending to the Budget and

Finance Committee of the Navajo Nation Council the Approval and Adoption of the Amendment and Restatement of the Navajo Nation 401(k) Savings Plan to Amend the Plan's Automatic Contribution Arrangement and Hardship Provisions," attached as **Exhibit A**.

H. The proposed amendment and restatement of the 401(k) Savings Plan is attached as **Exhibit B**. An unmarked "clean" copy is attached as **Exhibit C**.

SECTION THREE. APPROVAL OF AMENDMENT AND RESTATEMENT OF THE NAVAJO NATION 401(K) SAVINGS PLAN

The Budget and Finance Committee accepts the recommendation of RSPAC in **Exhibit A**, and approves and adopts the amendment and restatement to the Navajo Nation 401(k) Savings Plan, in accordance with **Exhibit B.**

SECTION FOUR. EFFECTIVE DATE

The amendment and restatement to the Navajo Nation 401(k) Savings Plan shall be effective as of the date of adoption, except where otherwise indicated in **Exhibit B**.

EXHIBIT
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A

RESOLUTION OF THE
RETIREMENT SAVINGS PLAN ADMINISTRATION COMMITTEE

Approving and Recommending to the Budget and Finance Committee of the Navajo Nation Council the Approval and Adoption of the Amendment and Restatement of the Navajo Nation 401(k) Savings Plan to Amend the Plan's Automatic Contribution Arrangement and Hardship Provisions.

WHEREAS:

1. Pursuant to Resolution BFMY-41-73, the Budget and Finance Committee of the Navajo Nation Council, under the authority delegated by Council through Navajo Tribal Council Resolution CF-21-73, initially adopted the Retirement Plan for Employees of the Navajo Tribe and Certain Tribal Affiliates; and

2. Pursuant to Resolution BFJN-71-86, the Budget and Finance Committee approved the Navajo Nation Retirement Savings Plan, effective October 1, 1984, by approving the revised Retirement Plan for Employees of the Navajo Tribe and Certain Tribal Affiliates and incorporating into the Retirement Plan an employer-matched 401(k) Savings Plan; and

3. Pursuant to Resolution BFJN-65-02, the Budget and Finance Committee approved and adopted the Navajo Nation 401(k) Savings Plan for Employees of the Navajo Nation and Participating Affiliates, Amended and Restated October 1, 2000. Pursuant to Resolution BFD-49-10, the Budget and Finance Committee approved and adopted the Navajo Nation 401(k) Savings Plan Restatement Effective January 1, 2010; and

4. Pursuant to the authority delegated under Section 16.1 of the Navajo Nation 401(k) Savings Plan, the Chair of the Budget and Finance Committee on October 27, 2018, certified the Approval and Ratification of the Navajo Nation 401(k) Savings Plan Effective as of January 1, 2016, as approved and adopted by RSPAC-01-16; and

5. Pursuant to 2 N.N.C. § 301(B)(8), the Budget and Finance Committee is empowered to promulgate policies and regulations concerning fringe benefits of Navajo Nation officials and employees; and

6. Pursuant to Section 16.1 of the Navajo Nation 401(k) Savings Plan document, the Employer is authorized to modify, alter, or amend the Plan at any time; and

7. Pursuant to Resolution RSPAC-01-19, the language of which is incorporated into Attachment A, the Retirement Savings Plan Administration Committee previously recommended amending Section 4.1(a) of the Navajo Nation 401(k) Savings Plan to increase Automatic Employee Contributions from 2% to 3% of employee compensation, to be effective October 1, 2019; and

8. Pursuant to Resolution RSPAC-02-19, the language of which is incorporated into Attachment A, the Retirement Savings Plan Administration Committee previously

recommended amending Section 3.2 of the Navajo Nation 401(k) Savings Plan to provide for Automatic Escalation of Participants' Pre-Tax Contributions by automatically increasing a Participant's Pre-Tax Contribution by 1% of the Participant's compensation each year, until the contribution reaches 6% of compensation or until the Participant opts out of auto-escalation by making a contrary election, to be effective October 1, 2020; and

9. Pursuant to Resolution RSPAC-04-19, the language of which is incorporated into Attachment A, the Retirement Savings Plan Administration Committee previously recommended amending Section 10.1 of the Navajo Nation 401(k) Savings Plan to implement a number of mandatory and optional changes with respect to hardships, to be effective January 1, 2020; and

10. The Retirement Savings Plan Administration Committee, in concurrence with the Department of Retirement Services, has reviewed the proposal to amend Section 3.1 of the Navajo Nation 401(k) Savings Plan as outlined in Attachment A to provide that all Eligible Employees shall be automatically enrolled in the Plan effective October 1, 2020 unless they make a contrary election.

NOW THEREFORE BE IT RESOLVED THAT:

The Navajo Nation Retirement Savings Plan Administration Committee hereby recommends to the Budget and Finance Committee the approval and adoption of the amendment and restatement to the Plan attached hereto (the "Amendment and Restatement") as Attachment "A." The Committee further recommends to the Budget and Finance Committee that the Amendment become effective as of the date of adoption, except where otherwise indicated in the Amendment.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Retirement Savings Plan Administration Committee of the Navajo Nation at a duly called meeting conducted telephonically, at which a quorum was present and that same was passed by a vote of _5_ in favor, _0_ opposed and _1_ abstained, this 29th day of July, 2020.

Jamie Henio, Chairperson
Retirement Savings Plan Administration Committee
THE NAVAJO NATION

Motion: _Pearline Kirk_, _RSPAC Member_
Second: _JoAnn Jayne_, _RSPAC Member_

cc: RSPAC file
NN Department of Retirement Services: Resolution File
Department of Justice
Office of Legislative Council
Budget and Finance Committee

"ATTACHMENT A"
RSPAC-02-20

NAVAJO NATION

401(k) SAVINGS PLAN

Original Effective Date: October 1, 1984
Restatement Effective Date: _____, 2020, ~~2019~~

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NAVAJO NATION
401(k) SAVINGS PLAN

PREAMBLE

Effective October 1, 1984, the Navajo Nation, a federally recognized Indian tribal government (the "Employer") established a tax-qualified retirement plan for the benefit of its employees, known as the Navajo Nation Retirement Savings Plan. The Employer subsequently amended the Retirement Savings Plan on multiple occasions, including an amendment to add an Internal Revenue Code Section 401(k) cash or deferred arrangement and to change the name of the Retirement Savings Plan to the "Navajo Nation 401(k) Savings Plan" (the "Plan"). The Plan was amended and restated in its entirety effective as of March 1, 2008 pursuant to the enactment of Legislation No. 0043-08. The Plan was amended and restated again effective as of January 1, 2010 and subsequently amended on one occasion. On November 17, 2011, the Employer received a Compliance Statement on the Plan under the Internal Revenue Service's Employee Plans Compliance Resolution System. Effective January 1, 2016, the Employer amended and restated the Plan in order to incorporate the prior amendment, to make several design enhancements, to make certain administrative changes, and to prepare the document for an IRS determination letter application. By this instrument, the Employer intends to amend and restate the Plan effective as of ~~October 1, 2019~~ the date of the resolution adopting this restatement.

The Plan is intended to constitute a governmental plan within the meaning of Section 414(d) of the Code and Section 3(32) of the Act. The Plan is further intended to constitute a tax qualified plan under the provisions of Section 401(a) of the Code to the extent such provisions are made applicable to governmental plans.

ARTICLE I
EFFECTIVE DATE

1.1. EFFECTIVE DATE.

The Plan originally was adopted effective as of October 1, 1984. Except as may otherwise be specifically provided with respect to particular provisions of the Plan, this amended and restated Plan shall be effective as of ~~October 1, 2019~~ the date of the resolution adopting this restatement.

ARTICLE II
DEFINITIONS; CONSTRUCTION; GOVERNING LAW

2.1. DEFINITIONS.

When a word or phrase shall appear in this Plan with the initial letter capitalized, and the word or phrase does not commence a sentence, the word or phrase shall generally be a term defined in this Section 2.1. The following words and phrases utilized in the Plan with the initial letter capitalized shall have the meanings set forth in this Section 2.1, unless a clearly different meaning is required by the context in which the word or phrase is used:

(a) "ACCOUNT" or "ACCOUNTS" - An account or accounts established pursuant to Section 6.1 to which are credited the Pre-Tax, Catch-Up, Employer and Rollover

Contributions and Roth Elective Deferrals made by or attributable to a Participant, along with any net gains and losses on such contributions.

(b) "ACT" - The Employee Retirement Income Security Act of 1974, as it may be amended from time to time.

(c) "AFFILIATE" - Any political subdivision, enterprise, division or tribal organization of the Navajo Nation. In accordance with the Employer's reasonable and good faith interpretation of Section 906 of the PPA, it is the position of the Employer that neither the Nation nor any Affiliate belongs to a controlled group of corporations or group of entities subject to the aggregation requirements of Section 414 of the Code.

(d) "ANNUAL ADDITION" - The sum of the following amounts identified in subparagraphs (1) though (3) below, with the exception of any amounts identified in subparagraph (4) below, shall constitute the Annual Addition allocable to a Participant under this Plan or under any defined contribution plan or defined benefit plan maintained by the Employer or any Affiliate for a particular Plan Year:

(1) The Employer contributions allocable for a Plan Year to the accounts of the Participant, including any amount allocable from a suspense account maintained pursuant to such plan on account of a prior Plan Year; amounts deemed to be Employer contributions pursuant to a cash or deferred arrangement qualified under Section 401(k) of the Code (including the Pre-Tax Contributions and Roth Elective Deferrals allocable to a Participant pursuant to this Plan); and amounts allocated to a medical account which must be treated as annual additions pursuant to Section 415(c)(1) or Section 419A(d)(2) of the Code;

(2) All nondeductible Employee contributions allocable during a Plan Year to the accounts of the Participant; and

(3) Forfeitures allocable for a Plan Year to the accounts of the Participant.

(4) Allocations of any of the following amounts shall not be included in the calculation of the Annual Addition, as set forth in Treasury Regulations Section 1.415(c)-1(b); a direct transfer from a tax-qualified plan to this Plan on behalf of a Participant; the restoration of a Participant's accrued benefit or repayment of a cashout (Employer and Employee repayments); Catch-Up Contributions made in accordance with Section 414(v) of the Code; restorative payments made as a correction of a fiduciary breach or potential fiduciary liability; excess elective contributions distributed in accordance with Section 4.7(b); Rollover Contributions; and Participant loan repayments.

For purposes of this Section 2.1(d), Employer Contributions shall be considered Annual Additions for a particular Plan Year provided that such Contributions are actually deposited in the Trust no later than the 15th day of the tenth calendar month following the end of the Plan Year to which the Contributions relate. Nondeductible Employee contributions shall be considered Annual Additions for a particular Plan Year provided that such Contributions are actually deposited in the Trust no later than 30 days after the close of the Plan Year. Forfeiture allocations are treated as Annual Additions for the Plan Year which contains the date on which the forfeitures are allocated to Participant accounts. All other special allocations, such as corrective contributions, allocations to simplified employee pensions under Section 408(k) of the Code and Qualified Military Service contributions made in accordance with Section 414(u) of the

Code shall be taken into account in accordance with the timing rules of Treasury Regulation Section 1.415(c)-1(b)(6).

(e) "AUTHORIZED LEAVE OF ABSENCE" - A leave of absence granted by the Employer in writing in accordance with the applicable Navajo Nation Personnel Policies or a leave of absence for service as a member of the armed forces of the United States, provided that the Employee left the Employer directly to enter the armed services and returns to the employ of the Employer within the period during which his employment rights are protected by law.

(f) "AUTOMATIC EMPLOYEE CONTRIBUTIONS" - The elective deferral contributions made on behalf of Participants in accordance with the automatic enrollment feature of the Plan set forth in Section 4.1.

(g) "AUTOMATIC ENROLLMENT DATE" - The first day of the first payroll period which commences at least ninety (90) days after the Eligible Employee's date of hire or *date of rehire, as applicable, determined in accordance with the Employer's uniform and* nondiscriminatory payroll practices. For Eligible Employees who were hired prior to October 1, 2020, who are not contributing to the Plan, Automatic Enrollment Date shall mean the first day of the first payroll period on or after October 1, 2020.

(h) "BENEFICIARY" - The person or persons entitled to receive benefits under this Plan in the event of death of the Participant.

(i) "BENEFIT COMMENCEMENT DATE" - The first day on which all events (including the passing of the day on which benefit payments are scheduled to commence) have occurred which entitle the Participant to receive his first benefit payment from the Plan.

(j) "BREAK IN VESTING SERVICE" - A termination of employment with the Employer, followed by a one year period during which no services are performed for the Employer.

(k) "CATCH-UP CONTRIBUTIONS" - The elective deferral contributions directed by Participants on a pre-tax basis in accordance with Section 414(v) of the Code and Section 4.2(c) of the Plan. Catch-Up Contributions shall be treated as either Pre-Tax Contributions or Roth Elective Deferrals and shall be accounted for within the Pre-Tax Contributions Account or the Roth Elective Deferrals Account, as applicable.

(l) "CODE" - The Internal Revenue Code of 1986, as amended.

(m) "COMMITTEE" - The committee, titled the "Retirement Savings Plan Administration Committee," appointed by and delegated its authority from the Budget and Finance Committee of the Navajo Nation Council, to serve as Plan Administrator.

(n) "COMPENSATION" -

(1) General Rule. Subject to paragraphs (2) - (7) below, an Employee's Compensation for a Plan Year shall include all of the Employee's wages within the meaning of Section 3401(a) of the Code and all payments of compensation to the Employee by the Employer (in the course of the Employer's trade or business) for which the Employer is required to furnish the Employee a written statement under Sections 6041(d), 6051(a) (3) and

6502 of the Code, determined without regard to any rules under Section 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed.

(2) Pre-Tax Contributions. The term "Compensation" shall include any elective deferral as defined in Section 402(g)(3) of the Code, and any amounts which are contributed or deferred by the Employer at the election of the Employee and which are not currently includible in the Participant's gross taxable income by reason of the application of Sections 125 or 457 of the Code. For purposes of the definition of compensation, amounts excluded from taxable income under Code Section 125 include any amounts not available to a Participant in cash in lieu of group health coverage because the Participant is unable to certify that he has other health coverage. An amount will be treated as an amount under Code Section 125 only if the Employer does not request or collect information regarding the participant's other health coverage as part of the enrollment process for the health plan. Compensation paid or made available shall include elective amounts that are not includible in the gross income of the Employee by reason of Section 132(f)(4) of the Code.

(3) Post-Severance Payments. The term "Compensation" shall include post-severance regular pay (including regular wages, overtime, shift differential pay, commissions, bonuses and other similar pay); provided, however, that such post-severance regular pay is paid to the Employee by the Employer by the later of two and one-half (2 ½) months after the Employee's severance from employment or the end of the calendar year that include the Employee's date of severance from employment. All other types of post-severance payments including, but not limited to, payment for unused accrued leave and vacation, payments from nonqualified unfunded deferred compensation plans, and payments to any former employees or Participants who are permanently and totally disabled, shall not be treated as Compensation.

(4) Military Differential Pay. The term "Compensation" shall include any differential pay paid by the Employer to the Participant during a period of Qualified Military Service.

(5) Affiliates. If an Employee receives any payments from an Affiliate which would be treated as Compensation if paid by the Employer, such amounts shall be included in calculating the Employee's Compensation for purposes of Section 415 of the Code and the corresponding provisions of this Plan. Any amounts paid to an Employee by an Affiliate shall be disregarded for all other purposes under this Plan unless the Affiliate making the payment has elected to provide benefits to its employees pursuant to this Plan.

(6) Contributions and Allocations. For purposes of determining the amount of deferrals, contributions and allocations to be made pursuant to Articles IV, V and VI of the Plan, only Compensation paid by the Employer to an Employee during the Employee's period of participation in the Plan, including Qualified Military Service, shall be considered.

(7) Annual Compensation Limit. Notwithstanding any provision of the Plan to the contrary, the "Compensation" of each Employee taken into account under the Plan shall not exceed the "annual compensation limit". The "annual compensation limit" is Two Hundred Thousand Dollars ($200,000) as adjusted by the Internal Revenue Service for increases in the cost-of-living in accordance with Section 401(a)(17)(B) of the Code ($265,000 for the 2016 Plan Year). The cost-of-living adjustment in effect for a calendar year applies to any period, not exceeding twelve (12) months, over which Compensation is determined

(determination period) beginning in such calendar year. If a determination period consists of fewer than twelve (12) months, the "annual compensation limit" will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is twelve (12). Any reference in this Plan to the limitation under Section 401(a)(17) of the Code shall mean the annual compensation limit set forth in this provision. If Compensation for any prior determination period is taken into account in determining an Employee's benefits accruing in the current Plan Year, the Compensation for that prior determination period is subject to the annual compensation limit in effect for that prior determination period.

(o) "COUNCIL" - The Navajo Nation Council, the publically elected governing body of the Employer. Under Title Two, Section 372, et seq., of the Navajo Nation Code, the Council has assigned and delegated the Budget and Finance Committee, a statutory standing committee of the Navajo Nation Council, to act on its behalf with regard to the Plan.

(p) "DISABILITY" - A physical or mental condition of such severity and duration as to entitle the Participant to disability benefits under the Federal Social Security Act. "Disabled Participant" shall mean a Participant who has received a disability determination entitling him to receive disability benefits under the Federal Social Security Act.

(q) "EFFECTIVE DATE" - The date or dates set forth in Section 1.1.

(r) "ELIGIBLE EMPLOYEE" - Each regular status Employee, as determined pursuant to the applicable Navajo Nation Personnel Policies, shall be considered an Eligible Employee. Each of the following individuals also shall be considered an Eligible Employee: (i) the President and Vice President of the Nation; (ii) the members of the Council; (iii) individuals serving at the pleasure of the President, the Speaker of the Council, or the Council. Elected Chapter Officials (e.g., President, Vice-President, Secretary and Land Board Members) shall not be considered Eligible Employees.

(s) "EMPLOYEE" - Each person receiving remuneration, or who is entitled to remuneration, for services rendered to the Employer in the legal relationship of employer and employee and not in the relationship of an independent contractor, as determined in accordance with the applicable Navajo Nation Personnel Policies (or who would be receiving or be entitled to remuneration were such person not on an Authorized Leave of Absence).

(t) "EMPLOYEE CONTRIBUTIONS" - The Pre-Tax Contributions, Catch-Up Contributions and Roth Elective Deferrals made by Participants pursuant to Article IV.

(u) "EMPLOYER" - The Navajo Nation, a federally recognized Indian Tribe. The term "Employer" also shall refer to Participating Affiliates, unless the context clearly indicates otherwise.

(v) "EMPLOYER CONTRIBUTIONS" or "EMPLOYER MATCHING CONTRIBUTIONS"- The Employer Matching Contributions made pursuant to Section 5.1 in order to match a portion of the Participant's Pre-Tax Contributions and all other amounts contributed to the Trust Fund by the Employer for the benefit of the Participants in accordance with Article V.

(w) "EMPLOYER MATCHING CONTRIBUTIONS ACCOUNT" - The account established pursuant to Section 6.1 to which the Employer Matching Contributions are credited, and any net gains and losses on such contributions.

(x) "ENTRY DATE" - The first day of each payroll period, determined in accordance with the Employer's uniform and nondiscriminatory payroll practices.

(y) "HIGHLY COMPENSATED EMPLOYEE" - Each individual who is treated as a "Highly Compensated Employee" pursuant to Section 2.2 of this Plan and Section 414(q) of the Code.

(z) "INVESTMENT FUNDS" - The investment funds, if any, established pursuant to Section 8.2.

(aa) "NATION" - The Navajo Nation, a federally recognized Indian tribal government.

(bb) "NAVAJO NATION INVESTMENT COMMITTEE" - The committee, appointed and delegated by the Budget and Finance Committee of the Navajo Nation Council, pursuant to its authorities under Title Two, Section 372, et seq., of the Navajo Nation Code, to oversee the investments and investment policies of the Navajo Nation.

(cc) "NAVAJO NATION PERSONNEL POLICIES" - The duly adopted and enacted uniform and nondiscriminatory applicable personnel rules, policies, and procedures governing Navajo Nation government Employees.

(dd) "NORMAL RETIREMENT AGE" - The date on which a Participant attains the age of sixty (60) years or, in the case of Commissioned Law Enforcement officer Participants, the age of fifty-five (55) years.

(ee) "PARTICIPANT" - An Employee who has satisfied the eligibility requirements specified in Section 3.1. If so indicated by the context, the term Participant shall also include former Participants whose active participation in the Plan has terminated but who have not received distributions of all amounts to which they are entitled pursuant to the terms and provisions of this Plan. Whether former Participants are allowed to exercise an option or election extended to "Participants" will be determined by the Plan Administrator in the exercise of its discretion, but in making such determinations the Plan Administrator shall act in a uniform, nondiscriminatory manner.

(ff) "PARTICIPATING AFFILIATE" - Any Affiliate that participates in the Plan in accordance with Article XIV.

(gg) "PLAN" - The Navajo Nation 401(k) Savings Plan, as set forth in this instrument, and as it may hereafter be amended.

(hh) "PLAN ADMINISTRATOR" - The committee appointed to act as such pursuant to Section 13.1.

(ii) "PLAN YEAR" - A twelve (12) month period, commencing on each January 1 and ending on each following December 31. For purposes of Section 415 of the Code, the Plan Year shall be the "limitation year".

(jj) "PRE-TAX CONTRIBUTIONS" - The elective deferral contributions directed by Participants on a pre-tax basis in accordance with Section 401(k) of the Code and Section 4.2(a) of the Plan, including any Catch-Up Contributions made in accordance with Section 4.2(c).

(kk) "PRE-TAX CONTRIBUTIONS ACCOUNT" - An account established pursuant to Section 6.1 to which are credited the Pre-Tax Contributions directed by a Participant and any net gains and losses on such contributions.

(ll) "QUALIFIED DOMESTIC RELATIONS ORDER" - A domestic relations order meeting the requirements specified in Section 12.2.

(mm) "QUALIFIED MILITARY SERVICE" - Service in the uniformed services of the United States of America, as defined in Code Section 414(u)(5).

~~(pp)~~(nn) "ROLLOVER CONTRIBUTIONS" - The amounts transferred to the Trust Fund by Participants in accordance with Section 4.8.

~~(qq)~~(oo) "ROLLOVER CONTRIBUTIONS ACCOUNT" - A separate account established pursuant to Section 6.1 to which are credited the Rollover Contributions of a Participant.

~~(rr)~~(pp) "ROTH ELECTIVE DEFERRALS" - The elective deferral contributions directed by Participants which are designated as Roth Elective Deferrals in accordance with Section 402A of the Code and Section 4.3 of the Plan.

~~(ss)~~(qq) "ROTH ELECTIVE DEFERRALS ACCOUNT" - A separate account established pursuant to Section 6.1 to which are credited the Roth Elective Deferrals of a Participant.

~~(tt)~~(rr) "ROTH ROLLOVER CONTRIBUTIONS" - The amounts transferred to the Trust Fund by Participants from a designated Roth 401(k) account in accordance with Section 4.8.

~~(uu)~~(ss) "SPOUSE" - The wife of a male Participant or the husband of a female Participant, as determined under Laws of the Navajo Nation.

~~(vv)~~(tt) "TRUST AGREEMENT" - The agreement entered into between the Employer and the Trustees for the purpose of investing contributions hereunder.

~~(ww)~~(uu) "TRUST FUND" - The fund established by the Employer pursuant to the terms of the Trust Agreement to provide for the investment of contributions made pursuant to this Plan. The Trust Fund will be held, administered and distributed for the exclusive benefit of the Participants and their Beneficiaries.

~~(xx)~~(vv) "TRUSTEE" - The bank, trust company or other institution designated and approved to serve as such by the Committee. The Trustee shall acknowledge acceptance of its appointment by the execution of the Trust Agreement or, in the case of a successor Trustee, by the execution of an appropriate written instrument.

~~(yy)~~(ww) "VALUATION DATE" - The date for valuing the assets of the Trust Fund, which shall be each business day of the Plan Year.

~~(zz)~~(xx) "VESTING SERVICE" - An Eligible Employee's period of service with the Employer, measured on an elapsed time basis beginning on the Eligible Employee's first day of active employment, and expressed as years and fractional parts of a year on the basis that 365 days equal one year. Vesting Service is measured on a prospective basis, with one year of Vesting Service credited to an Eligible Employee as of the first day of active employment and anniversaries of that date. For purposes of calculating Vesting Service, the following periods shall be included as periods of service: Qualified Military Service, Authorized Leaves of Absence, periods of Disability, and any period following a termination from employment with the Employer which does not constitute a Break in Vesting Service. If an Employee has more than one period of vesting service as a result of an extended leave or a separation from employment, such periods of vesting service shall be aggregated in accordance with the uniform and nondiscriminatory rules of the Plan Administrator.

2.2. HIGHLY COMPENSATED EMPLOYEE.

(a) GENERAL. The term "Highly Compensated Employee" shall include all "highly compensated active employees" and all "highly compensated former employees."

(b) HIGHLY COMPENSATED ACTIVE EMPLOYEES. For purposes of this Plan, a "highly compensated active employee" is an Employee who performs services for the Employer or its Affiliates during the current Plan Year (the "determination year") and who:

(1) During the determination year, or during the proceeding Plan Year, is or was a "5% owner" as described in Section 416(I)(1) of the Code and applicable regulations thereunder; or

(2) For the preceding year, had Compensation from the Employer in excess of Eighty Thousand Dollars ($80,000), as adjusted from time to time by the Secretary of the Treasury for cost-of-living increases ($120,000 for the 2016 Plan Year).

(c) HIGHLY COMPENSATED FORMER EMPLOYEES. For purposes of this Section, the term "highly compensated former employee" is based on the rules applicable to determining Highly Compensated Employee status as in effect for that determination year in accordance with Section 1.414(q)-1T, A-4 of the temporary income tax regulations and Notice 97-45, as such may be updated, modified or amended from time to time.

2.3. CONSTRUCTION.

(a) GENERAL. The masculine gender, where appearing in the Plan, shall include the feminine gender (and vice versa), and the singular shall include the plural, unless the context clearly indicates to the contrary. The term "delivered to the Plan Administrator," as used in the Plan, shall include delivery to a person or persons designated by the Plan Administrator for the disbursement and receipt of administrative forms. Headings and subheadings are for the purpose of reference only and are not to be considered in the construction of this Plan. In the event of a conflict between this Plan document and the Trust Agreement, the provisions of this Plan document shall control.

(b) SAVINGS PROVISION. If any provision of this Plan is determined to be for any reason invalid or unenforceable, the remaining provisions shall continue in full force and effect.

2.4. GOVERNMENTAL PLAN.

This Plan is intended to constitute a governmental plan as defined in Section 414(d) of the Code and Section 3(32) of the Act. The Nation does not intend to waive any exemptions or relief provided to governmental plans under the Act or Code by its voluntary adoption of policies, procedures, or provisions otherwise not required by the Act or Code with respect to governmental plans. Rather, the Employer's voluntary adoption of any such policies, procedures, or provisions reflects its determination that such policies, procedures, or provisions are consistent with the Employer's desire to provide a secure source of retirement income for its Employees. It is also the intention of the Nation that the Plan as adopted by the Employer shall constitute a qualified plan under the provisions of Section 401(a) of the Code and that the Trust Fund maintained pursuant to the Trust Agreement shall be exempt from taxation pursuant to Section 501(a) of the Code. This Plan shall be construed in a manner consistent with the intentions of the Nation and the Employer.

2.5. GOVERNING LAW; JURISDICTION; SOVEREIGNTY.

(a) SOVEREIGNTY. This Plan is sponsored by the Navajo Nation, a federally recognized Indian tribal government, with recognized and inherent sovereign powers and immunity. To the extent that this Plan is treated as a separate "entity" of the Nation, it shall be treated as a subordinate entity of the Nation with all attributes of sovereignty. The adoption and operation of this Plan is not a waiver of sovereign immunity, and the sovereign immunity of the Nation and the Employer is expressly reserved as a bar to all actions, damages or relief not specifically and expressly permitted hereunder. Any waiver of the Nation's sovereign immunity may be made only by express Resolution of the Council. The Nation's exemptions and immunity, however, shall not extend to service providers for the Plan, which shall be held to full compliance standards and enforcement requirements as would be applicable if they were providing services to a private sector plan.

(b) GOVERNING LAW; JURISDICTION. All of the provisions of this Plan shall be construed and enforced according to the Laws of the Navajo Nation and shall be administered according to the laws of the Nation, except as otherwise required by the Code or other applicable federal law. No judicial review of participant claims under this Plan shall be permitted except as provided in the claims procedures set forth in Section 13.4. Any judicial review related to this Plan shall be within the exclusive jurisdiction of the Navajo Nation Courts.

2.6. PENSION PROTECTION ACT COMPLIANCE.

(a) GENERAL RULE. Effective January 1, 2007, the Plan became subject to the provisions of Section 906 of the Pension Protection Act of 2006 (the "PPA"), which requires that the coverage of governmental plans maintained by Indian tribal governments be limited to those employees who perform essential governmental functions which are not commercial in nature. Also effective as of January 1, 2007, the assets and liabilities attributable to Employees classified by the Employer as "commercial" were spun-off to other tax-qualified retirement plans. This Plan continued after the spin-off, and is maintained for the benefit of those Employees classified by the Employer as "governmental" Employees under the PPA. In accordance with the Internal Revenue Service's Notice 2006-89 and Notice 2007-67, the Tribe is operating the Plan in reasonable and good faith compliance with the PPA requirements pending receipt of final guidance.

(b) PLAN SPIN-OFFS. In accordance with the transition relief afforded to Indian tribal governments by the Internal Revenue Service under Notice 2006-89, the Nation shall spin-off the assets and liabilities of the Plan which are attributable to those Employees classified by the Employer as "commercial" Employees. Such assets and liabilities shall be spun-off to other tax-qualified retirement plans maintained by enterprises, divisions or tribal corporations of the Nation (the "recipient plans"). In accordance with Section 414(l) of the Code, the Nation shall take all reasonable steps to ensure that each Participant affected by a spin-off to a recipient plan shall have an account balance in the respective recipient plan which is equal to his account balance in the Plan immediately prior to the spin-off.

(c) CLASSIFICATION OF EMPLOYEES. In connection with its reasonable and good faith compliance with the PPA requirements, the Employer has determined that the Employees covered by this Plan are engaged in the performance of essential governmental functions which are not commercial in nature. The Employer shall classify an Employee as a "commercial" Employee if the Employer determines, in accordance with its reasonable and good faith interpretation of Section 906 of the PPA that the Employee dedicates substantially all of his employment to the performance of commercial activities for the Employer (regardless of whether the Employer is the Nation or a Tribal division, enterprise, authority, corporation or other entity). In making the determination as to whether employment functions are commercial in nature and pending guidance from the Internal Revenue Service and/or the Department of Labor, the Employer shall take into account the following factors:

(1) the historic functions performed by the Nation's government;

(2) the Nation's role as defined in its Constitution, Bylaws, Ordinances, Resolutions, Judicial decisions, customs and traditions;

(3) the functions carried on by other governmental employers, including the federal government, states, counties, cities and other local governments;

(4) the use of revenues generated by activities in question (whether inuring to the benefit of the Nation and the provision of public services, or whether inuring to private interests); and

(5) whether the employing entity or division is treated as a non- profit or for-profit entity for tax or other purposes.

The Employer expressly reserves the right to modify the classification of any and all employees pending publication of final guidance under Section 906 of the PPA. All Employees of the Employer who are not determined to be "commercial" Employees shall be deemed to be "governmental" Employees, eligible to participate in this Plan, in accordance with the terms and provisions of this Plan document. This Plan does not cover any employee groups classified by the IRS as "commercial" under IRS Notice 2006-89.

ARTICLE III
ELIGIBILITY AND PARTICIPATION

3.1. ELIGIBILITY AND PARTICIPATION.

(a) GENERAL RULE. Effective October 1, 2020, ~~E~~each Employee who is a Participant in the Plan as of September 30, ~~2019~~2020 shall continue to participate in the Plan, subject to the terms hereof. Each other Eligible Employee ~~employed by the Employer on or after October 1, 2019, and~~ who is not excluded pursuant to subparagraphs (b) or (c) shall be automatically enrolled in the Plan as of the applicable Automatic Enrollment Date pursuant to the terms of Section 3.2.

(b) NON-PARTICIPATING TRIBAL ENTERPRISES AND DIVISIONS. Effective January 1, 2007, Employees of any Tribal enterprise or division who dedicate substantially all of their employment to the performance of commercial activities for the Employer, as determined by the Employer in accordance with the Employer's reasonable and good faith interpretation of Section 906 of the PPA, shall not be eligible to participate in this Plan.

(c) UNION AND NON-RESIDENT ALIENS. If an Employee is included within a unit of employees covered by a collective bargaining agreement which was executed and adopted prior to the Effective Date of the restatement of this Plan and for which retirement benefits were the subject of good faith bargaining, he shall not be eligible to participate in this Plan, unless the collective bargaining agreement specifically provides to the contrary. Those Employees who are non-resident aliens (within the meaning of Section 7701(b)(1)(B) of the Code and who received no earned income (within the meaning of Section 911(d)(2) of the Code) from the Employer which constitutes income from sources within the United States (within the meaning of Section 861(a)(3) of the Code) are also not eligible to participate in this Plan.

3.2. AUTOMATIC ENROLLMENT.

(a) GENERAL RULE. Except as set forth in paragraph (b) below, each Eligible Employee shall be automatically enrolled in the Plan in accordance with the eligibility rules set forth in Section 3.1(a). An automatic enrollment in the Plan shall be deemed to be authorization of payroll deductions in the amount of the Automatic Employee Contributions called for in Section 4.1.

(b) EXCLUSIONS. The automatic enrollment feature set forth in paragraph (a) above shall not apply to the following groups of Employees who make contrary elections as follows:

(i) Employees who elect not to participate in the Employee Savings feature of the Plan or who elect to make Employee Contributions to the Plan in an amount that is less than the Automatic Employee Contributions ~~(a "contrary election")~~; and

(ii) Employees who elect to make Employee Contributions to the Plan in an amount greater than the Automatic Employee Contributions set forth in Section 4.1.

Any contrary election contemplated in this Section 3.2(b) must be made in the applicable election period prior to the Employees Automatic Enrollment Date ~~prior to the later of the date on which the Employer commences operation of the automatic enrollment feature or the date on which an Employee is first eligible to participate in the Plan in accordance with Section 3.1,~~ and must be made in accordance with the uniform and nondiscriminatory policies and procedures of the Plan Administrator.

(c) AUTOMATIC ESCALATION OF PRE-TAX CONTRIBUTIONS. Effective October 1, 2020, on an annual basis, Employer shall automatically increase the amount of Pre-Tax Contributions by an additional one percent (1%) of Compensation for each Participant provided at least six (6) months have elapsed since any Automatic Enrollment Date that applied to the Participant. The automatic escalation shall occur unless the Participant makes a contrary election during the applicable period in accordance with the uniform and nondiscriminatory policies and procedures of the Plan Administrator. A Participant' Pre-Tax Contribution shall not increase under this Section 3.2(c) after the Participant's Pre-Tax Contribution reaches the rate of six percent (6%) of Compensation.

(d) NOTICE TO ELIGIBLE EMPLOYEES. The Plan Administrator shall provide advance notice of the automatic enrollment features (including the automatic escalation feature) of the Plan, including the ability to make contrary elections, to each Eligible Employee. The notice provided to Eligible Employees shall explain all applicable timing and procedural requirements under the automatic enrollment feature. Such notice shall be prepared and distributed by the Plan Administrator, pursuant to its uniform and nondiscriminatory policies and procedures.

(e) ELECTION PROCEDURES/DEFAULT ELECTIONS. All Participants must enroll in the Plan in accordance with the Plan Administrator's uniform and nondiscriminatory procedures, to make appropriate investment directions and designate beneficiaries. If a Participant fails to provide a valid beneficiary designation, his designation shall be made in accordance with Section 11.9, and if a Participant fails to make a valid investment direction, his accounts shall be invested in the default Investment Fund designated by the Trustee until proper investment directions are received. If a Participant instruction cannot be given effect or implemented for a particular period because it is incomplete or untimely, it shall be given effect as soon as administratively feasible.

3.3. ADDITIONAL APPLICATION PROCEDURES.

(a) EMPLOYEE CONTRIBUTIONS. If an eligible Employee is not automatically enrolled in the Plan pursuant to Section 3.2, the eligible Employee must enter into a contribution agreement with the Employer, in accordance with the uniform policies and

procedures of the Plan Administrator, in order to participate in the Employee savings feature of this Plan (Pre-Tax Contributions and Roth Elective Deferral Contributions). Any such contribution agreement must specify the amount of the Participant's Pre-Tax Contributions and Roth Elective Deferral Contributions, if any, and authorize the reduction of his Compensation in an amount equal to his directed contributions. As set forth in Section 5.1, the Council has the discretion to declare Employer Matching Contributions payable with respect to Pre-Tax Contributions. If Employer Matching Contributions are declared by the Council, a Participant shall not be eligible to receive such Employer Matching Contributions unless the Participant is automatically enrolled in the Employee savings feature of the Plan or enters into a valid contribution agreement and Pre-Tax Contributions subject to matching are made on behalf of the Participant.

(b) INVESTMENT ELECTIONS AND BENEFICIARY DESIGNATIONS. Regardless of whether the Participant is automatically enrolled in the Plan, each Participant shall provide valid Plan investment directions and designate appropriate beneficiaries, all in accordance with the uniform policies and procedures of the Plan Administrator. If a Participant fails to provide a valid beneficiary designation, his designation shall be made in accordance with Section 11.9, and if a Participant fails to make a valid investment direction, his accounts shall be invested in accordance with the default investment provisions of the Employer's Investment Policy Statement until proper Participant investment directions are received.

(c) ELECTION PROCEDURES/DEFAULT ELECTIONS. All elections and designations called for by this Section 3.3 must be received by the Plan Administrator within such reasonable and uniformly-applied time periods as the Plan Administrator may prescribe for the receipt of elections and designation as a condition of giving effect to or implementing such instructions. If a Participant instruction cannot be given effect or implemented for a particular period, it shall be effective for the next succeeding period.

3.4. CREDITING OF SERVICE.

Except as otherwise noted below, all periods of employment with the Employer, Affiliates of the Employer, and the enterprises, operations and divisions of the Employer shall be taken into account under this Plan, including those completed prior to the adoption of the Plan.

3.5. EFFECT OF REHIRING.

If an Employee separates from employment with the Employer and is later rehired, his eligibility and years of Vesting Service shall be determined in accordance with this Section 3.5.

(a) ELIGIBILITY. If an Employee is rehired and satisfies the eligibility requirements of Section 3.1, the Employee shall be eligible to enroll in the Plan on the Entry Date following the date of rehire and the Employee shall be automatically enrolled in the Plan as of the Automatic Enrollment Date following his date of rehire.

(b) VESTING. If a Participant separates from employment and is rehired, his periods of Vesting Service shall be aggregated in accordance with the uniform and nondiscriminatory policies and procedures of the Plan Administrator. For a termination of employment occurring prior to October 1, 2000, a Participant would remain credited with the Vesting Service accrued prior to the termination only if he had at least three (3) years of Vesting Service at the time of the termination and the number of consecutive years elapsed between the

termination and rehire dates is less than the greater of five or the number of years of Vesting Service credited to the Participant prior to the termination from employment.

3.6. AUTHORIZED LEAVES OF ABSENCE.

An Authorized Leave of Absence granted by the Employer for which an Employee is not compensated shall be disregarded in determining whether the Employee has satisfied the eligibility requirements specified in Section 3.1. A Participant's participation in the Plan shall not be terminated while the Participant is on an Authorized Leave of Absence, subject to the contribution suspension rules of Section 4.6.

3.7. SPECIAL SERVICE CREDITING RULES FOR QUALIFIED MILITARY SERVICE.

Notwithstanding anything herein to the contrary, contributions, benefits and service credit with respect to Qualified Military Service shall be provided in accordance with Code Section 414(u).

3.8. TERMINATION OF PARTICIPATION.

A Participant's participation in the Plan, but not his right, if any, to payment of benefits, shall be terminated upon the Participant's separation from employment with the Employer or upon his transfer from an eligible class of Employees as provided in Section 3.9. A Participant's participation in the Plan shall not be terminated while he is on an Authorized Leave of Absence.

3.9. TRANSFERS TO AND FROM AN ELIGIBLE CLASS OF EMPLOYEES.

(a) TRANSFERS OUT OF PLAN. A Participant will automatically become ineligible to participate in the Plan as of the effective date of a change in his employment classification if as a result of the change he is no longer eligible to participate in the Plan. All sums credited to the former Participant's accounts will continue to be held pursuant to the terms of this Plan and will be distributed to the former Participant only upon his subsequent termination of employment or the occurrence of some other event permitting a distribution pursuant to the provisions of this Plan.

(b) TRANSFERS TO PLAN. If an Employee of the Employer is not eligible to participate in the Plan due to his employment classification, he shall be eligible to participate immediately upon becoming a member of an eligible class of Employees if he has satisfied the other requirements set forth in Section 3.1 and would have become eligible to be a Participant previously had he been in an eligible class.

(c) SERVICE CREDIT. In any event, an Employee's service in an ineligible employment classification shall be considered in calculating the Employee's Vesting Service for purposes of this Plan.

(d) TRANSFERS TO NON-PARTICIPATING AFFILIATES. If a Participant ceases to participate in the Plan solely as a result of his transfer to an Affiliate that has not elected to participate in this Plan, amounts credited to his accounts as of the date of his transfer shall be available for distribution in accordance with the terms of Article XI. A transfer to a non-participating Affiliate shall be presumed to be a bona fide separation from employment for

purposes of the Code Section 401(k) distribution requirements, absent final guidance to the contrary.

(e) TRANSFER BETWEEN TRIBAL ENTERPRISES. If a Participant transfers employment between the Nation and/or different Tribal enterprises which have elected to participate in the Plan, such Participant shall continue participating in the Plan as of the first payroll period (or as soon as reasonably practicable thereafter) commencing after the transfer; provided the new position is eligible for participation in the Plan. Contribution, Beneficiary designation, investment, and all other elections will remain in force after the transfer until they can be changed at the next regularly scheduled Plan Entry Date, as applicable.

3.10. LEASED EMPLOYEES.

A "leased employee" is any person (other than an employee of the Employer) who pursuant to an agreement between the Employer and any other person ("leasing organization") has performed services for the Employer (or for the Employer and related persons determined in accordance with Code Section 414(n)(6)) on a substantially full-time basis for a period of at least one year, and such services are performed under the Employer's primary direction or control. A "leased employee" shall be treated as an Employee of the Employer for purposes of the pension requirements of Section 414(n)(3) of the Code, unless "leased employees" constitute less than twenty percent (20%) of the Employer's non-highly compensated work force (within the meaning of Section 414(n)(5)(C)(ii) of the Code) and the "leased employee" is covered by a "Safe Harbor Plan" that satisfies the requirements of Section 414(n)(5)(B) of the Code (a money purchase pension plan with nonintegrated employer contributions of at least 10% of compensation, with full vesting, and immediate participation for leased employees). In any event, a "leased employee" who is deemed to be an Employee of the Employer pursuant to the preceding sentence shall be treated as if he is employed in an employment classification that has not been designated for participation in the Plan.

ARTICLE IV
EMPLOYEE SAVINGS FEATURE

4.1. AUTOMATIC EMPLOYEE CONTRIBUTIONS.

(a) AUTOMATIC CONTRIBUTIONS. All Eligible Employees who are enrolled in the Plan in accordance with Section 3.2 shall have Employee Contributions deducted from their current Compensation and contributed by the Employer to the Trust Fund on their behalf ("Automatic Employee Contributions"). Except as set forth in paragraph (b) below, the Employee Contributions made through the automatic enrollment feature of the Plan shall be Pre-Tax Contributions. Effective October 1, 2020, the Automatic Employee Contributions shall equal three percent (3%) of Compensation. Notwithstanding the foregoing, Automatic Employee Contributions to the Trust Fund may be made by a Participant only with respect to amounts which the Participant could otherwise elect to receive in cash and only with respect to amounts which are not currently available to the Participant at the time the Participant is automatically enrolled in the Plan.

(b) ROTH ELECTION AVAILABLE. Effective upon the implementation of the Roth Elective Deferral feature in the Plan in accordance with the provisions of Section 4.3, an Eligible Employee who is automatically enrolled in the Plan shall have the right to designate his Automatic Employee Contributions as Roth Elective Deferrals. Employer Matching Contributions will not be made with respect to Roth Elective Deferrals. A Participant who wishes to receive

Employer Matching Contributions, and also wishes to make Roth Elective Deferrals to the Plan must elect to make Pre-Tax Contributions equal to at least the percent of his Compensation that is prescribed in Section 5.1(b), and designate additional contributions as Roth Elective Deferrals.

(c) TRANSFER TO TRUSTEE. All Automatic Employee Contributions shall be forwarded to the Trustee or Investment Fund as soon as the Employer reasonably can segregate the contributions from its general assets.

4.2. PRE-TAX CONTRIBUTIONS.

(a) PRE-TAX CONTRIBUTION ELECTIONS. At any time following entry into the Plan, a Participant may elect to increase or decrease the amount of his Pre-Tax Contributions by making the appropriate Pre-Tax Contribution election. Similarly, a Participant who waives participation in the automatic enrollment feature of the Plan may begin making Pre- Tax Contributions to the Plan at any time, by making the appropriate Pre-Tax Contribution election. The Participant's Compensation shall then be reduced by an amount equal to the Pre- Tax Contributions directed by the Participant. Any Pre-Tax Contribution election typically will be given effect as of the first payroll period in the month following the month of the Participant's election. All Pre-Tax Contribution elections and changes shall be administered in accordance with the Plan Administrator's uniform and nondiscriminatory policies and procedures. Notwithstanding the foregoing, Pre-Tax Contributions to the Trust Fund may be directed by a Participant only with respect to amounts which the Participant could otherwise elect to receive in cash and only with respect to amounts which are not currently available to the Participant at the time the Participant makes his election to defer.

(b) SUSPENSION OF PRE-TAX CONTRIBUTIONS. At any time following entry into the Plan, a Participant may elect to suspend his Pre-Tax Contribution election. Any Pre-Tax Contribution suspension shall be completed in accordance with the uniform and non-discriminatory policies and procedures of the Plan Administrator and will be given effect as soon as reasonably practicable. A Participant who suspends Pre-Tax Contributions may make a new Pre-Tax Contribution election following a minimum suspension period of six (6) months. All Pre-Tax Contribution suspensions, and subsequent resumptions, shall be administered by the Plan Administrator in accordance with its uniform and nondiscriminatory policies and procedures.

(c) CATCH-UP CONTRIBUTIONS. All Participants who are eligible to make Pre-Tax Contributions under this Plan and who have attained age 50 before the end of the Participant's individual tax year shall be eligible to make Catch-Up Contributions in accordance with, and subject to the limitations of, Section 414(v) of the Code. The provisions of Code Section 414(v) permit annual additional contributions of up to Six Thousand Dollars ($6,000) for the 2016 Plan Year (as indexed for inflation).

(d) TRANSFER TO TRUSTEE. All Pre-Tax Contributions shall be forwarded to the Trustee or Investment Fund as soon as the Employer reasonably can segregate the contributions from its general assets.

4.3. ROTH ELECTIVE DEFERRALS.

(a) PRIOR EFFECTIVE DATE. The Employer previously amended the Plan to provide for Roth Elective Deferrals, and intended to implement this feature during the 2010

Plan Year. Due to payroll system difficulties, the implementation of the Roth Elective Deferrals feature has been delayed. The Employer continues to work to develop the systems capability to accommodate Roth Elective Deferrals and intends to implement the Roth Elective Deferrals feature as soon as it is administratively feasible.

(b) GENERAL. Effective January 1, 2016 or as soon thereafter as the Plan Administrator determines that the necessary systems are in place and that the Employer is prepared to implement the provisions of this Section 4.3, a Participant may direct the Employer to treat all or a portion of the Participant's Pre-Tax Contributions as Roth Elective Deferrals. A Roth Elective Deferral may be made with regard to a Pre-Tax Contribution which would be excludable from the Participant's gross income absent the Roth Elective Deferral designation, and shall result in the Pre-Tax Contribution being included in the Participant's gross income in the taxable year of the designation. Roth Elective Deferral designations shall be made, on an irrevocable basis with regard to those particular Roth Elective Deferrals, at the time the Pre-Tax Contribution election is filed with the Plan Administrator. Roth Elective Deferral designations also shall be available with regard to Catch-Up Contributions and any other type of Pre-Tax Contribution available under this Plan (such as make-up contributions made in accordance with Section 4.4). The Roth Elective Deferral feature shall be administered in accordance with Section 402A of the Code and the Treasury Regulations promulgated thereunder. Notwithstanding the foregoing, Roth Elective Deferrals are not eligible for Employer Matching Contributions under this Plan. A Participant who wishes to receive Employer Matching Contributions and make Roth Elective Deferrals to the Plan must elect to make Pre-Tax Contributions equal to at least the percent of his Compensation that is prescribed in Section 5.1(b), and designate additional contributions as Roth Elective Deferrals.

(c) TRANSFER TO TRUSTEE. All Roth Elective Deferrals shall be forwarded to the Trustee or Investment Fund as soon as the Employer reasonably can segregate the contributions from its general assets.

(d) TAX TREATMENT OF DISTRIBUTIONS. The taxation of distributions and withdrawals of Roth Elective Deferrals shall be determined in accordance with Section 402A. Generally, a distribution or withdrawal from a Roth Elective Deferral Account will be excluded from gross income only if the distribution or withdrawal (i) is made at least five (5) taxable years after the Roth Elective Deferral was designated and made to the Plan (or in the case of a Rollover Contribution, at least five (5) taxable years after the Roth Elective Deferral was initially designated and made); and (ii) is made on or after the date the Participant attains age 59 ½, is made upon the death of the Participant, is attributable to the Participant's Disability, or is a qualified special purpose distribution as defined in Code Section 72(t)(2)(F).

4.4. SPECIAL CONTRIBUTION RULES FOR QUALIFIED MILITARY SERVICE.

(a) GENERAL. Notwithstanding anything herein to the contrary, Participants who leave employment for Qualified Military Service and who are reemployed pursuant to the requirements of Code Section 414(u), shall be permitted to make special make up Employee Contributions to the Plan in an amount up to the "maximum make up amount;" provided that any such contributions are made within the shorter of the two (2) following periods:

(1) the period beginning on the Participant's date of reemployment and ending on the date which is three (3) times the period of the Qualified Military Service; or

(2) the period beginning on the Participant's date of reemployment and ending on the fifth year anniversary of such date.

(b) SPECIAL DEFINITIONS. For purposes of this Section 4.4 only, the specified terms shall have the following meanings:

(1) "Compensation" for this purpose shall mean the Compensation the Participant would have received during his period of Qualified Military Service had he remained employed by the Employer during that period, based on the rate of pay the Participant would have received but for absence during the period of Qualified Military Service; provided, however, that if the compensation the Participant would have received during such period was not reasonably certain, compensation for purposes of this Section shall mean the Participant's average Compensation during the twelve (12) month period immediately preceding the Qualified Military Service (or, if shorter, the period of employment immediately preceding the Qualified Military Service).

(2) "Maximum make up amount" shall be calculated by taking into account the maximum amount of elective deferrals that the Participant would have been permitted to make under the Plan's normal contribution rules and limitations as set forth herein, for the period of Qualified Military Service as if the Participant had continued to be employed by the Employer during such period and received compensation as described herein. No such contributions may exceed the amount the individual would have been permitted or required to contribute had the individual remained continuously employed by the Employer during the period of Qualified Military Service.

4.5. DESIGNATION OF AND CHANGE OF DESIGNATION OF EMPLOYEE CONTRIBUTIONS.

All Employee Contribution designations, changes in the amount of Employee Contributions and waivers of participation in the automatic enrollment feature shall be made in a manner designated by the Plan Administrator. An initial contribution designation received by the Plan Administrator shall be given effect as soon as administratively feasible, in accordance with uniform rules prescribed by the Plan Administrator. As a general rule, any change in a contribution designation received by the Plan Administrator shall be given effect as of the next Plan Entry Date, in accordance with uniform rules prescribed by the Plan Administrator. If a change request is not submitted with sufficient advance notice or otherwise cannot be implemented as of the next Plan Entry Date, it shall become effective as of the next succeeding Plan Entry Date thereafter. A contribution designation shall be effective until it is succeeded by another valid contribution designation or until the Participant's right to make Employee Contributions is otherwise suspended or terminated.

4.6. SUSPENSION OF EMPLOYEE CONTRIBUTIONS.

A Participant may suspend his Employee Contributions at any time, in accordance with the uniform policies and procedures of the Plan Administrator. A Participant's request to suspend his Employee Contributions which is received by the Plan Administrator shall be given effect as soon as administratively feasible, as determined in accordance with uniform rules prescribed by the Plan Administrator. A Participant may resume making Employee Contributions as of any subsequent Plan Entry Date, in accordance with the uniform rules and procedures prescribed by the Plan Administrator. For purposes of this Section 4.6, a change in the designation of Employee Contributions as either Pre-Tax Contributions or Roth Elective

Deferrals shall not be considered a suspension of Employee Contributions. While a Participant is on an unpaid Authorized Leave of Absence, he shall be deemed to have suspended his Employee Contributions and may recommence such contributions following his return to active employment as of the beginning of any payroll period by filing appropriate forms with the Plan Administrator. A Participant shall not be entitled to "make up" suspended contributions.

4.7. ELECTIVE DEFERRALS - CODE SECTION 402(g) DOLLAR LIMITATION.

(a) DOLLAR LIMITATION. Elective deferral contributions for a Participant in any calendar year may not exceed the limitation set forth in Code Section 402(g), as adjusted ($18,000 for the 2016 Plan Year). This limitation applies in the aggregate to the Participant's "elective contributions" under all plans. For this purpose, the term "elective contributions" includes Pre-Tax Contributions and Roth Elective Deferrals, the Participant's elective deferrals to any other qualified cash or deferred arrangement (as defined in Section 401(k) of the Code), any elective employer contributions to a simplified employee pension plan that are not included in the Participant's gross income due to Section 402(h)(1)(B) of the Code and any employer contribution used to purchase an annuity contract under Section 403(b) of the Code pursuant to a salary reduction arrangement (within the meaning of Section 3121(a)(5)(D) of the Code). "Elective contributions" for this purpose do not include Catch-Up Contributions made pursuant to Section 414(v) of the Code and Section 4.2(c) of the Plan.

(b) CORRECTIONS. In the event that the Participant's elective deferrals to all such programs during any calendar year exceed the limitation for that calendar year, the Participant may, by March 1 of the calendar year following the calendar year for which the excess deferrals were made, so advise the Plan Administrator and request the return of all or a portion of the excess deferrals made to this Plan. A Plan Participant shall automatically be deemed to have so advised the Plan Administrator and to have requested the return of any excess deferrals that arise solely by taking into account the Participant's Pre-Tax Contributions and Roth Elective Deferrals to this Plan or any other plans sponsored by the Employer. The excess deferrals and appropriate earnings thereon may then be returned to the Participant by the next following April 15. The earnings distributable with regard to any excess contributions determined pursuant to this Section 4.7(b) shall not include the income or loss allocable to such excess contributions for the period beginning on the last day of the taxable year and ending on the date of the corrective distribution. Excess elective deferrals shall be treated as Annual Additions pursuant to this Plan, unless such amounts are distributed no later than the next following April 15. If a Participant makes Roth Elective Deferrals to this Plan during a calendar year and the Plan Administrator determines that such Participant has accumulated excess contributions during such calendar year, the excess contributions returned to the Participant shall be deemed to be Roth Elective Deferrals to the extent such excess contributions equal or exceed the Roth Elective Deferrals made during the calendar year.

(c) ADJUSTMENT OF MATCHING CONTRIBUTIONS. In the event that a distribution of excess elective deferral contributions is made pursuant to paragraph (b), the Employer Matching Contributions Account, if any, will be adjusted by the amount of any Employer Matching Contribution attributable to such excess elective deferral contributions (the "excess matching contribution") plus the income allocable to any such excess matching contribution. The income allocable to the excess matching contribution shall be determined by the Plan Administrator in accordance with any method permitted under Treasury Regulation Sections 1.401(m)-1(e)(3) or 1.401(k)-1(f)(4) as applicable. Any such excess employer matching contributions (and earnings allocable thereto) will be forfeited and reallocated pursuant to the uniform and nondiscriminatory policies and procedures of the Plan Administrator.

4.8. ROLLOVER CONTRIBUTIONS.

(a) GENERAL. Any Employee who has received a distribution from a profit sharing plan, stock bonus plan or pension plan intended to "qualify" under Section 401 of the Code may transfer such distribution to the Trust Fund if such contribution to the Trust Fund would constitute, in the sole and absolute discretion of the Plan Administrator, a "rollover contribution" within the meaning of the applicable provisions of the Code. Additionally, an Employee may request that the Plan Administrator direct the Trustee to accept a rollover contribution (by means of a direct rollover or an indirect rollover) of a distribution from (1) a qualified plan described in section 401(a) or 403(a) of the Code; (2) an annuity contract described in section 403(b) of the Code; or (3) an eligible plan under section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state. Notwithstanding the foregoing, no Rollover Contribution to the Plan shall consist of or include after-tax employee contributions. Effective January 1, 2016 or, if later, the effective date of the implementation of the Roth Elective Deferral feature of the Plan, a Participant may request that the Plan Administrator direct the Trustee to accept a rollover contribution (by means of a direct rollover only) from a Roth elective deferral account described in Code Section 402A(e)(1) and only to the extent the rollover is permitted under the rules of Code Section 402(c). Additionally, a Participant may request that the Plan Administrator direct the Trustee to accept a transfer from the trustee of another qualified plan. The Plan Administrator may, in its sole discretion, decline to accept a rollover contribution or a transfer. Upon receipt of such approval from the Plan Administrator, the Trustee shall accept such transfer. For purposes of this Plan, both a "rollover contribution" within the meaning of the applicable provisions of the Code and a transfer initiated by the Employee from another plan shall be referred to as a "Rollover Contribution." If the Plan Administrator decides to grant a Employee's request to make a Rollover Contribution, the Employee may contribute to the Trust Fund cash to the extent of such distribution.

(b) PROHIBITION OF TRANSFERS FROM CERTAIN PLANS. The Plan Administrator may decline to accept direct transfers to this Plan (as distinguished from a "rollover contribution" within the meaning of the Code) if the plan from which the transfer is to be made is or was subject to the joint and survivor annuity and pre-retirement survivor requirements of Section 417 of the Code by reason of Section 401(a)(11) of the Code.

ARTICLE V
EMPLOYER CONTRIBUTION FEATURE

5.1. EMPLOYER MATCHING CONTRIBUTIONS.

(a) GENERAL RULE. The Employer shall make Employer Matching Contributions to the Plan on behalf of each Participant who makes Pre-Tax Contributions to the Plan (including Automatic Enrollment Contributions) pursuant to Article IV.

(b) CURRENT CONTRIBUTION RATE. As of the Effective Date of this Plan restatement, Employer Matching Contributions shall be paid to the Plan at the rate of fifty percent (50%), on the Participant's Pre-Tax Contributions of up to six percent (6%) of Compensation. Roth Elective Deferrals are not eligible for Employer Matching Contributions. The Employer may modify, reduce or eliminate Employer Matching Contributions at any time on a prospective basis by appropriate action of the Council.

5.2. CORRECTIVE CONTRIBUTIONS.

(a) TRUE UP. In the event that the Plan Administrator determines a Participant did not receive the appropriate Employer Matching Contribution, if any, for the Plan Year based on the current Employer Matching Contribution formula, the Plan Administrator shall cause the Employer to make a true up Employer Matching Contribution on behalf of any affected Participant, which shall be allocated in accordance with the uniform and nondiscriminatory policies of the Plan Administrator.

(b) CORRECTIVE CONTRIBUTIONS. Notwithstanding anything herein to the contrary, but subject to all applicable limitations of the Code, the Employer may make additional contributions to the Plan as needed to correct any errors in administration which may occur from time to time. Such corrective contributions shall be limited to the extent necessary (including earnings as applicable) to place affected Participants in the position they would have been in but for such error or errors, and shall be allocated to the account or accounts in which the error was made, subject to all rules and procedures otherwise applicable to such accounts.

5.3. SPECIAL CONTRIBUTIONS FOR QUALIFIED MILITARY SERVICE.

Notwithstanding anything herein to the contrary, contributions, benefits and service credit with respect to Qualified Military Service shall be provided in accordance with Section 414(u) of the Code. In this regard, the Employer shall contribute Employer Matching Contributions to the Plan on behalf of a Participant who makes up Pre-Tax Contributions in accordance with Section 4.4. The amount of the Employer Matching Contributions shall be equal to the amount of Employer Matching Contributions which would have been due under this Plan had the Pre-Tax Contributions been made during the period of Qualified Military Service, if any. The foregoing shall not be construed to expand the Employer's contribution obligations beyond those required in order to comply with Section 414(u) of the Code.

5.4. TIME OF PAYMENT.

Employer Matching Contributions, if any, shall be paid as of the last day of the Plan Year for which they are declared, or as of such earlier date as the Employer may determine, in its discretion. In no event shall Employer Matching Contributions, if any, be paid later than the date by which the federal information return for the Plan (Form 5500) would be filed, including any extensions of such date, if the Employer was required to file such return.

5.5. CONDITIONAL NATURE OF CONTRIBUTIONS.

(a) MISTAKE OF FACT. Any contribution made to the Trust Fund by the Employer because of a mistake of fact shall be returned to the Employer upon its request within one (1) year of the date of the contribution.

(b) LIMITATIONS ON AMOUNTS RETURNED. Notwithstanding anything herein to the contrary, the maximum amount that may be returned to the Employer pursuant to paragraph (a) above is limited to the portion of such contribution attributable to the mistake of fact or the portion of such contribution deemed non-deductible (the "excess contribution"). Earnings attributable to the excess contribution will not be returned to the Employer, but losses attributable thereto will reduce the amount so returned. In no case shall withdrawal of any excess contribution pursuant to paragraph (a) above reduce the balance of the Participant's account to less than the balance would have been had the excess contribution not been made.

No return of contributions shall be processed pursuant to this Section 5.5 except to the extent allowed by statute or in accordance with the provisions of Revenue Ruling 91-4.

ARTICLE VI
ACCOUNTING

6.1. SEPARATE ACCOUNTS.

A separate Pre-Tax Contributions Account, Roth Elective Deferrals Account, Rollover Contributions Account, Roth Rollover Contributions Account and Employer Matching Contributions Account, as appropriate, will be maintained for each Participant in the Plan. Each such account shall be adjusted as hereinafter provided to reflect any withdrawals and distributions and the appreciation or depreciation in the value of the assets of the Trust Fund. The establishment and maintenance of separate accounts shall not be construed as giving any person any interest in any specific asset of the Trust Fund which, for investment purposes, shall be administered as a single fund unless and until otherwise directed by the Plan Administrator or otherwise provided herein.

6.2. ALLOCATION OF CONTRIBUTIONS AND FORFEITURES.

(a) PRE-TAX AND CATCH-UP CONTRIBUTIONS. The Pre-Tax Contributions and Catch-Up Contributions of a Participant, if any, will be allocated to his Pre- Tax Contributions Account and Catch-Up Contributions Account, respectively, at the rate elected by the Participant pursuant to Article IV. The allocation of Pre-Tax Contributions and Catch-Up Contributions shall be made as of a uniform date selected by the Plan Administrator, which shall not be later than the last day of the month following the month in which the contribution payroll period ends.

(b) ROTH ELECTIVE DEFERRALS. The Roth Elective Deferrals of a Participant, if any, will be allocated to his Roth Elective Deferrals Account, at the rate elected by the Participant pursuant to Article IV. The allocation of Roth Elective Deferrals shall be made as of a uniform date selected by the Plan Administrator, which shall not be later than the last day of the month following the month in which the contribution payroll period ends. No contributions other than Roth Elective Deferrals and properly attributable investment earnings shall be credited to a Participant's Roth Elective Deferrals Account under the Plan.

(c) EMPLOYER MATCHING CONTRIBUTIONS. The Employer Matching Contributions made on behalf of a Participant for a Plan Year shall be allocated to his Employer Matching Contributions Account as of a uniform date selected by the Plan Administrator, which date shall be not later than the year-end Valuation Date. Employer Matching Contributions shall be allocated in accordance with the Matching Contribution formula adopted by the Employer.

(d) ROLLOVER CONTRIBUTIONS. The Rollover Contributions of a Participant shall be credited to his Rollover Contributions Account.

(e) ROTH ROLLOVER CONTRIBUTIONS. The Roth Rollover Contributions of an Employee shall be credited to his Roth Rollover Contributions Account.

(f) DISTRIBUTIONS AND WITHDRAWALS. All distributions and withdrawals made on behalf of or by a Participant shall be deducted from the Participant's Account from which the distribution or withdrawal, as of a uniform date selected by the Plan Administrator.

(g) FORFEITURES. The Plan Administrator shall have the sole discretion to apply and apportion forfeitures to reduce the Employer's contribution obligations hereunder, and/or to pay Plan expenses not otherwise paid by the Employer or allocated to the Plan's investment fee credit account or Participant accounts in accordance with paragraph (g). In no event shall the Employer or the Plan Administrator cause forfeitures to be allocated to any Roth Elective Deferrals Accounts, through amendment, administrative procedure or otherwise.

(h) INVESTMENT GAINS AND LOSSES; OTHER CREDITS AND CHARGES. The investment gains and losses, as well as other credits and charges, allocable to a Participant's Account shall be apportioned among the various Accounts maintained on behalf of the Participant, on a reasonable and consistent basis.

(i) PLAN EXPENSES. All Plan expenses paid out of the Plan pursuant to Section 13.5 will be allocated in accordance with the uniform and nondiscriminatory policies of the Plan Administrator. Plan expenses paid out of the Plan may be allocated to the Plan's investment fee credit account or to the Plan's forfeiture suspense account, in the sole discretion of the Plan Administrator. The Plan Administrator may determine, in its discretion, to allocate Plan expenses to all current and former Participants of the Plan, to a particular class of Participants (such as former Participants), or to charge the account of a particular affected Participant; provided, however, that such allocations are reasonable and that any allocation to former Participants does not impose a significant detriment on the former Participant's right to leave his account balance in the Plan. All expenses which are allocated among Participant accounts shall be allocated as of the last day of the Plan Year during which such expenses were paid and shall be allocated either on an pro rata or per capita basis, as determined by the Plan Administrator in its discretion. No expenses shall be allocated to a Participant if the Participant's Accounts are valued at zero following the application of Section 6.2 above.

6.3. VALUATION AND ACCOUNT ADJUSTMENTS.

(a) GENERAL ALLOCATION RULE. The assets of each Investment Fund will be valued as of each Valuation Date in accordance with the standard procedures established and maintained by the manager of the appropriate Investment Fund.

(b) FORMER PARTICIPANTS. For purposes of this Section 6.3, any individual who has an account balance in the Plan (including current Plan Participants, former Participants who have not yet received all amounts to which they are entitled, surviving Spouses of deceased Participants and Beneficiaries) shall be considered to be a "Participant."

(c) INVESTMENT DIRECTIONS. Notwithstanding anything to the contrary in this Section 6.3, if a Participant's accounts or any portion thereof are subject to directed investment pursuant to Section 8.3, amounts subject to directed investment shall be adjusted separately to reflect gains or losses attributable strictly to such directed investments.

6.4. LIMITATIONS ON ANNUAL ADDITIONS.

(a) GENERAL RULE. Notwithstanding anything in this Plan to the contrary, the Annual Addition to be allocated to the accounts of a Participant for any Plan Year shall not exceed an amount equal to the lesser of (1) Forty Thousand Dollars ($40,000), as adjusted for increases in the cost-of-living under Section 415(d) of the Code ($53,000 for the 2016 Plan Year), or (2) 100 percent of the Participant's Compensation, within the meaning of Section 415(c)(3) of the Code, for the limitation year.

(b) MULTIPLE DEFINED CONTRIBUTION PLANS. The limitations of this Section with respect to any Participant who is at any time participating in any other "defined contribution plan," as defined in Section 414(i) of the Code, maintained by the Employer or an Affiliate shall apply as if the total Annual Additions under all defined contribution plans in which the Participant is participating were allocated under this Plan.

(c) ADJUSTING ANNUAL ADDITIONS. If the limitations of paragraph (a) are exceeded, adjustments shall first be made to the annual additions under any other defined contribution plan of the Employer, if permitted by such plan. If further adjustments are required to satisfy the requirements of paragraph (a), the annual additions shall be adjusted in accordance with the rules for adjusting excess amounts under the Internal Revenue Service's then current version of the Employee Plans Compliance Resolutions System.

(d) TREATMENT OF AFFILIATES. For purposes of this Section 6.4, the Employer and all of its Affiliates shall be treated as a single entity and any plans maintained by an Affiliate shall be deemed to be maintained by the Employer.

(e) CODE AND TREASURY REGULATIONS. The limitations of Section 415 of the Code and the Treasury Regulations promulgated thereunder are incorporated into the terms of the Plan by this reference and the Plan shall be operated in compliance with such limitations. The provisions of Section 415 of the Code and the related Treasury Regulations shall control in the event of any conflict with Section 2.1(d) of the Plan (definition of "Annual Addition"), this Section 6.4 or any other terms of this Plan document.

ARTICLE VII
VESTING

7.1. FULL VESTING.

(a) VESTING IN PRE-TAX, ROTH AND ROLLOVER ACCOUNTS. Each Participant shall at all times be fully vested in all amounts credited to or allocable to his Pre-Tax Contributions Accounts, his Roth Elective Deferrals Account, his Rollover Contributions Account and his Roth Rollover Contributions Account, if any, and his rights and interest therein shall not be forfeitable for any reason.

(b) VESTING IN THE EMPLOYER CONTRIBUTIONS ACCOUNTS. Each Participant shall be fully vested in the amounts credited to or allocable to his Employer Contributions Accounts on and after the first to occur of the following events:

(1) Attainment by the Participant of his Normal Retirement Age;

(2) The date of separation from employment due to Disability, as determined by the Plan Administrator;

(3) The date of death of the Participant;

(4) Termination of the Plan;

(5) Complete discontinuance of Employer Contributions; or

(6) The completion of three (3) years of Vesting Service.

7.2. DETERMINATION OF VESTED INTEREST IN EMPLOYER CONTRIBUTIONS ACCOUNTS IN THE EVENT OF SEPARATION FROM EMPLOYMENT.

(a) VESTING SCHEDULE FOR EMPLOYER CONTRIBUTIONS ACCOUNTS. If a Participant separates from employment with the Employer at a time when the Participant is not fully vested in the amounts credited to or allocable to his Employer Contributions Accounts, the Participant's vested interest in his Employer Contributions Accounts shall be determined in accordance with the schedule set forth below.

Years of Vesting Service	Vested Percentage of Employer Contributions Account
Less than three	0%
Three or more	100%

Participants who separated from employment with the Employer prior to January 1, 2001 were subject to a four (4) year cliff vesting schedule.

(b) TIME OF DETERMINATION. A Participant's vested interest shall be determined as of the date on which the Participant's employment terminates. If a Participant is less than 100% vested in his Employer Contributions Account when his employment terminates, any non-vested amounts credited to his Employer Contributions Account shall be immediately forfeited as of the date of termination. Notwithstanding the foregoing, if the Participant has no vested interest in the Plan as of the date of termination of employment (including Pre-Tax Contributions, Catch-Up Contributions, Roth Elective Deferrals and Rollover Contributions), the Participant shall be deemed to have received a distribution from the Plan on the date of termination and any nonvested amounts allocated to the Participant's Employer Contributions Account shall be subject to immediate forfeiture.

7.3. SPECIAL VESTING RULE FOR DEATH DURING QUALIFIED MILITARY SERVICE.

In accordance with Code Section 401(a)(37), any Participant who dies while performing Qualified Military Service shall be treated as if he died while actively employed by the Employer for purposes of determining his vested interest under the Plan. In the event a vesting schedule is implemented under this Plan, the provisions of this Section 7.3 shall supercede any other vesting provisions of the Plan.

7.4. AMENDMENTS TO VESTING SCHEDULE.

No amendments to or other changes in the vesting schedules set forth in this Article VII shall deprive an Employee who is a Participant on the later of (a) the date the amendment is adopted or (b) the date the amendment is effective of any nonforfeitable benefit to which he is entitled under the Plan (determined as of such date) without regard to such amendment.

ARTICLE VIII
PARTICIPANT DIRECTED INDIVIDUAL ACCOUNTS

8.1. PARTICIPANT DIRECTED INDIVIDUAL ACCOUNT PLAN.

This Plan is intended to constitute a participant directed individual account plan. As such, Participants shall be provided the opportunity to exercise control over some or all of the assets in their accounts under the Plan and to choose from a broad range of investment alternatives.

8.2. AVAILABILITY OF INVESTMENT ALTERNATIVES.

The Plan Administrator, pursuant to uniform and nondiscriminatory rules, shall establish three (3) or more Investment Funds in accordance with the terms and provisions of this Article VIII. Such Investment Funds shall be approved by the Navajo Nation Investment Committee. In establishing Investment Funds, the Plan Administrator and the Navajo Nation Investment Committee shall select investment alternatives which provide each Participant with a broad range of investment alternatives.

8.3. EXERCISE OF CONTROL.

(a) INVESTMENT DIRECTION. Each Participant may direct that all of the amounts attributable to his accounts or to an account shall be invested in a single Investment Fund or may direct fractional (percentage) increments of his accounts to be invested in such fund or funds as he shall desire in accordance with uniform procedures promulgated by the Plan Administrator. Each Participant, in accordance with such rules, may change his investment directions to provide for the investment of existing account balances or future contributions among the various Investment Funds in such increments, or all to any one (1) of them, as the Participant shall elect. The Plan Administrator shall provide Participants the opportunity to receive confirmation of any such investment direction. The Trustee and Plan Administrator shall be obligated to comply with such instruction except as provided in paragraph (d) below. The Plan Administrator shall promulgate uniform and nondiscriminatory rules constituting the investment direction policy under the Plan which shall be communicated to Participants regarding:

(1) The frequency of change of investment direction of current account balances among Investment Funds;

(2) The frequency of change of investment direction of future contributions among Investment Funds;

(3) The effective dates of instructions regarding investment directions and changes of investment directions;

(4) The fractional (percentage) limitations, if any, in which current account balances may be invested and/or transferred between Investment Funds;

(5) The fractional (percentage) limitations, if any, in which future contributions are to be invested between Investment Funds; and

(6) The periods within which direction must be given if it is to be effective for a particular period.

Procedures with regard to any one (1) or more Investment Funds may vary to reflect the variable or contrasting characteristics of a particular investment alternative, provided that Participants are given the opportunity to give investment instructions with respect to each investment alternative available under the Plan with a frequency which is appropriate in light of the market volatility to which the investment alternative may reasonably be expected to be subject.

(b) REQUIRED INFORMATION. The Plan Administrator shall provide each Participant with the opportunity to obtain sufficient information to make informed decisions with regard to investment alternatives available under the Plan, and incidents of ownership appurtenant to such investments. Neither the Employer, Plan Administrator, Trustee, or any other individual associated with the Employer shall give investment advice to Participants with respect to Plan investments. The providing of information pursuant to this Article VIII shall not in any way be deemed to be the providing of investment advice, and shall in no way obligate the Employer, Plan Administrator, Trustee or any other individual associated with the Employer to provide any investment advice.

(c) TRANSACTION COSTS. The Plan Administrator, pursuant to uniform and nondiscriminatory rules, may charge each Participant's accounts for the reasonable expenses of carrying out investment instructions directly related to such account, provided that each Participant is periodically (not less than quarterly) informed of such actual expenses incurred with respect to his respective accounts.

(d) IMPERMISSIBLE INVESTMENT INSTRUCTION. The Plan Administrator shall decline to implement any Participant instructions if: (a) the instruction is inconsistent with any provisions of the Plan or Trust Agreement; (b) the instruction is inconsistent with any investment direction policies adopted by the Plan Administrator from time to time; (c) implementing the instruction would result in a prohibited transaction under applicable provisions of the Code; (d) implementing the instruction would result in taxable income to the Plan; (e) implementing the instruction would jeopardize the Plan's tax qualified status; or (f) implementing the instruction could result in a loss in excess of a Participant's account balance. The Plan Administrator, pursuant to uniform and nondiscriminatory rules, may promulgate additional limitations on investment instruction from time to time.

(e) INDEPENDENT EXERCISE. A Participant shall be given the opportunity to make independent investment directions. No Plan fiduciary shall subject any Participant to improper influence with respect to any investment decisions, and nor shall any Plan fiduciary conceal any non-public facts regarding a Participant's Plan investment unless disclosure is prohibited by law. Plan fiduciaries shall remain completely neutral in all regards with respect to Participant investment direction. A Plan fiduciary may not accept investment instructions from a Participant known to be legally incompetent, and any transactions with a fiduciary, otherwise permitted under this Article VIII and the uniform and nondiscriminatory rules regarding investment direction promulgated by the Plan Administrator, shall be fair and reasonable to the Participant.

8.4. ADJUSTMENT OF ACCOUNTS.

Adjustments pursuant to Section 6.3 shall be made on a separate fund basis. Gains and income or losses attributable to each investment fund shall be allocable strictly to the investment fund and accounts invested therein. Each investment fund shall be invested in accordance with the provisions of the Plan and the Trust Agreement.

8.5. LIMITATION OF LIABILITY AND RESPONSIBILITY.

The Trustee, the Plan Administrator and the Employer shall not be liable for acting in accordance with the directions of a Participant pursuant to this Article VIII or for failing to act in the absence of any such direction. The Trustee, the Plan Administrator and the Employer shall not be responsible for any loss resulting from any direction made by a Participant and shall have no duty to review any direction made by a Participant. The Trustee shall have no obligation to consult with any Participant regarding the propriety or advisability of any selection made by the Participant. The Trustee, the Plan Administrator and the Employer do not guarantee the Accounts of Participants in any way from loss or depreciation.

8.6. FORMER PARTICIPANTS AND BENEFICIARIES.

For purposes of this Article VIII, the term "Participant" shall be deemed to include former Participants and the Beneficiaries of any deceased Participants.

8.7. FAILURE TO GIVE DIRECTIONS.

In the event of a Participant's failure to give investment directions, the Plan Administrator shall invest the Participant's Accounts into the Plan's designated default Investment Fund or Funds, until such directions can be obtained and given effect.

ARTICLE IX
LOANS

9.1. GENERAL RULE.

The Plan Administrator is authorized to direct the Trustee to make a loan or loans to a Participant as a segregated investment of the Participant's accounts. Such loans shall be available to all Participants on a nondiscriminatory basis, except that the Plan Administrator may discriminate on the basis of credit worthiness. The Plan Administrator shall not direct the Trustee to make loans to Highly Compensated Employees in amounts which, when expressed as a percentage of the Participant's vested interest in his accounts, are greater than those available to other Participants.

9.2. SPOUSAL CONSENT REQUIRED.

No loan will be made to any married Participant unless the Participant's Spouse consents to the loan in accordance with the provisions of Section 11.10.

9.3. AMOUNT AND NUMBER OF LOANS; SECURITY; ACCOUNTS.

(a) MINIMUM AMOUNT AND FREQUENCY OF LOANS. No loan shall be originated in an amount less than Five Hundred Dollars ($500). No more than one loan shall be

issued to a Participant at any one time and no loan refinancings or consolidations shall be permitted under the Plan. The Plan Administrator may, in its discretion and pursuant to uniform and non-discriminatory policies and procedures, reduce the number of loans available to Participants.

(b) MAXIMUM LOAN AMOUNT; TAX LAW COMPLIANCE. The amount of any outstanding loan from the Trust Fund to any Participant at any time shall not exceed fifty percent (50%) of the Participant's vested interest in his Accounts, if any, determined as of the most recent Valuation Date of the Plan. Additionally, no loan shall be greater than Fifty Thousand Dollars ($50,000) with such Fifty Thousand Dollar ($50,000) limitation to be reduced, if applicable, by the excess of the Participant=s highest outstanding loan balance during the preceding twelve (12) month period over the Participant=s outstanding loan balance as of the date the loan is made. Any loan which is made pursuant to Section 9.1 shall be treated as a taxable distribution to the extent that it causes the outstanding balance at any time of all loans from all "employee pension benefit plans" (as defined in the Act) of the Employer and its Affiliates that are intended to "qualify" under Section 401(a) of the Act to exceed the maximum loan amount limitations set forth above. The Plan Administrator may, in its discretion, prohibit the making of any loan that would be treated as a taxable distribution to the Participant. Notwithstanding the foregoing, no portion of a Participant's Roth Elective Deferrals Account or Roth Rollover Contributions Account may be invested in the proceeds of a Participant loan. The Plan Administrator may, in its discretion, prohibit the making of any loan that would be treated as a taxable distribution to the Participant.

(c) SECURITY. The loan shall be evidenced by the Participant's promissory note and shall be secured by an assignment of the Participant's vested interest in some or all of his accounts, provided that in no event shall the loan be secured by an assignment of more than fifty percent (50%) of the Participant's vested (non-forfeitable) interest in his accounts.

(d) WITHDRAWAL FROM PARTICIPANT ACCOUNTS. Loan proceeds shall be drawn ratably from all Accounts maintained on behalf of the Participant, with the exception of a Participant's Roth Elective Deferrals Account and Roth Rollover Contributions Account, as set forth in Section 9.2(b).

9.4. TERMS OF LOAN.

(a) INTEREST RATE. All loans shall bear interest at the rate of Prime (as set forth in the Wall Street Journal) plus one percent (1%). Subject to the foregoing, the terms of any loan shall be arrived at by mutual agreement between the Committee and the Participant pursuant to a uniform, nondiscriminatory policy.

(b) AMORTIZATION PERIOD. All loans shall be repayable in level weekly, semi-monthly, monthly or quarterly installments over a period not exceeding five (5) years, except that the term may exceed five (5) years (but shall not exceed fifteen (15) years or such shorter period set by the Plan Administrator) if the Participant establishes to the satisfaction of the Plan Administrator, in its sole discretion, that the proceeds of the loan will be used, within a reasonable time after the funds are disbursed, to acquire or construct the Participant's principal residence.

(c) REPAYMENTS; PREPAYMENTS. All installment payments shall be made by payroll deduction. The promissory note and payroll deduction authorization executed by the Participant shall include the Participant's consent to payroll repayment through any

payroll administered by the Employer or a related Tribal entity. Notwithstanding the foregoing, and in the event that a Participant terminates from employment with the Employer and does not receive a distribution of his Accounts pursuant to Article XI, the Participant shall be permitted to make installment payments on the outstanding loan outside of the payroll system, pursuant to the uniform and non-discriminatory policies and procedures of the Plan Administrator. A Participant may prepay a loan in full at any time without penalty. No partial prepayments shall be permitted.

(d) COSTS. Any costs incurred by the Trustee to establish, process or collect the loan shall be charged directly and solely to the Participant and will be subtracted from the loan proceeds unless other mutually agreeable arrangements are made by the Trustee and the Participant.

9.5. DEFAULT.

In the event that the Participant does not repay such loan or loans and the interest thereon in a timely fashion, the Plan Administrator may exercise every creditor's right at law or equity available to the Employer. The Plan Administrator may not, however, authorize or direct the Trustee to deduct or offset the payments in default or the unpaid outstanding balance of the loan from or against the Participant's Employer Contributions Account until such time as the account becomes payable pursuant to the other provisions of this Plan. When payments become due hereunder, the Trustee may deduct the total amount of the loan then outstanding, together with any interest then due and owing, from any payment or distribution (including any payment due to the Participant's surviving Spouse pursuant to Section 11.3) to which such Participant or his Beneficiary or Beneficiaries may become entitled.

9.6. LOAN MODIFICATIONS.

(a) QUALIFIED MILITARY SERVICE. Notwithstanding any provision of this Article IX to the contrary, Plan loan repayments shall be suspended during periods of Qualified Military Service as permitted in accordance with the provisions of Code Section 414(u). Additionally, in accordance with the Soldiers' and Sailors' Civil Relief Act Amendments of 1942, the interest rate imposed on a Plan loan during a period of Qualified Military Service shall be no more than six percent (6%).

(b) AUTHORIZED LEAVE OF ABSENCE. Notwithstanding any provision of this Article IX to the contrary, Plan loan repayments may be suspended during an unpaid Authorized Leave of Absence of up to one (1) year; provided, however, that the Participant repays the loan (including interest accrued during the Authorized Leave of Absence) within the latest permissible term of the loan and the installment payments due after the Authorized Leave of Absence are not less than the amount required pursuant to the original amortization schedule for the loan.

ARTICLE X
IN-SERVICE WITHDRAWALS

10.1. HARDSHIP WITHDRAWALS.

(a) GENERAL RULE. Subject to Section 10.5 below, ~~an Employee~~ Participant may request a withdrawal of his Pre-Tax Contributions (including Roth Elective Deferrals), his Catch- Up Contributions, and his Rollover Contributions on the basis of hardship;

provided, however~~, that any earnings credited to a Employee's Pre-Tax or Catch-Up Contributions Accounts after December 31, 1988 may not be included in a hardship withdrawal~~(collectively, "Hardship Eligible Contributions"), including effective January 1, 2020, earnings thereon. Notwithstanding the foregoing, any hardship withdrawal shall be drawn first from the ~~Employee~~ Participant's Pre-Tax Contributions Account prior to any withdrawal from the ~~Employee~~ Participant's Roth Elective Deferrals Account.

(*b*) LIMITATIONS ON AMOUNT OF WITHDRAWAL. In no event shall a withdrawal on the basis of hardship exceed the aggregate balance of the ~~Employee's or former Employee's Pre-Tax and Catch-Up Contributions Accounts (excluding earnings) and Rollover Contributions Account~~ Participant's Hardship Eligible Balance, determined as of the Valuation Date immediately preceding the date of the withdrawal. ~~Only for purposes of the preceding sentence and other provisions of this Section 10.1, and not for purposes of calculating the Employer Matching Contributions, an Employee's Roth Elective Deferrals shall be treated as Pre-Tax Contributions.~~ Any hardship withdrawal shall be drawn first from any Rollover Contribution Account maintained for the ~~Employee~~ Participant, and then from the ~~Employee~~ Participant's Pre-Tax Contributions Account, and then from the Participant's Roth Contributions Account. The Plan Administrator also may postpone withdrawals from amounts invested through an Investment Fund, to the extent that transfers into or out of a particular investment alternative are restricted pursuant to uniform and nondiscriminatory rules promulgated by the Plan Administrator in accordance with the provisions in Article VIII. The Plan Administrator may promulgate additional uniform rules regarding the effective date of any withdrawal pursuantto

this Section and the procedures to be followed in requesting a withdrawal pursuant to this Article.

(c) HARDSHIP DEFINED. A withdrawal may be made pursuant to this Section due to a "hardship" only if the ~~Employee~~ Participant satisfies the Plan Administrator that the Employee Participant has an immediate and heavy financial need and that the withdrawal is necessary in order to satisfy that need, including any amounts necessary to pay all applicable federal, state and local income taxes and penalties reasonably anticipated to result from the hardship withdrawal. Effective January 1, 2020, prior to receiving a hardship withdrawal, a Participant requesting a hardship withdrawal must provide the Plan Administrator with a written representation (as described in Treasury Regulation Section 1.401(k)-1(d)(3)(iii)(B)(1)) in a form satisfactory to the Plan Administrator that he or she has insufficient cash or other liquid assets reasonable available to satisfy the need.

(d) IMMEDIATE AND HEAVY FINANCIAL NEED. The following are the only expenses or circumstances that will be deemed to give rise to an immediate and heavy financial need for purposes of this Section:

(1) Medical expenses described in Section 213(d) of the Code incurred by the Participant, the Participant's spouse, any of the Participant's dependents (as defined in Section 152 of the Code) or, the Participant's designated Beneficiary;

(2) The purchase (excluding mortgage payments) of a principal residence for the Participant; or

(3) Payment of tuition and related educational expenses, including room and board, for the next twelve (12) months for post-secondary education for the Participant or the Participant's spouse, children, dependents (as defined in Section 152 of the Code) or, the Participant's Beneficiary; or

(4) The need to prevent the eviction of the Participant from his principal residence or foreclosure on the mortgage on the Participant's principal residence; or

(5) Expenses for the repair of damage to the Participant's principal residence that would qualify for the casualty deduction under Section 165 of the Code (effective January 1, 2020, determined without regard to Section 165(h)(5) and whether the loss exceeds 10% of adjusted gross income); or

(6) Payment for burial or funeral expenses for the ~~Employee~~ Participant's deceased parent, spouse, children, dependents (as defined in Section 152 of the Code without regard to Section 152(d)(1)(B)) or, the Participant's designated Beneficiary; or

~~(6)~~(7) Effective January 1, 2020, expenses and losses (including loss of income) incurred by the Participant on account of a disaster declared by the Federal Emergency Management Agency ("FEMA") under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 100-707, provided that the Participant's principal residence of principal individual assistance with respect to the disaster; or

~~(7)~~(8) Any other circumstance or expense designated by the Commissioner of Internal Revenue as a deemed immediate and heavy financial need in any published revenue ruling, notice or other document of general applicability.

(e) NECESSITY. A withdrawal will be deemed to be necessary to satisfy an immediate and heavy financial need of an ~~Employee~~ Participant only if all of the following requirements are satisfied:

(1) The withdrawal is not in excess of the amount of the immediate and heavy financial need of the ~~Employee~~ Participant (including amounts necessary to pay any federal, state or local income taxes or penalties reasonably anticipated to result from the distribution); and

(2) The ~~Employee~~ Participant has obtained all distributions, other than hardship withdrawals, ~~and all nontaxable loans~~ but, effective January 1, 2020, not including loans, currently available under all plans maintained by the Employer.

(f) ~~RESTRICTIONS ON~~ FUTURE CONTRIBUTIONS. ~~If an Employee receives~~ NOT SUSPENDED. Effective January 1, 2020, if a Participant previously received a hardship withdrawal pursuant to this Section, and the ~~Employee~~ Participant's right to make Employee Contributions to ~~this~~ the Plan ~~pursuant to Article IV shall be suspended for a period of six (6) months following the month in which the hardship withdrawal is made. The~~ was suspended as of December 31, 2019, such suspension shall no longer be effective and any Automatic Employee Contributions made on behalf of a ~~Employee~~ Participant pursuant to Section 4.1 shall resume as of the first Entry Date next following ~~the completion of said six (6) month period. Following the six (6) month suspension period, the Employee also may elect to make additional Employee Contributions to the Plan~~ January 1, 2020.

~~(f)~~(g) Effective January 1, 2020, Participants receiving a hardship withdrawal will not be subject to a suspension period.

10.2. AGE 59 ½ WITHDRAWALS.

Subject to Section 10.5 below, a Participant who has attained the age of fifty-nine and one-half (59 ½) years may elect to withdraw all or any portion of his Pre-Tax Contributions, Roth Elective Deferrals, Rollover or Roth Rollover Contributions. Amounts withdrawn by the Participant pursuant to this Section may not be repaid to the Plan. The Plan Administrator may promulgate uniform rules regarding the minimum amount of any such withdrawal, the number of withdrawals a Participant may elect to receive in any one Plan Year, the effective date of any withdrawal pursuant to this Section and the procedures to be followed in requesting a withdrawal pursuant to this Section.

10.3. SPECIAL MILITARY SERVICE WITHDRAWALS.

(a) GENERAL. The special military service withdrawal options set forth in this Section 10.3 are subject to the withdrawal restrictions of Section 10.5. The military service withdrawal options also are subject to additional guidance from the Treasury Department and the Internal Revenue Service regarding the Heroes Earnings Assistance and Tax Relief Act of 2008. The Employer shall implement the provisions of this Section 10.3 in accordance with its reasonable and good faith interpretation of all available guidance on these withdrawal options.

(b) QUALIFIED RESERVIST DISTRIBUTIONS. If a Participant is an active Employee of the Employer, is a member of a reserve component of the United States military and is called to active duty for a period of at least 180 days or for an indefinite period, the Participant may request a withdrawal of his elective deferral contributions (exclusive of any

earnings thereon) in accordance with Code Section 72(t)(2)(G) and Code Section 401(k)(2)(B)(i)(V). Any Qualified Reservist Distribution initiated pursuant to this Section must be requested and paid after the Participant is called to active duty and before the Participant's period of active duty is completed. A Qualified Reservist Distribution may be repaid to an individual retirement account, subject to the timing restrictions set forth in Code Section 72(t)(2)(G)(ii), but may not be repaid to the Plan, regardless of whether the Participant is reemployed by the Employer following military leave.

(c) ACTIVE DUTY DISTRIBUTION. A Participant who is an active Employee of the Employer and who is called to active duty in the United States military for a period of at least 30 days, as described in Code Section 3401(h)(2)(A), will be treated as if he severed from employment with the Employer solely for purposes of requesting a distribution from the Plan in accordance with Section 11.5(b). Any such distribution shall be administered in accordance with Code Section 414(u)(12)(B). If a Participant receives a distribution pursuant to this Section, the Participant's right to make elective deferral contributions to this Plan pursuant to Article IV shall be suspended for a period of six (6) months following the month in which the withdrawal is made. A Participant may resume making elective deferral contributions as of any Entry Date following completion of the suspension period.

10.4. TRANSFERS TO NATION'S RETIREMENT PLAN.

(a) GENERAL RULE. Subject to Section 10.5 below, a Participant who also participates in the Retirement Plan for Employees of the Navajo Nation and Participating Affiliates (the "Nation's Retirement Plan") may request a trustee to trustee transfer from the Participant's Accounts under the Plan to the Nation's Retirement Plan for the purpose of acquiring additional service credit under the Nation's Retirement Plan, as may be permitted pursuant to the terms of the Nation's Retirement Plan. A Participant may make a request for a transfer under this Section regardless of whether the Participant has experienced a distribution event.

(b) LIMITATIONS ON TRANSFER. Only fully vested and nonforfeitable amounts may be transferred from this Plan pursuant to this Section 10.4. Additionally, any transfer to the Nation's Retirement Plan may not exceed the lesser of (i) the amount required to fund the service purchase, as determined by the administrator of the Nation's Retirement Plan on an actuarial basis, or (ii) the combined vested balance of the Participant's Accounts as of the Valuation Date immediately preceding the date of the transfer. Any amount transferred shall be drawn ratably from all Accounts maintained on behalf of the Participant, unless the Participant provides specific and contrary instructions to the Plan Administrator and the Plan Administrator is reasonably able to implement such instructions. In no event shall a Participant receive a benefit under this Plan as the result of any amounts transferred pursuant to this Section, nor shall a Participant receive, actually or constructively, any amounts intended to be transferred to the trustee of the Nation's Retirement Plan pursuant to this Section.

10.5. IN-SERVICE WITHDRAWAL RULES AND RESTRICTIONS.

(a) GENERAL RESTRICTIONS. The minimum amount of any in-service withdrawal under Sections 10.1, 10.2 or 10.3 shall be Five Hundred Dollars ($500). A Participant shall not make more than one Age 59 ½ withdrawal in any twelve (12) month period.

(b) SPOUSAL CONSENT. If the Participant is married at the time of his request for a withdrawal or a transfer under this Article, the Participant's spouse must consent to the withdrawal in accordance with Section 11.10.

(c) EFFECT OF ELECTION. A Participant who elects to receive a withdrawal or transfer pursuant to this Article X shall continue to participate in the Plan subsequent to his receipt of such withdrawal or the processing of such transfer, subject to the hardship restrictions set forth in Section 10.1(f), if applicable.

(d) EXPENSES. Any expense incurred in making a withdrawal pursuant to this Article X shall be charged to the Participant's Account and shall be deducted prior to the disbursements of the withdrawal proceeds to the Participant.

ARTICLE XI
DISTRIBUTION OF BENEFITS

11.1. NORMAL AND LATE RETIREMENT.

A Participant shall be entitled to full distribution of his accounts, as provided in Sections 11.5 and 11.6, upon actual retirement as of or after his Normal Retirement Age. A Participant may remain in the employment of the Employer after his Normal Retirement Age, if he desires, and shall retire at such later time as he may desire, unless the Employer lawfully directs earlier retirement.

11.2. DISABILITY.

A Participant who shall separate from employment due to Disability shall be entitled to full distribution of his accounts, as provided in Sections 11.5 and 11.6. Subject to the provisions of Section 11.5, the payments may commence as of his date of separation from employment due to Disability.

11.3. DEATH.

(a) BENEFIT. In the event that a Participant (which term for purposes of this Section includes former Participants) shall die prior to the distribution of his Accounts under the Plan, the Participant's Beneficiary shall be entitled to full distribution of the Participant's accounts at the time and in the manner provided in Sections 11.5 and 11.6.

(b) BENEFICIARY. Notwithstanding any Beneficiary designation made by the Participant to the contrary, except as otherwise noted below, a married Participant's Spouse shall be deemed to be his Beneficiary for purposes of this Plan unless the Participant's Spouse consents to the designation of a different Beneficiary in accordance with the spousal consent rules of Section 11.10.

(c) DEATH AFTER COMMENCEMENT OF BENEFITS. In the event that a former Participant shall die after his distributions from the Plan have commenced but prior to the complete distribution of all amounts to which such Participant is entitled under the provisions of Article XI, the Participant's Spouse or other designated Beneficiary shall be entitled to receive any remaining amounts to which the Participant would have been entitled had the Participant survived. The Plan Administrator may require and rely upon such proofs of death and the right of any Spouse or Beneficiary to receive benefits pursuant to this Section 11.3 as the Plan Administrator may reasonably determine, and its determination of death and the right of such Spouse or Beneficiary to receive payment shall be binding and conclusive upon all persons whomsoever.

11.4. OTHER SEPARATIONS FROM EMPLOYMENT.

A Participant who separates from employment for any reason other than retirement, death or Disability shall be entitled to distribution of his vested interest in his accounts at the time and in the manner provided in Sections 11.5 and 11.6.

11.5. TIME OF DISTRIBUTION OF BENEFITS.

(a) RETIREMENT. Subject to the requirements of paragraph (f) of this Section concerning the early commencement of distributions, payment to a Participant who is entitled to benefits under Section 11.1 normally shall commence within a reasonable time following the Participant's termination of employment following his Normal Retirement Age.

(b) TERMINATION OR DISABILITY DISTRIBUTIONS. As a general rule, and except as set forth in Section 11.6(c) regarding the automatic distribution of certain small accounts, the Plan Administrator will begin distributions pursuant to Section 11.2 or Section 11.4 following the later of the Participant's separation from employment and the Participant's written request for a distribution. If the Participant is married at the time a distribution is requested, the Participant's written request for a distribution must include Spousal consent in accordance with Section 11.10. Payments made pursuant to Section 11.6(c) and payments made at the request of a Participant on account of a Participant's termination of employment shall be made within a reasonable and appropriate time period, as determined by the Plan Administrator, in its sole and absolute discretion. If necessary and in its sole discretion, the Plan Administrator may deny a request for a distribution if the Participant is reemployed by the Employer at the time the request for the distribution is received by the Plan Administrator or if the Plan Administrator determines that the Participant has not experienced a bona fide separation from employment. If the Participant does not make a written request for a distribution pursuant to this Section, and

except as provided in Section 11.6(b), distributions will be made as soon as possible following the Participant's Normal Retirement Date.

(c) DEATH PRIOR TO COMMENCEMENT OF BENEFITS. In the event of the death of the Participant prior to the distribution of his Accounts under the Plan, payments to the Participant's Beneficiaries shall commence as soon as practicable following the Participant's death and must be paid in full by December 31 of the calendar year which includes the fifth (5th) anniversary of the date of the Participant's death, unless the surviving spouse or other designated beneficiary makes an appropriate election under Code Section 401(a)(9). All distributions made subsequent to the death of the Participant shall be made in accordance with the requirements of Code Section 401(a)(9), Treasury Regulation Section 1.401(a)(9)-1, et seq. and Section 11.7 of the Plan.

(d) DEATH AFTER COMMENCEMENT OF PAYMENTS. In the event of the death of a Participant after his Benefit Commencement Date but prior to the complete distribution to such Participant of the benefits payable to him under the Plan, any remaining benefits shall be distributed over a period that does not exceed the period over which distribution was to be made prior to the date of death of the Participant. All distributions made subsequent to the death of the Participant shall be made in accordance with the requirements of Code Section 401(a)(9), Treasury Regulation Section 1.401(a)(9)-5, Q&A-5, and Section 11.7 of the Plan.

(e) REQUIRED COMMENCEMENT OF PAYMENTS. Payment to a former Participant must commence by April 1 of the calendar year following the calendar year in which the Participant attains the age of seventy and one-half (70-½) years or, if later, by April 1 of the calendar year following the calendar year in which the Participant retires, in accordance with requirements of Code Section 401(a)(9) and Section 11.7 of the Plan.

(f) CONSENT TO EARLY DISTRIBUTIONS. Except as otherwise provided in Section 11.6(c) concerning the payment of small amounts, no benefit payments may commence pursuant to the preceding provisions of this Section, unless the Participant requests the earlier commencement of benefits in accordance with the uniform and nondiscriminatory policies and procedures of the Plan Administrator, and, if the Participant is married, the Participant's Spouse consents to the earlier commencement of payments. The Participant's request must be in a form acceptable to the Plan Administrator and any required spousal consent must comply with the spousal consent provisions of Section 11.10.

11.6. METHOD OF DISTRIBUTION.

(a) LUMP SUM DISTRIBUTIONS. The standard form of payment of benefits under this Plan shall be a single lump sum payment.

(b) INSTALLMENT DISTRIBUTIONS. Notwithstanding the foregoing, the Participant may elect to receive his benefits under this Plan in installments. Such installment payments may be annual, quarterly or monthly, over a period not to exceed the Participant's life expectancy. After installment payments commence, a Participant, or a Participant's Beneficiary, if applicable, may elect to discontinue the installment payments and receive a lump sum distribution of the remaining Account balance.

(c) DISTRIBUTION OF SMALL AMOUNTS. Notwithstanding any provision of the Plan to the contrary, the Plan Administrator, in its sole discretion, may direct payment of

benefits in a single lump sum, without the Participant's consent, if the total amount distributable to the Participant (or a surviving spouse or alternate payee) from all of his accounts (excluding Rollover and Roth Rollover Contributions) does not exceed One Thousand Dollars ($1,000) or such lesser amount determined by the Plan Administrator, in its sole discretion and pursuant to a uniform and nondiscriminatory policy, to be the appropriate small account distribution limit. No distribution may be made pursuant to the preceding sentence after the Benefit Commencement Date unless the Participant and the Participant's spouse, if any, consent in writing to the distribution.

(d) AMOUNT OF DISTRIBUTION. For the purpose of determining the amount to be distributed to Participants and Beneficiaries, the Participant's accounts will as a general matter be valued as of the Valuation Date preceding the date upon which distribution is to commence. Valuation procedures may vary depending on the nature of the investment alternatives selected by the Participant, but will be conducted in a non-discriminatorymanner.

(e) ADDITIONAL BENEFIT OPTIONS. The Plan Administrator may from time to time expand the available benefit options by the adoption of written administration procedures, which written procedures shall describe the additional optional methods of payment and any limitations on their availability.

11.7. MINIMUM DISTRIBUTION REQUIREMENTS.

The following provisions of this Section 11.7 are intended to demonstrate reasonable and good faith compliance with the final Treasury regulations issued pursuant to Section 401(a)(9) of the Code. Reasonable and good faith deviations from the provisions of this Section 11.7 and/or from the Treasury Regulations published under Section 401(a)(9) of the Code shall not adversely impact the Plan's compliance status as set forth in Section 823 of the PPA and Treasury Regulation Section 1.401(a)(9)-1, Q&A 2(d). The provisions of this Section 11.7 shall supersede all other provisions of the Plan to the extent that such other Sections of the Plan are inconsistent with the Treasury regulations. All distributions required under this Section 11.7 will be determined and made in accordance with the Treasury regulations under section 401(a)(9) of the Code. All references to the "designated Beneficiary" in this Section shall be deemed to incorporate the designation procedures set forth in Section 11.9 of the Plan.

(a) TIME AND MANNER OF DISTRIBUTION.

(1) 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.

(2) 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 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 70 ½, if later.

(B) If the Participant's surviving spouse is not the Participant's sole designated Beneficiary, then 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 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.

(D) 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 (a)(2), other than section (a)(2)(A), will apply as if the surviving spouse were the Participant.

For purposes of this section (a)(2) and section (d), unless section (a)(2)(D) applies, distributions are considered to begin on the Participant's required beginning date. If section (a)(2)(D) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under section (a)(2)(A).

(3) FORMS OF DISTRIBUTION. Unless the Participant's interest is distributed in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with sections (b) and (c) of this Section 11.7.

(b) REQUIRED MINIMUM DISTRIBUTIONS DURING PARTICIPANT'S LIFETIME.

(1) 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 Treasury 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 Treasury regulations, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the distribution calendar year.

(2) LIFETIME REQUIRED MINIMUM DISTRIBUTIONS CONTINUE THROUGH YEAR OF PARTICIPANT'S DEATH. Required minimum distributions will be determined under this section (b) beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the Participant's date of death.

(c) REQUIRED MINIMUM DISTRIBUTIONS AFTER PARTICIPANT'S DEATH.

(1) 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:

(i) 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.

(ii) 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 calendaryear.

(iii) 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.

(2) 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 (c)(1).

(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 (a)(2)(A), this section (c)(2)(C) will apply as if the surviving spouse were the Participant.

(d) DEFINITIONS.

(1) DESIGNATED BENEFICIARY. The individual who is designated as the Beneficiary under Section 11.9 of the plan and is the designated Beneficiary under section 401(a)(9) of the Code and section 1.401(a)(9)-4 of the Treasury regulations.

(2) 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 under section (a)(2). 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.

(3) LIFE EXPECTANCY. Life expectancy as computed by use of the Single Life Table in section 1.401(a)(9)-9 of the Treasury regulations.

(4) PARTICIPANT'S ACCOUNT BALANCE. The account balance as of the last day of the calendar year immediately preceding the distribution calendar year (valuation calendar year) increased by the amount of any contributions made and allocated or forfeitures allocated to the account balance in the distribution calendar year and decreased by distributions made in the distribution calendar year. 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.

(5) REQUIRED BEGINNING DATE. The date defined as April 1 of the calendar year following the calendar year in which the Participant attains the age of seventy and one-half (70-½) years or, if later, by April 1 of the calendar year following the calendar year in which the Participant retires.

(e) SUSPENSION OF 2009 DISTRIBUTIONS. Notwithstanding any provision of the foregoing to the contrary, a Participant or Beneficiary who would have been required to receive required minimum distributions for 2009 but for the enactment of Section 401(a)(9)(H) of the Code ("2009 RMDs"), and who would have satisfied that requirement by receiving distributions that are (1) equal to the 2009 RMDs or (2) one or more payments in a series of substantially equal distributions (that include the 2009 RMDs) made at least annually and expected to last for the life (or life expectancy) of the Participant, the joint lives (or joint life expectancy) of the Participant and the Participant's Beneficiary, or for a period of at least 10 years ("Extended 2009 RMDs"), will not receive those distributions for 2009 unless the

Participant or Beneficiary chooses to receive such distributions. Participants and Beneficiaries described in the preceding sentence will be given the opportunity to elect to receive the 2009 RMDs. In addition, notwithstanding Section 11.8 of the Plan, and solely for purposes of applying the direct rollover provisions of the Plan, neither the 2009 RMDs or the Extended 2009 RMDs shall be treated as eligible rollover distributions. A direct rollover will be offered only for distributions that would be eligible rollover distributions without regard to Code Section 401(a)(9)(H).

(f) ROTH ELECTIVE DEFERRALS ACCOUNT. Notwithstanding any provision of the foregoing to the contrary, the Plan Administrator shall process distributions required pursuant to this Section 11.7 from pre-tax contributions sources first, before any Roth Elective Deferrals or earnings thereon are distributed to a Participant or Beneficiary.

11.8. ELIGIBLE ROLLOVER DISTRIBUTIONS.

(a) GENERAL. 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 Plan 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". Notwithstanding the foregoing, the Plan will not provide for a direct rollover if the amount of the distributions that are eligible rollover distributions are reasonably expected to total less than Two Hundred Dollars ($200) during a year.

(b) DEFINITIONS.

(1) ELIGIBLE ROLLOVER DISTRIBUTION. 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 amount that is distributed on account of hardship; 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 Section 401(a)(9) of the Code; and any other distribution that is reasonably expected to total less than Two Hundred Dollars ($200) during a year. A portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of Roth Elective Deferrals; provided, however, that such portion is transferred in accordance with the specialized Roth rule set forth in paragraph (c) below. A portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax contributions which are not includible in gross income. However, such portion may be transferred only to (1) an individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Code, (2) to a qualified defined contribution plan

described in Section 401(a) or 403(a) of the Code, or a qualified trust or annuity contract described in Code Section 403(b), that agrees to separately account for after-tax amounts so transferred.

(2) ELIGIBLE RETIREMENT PLAN. An eligible retirement plan is an individual retirement account described in Section 408(a) of the Code; an eligible plan under section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan; an individual retirement annuity described in Section 408(b) of the Code; an annuity plan described in Section 403(a) of the Code; an annuity contract described in Section 403(b) of the Code; a qualified trust described in Section 401(a) of the Code; or a Roth IRA described in Section 408A(b) of the Code (provided that any such distribution is made in accordance with Section 408A of the Code) that accepts the distributee's eligible rollover distribution. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving Spouse, or to a Spouse or former spouse who is the alternate payee under a Qualified Domestic Relations Order.

(3) 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 or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code, are distributees with regard to the interest of the spouse or former spouse. A distributee also includes the Participant's non-spouse Beneficiary. In the case of a non-spouse Beneficiary, the direct rollover may be made only to an individual retirement account or annuity described in Section 408(a) or 408(b) of the Code ("IRA") that is established on behalf of the Beneficiary and that will be treated as an inherited IRA pursuant to the provisions of Code Section 402(c)(11).

(4) DIRECT ROLLOVER. A direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee.

(c) ROTH ELECTIVE DEFERRALS. Notwithstanding paragraph (b)(2) above, a direct rollover of a distribution from a Participant's Roth Elective Deferrals Account will be made only to another Roth elective deferral account under an applicable retirement plan described in Code Section 402A(e)(1) or to a Roth IRA described in Code Section 408A, and only to the extent the rollover is permitted under the rules of Code Section 402(c). Any distribution from a Participant's Roth Elective Deferrals Account is not taken into account in determining whether distributions from a Participant's other Accounts are reasonably expected to total less than Two Hundred Dollars ($200) during a year. However, eligible rollover distributions from a Participant's Roth Elective Deferral Account are taken into account in determining whether the total amount of the Participant's Account balances under the Plan exceeds One Thousand Dollars ($1,000) for purposes of mandatory distributions from the Plan.

11.9. DESIGNATION OF BENEFICIARY.

Subject to Section 11.3, each Participant shall have the right to designate, on forms supplied by and delivered to the Plan Administrator, a Beneficiary or Beneficiaries to receive his benefits hereunder in the event of the Participant's death. As provided in Section 11.3, if the Participant is married when the Beneficiary designation is filed, the designation will be ineffective unless the Participant's Spouse consents to the election. Subject to the spousal consent requirements of Section 11.10, each Participant may change his Beneficiary designation from time to time in the manner described above. Upon receipt of such designation

by the Plan Administrator, such designation or change of designation shall become effective as of the date of the notice, whether or not the Participant is living at the time the notice is received. There shall be no liability on the part of the Employer, the Plan Administrator or the Trustee with respect to any payment authorized by the Plan Administrator in accordance with the most recent valid Beneficiary designation of the Participant in its possession before receipt of a more recent and valid Beneficiary designation. If no designated Beneficiary is living when benefits become payable, or if there is no designated Beneficiary, the Beneficiary shall be the Participant's Spouse; or if no Spouse is then living, such Participant's issue, including any legally adopted child or children, in equal shares by right of representation; or if no such designated Beneficiary and no such Spouse or issue, including any legally adopted child or children, is living upon the death of a Participant, or if all such persons die prior to the full distribution of such Participant's benefits, then the Beneficiary shall be the estate of the Participant.

11.10. SPOUSAL CONSENT.

(a) GENERAL RULE. Except as set forth in Section 11.6(c), all distributions, in-service withdrawals and Participant loans made pursuant to this Plan are subject to the spousal consent requirements set forth in this Section 11.10. If a Participant is married and is required by the terms of the Plan to obtain spousal consent, such spousal consent will be irrevocable once given. The consent of the Participant's Spouse to an election under the Plan shall be in writing, acknowledge the effect of such an election, be witnessed by a notary public or a designated representative of the Plan Administrator and be provided to the Plan Administrator. No spousal consent will be required if the Plan Administrator determines, in its sole discretion, that such consent cannot be obtained because the Spouse cannot be located or other circumstances exist that preclude the Participant from obtaining such consent (to the degree permitted under applicable regulations issued by the United States Treasury Department). Any spousal consent given pursuant to this Section or dispensed with pursuant to the preceding sentence will be valid only with respect to the Spouse who signs the consent or with respect to whom the consent requirement is waived by the Plan Administrator.

(b) BENEFICIARY DESIGNATIONS. A Participant's Spouse may not give a general consent to the designation of a Beneficiary other than the Spouse, but rather must consent to the designation of a particular Beneficiary. If the Participant elects to change the Beneficiary, the Spouse's prior consent will be null and void and a new consent will be required, unless the Spouse's consent expressly permits a change of designation without the further consent of the Spouse.

(c) PARTICIPANT LOANS. The required spousal consent to a Participant loan must be filed with the Plan Administrator prior to the date on which the loan is made and not more than ninety (90) days in advance of the date the loan is made. The Plan Administrator may, in accordance with uniform and nondiscretionary rules and procedures, shorten the advance time period during which spousal consent may be obtained. A Spouse may not consent to Participant loans generally but rather may consent only to loans of specific amounts to be made at specified times and on specified terms and conditions. If the amount of the loan or the terms and conditions under which the loan will be made are later changed, a new consent will be required. A new consent will be required each time a Participant borrows money from the Plan.

11.11. PAYMENTS TO DISABLED.

If a person entitled to any payment hereunder shall be under a disability, or in the sole judgment of the Plan Administrator shall otherwise be unable to apply such payment to his own interest and advantage, the Plan Administrator in the exercise of its discretion may direct the Trustee to make any such payment in any one (1) or more of the following ways: (a) directly to such person, (b) to his legal guardian or conservator, or (c) to his Spouse or to any person charged with the legal duty of his support, to be expended for his benefit. The decision of the Plan Administrator shall in each case be final and binding upon all persons in interest.

11.12. UNCLAIMED ACCOUNTS; NOTICE.

(a) GENERAL. Neither the Employer, the Plan Administrator nor the Trustee shall be obliged to search for, or ascertain the whereabouts of, any Participant or Beneficiary. If a Participant or Beneficiary becomes entitled to a distribution under the Plan, the Plan Administrator shall notify the Participant or Beneficiary that he is entitled to a distribution by certified or registered mail addressed to the Participant's or Beneficiary's last known address of record with the Plan Administrator or the Employer. In the event that the Participant or Beneficiary fails to respond to a distribution notice sent via certified or registered mail, or in the event Plan account statements, investment statements, or other Plan communication materials are returned to the Plan Administrator (regardless of whether they are sent via certified or registered mail) indicating that the Participant is no longer at the address on record, the Plan Administrator may, at its option, publish a notice in the Tribe's newspaper or other appropriate newspaper and/or post notices in an attempt to locate missing participants. Upon failure of the foregoing, the Plan Administrator shall take commercially reasonable steps to locate the Participant.

(b) SEGREGATION OF ACCOUNT. If the Participant or Beneficiary cannot be located by the Plan Administrator, the Plan Administrator, in its discretion, may thereafter direct the Trustee to segregate the Participant's benefits in an "Unclaimed Accounts" fund maintained under the Trust Fund. The Unclaimed Accounts fund shall hold the assets of all unclaimed Participant and Beneficiary accounts on a commingled basis, subject to appropriate recordkeeping requirements. Any such Unclaimed Accounts fund shall be invested in the Plan's default Investment Fund and the Plan Administrator and the Trustee shall have no other investment responsibility with regard to such benefits until the Participant or Beneficiary provides current investment directions pursuant to the Plan and/or claims any distributions which may be due. The segregated deposits shall be entitled to all income they earn and shall bear all expense or loss (including administration expenses) they incur.

(c) FORFEITURE OF ACCOUNT; RESTORATION. Should the Plan Administrator not be able to locate a Participant who is entitled to be paid a benefit under the Plan after making reasonable efforts to contact said Participant under the above procedures, and a period of one (1) year has elapsed from the Participant's termination date, a forfeiture of the Participant's vested benefit may occur and be treated as other forfeitures under this Plan. Notwithstanding said forfeiture, in the event that the Participant (or Beneficiary) should thereafter make a claim for his benefits, as determined prior to the date of the forfeiture, the Plan Administrator shall restore his account balance together with annual interest at the "Short Term Federal Rate," as defined in Code Section 1274, from the date of the forfeiture. Such amounts shall be restored to the extent possible with other forfeitures available for allocation in the year of restoration. Should there be insufficient forfeitures occurring at the time of the

restoration, the Employer shall be obligated to restore said account by means of a special contribution to the Plan.

11.13. UNDERPAYMENT OR OVERPAYMENT OF BENEFITS.

In the event that, through misstatement or computation error, benefits are underpaid or overpaid, there shall be no liability for any more than the correct benefit sums under the Plan. Overpayment may be deducted from future payments under the Plan, and under payments may be added to future payments under the Plan. In lieu of receiving reduced benefits under the Plan, a Participant or beneficiary may elect to make a lump sum repayment of any overpayment.

ARTICLE XII
INALIENABILITY OF BENEFITS

12.1. NO ASSIGNMENT PERMITTED.

(a) GENERAL PROHIBITION. No Participant or Beneficiary, and no creditor of a Participant or Beneficiary, shall have any right to assign, pledge, hypothecate, anticipate or in any way create a lien upon the Trust Fund. All payments to be made to Participants or their Beneficiaries shall be made only upon their personal receipt or endorsement, except as provided in Section 11.11, and no interest in the Trust Fund shall be subject to assignment or transfer or otherwise be alienable, either by voluntary or involuntary act or by operation of law or equity, or subject to attachment, execution, garnishment, sequestration, levy or other seizure under any legal, equitable or other process, or be liable in any way for the debts or defaults of Participants and Beneficiaries.

(b) PERMITTED ARRANGEMENTS. This Section shall not preclude arrangements for the withholding of taxes from benefit payments, arrangements for the recovery of benefit overpayments, arrangements for the transfer of benefit rights to another plan, or arrangements for direct deposit of benefit payments to an account in a bank, savings and loan association or credit union (provided that such arrangement is not part of an arrangement constituting an assignment or alienation). Additionally, this Section shall not preclude arrangements for the distribution of the benefits of a Participant or Beneficiary pursuant to the terms and provisions of a Qualified Domestic Relations Order in accordance with the following provisions of this Article XII.

12.2. QUALIFIED DOMESTIC RELATIONS ORDERS.

A Qualified Domestic Relations Order is an order described in Section 401(a)(13) and Section 414(p) of the Code that is (1) issued by, domesticated through, or recognized by the Courts of the Navajo Nation or any State court, and (2) permits distribution of benefits in a distribution mode provided under the Plan, does not require payment of increased benefits and does not require payment of benefits allocated to a different alternate payee under a prior Qualified Domestic Relations Order.

12.3. PROCESSING QUALIFIED DOMESTIC RELATIONS ORDERS.

(a) NOTICE. All decisions and determinations with respect to a domestic relations order, including whether such order is a Qualified Domestic Relations Order within the meaning of this Article XII, shall be made by the Plan Administrator within a reasonable time

following its receipt of such order and in accordance with such uniform rules and procedures as may be adopted by the Plan Administrator. Upon receipt of a domestic relations order, the Plan Administrator shall notify the Participant or Beneficiary whose benefits may be affected by such order of its receipt of such order. The Plan Administrator shall also advise the Participant or Beneficiary and the alternate payee named in the order of its rules and procedures relating to the determination of the qualified status of such order.

(b) RETENTION OF PAYMENTS. If payment of benefits to the Participant or Beneficiary has commenced at the time a domestic relations order is received by the Plan Administrator or benefits become payable after receipt of such order, the Plan Administrator shall direct the Trustee to segregate and hold the amounts which would be payable to the alternate payee under the order if such order is ultimately determined to be a Qualified Domestic Relations Order. If the Plan Administrator determines that the order is a Qualified Domestic Relations Order within eighteen (18) months of the segregation of benefits payable to the alternate payee under such order, the Plan Administrator shall direct the Trustee to pay the segregated amounts (plus any earnings thereon) as well as such future amounts as may be specified in such order to the alternate payee. If the Plan Administrator determines that the order is not a Qualified Domestic Relations Order or is unable to determine whether such order is a Qualified Domestic Relations Order within the eighteen (18) month period following the segregation of benefits, the Plan Administrator shall direct the Trustee to pay the segregated amounts (plus any earnings thereon) to the Participant or Beneficiary. A determination by the Plan Administrator after the close of such eighteen (18) month period that the order is a Qualified Domestic Relations Order shall be applied prospectively. All determinations of the Plan Administrator hereunder with respect to the status of an order as a Qualified Domestic Relations Order shall be binding and conclusive on all interested parties, subject to the provisions of Section 13.4.

12.4. EARLY COMMENCEMENT OF PAYMENTS TO ALTERNATE PAYEES.

(a) EARLY PAYMENTS. An order requiring payment to an alternate payee before a Participant has separated from employment may qualify as a Qualified Domestic Relations Order even if it requires payment prior to the Participant's "earliest retirement age," which is the earliest date on which the Participant could elect to receive retirement benefits pursuant to this Plan. If the order requires payments to commence prior to a Participant's actual retirement, the amounts of the payments must be determined as if the Participant had retired on the date on which such payments are to begin under such order, but taking into account only the present account balances at that time.

(b) ALTERNATE PAYMENT FORMS. The order may call for the payment of benefits to an alternate payee in any form in which benefits may be paid under the Plan to the Participant.

ARTICLE XIII
ADMINISTRATION

13.1. PLAN ADMINISTRATOR.

The Employer is the Plan Administrator, but has delegated its duties as such to a committee in accordance with the procedures described in Section 13.7.

13.2. ALLOCATION OF FIDUCIARY RESPONSIBILITY.

The Plan Administrator is the named fiduciary with respect to the administration of the Plan. The Plan Administrator shall not be responsible for any fiduciary functions or other duties assigned to a discretionary Trustee pursuant to this Plan or the Trust Agreement. If the Trustee appointed pursuant to the Trust Agreement is a passive, directed Trustee, then the Trustee shall not be responsible for maintaining the Plan in compliance with any applicable laws, rules or regulations.

13.3. POWERS OF THE PLAN ADMINISTRATOR.

(a) GENERAL POWERS. The Plan Administrator shall have the power and discretion to perform the administrative duties described in this Plan or required for proper administration of the Plan and shall have all powers necessary to enable it to properly carry out such duties. Without limiting the generality of the foregoing, the Plan Administrator shall have the power and discretion to construe and interpret this Plan, to hear and resolve claims relating to this Plan, and to decide all questions and disputes arising under this Plan. The Plan Administrator shall determine, in the exercise of its discretion, the eligibility of employees to participate in the Plan, the service credited to the Employees, the status and rights of a Participant, and the identity of the Beneficiary or Beneficiaries entitled to receive any benefits payable hereunder on account of the death of a Participant.

(b) BENEFIT PAYMENTS. Except as is otherwise provided hereunder, the Plan Administrator shall determine the manner and time of payment of benefits under this Plan. All benefit disbursements by the Trustee shall be made upon the instructions of the Plan Administrator.

(c) EXERCISE OF DISCRETION; DECISIONS FINAL. All powers and duties conferred on the Plan Administrator shall be exercised or performed by the Plan Administrator in the exercise of its discretion regardless of whether the Plan provision conferring such power or imposing such duty specifically refers to the Plan Administrator's discretion. All decisions of the Plan Administrator upon all matters within the scope of its authority shall be binding and conclusive upon all persons.

(d) REPORTING AND DISCLOSURE. The Plan Administrator shall file all reports and forms lawfully required to be filed by the Plan Administrator with any governmental agency or department, federal or tribal, and shall distribute any forms, reports, statements or plan descriptions lawfully required to be distributed to Participants and others by any governmental agency or department, federal or tribal.

(e) INVESTMENT. The Plan Administrator shall keep itself advised with respect to the investment of the Trust Fund and shall report to the Employer regarding the investment and reinvestment of the Trust Fund not less frequently than annually. The Plan Administrator shall have power to direct specific investments of the Trust Fund only where such power is expressly conferred by this Plan and only to the extent described in this Plan. The Trustee shall have the responsibility of taking and holding of title to the assets of the Plan in the Trustee's name. All other investment duties shall be the responsibility of the Participants directing investment in Investment Funds established pursuant to Article VIII or, in the event that a discretionary Trustee is appointed pursuant to the terms of the Trust Agreement, the Trustee.

13.4. CLAIMS.

(a) FILING OF CLAIM. A Participant or Beneficiary entitled to benefits need not file a written claim to receive benefits. If an Employee, Participant, Beneficiary or any other person is dissatisfied with the determination of his benefits, eligibility, participation or any other right or interest under this Plan, such person may file a written statement setting forth the basis of the claim with the Plan Administrator in a manner prescribed by the Plan Administrator. In connection with the determination of a claim, the claimant may examine this Plan and any other pertinent documents generally available to Participants relating to the claim.

(b) NOTICE OF DECISION. A written notice of the disposition of any such claim shall be furnished to the claimant within thirty (30) days after the claim is filed with the Plan Administrator. Such notice shall refer, if appropriate, to pertinent provisions of this Plan, shall set forth in writing the reasons for denial of the claim if the claim is denied (including references to any pertinent provisions of this Plan), and where appropriate shall explain how the claimant can perfect the claim. If the claim is denied, in whole or in part, the notice of disposition also shall include a description of the Plan's review procedures, including time limitations applicable to such procedures.

(c) REVIEW. Within ninety (90) days after receiving the written notice of the Plan Administrator's disposition of the claim, the claimant may request in writing, and shall be entitled to, a review meeting with the Plan Administrator to present reasons why the claim should be allowed. The claimant shall be entitled to be represented by counsel at the review meeting. The claimant also may submit a written statement of his claim and the reasons for granting the claim. Such statement may be submitted in addition to, or in lieu of, the review meeting with the Plan Administrator. The claimant shall be provided, upon request and free of charge, reasonable access to and copies of all documents, records and other information relevant to the claimant's claim for benefits. The Plan Administrator shall have the right to request of and receive from a claimant such additional information, documents or other evidence as the Plan Administrator may reasonably require. If the claimant does not request a review meeting within ninety (90) days after receiving written notice of the Plan Administrator's disposition of the claim, the claimant shall be deemed to have accepted the Plan Administrator's written disposition, unless the claimant shall have been physically or mentally incapacitated so as to be unable to request review within the ninety (90) day period.

(d) DECISION FOLLOWING REVIEW. A decision on review shall be rendered in writing by the Plan Administrator ordinarily not later than sixty (60) days after review, and a written copy of such decision shall be delivered to the claimant. If special circumstances require an extension of the ordinary period, the Plan Administrator shall so notify the claimant.

(e) DECISIONS FINAL; PROCEDURES MANDATORY. To the extent permitted by law, a decision on review by the Plan Administrator shall be binding and conclusive upon all persons whomsoever. To the extent permitted by law, completion of the claims procedures described in this Section shall be a mandatory precondition that must be complied with prior to commencement of a judicial action by a person claiming rights under the Plan or by another person claiming rights through such a person. The Plan Administrator may, in its sole discretion, waive these procedures as a mandatory precondition to such an action.

(f) RECOURSE FOLLOWING CLAIMS EXHAUSTION. Any claims which are not resolved following exhaustion of the claims procedures set forth herein shall be subject to review in the Courts of the Navajo Nation.

13.5. PAYMENT OF PLAN EXPENSES.

(a) GENERAL. Expenses of the Plan, to the extent that the Employer does not pay such expenses, may be paid out of the assets of the Plan. Expenses that may be paid by the Plan shall include any expenses incurred by the Plan Administrator or Trustee in the exercise of their duties under the Plan, including, but not limited to, expenses for recordkeeping and other administrative services; audit and accounting expenses fees and expenses of the custodian; expenses for investment education and investment management services; and direct costs that the Employer incurs with respect to the Plan. By action dated June 3, 2010, the Plan Administrator adopted a written Administrative Policy on the Payment of Plan Expenses governing the payment of expenses with Plan assets. The Administrative Policy on the Payment of Plan Expenses may be amended from time to time in the discretion of the Plan Administrator.

(b) SOURCE OF FUNDS. When the Plan Administrator determines that an expense may be paid out of the assets of the Plan and the expense is not allocated to individual Participant accounts in accordance with Section 6.2(g), the expense shall be paid from the Plan's investment fee credit account maintained pursuant to Section 13.6. If the Plan's investment fee credit account is insufficient to pay the entire expense, the expense (or the remaining portion of the expense) shall be charged to the Plan's forfeiture suspense account.

13.6. INVESTMENT FEE CREDIT ACCOUNT.

The Plan Administrator shall maintain an investment fee credit account under the Plan. Any and all investment fees which are rebated to the Plan by the Plan's service providers on a quarterly basis shall be allocated to the investment fee credit account. On a periodic basis, the Plan Administrator shall allocate the assets accumulated in the investment fee credit account to pay Plan expenses, in accordance with the terms of Section 13.5 above. The funds allocated to the investment fee credit account shall be applied to Plan expense payments on an annual basis, with the exception of a minimum balance the Plan Administrator may elect to leave in the investment fee credit account. If the assets held in the investment fee credit account at the end of Plan Year exceed the Plan expenses approved for payment by the Plan Administrator, the Plan Administrator shall determine in its discretion whether such excess shall continue to be held for payment of Plan expenses incurred in the subsequent Plan Year or shall be allocated to Participant accounts in a uniform and nondiscriminatory manner.

13.7. PLAN ADMINISTRATIVE COMMITTEE.

The Retirement Savings Plan Administration Committee (the "Committee") as appointed by the Budget and Finance Committee of the Council shall serve as the Plan Administrator. The Committee shall consist of the Chairman and the Vice Chairman of the Budget and Finance Committee of the Council, the Controller of the Division of Finance or his designee, the Director of the Department of Personnel Management or his designee, and the Director of the Division of Community Development or his designee. All designees shall be appointed through written notice to the Committee. The Committee members shall serve without compensation but shall be reimbursed for all expenses by the Employer. The Committee shall conduct itself in accordance with the provisions of this Article XIII. The members of the Committee may resign by providing thirty (30) days written notice to the Budget and Finance Committee of the Council

and may be removed immediately at any time by written notice from the Budget and Finance Committee.

13.8. CHAIRPERSON, VICE-CHAIRPERSON AND SECRETARY.

The Committee shall elect a Chairperson and Vice-Chairperson from among its members. The Chairperson, or Vice-Chairperson when designated or in the absence of the Chairperson, shall be authorized to execute any document or documents on behalf of the Committee. The Committee shall record all acts and determinations of the Committee and shall preserve and retain custody of all such records, together with such other documents as may be necessary for the administration of this Plan or as may be required by law. The Committee may appoint a secretary, who is not required to be a member of the Committee, to assist with the maintenance of Plan and Committee documents and records.

13.9. APPOINTMENT OF AGENTS.

The Committee may appoint such other agents, who need not be members of the Committee, as it may deem necessary for the effective performance of its duties, whether ministerial or discretionary, as the committee may deem expedient or appropriate. The appointment of agents shall be established in writing and signed by the Chairperson. The compensation of any agents who are not Employees of the Employer shall be fixed by the Committee within any limitations set by the Council.

13.10. MAJORITY VOTE AND EXECUTION OF INSTRUMENTS.

In all matters, questions and decisions, the action of the Committee shall be determined by a majority vote of its permanent voting members. They may meet informally or take any ordinary action without the necessity of meeting as a group. All instruments executed by the Committee shall be executed by a majority of its members or by any member of the Committee designated to act on its behalf.

13.11. ALLOCATION OF RESPONSIBILITIES AMONG COMMITTEE MEMBERS.

The Committee may allocate responsibilities among its members or designate other persons to act on its behalf. Any allocation or designation, however, must be set forth in writing and must be retained in the permanent records of the committee.

13.12. CONFLICT OF INTEREST.

No member of the Committee who is a Participant shall take any part in any action in connection with his participation as an individual. Such action shall be voted or decided by the remaining members of the Committee, or by another individual appointed by the Council to vote on or decide such action if no Committee member is permitted to take action pursuant to this Section.

13.13. OTHER FIDUCIARY CAPACITIES.

The members of the Committee may also serve in any other fiduciary capacity, and, specifically, all or some members of the Committee may serve as Trustee. Notwithstanding any other provision of this Plan, if and so long as any two (2) members of the Committee also serve as Trustee, any provision of this Plan or the Trust Agreement which requires a direction,

certification, notification, or other communication from the Plan Administrator to the Trustee shall be inapplicable. If and so long as any two (2) members of the Committee also serve as Trustee, any action taken by either the Committee or the Trustee shall be deemed to be taken by the appropriate party.

ARTICLE XIV
PARTICIPATING AFFILIATES

14.1. ADOPTION BY RELATED EMPLOYERS.

Any Affiliate of the Employer, governmental unit, branch, division, program or office of the Employer may adopt this Plan for the benefit of its Employees with the consent of the Council and the Plan Administrator; provided that only Affiliates and governmental entities of the Employer which are consistent with the treatment of this Plan as a governmental plan within the meaning of Code Section 414 and Section 3(32) of the Act, and in accordance with the Nation's reasonable and good faith interpretation of Section 906 of the Pension Protection Act of 2006, shall be permitted to adopt or continue participating in this Plan.

14.2. ELIGIBLE CHAPTERS.

Under Title 26, Section 2003(D) of the Navajo Nation Code, a Governance Certified Chapter of the Nation may elect to participate or continue to participate in this Plan for the benefit of its Employees, with the consent of the Council or Plan Administrator.

14.3. ELECTION TO PARTICIPATE.

Any Affiliate that meets the requirements of Section 14.1 or any Eligible Chapter that meets the requirements of Section 14.2, may elect, by a duly approved resolution, to participate or continue to participate in this Plan. References to the "Employer" in this Plan document shall refer to the Employer and all Participating Affiliates, unless the context clearly indicates otherwise.

14.4. APPROVAL OF PARTICIPATION.

Participation or continued participation in the Plan by an Affiliate or an Eligible Chapter must be approved, by a duly approved resolution, by the Committee, in its role as Plan Administrator. Upon approval of the participation of an Affiliate or Eligible Chapter in the Plan, such Affiliate or Eligible Chapter shall be referred to as a Participating Affiliate. References to the "Employer" in this Plan document shall refer to the Employer and all Participating Affiliates, unless the context clearly indicates otherwise.

14.5. REQUIREMENTS APPLICABLE TO PARTICIPATING AFFILIATES.

(a) Each Participating Affiliate shall enter into an agreement with the Plan Administrator or its designee, as well as any other entity or entities as required by the Council or the Plan Administrator; such agreement shall set forth certain terms and conditions required by the Council or Plan Administrator regarding the Participating Affiliate's participation in the Plan. In addition to the requirements of such agreement, the Participating Affiliate shall also be subject to the requirements set forth in this Section 14.4.

(b) Each Participating Affiliate shall be deemed to have delegated to the Council all authority to amend or terminate the Plan, and to appoint and remove the Plan Administrator and the Trustee.

(c) Each Participating Affiliate shall be deemed to designate the Employer as its agent with respect to all relations with the Trustee, the Plan Administrator, the investment manager, the recordkeeper and all other Plan service providers.

(d) Each Participating Affiliate consents to the deposit and investment of all funds contributed to the Plan in a single Trust Fund, administered by the Trustee.

(e) Each Participating Affiliate consents to the pooling of forfeitures that arise under the Plan, and the use of such forfeitures as directed by the Plan Administrator, in accordance with the terms of the Plan.

(f) Each Participating Affiliate shall be deemed to designate the Employer as its agent with respect to all relations with the Trustee, the Plan Administrator, the investment manager, the recordkeeper and all other Plan service providers.

(g) Each Participating Affiliate consents to the imposition of restrictions on the features available under the Plan to the Employees of the Participating Affiliate, in the event that the Plan Administrator determines that the Participating Affiliate does not have the systems capability or resources necessary to effectively administer a feature of the Plan, such as automatic enrollment. If a Participating Affiliate participates in the Plan on a restricted basis, the Participating Affiliate and the Plan Administrator shall make appropriate disclosures to the Employees of the Participating Affiliate regarding the restrictions imposed by the Plan Administrator and the features of the Plan available to the Employees of the Participating Affiliate.

(h) Each Participating Affiliate consents to the requirement that the Participating Affiliate's election to participate in the Plan may be terminated or modified only with the consent of the Council and the Plan Administrator.

ARTICLE XV
SCOPE OF RESPONSIBILITY

15.1. SCOPE OF RESPONSIBILITY.

(a) GENERAL. The Employer, the Plan Administrator, the investment manager and the Trustee shall perform the duties respectively assigned to them under this Plan and the Trust Agreement and shall not be responsible for performing duties assigned to others under the terms and provisions of this Plan or the Trust Agreement. No inference of approval or disapproval is to be made from the inaction of any party described above or the employee or agent of any of them with regard to the action of any other such party. Persons, organizations or corporations acting in a position of any fiduciary responsibility with respect to the Plan or the Trust Fund may serve in more than one fiduciary capacity.

(b) ADVISORS. The Employer, the Plan Administrator and the Trustee shall have authority to employ advisors, legal counsel, accountants and investment managers in connection with the administration of the Trust Fund, as set forth in the Trust Agreement. To the extent permitted by applicable law, the Employer, the Plan Administrator and the Trustee shall

not be liable for complying with the directions of any advisors, legal counsel, accountants or investment managers appointed pursuant to this Plan or the Trust Agreement.

(c) INDEMNIFICATION. To the extent permitted by law, the Employer shall and does hereby jointly and severally indemnify and agree to hold harmless its employees, officers and directors who serve in fiduciary capacities with respect to the Plan and the Trust Agreement, including members of the Committee, from all loss, damage, or liability, joint or several, including payment of expenses in connection with defense against any such claim, for their acts, omissions and conduct, and for the acts, omissions and conduct of their duly appointed agents, which acts, omissions, or conduct constitute or are alleged to constitute a breach of such individual's fiduciary or other responsibilities under the Act or any other law, except for those acts, omissions, or conduct resulting from his own willful misconduct, breach of good faith, or gross negligence in the performance of their duties; provided, however, that if any party would otherwise be entitled to indemnification hereunder in respect of any liability and such party shall be insured against loss as a result of such liability by any insurance contract or contracts, such party shall be entitled to indemnification hereunder only to the extent by which the amount of such liability shall exceed the amount thereof payable under such insurance contract or contracts.

(d) INSURANCE. The Employer may obtain insurance covering itself and others for breaches of fiduciary obligations under this Plan or the Trust Agreement to the extent permitted by law, and nothing in the Plan or the Trust Agreement shall restrict the right of any person to obtain such insurance for himself in connection with the performance of his duties under this Plan or the Trust Agreement. No bond shall be required of the Trustee unless required by law notwithstanding this provision. The Trustee, the Plan Administrator and the Employer do not in any way guarantee the Trust Fund from loss or depreciation. The Employer does not guarantee the payment of any money which may be or become due to any person from the Trust Fund, and the liability of the Plan Administrator and the Trustee to make any payment hereunder at any and all times will be limited to the then available assets of the Trust Fund.

15.2. PROHIBITION AGAINST CERTAIN PERSONS HOLDING POSITIONS.

No person who has been convicted of a felony shall be permitted to serve as a fiduciary, officer, trustee, custodian, counsel, agent, or employee of this Plan, or as a consultant to this Plan, unless permitted under the Act and regulations thereunder. The Plan Administrator shall ascertain to the extent practical that no violation of this Section occurs. In any event, no person knowingly shall permit any other person to serve in any capacity which would violate this Section.

ARTICLE XVI
AMENDMENT, MERGER AND TERMINATION

16.1. AMENDMENT.

The Employer shall have the right at any time, by an instrument in writing duly executed, acknowledged and delivered to the Plan Administrator and the Trustee, to modify, alter or amend this Plan, in whole or in part, prospectively or retroactively; provided, however, that the duties and liabilities of the Plan Administrator and the Trustee hereunder shall not be substantially increased without their written consent; and provided further that the amendment shall not reduce any Participant's interest in the Plan, calculated as of the date on which the

amendment is adopted. If the Plan is amended by the Employer after it is adopted by a Participating Affiliate, unless otherwise expressly provided, it shall be treated as so amended by such Participating Affiliate without the necessity of any action on the part of the Participating Affiliate. To the extent that the Plan must be amended solely to incorporate legislative, regulatory or other changes required to maintain the tax-qualified status of the Plan, any such amendment may be authorized and approved by the Chair or Vice Chair of the Nation's Budget and Finance Committee and without specific approval of such amendment by the Council, the Budget and Finance Committee or the Retirement Savings Plan Administration Committee; provided, however, that the compliance amendment is reviewed and approved by the Nation's Office of the Attorney General prior to execution.

16.2. PLAN MERGER OR CONSOLIDATION.

Subject to the restrictions noted in this Section, the Employer reserves the right to merge or consolidate this Plan with any other plan or to direct the Trustee to transfer the assets held in the Trust Fund and/or the liabilities of this Plan to any other plan or to accept a transfer of assets and liabilities from any other plan. In the event of the merger or consolidation of this Plan and the Trust Fund with any other plan, or a transfer of assets or liabilities to or from the Trust Fund to or from any other such plan, then each Participant shall be entitled to a benefit immediately after such merger, consolidation or transfer (determined as if the plan was then terminated) that is equal to or greater than the benefit he would have been entitled to receive immediately before such merger, consolidation or transfer (if this Plan had then terminated).

16.3. TERMINATION OF PLAN OR DISCONTINUANCE OF CONTRIBUTIONS.

(a) COMPLETE TERMINATION OR DISCONTINUANCE. It is the expectation of the Employer that this Plan and the payment of contributions hereunder will be continued indefinitely. However, continuance of the Plan is not assumed as a contractual obligation of the Employer, and the right is reserved at any time to terminate this Plan or to reduce, temporarily suspend or discontinue contributions hereunder. In the event the Council decides that it is impossible or inadvisable for the Employer to make its contributions as herein provided, the Council shall have the power to terminate this Plan or its contributions by appropriate resolution. A copy of such resolution or resolutions shall be delivered to the Trustee. In such event or in the event the Employer shall discontinue contributions without the delivery to the Trustee of such a resolution, then after the date specified in such resolution, or after the date of such discontinuance of contributions, the balance credited to the Employer Contributions Account of each Participant shall be fully vested and nonforfeitable.

(b) LIQUIDATION OF TRUST FUND. In the event of termination of the Plan or discontinuance of contributions, the Plan Administrator shall either promptly direct the Trustee to liquidate and distribute all assets remaining in the Trust Fund to Participants in accordance with Article XI as though their employment with the Employer had terminated or shall direct the Trustee to continue the Plan, in which event benefits shall be distributed at the times and in the manner specified in Article XI. Upon the liquidation of all assets of the Trust Fund, the Plan Administrator, after deducting all costs and expenses of liquidation and distribution, shall make the allocations required under Article VI where applicable. No distributions shall be made after termination of the Plan or discontinuance of Employer Contributions until a reasonable time after the Employer has received from the United States Treasury Department a determination under the provisions of the Code as to the effect of such termination or discontinuance upon the qualification of the Plan. In the event such determination is unfavorable, then prior to making any distributions hereunder, the Trustee shall pay any

Federal income taxes due because of the income of the Trust Fund and shall then distribute the balance in the manner above provided. The Employer may, by written notice delivered to the Trustee, waive the Employer's right hereunder to apply for such a determination, and if no application for determination shall have been made within sixty (60) days after the date specified in the terminating resolution or after the date of discontinuance of contributions, the Employer shall be deemed to have waived such right. All Plan assets shall be allocated in accordance with the terms of the Plan and no Employer Contributions shall be returned to the Employer except as set forth in Section 5.5 or as otherwise permitted by statute or Revenue Ruling 91-4.

(c) PARTIAL TERMINATION. If the Plan is terminated or contributions are discontinued with respect to a group or class of Participants, then after the date of partial termination or partial discontinuance of contributions, the balance credited to the Employer Contributions Accounts of all Participants affected by such partial termination or partial discontinuance of contributions shall become fully vested and nonforfeitable and the accounts of such Participants either shall be distributed or held pending the subsequent termination of employment of such Participants, as provided in paragraph (b) above.

16.4. LIMITATION OF EMPLOYER LIABILITY.

The adoption of this Plan is strictly a voluntary undertaking on the part of the Employer and shall not be deemed to constitute a contract between the Employer and any Employee or Participant or to be consideration for, an inducement to, or a condition of the employment of any Employee. A Participant, Employee, or Beneficiary shall not have any right to retirement or other benefits except to the extent provided herein.

ARTICLE XVII
GENERAL PROVISIONS

17.1. LIMITATION ON PARTICIPANT'S RIGHTS.

Participation in the Plan shall not give any Employee the right to be retained in the Employer's employ or any right or interest in the Trust Fund other than as herein provided. The Employer reserves the right to dismiss any Employee without any liability for any claim either against the Trust Fund, except to the extent herein provided, or against the Employer.

17.2. EXCLUSIVE BENEFIT.

Except as otherwise provided herein or in the Trust Agreement, it shall be impossible for any part of the Trust Fund to be used for or diverted to purposes other than for the exclusive benefit of Participants and their Beneficiaries, except that payment of taxes and administration expenses may be made from the Trust Fund as provided in the Trust Agreement.

17.3. UNIFORM ADMINISTRATION.

Whenever in the administration of the Plan any action is required by the Plan Administrator, such action shall be uniform in nature as applied to all persons similarly situated and no such action shall be taken which will discriminate in favor of Highly Compensated Employees.

17.4. HEIRS AND SUCCESSORS.

All of the provisions of this Plan shall be binding upon all persons who shall be entitled to any benefits hereunder, and their heirs and legal representatives.

17.5. ASSUMPTION OF QUALIFICATION.

Unless and until advised to the contrary, the Trustee may assume that the Plan is a qualified plan under the provisions of the Code relating to such plans, and that the Trust Fund is entitled to exemption from income tax under such provisions.

17.6. INSURANCE POLICIES.

No individual insurance policies shall be purchased with assets of the Trust Fund on the life of any Plan Participant.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Navajo Nation has adopted the Plan effective ~~October 01,~~ _____, 2020.

ATTEST:

BY: _____
Chairperson
Retirement Savings Plan Administration Committee

DATE: _____

BY: _____
Chairperson, Budget & Finance Committee

DATE: _____



NAVAJO NATION

401(k) SAVINGS PLAN

Original Effective Date: October 1, 1984
Restatement Effective Date: _____, 2021~~November 10, 2020~~

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NAVAJO NATION
401(k) SAVINGS PLAN

PREAMBLE

Effective October 1, 1984, the Navajo Nation, a federally recognized Indian tribal government (the "Employer") established a tax-qualified retirement plan for the benefit of its employees, known as the Navajo Nation Retirement Savings Plan. The Employer subsequently amended the Retirement Savings Plan on multiple occasions, including an amendment to add an Internal Revenue Code Section 401(k) cash or deferred arrangement and to change the name of the Retirement Savings Plan to the "Navajo Nation 401(k) Savings Plan" (the "Plan"). The Plan was amended and restated in its entirety effective as of March 1, 2008 pursuant to the enactment of Legislation No. 0043-08. The Plan was amended and restated again effective as of January 1, 2010 and subsequently amended on one occasion. On November 17, 2011, the Employer received a Compliance Statement on the Plan under the Internal Revenue Service's Employee Plans Compliance Resolution System. Effective January 1, 2016, the Employer amended and restated the Plan in order to incorporate the prior amendment, to make several design enhancements, to make certain administrative changes, and to prepare the document for an IRS determination letter application. By this instrument, the Employer intends to amend and restate the Plan effective as of the date of the resolution adopting this restatement.

The Plan is intended to constitute a governmental plan within the meaning of Section 414(d) of the Code and Section 3(32) of the Act. The Plan is further intended to constitute a tax qualified plan under the provisions of Section 401(a) of the Code to the extent such provisions are made applicable to governmental plans.

ARTICLE I
EFFECTIVE DATE

1.1. EFFECTIVE DATE.

The Plan originally was adopted effective as of October 1, 1984. Except as may otherwise be specifically provided with respect to particular provisions of the Plan, this amended and restated Plan shall be effective as of the date of the resolution adopting this restatement.

ARTICLE II
DEFINITIONS; CONSTRUCTION; GOVERNING LAW

2.1. DEFINITIONS.

When a word or phrase shall appear in this Plan with the initial letter capitalized, and the word or phrase does not commence a sentence, the word or phrase shall generally be a term defined in this Section 2.1. The following words and phrases utilized in the Plan with the initial letter capitalized shall have the meanings set forth in this Section 2.1, unless a clearly different meaning is required by the context in which the word or phrase is used:

(a) "ACCOUNT" or "ACCOUNTS" - An account or accounts established pursuant to Section 6.1 to which are credited the Pre-Tax, Catch-Up, Employer and Rollover

Contributions and Roth Elective Deferrals made by or attributable to a Participant, along with any net gains and losses on such contributions.

(b) "ACT" - The Employee Retirement Income Security Act of 1974, as it may be amended from time to time.

(c) "AFFILIATE" - Any political subdivision, enterprise, division or tribal organization of the Navajo Nation. In accordance with the Employer's reasonable and good faith interpretation of Section 906 of the PPA, it is the position of the Employer that neither the Nation nor any Affiliate belongs to a controlled group of corporations or group of entities subject to the aggregation requirements of Section 414 of the Code.

(d) "ANNUAL ADDITION" - The sum of the following amounts identified in subparagraphs (1) though (3) below, with the exception of any amounts identified in subparagraph (4) below, shall constitute the Annual Addition allocable to a Participant under this Plan or under any defined contribution plan or defined benefit plan maintained by the Employer or any Affiliate for a particular Plan Year:

(1) The Employer contributions allocable for a Plan Year to the accounts of the Participant, including any amount allocable from a suspense account maintained pursuant to such plan on account of a prior Plan Year; amounts deemed to be Employer contributions pursuant to a cash or deferred arrangement qualified under Section 401(k) of the Code (including the Pre-Tax Contributions and Roth Elective Deferrals allocable to a Participant pursuant to this Plan); and amounts allocated to a medical account which must be treated as annual additions pursuant to Section 415(c)(1) or Section 419A(d)(2) of the Code;

(2) All nondeductible Employee contributions allocable during a Plan Year to the accounts of the Participant; and

(3) Forfeitures allocable for a Plan Year to the accounts of the Participant.

(4) Allocations of any of the following amounts shall not be included in the calculation of the Annual Addition, as set forth in Treasury Regulations Section 1.415(c)-1(b); a direct transfer from a tax-qualified plan to this Plan on behalf of a Participant; the restoration of a Participant's accrued benefit or repayment of a cashout (Employer and Employee repayments); Catch-Up Contributions made in accordance with Section 414(v) of the Code; restorative payments made as a correction of a fiduciary breach or potential fiduciary liability; excess elective contributions distributed in accordance with Section 4.7(b); Rollover Contributions; and Participant loan repayments.

For purposes of this Section 2.1(d), Employer Contributions shall be considered Annual Additions for a particular Plan Year provided that such Contributions are actually deposited in the Trust no later than the 15th day of the tenth calendar month following the end of the Plan Year to which the Contributions relate. Nondeductible Employee contributions shall be considered Annual Additions for a particular Plan Year provided that such Contributions are actually deposited in the Trust no later than 30 days after the close of the Plan Year. Forfeiture allocations are treated as Annual Additions for the Plan Year which contains the date on which the forfeitures are allocated to Participant accounts. All other special allocations, such as corrective contributions, allocations to simplified employee pensions under Section 408(k) of the Code and Qualified Military Service contributions made in accordance with Section 414(u) of the

Code shall be taken into account in accordance with the timing rules of Treasury Regulation Section 1.415(c)-1(b)(6).

(e) "AUTHORIZED LEAVE OF ABSENCE" - A leave of absence granted by the Employer in writing in accordance with the applicable Navajo Nation Personnel Policies or a leave of absence for service as a member of the armed forces of the United States, provided that the Employee left the Employer directly to enter the armed services and returns to the employ of the Employer within the period during which his employment rights are protected by law.

(f) "AUTOMATIC EMPLOYEE CONTRIBUTIONS" - The elective deferral contributions made on behalf of Participants in accordance with the automatic enrollment feature of the Plan set forth in Section 4.1.

(g) "AUTOMATIC ENROLLMENT DATE" - The first day of the first payroll period which commences at least ninety (90) days after the Eligible Employee's date of hire or *date of rehire, as applicable, determined in accordance with the Employer's uniform and* nondiscriminatory payroll practices. For Eligible Employees who were hired prior to October 1, 2021, who are not contributing to the Plan, Automatic Enrollment Date shall mean the first day of the first payroll period on or after October 1, 2021.

(h) "BENEFICIARY" - The person or persons entitled to receive benefits under this Plan in the event of death of the Participant.

(i) "BENEFIT COMMENCEMENT DATE" - The first day on which all events (including the passing of the day on which benefit payments are scheduled to commence) have occurred which entitle the Participant to receive his first benefit payment from the Plan.

(j) "BREAK IN VESTING SERVICE" - A termination of employment with the Employer, followed by a one year period during which no services are performed for the Employer.

(k) "CATCH-UP CONTRIBUTIONS" - The elective deferral contributions directed by Participants on a pre-tax basis in accordance with Section 414(v) of the Code and Section 4.2(c) of the Plan. Catch-Up Contributions shall be treated as either Pre-Tax Contributions or Roth Elective Deferrals and shall be accounted for within the Pre-Tax Contributions Account or the Roth Elective Deferrals Account, as applicable.

(l) "CODE" - The Internal Revenue Code of 1986, as amended.

(m) "COMMITTEE" - The committee, titled the "Retirement Savings Plan Administration Committee," appointed by and delegated its authority from the Budget and Finance Committee of the Navajo Nation Council, to serve as Plan Administrator.

(n) "COMPENSATION" -

(1) General Rule. Subject to paragraphs (2) - (7) below, an Employee's Compensation for a Plan Year shall include all of the Employee's wages within the meaning of Section 3401(a) of the Code and all payments of compensation to the Employee by the Employer (in the course of the Employer's trade or business) for which the Employer is required to furnish the Employee a written statement under Sections 6041(d), 6051(a) (3) and

6502 of the Code, determined without regard to any rules under Section 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed.

(2) Pre-Tax Contributions. The term "Compensation" shall include any elective deferral as defined in Section 402(g)(3) of the Code, and any amounts which are contributed or deferred by the Employer at the election of the Employee and which are not currently includible in the Participant's gross taxable income by reason of the application of Sections 125 or 457 of the Code. For purposes of the definition of compensation, amounts excluded from taxable income under Code Section 125 include any amounts not available to a Participant in cash in lieu of group health coverage because the Participant is unable to certify that he has other health coverage. An amount will be treated as an amount under Code Section 125 only if the Employer does not request or collect information regarding the participant's other health coverage as part of the enrollment process for the health plan. Compensation paid or made available shall include elective amounts that are not includible in the gross income of the Employee by reason of Section 132(f)(4) of the Code.

(3) Post-Severance Payments. The term "Compensation" shall include post-severance regular pay (including regular wages, overtime, shift differential pay, commissions, bonuses and other similar pay); provided, however, that such post-severance regular pay is paid to the Employee by the Employer by the later of two and one-half (2 ½) months after the Employee's severance from employment or the end of the calendar year that include the Employee's date of severance from employment. All other types of post-severance payments including, but not limited to, payment for unused accrued leave and vacation, payments from nonqualified unfunded deferred compensation plans, and payments to any former employees or Participants who are permanently and totally disabled, shall not be treated as Compensation.

(4) Military Differential Pay. The term "Compensation" shall include any differential pay paid by the Employer to the Participant during a period of Qualified Military Service.

(5) Affiliates. If an Employee receives any payments from an Affiliate which would be treated as Compensation if paid by the Employer, such amounts shall be included in calculating the Employee's Compensation for purposes of Section 415 of the Code and the corresponding provisions of this Plan. Any amounts paid to an Employee by an Affiliate shall be disregarded for all other purposes under this Plan unless the Affiliate making the payment has elected to provide benefits to its employees pursuant to this Plan.

(6) Contributions and Allocations. For purposes of determining the amount of deferrals, contributions and allocations to be made pursuant to Articles IV, V and VI of the Plan, only Compensation paid by the Employer to an Employee during the Employee's period of participation in the Plan, including Qualified Military Service, shall be considered.

(7) Annual Compensation Limit. Notwithstanding any provision of the Plan to the contrary, the "Compensation" of each Employee taken into account under the Plan shall not exceed the "annual compensation limit". The "annual compensation limit" is Two Hundred Thousand Dollars ($200,000) as adjusted by the Internal Revenue Service for increases in the cost-of-living in accordance with Section 401(a)(17)(B) of the Code ($265,000 for the 2016 Plan Year). The cost-of-living adjustment in effect for a calendar year applies to any period, not exceeding twelve (12) months, over which Compensation is determined

(determination period) beginning in such calendar year. If a determination period consists of fewer than twelve (12) months, the "annual compensation limit" will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is twelve (12). Any reference in this Plan to the limitation under Section 401(a)(17) of the Code shall mean the annual compensation limit set forth in this provision. If Compensation for any prior determination period is taken into account in determining an Employee's benefits accruing in the current Plan Year, the Compensation for that prior determination period is subject to the annual compensation limit in effect for that prior determination period.

(o) "COUNCIL" - The Navajo Nation Council, the publically elected governing body of the Employer. Under Title Two, Section 372, et seq., of the Navajo Nation Code, the Council has assigned and delegated the Budget and Finance Committee, a statutory standing committee of the Navajo Nation Council, to act on its behalf with regard to the Plan.

(p) "DISABILITY" - A physical or mental condition of such severity and duration as to entitle the Participant to disability benefits under the Federal Social Security Act. "Disabled Participant" shall mean a Participant who has received a disability determination entitling him to receive disability benefits under the Federal Social Security Act.

(q) "EFFECTIVE DATE" - The date or dates set forth in Section 1.1.

(r) "ELIGIBLE EMPLOYEE" - Each regular status Employee, as determined pursuant to the applicable Navajo Nation Personnel Policies, shall be considered an Eligible Employee. Each of the following individuals also shall be considered an Eligible Employee: (i) the President and Vice President of the Nation; (ii) the members of the Council; (iii) individuals serving at the pleasure of the President, the Speaker of the Council, or the Council. Elected Chapter Officials (e.g., President, Vice-President, Secretary and Land Board Members) shall not be considered Eligible Employees.

(s) "EMPLOYEE" - Each person receiving remuneration, or who is entitled to remuneration, for services rendered to the Employer in the legal relationship of employer and employee and not in the relationship of an independent contractor, as determined in accordance with the applicable Navajo Nation Personnel Policies (or who would be receiving or be entitled to remuneration were such person not on an Authorized Leave of Absence).

(t) "EMPLOYEE CONTRIBUTIONS" - The Pre-Tax Contributions, Catch-Up Contributions and Roth Elective Deferrals made by Participants pursuant to Article IV.

(u) "EMPLOYER" - The Navajo Nation, a federally recognized Indian Tribe. The term "Employer" also shall refer to Participating Affiliates, unless the context clearly indicates otherwise.

(v) "EMPLOYER CONTRIBUTIONS" or "EMPLOYER MATCHING CONTRIBUTIONS"- The Employer Matching Contributions made pursuant to Section 5.1 in order to match a portion of the Participant's Pre-Tax Contributions and all other amounts contributed to the Trust Fund by the Employer for the benefit of the Participants in accordance with Article V.

(w) "EMPLOYER MATCHING CONTRIBUTIONS ACCOUNT" - The account established pursuant to Section 6.1 to which the Employer Matching Contributions are credited, and any net gains and losses on such contributions.

(x) "ENTRY DATE" - The first day of each payroll period, determined in accordance with the Employer's uniform and nondiscriminatory payroll practices.

(y) "HIGHLY COMPENSATED EMPLOYEE" - Each individual who is treated as a "Highly Compensated Employee" pursuant to Section 2.2 of this Plan and Section 414(q) of the Code.

(z) "INVESTMENT FUNDS" - The investment funds, if any, established pursuant to Section 8.2.

(aa) "NATION" - The Navajo Nation, a federally recognized Indian tribal government.

(bb) "NAVAJO NATION INVESTMENT COMMITTEE" - The committee, appointed and delegated by the Budget and Finance Committee of the Navajo Nation Council, pursuant to its authorities under Title Two, Section 372, et seq., of the Navajo Nation Code, to oversee the investments and investment policies of the Navajo Nation.

(cc) "NAVAJO NATION PERSONNEL POLICIES" - The duly adopted and enacted uniform and nondiscriminatory applicable personnel rules, policies, and procedures governing Navajo Nation government employees.

(dd) "NORMAL RETIREMENT AGE" - The date on which a Participant attains the age of sixty (60) years or, in the case of Commissioned Law Enforcement Officer Participants, the age of fifty-five (55) years.

(ee) "PARTICIPANT" - An Employee who has satisfied the eligibility requirements specified in Section 3.1. If so indicated by the context, the term Participant shall also include former Participants whose active participation in the Plan has terminated but who have not received distributions of all amounts to which they are entitled pursuant to the terms and provisions of this Plan. Whether former Participants are allowed to exercise an option or election extended to "Participants" will be determined by the Plan Administrator in the exercise of its discretion, but in making such determinations the Plan Administrator shall act in a uniform, nondiscriminatory manner.

(ff) "PARTICIPATING AFFILIATE" - Any Affiliate that participates in the Plan in accordance with Article XIV.

(gg) "PLAN" - The Navajo Nation 401(k) Savings Plan, as set forth in this instrument, and as it may hereafter be amended.

(hh) "PLAN ADMINISTRATOR" - The committee appointed to act as such pursuant to Section 13.1.

(ii) "PLAN YEAR" - A twelve (12) month period, commencing on each January 1 and ending on each following December 31. For purposes of Section 415 of the Code, the Plan Year shall be the "limitation year".

(jj) "PRE-TAX CONTRIBUTIONS" - The elective deferral contributions directed by Participants on a pre-tax basis in accordance with Section 401(k) of the Code and Section 4.2(a) of the Plan, including any Catch-Up Contributions made in accordance with Section 4.2(c).

(kk) "PRE-TAX CONTRIBUTIONS ACCOUNT" - An account established pursuant to Section 6.1 to which are credited the Pre-Tax Contributions directed by a Participant and any net gains and losses on such contributions.

(ll) "QUALIFIED DOMESTIC RELATIONS ORDER" - A domestic relations order meeting the requirements specified in Section 12.2.

(mm) "QUALIFIED MILITARY SERVICE" - Service in the uniformed services of the United States of America, as defined in Code Section 414(u)(5).

(nn) "QUALIFIED PARTICIPANT" – A Participant who represents, in accordance with procedures established by the Plan Administrator, that he:

Is diagnosed or has a spouse or dependent (within the meaning of Code Section 152) who is diagnosed with COVID-19 by a test approved by the Centers for Disease Control and Prevention; or

Experiences adverse financial consequences as a result of being quarantined, furloughed or laid off or having work hours reduced due to COVID-19, being unable to work due to lack of child care due to COVID-19, closing or reducing hours of a business owned or operated by such Participant due to COVID-19, or other factors as determined by the Secretary of the Treasury.

(oo) "ROLLOVER CONTRIBUTIONS" - The amounts transferred to the Trust Fund by Participants in accordance with Section 4.8.

(pp) "ROLLOVER CONTRIBUTIONS ACCOUNT" - A separate account established pursuant to Section 6.1 to which are credited the Rollover Contributions of a Participant.

(qq) "ROTH ELECTIVE DEFERRALS" - The elective deferral contributions directed by Participants which are designated as Roth Elective Deferrals in accordance with Section 402A of the Code and Section 4.3 of the Plan.

(rr) "ROTH ELECTIVE DEFERRALS ACCOUNT" - A separate account established pursuant to Section 6.1 to which are credited the Roth Elective Deferrals of a Participant.

(ss) "ROTH ROLLOVER CONTRIBUTIONS" - The amounts transferred to the Trust Fund by Participants from a designated Roth 401(k) account in accordance with Section 4.8.

(tt) "SPOUSE" - The wife of a male Participant or the husband of a female Participant, as determined under Laws of the Navajo Nation.

(uu) "TRUST AGREEMENT" - The agreement entered into between the Employer and the Trustees for the purpose of investing contributions hereunder.

(vv) "TRUST FUND" - The fund established by the Employer pursuant to the terms of the Trust Agreement to provide for the investment of contributions made pursuant to this Plan. The Trust Fund will be held, administered and distributed for the exclusive benefit of the Participants and their Beneficiaries.

(ww) "TRUSTEE" - The bank, trust company or other institution designated and approved to serve as such by the Committee. The Trustee shall acknowledge acceptance of its appointment by the execution of the Trust Agreement or, in the case of a successor Trustee, by the execution of an appropriate written instrument.

(xx) "VALUATION DATE" - The date for valuing the assets of the Trust Fund, which shall be each business day of the Plan Year.

(yy) "VESTING SERVICE" - An Eligible Employee's period of service with the Employer, measured on an elapsed time basis beginning on the Eligible Employee's first day of active employment, and expressed as years and fractional parts of a year on the basis that 365 days equal one year. Vesting Service is measured on a prospective basis, with one year of Vesting Service credited to an Eligible Employee as of the first day of active employment and anniversaries of that date. For purposes of calculating Vesting Service, the following periods shall be included as periods of service: Qualified Military Service, Authorized Leaves of Absence, periods of Disability, and any period following a termination from employment with the Employer which does not constitute a Break in Vesting Service. If an Employee has more than one period of vesting service as a result of an extended leave or a separation from employment, such periods of vesting service shall be aggregated in accordance with the uniform and nondiscriminatory rules of the Plan Administrator.

2.2. HIGHLY COMPENSATED EMPLOYEE.

(a) GENERAL. The term "Highly Compensated Employee" shall include all "highly compensated active employees" and all "highly compensated former employees."

(b) HIGHLY COMPENSATED ACTIVE EMPLOYEES. For purposes of this Plan, a "highly compensated active employee" is an Employee who performs services for the Employer or its Affiliates during the current Plan Year (the "determination year") and who:

(1) During the determination year, or during the proceeding Plan Year, is or was a "5% owner" as described in Section 416(I)(1) of the Code and applicable regulations thereunder; or

(2) For the preceding year, had Compensation from the Employer in excess of Eighty Thousand Dollars ($80,000), as adjusted from time to time by the Secretary of the Treasury for cost-of-living increases ($120,000 for the 2016 Plan Year).

(c) HIGHLY COMPENSATED FORMER EMPLOYEES. For purposes of this Section, the term "highly compensated former employee" is based on the rules applicable to determining Highly Compensated Employee status as in effect for that determination year in accordance with Section 1.414(q)-1T, A-4 of the temporary income tax regulations and Notice 97-45, as such may be updated, modified or amended from time to time.

2.3. CONSTRUCTION.

(a) GENERAL. The masculine gender, where appearing in the Plan, shall include the feminine gender (and vice versa), and the singular shall include the plural, unless the context clearly indicates to the contrary. The term "delivered to the Plan Administrator," as used in the Plan, shall include delivery to a person or persons designated by the Plan Administrator for the disbursement and receipt of administrative forms. Headings and subheadings are for the purpose of reference only and are not to be considered in the construction of this Plan. In the event of a conflict between this Plan document and the Trust Agreement, the provisions of this Plan document shall control.

(b) SAVINGS PROVISION. If any provision of this Plan is determined to be for any reason invalid or unenforceable, the remaining provisions shall continue in full force and effect.

2.4. GOVERNMENTAL PLAN.

This Plan is intended to constitute a governmental plan as defined in Section 414(d) of the Code and Section 3(32) of the Act. The Nation does not intend to waive any exemptions or relief provided to governmental plans under the Act or Code by its voluntary adoption of policies, procedures, or provisions otherwise not required by the Act or Code with respect to governmental plans. Rather, the Employer's voluntary adoption of any such policies, procedures, or provisions reflects its determination that such policies, procedures, or provisions are consistent with the Employer's desire to provide a secure source of retirement income for its Employees. It is also the intention of the Nation that the Plan as adopted by the Employer shall constitute a qualified plan under the provisions of Section 401(a) of the Code and that the Trust Fund maintained pursuant to the Trust Agreement shall be exempt from taxation pursuant to Section 501(a) of the Code. This Plan shall be construed in a manner consistent with the intentions of the Nation and the Employer.

2.5. GOVERNING LAW; JURISDICTION; SOVEREIGNTY.

(a) SOVEREIGNTY. This Plan is sponsored by the Navajo Nation, a federally recognized Indian tribal government, with recognized and inherent sovereign powers and immunity. To the extent that this Plan is treated as a separate "entity" of the Nation, it shall be treated as a subordinate entity of the Nation with all attributes of sovereignty. The adoption and operation of this Plan is not a waiver of sovereign immunity, and the sovereign immunity of the Nation and the Employer is expressly reserved as a bar to all actions, damages or relief not specifically and expressly permitted hereunder. Any waiver of the Nation's sovereign immunity may be made only by express Resolution of the Council. The Nation's exemptions and immunity, however, shall not extend to service providers for the Plan, which shall be held to full compliance standards and enforcement requirements as would be applicable if they were providing services to a private sector plan.

(b) GOVERNING LAW; JURISDICTION. All of the provisions of this Plan shall be construed and enforced according to the Laws of the Navajo Nation and shall be administered according to the laws of the Nation, except as otherwise required by the Code or other applicable federal law. No judicial review of participant claims under this Plan shall be permitted except as provided in the claims procedures set forth in Section 13.4. Any judicial review related to this Plan shall be within the exclusive jurisdiction of the Navajo Nation Courts.

2.6. PENSION PROTECTION ACT COMPLIANCE.

(a) GENERAL RULE. Effective January 1, 2007, the Plan became subject to the provisions of Section 906 of the Pension Protection Act of 2006 (the "PPA"), which requires that the coverage of governmental plans maintained by Indian tribal governments be limited to those employees who perform essential governmental functions which are not commercial in nature. Also effective as of January 1, 2007, the assets and liabilities attributable to Employees classified by the Employer as "commercial" were spun-off to other tax-qualified retirement plans. This Plan continued after the spin-off, and is maintained for the benefit of those Employees classified by the Employer as "governmental" Employees under the PPA. In accordance with the Internal Revenue Service's Notice 2006-89 and Notice 2007-67, the Tribe is operating the Plan in reasonable and good faith compliance with the PPA requirements pending receipt of final guidance.

(b) PLAN SPIN-OFFS. In accordance with the transition relief afforded to Indian tribal governments by the Internal Revenue Service under Notice 2006-89, the Nation shall spin-off the assets and liabilities of the Plan which are attributable to those Employees classified by the Employer as "commercial" Employees. Such assets and liabilities shall be spun-off to other tax-qualified retirement plans maintained by enterprises, divisions or tribal corporations of the Nation (the "recipient plans"). In accordance with Section 414(l) of the Code, the Nation shall take all reasonable steps to ensure that each Participant affected by a spin-off to a recipient plan shall have an account balance in the respective recipient plan which is equal to his account balance in the Plan immediately prior to the spin-off.

(c) CLASSIFICATION OF EMPLOYEES. In connection with its reasonable and good faith compliance with the PPA requirements, the Employer has determined that the Employees covered by this Plan are engaged in the performance of essential governmental functions which are not commercial in nature. The Employer shall classify an Employee as a "commercial" Employee if the Employer determines, in accordance with its reasonable and good faith interpretation of Section 906 of the PPA that the Employee dedicates substantially all of his employment to the performance of commercial activities for the Employer (regardless of whether the Employer is the Nation or a Tribal division, enterprise, authority, corporation or other entity). In making the determination as to whether employment functions are commercial in nature and pending guidance from the Internal Revenue Service and/or the Department of Labor, the Employer shall take into account the following factors:

(1) the historic functions performed by the Nation's government;

(2) the Nation's role as defined in its Constitution, Bylaws, Ordinances, Resolutions, Judicial decisions, customs and traditions;

(3) the functions carried on by other governmental employers, including the federal government, states, counties, cities and other local governments;

(4) the use of revenues generated by activities in question (whether inuring to the benefit of the Nation and the provision of public services, or whether inuring to private interests); and

(5) whether the employing entity or division is treated as a non- profit or for-profit entity for tax or other purposes.

The Employer expressly reserves the right to modify the classification of any and all employees pending publication of final guidance under Section 906 of the PPA. All Employees of the Employer who are not determined to be "commercial" Employees shall be deemed to be "governmental" Employees, eligible to participate in this Plan, in accordance with the terms and provisions of this Plan document. This Plan does not cover any employee groups classified by the IRS as "commercial" under IRS Notice 2006-89.

ARTICLE III
ELIGIBILITY AND PARTICIPATION

3.1. ELIGIBILITY AND PARTICIPATION.

(a) GENERAL RULE. Effective October 1, 2021, ~~E~~each Employee who is a Participant in the Plan as of September 30, 2021 ~~2019~~ shall continue to participate in the Plan, subject to the terms hereof. Each other Eligible Employee ~~employed by the Employer on or after October 1, 2019, and~~ who is not excluded pursuant to subparagraphs (b) or (c) shall be automatically enrolled in the Plan as of the applicable Automatic Enrollment Date pursuant to the terms of Section 3.2.

(b) NON-PARTICIPATING TRIBAL ENTERPRISES AND DIVISIONS. Effective January 1, 2007, Employees of any Tribal enterprise or division who dedicate substantially all of their employment to the performance of commercial activities for the Employer, as determined by the Employer in accordance with the Employer's reasonable and good faith interpretation of Section 906 of the PPA, shall not be eligible to participate in this Plan.

(c) UNION AND NON-RESIDENT ALIENS. If an Employee is included within a unit of employees covered by a collective bargaining agreement which was executed and adopted prior to the Effective Date of the restatement of this Plan and for which retirement benefits were the subject of good faith bargaining, he shall not be eligible to participate in this Plan, unless the collective bargaining agreement specifically provides to the contrary. Those Employees who are non-resident aliens (within the meaning of Section 7701(b)(1)(B) of the Code and who received no earned income (within the meaning of Section 911(d)(2) of the Code) from the Employer which constitutes income from sources within the United States (within the meaning of Section 861(a)(3) of the Code) are also not eligible to participate in this Plan.

3.2. AUTOMATIC ENROLLMENT.

(a) GENERAL RULE. Except as set forth in paragraph (b) below, each Eligible Employee shall be automatically enrolled in the Plan in accordance with the eligibility rules set forth in Section 3.1(a). An automatic enrollment in the Plan shall be deemed to be authorization of payroll deductions in the amount of the Automatic Employee Contributions called for in Section 4.1.

(b) EXCLUSIONS. The automatic enrollment feature set forth in paragraph (a) above shall not apply to the following groups of Employees who make contrary elections as follows:

(i) Employees who elect not to participate in the Employee Savings feature of the Plan or who elect to make Employee Contributions to the Plan in an amount that is less than the Automatic Employee Contributions ~~(a "contrary election")~~; and

(ii) Employees who elect to make Employee Contributions to the Plan in an amount greater than the Automatic Employee Contributions set forth in Section 4.1.

Any contrary election contemplated in this Section 3.2(b) must be made in the applicable election period prior to the Employee's Automatic Enrollment Date ~~prior to the later of the date on which the Employer commences operation of the automatic enrollment feature or the date on which an Employee is first eligible to participate in the Plan in accordance with Section 3.1~~, and must be made in accordance with the uniform and nondiscriminatory policies and procedures of the Plan Administrator.

(c) AUTOMATIC ESCALATION OF PRE-TAX CONTRIBUTIONS. Effective October 1, 2021, on an annual basis, Employer shall automatically increase the amount of Pre-Tax Contributions by an additional one percent (1%) of Compensation for each Participant provided at least six (6) months have elapsed since any Automatic Enrollment Date that applied to the Participant. The automatic escalation shall occur unless the Participant makes a contrary election during the applicable period in accordance with the uniform and nondiscriminatory policies and procedures of the Plan Administrator. A Participant's Pre-Tax Contribution shall not increase under this Section 3.2(c) after the Participant's Pre-Tax Contribution reaches the rate of six percent (6%) of Compensation.

(d) NOTICE TO ELIGIBLE EMPLOYEES. The Plan Administrator shall provide advance notice of the automatic enrollment features (including the automatic escalation feature) of the Plan, including the ability to make contrary elections, to each Eligible Employee. The notice provided to Eligible Employees shall explain all applicable timing and procedural requirements under the automatic enrollment feature. Such notice shall be prepared and distributed by the Plan Administrator, pursuant to its uniform and nondiscriminatory policies and procedures.

(e) ELECTION PROCEDURES/DEFAULT ELECTIONS. All Participants must enroll in the Plan in accordance with the Plan Administrator's uniform and nondiscriminatory procedures, to make appropriate investment directions and designate beneficiaries. If a Participant fails to provide a valid beneficiary designation, his designation shall be made in accordance with Section 11.9, and if a Participant fails to make a valid investment direction, his accounts shall be invested in the default Investment Fund designated by the Trustee until proper investment directions are received. If a Participant instruction cannot be given effect or implemented for a particular period because it is incomplete or untimely, it shall be given effect as soon as administratively feasible.

3.3. ADDITIONAL APPLICATION PROCEDURES.

(a) EMPLOYEE CONTRIBUTIONS. If an eligible Employee is not automatically enrolled in the Plan pursuant to Section 3.2, the eligible Employee must enter into

a contribution agreement with the Employer, in accordance with the uniform policies and procedures of the Plan Administrator, in order to participate in the Employee savings feature of this Plan (Pre-Tax Contributions and Roth Elective Deferral Contributions). Any such contribution agreement must specify the amount of the Participant's Pre-Tax Contributions and Roth Elective Deferral Contributions, if any, and authorize the reduction of his Compensation in an amount equal to his directed contributions. As set forth in Section 5.1, the Council has the discretion to declare Employer Matching Contributions payable with respect to Pre-Tax Contributions. If Employer Matching Contributions are declared by the Council, a Participant shall not be eligible to receive such Employer Matching Contributions unless the Participant is automatically enrolled in the Employee savings feature of the Plan or enters into a valid contribution agreement and Pre-Tax Contributions subject to matching are made on behalf of the Participant.

(b) INVESTMENT ELECTIONS AND BENEFICIARY DESIGNATIONS. Regardless of whether the Participant is automatically enrolled in the Plan, each Participant shall provide valid Plan investment directions and designate appropriate beneficiaries, all in accordance with the uniform policies and procedures of the Plan Administrator. If a Participant fails to provide a valid beneficiary designation, his designation shall be made in accordance with Section 11.9, and if a Participant fails to make a valid investment direction, his accounts shall be invested in accordance with the default investment provisions of the Employer's Investment Policy Statement until proper Participant investment directions are received.

(c) ELECTION PROCEDURES/DEFAULT ELECTIONS. All elections and designations called for by this Section 3.3 must be received by the Plan Administrator within such reasonable and uniformly-applied time periods as the Plan Administrator may prescribe for the receipt of elections and designation as a condition of giving effect to or implementing such instructions. If a Participant instruction cannot be given effect or implemented for a particular period, it shall be effective for the next succeeding period.

3.4. CREDITING OF SERVICE.

Except as otherwise noted below, all periods of employment with the Employer, Affiliates of the Employer, and the enterprises, operations and divisions of the Employer shall be taken into account under this Plan, including those completed prior to the adoption of the Plan.

3.5. EFFECT OF REHIRING.

If an Employee separates from employment with the Employer and is later rehired, his eligibility and years of Vesting Service shall be determined in accordance with this Section 3.5.

(a) ELIGIBILITY. If an Employee is rehired and satisfies the eligibility requirements of Section 3.1, the Employee shall be eligible to enroll in the Plan on the Entry Date following the date of rehire and the Employee shall be automatically enrolled in the Plan as of the Automatic Enrollment Date following his date of rehire.

(b) VESTING. If a Participant separates from employment and is rehired, his periods of Vesting Service shall be aggregated in accordance with the uniform and nondiscriminatory policies and procedures of the Plan Administrator. For a termination of employment occurring prior to October 1, 2000, a Participant would remain credited with the Vesting Service accrued prior to the termination only if he had at least three (3) years of Vesting Service at the time of the termination and the number of consecutive years elapsed between the

termination and rehire dates is less than the greater of five or the number of years of Vesting Service credited to the Participant prior to the termination from employment.

3.6. AUTHORIZED LEAVES OF ABSENCE.

An Authorized Leave of Absence granted by the Employer for which an Employee is not compensated shall be disregarded in determining whether the Employee has satisfied the eligibility requirements specified in Section 3.1. A Participant's participation in the Plan shall not be terminated while the Participant is on an Authorized Leave of Absence, subject to the contribution suspension rules of Section 4.6.

3.7. SPECIAL SERVICE CREDITING RULES FOR QUALIFIED MILITARY SERVICE.

Notwithstanding anything herein to the contrary, contributions, benefits and service credit with respect to Qualified Military Service shall be provided in accordance with Code Section 414(u).

3.8. TERMINATION OF PARTICIPATION.

A Participant's participation in the Plan, but not his right, if any, to payment of benefits, shall be terminated upon the Participant's separation from employment with the Employer or upon his transfer from an eligible class of Employees as provided in Section 3.9. A Participant's participation in the Plan shall not be terminated while he is on an Authorized Leave of Absence.

3.9. TRANSFERS TO AND FROM AN ELIGIBLE CLASS OF EMPLOYEES.

(a) TRANSFERS OUT OF PLAN. A Participant will automatically become ineligible to participate in the Plan as of the effective date of a change in his employment classification if as a result of the change he is no longer eligible to participate in the Plan. All sums credited to the former Participant's accounts will continue to be held pursuant to the terms of this Plan and will be distributed to the former Participant only upon his subsequent termination of employment or the occurrence of some other event permitting a distribution pursuant to the provisions of this Plan.

(b) TRANSFERS TO PLAN. If an Employee of the Employer is not eligible to participate in the Plan due to his employment classification, he shall be eligible to participate immediately upon becoming a member of an eligible class of Employees if he has satisfied the other requirements set forth in Section 3.1 and would have become eligible to be a Participant previously had he been in an eligible class.

(c) SERVICE CREDIT. In any event, an Employee's service in an ineligible employment classification shall be considered in calculating the Employee's Vesting Service for purposes of this Plan.

(d) TRANSFERS TO NON-PARTICIPATING AFFILIATES. If a Participant ceases to participate in the Plan solely as a result of his transfer to an Affiliate that has not elected to participate in this Plan, amounts credited to his accounts as of the date of his transfer shall be available for distribution in accordance with the terms of Article XI. A transfer to a non-participating Affiliate shall be presumed to be a bona fide separation from employment for

purposes of the Code Section 401(k) distribution requirements, absent final guidance to the contrary.

(e) TRANSFER BETWEEN TRIBAL ENTERPRISES. If a Participant transfers employment between the Nation and/or different Tribal enterprises which have elected to participate in the Plan, such Participant shall continue participating in the Plan as of the first payroll period (or as soon as reasonably practicable thereafter) commencing after the transfer; provided the new position is eligible for participation in the Plan. Contribution, Beneficiary designation, investment, and all other elections will remain in force after the transfer until they can be changed at the next regularly scheduled Plan Entry Date, as applicable.

3.10. LEASED EMPLOYEES.

A "leased employee" is any person (other than an employee of the Employer) who pursuant to an agreement between the Employer and any other person ("leasing organization") has performed services for the Employer (or for the Employer and related persons determined in accordance with Code Section 414(n)(6)) on a substantially full-time basis for a period of at least one year, and such services are performed under the Employer's primary direction or control. A "leased employee" shall be treated as an Employee of the Employer for purposes of the pension requirements of Section 414(n)(3) of the Code, unless "leased employees" constitute less than twenty percent (20%) of the Employer's non-highly compensated work force (within the meaning of Section 414(n)(5)(C)(ii) of the Code) and the "leased employee" is covered by a "Safe Harbor Plan" that satisfies the requirements of Section 414(n)(5)(B) of the Code (a money purchase pension plan with nonintegrated employer contributions of at least 10% of compensation, with full vesting, and immediate participation for leased employees). In any event, a "leased employee" who is deemed to be an Employee of the Employer pursuant to the preceding sentence shall be treated as if he is employed in an employment classification that has not been designated for participation in the Plan.

ARTICLE IV
EMPLOYEE SAVINGS FEATURE

4.1. AUTOMATIC EMPLOYEE CONTRIBUTIONS.

(a) AUTOMATIC CONTRIBUTIONS. All Eligible Employees who are enrolled in the Plan in accordance with Section 3.2 shall have Employee Contributions deducted from their current Compensation and contributed by the Employer to the Trust Fund on their behalf ("Automatic Employee Contributions"). Except as set forth in paragraph (b) below, the Employee Contributions made through the automatic enrollment feature of the Plan shall be Pre-Tax Contributions. Effective October 1, 202149, the Automatic Employee Contributions shall equal three percent (3%) ~~(2%)~~ of Compensation. Notwithstanding the foregoing, Automatic Employee Contributions to the Trust Fund may be made by a Participant only with respect to amounts which the Participant could otherwise elect to receive in cash and only with respect to amounts which are not currently available to the Participant at the time the Participant is automatically enrolled in the Plan.

(b) ROTH ELECTION AVAILABLE. Effective upon the implementation of the Roth Elective Deferral feature in the Plan in accordance with the provisions of Section 4.3, an Eligible Employee who is automatically enrolled in the Plan shall have the right to designate his Automatic Employee Contributions as Roth Elective Deferrals. Employer Matching Contributions will not be made with respect to Roth Elective Deferrals. A Participant who wishes to receive

Employer Matching Contributions, and also wishes to make Roth Elective Deferrals to the Plan must elect to make Pre-Tax Contributions equal to at least the percent of his Compensation that is prescribed in Section 5.1(b), and designate additional contributions as Roth Elective Deferrals.

(c) TRANSFER TO TRUSTEE. All Automatic Employee Contributions shall be forwarded to the Trustee or Investment Fund as soon as the Employer reasonably can segregate the contributions from its general assets.

4.2. PRE-TAX CONTRIBUTIONS.

(a) PRE-TAX CONTRIBUTION ELECTIONS. At any time following entry into the Plan, a Participant may elect to increase or decrease the amount of his Pre-Tax Contributions by making the appropriate Pre-Tax Contribution election. Similarly, a Participant who waives participation in the automatic enrollment feature of the Plan may begin making Pre- Tax Contributions to the Plan at any time, by making the appropriate Pre-Tax Contribution election. The Participant's Compensation shall then be reduced by an amount equal to the Pre- Tax Contributions directed by the Participant. Any Pre-Tax Contribution election typically will be given effect as of the first payroll period in the month following the month of the Participant's election. All Pre-Tax Contribution elections and changes shall be administered in accordance with the Plan Administrator's uniform and nondiscriminatory policies and procedures. Notwithstanding the foregoing, Pre-Tax Contributions to the Trust Fund may be directed by a Participant only with respect to amounts which the Participant could otherwise elect to receive in cash and only with respect to amounts which are not currently available to the Participant at the time the Participant makes his election to defer.

(b) SUSPENSION OF PRE-TAX CONTRIBUTIONS. At any time following entry into the Plan, a Participant may elect to suspend his Pre-Tax Contribution election. Any Pre-Tax Contribution suspension shall be completed in accordance with the uniform and non-discriminatory policies and procedures of the Plan Administrator and will be given effect as soon as reasonably practicable. A Participant who suspends Pre-Tax Contributions may make a new Pre-Tax Contribution election following a minimum suspension period of six (6) months. All Pre-Tax Contribution suspensions, and subsequent resumptions, shall be administered by the Plan Administrator in accordance with its uniform and nondiscriminatory policies and procedures.

(c) CATCH-UP CONTRIBUTIONS. All Participants who are eligible to make Pre-Tax Contributions under this Plan and who have attained age 50 before the end of the Participant's individual tax year shall be eligible to make Catch-Up Contributions in accordance with, and subject to the limitations of, Section 414(v) of the Code. The provisions of Code Section 414(v) permit annual additional contributions of up to Six Thousand Dollars ($6,000) for the 2016 Plan Year (as indexed for inflation).

(d) TRANSFER TO TRUSTEE. All Pre-Tax Contributions shall be forwarded to the Trustee or Investment Fund as soon as the Employer reasonably can segregate the contributions from its general assets.

4.3. ROTH ELECTIVE DEFERRALS.

(a) PRIOR EFFECTIVE DATE. The Employer previously amended the Plan to provide for Roth Elective Deferrals, and intended to implement this feature during the 2010 Plan Year. Due to payroll system difficulties, the implementation of the Roth Elective Deferrals

feature has been delayed. The Employer continues to work to develop the systems capability to accommodate Roth Elective Deferrals and intends to implement the Roth Elective Deferrals feature as soon as it is administratively feasible.

(b) GENERAL. Effective January 1, 2016 or as soon thereafter as the Plan Administrator determines that the necessary systems are in place and that the Employer is prepared to implement the provisions of this Section 4.3, a Participant may direct the Employer to treat all or a portion of the Participant's Pre-Tax Contributions as Roth Elective Deferrals. A Roth Elective Deferral may be made with regard to a Pre-Tax Contribution which would be excludable from the Participant's gross income absent the Roth Elective Deferral designation, and shall result in the Pre-Tax Contribution being included in the Participant's gross income in the taxable year of the designation. Roth Elective Deferral designations shall be made, on an irrevocable basis with regard to those particular Roth Elective Deferrals, at the time the Pre-Tax Contribution election is filed with the Plan Administrator. Roth Elective Deferral designations also shall be available with regard to Catch-Up Contributions and any other type of Pre-Tax Contribution available under this Plan (such as make-up contributions made in accordance with Section 4.4). The Roth Elective Deferral feature shall be administered in accordance with Section 402A of the Code and the Treasury Regulations promulgated thereunder. Notwithstanding the foregoing, Roth Elective Deferrals are not eligible for Employer Matching Contributions under this Plan. A Participant who wishes to receive Employer Matching Contributions and make Roth Elective Deferrals to the Plan must elect to make Pre-Tax Contributions equal to at least the percent of his Compensation that is prescribed in Section 5.1(b), and designate additional contributions as Roth Elective Deferrals.

(c) TRANSFER TO TRUSTEE. All Roth Elective Deferrals shall be forwarded to the Trustee or Investment Fund as soon as the Employer reasonably can segregate the contributions from its general assets.

(d) TAX TREATMENT OF DISTRIBUTIONS. The taxation of distributions and withdrawals of Roth Elective Deferrals shall be determined in accordance with Section 402A. Generally, a distribution or withdrawal from a Roth Elective Deferral Account will be excluded from gross income only if the distribution or withdrawal (i) is made at least five (5) taxable years after the Roth Elective Deferral was designated and made to the Plan (or in the case of a Rollover Contribution, at least five (5) taxable years after the Roth Elective Deferral was initially designated and made); and (ii) is made on or after the date the Participant attains age 59 ½, is made upon the death of the Participant, is attributable to the Participant's Disability, or is a qualified special purpose distribution as defined in Code Section 72(t)(2)(F).

4.4. SPECIAL CONTRIBUTION RULES FOR QUALIFIED MILITARY SERVICE.

(a) GENERAL. Notwithstanding anything herein to the contrary, Participants who leave employment for Qualified Military Service and who are reemployed pursuant to the requirements of Code Section 414(u), shall be permitted to make special make up Employee Contributions to the Plan in an amount up to the "maximum make up amount;" provided that any such contributions are made within the shorter of the two (2) following periods:

(1) the period beginning on the Participant's date of reemployment and ending on the date which is three (3) times the period of the Qualified Military Service; or

(2) the period beginning on the Participant's date of reemployment and ending on the fifth year anniversary of such date.

(b) SPECIAL DEFINITIONS. For purposes of this Section 4.4 only, the specified terms shall have the following meanings:

(1) "Compensation" for this purpose shall mean the Compensation the Participant would have received during his period of Qualified Military Service had he remained employed by the Employer during that period, based on the rate of pay the Participant would have received but for absence during the period of Qualified Military Service; provided, however, that if the compensation the Participant would have received during such period was not reasonably certain, compensation for purposes of this Section shall mean the Participant's average Compensation during the twelve (12) month period immediately preceding the Qualified Military Service (or, if shorter, the period of employment immediately preceding the Qualified Military Service).

(2) "Maximum make up amount" shall be calculated by taking into account the maximum amount of elective deferrals that the Participant would have been permitted to make under the Plan's normal contribution rules and limitations as set forth herein, for the period of Qualified Military Service as if the Participant had continued to be employed by the Employer during such period and received compensation as described herein. No such contributions may exceed the amount the individual would have been permitted or required to contribute had the individual remained continuously employed by the Employer during the period of Qualified Military Service.

4.5. DESIGNATION OF AND CHANGE OF DESIGNATION OF EMPLOYEE CONTRIBUTIONS.

All Employee Contribution designations, changes in the amount of Employee Contributions and waivers of participation in the automatic enrollment feature shall be made in a manner designated by the Plan Administrator. An initial contribution designation received by the Plan Administrator shall be given effect as soon as administratively feasible, in accordance with uniform rules prescribed by the Plan Administrator. As a general rule, any change in a contribution designation received by the Plan Administrator shall be given effect as of the next Plan Entry Date, in accordance with uniform rules prescribed by the Plan Administrator. If a change request is not submitted with sufficient advance notice or otherwise cannot be implemented as of the next Plan Entry Date, it shall become effective as of the next succeeding Plan Entry Date thereafter. A contribution designation shall be effective until it is succeeded by another valid contribution designation or until the Participant's right to make Employee Contributions is otherwise suspended or terminated.

4.6. SUSPENSION OF EMPLOYEE CONTRIBUTIONS.

A Participant may suspend his Employee Contributions at any time, in accordance with the uniform policies and procedures of the Plan Administrator. A Participant's request to suspend his Employee Contributions which is received by the Plan Administrator shall be given effect as soon as administratively feasible, as determined in accordance with uniform rules prescribed by the Plan Administrator. A Participant may resume making Employee Contributions as of any subsequent Plan Entry Date, in accordance with the uniform rules and procedures prescribed by the Plan Administrator. For purposes of this Section 4.6, a change in the designation of Employee Contributions as either Pre-Tax Contributions or Roth Elective Deferrals shall not be considered a suspension of Employee Contributions. While a Participant is on an unpaid Authorized Leave of Absence, he shall be deemed to have suspended his Employee Contributions and may recommence such contributions following his return to active employment as of the beginning of any payroll period by filing appropriate forms with the Plan

Administrator. A Participant shall not be entitled to "make up" suspended contributions.

4.7. ELECTIVE DEFERRALS - CODE SECTION 402(g) DOLLAR LIMITATION.

(a) DOLLAR LIMITATION. Elective deferral contributions for a Participant in any calendar year may not exceed the limitation set forth in Code Section 402(g), as adjusted ($18,000 for the 2016 Plan Year). This limitation applies in the aggregate to the Participant's "elective contributions" under all plans. For this purpose, the term "elective contributions" includes Pre-Tax Contributions and Roth Elective Deferrals, the Participant's elective deferrals to any other qualified cash or deferred arrangement (as defined in Section 401(k) of the Code), any elective employer contributions to a simplified employee pension plan that are not included in the Participant's gross income due to Section 402(h)(1)(B) of the Code and any employer contribution used to purchase an annuity contract under Section 403(b) of the Code pursuant to a salary reduction arrangement (within the meaning of Section 3121(a)(5)(D) of the Code). "Elective contributions" for this purpose do not include Catch-Up Contributions made pursuant to Section 414(v) of the Code and Section 4.2(c) of the Plan.

(b) CORRECTIONS. In the event that the Participant's elective deferrals to all such programs during any calendar year exceed the limitation for that calendar year, the Participant may, by March 1 of the calendar year following the calendar year for which the excess deferrals were made, so advise the Plan Administrator and request the return of all or a portion of the excess deferrals made to this Plan. A Plan Participant shall automatically be deemed to have so advised the Plan Administrator and to have requested the return of any excess deferrals that arise solely by taking into account the Participant's Pre-Tax Contributions and Roth Elective Deferrals to this Plan or any other plans sponsored by the Employer. The excess deferrals and appropriate earnings thereon may then be returned to the Participant by the next following April 15. The earnings distributable with regard to any excess contributions determined pursuant to this Section 4.7(b) shall not include the income or loss allocable to such excess contributions for the period beginning on the last day of the taxable year and ending on the date of the corrective distribution. Excess elective deferrals shall be treated as Annual Additions pursuant to this Plan, unless such amounts are distributed no later than the next following April 15. If a Participant makes Roth Elective Deferrals to this Plan during a calendar year and the Plan Administrator determines that such Participant has accumulated excess contributions during such calendar year, the excess contributions returned to the Participant shall be deemed to be Roth Elective Deferrals to the extent such excess contributions equal or exceed the Roth Elective Deferrals made during the calendar year.

(c) ADJUSTMENT OF MATCHING CONTRIBUTIONS. In the event that a distribution of excess elective deferral contributions is made pursuant to paragraph (b), the Employer Matching Contributions Account, if any, will be adjusted by the amount of any Employer Matching Contribution attributable to such excess elective deferral contributions (the "excess matching contribution") plus the income allocable to any such excess matching contribution. The income allocable to the excess matching contribution shall be determined by the Plan Administrator in accordance with any method permitted under Treasury Regulation Sections 1.401(m)-1(e)(3) or 1.401(k)-1(f)(4) as applicable. Any such excess employer matching contributions (and earnings allocable thereto) will be forfeited and reallocated pursuant to the uniform and nondiscriminatory policies and procedures of the Plan Administrator.

4.8. ROLLOVER CONTRIBUTIONS.

(a) GENERAL. Any Employee who has received a distribution from a profit sharing plan, stock bonus plan or pension plan intended to "qualify" under Section 401 of the

Code may transfer such distribution to the Trust Fund if such contribution to the Trust Fund would constitute, in the sole and absolute discretion of the Plan Administrator, a "rollover contribution" within the meaning of the applicable provisions of the Code. Additionally, an Employee may request that the Plan Administrator direct the Trustee to accept a rollover contribution (by means of a direct rollover or an indirect rollover) of a distribution from (1) a qualified plan described in section 401(a) or 403(a) of the Code; (2) an annuity contract described in section 403(b) of the Code; or (3) an eligible plan under section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state. Notwithstanding the foregoing, no Rollover Contribution to the Plan shall consist of or include after-tax employee contributions. Effective January 1, 2016 or, if later, the effective date of the implementation of the Roth Elective Deferral feature of the Plan, a Participant may request that the Plan Administrator direct the Trustee to accept a rollover contribution (by means of a direct rollover only) from a Roth elective deferral account described in Code Section 402A(e)(1) and only to the extent the rollover is permitted under the rules of Code Section 402(c). Additionally, a Participant may request that the Plan Administrator direct the Trustee to accept a transfer from the trustee of another qualified plan. The Plan Administrator may, in its sole discretion, decline to accept a rollover contribution or a transfer. Upon receipt of such approval from the Plan Administrator, the Trustee shall accept such transfer. For purposes of this Plan, both a "rollover contribution" within the meaning of the applicable provisions of the Code and a transfer initiated by the Employee from another plan shall be referred to as a "Rollover Contribution." If the Plan Administrator decides to grant a Employee's request to make a Rollover Contribution, the Employee may contribute to the Trust Fund cash to the extent of such distribution.

(b) PROHIBITION OF TRANSFERS FROM CERTAIN PLANS. The Plan Administrator may decline to accept direct transfers to this Plan (as distinguished from a "rollover contribution" within the meaning of the Code) if the plan from which the transfer is to be made is or was subject to the joint and survivor annuity and pre-retirement survivor requirements of Section 417 of the Code by reason of Section 401(a)(11) of the Code.

ARTICLE V
EMPLOYER CONTRIBUTION FEATURE

5.1. EMPLOYER MATCHING CONTRIBUTIONS.

(a) GENERAL RULE. The Employer shall make Employer Matching Contributions to the Plan on behalf of each Participant who makes Pre-Tax Contributions to the Plan (including Automatic Enrollment Contributions) pursuant to Article IV.

(b) CURRENT CONTRIBUTION RATE. As of the Effective Date of this Plan restatement, Employer Matching Contributions shall be paid to the Plan at the rate of fifty percent (50%), on the Participant's Pre-Tax Contributions of up to six percent (6%) of Compensation. Roth Elective Deferrals are not eligible for Employer Matching Contributions. The Employer may modify, reduce or eliminate Employer Matching Contributions at any time on a prospective basis by appropriate action of the Council.

5.2. CORRECTIVE CONTRIBUTIONS.

(a) TRUE UP. In the event that the Plan Administrator determines a Participant did not receive the appropriate Employer Matching Contribution, if any, for the Plan Year based on the current Employer Matching Contribution formula, the Plan Administrator shall cause the Employer to make a true up Employer Matching Contribution on behalf of any

affected Participant, which shall be allocated in accordance with the uniform and nondiscriminatory policies of the Plan Administrator.

(b) CORRECTIVE CONTRIBUTIONS. Notwithstanding anything herein to the contrary, but subject to all applicable limitations of the Code, the Employer may make additional contributions to the Plan as needed to correct any errors in administration which may occur from time to time. Such corrective contributions shall be limited to the extent necessary (including earnings as applicable) to place affected Participants in the position they would have been in but for such error or errors, and shall be allocated to the account or accounts in which the error was made, subject to all rules and procedures otherwise applicable to such accounts.

5.3. SPECIAL CONTRIBUTIONS FOR QUALIFIED MILITARY SERVICE.

Notwithstanding anything herein to the contrary, contributions, benefits and service credit with respect to Qualified Military Service shall be provided in accordance with Section 414(u) of the Code. In this regard, the Employer shall contribute Employer Matching Contributions to the Plan on behalf of a Participant who makes up Pre-Tax Contributions in accordance with Section 4.4. The amount of the Employer Matching Contributions shall be equal to the amount of Employer Matching Contributions which would have been due under this Plan had the Pre-Tax Contributions been made during the period of Qualified Military Service, if any. The foregoing shall not be construed to expand the Employer's contribution obligations beyond those required in order to comply with Section 414(u) of the Code.

5.4. TIME OF PAYMENT.

Employer Matching Contributions, if any, shall be paid as of the last day of the Plan Year for which they are declared, or as of such earlier date as the Employer may determine, in its discretion. In no event shall Employer Matching Contributions, if any, be paid later than the date by which the federal information return for the Plan (Form 5500) would be filed, including any extensions of such date, if the Employer was required to file such return.

5.5. CONDITIONAL NATURE OF CONTRIBUTIONS.

(a) MISTAKE OF FACT. Any contribution made to the Trust Fund by the Employer because of a mistake of fact shall be returned to the Employer upon its request within one (1) year of the date of the contribution.

(b) LIMITATIONS ON AMOUNTS RETURNED. Notwithstanding anything herein to the contrary, the maximum amount that may be returned to the Employer pursuant to paragraph (a) above is limited to the portion of such contribution attributable to the mistake of fact or the portion of such contribution deemed non-deductible (the "excess contribution"). Earnings attributable to the excess contribution will not be returned to the Employer, but losses attributable thereto will reduce the amount so returned. In no case shall withdrawal of any excess contribution pursuant to paragraph (a) above reduce the balance of the Participant's account to less than the balance would have been had the excess contribution not been made. No return of contributions shall be processed pursuant to this Section 5.5 except to the extent allowed by statute or in accordance with the provisions of Revenue Ruling 91-4.

ARTICLE VI
ACCOUNTING

6.1. SEPARATE ACCOUNTS.

A separate Pre-Tax Contributions Account, Roth Elective Deferrals Account, Rollover Contributions Account, Roth Rollover Contributions Account and Employer Matching Contributions Account, as appropriate, will be maintained for each Participant in the Plan. Each such account shall be adjusted as hereinafter provided to reflect any withdrawals and distributions and the appreciation or depreciation in the value of the assets of the Trust Fund. The establishment and maintenance of separate accounts shall not be construed as giving any person any interest in any specific asset of the Trust Fund which, for investment purposes, shall be administered as a single fund unless and until otherwise directed by the Plan Administrator or otherwise provided herein.

6.2. ALLOCATION OF CONTRIBUTIONS AND FORFEITURES.

(a) PRE-TAX AND CATCH-UP CONTRIBUTIONS. The Pre-Tax Contributions and Catch-Up Contributions of a Participant, if any, will be allocated to his Pre- Tax Contributions Account and Catch-Up Contributions Account, respectively, at the rate elected by the Participant pursuant to Article IV. The allocation of Pre-Tax Contributions and Catch-Up Contributions shall be made as of a uniform date selected by the Plan Administrator, which shall not be later than the last day of the month following the month in which the contribution payroll period ends.

(b) ROTH ELECTIVE DEFERRALS. The Roth Elective Deferrals of a Participant, if any, will be allocated to his Roth Elective Deferrals Account, at the rate elected by the Participant pursuant to Article IV. The allocation of Roth Elective Deferrals shall be made as of a uniform date selected by the Plan Administrator, which shall not be later than the last day of the month following the month in which the contribution payroll period ends. No contributions other than Roth Elective Deferrals and properly attributable investment earnings shall be credited to a Participant's Roth Elective Deferrals Account under the Plan.

(c) EMPLOYER MATCHING CONTRIBUTIONS. The Employer Matching Contributions made on behalf of a Participant for a Plan Year shall be allocated to his Employer Matching Contributions Account as of a uniform date selected by the Plan Administrator, which date shall be not later than the year-end Valuation Date. Employer Matching Contributions shall be allocated in accordance with the Matching Contribution formula adopted by the Employer.

(d) ROLLOVER CONTRIBUTIONS. The Rollover Contributions of a Participant shall be credited to his Rollover Contributions Account.

(e) ROTH ROLLOVER CONTRIBUTIONS. The Roth Rollover Contributions of an Employee shall be credited to his Roth Rollover Contributions Account.

(f) DISTRIBUTIONS AND WITHDRAWALS. All distributions and withdrawals made on behalf of or by a Participant shall be deducted from the Participant's Account from which the distribution or withdrawal, as of a uniform date selected by the Plan Administrator.

(g) FORFEITURES. The Plan Administrator shall have the sole discretion to apply and apportion forfeitures to reduce the Employer's contribution obligations hereunder, and/or to pay Plan expenses not otherwise paid by the Employer or allocated to the Plan's

investment fee credit account or Participant accounts in accordance with paragraph (g). In no event shall the Employer or the Plan Administrator cause forfeitures to be allocated to any Roth Elective Deferrals Accounts, through amendment, administrative procedure or otherwise.

(h) INVESTMENT GAINS AND LOSSES; OTHER CREDITS AND CHARGES. The investment gains and losses, as well as other credits and charges, allocable to a Participant's Account shall be apportioned among the various Accounts maintained on behalf of the Participant, on a reasonable and consistent basis.

(i) PLAN EXPENSES. All Plan expenses paid out of the Plan pursuant to Section 13.5 will be allocated in accordance with the uniform and nondiscriminatory policies of the Plan Administrator. Plan expenses paid out of the Plan may be allocated to the Plan's investment fee credit account or to the Plan's forfeiture suspense account, in the sole discretion of the Plan Administrator. The Plan Administrator may determine, in its discretion, to allocate Plan expenses to all current and former Participants of the Plan, to a particular class of Participants (such as former Participants), or to charge the account of a particular affected Participant; provided, however, that such allocations are reasonable and that any allocation to former Participants does not impose a significant detriment on the former Participant's right to leave his account balance in the Plan. All expenses which are allocated among Participant accounts shall be allocated as of the last day of the Plan Year during which such expenses were paid and shall be allocated either on an pro rata or per capita basis, as determined by the Plan Administrator in its discretion. No expenses shall be allocated to a Participant if the Participant's Accounts are valued at zero following the application of Section 6.2 above.

6.3. VALUATION AND ACCOUNT ADJUSTMENTS.

(a) GENERAL ALLOCATION RULE. The assets of each Investment Fund will be valued as of each Valuation Date in accordance with the standard procedures established and maintained by the manager of the appropriate Investment Fund.

(b) FORMER PARTICIPANTS. For purposes of this Section 6.3, any individual who has an account balance in the Plan (including current Plan Participants, former Participants who have not yet received all amounts to which they are entitled, surviving Spouses of deceased Participants and Beneficiaries) shall be considered to be a "Participant."

(c) INVESTMENT DIRECTIONS. Notwithstanding anything to the contrary in this Section 6.3, if a Participant's accounts or any portion thereof are subject to directed investment pursuant to Section 8.3, amounts subject to directed investment shall be adjusted separately to reflect gains or losses attributable strictly to such directed investments.

6.4. LIMITATIONS ON ANNUAL ADDITIONS.

(a) GENERAL RULE. Notwithstanding anything in this Plan to the contrary, the Annual Addition to be allocated to the accounts of a Participant for any Plan Year shall not exceed an amount equal to the lesser of (1) Forty Thousand Dollars ($40,000), as adjusted for increases in the cost-of-living under Section 415(d) of the Code ($53,000 for the 2016 Plan Year), or (2) 100 percent of the Participant's Compensation, within the meaning of Section 415(c)(3) of the Code, for the limitation year.

(b) MULTIPLE DEFINED CONTRIBUTION PLANS. The limitations of this Section with respect to any Participant who is at any time participating in any other "defined contribution plan," as defined in Section 414(i) of the Code, maintained by the Employer or an

Affiliate shall apply as if the total Annual Additions under all defined contribution plans in which the Participant is participating were allocated under this Plan.

(c) ADJUSTING ANNUAL ADDITIONS. If the limitations of paragraph (a) are exceeded, adjustments shall first be made to the annual additions under any other defined contribution plan of the Employer, if permitted by such plan. If further adjustments are required to satisfy the requirements of paragraph (a), the annual additions shall be adjusted in accordance with the rules for adjusting excess amounts under the Internal Revenue Service's then current version of the Employee Plans Compliance Resolutions System.

(d) TREATMENT OF AFFILIATES. For purposes of this Section 6.4, the Employer and all of its Affiliates shall be treated as a single entity and any plans maintained by an Affiliate shall be deemed to be maintained by the Employer.

(e) CODE AND TREASURY REGULATIONS. The limitations of Section 415 of the Code and the Treasury Regulations promulgated thereunder are incorporated into the terms of the Plan by this reference and the Plan shall be operated in compliance with such limitations. The provisions of Section 415 of the Code and the related Treasury Regulations shall control in the event of any conflict with Section 2.1(d) of the Plan (definition of "Annual Addition"), this Section 6.4 or any other terms of this Plan document.

ARTICLE VII
VESTING

7.1. FULL VESTING.

(a) VESTING IN PRE-TAX, ROTH AND ROLLOVER ACCOUNTS. Each Participant shall at all times be fully vested in all amounts credited to or allocable to his Pre-Tax Contributions Accounts, his Roth Elective Deferrals Account, his Rollover Contributions Account and his Roth Rollover Contributions Account, if any, and his rights and interest therein shall not be forfeitable for any reason.

(b) VESTING IN THE EMPLOYER CONTRIBUTIONS ACCOUNTS. Each Participant shall be fully vested in the amounts credited to or allocable to his Employer Contributions Accounts on and after the first to occur of the following events:

(1) Attainment by the Participant of his Normal Retirement Age;

(2) The date of separation from employment due to Disability, as determined by the Plan Administrator;

(3) The date of death of the Participant;

(4) Termination of the Plan;

(5) Complete discontinuance of Employer Contributions; or

(6) The completion of three (3) years of Vesting Service.

7.2. DETERMINATION OF VESTED INTEREST IN EMPLOYER CONTRIBUTIONS ACCOUNTS IN THE EVENT OF SEPARATION FROM EMPLOYMENT.

(a) VESTING SCHEDULE FOR EMPLOYER CONTRIBUTIONS ACCOUNTS. If a Participant separates from employment with the Employer at a time when the Participant is not fully vested in the amounts credited to or allocable to his Employer Contributions Accounts, the Participant's vested interest in his Employer Contributions Accounts shall be determined in accordance with the schedule set forth below.

Years of Vesting Service	Vested Percentage of Employer Contributions Account
Less than three	0%
Three or more	100%

Participants who separated from employment with the Employer prior to January 1, 2001 were subject to a four (4) year cliff vesting schedule.

(b) TIME OF DETERMINATION. A Participant's vested interest shall be determined as of the date on which the Participant's employment terminates. If a Participant is less than 100% vested in his Employer Contributions Account when his employment terminates, any non-vested amounts credited to his Employer Contributions Account shall be immediately forfeited as of the date of termination. Notwithstanding the foregoing, if the Participant has no vested interest in the Plan as of the date of termination of employment (including Pre-Tax Contributions, Catch-Up Contributions, Roth Elective Deferrals and Rollover Contributions), the Participant shall be deemed to have received a distribution from the Plan on the date of termination and any nonvested amounts allocated to the Participant's Employer Contributions Account shall be subject to immediate forfeiture.

7.3. SPECIAL VESTING RULE FOR DEATH DURING QUALIFIED MILITARY SERVICE.

In accordance with Code Section 401(a)(37), any Participant who dies while performing Qualified Military Service shall be treated as if he died while actively employed by the Employer for purposes of determining his vested interest under the Plan. In the event a vesting schedule is implemented under this Plan, the provisions of this Section 7.3 shall supercede any other vesting provisions of the Plan.

7.4. AMENDMENTS TO VESTING SCHEDULE.

No amendments to or other changes in the vesting schedules set forth in this Article VII shall deprive an Employee who is a Participant on the later of (a) the date the amendment is adopted or (b) the date the amendment is effective of any nonforfeitable benefit to which he is entitled under the Plan (determined as of such date) without regard to such amendment.

ARTICLE VIII
PARTICIPANT DIRECTED INDIVIDUAL ACCOUNTS

8.1. PARTICIPANT DIRECTED INDIVIDUAL ACCOUNT PLAN.

This Plan is intended to constitute a participant directed individual account plan. As such, Participants shall be provided the opportunity to exercise control over some or all of the assets in their accounts under the Plan and to choose from a broad range of investment alternatives.

8.2. AVAILABILITY OF INVESTMENT ALTERNATIVES.

The Plan Administrator, pursuant to uniform and nondiscriminatory rules, shall establish three (3) or more Investment Funds in accordance with the terms and provisions of this Article VIII. Such Investment Funds shall be approved by the Navajo Nation Investment Committee. In establishing Investment Funds, the Plan Administrator and the Navajo Nation Investment Committee shall select investment alternatives which provide each Participant with a broad range of investment alternatives.

8.3. EXERCISE OF CONTROL.

(a) INVESTMENT DIRECTION. Each Participant may direct that all of the amounts attributable to his accounts or to an account shall be invested in a single Investment

Fund or may direct fractional (percentage) increments of his accounts to be invested in such fund or funds as he shall desire in accordance with uniform procedures promulgated by the Plan Administrator. Each Participant, in accordance with such rules, may change his investment directions to provide for the investment of existing account balances or future contributions among the various Investment Funds in such increments, or all to any one (1) of them, as the Participant shall elect. The Plan Administrator shall provide Participants the opportunity to receive confirmation of any such investment direction. The Trustee and Plan Administrator shall be obligated to comply with such instruction except as provided in paragraph (d) below. The Plan Administrator shall promulgate uniform and nondiscriminatory rules constituting the investment direction policy under the Plan which shall be communicated to Participants regarding:

(1) The frequency of change of investment direction of current account balances among Investment Funds;

(2) The frequency of change of investment direction of future contributions among Investment Funds;

(3) The effective dates of instructions regarding investment directions and changes of investment directions;

(4) The fractional (percentage) limitations, if any, in which current account balances may be invested and/or transferred between Investment Funds;

(5) The fractional (percentage) limitations, if any, in which future contributions are to be invested between Investment Funds; and

(6) The periods within which direction must be given if it is to be effective for a particular period.

Procedures with regard to any one (1) or more Investment Funds may vary to reflect the variable or contrasting characteristics of a particular investment alternative, provided that Participants are given the opportunity to give investment instructions with respect to each investment alternative available under the Plan with a frequency which is appropriate in light of the market volatility to which the investment alternative may reasonably be expected to be subject.

(b) REQUIRED INFORMATION. The Plan Administrator shall provide each Participant with the opportunity to obtain sufficient information to make informed decisions with regard to investment alternatives available under the Plan, and incidents of ownership appurtenant to such investments. Neither the Employer, Plan Administrator, Trustee, or any other individual associated with the Employer shall give investment advice to Participants with respect to Plan investments. The providing of information pursuant to this Article VIII shall not in any way be deemed to be the providing of investment advice, and shall in no way obligate the Employer, Plan Administrator, Trustee or any other individual associated with the Employer to provide any investment advice.

(c) TRANSACTION COSTS. The Plan Administrator, pursuant to uniform and nondiscriminatory rules, may charge each Participant's accounts for the reasonable expenses of carrying out investment instructions directly related to such account, provided that each Participant is periodically (not less than quarterly) informed of such actual expenses incurred with respect to his respective accounts.

(d) IMPERMISSIBLE INVESTMENT INSTRUCTION. The Plan Administrator shall decline to implement any Participant instructions if: (a) the instruction is inconsistent with any provisions of the Plan or Trust Agreement; (b) the instruction is inconsistent with any investment direction policies adopted by the Plan Administrator from time to time; (c) implementing the instruction would result in a prohibited transaction under applicable provisions of the Code; (d) implementing the instruction would result in taxable income to the Plan; (e) implementing the instruction would jeopardize the Plan's tax qualified status; or (f) implementing the instruction could result in a loss in excess of a Participant's account balance. The Plan Administrator, pursuant to uniform and nondiscriminatory rules, may promulgate additional limitations on investment instruction from time to time.

(e) INDEPENDENT EXERCISE. A Participant shall be given the opportunity to make independent investment directions. No Plan fiduciary shall subject any Participant to improper influence with respect to any investment decisions, and nor shall any Plan fiduciary conceal any non-public facts regarding a Participant's Plan investment unless disclosure is prohibited by law. Plan fiduciaries shall remain completely neutral in all regards with respect to Participant investment direction. A Plan fiduciary may not accept investment instructions from a Participant known to be legally incompetent, and any transactions with a fiduciary, otherwise permitted under this Article VIII and the uniform and nondiscriminatory rules regarding investment direction promulgated by the Plan Administrator, shall be fair and reasonable to the Participant.

8.4. ADJUSTMENT OF ACCOUNTS.

Adjustments pursuant to Section 6.3 shall be made on a separate fund basis. Gains and income or losses attributable to each investment fund shall be allocable strictly to the investment fund and accounts invested therein. Each investment fund shall be invested in accordance with the provisions of the Plan and the Trust Agreement.

8.5. LIMITATION OF LIABILITY AND RESPONSIBILITY.

The Trustee, the Plan Administrator and the Employer shall not be liable for acting in accordance with the directions of a Participant pursuant to this Article VIII or for failing to act in the absence of any such direction. The Trustee, the Plan Administrator and the Employer shall not be responsible for any loss resulting from any direction made by a Participant and shall have no duty to review any direction made by a Participant. The Trustee shall have no obligation to consult with any Participant regarding the propriety or advisability of any selection made by the Participant. The Trustee, the Plan Administrator and the Employer do not guarantee the Accounts of Participants in any way from loss or depreciation.

8.6. FORMER PARTICIPANTS AND BENEFICIARIES.

For purposes of this Article VIII, the term "Participant" shall be deemed to include former Participants and the Beneficiaries of any deceased Participants.

8.7. FAILURE TO GIVE DIRECTIONS.

In the event of a Participant's failure to give investment directions, the Plan Administrator shall invest the Participant's Accounts into the Plan's designated default Investment Fund or

Funds, until such directions can be obtained and given effect.

ARTICLE IX
LOANS

9.1. GENERAL RULE.

The Plan Administrator is authorized to direct the Trustee to make a loan or loans to a Participant as a segregated investment of the Participant's accounts. Such loans shall be available to all Participants on a nondiscriminatory basis, except that the Plan Administrator may discriminate on the basis of credit worthiness. The Plan Administrator shall not direct the Trustee to make loans to Highly Compensated Employees in amounts which, when expressed as a percentage of the Participant's vested interest in his accounts, are greater than those available to other Participants.

9.2. SPOUSAL CONSENT REQUIRED.

No loan will be made to any married Participant unless the Participant's Spouse consents to the loan in accordance with the provisions of Section 11.10.

9.3. AMOUNT AND NUMBER OF LOANS; SECURITY; ACCOUNTS.

(a) MINIMUM AMOUNT AND FREQUENCY OF LOANS. No loan shall be originated in an amount less than Five Hundred Dollars ($500). No more than one loan shall be issued to a Participant at any one time and no loan refinancings or consolidations shall be permitted under the Plan. The Plan Administrator may, in its discretion and pursuant to uniform and non-discriminatory policies and procedures, reduce the number of loans available to Participants.

(b) MAXIMUM LOAN AMOUNT; TAX LAW COMPLIANCE. The amount of any outstanding loan from the Trust Fund to any Participant at any time shall not exceed fifty percent (50%) of the Participant's vested interest in his Accounts, if any, determined as of the most recent Valuation Date of the Plan. Additionally, no loan shall be greater than Fifty Thousand Dollars ($50,000) with such Fifty Thousand Dollar ($50,000) limitation to be reduced, if applicable, by the excess of the Participant=s highest outstanding loan balance during the preceding twelve (12) month period over the Participant=s outstanding loan balance as of the date the loan is made. Any loan which is made pursuant to Section 9.1 shall be treated as a taxable distribution to the extent that it causes the outstanding balance at any time of all loans from all "employee pension benefit plans" (as defined in the Act) of the Employer and its Affiliates that are intended to "qualify" under Section 401(a) of the Act to exceed the maximum loan amount limitations set forth above. The Plan Administrator may, in its discretion, prohibit the making of any loan that would be treated as a taxable distribution to the Participant. Notwithstanding the foregoing, no portion of a Participant's Roth Elective Deferrals Account or Roth Rollover Contributions Account may be invested in the proceeds of a Participant loan. The Plan Administrator may, in its discretion, prohibit the making of any loan that would be treated as a taxable distribution to the Participant.

(c) SECURITY. The loan shall be evidenced by the Participant's promissory note and shall be secured by an assignment of the Participant's vested interest in some or all of his accounts, provided that in no event shall the loan be secured by an assignment of more than fifty percent (50%) of the Participant's vested (non-forfeitable) interest in his accounts.

(d) WITHDRAWAL FROM PARTICIPANT ACCOUNTS. Loan proceeds shall be drawn ratably from all Accounts maintained on behalf of the Participant, with the exception of a Participant's Roth Elective Deferrals Account and Roth Rollover Contributions Account, as set forth in Section 9.2(b).

9.4. TERMS OF LOAN.

(a) INTEREST RATE. All loans shall bear interest at the rate of Prime (as set forth in the Wall Street Journal) plus one percent (1%). Subject to the foregoing, the terms of any loan shall be arrived at by mutual agreement between the Committee and the Participant pursuant to a uniform, nondiscriminatory policy.

(b) AMORTIZATION PERIOD. All loans shall be repayable in level weekly, semi-monthly, monthly or quarterly installments over a period not exceeding five (5) years, except that the term may exceed five (5) years (but shall not exceed fifteen (15) years or such shorter period set by the Plan Administrator) if the Participant establishes to the satisfaction of the Plan Administrator, in its sole discretion, that the proceeds of the loan will be used, within a reasonable time after the funds are disbursed, to acquire or construct the Participant's principal residence.

(c) REPAYMENTS; PREPAYMENTS. All installment payments shall be made by payroll deduction. The promissory note and payroll deduction authorization executed by the Participant shall include the Participant's consent to payroll repayment through any payroll administered by the Employer or a related Tribal entity. Notwithstanding the foregoing, and in the event that a Participant terminates from employment with the Employer and does not receive a distribution of his Accounts pursuant to Article XI, the Participant shall be permitted to make installment payments on the outstanding loan outside of the payroll system, pursuant to the uniform and non-discriminatory policies and procedures of the Plan Administrator. A Participant may prepay a loan in full at any time without penalty. No partial prepayments shall be permitted.

(d) COSTS. Any costs incurred by the Trustee to establish, process or collect the loan shall be charged directly and solely to the Participant and will be subtracted from the loan proceeds unless other mutually agreeable arrangements are made by the Trustee and the Participant.

9.5. DEFAULT.

In the event that the Participant does not repay such loan or loans and the interest thereon in a timely fashion, the Plan Administrator may exercise every creditor's right at law or equity available to the Employer. The Plan Administrator may not, however, authorize or direct the Trustee to deduct or offset the payments in default or the unpaid outstanding balance of the loan from or against the Participant's Employer Contributions Account until such time as the account becomes payable pursuant to the other provisions of this Plan. When payments become due hereunder, the Trustee may deduct the total amount of the loan then outstanding, together with any interest then due and owing, from any payment or distribution (including any payment due to the Participant's surviving Spouse pursuant to Section 11.3) to which such Participant or his Beneficiary or Beneficiaries may become entitled.

9.6. LOAN MODIFICATIONS.

(a) QUALIFIED MILITARY SERVICE. Notwithstanding any provision of this

Article IX to the contrary, Plan loan repayments shall be suspended during periods of Qualified Military Service as permitted in accordance with the provisions of Code Section 414(u). Additionally, in accordance with the Soldiers' and Sailors' Civil Relief Act Amendments of 1942, the interest rate imposed on a Plan loan during a period of Qualified Military Service shall be no more than six percent (6%).

(b) AUTHORIZED LEAVE OF ABSENCE. Notwithstanding any provision of this Article IX to the contrary, Plan loan repayments may be suspended during an unpaid Authorized Leave of Absence of up to one (1) year; provided, however, that the Participant repays the loan (including interest accrued during the Authorized Leave of Absence) within the latest permissible term of the loan and the installment payments due after the Authorized Leave of Absence are not less than the amount required pursuant to the original amortization schedule for the loan.

(c) CARES ACT LOAN PROVISIONS. Notwithstanding any provision of this Article IX to the contrary, for a Qualified Participant the maximum amount described in Section 9.3(b) shall be increased to the lesser of One Hundred Thousand Dollars ($100,000) or one hundred percent (100%) of the Participant's vested interest in his Accounts.

In addition, the limitations on assignments set forth in Section 9.3(c) shall not apply to the extent required to permit loans under this Section 9.6(c). This section shall not be interpreted to supersede the limitation on the number of loans that may be issued to a Participant at one time. Further, notwithstanding any provision of this Article IX to the contrary, in the case of a Qualified Participant with an outstanding loan on the effective date of this Section 9.6(c)

(i) if the due date pursuant to Code Section 72(p)(2)(B) or (C) for any repayment with respect to such loans occurs during the period beginning on the effective date of this Section 9.6(c) and ending on December 31, 2020, such due date shall be delayed for one year;

(ii) any subsequent payments with respect to any such loan shall be appropriately adjusted to reflect the delay in the due date under subsection (i) and any interest accruing during such delay; and

(iii) in determining the five-year period and the term of a loan under Code Section 72(p)(2)(B) or (C), the period described in subsection (i) shall be disregarded.

This Section 9.6(c) shall be effective as soon as administratively practicable after approval by the Employer.

ARTICLE X
IN-SERVICE WITHDRAWALS

10.1. HARDSHIP WITHDRAWALS.

(a) GENERAL RULE. Subject to Section 10.5 below, a Participant ~~an Employee~~ may request a withdrawal of his Pre-Tax Contributions (including Roth Elective ~~Deferrals~~), his Catch-Up Contributions, and his Rollover Contributions on the basis of hardship,~~; provided, however, that any earnings credited to a Employee's Pre-Tax or Catch-Up Contributions Accounts after December 31, 1988 may not be included in a hardship withdrawal~~ (collectively, "Hardship Eligible Contributions"), including effective January 1, 2020, earnings thereon. Notwithstanding the foregoing, any hardship withdrawal shall be drawn first from the

~~Employee's~~ Participant's Pre-Tax Contributions Account prior to any withdrawal from the ~~Employee's~~ Participant's Roth Elective Deferrals Account.

(b) LIMITATIONS ON AMOUNT OF WITHDRAWAL. In no event shall a withdrawal on the basis of hardship exceed the aggregate balance of the ~~Employee's or former Employee's Pre-Tax and Catch-Up Contributions Accounts (excluding earnings) and Rollover Contributions Account~~ Participant's Hardship Eligible Balance, determined as of the Valuation Date immediately preceding the date of the withdrawal. ~~Only for purposes of the preceding sentence and other provisions of this Section 10.1, and not for purposes of calculating the Employer Matching Contributions, an Employee's Roth Elective Deferrals shall be treated as Pre-Tax Contributions.~~ Any hardship withdrawal shall be drawn first from any Rollover Contribution Account maintained for the ~~Employee~~ Participant, and then from the ~~Employee's~~ Participant's Pre-Tax Contributions Account, and then from the Participant's Roth Contributions Account. The Plan Administrator also may postpone withdrawals from amounts invested through an Investment Fund, to the extent that transfers into or out of a particular investment alternative are restricted pursuant to uniform and nondiscriminatory rules promulgated by the Plan Administrator in accordance with the provisions in Article VIII. The Plan Administrator may promulgate additional uniform rules regarding the effective date of any withdrawal pursuant to this Section and the procedures to be followed in requesting a withdrawal pursuant to this Article.

(c) HARDSHIP DEFINED. A withdrawal may be made pursuant to this Section due to a "hardship" only if the ~~Employee~~ Participant satisfies the Plan Administrator that the ~~Employee~~ Participant has an immediate and heavy financial need and that the withdrawal is necessary in order to satisfy that need, including any amounts necessary to pay all applicable federal, state and local income taxes and penalties reasonably anticipated to result from the hardship withdrawal. Effective January 1, 2020, prior to receiving a hardship withdrawal, a Participant requesting a hardship withdrawal must provide the Plan Administrator with a written representation (as described in Treasury Regulation Section 1.401(k)-1(d)(3)(iii)(B)(1)) in a form satisfactory to the Plan Administrator that he or she has insufficient cash or other liquid assets reasonably available to satisfy the need.

(d) IMMEDIATE AND HEAVY FINANCIAL NEED. The following are the only expenses or circumstances that will be deemed to give rise to an immediate and heavy financial need for purposes of this Section:

(1) Medical expenses described in Section 213(d) of the Code incurred by the Participant, the Participant's spouse, any of the Participant's dependents (as defined in Section 152 of the Code) or, the Participant's designated Beneficiary;

(2) The purchase (excluding mortgage payments) of a principal residence for the Participant; or

(3) Payment of tuition and related educational expenses, including room and board, for the next twelve (12) months for post-secondary education for the Participant or the Participant's spouse, children, dependents (as defined in Section 152 of the Code) or, the Participant's Beneficiary; or

(4) The need to prevent the eviction of the Participant from his principal residence or foreclosure on the mortgage on the Participant's principal residence; or

(5) Expenses for the repair of damage to the Participant's principal

residence that would qualify for the casualty deduction under Section 165 of the Code (effective January 1, 2020, determined without regard to Section 165(h)(5) and whether the loss exceeds ten percent (10%) of adjusted gross income); or

(6) Payment for burial or funeral expenses for the ~~Employee's~~ Participant's deceased parent, spouse, children, dependents (as defined in Section 152 of the Code without regard to Section 152(d)(1)(B)) or, the Participant's designated Beneficiary; or

(7) Effective January 1, 2020, expenses and losses (including loss of income) incurred by the Participant on account of a disaster declared by the Federal Emergency Management Agency ("FEMA") under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 100-707, provided that the Participant's principal residence of principal individual assistance with respect to the disaster; or

~~(7)~~ (8) Any other circumstance or expense designated by the Commissioner of Internal Revenue as a deemed immediate and heavy financial need in any published revenue ruling, notice or other document of general applicability.

(e) NECESSITY. A withdrawal will be deemed to be necessary to satisfy an immediate and heavy financial need of ~~an Employee~~ a Participant only if all of the following requirements are satisfied:

(1) The withdrawal is not in excess of the amount of the immediate and heavy financial need of the ~~Employee~~ Participant (including amounts necessary to pay any federal, state or local income taxes or penalties reasonably anticipated to result from the distribution); and

(2) The ~~Employee~~ Participant has obtained all distributions, other than hardship withdrawals, ~~and all nontaxable loans~~ but, effective January 1, 2020, not including loans, currently available under all plans maintained by the Employer.

(f) ~~RESTRICTIONS ON~~ FUTURE CONTRIBUTIONS NOT SUSPENDED. ~~If an Employee receives~~ Effective January 1, 2020, if a Participant previously received a hardship withdrawal pursuant to this Section, and the ~~Employee's~~ Participant's right to make Employee Contributions to ~~this~~ the Plan ~~pursuant to Article IV shall be suspended for a period of six (6) months following the month in which the hardship withdrawal is made~~ was suspended as of December 31, 2019, such suspension shall no longer be effective and any ~~The~~ Automatic Employee Contributions made on behalf of ~~an Employee~~ a Participant pursuant to Section 4.1 shall resume as of the first Entry Date next following ~~the completion of said six (6) month period. Following the six (6) month suspension period, the Employee also may elect to make additional Employee Contributions to the Plan~~ January 1, 2020.

(g) Effective January 1, 2020, Participants receiving a hardship withdrawal will not be subject to a suspension period.

10.2. AGE 59 ½ WITHDRAWALS.

Subject to Section 10.5 below, a Participant who has attained the age of fifty-nine and one-half (59 ½) years may elect to withdraw all or any portion of his Pre-Tax Contributions, Roth Elective Deferrals, Rollover or Roth Rollover Contributions. Amounts withdrawn by the Participant pursuant to this Section may not be repaid to the Plan. The Plan Administrator may

promulgate uniform rules regarding the minimum amount of any such withdrawal, the number of withdrawals a Participant may elect to receive in any one Plan Year, the effective date of any withdrawal pursuant to this Section and the procedures to be followed in requesting a withdrawal pursuant to this Section.

10.3. SPECIAL MILITARY SERVICE WITHDRAWALS.

(a) GENERAL. The special military service withdrawal options set forth in this Section 10.3 are subject to the withdrawal restrictions of Section 10.5. The military service withdrawal options also are subject to additional guidance from the Treasury Department and the Internal Revenue Service regarding the Heroes Earnings Assistance and Tax Relief Act of 2008. The Employer shall implement the provisions of this Section 10.3 in accordance with its reasonable and good faith interpretation of all available guidance on these withdrawal options.

(b) QUALIFIED RESERVIST DISTRIBUTIONS. If a Participant is an active Employee of the Employer, is a member of a reserve component of the United States military and is called to active duty for a period of at least 180 days or for an indefinite period, the Participant may request a withdrawal of his elective deferral contributions (exclusive of any earnings thereon) in accordance with Code Section 72(t)(2)(G) and Code Section 401(k)(2)(B)(i)(V). Any Qualified Reservist Distribution initiated pursuant to this Section must be requested and paid after the Participant is called to active duty and before the Participant's period of active duty is completed. A Qualified Reservist Distribution may be repaid to an individual retirement account, subject to the timing restrictions set forth in Code Section 72(t)(2)(G)(ii), but may not be repaid to the Plan, regardless of whether the Participant is reemployed by the Employer following military leave.

(c) ACTIVE DUTY DISTRIBUTION. A Participant who is an active Employee of the Employer and who is called to active duty in the United States military for a period of at least 30 days, as described in Code Section 3401(h)(2)(A), will be treated as if he severed from employment with the Employer solely for purposes of requesting a distribution from the Plan in accordance with Section 11.5(b). Any such distribution shall be administered in accordance with Code Section 414(u)(12)(B). If a Participant receives a distribution pursuant to this Section, the Participant's right to make elective deferral contributions to this Plan pursuant to Article IV shall be suspended for a period of six (6) months following the month in which the withdrawal is made. A Participant may resume making elective deferral contributions as of any Entry Date following completion of the suspension period.

10.4. TRANSFERS TO NATION'S RETIREMENT PLAN.

(a) GENERAL RULE. Subject to Section 10.5 below, a Participant who also participates in the Retirement Plan for Employees of the Navajo Nation and Participating Affiliates (the "Nation's Retirement Plan") may request a trustee to trustee transfer from the Participant's Accounts under the Plan to the Nation's Retirement Plan for the purpose of acquiring additional service credit under the Nation's Retirement Plan, as may be permitted pursuant to the terms of the Nation's Retirement Plan. A Participant may make a request for a transfer under this Section regardless of whether the Participant has experienced a distribution event.

(b) LIMITATIONS ON TRANSFER. Only fully vested and nonforfeitable amounts may be transferred from this Plan pursuant to this Section 10.4. Additionally, any transfer to the Nation's Retirement Plan may not exceed the lesser of (i) the amount required to fund the service purchase, as determined by the administrator of the Nation's Retirement Plan

on an actuarial basis, or (ii) the combined vested balance of the Participant's Accounts as of the Valuation Date immediately preceding the date of the transfer. Any amount transferred shall be drawn ratably from all Accounts maintained on behalf of the Participant, unless the Participant provides specific and contrary instructions to the Plan Administrator and the Plan Administrator is reasonably able to implement such instructions. In no event shall a Participant receive a benefit under this Plan as the result of any amounts transferred pursuant to this Section, nor shall a Participant receive, actually or constructively, any amounts intended to be transferred to the trustee of the Nation's Retirement Plan pursuant to this Section.

10.5. IN-SERVICE WITHDRAWAL RULES AND RESTRICTIONS.

(a) GENERAL RESTRICTIONS. The minimum amount of any in-service withdrawal under Sections 10.1, 10.2 or 10.3 shall be Five Hundred Dollars ($500). A Participant shall not make more than one Age 59 ½ withdrawal in any twelve (12) month period.

(b) SPOUSAL CONSENT. If the Participant is married at the time of his request for a withdrawal or a transfer under this Article, the Participant's spouse must consent to the withdrawal in accordance with Section 11.10.

(c) EFFECT OF ELECTION. A Participant who elects to receive a withdrawal or transfer pursuant to this Article X shall continue to participate in the Plan subsequent to his receipt of such withdrawal or the processing of such transfer, subject to the hardship restrictions set forth in Section 10.1(f), if applicable.

(d) EXPENSES. Any expense incurred in making a withdrawal pursuant to this Article X shall be charged to the Participant's Account and shall be deducted prior to the disbursements of the withdrawal proceeds to the Participant.

10.6 CORONAVIRUS-RELATED WITHDRAWALS

A Qualified Participant may, prior to December 31, 2020, request a coronavirus-related distribution of up to the lesser of One Hundred Thousand Dollars ($100,000) or one hundred percent (100%) of the Participant's vested interest in his Accounts, less the amount of any other coronavirus-related distributions received by the Qualified Participant.

A Qualified Participant who receives a coronavirus-related distribution pursuant to this Section may, at any time during the three (3) year period beginning on the date after the date on which such distribution was received, may make one (1) or more contributions in an aggregate amount not to exceed the amount of the coronavirus-related distribution.

This Section 10.6 shall be effective as soon as administratively practicable after approval by the Employer.

ARTICLE XI
DISTRIBUTION OF BENEFITS

11.1. NORMAL AND LATE RETIREMENT.

A Participant shall be entitled to full distribution of his accounts, as provided in Sections 11.5 and 11.6, upon actual retirement as of or after his Normal Retirement Age. A Participant may remain in the employment of the Employer after his Normal Retirement Age, if he desires, and shall retire at such later time as he may desire, unless the Employer lawfully directs earlier retirement.

11.2. DISABILITY.

A Participant who shall separate from employment due to Disability shall be entitled to full distribution of his accounts, as provided in Sections 11.5 and 11.6. Subject to the provisions of Section 11.5, the payments may commence as of his date of separation from employment due to Disability.

11.3. DEATH.

(a) BENEFIT. In the event that a Participant (which term for purposes of this Section includes former Participants) shall die prior to the distribution of his Accounts under the Plan, the Participant's Beneficiary shall be entitled to full distribution of the Participant's accounts at the time and in the manner provided in Sections 11.5 and 11.6.

(b) BENEFICIARY. Notwithstanding any Beneficiary designation made by the Participant to the contrary, except as otherwise noted below, a married Participant's Spouse shall be deemed to be his Beneficiary for purposes of this Plan unless the Participant's Spouse consents to the designation of a different Beneficiary in accordance with the spousal consent rules of Section 11.10.

(c) DEATH AFTER COMMENCEMENT OF BENEFITS. In the event that a former Participant shall die after his distributions from the Plan have commenced but prior to the complete distribution of all amounts to which such Participant is entitled under the provisions of Article XI, the Participant's Spouse or other designated Beneficiary shall be entitled to receive any remaining amounts to which the Participant would have been entitled had the Participant survived. The Plan Administrator may require and rely upon such proofs of death and the right of any Spouse or Beneficiary to receive benefits pursuant to this Section 11.3 as the Plan Administrator may reasonably determine, and its determination of death and the right of such Spouse or Beneficiary to receive payment shall be binding and conclusive upon all persons whomsoever.

11.4. OTHER SEPARATIONS FROM EMPLOYMENT.

A Participant who separates from employment for any reason other than retirement, death or Disability shall be entitled to distribution of his vested interest in his accounts at the time and in the manner provided in Sections 11.5 and 11.6.

11.5. TIME OF DISTRIBUTION OF BENEFITS.

(a) RETIREMENT. Subject to the requirements of paragraph (f) of this Section concerning the early commencement of distributions, payment to a Participant who is entitled to benefits under Section 11.1 normally shall commence within a reasonable time following the Participant's termination of employment following his Normal Retirement Age.

(b) TERMINATION OR DISABILITY DISTRIBUTIONS. As a general rule, and except as set forth in Section 11.6(c) regarding the automatic distribution of certain small accounts, the Plan Administrator will begin distributions pursuant to Section 11.2 or Section 11.4 following the later of the Participant's separation from employment and the Participant's written request for a distribution. If the Participant is married at the time a distribution is requested, the Participant's written request for a distribution must include Spousal consent in accordance with Section 11.10. Payments made pursuant to Section 11.6(c) and payments made at the request

of a Participant on account of a Participant's termination of employment shall be made within a reasonable and appropriate time period, as determined by the Plan Administrator, in its sole and absolute discretion. If necessary and in its sole discretion, the Plan Administrator may deny a request for a distribution if the Participant is reemployed by the Employer at the time the request for the distribution is received by the Plan Administrator or if the Plan Administrator determines that the Participant has not experienced a bona fide separation from employment. If the Participant does not make a written request for a distribution pursuant to this Section, and except as provided in Section 11.6(b), distributions will be made as soon as possible following the Participant's Normal Retirement Date.

(c) DEATH PRIOR TO COMMENCEMENT OF BENEFITS. In the event of the death of the Participant prior to the distribution of his Accounts under the Plan, payments to the Participant's Beneficiaries shall commence as soon as practicable following the Participant's death and must be paid in full by December 31 of the calendar year which includes the fifth (5th) anniversary of the date of the Participant's death, unless the surviving spouse or other designated beneficiary makes an appropriate election under Code Section 401(a)(9). All distributions made subsequent to the death of the Participant shall be made in accordance with the requirements of Code Section 401(a)(9), Treasury Regulation Section 1.401(a)(9)-1, et seq. and Section 11.7 of the Plan.

(d) DEATH AFTER COMMENCEMENT OF PAYMENTS. In the event of the death of a Participant after his Benefit Commencement Date but prior to the complete distribution to such Participant of the benefits payable to him under the Plan, any remaining benefits shall be distributed over a period that does not exceed the period over which distribution was to be made prior to the date of death of the Participant. All distributions made subsequent to the death of the Participant shall be made in accordance with the requirements of Code Section 401(a)(9), Treasury Regulation Section 1.401(a)(9)-5, Q&A-5, and Section 11.7 of the Plan.

(e) REQUIRED COMMENCEMENT OF PAYMENTS. Payment to a former Participant must commence by April 1 of the calendar year following the calendar year in which the Participant attains the age of seventy and one-half (70-½) years or, if later, by April 1 of the calendar year following the calendar year in which the Participant retires, in accordance with requirements of Code Section 401(a)(9) and Section 11.7 of the Plan.

(f) CONSENT TO EARLY DISTRIBUTIONS. Except as otherwise provided in Section 11.6(c) concerning the payment of small amounts, no benefit payments may commence pursuant to the preceding provisions of this Section, unless the Participant requests the earlier commencement of benefits in accordance with the uniform and nondiscriminatory policies and procedures of the Plan Administrator, and, if the Participant is married, the Participant's Spouse consents to the earlier commencement of payments. The Participant's request must be in a form acceptable to the Plan Administrator and any required spousal consent must comply with the spousal consent provisions of Section 11.10.

11.6. METHOD OF DISTRIBUTION.

(a) LUMP SUM DISTRIBUTIONS. The standard form of payment of benefits under this Plan shall be a single lump sum payment.

(b) INSTALLMENT DISTRIBUTIONS. Notwithstanding the foregoing, the Participant may elect to receive his benefits under this Plan in installments. Such installment payments may be annual, quarterly or monthly, over a period not to exceed the Participant's life

expectancy. After installment payments commence, a Participant, or a Participant's Beneficiary, if applicable, may elect to discontinue the installment payments and receive a lump sum distribution of the remaining Account balance.

(c) DISTRIBUTION OF SMALL AMOUNTS. Notwithstanding any provision of the Plan to the contrary, the Plan Administrator, in its sole discretion, may direct payment of benefits in a single lump sum, without the Participant's consent, if the total amount distributable to the Participant (or a surviving spouse or alternate payee) from all of his accounts (excluding Rollover and Roth Rollover Contributions) does not exceed One Thousand Dollars ($1,000) or such lesser amount determined by the Plan Administrator, in its sole discretion and pursuant to a uniform and nondiscriminatory policy, to be the appropriate small account distribution limit. No distribution may be made pursuant to the preceding sentence after the Benefit Commencement Date unless the Participant and the Participant's spouse, if any, consent in writing to the distribution.

(d) AMOUNT OF DISTRIBUTION. For the purpose of determining the amount to be distributed to Participants and Beneficiaries, the Participant's accounts will as a general matter be valued as of the Valuation Date preceding the date upon which distribution is to commence. Valuation procedures may vary depending on the nature of the investment alternatives selected by the Participant, but will be conducted in a non-discriminatory manner.

(e) ADDITIONAL BENEFIT OPTIONS. The Plan Administrator may from time to time expand the available benefit options by the adoption of written administration procedures, which written procedures shall describe the additional optional methods of payment and any limitations on their availability.

11.7. MINIMUM DISTRIBUTION REQUIREMENTS.

The following provisions of this Section 11.7 are intended to demonstrate reasonable and good faith compliance with the final Treasury regulations issued pursuant to Section 401(a)(9) of the Code. Reasonable and good faith deviations from the provisions of this Section 11.7 and/or from the Treasury Regulations published under Section 401(a)(9) of the Code shall not adversely impact the Plan's compliance status as set forth in Section 823 of the PPA and Treasury Regulation Section 1.401(a)(9)-1, Q&A 2(d). The provisions of this Section 11.7 shall supersede all other provisions of the Plan to the extent that such other Sections of the Plan are inconsistent with the Treasury regulations. All distributions required under this Section 11.7 will be determined and made in accordance with the Treasury regulations under section 401(a)(9) of the Code. All references to the "designated Beneficiary" in this Section shall be deemed to incorporate the designation procedures set forth in Section 11.9 of the Plan.

(a) TIME AND MANNER OF DISTRIBUTION.

(1) 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.

(2) 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 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 70 ½, if later.

(B) If the Participant's surviving spouse is not the Participant's sole designated Beneficiary, then 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 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.

(D) 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 (a)(2), other than section (a)(2)(A), will apply as if the surviving spouse were the Participant.

For purposes of this section (a)(2) and section (d), unless section (a)(2)(D) applies, distributions are considered to begin on the Participant's required beginning date. If section (a)(2)(D) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under section (a)(2)(A).

(3) FORMS OF DISTRIBUTION. Unless the Participant's interest is distributed in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with sections (b) and (c) of this Section 11.7.

(b) REQUIRED MINIMUM DISTRIBUTIONS DURING PARTICIPANT'S LIFETIME.

(1) 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 Treasury 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 Treasury regulations, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the distribution calendar year.

(2) LIFETIME REQUIRED MINIMUM DISTRIBUTIONS CONTINUE THROUGH YEAR OF PARTICIPANT'S DEATH. Required minimum distributions will be determined under this section (b) beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the Participant's date of death.

(c) REQUIRED MINIMUM DISTRIBUTIONS AFTER PARTICIPANT'S DEATH.

(1) 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:

(i) 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.

(ii) 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 calendaryear.

(iii) 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.

(2) 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 (c)(1).

(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 (a)(2)(A), this section (c)(2)(C) will apply as if the surviving spouse were the Participant.

(d) DEFINITIONS.

(1) DESIGNATED BENEFICIARY. The individual who is designated as the Beneficiary under Section 11.9 of the plan and is the designated Beneficiary under section 401(a)(9) of the Code and section 1.401(a)(9)-4 of the Treasury regulations.

(2) 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 under section (a)(2). 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.

(3) LIFE EXPECTANCY. Life expectancy as computed by use of the Single Life Table in section 1.401(a)(9)-9 of the Treasury regulations.

(4) PARTICIPANT'S ACCOUNT BALANCE. The account balance as of the last day of the calendar year immediately preceding the distribution calendar year (valuation calendar year) increased by the amount of any contributions made and allocated or forfeitures allocated to the account balance in the distribution calendar year and decreased by distributions made in the distribution calendar year. 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.

(5) REQUIRED BEGINNING DATE. The date defined as April 1 of the calendar year following the calendar year in which the Participant attains the age of seventy and one-half (70-½) years or, if later, by April 1 of the calendar year following the calendar year in which the Participant retires.

(e) SUSPENSION OF 2009 DISTRIBUTIONS. Notwithstanding any provision of the foregoing to the contrary, a Participant or Beneficiary who would have been required to receive required minimum distributions for 2009 but for the enactment of Section 401(a)(9)(H) of the Code ("2009 RMDs"), and who would have satisfied that requirement by receiving distributions that are (1) equal to the 2009 RMDs or (2) one or more payments in a series of substantially equal distributions (that include the 2009 RMDs) made at least annually and expected to last for the life (or life expectancy) of the Participant, the joint lives (or joint life expectancy) of the Participant and the Participant's Beneficiary, or for a period of at least 10 years ("Extended 2009 RMDs"), will not receive those distributions for 2009 unless the

Participant or Beneficiary chooses to receive such distributions. Participants and Beneficiaries described in the preceding sentence will be given the opportunity to elect to receive the 2009 RMDs. In addition, notwithstanding Section 11.8 of the Plan, and solely for purposes of applying the direct rollover provisions of the Plan, neither the 2009 RMDs or the Extended 2009 RMDs shall be treated as eligible rollover distributions. A direct rollover will be offered only for distributions that would be eligible rollover distributions without regard to Code Section 401(a)(9)(H).

(f) ROTH ELECTIVE DEFERRALS ACCOUNT. Notwithstanding any provision of the foregoing to the contrary, the Plan Administrator shall process distributions required pursuant to this Section 11.7 from pre-tax contributions sources first, before any Roth Elective Deferrals or earnings thereon are distributed to a Participant or Beneficiary.

(g) SUSPENSION OF 2020 REQUIRED MINIMUM DISTRIBUTIONS. Notwithstanding any provision of the foregoing to the contrary, a Participant or Beneficiary who would have been required to receive required minimum distributions in 2020 but for the enactment of the CARES Act ("2020 RMDs"), and who would have satisfied that requirement by receiving a distribution from the Plan will not receive those distributions for 2020 unless the Participant or Beneficiary requests to receive such distributions in a form acceptable to the Plan Administrator. In addition, notwithstanding Section 11.8 of the Plan, and solely for purposes of Code Sections 401(a)(31), 3405(c) and 3405(f), 2020 RMDs shall not be treated as eligible rollover distributions.

11.8. ELIGIBLE ROLLOVER DISTRIBUTIONS.

(a) GENERAL. 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 Plan 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". Notwithstanding the foregoing, the Plan will not provide for a direct rollover if the amount of the distributions that are eligible rollover distributions are reasonably expected to total less than Two Hundred Dollars ($200) during a year.

(b) DEFINITIONS.

(1) ELIGIBLE ROLLOVER DISTRIBUTION. 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 amount that is distributed on account of hardship; 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 Section 401(a)(9) of the Code; and any other distribution that is reasonably expected to total less than Two Hundred Dollars ($200) during a year. A portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of Roth Elective Deferrals; provided, however, that such portion is transferred in accordance with the specialized Roth rule set forth in paragraph (c) below. A portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax contributions which are not includible in gross income. However, such portion may be transferred only to (1) an individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Code, (2) to a qualified defined contribution plan

described in Section 401(a) or 403(a) of the Code, or a qualified trust or annuity contract described in Code Section 403(b), that agrees to separately account for after-tax amounts so transferred.

(2) ELIGIBLE RETIREMENT PLAN. An eligible retirement plan is an individual retirement account described in Section 408(a) of the Code; an eligible plan under section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan; an individual retirement annuity described in Section 408(b) of the Code; an annuity plan described in Section 403(a) of the Code; an annuity contract described in Section 403(b) of the Code; a qualified trust described in Section 401(a) of the Code; or a Roth IRA described in Section 408A(b) of the Code (provided that any such distribution is made in accordance with Section 408A of the Code) that accepts the distributee's eligible rollover distribution. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving Spouse, or to a Spouse or former spouse who is the alternate payee under a Qualified Domestic Relations Order.

(3) 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 or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code, are distributees with regard to the interest of the spouse or former spouse. A distributee also includes the Participant's non-spouse Beneficiary. In the case of a non-spouse Beneficiary, the direct rollover may be made only to an individual retirement account or annuity described in Section 408(a) or 408(b) of the Code ("IRA") that is established on behalf of the Beneficiary and that will be treated as an inherited IRA pursuant to the provisions of Code Section 402(c)(11).

(4) DIRECT ROLLOVER. A direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee.

(c) ROTH ELECTIVE DEFERRALS. Notwithstanding paragraph (b)(2) above, a direct rollover of a distribution from a Participant's Roth Elective Deferrals Account will be made only to another Roth elective deferral account under an applicable retirement plan described in Code Section 402A(e)(1) or to a Roth IRA described in Code Section 408A, and only to the extent the rollover is permitted under the rules of Code Section 402(c). Any distribution from a Participant's Roth Elective Deferrals Account is not taken into account in determining whether distributions from a Participant's other Accounts are reasonably expected to total less than Two Hundred Dollars ($200) during a year. However, eligible rollover distributions from a Participant's Roth Elective Deferral Account are taken into account in determining whether the total amount of the Participant's Account balances under the Plan exceeds One Thousand Dollars ($1,000) for purposes of mandatory distributions from the Plan.

11.9. DESIGNATION OF BENEFICIARY.

Subject to Section 11.3, each Participant shall have the right to designate, on forms supplied by and delivered to the Plan Administrator, a Beneficiary or Beneficiaries to receive his benefits hereunder in the event of the Participant's death. As provided in Section 11.3, if the Participant is married when the Beneficiary designation is filed, the designation will be ineffective unless the Participant's Spouse consents to the election. Subject to the spousal consent requirements of Section 11.10, each Participant may change his Beneficiary designation from time to time in the manner described above. Upon receipt of such designation

by the Plan Administrator, such designation or change of designation shall become effective as of the date of the notice, whether or not the Participant is living at the time the notice is received. There shall be no liability on the part of the Employer, the Plan Administrator or the Trustee with respect to any payment authorized by the Plan Administrator in accordance with the most recent valid Beneficiary designation of the Participant in its possession before receipt of a more recent and valid Beneficiary designation. If no designated Beneficiary is living when benefits become payable, or if there is no designated Beneficiary, the Beneficiary shall be the Participant's Spouse; or if no Spouse is then living, such Participant's issue, including any legally adopted child or children, in equal shares by right of representation; or if no such designated Beneficiary and no such Spouse or issue, including any legally adopted child or children, is living upon the death of a Participant, or if all such persons die prior to the full distribution of such Participant's benefits, then the Beneficiary shall be the estate of the Participant.

11.10. SPOUSAL CONSENT.

(a) GENERAL RULE. Except as set forth in Section 11.6(c), all distributions, in-service withdrawals and Participant loans made pursuant to this Plan are subject to the spousal consent requirements set forth in this Section 11.10. If a Participant is married and is required by the terms of the Plan to obtain spousal consent, such spousal consent will be irrevocable once given. The consent of the Participant's Spouse to an election under the Plan shall be in writing, acknowledge the effect of such an election, be witnessed by a notary public or a designated representative of the Plan Administrator and be provided to the Plan Administrator. No spousal consent will be required if the Plan Administrator determines, in its sole discretion, that such consent cannot be obtained because the Spouse cannot be located or other circumstances exist that preclude the Participant from obtaining such consent (to the degree permitted under applicable regulations issued by the United States Treasury Department). Any spousal consent given pursuant to this Section or dispensed with pursuant to the preceding sentence will be valid only with respect to the Spouse who signs the consent or with respect to whom the consent requirement is waived by the Plan Administrator.

(b) BENEFICIARY DESIGNATIONS. A Participant's Spouse may not give a general consent to the designation of a Beneficiary other than the Spouse, but rather must consent to the designation of a particular Beneficiary. If the Participant elects to change the Beneficiary, the Spouse's prior consent will be null and void and a new consent will be required, unless the Spouse's consent expressly permits a change of designation without the further consent of the Spouse.

(c) PARTICIPANT LOANS. The required spousal consent to a Participant loan must be filed with the Plan Administrator prior to the date on which the loan is made and not more than ninety (90) days in advance of the date the loan is made. The Plan Administrator may, in accordance with uniform and nondiscretionary rules and procedures, shorten the advance time period during which spousal consent may be obtained. A Spouse may not consent to Participant loans generally but rather may consent only to loans of specific amounts to be made at specified times and on specified terms and conditions. If the amount of the loan or the terms and conditions under which the loan will be made are later changed, a new consent will be required. A new consent will be required each time a Participant borrows money from the Plan.

11.11. PAYMENTS TO DISABLED.

If a person entitled to any payment hereunder shall be under a disability, or in the sole judgment of the Plan Administrator shall otherwise be unable to apply such payment to his own interest and advantage, the Plan Administrator in the exercise of its discretion may direct the Trustee to make any such payment in any one (1) or more of the following ways: (a) directly to such person, (b) to his legal guardian or conservator, or (c) to his Spouse or to any person charged with the legal duty of his support, to be expended for his benefit. The decision of the Plan Administrator shall in each case be final and binding upon all persons in interest.

11.12. UNCLAIMED ACCOUNTS; NOTICE.

(a) GENERAL. Neither the Employer, the Plan Administrator nor the Trustee shall be obliged to search for, or ascertain the whereabouts of, any Participant or Beneficiary. If a Participant or Beneficiary becomes entitled to a distribution under the Plan, the Plan Administrator shall notify the Participant or Beneficiary that he is entitled to a distribution by certified or registered mail addressed to the Participant's or Beneficiary's last known address of record with the Plan Administrator or the Employer. In the event that the Participant or Beneficiary fails to respond to a distribution notice sent via certified or registered mail, or in the event Plan account statements, investment statements, or other Plan communication materials are returned to the Plan Administrator (regardless of whether they are sent via certified or registered mail) indicating that the Participant is no longer at the address on record, the Plan Administrator may, at its option, publish a notice in the Tribe's newspaper or other appropriate newspaper and/or post notices in an attempt to locate missing participants. Upon failure of the foregoing, the Plan Administrator shall take commercially reasonable steps to locate the Participant.

(b) SEGREGATION OF ACCOUNT. If the Participant or Beneficiary cannot be located by the Plan Administrator, the Plan Administrator, in its discretion, may thereafter direct the Trustee to segregate the Participant's benefits in an "Unclaimed Accounts" fund maintained under the Trust Fund. The Unclaimed Accounts fund shall hold the assets of all unclaimed Participant and Beneficiary accounts on a commingled basis, subject to appropriate recordkeeping requirements. Any such Unclaimed Accounts fund shall be invested in the Plan's default Investment Fund and the Plan Administrator and the Trustee shall have no other investment responsibility with regard to such benefits until the Participant or Beneficiary provides current investment directions pursuant to the Plan and/or claims any distributions which may be due. The segregated deposits shall be entitled to all income they earn and shall bear all expense or loss (including administration expenses) they incur.

(c) FORFEITURE OF ACCOUNT; RESTORATION. Should the Plan Administrator not be able to locate a Participant who is entitled to be paid a benefit under the Plan after making reasonable efforts to contact said Participant under the above procedures, and a period of one (1) year has elapsed from the Participant's termination date, a forfeiture of the Participant's vested benefit may occur and be treated as other forfeitures under this Plan. Notwithstanding said forfeiture, in the event that the Participant (or Beneficiary) should thereafter make a claim for his benefits, as determined prior to the date of the forfeiture, the Plan Administrator shall restore his account balance together with annual interest at the "Short Term Federal Rate," as defined in Code Section 1274, from the date of the forfeiture. Such amounts shall be restored to the extent possible with other forfeitures available for allocation in the year of restoration. Should there be insufficient forfeitures occurring at the time ofthe

restoration, the Employer shall be obligated to restore said account by means of a special contribution to the Plan.

11.13. UNDERPAYMENT OR OVERPAYMENT OF BENEFITS.

In the event that, through misstatement or computation error, benefits are underpaid or overpaid, there shall be no liability for any more than the correct benefit sums under the Plan. Overpayment may be deducted from future payments under the Plan, and under payments may be added to future payments under the Plan. In lieu of receiving reduced benefits under the Plan, a Participant or beneficiary may elect to make a lump sum repayment of any overpayment.

ARTICLE XII
INALIENABILITY OF BENEFITS

12.1. NO ASSIGNMENT PERMITTED.

(a) GENERAL PROHIBITION. No Participant or Beneficiary, and no creditor of a Participant or Beneficiary, shall have any right to assign, pledge, hypothecate, anticipate or in any way create a lien upon the Trust Fund. All payments to be made to Participants or their Beneficiaries shall be made only upon their personal receipt or endorsement, except as provided in Section 11.11, and no interest in the Trust Fund shall be subject to assignment or transfer or otherwise be alienable, either by voluntary or involuntary act or by operation of law or equity, or subject to attachment, execution, garnishment, sequestration, levy or other seizure under any legal, equitable or other process, or be liable in any way for the debts or defaults of Participants and Beneficiaries.

(b) PERMITTED ARRANGEMENTS. This Section shall not preclude arrangements for the withholding of taxes from benefit payments, arrangements for the recovery of benefit overpayments, arrangements for the transfer of benefit rights to another plan, or arrangements for direct deposit of benefit payments to an account in a bank, savings and loan association or credit union (provided that such arrangement is not part of an arrangement constituting an assignment or alienation). Additionally, this Section shall not preclude arrangements for the distribution of the benefits of a Participant or Beneficiary pursuant to the terms and provisions of a Qualified Domestic Relations Order in accordance with the following provisions of this Article XII.

12.2. QUALIFIED DOMESTIC RELATIONS ORDERS.

A Qualified Domestic Relations Order is an order described in Section 401(a)(13) and Section 414(p) of the Code that is (1) issued by, domesticated through, or recognized by the Courts of the Navajo Nation or any State court, and (2) permits distribution of benefits in a distribution mode provided under the Plan, does not require payment of increased benefits and does not require payment of benefits allocated to a different alternate payee under a prior Qualified Domestic Relations Order.

12.3. PROCESSING QUALIFIED DOMESTIC RELATIONS ORDERS.

(a) NOTICE. All decisions and determinations with respect to a domestic relations order, including whether such order is a Qualified Domestic Relations Order within the meaning of this Article XII, shall be made by the Plan Administrator within a reasonable time

following its receipt of such order and in accordance with such uniform rules and procedures as may be adopted by the Plan Administrator. Upon receipt of a domestic relations order, the Plan Administrator shall notify the Participant or Beneficiary whose benefits may be affected by such order of its receipt of such order. The Plan Administrator shall also advise the Participant or Beneficiary and the alternate payee named in the order of its rules and procedures relating to the determination of the qualified status of such order.

(b) RETENTION OF PAYMENTS. If payment of benefits to the Participant or Beneficiary has commenced at the time a domestic relations order is received by the Plan Administrator or benefits become payable after receipt of such order, the Plan Administrator shall direct the Trustee to segregate and hold the amounts which would be payable to the alternate payee under the order if such order is ultimately determined to be a Qualified Domestic Relations Order. If the Plan Administrator determines that the order is a Qualified Domestic Relations Order within eighteen (18) months of the segregation of benefits payable to the alternate payee under such order, the Plan Administrator shall direct the Trustee to pay the segregated amounts (plus any earnings thereon) as well as such future amounts as may be specified in such order to the alternate payee. If the Plan Administrator determines that the order is not a Qualified Domestic Relations Order or is unable to determine whether such order is a Qualified Domestic Relations Order within the eighteen (18) month period following the segregation of benefits, the Plan Administrator shall direct the Trustee to pay the segregated amounts (plus any earnings thereon) to the Participant or Beneficiary. A determination by the Plan Administrator after the close of such eighteen (18) month period that the order is a Qualified Domestic Relations Order shall be applied prospectively. All determinations of the Plan Administrator hereunder with respect to the status of an order as a Qualified Domestic Relations Order shall be binding and conclusive on all interested parties, subject to the provisions of Section 13.4.

12.4. EARLY COMMENCEMENT OF PAYMENTS TO ALTERNATE PAYEES.

(a) EARLY PAYMENTS. An order requiring payment to an alternate payee before a Participant has separated from employment may qualify as a Qualified Domestic Relations Order even if it requires payment prior to the Participant's "earliest retirement age," which is the earliest date on which the Participant could elect to receive retirement benefits pursuant to this Plan. If the order requires payments to commence prior to a Participant's actual retirement, the amounts of the payments must be determined as if the Participant had retired on the date on which such payments are to begin under such order, but taking into account only the present account balances at that time.

(b) ALTERNATE PAYMENT FORMS. The order may call for the payment of benefits to an alternate payee in any form in which benefits may be paid under the Plan to the Participant.

ARTICLE XIII
ADMINISTRATION

13.1. PLAN ADMINISTRATOR.

The Employer is the Plan Administrator, but has delegated its duties as such to a committee in accordance with the procedures described in Section 13.7.

13.2. ALLOCATION OF FIDUCIARY RESPONSIBILITY.

The Plan Administrator is the named fiduciary with respect to the administration of the Plan. The Plan Administrator shall not be responsible for any fiduciary functions or other duties assigned to a discretionary Trustee pursuant to this Plan or the Trust Agreement. If the Trustee appointed pursuant to the Trust Agreement is a passive, directed Trustee, then the Trustee shall not be responsible for maintaining the Plan in compliance with any applicable laws, rules or regulations.

13.3. POWERS OF THE PLAN ADMINISTRATOR.

(a) GENERAL POWERS. The Plan Administrator shall have the power and discretion to perform the administrative duties described in this Plan or required for proper administration of the Plan and shall have all powers necessary to enable it to properly carry out such duties. Without limiting the generality of the foregoing, the Plan Administrator shall have the power and discretion to construe and interpret this Plan, to hear and resolve claims relating to this Plan, and to decide all questions and disputes arising under this Plan. The Plan Administrator shall determine, in the exercise of its discretion, the eligibility of employees to participate in the Plan, the service credited to the Employees, the status and rights of a Participant, and the identity of the Beneficiary or Beneficiaries entitled to receive any benefits payable hereunder on account of the death of a Participant.

(b) BENEFIT PAYMENTS. Except as is otherwise provided hereunder, the Plan Administrator shall determine the manner and time of payment of benefits under this Plan. All benefit disbursements by the Trustee shall be made upon the instructions of the Plan Administrator.

(c) EXERCISE OF DISCRETION; DECISIONS FINAL. All powers and duties conferred on the Plan Administrator shall be exercised or performed by the Plan Administrator in the exercise of its discretion regardless of whether the Plan provision conferring such power or imposing such duty specifically refers to the Plan Administrator's discretion. All decisions of the Plan Administrator upon all matters within the scope of its authority shall be binding and conclusive upon all persons.

(d) REPORTING AND DISCLOSURE. The Plan Administrator shall file all reports and forms lawfully required to be filed by the Plan Administrator with any governmental agency or department, federal or tribal, and shall distribute any forms, reports, statements or plan descriptions lawfully required to be distributed to Participants and others by any governmental agency or department, federal or tribal.

(e) INVESTMENT. The Plan Administrator shall keep itself advised with respect to the investment of the Trust Fund and shall report to the Employer regarding the investment and reinvestment of the Trust Fund not less frequently than annually. The Plan Administrator shall have power to direct specific investments of the Trust Fund only where such power is expressly conferred by this Plan and only to the extent described in this Plan. The Trustee shall have the responsibility of taking and holding of title to the assets of the Plan in the Trustee's name. All other investment duties shall be the responsibility of the Participants directing investment in Investment Funds established pursuant to Article VIII or, in the event that a discretionary Trustee is appointed pursuant to the terms of the Trust Agreement, the Trustee.

13.4. CLAIMS.

(a) FILING OF CLAIM. A Participant or Beneficiary entitled to benefits need not file a written claim to receive benefits. If an Employee, Participant, Beneficiary or any other person is dissatisfied with the determination of his benefits, eligibility, participation or any other right or interest under this Plan, such person may file a written statement setting forth the basis of the claim with the Plan Administrator in a manner prescribed by the Plan Administrator. In connection with the determination of a claim, the claimant may examine this Plan and any other pertinent documents generally available to Participants relating to the claim.

(b) NOTICE OF DECISION. A written notice of the disposition of any such claim shall be furnished to the claimant within thirty (30) days after the claim is filed with the Plan Administrator. Such notice shall refer, if appropriate, to pertinent provisions of this Plan, shall set forth in writing the reasons for denial of the claim if the claim is denied (including references to any pertinent provisions of this Plan), and where appropriate shall explain how the claimant can perfect the claim. If the claim is denied, in whole or in part, the notice of disposition also shall include a description of the Plan's review procedures, including time limitations applicable to such procedures.

(c) REVIEW. Within ninety (90) days after receiving the written notice of the Plan Administrator's disposition of the claim, the claimant may request in writing, and shall be entitled to, a review meeting with the Plan Administrator to present reasons why the claim should be allowed. The claimant shall be entitled to be represented by counsel at the review meeting. The claimant also may submit a written statement of his claim and the reasons for granting the claim. Such statement may be submitted in addition to, or in lieu of, the review meeting with the Plan Administrator. The claimant shall be provided, upon request and free of charge, reasonable access to and copies of all documents, records and other information relevant to the claimant's claim for benefits. The Plan Administrator shall have the right to request of and receive from a claimant such additional information, documents or other evidence as the Plan Administrator may reasonably require. If the claimant does not request a review meeting within ninety (90) days after receiving written notice of the Plan Administrator's disposition of the claim, the claimant shall be deemed to have accepted the Plan Administrator's written disposition, unless the claimant shall have been physically or mentally incapacitated so as to be unable to request review within the ninety (90) day period.

(d) DECISION FOLLOWING REVIEW. A decision on review shall be rendered in writing by the Plan Administrator ordinarily not later than sixty (60) days after review, and a written copy of such decision shall be delivered to the claimant. If special circumstances require an extension of the ordinary period, the Plan Administrator shall so notify the claimant.

(e) DECISIONS FINAL; PROCEDURES MANDATORY. To the extent permitted by law, a decision on review by the Plan Administrator shall be binding and conclusive upon all persons whomsoever. To the extent permitted by law, completion of the claims procedures described in this Section shall be a mandatory precondition that must be complied with prior to commencement of a judicial action by a person claiming rights under the Plan or by another person claiming rights through such a person. The Plan Administrator may, in its sole discretion, waive these procedures as a mandatory precondition to such an action.

(f) RECOURSE FOLLOWING CLAIMS EXHAUSTION. Any claims which are not resolved following exhaustion of the claims procedures set forth herein shall be subject to review in the Courts of the Navajo Nation.

13.5. PAYMENT OF PLAN EXPENSES.

(a) GENERAL. Expenses of the Plan, to the extent that the Employer does not pay such expenses, may be paid out of the assets of the Plan. Expenses that may be paid by the Plan shall include any expenses incurred by the Plan Administrator or Trustee in the exercise of their duties under the Plan, including, but not limited to, expenses for recordkeeping and other administrative services; audit and accounting expenses fees and expenses of the custodian; expenses for investment education and investment management services; and direct costs that the Employer incurs with respect to the Plan. By action dated June 3, 2010, the Plan Administrator adopted a written Administrative Policy on the Payment of Plan Expenses governing the payment of expenses with Plan assets. The Administrative Policy on the Payment of Plan Expenses may be amended from time to time in the discretion of the Plan Administrator.

(b) SOURCE OF FUNDS. When the Plan Administrator determines that an expense may be paid out of the assets of the Plan and the expense is not allocated to individual Participant accounts in accordance with Section 6.2(g), the expense shall be paid from the Plan's investment fee credit account maintained pursuant to Section 13.6. If the Plan's investment fee credit account is insufficient to pay the entire expense, the expense (or the remaining portion of the expense) shall be charged to the Plan's forfeiture suspense account.

13.6. INVESTMENT FEE CREDIT ACCOUNT.

The Plan Administrator shall maintain an investment fee credit account under the Plan. Any and all investment fees which are rebated to the Plan by the Plan's service providers on a quarterly basis shall be allocated to the investment fee credit account. On a periodic basis, the Plan Administrator shall allocate the assets accumulated in the investment fee credit account to pay Plan expenses, in accordance with the terms of Section 13.5 above. The funds allocated to the investment fee credit account shall be applied to Plan expense payments on an annual basis, with the exception of a minimum balance the Plan Administrator may elect to leave in the investment fee credit account. If the assets held in the investment fee credit account at the end of Plan Year exceed the Plan expenses approved for payment by the Plan Administrator, the Plan Administrator shall determine in its discretion whether such excess shall continue to be held for payment of Plan expenses incurred in the subsequent Plan Year or shall be allocated to Participant accounts in a uniform and nondiscriminatory manner.

13.7. PLAN ADMINISTRATIVE COMMITTEE.

The Retirement Savings Plan Administration Committee (the "Committee") as appointed by the Budget and Finance Committee of the Council shall serve as the Plan Administrator. The Committee shall consist of the Chairman and the Vice Chairman of the Budget and Finance Committee of the Council, the Controller of the Division of Finance or his designee, the Director of the Department of Personnel Management or his designee, and the Director of the Division of Community Development or his designee. All designees shall be appointed through written notice to the Committee. The Committee members shall serve without compensation but shall be reimbursed for all expenses by the Employer. The Committee shall conduct itself in accordance with the provisions of this Article XIII. The members of the Committee may resign by providing thirty (30) days written notice to the Budget and Finance Committee of the Council

and may be removed immediately at any time by written notice from the Budget and Finance Committee.

13.8. CHAIRPERSON, VICE-CHAIRPERSON AND SECRETARY.

The Committee shall elect a Chairperson and Vice-Chairperson from among its members. The Chairperson, or Vice-Chairperson when designated or in the absence of the Chairperson, shall be authorized to execute any document or documents on behalf of the Committee. The Committee shall record all acts and determinations of the Committee and shall preserve and retain custody of all such records, together with such other documents as may be necessary for the administration of this Plan or as may be required by law. The Committee may appoint a secretary, who is not required to be a member of the Committee, to assist with the maintenance of Plan and Committee documents and records.

13.9. APPOINTMENT OF AGENTS.

The Committee may appoint such other agents, who need not be members of the Committee, as it may deem necessary for the effective performance of its duties, whether ministerial or discretionary, as the committee may deem expedient or appropriate. The appointment of agents shall be established in writing and signed by the Chairperson. The compensation of any agents who are not Employees of the Employer shall be fixed by the Committee within any limitations set by the Council.

13.10. MAJORITY VOTE AND EXECUTION OF INSTRUMENTS.

In all matters, questions and decisions, the action of the Committee shall be determined by a majority vote of its permanent voting members. They may meet informally or take any ordinary action without the necessity of meeting as a group. All instruments executed by the Committee shall be executed by a majority of its members or by any member of the Committee designated to act on its behalf.

13.11. ALLOCATION OF RESPONSIBILITIES AMONG COMMITTEE MEMBERS.

The Committee may allocate responsibilities among its members or designate other persons to act on its behalf. Any allocation or designation, however, must be set forth in writing and must be retained in the permanent records of the committee.

13.12. CONFLICT OF INTEREST.

No member of the Committee who is a Participant shall take any part in any action in connection with his participation as an individual. Such action shall be voted or decided by the remaining members of the Committee, or by another individual appointed by the Council to vote on or decide such action if no Committee member is permitted to take action pursuant to this Section.

13.13. OTHER FIDUCIARY CAPACITIES.

The members of the Committee may also serve in any other fiduciary capacity, and, specifically, all or some members of the Committee may serve as Trustee. Notwithstanding any other provision of this Plan, if and so long as any two (2) members of the Committee also serve as Trustee, any provision of this Plan or the Trust Agreement which requires a direction,

certification, notification, or other communication from the Plan Administrator to the Trustee shall be inapplicable. If and so long as any two (2) members of the Committee also serve as Trustee, any action taken by either the Committee or the Trustee shall be deemed to be taken by the appropriate party.

ARTICLE XIV
PARTICIPATING AFFILIATES

14.1. ADOPTION BY RELATED EMPLOYERS.

Any Affiliate of the Employer, governmental unit, branch, division, program or office of the Employer may adopt this Plan for the benefit of its Employees with the consent of the Council and the Plan Administrator; provided that only Affiliates and governmental entities of the Employer which are consistent with the treatment of this Plan as a governmental plan within the meaning of Code Section 414 and Section 3(32) of the Act, and in accordance with the Nation's reasonable and good faith interpretation of Section 906 of the Pension Protection Act of 2006, shall be permitted to adopt or continue participating in this Plan.

14.2. ELIGIBLE CHAPTERS.

Under Title 26, Section 2003(D) of the Navajo Nation Code, a Governance Certified Chapter of the Nation may elect to participate or continue to participate in this Plan for the benefit of its Employees, with the consent of the Council or Plan Administrator.

14.3. ELECTION TO PARTICIPATE.

Any Affiliate that meets the requirements of Section 14.1 or any Eligible Chapter that meets the requirements of Section 14.2, may elect, by a duly approved resolution, to participate or continue to participate in this Plan. References to the "Employer" in this Plan document shall refer to the Employer and all Participating Affiliates, unless the context clearly indicates otherwise.

14.4. APPROVAL OF PARTICIPATION.

Participation or continued participation in the Plan by an Affiliate or an Eligible Chapter must be approved, by a duly approved resolution, by the Committee, in its role as Plan Administrator. Upon approval of the participation of an Affiliate or Eligible Chapter in the Plan, such Affiliate or Eligible Chapter shall be referred to as a Participating Affiliate. References to the "Employer" in this Plan document shall refer to the Employer and all Participating Affiliates, unless the context clearly indicates otherwise.

14.5. REQUIREMENTS APPLICABLE TO PARTICIPATING AFFILIATES.

(a) Each Participating Affiliate shall enter into an agreement with the Plan Administrator or its designee, as well as any other entity or entities as required by the Council or the Plan Administrator; such agreement shall set forth certain terms and conditions required by the Council or Plan Administrator regarding the Participating Affiliate's participation in the Plan. In addition to the requirements of such agreement, the Participating Affiliate shall also be subject to the requirements set forth in this Section 14.4.

(b) Each Participating Affiliate shall be deemed to have delegated to the Council all authority to amend or terminate the Plan, and to appoint and remove the Plan Administrator and the Trustee.

(c) Each Participating Affiliate shall be deemed to designate the Employer as its agent with respect to all relations with the Trustee, the Plan Administrator, the investment manager, the recordkeeper and all other Plan service providers.

(d) Each Participating Affiliate consents to the deposit and investment of all funds contributed to the Plan in a single Trust Fund, administered by the Trustee.

(e) Each Participating Affiliate consents to the pooling of forfeitures that arise under the Plan, and the use of such forfeitures as directed by the Plan Administrator, in accordance with the terms of the Plan.

(f) Each Participating Affiliate shall be deemed to designate the Employer as its agent with respect to all relations with the Trustee, the Plan Administrator, the investment manager, the recordkeeper and all other Plan service providers.

(g) Each Participating Affiliate consents to the imposition of restrictions on the features available under the Plan to the Employees of the Participating Affiliate, in the event that the Plan Administrator determines that the Participating Affiliate does not have the systems capability or resources necessary to effectively administer a feature of the Plan, such as automatic enrollment. If a Participating Affiliate participates in the Plan on a restricted basis, the Participating Affiliate and the Plan Administrator shall make appropriate disclosures to the Employees of the Participating Affiliate regarding the restrictions imposed by the Plan Administrator and the features of the Plan available to the Employees of the Participating Affiliate.

(h) Each Participating Affiliate consents to the requirement that the Participating Affiliate's election to participate in the Plan may be terminated or modified only with the consent of the Council and the Plan Administrator.

ARTICLE XV
SCOPE OF RESPONSIBILITY

15.1. SCOPE OF RESPONSIBILITY.

(a) GENERAL. The Employer, the Plan Administrator, the investment manager and the Trustee shall perform the duties respectively assigned to them under this Plan and the Trust Agreement and shall not be responsible for performing duties assigned to others under the terms and provisions of this Plan or the Trust Agreement. No inference of approval or disapproval is to be made from the inaction of any party described above or the employee or agent of any of them with regard to the action of any other such party. Persons, organizations or corporations acting in a position of any fiduciary responsibility with respect to the Plan or the Trust Fund may serve in more than one fiduciary capacity.

(b) ADVISORS. The Employer, the Plan Administrator and the Trustee shall have authority to employ advisors, legal counsel, accountants and investment managers in connection with the administration of the Trust Fund, as set forth in the Trust Agreement. To the extent permitted by applicable law, the Employer, the Plan Administrator and the Trustee shall

not be liable for complying with the directions of any advisors, legal counsel, accountants or investment managers appointed pursuant to this Plan or the Trust Agreement.

(c) INDEMNIFICATION. To the extent permitted by law, the Employer shall and does hereby jointly and severally indemnify and agree to hold harmless its employees, officers and directors who serve in fiduciary capacities with respect to the Plan and the Trust Agreement, including members of the Committee, from all loss, damage, or liability, joint or several, including payment of expenses in connection with defense against any such claim, for their acts, omissions and conduct, and for the acts, omissions and conduct of their duly appointed agents, which acts, omissions, or conduct constitute or are alleged to constitute a breach of such individual's fiduciary or other responsibilities under the Act or any other law, except for those acts, omissions, or conduct resulting from his own willful misconduct, breach of good faith, or gross negligence in the performance of their duties; provided, however, that if any party would otherwise be entitled to indemnification hereunder in respect of any liability and such party shall be insured against loss as a result of such liability by any insurance contract or contracts, such party shall be entitled to indemnification hereunder only to the extent by which the amount of such liability shall exceed the amount thereof payable under such insurance contract or contracts.

(d) INSURANCE. The Employer may obtain insurance covering itself and others for breaches of fiduciary obligations under this Plan or the Trust Agreement to the extent permitted by law, and nothing in the Plan or the Trust Agreement shall restrict the right of any person to obtain such insurance for himself in connection with the performance of his duties under this Plan or the Trust Agreement. No bond shall be required of the Trustee unless required by law notwithstanding this provision. The Trustee, the Plan Administrator and the Employer do not in any way guarantee the Trust Fund from loss or depreciation. The Employer does not guarantee the payment of any money which may be or become due to any person from the Trust Fund, and the liability of the Plan Administrator and the Trustee to make any payment hereunder at any and all times will be limited to the then available assets of the Trust Fund.

15.2. PROHIBITION AGAINST CERTAIN PERSONS HOLDING POSITIONS.

No person who has been convicted of a felony shall be permitted to serve as a fiduciary, officer, trustee, custodian, counsel, agent, or employee of this Plan, or as a consultant to this Plan, unless permitted under the Act and regulations thereunder. The Plan Administrator shall ascertain to the extent practical that no violation of this Section occurs. In any event, no person knowingly shall permit any other person to serve in any capacity which would violate this Section.

ARTICLE XVI
AMENDMENT, MERGER AND TERMINATION

16.1. AMENDMENT.

The Employer shall have the right at any time, by an instrument in writing duly executed, acknowledged and delivered to the Plan Administrator and the Trustee, to modify, alter or amend this Plan, in whole or in part, prospectively or retroactively; provided, however, that the duties and liabilities of the Plan Administrator and the Trustee hereunder shall not be substantially increased without their written consent; and provided further that the amendment shall not reduce any Participant's interest in the Plan, calculated as of the date on which the

amendment is adopted. If the Plan is amended by the Employer after it is adopted by a Participating Affiliate, unless otherwise expressly provided, it shall be treated as so amended by such Participating Affiliate without the necessity of any action on the part of the Participating Affiliate. To the extent that the Plan must be amended solely to incorporate legislative, regulatory or other changes required to maintain the tax-qualified status of the Plan, any such amendment may be authorized and approved by the Chair or Vice Chair of the Nation's Budget and Finance Committee and without specific approval of such amendment by the Council, the Budget and Finance Committee or the Retirement Savings Plan Administration Committee; provided, however, that the compliance amendment is reviewed and approved by the Nation's Office of the Attorney General prior to execution.

16.2. PLAN MERGER OR CONSOLIDATION.

Subject to the restrictions noted in this Section, the Employer reserves the right to merge or consolidate this Plan with any other plan or to direct the Trustee to transfer the assets held in the Trust Fund and/or the liabilities of this Plan to any other plan or to accept a transfer of assets and liabilities from any other plan. In the event of the merger or consolidation of this Plan and the Trust Fund with any other plan, or a transfer of assets or liabilities to or from the Trust Fund to or from any other such plan, then each Participant shall be entitled to a benefit immediately after such merger, consolidation or transfer (determined as if the plan was then terminated) that is equal to or greater than the benefit he would have been entitled to receive immediately before such merger, consolidation or transfer (if this Plan had then terminated).

16.3. TERMINATION OF PLAN OR DISCONTINUANCE OF CONTRIBUTIONS.

(a) COMPLETE TERMINATION OR DISCONTINUANCE. It is the expectation of the Employer that this Plan and the payment of contributions hereunder will be continued indefinitely. However, continuance of the Plan is not assumed as a contractual obligation of the Employer, and the right is reserved at any time to terminate this Plan or to reduce, temporarily suspend or discontinue contributions hereunder. In the event the Council decides that it is impossible or inadvisable for the Employer to make its contributions as herein provided, the Council shall have the power to terminate this Plan or its contributions by appropriate resolution. A copy of such resolution or resolutions shall be delivered to the Trustee. In such event or in the event the Employer shall discontinue contributions without the delivery to the Trustee of such a resolution, then after the date specified in such resolution, or after the date of such discontinuance of contributions, the balance credited to the Employer Contributions Account of each Participant shall be fully vested and nonforfeitable.

(b) LIQUIDATION OF TRUST FUND. In the event of termination of the Plan or discontinuance of contributions, the Plan Administrator shall either promptly direct the Trustee to liquidate and distribute all assets remaining in the Trust Fund to Participants in accordance with Article XI as though their employment with the Employer had terminated or shall direct the Trustee to continue the Plan, in which event benefits shall be distributed at the times and in the manner specified in Article XI. Upon the liquidation of all assets of the Trust Fund, the Plan Administrator, after deducting all costs and expenses of liquidation and distribution, shall make the allocations required under Article VI where applicable. No distributions shall be made after termination of the Plan or discontinuance of Employer Contributions until a reasonable time after the Employer has received from the United States Treasury Department a determination under the provisions of the Code as to the effect of such termination or discontinuance upon the qualification of the Plan. In the event such determination is unfavorable, then prior to making any distributions hereunder, the Trustee shall pay any

Federal income taxes due because of the income of the Trust Fund and shall then distribute the balance in the manner above provided. The Employer may, by written notice delivered to the Trustee, waive the Employer's right hereunder to apply for such a determination, and if no application for determination shall have been made within sixty (60) days after the date specified in the terminating resolution or after the date of discontinuance of contributions, the Employer shall be deemed to have waived such right. All Plan assets shall be allocated in accordance with the terms of the Plan and no Employer Contributions shall be returned to the Employer except as set forth in Section 5.5 or as otherwise permitted by statute or Revenue Ruling 91-4.

(c) PARTIAL TERMINATION. If the Plan is terminated or contributions are discontinued with respect to a group or class of Participants, then after the date of partial termination or partial discontinuance of contributions, the balance credited to the Employer Contributions Accounts of all Participants affected by such partial termination or partial discontinuance of contributions shall become fully vested and nonforfeitable and the accounts of such Participants either shall be distributed or held pending the subsequent termination of employment of such Participants, as provided in paragraph (b) above.

16.4. LIMITATION OF EMPLOYER LIABILITY.

The adoption of this Plan is strictly a voluntary undertaking on the part of the Employer and shall not be deemed to constitute a contract between the Employer and any Employee or Participant or to be consideration for, an inducement to, or a condition of the employment of any Employee. A Participant, Employee, or Beneficiary shall not have any right to retirement or other benefits except to the extent provided herein.

ARTICLE XVII
GENERAL PROVISIONS

17.1. LIMITATION ON PARTICIPANT'S RIGHTS.

Participation in the Plan shall not give any Employee the right to be retained in the Employer's employ or any right or interest in the Trust Fund other than as herein provided. The Employer reserves the right to dismiss any Employee without any liability for any claim either against the Trust Fund, except to the extent herein provided, or against the Employer.

17.2. EXCLUSIVE BENEFIT.

Except as otherwise provided herein or in the Trust Agreement, it shall be impossible for any part of the Trust Fund to be used for or diverted to purposes other than for the exclusive benefit of Participants and their Beneficiaries, except that payment of taxes and administration expenses may be made from the Trust Fund as provided in the Trust Agreement.

17.3. UNIFORM ADMINISTRATION.

Whenever in the administration of the Plan any action is required by the Plan Administrator, such action shall be uniform in nature as applied to all persons similarly situated and no such action shall be taken which will discriminate in favor of Highly Compensated Employees.

17.4. HEIRS AND SUCCESSORS.

All of the provisions of this Plan shall be binding upon all persons who shall be entitled to any benefits hereunder, and their heirs and legal representatives.

17.5. ASSUMPTION OF QUALIFICATION.

Unless and until advised to the contrary, the Trustee may assume that the Plan is a qualified plan under the provisions of the Code relating to such plans, and that the Trust Fund is entitled to exemption from income tax under such provisions.

17.6. INSURANCE POLICIES.

No individual insurance policies shall be purchased with assets of the Trust Fund on the life of any Plan Participant.

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IN WITNESS WHEREOF, the Navajo Nation has adopted the Plan effective _____, 2021~~November 10, 2020~~.

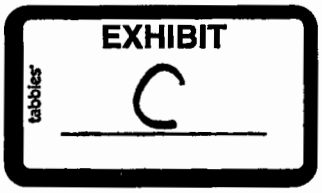
ATTEST:

BY: _____
Chairperson of Budget and Finance Committee

DATE: _____

BY: _____
Chairperson
Retirement Savings Plan Administration Committee

DATE: _____



NAVAJO NATION

401(k) SAVINGS PLAN

Original Effective Date: October 1, 1984
Restatement Effective Date: _____, 2021

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NAVAJO NATION
401(k) SAVINGS PLAN

PREAMBLE

Effective October 1, 1984, the Navajo Nation, a federally recognized Indian tribal government (the "Employer") established a tax-qualified retirement plan for the benefit of its employees, known as the Navajo Nation Retirement Savings Plan. The Employer subsequently amended the Retirement Savings Plan on multiple occasions, including an amendment to add an Internal Revenue Code Section 401(k) cash or deferred arrangement and to change the name of the Retirement Savings Plan to the "Navajo Nation 401(k) Savings Plan" (the "Plan"). The Plan was amended and restated in its entirety effective as of March 1, 2008 pursuant to the enactment of Legislation No. 0043-08. The Plan was amended and restated again effective as of January 1, 2010 and subsequently amended on one occasion. On November 17, 2011, the Employer received a Compliance Statement on the Plan under the Internal Revenue Service's Employee Plans Compliance Resolution System. Effective January 1, 2016, the Employer amended and restated the Plan in order to incorporate the prior amendment, to make several design enhancements, to make certain administrative changes, and to prepare the document for an IRS determination letter application. By this instrument, the Employer intends to amend and restate the Plan effective as of the date of the resolution adopting this restatement.

The Plan is intended to constitute a governmental plan within the meaning of Section 414(d) of the Code and Section 3(32) of the Act. The Plan is further intended to constitute a tax qualified plan under the provisions of Section 401(a) of the Code to the extent such provisions are made applicable to governmental plans.

ARTICLE I
EFFECTIVE DATE

1.1. EFFECTIVE DATE.

The Plan originally was adopted effective as of October 1, 1984. Except as may otherwise be specifically provided with respect to particular provisions of the Plan, this amended and restated Plan shall be effective as of the date of the resolution adopting this restatement.

ARTICLE II
DEFINITIONS; CONSTRUCTION; GOVERNING LAW

2.1. DEFINITIONS.

When a word or phrase shall appear in this Plan with the initial letter capitalized, and the word or phrase does not commence a sentence, the word or phrase shall generally be a term defined in this Section 2.1. The following words and phrases utilized in the Plan with the initial letter capitalized shall have the meanings set forth in this Section 2.1, unless a clearly different meaning is required by the context in which the word or phrase is used:

(a) "ACCOUNT" or "ACCOUNTS" - An account or accounts established pursuant to Section 6.1 to which are credited the Pre-Tax, Catch-Up, Employer and Rollover

Contributions and Roth Elective Deferrals made by or attributable to a Participant, along with any net gains and losses on such contributions.

(b) "ACT" - The Employee Retirement Income Security Act of 1974, as it may be amended from time to time.

(c) "AFFILIATE" - Any political subdivision, enterprise, division or tribal organization of the Navajo Nation. In accordance with the Employer's reasonable and good faith interpretation of Section 906 of the PPA, it is the position of the Employer that neither the Nation nor any Affiliate belongs to a controlled group of corporations or group of entities subject to the aggregation requirements of Section 414 of the Code.

(d) "ANNUAL ADDITION" - The sum of the following amounts identified in subparagraphs (1) though (3) below, with the exception of any amounts identified in subparagraph (4) below, shall constitute the Annual Addition allocable to a Participant under this Plan or under any defined contribution plan or defined benefit plan maintained by the Employer or any Affiliate for a particular Plan Year:

(1) The Employer contributions allocable for a Plan Year to the accounts of the Participant, including any amount allocable from a suspense account maintained pursuant to such plan on account of a prior Plan Year; amounts deemed to be Employer contributions pursuant to a cash or deferred arrangement qualified under Section 401(k) of the Code (including the Pre-Tax Contributions and Roth Elective Deferrals allocable to a Participant pursuant to this Plan); and amounts allocated to a medical account which must be treated as annual additions pursuant to Section 415(c)(1) or Section 419A(d)(2) of the Code;

(2) All nondeductible Employee contributions allocable during a Plan Year to the accounts of the Participant; and

(3) Forfeitures allocable for a Plan Year to the accounts of the Participant.

(4) Allocations of any of the following amounts shall not be included in the calculation of the Annual Addition, as set forth in Treasury Regulations Section 1.415(c)-1(b); a direct transfer from a tax-qualified plan to this Plan on behalf of a Participant; the restoration of a Participant's accrued benefit or repayment of a cashout (Employer and Employee repayments); Catch-Up Contributions made in accordance with Section 414(v) of the Code; restorative payments made as a correction of a fiduciary breach or potential fiduciary liability; excess elective contributions distributed in accordance with Section 4.7(b); Rollover Contributions; and Participant loan repayments.

For purposes of this Section 2.1(d), Employer Contributions shall be considered Annual Additions for a particular Plan Year provided that such Contributions are actually deposited in the Trust no later than the 15th day of the tenth calendar month following the end of the Plan Year to which the Contributions relate. Nondeductible Employee contributions shall be considered Annual Additions for a particular Plan Year provided that such Contributions are actually deposited in the Trust no later than 30 days after the close of the Plan Year. Forfeiture allocations are treated as Annual Additions for the Plan Year which contains the date on which the forfeitures are allocated to Participant accounts. All other special allocations, such as corrective contributions, allocations to simplified employee pensions under Section 408(k) of the Code and Qualified Military Service contributions made in accordance with Section 414(u) of the

Code shall be taken into account in accordance with the timing rules of Treasury Regulation Section 1.415(c)-1(b)(6).

(e) "AUTHORIZED LEAVE OF ABSENCE" - A leave of absence granted by the Employer in writing in accordance with the applicable Navajo Nation Personnel Policies or a leave of absence for service as a member of the armed forces of the United States, provided that the Employee left the Employer directly to enter the armed services and returns to the employ of the Employer within the period during which his employment rights are protected by law.

(f) "AUTOMATIC EMPLOYEE CONTRIBUTIONS" - The elective deferral contributions made on behalf of Participants in accordance with the automatic enrollment feature of the Plan set forth in Section 4.1.

(g) "AUTOMATIC ENROLLMENT DATE" - The first day of the first payroll period which commences at least ninety (90) days after the Eligible Employee's date of hire or date of rehire, as applicable, determined in accordance with the Employer's uniform and nondiscriminatory payroll practices. For Eligible Employees who were hired prior to October 1, 2021, who are not contributing to the Plan, Automatic Enrollment Date shall mean the first day of the first payroll period on or after October 1, 2021.

(h) "BENEFICIARY" - The person or persons entitled to receive benefits under this Plan in the event of death of the Participant.

(i) "BENEFIT COMMENCEMENT DATE" - The first day on which all events (including the passing of the day on which benefit payments are scheduled to commence) have occurred which entitle the Participant to receive his first benefit payment from the Plan.

(j) "BREAK IN VESTING SERVICE" - A termination of employment with the Employer, followed by a one year period during which no services are performed for the Employer.

(k) "CATCH-UP CONTRIBUTIONS" - The elective deferral contributions directed by Participants on a pre-tax basis in accordance with Section 414(v) of the Code and Section 4.2(c) of the Plan. Catch-Up Contributions shall be treated as either Pre-Tax Contributions or Roth Elective Deferrals and shall be accounted for within the Pre-Tax Contributions Account or the Roth Elective Deferrals Account, as applicable.

(l) "CODE" - The Internal Revenue Code of 1986, as amended.

(m) "COMMITTEE" - The committee, titled the "Retirement Savings Plan Administration Committee," appointed by and delegated its authority from the Budget and Finance Committee of the Navajo Nation Council, to serve as Plan Administrator.

(n) "COMPENSATION" -

(1) General Rule. Subject to paragraphs (2) - (7) below, an Employee's Compensation for a Plan Year shall include all of the Employee's wages within the meaning of Section 3401(a) of the Code and all payments of compensation to the Employee by the Employer (in the course of the Employer's trade or business) for which the Employer is required to furnish the Employee a written statement under Sections 6041(d), 6051(a) (3) and

6502 of the Code, determined without regard to any rules under Section 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed.

(2) Pre-Tax Contributions. The term "Compensation" shall include any elective deferral as defined in Section 402(g)(3) of the Code, and any amounts which are contributed or deferred by the Employer at the election of the Employee and which are not currently includible in the Participant's gross taxable income by reason of the application of Sections 125 or 457 of the Code. For purposes of the definition of compensation, amounts excluded from taxable income under Code Section 125 include any amounts not available to a Participant in cash in lieu of group health coverage because the Participant is unable to certify that he has other health coverage. An amount will be treated as an amount under Code Section 125 only if the Employer does not request or collect information regarding the participant's other health coverage as part of the enrollment process for the health plan. Compensation paid or made available shall include elective amounts that are not includible in the gross income of the Employee by reason of Section 132(f)(4) of the Code.

(3) Post-Severance Payments. The term "Compensation" shall include post-severance regular pay (including regular wages, overtime, shift differential pay, commissions, bonuses and other similar pay); provided, however, that such post-severance regular pay is paid to the Employee by the Employer by the later of two and one-half (2 ½) months after the Employee's severance from employment or the end of the calendar year that include the Employee's date of severance from employment. All other types of post-severance payments including, but not limited to, payment for unused accrued leave and vacation, payments from nonqualified unfunded deferred compensation plans, and payments to any former employees or Participants who are permanently and totally disabled, shall not be treated as Compensation.

(4) Military Differential Pay. The term "Compensation" shall include any differential pay paid by the Employer to the Participant during a period of Qualified Military Service.

(5) Affiliates. If an Employee receives any payments from an Affiliate which would be treated as Compensation if paid by the Employer, such amounts shall be included in calculating the Employee's Compensation for purposes of Section 415 of the Code and the corresponding provisions of this Plan. Any amounts paid to an Employee by an Affiliate shall be disregarded for all other purposes under this Plan unless the Affiliate making the payment has elected to provide benefits to its employees pursuant to this Plan.

(6) Contributions and Allocations. For purposes of determining the amount of deferrals, contributions and allocations to be made pursuant to Articles IV, V and VI of the Plan, only Compensation paid by the Employer to an Employee during the Employee's period of participation in the Plan, including Qualified Military Service, shall be considered.

(7) Annual Compensation Limit. Notwithstanding any provision of the Plan to the contrary, the "Compensation" of each Employee taken into account under the Plan shall not exceed the "annual compensation limit". The "annual compensation limit" is Two Hundred Thousand Dollars ($200,000) as adjusted by the Internal Revenue Service for increases in the cost-of-living in accordance with Section 401(a)(17)(B) of the Code ($265,000 for the 2016 Plan Year). The cost-of-living adjustment in effect for a calendar year applies to any period, not exceeding twelve (12) months, over which Compensation is determined

(determination period) beginning in such calendar year. If a determination period consists of fewer than twelve (12) months, the "annual compensation limit" will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is twelve (12). Any reference in this Plan to the limitation under Section 401(a)(17) of the Code shall mean the annual compensation limit set forth in this provision. If Compensation for any prior determination period is taken into account in determining an Employee's benefits accruing in the current Plan Year, the Compensation for that prior determination period is subject to the annual compensation limit in effect for that prior determination period.

(o) "COUNCIL" - The Navajo Nation Council, the publically elected governing body of the Employer. Under Title Two, Section 372, et seq., of the Navajo Nation Code, the Council has assigned and delegated the Budget and Finance Committee, a statutory standing committee of the Navajo Nation Council, to act on its behalf with regard to the Plan.

(p) "DISABILITY" - A physical or mental condition of such severity and duration as to entitle the Participant to disability benefits under the Federal Social Security Act. "Disabled Participant" shall mean a Participant who has received a disability determination entitling him to receive disability benefits under the Federal Social Security Act.

(q) "EFFECTIVE DATE" - The date or dates set forth in Section 1.1.

(r) "ELIGIBLE EMPLOYEE" - Each regular status Employee, as determined pursuant to the applicable Navajo Nation Personnel Policies, shall be considered an Eligible Employee. Each of the following individuals also shall be considered an Eligible Employee: (i) the President and Vice President of the Nation; (ii) the members of the Council; (iii) individuals serving at the pleasure of the President, the Speaker of the Council, or the Council. Elected Chapter Officials (e.g., President, Vice-President, Secretary and Land Board Members) shall not be considered Eligible Employees.

(s) "EMPLOYEE" - Each person receiving remuneration, or who is entitled to remuneration, for services rendered to the Employer in the legal relationship of employer and employee and not in the relationship of an independent contractor, as determined in accordance with the applicable Navajo Nation Personnel Policies (or who would be receiving or be entitled to remuneration were such person not on an Authorized Leave of Absence).

(t) "EMPLOYEE CONTRIBUTIONS" - The Pre-Tax Contributions, Catch-Up Contributions and Roth Elective Deferrals made by Participants pursuant to Article IV.

(u) "EMPLOYER" - The Navajo Nation, a federally recognized Indian Tribe. The term "Employer" also shall refer to Participating Affiliates, unless the context clearly indicates otherwise.

(v) "EMPLOYER CONTRIBUTIONS" or "EMPLOYER MATCHING CONTRIBUTIONS"- The Employer Matching Contributions made pursuant to Section 5.1 in order to match a portion of the Participant's Pre-Tax Contributions and all other amounts contributed to the Trust Fund by the Employer for the benefit of the Participants in accordance with Article V.

(w) "EMPLOYER MATCHING CONTRIBUTIONS ACCOUNT" - The account established pursuant to Section 6.1 to which the Employer Matching Contributions are credited, and any net gains and losses on such contributions.

(x) "ENTRY DATE" - The first day of each payroll period, determined in accordance with the Employer's uniform and nondiscriminatory payroll practices.

(y) "HIGHLY COMPENSATED EMPLOYEE" - Each individual who is treated as a "Highly Compensated Employee" pursuant to Section 2.2 of this Plan and Section 414(q) of the Code.

(z) "INVESTMENT FUNDS" - The investment funds, if any, established pursuant to Section 8.2.

(aa) "NATION" - The Navajo Nation, a federally recognized Indian tribal government.

(bb) "NAVAJO NATION INVESTMENT COMMITTEE" - The committee, appointed and delegated by the Budget and Finance Committee of the Navajo Nation Council, pursuant to its authorities under Title Two, Section 372, et seq., of the Navajo Nation Code, to oversee the investments and investment policies of the Navajo Nation.

(cc) "NAVAJO NATION PERSONNEL POLICIES" - The duly adopted and enacted uniform and nondiscriminatory applicable personnel rules, policies, and procedures governing Navajo Nation government employees.

(dd) "NORMAL RETIREMENT AGE" - The date on which a Participant attains the age of sixty (60) years or, in the case of Commissioned Law Enforcement Officer Participants, the age of fifty-five (55) years.

(ee) "PARTICIPANT" - An Employee who has satisfied the eligibility requirements specified in Section 3.1. If so indicated by the context, the term Participant shall also include former Participants whose active participation in the Plan has terminated but who have not received distributions of all amounts to which they are entitled pursuant to the terms and provisions of this Plan. Whether former Participants are allowed to exercise an option or election extended to "Participants" will be determined by the Plan Administrator in the exercise of its discretion, but in making such determinations the Plan Administrator shall act in a uniform, nondiscriminatory manner.

(ff) "PARTICIPATING AFFILIATE" - Any Affiliate that participates in the Plan in accordance with Article XIV.

(gg) "PLAN" - The Navajo Nation 401(k) Savings Plan, as set forth in this instrument, and as it may hereafter be amended.

(hh) "PLAN ADMINISTRATOR" - The committee appointed to act as such pursuant to Section 13.1.

(ii) "PLAN YEAR" - A twelve (12) month period, commencing on each January 1 and ending on each following December 31. For purposes of Section 415 of the Code, the Plan Year shall be the "limitation year".

(jj) "PRE-TAX CONTRIBUTIONS" - The elective deferral contributions directed by Participants on a pre-tax basis in accordance with Section 401(k) of the Code and Section 4.2(a) of the Plan, including any Catch-Up Contributions made in accordance with Section 4.2(c).

(kk) "PRE-TAX CONTRIBUTIONS ACCOUNT" - An account established pursuant to Section 6.1 to which are credited the Pre-Tax Contributions directed by a Participant and any net gains and losses on such contributions.

(ll) "QUALIFIED DOMESTIC RELATIONS ORDER" - A domestic relations order meeting the requirements specified in Section 12.2.

(mm) "QUALIFIED MILITARY SERVICE" - Service in the uniformed services of the United States of America, as defined in Code Section 414(u)(5).

(nn) "QUALIFIED PARTICIPANT" – A Participant who represents, in accordance with procedures established by the Plan Administrator, that he:

Is diagnosed or has a spouse or dependent (within the meaning of Code Section 152) who is diagnosed with COVID-19 by a test approved by the Centers for Disease Control and Prevention; or

Experiences adverse financial consequences as a result of being quarantined, furloughed or laid off or having work hours reduced due to COVID-19, being unable to work due to lack of child care due to COVID-19, closing or reducing hours of a business owned or operated by such Participant due to COVID-19, or other factors as determined by the Secretary of the Treasury.

(oo) "ROLLOVER CONTRIBUTIONS" - The amounts transferred to the Trust Fund by Participants in accordance with Section 4.8.

(pp) "ROLLOVER CONTRIBUTIONS ACCOUNT" - A separate account established pursuant to Section 6.1 to which are credited the Rollover Contributions of a Participant.

(qq) "ROTH ELECTIVE DEFERRALS" - The elective deferral contributions directed by Participants which are designated as Roth Elective Deferrals in accordance with Section 402A of the Code and Section 4.3 of the Plan.

(rr) "ROTH ELECTIVE DEFERRALS ACCOUNT" - A separate account established pursuant to Section 6.1 to which are credited the Roth Elective Deferrals of a Participant.

(ss) "ROTH ROLLOVER CONTRIBUTIONS" - The amounts transferred to the Trust Fund by Participants from a designated Roth 401(k) account in accordance with Section 4.8.

(tt) "SPOUSE" - The wife of a male Participant or the husband of a female Participant, as determined under Laws of the Navajo Nation.

(uu) "TRUST AGREEMENT" - The agreement entered into between the Employer and the Trustees for the purpose of investing contributions hereunder.

(vv) "TRUST FUND" - The fund established by the Employer pursuant to the terms of the Trust Agreement to provide for the investment of contributions made pursuant to this Plan. The Trust Fund will be held, administered and distributed for the exclusive benefit of the Participants and their Beneficiaries.

(ww) "TRUSTEE" - The bank, trust company or other institution designated and approved to serve as such by the Committee. The Trustee shall acknowledge acceptance of its appointment by the execution of the Trust Agreement or, in the case of a successor Trustee, by the execution of an appropriate written instrument.

(xx) "VALUATION DATE" - The date for valuing the assets of the Trust Fund, which shall be each business day of the Plan Year.

(yy) "VESTING SERVICE" - An Eligible Employee's period of service with the Employer, measured on an elapsed time basis beginning on the Eligible Employee's first day of active employment, and expressed as years and fractional parts of a year on the basis that 365 days equal one year. Vesting Service is measured on a prospective basis, with one year of Vesting Service credited to an Eligible Employee as of the first day of active employment and anniversaries of that date. For purposes of calculating Vesting Service, the following periods shall be included as periods of service: Qualified Military Service, Authorized Leaves of Absence, periods of Disability, and any period following a termination from employment with the Employer which does not constitute a Break in Vesting Service. If an Employee has more than one period of vesting service as a result of an extended leave or a separation from employment, such periods of vesting service shall be aggregated in accordance with the uniform and nondiscriminatory rules of the Plan Administrator.

2.2. HIGHLY COMPENSATED EMPLOYEE.

(a) GENERAL. The term "Highly Compensated Employee" shall include all "highly compensated active employees" and all "highly compensated former employees."

(b) HIGHLY COMPENSATED ACTIVE EMPLOYEES. For purposes of this Plan, a "highly compensated active employee" is an Employee who performs services for the Employer or its Affiliates during the current Plan Year (the "determination year") and who:

(1) During the determination year, or during the proceeding Plan Year, is or was a "5% owner" as described in Section 416(I)(1) of the Code and applicable regulations thereunder; or

(2) For the preceding year, had Compensation from the Employer in excess of Eighty Thousand Dollars ($80,000), as adjusted from time to time by the Secretary of the Treasury for cost-of-living increases ($120,000 for the 2016 Plan Year).

(c) HIGHLY COMPENSATED FORMER EMPLOYEES. For purposes of this Section, the term "highly compensated former employee" is based on the rules applicable to determining Highly Compensated Employee status as in effect for that determination year in accordance with Section 1.414(q)-1T, A-4 of the temporary income tax regulations and Notice 97-45, as such may be updated, modified or amended from time to time.

2.3. CONSTRUCTION.

(a) GENERAL. The masculine gender, where appearing in the Plan, shall include the feminine gender (and vice versa), and the singular shall include the plural, unless the context clearly indicates to the contrary. The term "delivered to the Plan Administrator," as used in the Plan, shall include delivery to a person or persons designated by the Plan Administrator for the disbursement and receipt of administrative forms. Headings and subheadings are for the purpose of reference only and are not to be considered in the construction of this Plan. In the event of a conflict between this Plan document and the Trust Agreement, the provisions of this Plan document shall control.

(b) SAVINGS PROVISION. If any provision of this Plan is determined to be for any reason invalid or unenforceable, the remaining provisions shall continue in full force and effect.

2.4. GOVERNMENTAL PLAN.

This Plan is intended to constitute a governmental plan as defined in Section 414(d) of the Code and Section 3(32) of the Act. The Nation does not intend to waive any exemptions or relief provided to governmental plans under the Act or Code by its voluntary adoption of policies, procedures, or provisions otherwise not required by the Act or Code with respect to governmental plans. Rather, the Employer's voluntary adoption of any such policies, procedures, or provisions reflects its determination that such policies, procedures, or provisions are consistent with the Employer's desire to provide a secure source of retirement income for its Employees. It is also the intention of the Nation that the Plan as adopted by the Employer shall constitute a qualified plan under the provisions of Section 401(a) of the Code and that the Trust Fund maintained pursuant to the Trust Agreement shall be exempt from taxation pursuant to Section 501(a) of the Code. This Plan shall be construed in a manner consistent with the intentions of the Nation and the Employer.

2.5. GOVERNING LAW; JURISDICTION; SOVEREIGNTY.

(a) SOVEREIGNTY. This Plan is sponsored by the Navajo Nation, a federally recognized Indian tribal government, with recognized and inherent sovereign powers and immunity. To the extent that this Plan is treated as a separate "entity" of the Nation, it shall be treated as a subordinate entity of the Nation with all attributes of sovereignty. The adoption and operation of this Plan is not a waiver of sovereign immunity, and the sovereign immunity of the Nation and the Employer is expressly reserved as a bar to all actions, damages or relief not specifically and expressly permitted hereunder. Any waiver of the Nation's sovereign immunity may be made only by express Resolution of the Council. The Nation's exemptions and immunity, however, shall not extend to service providers for the Plan, which shall be held to full compliance standards and enforcement requirements as would be applicable if they were providing services to a private sector plan.

(b) GOVERNING LAW; JURISDICTION. All of the provisions of this Plan shall be construed and enforced according to the Laws of the Navajo Nation and shall be administered according to the laws of the Nation, except as otherwise required by the Code or other applicable federal law. No judicial review of participant claims under this Plan shall be permitted except as provided in the claims procedures set forth in Section 13.4. Any judicial review related to this Plan shall be within the exclusive jurisdiction of the Navajo Nation Courts.

2.6. PENSION PROTECTION ACT COMPLIANCE.

(a) GENERAL RULE. Effective January 1, 2007, the Plan became subject to the provisions of Section 906 of the Pension Protection Act of 2006 (the "PPA"), which requires that the coverage of governmental plans maintained by Indian tribal governments be limited to those employees who perform essential governmental functions which are not commercial in nature. Also effective as of January 1, 2007, the assets and liabilities attributable to Employees classified by the Employer as "commercial" were spun-off to other tax-qualified retirement plans. This Plan continued after the spin-off, and is maintained for the benefit of those Employees classified by the Employer as "governmental" Employees under the PPA. In accordance with the Internal Revenue Service's Notice 2006-89 and Notice 2007-67, the Tribe is operating the Plan in reasonable and good faith compliance with the PPA requirements pending receipt of final guidance.

(b) PLAN SPIN-OFFS. In accordance with the transition relief afforded to Indian tribal governments by the Internal Revenue Service under Notice 2006-89, the Nation shall spin-off the assets and liabilities of the Plan which are attributable to those Employees classified by the Employer as "commercial" Employees. Such assets and liabilities shall be spun-off to other tax-qualified retirement plans maintained by enterprises, divisions or tribal corporations of the Nation (the "recipient plans"). In accordance with Section 414(l) of the Code, the Nation shall take all reasonable steps to ensure that each Participant affected by a spin-off to a recipient plan shall have an account balance in the respective recipient plan which is equal to his account balance in the Plan immediately prior to the spin-off.

(c) CLASSIFICATION OF EMPLOYEES. In connection with its reasonable and good faith compliance with the PPA requirements, the Employer has determined that the Employees covered by this Plan are engaged in the performance of essential governmental functions which are not commercial in nature. The Employer shall classify an Employee as a "commercial" Employee if the Employer determines, in accordance with its reasonable and good faith interpretation of Section 906 of the PPA that the Employee dedicates substantially all of his employment to the performance of commercial activities for the Employer (regardless of whether the Employer is the Nation or a Tribal division, enterprise, authority, corporation or other entity). In making the determination as to whether employment functions are commercial in nature and pending guidance from the Internal Revenue Service and/or the Department of Labor, the Employer shall take into account the following factors:

(1) the historic functions performed by the Nation's government;

(2) the Nation's role as defined in its Constitution, Bylaws, Ordinances, Resolutions, Judicial decisions, customs and traditions;

(3) the functions carried on by other governmental employers, including the federal government, states, counties, cities and other local governments;

(4) the use of revenues generated by activities in question (whether inuring to the benefit of the Nation and the provision of public services, or whether inuring to private interests); and

(5) whether the employing entity or division is treated as a non- profit or for-profit entity for tax or other purposes.

The Employer expressly reserves the right to modify the classification of any and all employees pending publication of final guidance under Section 906 of the PPA. All Employees of the Employer who are not determined to be "commercial" Employees shall be deemed to be "governmental" Employees, eligible to participate in this Plan, in accordance with the terms and provisions of this Plan document. This Plan does not cover any employee groups classified by the IRS as "commercial" under IRS Notice 2006-89.

ARTICLE III
ELIGIBILITY AND PARTICIPATION

3.1. ELIGIBILITY AND PARTICIPATION.

(a) GENERAL RULE. Effective October 1, 2021, each Employee who is a Participant in the Plan as of September 30, 2021 shall continue to participate in the Plan, subject to the terms hereof. Each other Eligible Employee who is not excluded pursuant to subparagraphs (b) or (c) shall be automatically enrolled in the Plan as of the applicable Automatic Enrollment Date pursuant to the terms of Section 3.2.

(b) NON-PARTICIPATING TRIBAL ENTERPRISES AND DIVISIONS. Effective January 1, 2007, Employees of any Tribal enterprise or division who dedicate substantially all of their employment to the performance of commercial activities for the Employer, as determined by the Employer in accordance with the Employer's reasonable and good faith interpretation of Section 906 of the PPA, shall not be eligible to participate in this Plan.

(c) UNION AND NON-RESIDENT ALIENS. If an Employee is included within a unit of employees covered by a collective bargaining agreement which was executed and adopted prior to the Effective Date of the restatement of this Plan and for which retirement benefits were the subject of good faith bargaining, he shall not be eligible to participate in this Plan, unless the collective bargaining agreement specifically provides to the contrary. Those Employees who are non-resident aliens (within the meaning of Section 7701(b)(1)(B) of the Code and who received no earned income (within the meaning of Section 911(d)(2) of the Code) from the Employer which constitutes income from sources within the United States (within the meaning of Section 861(a)(3) of the Code) are also not eligible to participate in this Plan.

3.2. AUTOMATIC ENROLLMENT.

(a) GENERAL RULE. Except as set forth in paragraph (b) below, each Eligible Employee shall be automatically enrolled in the Plan in accordance with the eligibility rules set forth in Section 3.1(a). An automatic enrollment in the Plan shall be deemed to be authorization of payroll deductions in the amount of the Automatic Employee Contributions called for in Section 4.1.

(b) EXCLUSIONS. The automatic enrollment feature set forth in paragraph (a) above shall not apply to the following groups of Employees who make contrary elections as follows:

(i) Employees who elect not to participate in the Employee Savings feature of the Plan or who elect to make Employee Contributions to the Plan in an amount that is less than the Automatic Employee Contributions; and

(ii) Employees who elect to make Employee Contributions to the Plan in an amount greater than the Automatic Employee Contributions set forth in Section 4.1.

Any contrary election contemplated in this Section 3.2(b) must be made in the applicable election period prior to the Employee's Automatic Enrollment Date, and must be made in accordance with the uniform and nondiscriminatory policies and procedures of the Plan Administrator.

(c) AUTOMATIC ESCALATION OF PRE-TAX CONTRIBUTIONS. Effective October 1, 2021, on an annual basis, Employer shall automatically increase the amount of Pre-Tax Contributions by an additional one percent (1%) of Compensation for each Participant provided at least six (6) months have elapsed since any Automatic Enrollment Date that applied to the Participant. The automatic escalation shall occur unless the Participant makes a contrary election during the applicable period in accordance with the uniform and nondiscriminatory policies and procedures of the Plan Administrator. A Participant's Pre-Tax Contribution shall not increase under this Section 3.2(c) after the Participant's Pre-Tax Contribution reaches the rate of six percent (6%) of Compensation.

(d) NOTICE TO ELIGIBLE EMPLOYEES. The Plan Administrator shall provide advance notice of the automatic enrollment features (including the automatic escalation feature) of the Plan, including the ability to make contrary elections, to each Eligible Employee. The notice provided to Eligible Employees shall explain all applicable timing and procedural requirements under the automatic enrollment feature. Such notice shall be prepared and distributed by the Plan Administrator, pursuant to its uniform and nondiscriminatory policies and procedures.

(e) ELECTION PROCEDURES/DEFAULT ELECTIONS. All Participants must enroll in the Plan in accordance with the Plan Administrator's uniform and nondiscriminatory procedures, to make appropriate investment directions and designate beneficiaries. If a Participant fails to provide a valid beneficiary designation, his designation shall be made in accordance with Section 11.9, and if a Participant fails to make a valid investment direction, his accounts shall be invested in the default Investment Fund designated by the Trustee until proper investment directions are received. If a Participant instruction cannot be given effect or implemented for a particular period because it is incomplete or untimely, it shall be given effect as soon as administratively feasible.

3.3. ADDITIONAL APPLICATION PROCEDURES.

(a) EMPLOYEE CONTRIBUTIONS. If an eligible Employee is not automatically enrolled in the Plan pursuant to Section 3.2, the eligible Employee must enter into a contribution agreement with the Employer, in accordance with the uniform policies and procedures of the Plan Administrator, in order to participate in the Employee savings feature of this Plan (Pre-Tax Contributions and Roth Elective Deferral Contributions). Any such

contribution agreement must specify the amount of the Participant's Pre-Tax Contributions and Roth Elective Deferral Contributions, if any, and authorize the reduction of his Compensation in an amount equal to his directed contributions. As set forth in Section 5.1, the Council has the discretion to declare Employer Matching Contributions payable with respect to Pre-Tax Contributions. If Employer Matching Contributions are declared by the Council, a Participant shall not be eligible to receive such Employer Matching Contributions unless the Participant is automatically enrolled in the Employee savings feature of the Plan or enters into a valid contribution agreement and Pre-Tax Contributions subject to matching are made on behalf of the Participant.

(b) INVESTMENT ELECTIONS AND BENEFICIARY DESIGNATIONS. Regardless of whether the Participant is automatically enrolled in the Plan, each Participant shall provide valid Plan investment directions and designate appropriate beneficiaries, all in accordance with the uniform policies and procedures of the Plan Administrator. If a Participant fails to provide a valid beneficiary designation, his designation shall be made in accordance with Section 11.9, and if a Participant fails to make a valid investment direction, his accounts shall be invested in accordance with the default investment provisions of the Employer's Investment Policy Statement until proper Participant investment directions are received.

(c) ELECTION PROCEDURES/DEFAULT ELECTIONS. All elections and designations called for by this Section 3.3 must be received by the Plan Administrator within such reasonable and uniformly-applied time periods as the Plan Administrator may prescribe for the receipt of elections and designation as a condition of giving effect to or implementing such instructions. If a Participant instruction cannot be given effect or implemented for a particular period, it shall be effective for the next succeeding period.

3.4. CREDITING OF SERVICE.

Except as otherwise noted below, all periods of employment with the Employer, Affiliates of the Employer, and the enterprises, operations and divisions of the Employer shall be taken into account under this Plan, including those completed prior to the adoption of the Plan.

3.5. EFFECT OF REHIRING.

If an Employee separates from employment with the Employer and is later rehired, his eligibility and years of Vesting Service shall be determined in accordance with this Section 3.5.

(a) ELIGIBILITY. If an Employee is rehired and satisfies the eligibility requirements of Section 3.1, the Employee shall be eligible to enroll in the Plan on the Entry Date following the date of rehire and the Employee shall be automatically enrolled in the Plan as of the Automatic Enrollment Date following his date of rehire.

(b) VESTING. If a Participant separates from employment and is rehired, his periods of Vesting Service shall be aggregated in accordance with the uniform and nondiscriminatory policies and procedures of the Plan Administrator. For a termination of employment occurring prior to October 1, 2000, a Participant would remain credited with the Vesting Service accrued prior to the termination only if he had at least three (3) years of Vesting Service at the time of the termination and the number of consecutive years elapsed between the termination and rehire dates is less than the greater of five or the number of years of Vesting Service credited to the Participant prior to the termination from employment.

3.6. AUTHORIZED LEAVES OF ABSENCE.

An Authorized Leave of Absence granted by the Employer for which an Employee is not compensated shall be disregarded in determining whether the Employee has satisfied the eligibility requirements specified in Section 3.1. A Participant's participation in the Plan shall not be terminated while the Participant is on an Authorized Leave of Absence, subject to the contribution suspension rules of Section 4.6.

3.7. SPECIAL SERVICE CREDITING RULES FOR QUALIFIED MILITARY SERVICE.

Notwithstanding anything herein to the contrary, contributions, benefits and service credit with respect to Qualified Military Service shall be provided in accordance with Code Section 414(u).

3.8. TERMINATION OF PARTICIPATION.

A Participant's participation in the Plan, but not his right, if any, to payment of benefits, shall be terminated upon the Participant's separation from employment with the Employer or upon his transfer from an eligible class of Employees as provided in Section 3.9. A Participant's participation in the Plan shall not be terminated while he is on an Authorized Leave of Absence.

3.9. TRANSFERS TO AND FROM AN ELIGIBLE CLASS OF EMPLOYEES.

(a) TRANSFERS OUT OF PLAN. A Participant will automatically become ineligible to participate in the Plan as of the effective date of a change in his employment classification if as a result of the change he is no longer eligible to participate in the Plan. All sums credited to the former Participant's accounts will continue to be held pursuant to the terms of this Plan and will be distributed to the former Participant only upon his subsequent termination of employment or the occurrence of some other event permitting a distribution pursuant to the provisions of this Plan.

(b) TRANSFERS TO PLAN. If an Employee of the Employer is not eligible to participate in the Plan due to his employment classification, he shall be eligible to participate immediately upon becoming a member of an eligible class of Employees if he has satisfied the other requirements set forth in Section 3.1 and would have become eligible to be a Participant previously had he been in an eligible class.

(c) SERVICE CREDIT. In any event, an Employee's service in an ineligible employment classification shall be considered in calculating the Employee's Vesting Service for purposes of this Plan.

(d) TRANSFERS TO NON-PARTICIPATING AFFILIATES. If a Participant ceases to participate in the Plan solely as a result of his transfer to an Affiliate that has not elected to participate in this Plan, amounts credited to his accounts as of the date of his transfer shall be available for distribution in accordance with the terms of Article XI. A transfer to a non-participating Affiliate shall be presumed to be a bona fide separation from employment for

purposes of the Code Section 401(k) distribution requirements, absent final guidance to the contrary.

(e) TRANSFER BETWEEN TRIBAL ENTERPRISES. If a Participant transfers employment between the Nation and/or different Tribal enterprises which have elected to participate in the Plan, such Participant shall continue participating in the Plan as of the first payroll period (or as soon as reasonably practicable thereafter) commencing after the transfer; provided the new position is eligible for participation in the Plan. Contribution, Beneficiary designation, investment, and all other elections will remain in force after the transfer until they can be changed at the next regularly scheduled Plan Entry Date, as applicable.

3.10. LEASED EMPLOYEES.

A "leased employee" is any person (other than an employee of the Employer) who pursuant to an agreement between the Employer and any other person ("leasing organization") has performed services for the Employer (or for the Employer and related persons determined in accordance with Code Section 414(n)(6)) on a substantially full-time basis for a period of at least one year, and such services are performed under the Employer's primary direction or control. A "leased employee" shall be treated as an Employee of the Employer for purposes of the pension requirements of Section 414(n)(3) of the Code, unless "leased employees" constitute less than twenty percent (20%) of the Employer's non-highly compensated work force (within the meaning of Section 414(n)(5)(C)(ii) of the Code) and the "leased employee" is covered by a "Safe Harbor Plan" that satisfies the requirements of Section 414(n)(5)(B) of the Code (a money purchase pension plan with nonintegrated employer contributions of at least 10% of compensation, with full vesting, and immediate participation for leased employees). In any event, a "leased employee" who is deemed to be an Employee of the Employer pursuant to the preceding sentence shall be treated as if he is employed in an employment classification that has not been designated for participation in the Plan.

ARTICLE IV
EMPLOYEE SAVINGS FEATURE

4.1. AUTOMATIC EMPLOYEE CONTRIBUTIONS.

(a) AUTOMATIC CONTRIBUTIONS. All Eligible Employees who are enrolled in the Plan in accordance with Section 3.2 shall have Employee Contributions deducted from their current Compensation and contributed by the Employer to the Trust Fund on their behalf ("Automatic Employee Contributions"). Except as set forth in paragraph (b) below, the Employee Contributions made through the automatic enrollment feature of the Plan shall be Pre-Tax Contributions. Effective October 1, 2021, the Automatic Employee Contributions shall equal three percent (3%) of Compensation. Notwithstanding the foregoing, Automatic Employee Contributions to the Trust Fund may be made by a Participant only with respect to amounts which the Participant could otherwise elect to receive in cash and only with respect to amounts which are not currently available to the Participant at the time the Participant is automatically enrolled in the Plan.

(b) ROTH ELECTION AVAILABLE. Effective upon the implementation of the Roth Elective Deferral feature in the Plan in accordance with the provisions of Section 4.3, an Eligible Employee who is automatically enrolled in the Plan shall have the right to designate his Automatic Employee Contributions as Roth Elective Deferrals. Employer Matching Contributions will not be made with respect to Roth Elective Deferrals. A Participant who wishes to receive Employer Matching Contributions, and also wishes to make Roth Elective Deferrals to the Plan must elect to make Pre-Tax Contributions equal to at least the percent of his Compensation that is prescribed in Section 5.1(b), and designate additional contributions as Roth Elective

Deferrals.

(c) TRANSFER TO TRUSTEE. All Automatic Employee Contributions shall be forwarded to the Trustee or Investment Fund as soon as the Employer reasonably can segregate the contributions from its general assets.

4.2. PRE-TAX CONTRIBUTIONS.

(a) PRE-TAX CONTRIBUTION ELECTIONS. At any time following entry into the Plan, a Participant may elect to increase or decrease the amount of his Pre-Tax Contributions by making the appropriate Pre-Tax Contribution election. Similarly, a Participant who waives participation in the automatic enrollment feature of the Plan may begin making Pre- Tax Contributions to the Plan at any time, by making the appropriate Pre-Tax Contribution election. The Participant's Compensation shall then be reduced by an amount equal to the Pre- Tax Contributions directed by the Participant. Any Pre-Tax Contribution election typically will be given effect as of the first payroll period in the month following the month of the Participant's election. All Pre-Tax Contribution elections and changes shall be administered in accordance with the Plan Administrator's uniform and nondiscriminatory policies and procedures. Notwithstanding the foregoing, Pre-Tax Contributions to the Trust Fund may be directed by a Participant only with respect to amounts which the Participant could otherwise elect to receive in cash and only with respect to amounts which are not currently available to the Participant at the time the Participant makes his election to defer.

(b) SUSPENSION OF PRE-TAX CONTRIBUTIONS. At any time following entry into the Plan, a Participant may elect to suspend his Pre-Tax Contribution election. Any Pre-Tax Contribution suspension shall be completed in accordance with the uniform and non-discriminatory policies and procedures of the Plan Administrator and will be given effect as soon as reasonably practicable. A Participant who suspends Pre-Tax Contributions may make a new Pre-Tax Contribution election following a minimum suspension period of six (6) months. All Pre-Tax Contribution suspensions, and subsequent resumptions, shall be administered by the Plan Administrator in accordance with its uniform and nondiscriminatory policies and procedures.

(c) CATCH-UP CONTRIBUTIONS. All Participants who are eligible to make Pre-Tax Contributions under this Plan and who have attained age 50 before the end of the Participant's individual tax year shall be eligible to make Catch-Up Contributions in accordance with, and subject to the limitations of, Section 414(v) of the Code. The provisions of Code Section 414(v) permit annual additional contributions of up to Six Thousand Dollars ($6,000) for the 2016 Plan Year (as indexed for inflation).

(d) TRANSFER TO TRUSTEE. All Pre-Tax Contributions shall be forwarded to the Trustee or Investment Fund as soon as the Employer reasonably can segregate the contributions from its general assets.

4.3. ROTH ELECTIVE DEFERRALS.

(a) PRIOR EFFECTIVE DATE. The Employer previously amended the Plan to provide for Roth Elective Deferrals, and intended to implement this feature during the 2010 Plan Year. Due to payroll system difficulties, the implementation of the Roth Elective Deferrals feature has been delayed. The Employer continues to work to develop the systems capability to accommodate Roth Elective Deferrals and intends to implement the Roth Elective Deferrals feature as soon as it is administratively feasible.

(b) GENERAL. Effective January 1, 2016 or as soon thereafter as the Plan Administrator determines that the necessary systems are in place and that the Employer is prepared to implement the provisions of this Section 4.3, a Participant may direct the Employer to treat all or a portion of the Participant's Pre-Tax Contributions as Roth Elective Deferrals. A Roth Elective Deferral may be made with regard to a Pre-Tax Contribution which would be excludable from the Participant's gross income absent the Roth Elective Deferral designation, and shall result in the Pre-Tax Contribution being included in the Participant's gross income in the taxable year of the designation. Roth Elective Deferral designations shall be made, on an irrevocable basis with regard to those particular Roth Elective Deferrals, at the time the Pre-Tax Contribution election is filed with the Plan Administrator. Roth Elective Deferral designations also shall be available with regard to Catch-Up Contributions and any other type of Pre-Tax Contribution available under this Plan (such as make-up contributions made in accordance with Section 4.4). The Roth Elective Deferral feature shall be administered in accordance with Section 402A of the Code and the Treasury Regulations promulgated thereunder. Notwithstanding the foregoing, Roth Elective Deferrals are not eligible for Employer Matching Contributions under this Plan. A Participant who wishes to receive Employer Matching Contributions and make Roth Elective Deferrals to the Plan must elect to make Pre-Tax Contributions equal to at least the percent of his Compensation that is prescribed in Section 5.1(b), and designate additional contributions as Roth Elective Deferrals.

(c) TRANSFER TO TRUSTEE. All Roth Elective Deferrals shall be forwarded to the Trustee or Investment Fund as soon as the Employer reasonably can segregate the contributions from its general assets.

(d) TAX TREATMENT OF DISTRIBUTIONS. The taxation of distributions and withdrawals of Roth Elective Deferrals shall be determined in accordance with Section 402A. Generally, a distribution or withdrawal from a Roth Elective Deferral Account will be excluded from gross income only if the distribution or withdrawal (i) is made at least five (5) taxable years after the Roth Elective Deferral was designated and made to the Plan (or in the case of a Rollover Contribution, at least five (5) taxable years after the Roth Elective Deferral was initially designated and made); and (ii) is made on or after the date the Participant attains age 59 ½, is made upon the death of the Participant, is attributable to the Participant's Disability, or is a qualified special purpose distribution as defined in Code Section 72(t)(2)(F).

4.4. SPECIAL CONTRIBUTION RULES FOR QUALIFIED MILITARY SERVICE.

(a) GENERAL. Notwithstanding anything herein to the contrary, Participants who leave employment for Qualified Military Service and who are reemployed pursuant to the requirements of Code Section 414(u), shall be permitted to make special make up Employee Contributions to the Plan in an amount up to the "maximum make up amount;" provided that any such contributions are made within the shorter of the two (2) following periods:

(1) the period beginning on the Participant's date of reemployment and ending on the date which is three (3) times the period of the Qualified Military Service; or

(2) the period beginning on the Participant's date of reemployment and ending on the fifth year anniversary of such date.

(b) SPECIAL DEFINITIONS. For purposes of this Section 4.4 only, the specified terms shall have the following meanings:

(1) "Compensation" for this purpose shall mean the Compensation the Participant would have received during his period of Qualified Military Service had he remained employed by the Employer during that period, based on the rate of pay the Participant would have received but for absence during the period of Qualified Military Service; provided, however, that if the compensation the Participant would have received during such period was not reasonably certain, compensation for purposes of this Section shall mean the Participant's average Compensation during the twelve (12) month period immediately preceding the Qualified Military Service (or, if shorter, the period of employment immediately preceding the Qualified Military Service).

(2) "Maximum make up amount" shall be calculated by taking into account the maximum amount of elective deferrals that the Participant would have been permitted to make under the Plan's normal contribution rules and limitations as set forth herein, for the period of Qualified Military Service as if the Participant had continued to be employed by the Employer during such period and received compensation as described herein. No such contributions may exceed the amount the individual would have been permitted or required to contribute had the individual remained continuously employed by the Employer during the period of Qualified Military Service.

4.5. DESIGNATION OF AND CHANGE OF DESIGNATION OF EMPLOYEE CONTRIBUTIONS.

All Employee Contribution designations, changes in the amount of Employee Contributions and waivers of participation in the automatic enrollment feature shall be made in a manner designated by the Plan Administrator. An initial contribution designation received by the Plan Administrator shall be given effect as soon as administratively feasible, in accordance with uniform rules prescribed by the Plan Administrator. As a general rule, any change in a contribution designation received by the Plan Administrator shall be given effect as of the next Plan Entry Date, in accordance with uniform rules prescribed by the Plan Administrator. If a change request is not submitted with sufficient advance notice or otherwise cannot be implemented as of the next Plan Entry Date, it shall become effective as of the next succeeding Plan Entry Date thereafter. A contribution designation shall be effective until it is succeeded by another valid contribution designation or until the Participant's right to make Employee Contributions is otherwise suspended or terminated.

4.6. SUSPENSION OF EMPLOYEE CONTRIBUTIONS.

A Participant may suspend his Employee Contributions at any time, in accordance with the uniform policies and procedures of the Plan Administrator. A Participant's request to suspend his Employee Contributions which is received by the Plan Administrator shall be given effect as soon as administratively feasible, as determined in accordance with uniform rules prescribed by the Plan Administrator. A Participant may resume making Employee Contributions as of any subsequent Plan Entry Date, in accordance with the uniform rules and procedures prescribed by the Plan Administrator. For purposes of this Section 4.6, a change in the designation of Employee Contributions as either Pre-Tax Contributions or Roth Elective Deferrals shall not be considered a suspension of Employee Contributions. While a Participant is on an unpaid Authorized Leave of Absence, he shall be deemed to have suspended his Employee Contributions and may recommence such contributions following his return to active employment as of the beginning of any payroll period by filing appropriate forms with the Plan Administrator. A Participant shall not be entitled to "make up" suspended contributions.

4.7. ELECTIVE DEFERRALS - CODE SECTION 402(g) DOLLAR LIMITATION.

(a) DOLLAR LIMITATION. Elective deferral contributions for a Participant in any calendar year may not exceed the limitation set forth in Code Section 402(g), as adjusted ($18,000 for the 2016 Plan Year). This limitation applies in the aggregate to the Participant's "elective contributions" under all plans. For this purpose, the term "elective contributions" includes Pre-Tax Contributions and Roth Elective Deferrals, the Participant's elective deferrals to any other qualified cash or deferred arrangement (as defined in Section 401(k) of the Code), any elective employer contributions to a simplified employee pension plan that are not included in the Participant's gross income due to Section 402(h)(1)(B) of the Code and any employer contribution used to purchase an annuity contract under Section 403(b) of the Code pursuant to a salary reduction arrangement (within the meaning of Section 3121(a)(5)(D) of the Code). "Elective contributions" for this purpose do not include Catch-Up Contributions made pursuant to Section 414(v) of the Code and Section 4.2(c) of the Plan.

(b) CORRECTIONS. In the event that the Participant's elective deferrals to all such programs during any calendar year exceed the limitation for that calendar year, the Participant may, by March 1 of the calendar year following the calendar year for which the excess deferrals were made, so advise the Plan Administrator and request the return of all or a portion of the excess deferrals made to this Plan. A Plan Participant shall automatically be deemed to have so advised the Plan Administrator and to have requested the return of any excess deferrals that arise solely by taking into account the Participant's Pre-Tax Contributions and Roth Elective Deferrals to this Plan or any other plans sponsored by the Employer. The excess deferrals and appropriate earnings thereon may then be returned to the Participant by the next following April 15. The earnings distributable with regard to any excess contributions determined pursuant to this Section 4.7(b) shall not include the income or loss allocable to such excess contributions for the period beginning on the last day of the taxable year and ending on the date of the corrective distribution. Excess elective deferrals shall be treated as Annual Additions pursuant to this Plan, unless such amounts are distributed no later than the next following April 15. If a Participant makes Roth Elective Deferrals to this Plan during a calendar year and the Plan Administrator determines that such Participant has accumulated excess contributions during such calendar year, the excess contributions returned to the Participant shall be deemed to be Roth Elective Deferrals to the extent such excess contributions equal or exceed the Roth Elective Deferrals made during the calendar year.

(c) ADJUSTMENT OF MATCHING CONTRIBUTIONS. In the event that a distribution of excess elective deferral contributions is made pursuant to paragraph (b), the Employer Matching Contributions Account, if any, will be adjusted by the amount of any Employer Matching Contribution attributable to such excess elective deferral contributions (the "excess matching contribution") plus the income allocable to any such excess matching contribution. The income allocable to the excess matching contribution shall be determined by the Plan Administrator in accordance with any method permitted under Treasury Regulation Sections 1.401(m)-1(e)(3) or 1.401(k)-1(f)(4) as applicable. Any such excess employer matching contributions (and earnings allocable thereto) will be forfeited and reallocated pursuant to the uniform and nondiscriminatory policies and procedures of the Plan Administrator.

4.8. ROLLOVER CONTRIBUTIONS.

(a) GENERAL. Any Employee who has received a distribution from a profit sharing plan, stock bonus plan or pension plan intended to "qualify" under Section 401 of the Code may transfer such distribution to the Trust Fund if such contribution to the Trust Fund would constitute, in the sole and absolute discretion of the Plan Administrator, a "rollover contribution" within the meaning of the applicable provisions of the Code. Additionally, an

Employee may request that the Plan Administrator direct the Trustee to accept a rollover contribution (by means of a direct rollover or an indirect rollover) of a distribution from (1) a qualified plan described in section 401(a) or 403(a) of the Code; (2) an annuity contract described in section 403(b) of the Code; or (3) an eligible plan under section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state. Notwithstanding the foregoing, no Rollover Contribution to the Plan shall consist of or include after-tax employee contributions. Effective January 1, 2016 or, if later, the effective date of the implementation of the Roth Elective Deferral feature of the Plan, a Participant may request that the Plan Administrator direct the Trustee to accept a rollover contribution (by means of a direct rollover only) from a Roth elective deferral account described in Code Section 402A(e)(1) and only to the extent the rollover is permitted under the rules of Code Section 402(c). Additionally, a Participant may request that the Plan Administrator direct the Trustee to accept a transfer from the trustee of another qualified plan. The Plan Administrator may, in its sole discretion, decline to accept a rollover contribution or a transfer. Upon receipt of such approval from the Plan Administrator, the Trustee shall accept such transfer. For purposes of this Plan, both a "rollover contribution" within the meaning of the applicable provisions of the Code and a transfer initiated by the Employee from another plan shall be referred to as a "Rollover Contribution." If the Plan Administrator decides to grant a Employee's request to make a Rollover Contribution, the Employee may contribute to the Trust Fund cash to the extent of such distribution.

(b) PROHIBITION OF TRANSFERS FROM CERTAIN PLANS. The Plan Administrator may decline to accept direct transfers to this Plan (as distinguished from a "rollover contribution" within the meaning of the Code) if the plan from which the transfer is to be made is or was subject to the joint and survivor annuity and pre-retirement survivor requirements of Section 417 of the Code by reason of Section 401(a)(11) of the Code.

ARTICLE V
EMPLOYER CONTRIBUTION FEATURE

5.1. EMPLOYER MATCHING CONTRIBUTIONS.

(a) GENERAL RULE. The Employer shall make Employer Matching Contributions to the Plan on behalf of each Participant who makes Pre-Tax Contributions to the Plan (including Automatic Enrollment Contributions) pursuant to Article IV.

(b) CURRENT CONTRIBUTION RATE. As of the Effective Date of this Plan restatement, Employer Matching Contributions shall be paid to the Plan at the rate of fifty percent (50%), on the Participant's Pre-Tax Contributions of up to six percent (6%) of Compensation. Roth Elective Deferrals are not eligible for Employer Matching Contributions. The Employer may modify, reduce or eliminate Employer Matching Contributions at any time on a prospective basis by appropriate action of the Council.

5.2. CORRECTIVE CONTRIBUTIONS.

(a) TRUE UP. In the event that the Plan Administrator determines a Participant did not receive the appropriate Employer Matching Contribution, if any, for the Plan Year based on the current Employer Matching Contribution formula, the Plan Administrator shall cause the Employer to make a true up Employer Matching Contribution on behalf of any affected Participant, which shall be allocated in accordance with the uniform and nondiscriminatory policies of the Plan Administrator.

(b) CORRECTIVE CONTRIBUTIONS. Notwithstanding anything herein to the contrary, but subject to all applicable limitations of the Code, the Employer may make additional contributions to the Plan as needed to correct any errors in administration which may occur from time to time. Such corrective contributions shall be limited to the extent necessary (including earnings as applicable) to place affected Participants in the position they would have been in but for such error or errors, and shall be allocated to the account or accounts in which the error was made, subject to all rules and procedures otherwise applicable to such accounts.

5.3. SPECIAL CONTRIBUTIONS FOR QUALIFIED MILITARY SERVICE.

Notwithstanding anything herein to the contrary, contributions, benefits and service credit with respect to Qualified Military Service shall be provided in accordance with Section 414(u) of the Code. In this regard, the Employer shall contribute Employer Matching Contributions to the Plan on behalf of a Participant who makes up Pre-Tax Contributions in accordance with Section 4.4. The amount of the Employer Matching Contributions shall be equal to the amount of Employer Matching Contributions which would have been due under this Plan had the Pre-Tax Contributions been made during the period of Qualified Military Service, if any. The foregoing shall not be construed to expand the Employer's contribution obligations beyond those required in order to comply with Section 414(u) of the Code.

5.4. TIME OF PAYMENT.

Employer Matching Contributions, if any, shall be paid as of the last day of the Plan Year for which they are declared, or as of such earlier date as the Employer may determine, in its discretion. In no event shall Employer Matching Contributions, if any, be paid later than the date by which the federal information return for the Plan (Form 5500) would be filed, including any extensions of such date, if the Employer was required to file such return.

5.5. CONDITIONAL NATURE OF CONTRIBUTIONS.

(a) MISTAKE OF FACT. Any contribution made to the Trust Fund by the Employer because of a mistake of fact shall be returned to the Employer upon its request within one (1) year of the date of the contribution.

(b) LIMITATIONS ON AMOUNTS RETURNED. Notwithstanding anything herein to the contrary, the maximum amount that may be returned to the Employer pursuant to paragraph (a) above is limited to the portion of such contribution attributable to the mistake of fact or the portion of such contribution deemed non-deductible (the "excess contribution"). Earnings attributable to the excess contribution will not be returned to the Employer, but losses attributable thereto will reduce the amount so returned. In no case shall withdrawal of any excess contribution pursuant to paragraph (a) above reduce the balance of the Participant's account to less than the balance would have been had the excess contribution not been made. No return of contributions shall be processed pursuant to this Section 5.5 except to the extent allowed by statute or in accordance with the provisions of Revenue Ruling 91-4.

ARTICLE VI
ACCOUNTING

6.1. SEPARATE ACCOUNTS.

A separate Pre-Tax Contributions Account, Roth Elective Deferrals Account, Rollover

Contributions Account, Roth Rollover Contributions Account and Employer Matching Contributions Account, as appropriate, will be maintained for each Participant in the Plan. Each such account shall be adjusted as hereinafter provided to reflect any withdrawals and distributions and the appreciation or depreciation in the value of the assets of the Trust Fund. The establishment and maintenance of separate accounts shall not be construed as giving any person any interest in any specific asset of the Trust Fund which, for investment purposes, shall be administered as a single fund unless and until otherwise directed by the Plan Administrator or otherwise provided herein.

6.2. ALLOCATION OF CONTRIBUTIONS AND FORFEITURES.

(a) PRE-TAX AND CATCH-UP CONTRIBUTIONS. The Pre-Tax Contributions and Catch-Up Contributions of a Participant, if any, will be allocated to his Pre- Tax Contributions Account and Catch-Up Contributions Account, respectively, at the rate elected by the Participant pursuant to Article IV. The allocation of Pre-Tax Contributions and Catch-Up Contributions shall be made as of a uniform date selected by the Plan Administrator, which shall not be later than the last day of the month following the month in which the contribution payroll period ends.

(b) ROTH ELECTIVE DEFERRALS. The Roth Elective Deferrals of a Participant, if any, will be allocated to his Roth Elective Deferrals Account, at the rate elected by the Participant pursuant to Article IV. The allocation of Roth Elective Deferrals shall be made as of a uniform date selected by the Plan Administrator, which shall not be later than the last day of the month following the month in which the contribution payroll period ends. No contributions other than Roth Elective Deferrals and properly attributable investment earnings shall be credited to a Participant's Roth Elective Deferrals Account under the Plan.

(c) EMPLOYER MATCHING CONTRIBUTIONS. The Employer Matching Contributions made on behalf of a Participant for a Plan Year shall be allocated to his Employer Matching Contributions Account as of a uniform date selected by the Plan Administrator, which date shall be not later than the year-end Valuation Date. Employer Matching Contributions shall be allocated in accordance with the Matching Contribution formula adopted by the Employer.

(d) ROLLOVER CONTRIBUTIONS. The Rollover Contributions of a Participant shall be credited to his Rollover Contributions Account.

(e) ROTH ROLLOVER CONTRIBUTIONS. The Roth Rollover Contributions of an Employee shall be credited to his Roth Rollover Contributions Account.

(f) DISTRIBUTIONS AND WITHDRAWALS. All distributions and withdrawals made on behalf of or by a Participant shall be deducted from the Participant's Account from which the distribution or withdrawal, as of a uniform date selected by the Plan Administrator.

(g) FORFEITURES. The Plan Administrator shall have the sole discretion to apply and apportion forfeitures to reduce the Employer's contribution obligations hereunder, and/or to pay Plan expenses not otherwise paid by the Employer or allocated to the Plan's investment fee credit account or Participant accounts in accordance with paragraph (g). In no event shall the Employer or the Plan Administrator cause forfeitures to be allocated to any Roth Elective Deferrals Accounts, through amendment, administrative procedure or otherwise.

(h) INVESTMENT GAINS AND LOSSES; OTHER CREDITS AND CHARGES. The investment gains and losses, as well as other credits and charges, allocable to

a Participant's Account shall be apportioned among the various Accounts maintained on behalf of the Participant, on a reasonable and consistent basis.

(i) PLAN EXPENSES. All Plan expenses paid out of the Plan pursuant to Section 13.5 will be allocated in accordance with the uniform and nondiscriminatory policies of the Plan Administrator. Plan expenses paid out of the Plan may be allocated to the Plan's investment fee credit account or to the Plan's forfeiture suspense account, in the sole discretion of the Plan Administrator. The Plan Administrator may determine, in its discretion, to allocate Plan expenses to all current and former Participants of the Plan, to a particular class of Participants (such as former Participants), or to charge the account of a particular affected Participant; provided, however, that such allocations are reasonable and that any allocation to former Participants does not impose a significant detriment on the former Participant's right to leave his account balance in the Plan. All expenses which are allocated among Participant accounts shall be allocated as of the last day of the Plan Year during which such expenses were paid and shall be allocated either on an pro rata or per capita basis, as determined by the Plan Administrator in its discretion. No expenses shall be allocated to a Participant if the Participant's Accounts are valued at zero following the application of Section 6.2 above.

6.3. VALUATION AND ACCOUNT ADJUSTMENTS.

(a) GENERAL ALLOCATION RULE. The assets of each Investment Fund will be valued as of each Valuation Date in accordance with the standard procedures established and maintained by the manager of the appropriate Investment Fund.

(b) FORMER PARTICIPANTS. For purposes of this Section 6.3, any individual who has an account balance in the Plan (including current Plan Participants, former Participants who have not yet received all amounts to which they are entitled, surviving Spouses of deceased Participants and Beneficiaries) shall be considered to be a "Participant."

(c) INVESTMENT DIRECTIONS. Notwithstanding anything to the contrary in this Section 6.3, if a Participant's accounts or any portion thereof are subject to directed investment pursuant to Section 8.3, amounts subject to directed investment shall be adjusted separately to reflect gains or losses attributable strictly to such directed investments.

6.4. LIMITATIONS ON ANNUAL ADDITIONS.

(a) GENERAL RULE. Notwithstanding anything in this Plan to the contrary, the Annual Addition to be allocated to the accounts of a Participant for any Plan Year shall not exceed an amount equal to the lesser of (1) Forty Thousand Dollars ($40,000), as adjusted for increases in the cost-of-living under Section 415(d) of the Code ($53,000 for the 2016 Plan Year), or (2) 100 percent of the Participant's Compensation, within the meaning of Section 415(c)(3) of the Code, for the limitation year.

(b) MULTIPLE DEFINED CONTRIBUTION PLANS. The limitations of this Section with respect to any Participant who is at any time participating in any other "defined contribution plan," as defined in Section 414(i) of the Code, maintained by the Employer or an Affiliate shall apply as if the total Annual Additions under all defined contribution plans in which the Participant is participating were allocated under this Plan.

(c) ADJUSTING ANNUAL ADDITIONS. If the limitations of paragraph (a) are exceeded, adjustments shall first be made to the annual additions under any other defined contribution plan of the Employer, if permitted by such plan. If further adjustments are required

to satisfy the requirements of paragraph (a), the annual additions shall be adjusted in accordance with the rules for adjusting excess amounts under the Internal Revenue Service's then current version of the Employee Plans Compliance Resolutions System.

(d) TREATMENT OF AFFILIATES. For purposes of this Section 6.4, the Employer and all of its Affiliates shall be treated as a single entity and any plans maintained by an Affiliate shall be deemed to be maintained by the Employer.

(e) CODE AND TREASURY REGULATIONS. The limitations of Section 415 of the Code and the Treasury Regulations promulgated thereunder are incorporated into the terms of the Plan by this reference and the Plan shall be operated in compliance with such limitations. The provisions of Section 415 of the Code and the related Treasury Regulations shall control in the event of any conflict with Section 2.1(d) of the Plan (definition of "Annual Addition"), this Section 6.4 or any other terms of this Plan document.

ARTICLE VII
VESTING

7.1. FULL VESTING.

(a) VESTING IN PRE-TAX, ROTH AND ROLLOVER ACCOUNTS. Each Participant shall at all times be fully vested in all amounts credited to or allocable to his Pre-Tax Contributions Accounts, his Roth Elective Deferrals Account, his Rollover Contributions Account and his Roth Rollover Contributions Account, if any, and his rights and interest therein shall not be forfeitable for any reason.

(b) VESTING IN THE EMPLOYER CONTRIBUTIONS ACCOUNTS. Each Participant shall be fully vested in the amounts credited to or allocable to his Employer Contributions Accounts on and after the first to occur of the following events:

(1) Attainment by the Participant of his Normal Retirement Age;

(2) The date of separation from employment due to Disability, as determined by the Plan Administrator;

(3) The date of death of the Participant;

(4) Termination of the Plan;

(5) Complete discontinuance of Employer Contributions; or

(6) The completion of three (3) years of Vesting Service.

7.2. DETERMINATION OF VESTED INTEREST IN EMPLOYER CONTRIBUTIONS ACCOUNTS IN THE EVENT OF SEPARATION FROM EMPLOYMENT.

(a) VESTING SCHEDULE FOR EMPLOYER CONTRIBUTIONS ACCOUNTS. If a Participant separates from employment with the Employer at a time when the Participant is not fully vested in the amounts credited to or allocable to his Employer

Contributions Accounts, the Participant's vested interest in his Employer Contributions Accounts shall be determined in accordance with the schedule set forth below.

Years of Vesting Service	Vested Percentage of Employer Contributions Account
Less than three	0%
Three or more	100%

Participants who separated from employment with the Employer prior to January 1, 2001 were subject to a four (4) year cliff vesting schedule.

(b) TIME OF DETERMINATION. A Participant's vested interest shall be determined as of the date on which the Participant's employment terminates. If a Participant is less than 100% vested in his Employer Contributions Account when his employment terminates, any non-vested amounts credited to his Employer Contributions Account shall be immediately forfeited as of the date of termination. Notwithstanding the foregoing, if the Participant has no vested interest in the Plan as of the date of termination of employment (including Pre-Tax Contributions, Catch-Up Contributions, Roth Elective Deferrals and Rollover Contributions), the Participant shall be deemed to have received a distribution from the Plan on the date of termination and any nonvested amounts allocated to the Participant's Employer Contributions Account shall be subject to immediate forfeiture.

7.3. SPECIAL VESTING RULE FOR DEATH DURING QUALIFIED MILITARY SERVICE.

In accordance with Code Section 401(a)(37), any Participant who dies while performing Qualified Military Service shall be treated as if he died while actively employed by the Employer for purposes of determining his vested interest under the Plan. In the event a vesting schedule is implemented under this Plan, the provisions of this Section 7.3 shall supercede any other vesting provisions of the Plan.

7.4. AMENDMENTS TO VESTING SCHEDULE.

No amendments to or other changes in the vesting schedules set forth in this Article VII shall deprive an Employee who is a Participant on the later of (a) the date the amendment is adopted or (b) the date the amendment is effective of any nonforfeitable benefit to which he is entitled under the Plan (determined as of such date) without regard to such amendment.

ARTICLE VIII
PARTICIPANT DIRECTED INDIVIDUAL ACCOUNTS

8.1. PARTICIPANT DIRECTED INDIVIDUAL ACCOUNT PLAN.

This Plan is intended to constitute a participant directed individual account plan. As such, Participants shall be provided the opportunity to exercise control over some or all of the assets in their accounts under the Plan and to choose from a broad range of investment alternatives.

8.2. AVAILABILITY OF INVESTMENT ALTERNATIVES.

The Plan Administrator, pursuant to uniform and nondiscriminatory rules, shall establish three (3) or more Investment Funds in accordance with the terms and provisions of this Article VIII. Such Investment Funds shall be approved by the Navajo Nation Investment Committee. In establishing Investment Funds, the Plan Administrator and the Navajo Nation Investment Committee shall select investment alternatives which provide each Participant with a broad range of investment alternatives.

8.3. EXERCISE OF CONTROL.

(a) INVESTMENT DIRECTION. Each Participant may direct that all of the amounts attributable to his accounts or to an account shall be invested in a single Investment

Fund or may direct fractional (percentage) increments of his accounts to be invested in such fund or funds as he shall desire in accordance with uniform procedures promulgated by the Plan Administrator. Each Participant, in accordance with such rules, may change his investment directions to provide for the investment of existing account balances or future contributions among the various Investment Funds in such increments, or all to any one (1) of them, as the Participant shall elect. The Plan Administrator shall provide Participants the opportunity to receive confirmation of any such investment direction. The Trustee and Plan Administrator shall be obligated to comply with such instruction except as provided in paragraph (d) below. The Plan Administrator shall promulgate uniform and nondiscriminatory rules constituting the investment direction policy under the Plan which shall be communicated to Participants regarding:

(1) The frequency of change of investment direction of current account balances among Investment Funds;

(2) The frequency of change of investment direction of future contributions among Investment Funds;

(3) The effective dates of instructions regarding investment directions and changes of investment directions;

(4) The fractional (percentage) limitations, if any, in which current account balances may be invested and/or transferred between Investment Funds;

(5) The fractional (percentage) limitations, if any, in which future contributions are to be invested between Investment Funds; and

(6) The periods within which direction must be given if it is to be effective for a particular period.

Procedures with regard to any one (1) or more Investment Funds may vary to reflect the variable or contrasting characteristics of a particular investment alternative, provided that Participants are given the opportunity to give investment instructions with respect to each investment alternative available under the Plan with a frequency which is appropriate in light of the market volatility to which the investment alternative may reasonably be expected to be subject.

(b) REQUIRED INFORMATION. The Plan Administrator shall provide each Participant with the opportunity to obtain sufficient information to make informed decisions with regard to investment alternatives available under the Plan, and incidents of ownership appurtenant to such investments. Neither the Employer, Plan Administrator, Trustee, or any other individual associated with the Employer shall give investment advice to Participants with respect to Plan investments. The providing of information pursuant to this Article VIII shall not in any way be deemed to be the providing of investment advice, and shall in no way obligate the Employer, Plan Administrator, Trustee or any other individual associated with the Employer to provide any investment advice.

(c) TRANSACTION COSTS. The Plan Administrator, pursuant to uniform and nondiscriminatory rules, may charge each Participant's accounts for the reasonable expenses of carrying out investment instructions directly related to such account, provided that each Participant is periodically (not less than quarterly) informed of such actual expenses incurred with respect to his respective accounts.

(d) IMPERMISSIBLE INVESTMENT INSTRUCTION. The Plan Administrator shall decline to implement any Participant instructions if: (a) the instruction is inconsistent with any provisions of the Plan or Trust Agreement; (b) the instruction is inconsistent with any investment direction policies adopted by the Plan Administrator from time to time; (c) implementing the instruction would result in a prohibited transaction under applicable provisions of the Code; (d) implementing the instruction would result in taxable income to the Plan; (e) implementing the instruction would jeopardize the Plan's tax qualified status; or (f) implementing the instruction could result in a loss in excess of a Participant's account balance. The Plan Administrator, pursuant to uniform and nondiscriminatory rules, may promulgate additional limitations on investment instruction from time to time.

(e) INDEPENDENT EXERCISE. A Participant shall be given the opportunity to make independent investment directions. No Plan fiduciary shall subject any Participant to improper influence with respect to any investment decisions, and nor shall any Plan fiduciary conceal any non-public facts regarding a Participant's Plan investment unless disclosure is prohibited by law. Plan fiduciaries shall remain completely neutral in all regards with respect to Participant investment direction. A Plan fiduciary may not accept investment instructions from a Participant known to be legally incompetent, and any transactions with a fiduciary, otherwise permitted under this Article VIII and the uniform and nondiscriminatory rules regarding investment direction promulgated by the Plan Administrator, shall be fair and reasonable to the Participant.

8.4. ADJUSTMENT OF ACCOUNTS.

Adjustments pursuant to Section 6.3 shall be made on a separate fund basis. Gains and income or losses attributable to each investment fund shall be allocable strictly to the investment fund and accounts invested therein. Each investment fund shall be invested in accordance with the provisions of the Plan and the Trust Agreement.

8.5. LIMITATION OF LIABILITY AND RESPONSIBILITY.

The Trustee, the Plan Administrator and the Employer shall not be liable for acting in accordance with the directions of a Participant pursuant to this Article VIII or for failing to act in the absence of any such direction. The Trustee, the Plan Administrator and the Employer shall not be responsible for any loss resulting from any direction made by a Participant and shall have no duty to review any direction made by a Participant. The Trustee shall have no obligation to consult with any Participant regarding the propriety or advisability of any selection made by the Participant. The Trustee, the Plan Administrator and the Employer do not guarantee the Accounts of Participants in any way from loss or depreciation.

8.6. FORMER PARTICIPANTS AND BENEFICIARIES.

For purposes of this Article VIII, the term "Participant" shall be deemed to include former Participants and the Beneficiaries of any deceased Participants.

8.7. FAILURE TO GIVE DIRECTIONS.

In the event of a Participant's failure to give investment directions, the Plan Administrator shall invest the Participant's Accounts into the Plan's designated default Investment Fund or

Funds, until such directions can be obtained and given effect.

ARTICLE IX
LOANS

9.1. GENERAL RULE.

The Plan Administrator is authorized to direct the Trustee to make a loan or loans to a Participant as a segregated investment of the Participant's accounts. Such loans shall be available to all Participants on a nondiscriminatory basis, except that the Plan Administrator may discriminate on the basis of credit worthiness. The Plan Administrator shall not direct the Trustee to make loans to Highly Compensated Employees in amounts which, when expressed as a percentage of the Participant's vested interest in his accounts, are greater than those available to other Participants.

9.2. SPOUSAL CONSENT REQUIRED.

No loan will be made to any married Participant unless the Participant's Spouse consents to the loan in accordance with the provisions of Section 11.10.

9.3. AMOUNT AND NUMBER OF LOANS; SECURITY; ACCOUNTS.

(a) MINIMUM AMOUNT AND FREQUENCY OF LOANS. No loan shall be originated in an amount less than Five Hundred Dollars ($500). No more than one loan shall be issued to a Participant at any one time and no loan refinancings or consolidations shall be permitted under the Plan. The Plan Administrator may, in its discretion and pursuant to uniform and non-discriminatory policies and procedures, reduce the number of loans available to Participants.

(b) MAXIMUM LOAN AMOUNT; TAX LAW COMPLIANCE. The amount of any outstanding loan from the Trust Fund to any Participant at any time shall not exceed fifty percent (50%) of the Participant's vested interest in his Accounts, if any, determined as of the most recent Valuation Date of the Plan. Additionally, no loan shall be greater than Fifty Thousand Dollars ($50,000) with such Fifty Thousand Dollar ($50,000) limitation to be reduced, if applicable, by the excess of the Participant=s highest outstanding loan balance during the preceding twelve (12) month period over the Participant=s outstanding loan balance as of the date the loan is made. Any loan which is made pursuant to Section 9.1 shall be treated as a taxable distribution to the extent that it causes the outstanding balance at any time of all loans from all "employee pension benefit plans" (as defined in the Act) of the Employer and its Affiliates that are intended to "qualify" under Section 401(a) of the Act to exceed the maximum loan amount limitations set forth above. The Plan Administrator may, in its discretion, prohibit the making of any loan that would be treated as a taxable distribution to the Participant. Notwithstanding the foregoing, no portion of a Participant's Roth Elective Deferrals Account or Roth Rollover Contributions Account may be invested in the proceeds of a Participant loan. The Plan Administrator may, in its discretion, prohibit the making of any loan that would be treated as a taxable distribution to the Participant.

(c) SECURITY. The loan shall be evidenced by the Participant's promissory note and shall be secured by an assignment of the Participant's vested interest in some or all of his accounts, provided that in no event shall the loan be secured by an assignment of more than fifty percent (50%) of the Participant's vested (non-forfeitable) interest in his accounts.

(d) WITHDRAWAL FROM PARTICIPANT ACCOUNTS. Loan proceeds shall be drawn ratably from all Accounts maintained on behalf of the Participant, with the exception of a Participant's Roth Elective Deferrals Account and Roth Rollover Contributions Account, as set forth in Section 9.2(b).

9.4. TERMS OF LOAN.

(a) INTEREST RATE. All loans shall bear interest at the rate of Prime (as set forth in the Wall Street Journal) plus one percent (1%). Subject to the foregoing, the terms of any loan shall be arrived at by mutual agreement between the Committee and the Participant pursuant to a uniform, nondiscriminatory policy.

(b) AMORTIZATION PERIOD. All loans shall be repayable in level weekly, semi-monthly, monthly or quarterly installments over a period not exceeding five (5) years, except that the term may exceed five (5) years (but shall not exceed fifteen (15) years or such shorter period set by the Plan Administrator) if the Participant establishes to the satisfaction of the Plan Administrator, in its sole discretion, that the proceeds of the loan will be used, within a reasonable time after the funds are disbursed, to acquire or construct the Participant's principal residence.

(c) REPAYMENTS; PREPAYMENTS. All installment payments shall be made by payroll deduction. The promissory note and payroll deduction authorization executed by the Participant shall include the Participant's consent to payroll repayment through any payroll administered by the Employer or a related Tribal entity. Notwithstanding the foregoing, and in the event that a Participant terminates from employment with the Employer and does not receive a distribution of his Accounts pursuant to Article XI, the Participant shall be permitted to make installment payments on the outstanding loan outside of the payroll system, pursuant to the uniform and non-discriminatory policies and procedures of the Plan Administrator. A Participant may prepay a loan in full at any time without penalty. No partial prepayments shall be permitted.

(d) COSTS. Any costs incurred by the Trustee to establish, process or collect the loan shall be charged directly and solely to the Participant and will be subtracted from the loan proceeds unless other mutually agreeable arrangements are made by the Trustee and the Participant.

9.5. DEFAULT.

In the event that the Participant does not repay such loan or loans and the interest thereon in a timely fashion, the Plan Administrator may exercise every creditor's right at law or equity available to the Employer. The Plan Administrator may not, however, authorize or direct the Trustee to deduct or offset the payments in default or the unpaid outstanding balance of the loan from or against the Participant's Employer Contributions Account until such time as the account becomes payable pursuant to the other provisions of this Plan. When payments become due hereunder, the Trustee may deduct the total amount of the loan then outstanding, together with any interest then due and owing, from any payment or distribution (including any payment due to the Participant's surviving Spouse pursuant to Section 11.3) to which such Participant or his Beneficiary or Beneficiaries may become entitled.

9.6. LOAN MODIFICATIONS.

(a) QUALIFIED MILITARY SERVICE. Notwithstanding any provision of this

Article IX to the contrary, Plan loan repayments shall be suspended during periods of Qualified Military Service as permitted in accordance with the provisions of Code Section 414(u). Additionally, in accordance with the Soldiers' and Sailors' Civil Relief Act Amendments of 1942, the interest rate imposed on a Plan loan during a period of Qualified Military Service shall be no more than six percent (6%).

(b) AUTHORIZED LEAVE OF ABSENCE. Notwithstanding any provision of this Article IX to the contrary, Plan loan repayments may be suspended during an unpaid Authorized Leave of Absence of up to one (1) year; provided, however, that the Participant repays the loan (including interest accrued during the Authorized Leave of Absence) within the latest permissible term of the loan and the installment payments due after the Authorized Leave of Absence are not less than the amount required pursuant to the original amortization schedule for the loan.

(c) CARES ACT LOAN PROVISIONS. Notwithstanding any provision of this Article IX to the contrary, for a Qualified Participant the maximum amount described in Section 9.3(b) shall be increased to the lesser of One Hundred Thousand Dollars ($100,000) or one hundred percent (100%) of the Participant's vested interest in his Accounts.

In addition, the limitations on assignments set forth in Section 9.3(c) shall not apply to the extent required to permit loans under this Section 9.6(c). This section shall not be interpreted to supersede the limitation on the number of loans that may be issued to a Participant at one time. Further, notwithstanding any provision of this Article IX to the contrary, in the case of a Qualified Participant with an outstanding loan on the effective date of this Section 9.6(c)

(i) if the due date pursuant to Code Section 72(p)(2)(B) or (C) for any repayment with respect to such loans occurs during the period beginning on the effective date of this Section 9.6(c) and ending on December 31, 2020, such due date shall be delayed for one year;

(ii) any subsequent payments with respect to any such loan shall be appropriately adjusted to reflect the delay in the due date under subsection (i) and any interest accruing during such delay; and

(iii) in determining the five-year period and the term of a loan under Code Section 72(p)(2)(B) or (C), the period described in subsection (i) shall be disregarded.

This Section 9.6(c) shall be effective as soon as administratively practicable after approval by the Employer.

ARTICLE X
IN-SERVICE WITHDRAWALS

10.1. HARDSHIP WITHDRAWALS.

(a) GENERAL RULE. Subject to Section 10.5 below, a Participant may request a withdrawal of his Pre-Tax Contributions (including Roth Elective Deferrals), his Catch- Up Contributions, and his Rollover Contributions on the basis of hardship, (collectively, "Hardship Eligible Contributions"), including effective January 1, 2020, earnings thereon. Notwithstanding the foregoing, any hardship withdrawal shall be drawn first from the Participant's Pre-Tax Contributions Account prior to any withdrawal from the Participant's Roth Elective Deferrals Account.

(b) LIMITATIONS ON AMOUNT OF WITHDRAWAL. In no event shall a withdrawal on the basis of hardship exceed the aggregate balance of the Participant's Hardship Eligible Balance, determined as of the Valuation Date immediately preceding the date of the withdrawal. Any hardship withdrawal shall be drawn first from any Rollover Contribution Account maintained for the Participant, and then from the Participant's Pre-Tax Contributions Account, and then from the Participant's Roth Contributions Account. The Plan Administrator also may postpone withdrawals from amounts invested through an Investment Fund, to the extent that transfers into or out of a particular investment alternative are restricted pursuant to uniform and nondiscriminatory rules promulgated by the Plan Administrator in accordance with the provisions in Article VIII. The Plan Administrator may promulgate additional uniform rules regarding the effective date of any withdrawal pursuant to this Section and the procedures to be followed in requesting a withdrawal pursuant to this Article.

(c) HARDSHIP DEFINED. A withdrawal may be made pursuant to this Section due to a "hardship" only if the Participant satisfies the Plan Administrator that the Participant has an immediate and heavy financial need and that the withdrawal is necessary in order to satisfy that need, including any amounts necessary to pay all applicable federal, state and local income taxes and penalties reasonably anticipated to result from the hardship withdrawal. Effective January 1, 2020, prior to receiving a hardship withdrawal, a Participant requesting a hardship withdrawal must provide the Plan Administrator with a written representation (as described in Treasury Regulation Section 1.401(k)-1(d)(3)(iii)(B)(1)) in a form satisfactory to the Plan Administrator that he or she has insufficient cash or other liquid assets reasonably available to satisfy the need.

(d) IMMEDIATE AND HEAVY FINANCIAL NEED. The following are the only expenses or circumstances that will be deemed to give rise to an immediate and heavy financial need for purposes of this Section:

(1) Medical expenses described in Section 213(d) of the Code incurred by the Participant, the Participant's spouse, any of the Participant's dependents (as defined in Section 152 of the Code) or, the Participant's designated Beneficiary;

(2) The purchase (excluding mortgage payments) of a principal residence for the Participant; or

(3) Payment of tuition and related educational expenses, including room and board, for the next twelve (12) months for post-secondary education for the Participant or the Participant's spouse, children, dependents (as defined in Section 152 of the Code) or, the Participant's Beneficiary; or

(4) The need to prevent the eviction of the Participant from his principal residence or foreclosure on the mortgage on the Participant's principal residence; or

(5) Expenses for the repair of damage to the Participant's principal residence that would qualify for the casualty deduction under Section 165 of the Code (effective January 1, 2020, determined without regard to Section 165(h)(5) and whether the loss exceeds ten percent (10%) of adjusted gross income); or

(6) Payment for burial or funeral expenses for the Participant's deceased parent, spouse, children, dependents (as defined in Section 152 of the Code without regard to Section 152(d)(1)(B)) or, the Participant's designated Beneficiary; or

(7) Effective January 1, 2020, expenses and losses (including loss of income) incurred by the Participant on account of a disaster declared by the Federal Emergency Management Agency ("FEMA") under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 100-707, provided that the Participant's principal residence of principal individual assistance with respect to the disaster; or

(8) Any other circumstance or expense designated by the Commissioner of Internal Revenue as a deemed immediate and heavy financial need in any published revenue ruling, notice or other document of general applicability.

(e) NECESSITY. A withdrawal will be deemed to be necessary to satisfy an immediate and heavy financial need of a Participant only if all of the following requirements are satisfied:

(1) The withdrawal is not in excess of the amount of the immediate and heavy financial need of the Participant (including amounts necessary to pay any federal, state or local income taxes or penalties reasonably anticipated to result from the distribution); and

(2) The Participant has obtained all distributions, other than hardship withdrawals, but, effective January 1, 2020, not including loans, currently available under all plans maintained by the Employer.

(f) FUTURE CONTRIBUTIONS NOT SUSPENDED. Effective January 1, 2020, if a Participant previously received a hardship withdrawal pursuant to this Section, and the Participant's right to make Employee Contributions to the Plan was suspended as of December 31, 2019, such suspension shall no longer be effective and any Automatic Employee Contributions made on behalf of a Participant pursuant to Section 4.1 shall resume as of the first Entry Date next following January 1, 2020.

(g) Effective January 1, 2020, Participants receiving a hardship withdrawal will not be subject to a suspension period.

10.2. AGE 59 ½ WITHDRAWALS.

Subject to Section 10.5 below, a Participant who has attained the age of fifty-nine and one-half (59 ½) years may elect to withdraw all or any portion of his Pre-Tax Contributions, Roth Elective Deferrals, Rollover or Roth Rollover Contributions. Amounts withdrawn by the Participant pursuant to this Section may not be repaid to the Plan. The Plan Administrator may promulgate uniform rules regarding the minimum amount of any such withdrawal, the number of withdrawals a Participant may elect to receive in any one Plan Year, the effective date of any withdrawal pursuant to this Section and the procedures to be followed in requesting a withdrawal pursuant to this Section.

10.3. SPECIAL MILITARY SERVICE WITHDRAWALS.

(a) GENERAL. The special military service withdrawal options set forth in this Section 10.3 are subject to the withdrawal restrictions of Section 10.5. The military service withdrawal options also are subject to additional guidance from the Treasury Department and

the Internal Revenue Service regarding the Heroes Earnings Assistance and Tax Relief Act of 2008. The Employer shall implement the provisions of this Section 10.3 in accordance with its reasonable and good faith interpretation of all available guidance on these withdrawaloptions.

(b) QUALIFIED RESERVIST DISTRIBUTIONS. If a Participant is an active Employee of the Employer, is a member of a reserve component of the United States military and is called to active duty for a period of at least 180 days or for an indefinite period, the Participant may request a withdrawal of his elective deferral contributions (exclusive ofany earnings thereon) in accordance with Code Section 72(t)(2)(G) and Code Section 401(k)(2)(B)(i)(V). Any Qualified Reservist Distribution initiated pursuant to this Section must be requested and paid after the Participant is called to active duty and before the Participant's period of active duty is completed. A Qualified Reservist Distribution may be repaid to an individual retirement account, subject to the timing restrictions set forth in Code Section 72(t)(2)(G)(ii), but may not be repaid to the Plan, regardless of whether the Participant is reemployed by the Employer following military leave.

(c) ACTIVE DUTY DISTRIBUTION. A Participant who is an active Employee of the Employer and who is called to active duty in the United States military for a period of at least 30 days, as described in Code Section 3401(h)(2)(A), will be treated as if he severed from employment with the Employer solely for purposes of requesting a distribution from the Plan in accordance with Section 11.5(b). Any such distribution shall be administered in accordance with Code Section 414(u)(12)(B). If a Participant receives a distribution pursuant to this Section, the Participant's right to make elective deferral contributions to this Plan pursuant to Article IV shall be suspended for a period of six (6) months following the month in which the withdrawal is made. A Participant may resume making elective deferral contributions as of any Entry Date following completion of the suspension period.

10.4. TRANSFERS TO NATION'S RETIREMENT PLAN.

(a) GENERAL RULE. Subject to Section 10.5 below, a Participant who also participates in the Retirement Plan for Employees of the Navajo Nation and Participating Affiliates (the "Nation's Retirement Plan") may request a trustee to trustee transfer from the Participant's Accounts under the Plan to the Nation's Retirement Plan for the purpose of acquiring additional service credit under the Nation's Retirement Plan, as may be permitted pursuant to the terms of the Nation's Retirement Plan. A Participant may make a request for a transfer under this Section regardless of whether the Participant has experienced a distribution event.

(b) LIMITATIONS ON TRANSFER. Only fully vested and nonforfeitable amounts may be transferred from this Plan pursuant to this Section 10.4. Additionally, any transfer to the Nation's Retirement Plan may not exceed the lesser of (i) the amount required to fund the service purchase, as determined by the administrator of the Nation's Retirement Plan on an actuarial basis, or (ii) the combined vested balance of the Participant's Accounts as of the Valuation Date immediately preceding the date of the transfer. Any amount transferred shall be drawn ratably from all Accounts maintained on behalf of the Participant, unless the Participant provides specific and contrary instructions to the Plan Administrator and the Plan Administrator is reasonably able to implement such instructions. In no event shall a Participant receive a benefit under this Plan as the result of any amounts transferred pursuant to this Section, nor shall a Participant receive, actually or constructively, any amounts intended to be transferred to the trustee of the Nation's Retirement Plan pursuant to this Section.

10.5. IN-SERVICE WITHDRAWAL RULES AND RESTRICTIONS.

(a) GENERAL RESTRICTIONS. The minimum amount of any in-service withdrawal under Sections 10.1, 10.2 or 10.3 shall be Five Hundred Dollars ($500). A Participant shall not make more than one Age 59 ½ withdrawal in any twelve (12) month period.

(b) SPOUSAL CONSENT. If the Participant is married at the time of his request for a withdrawal or a transfer under this Article, the Participant's spouse must consent to the withdrawal in accordance with Section 11.10.

(c) EFFECT OF ELECTION. A Participant who elects to receive a withdrawal or transfer pursuant to this Article X shall continue to participate in the Plan subsequent to his receipt of such withdrawal or the processing of such transfer, subject to the hardship restrictions set forth in Section 10.1(f), if applicable.

(d) EXPENSES. Any expense incurred in making a withdrawal pursuant to this Article X shall be charged to the Participant's Account and shall be deducted prior to the disbursements of the withdrawal proceeds to the Participant.

10.6 CORONAVIRUS-RELATED WITHDRAWALS

A Qualified Participant may, prior to December 31, 2020, request a coronavirus-related distribution of up to the lesser of One Hundred Thousand Dollars ($100,000) or one hundred percent (100%) of the Participant's vested interest in his Accounts, less the amount of any other coronavirus-related distributions received by the Qualified Participant.

A Qualified Participant who receives a coronavirus-related distribution pursuant to this Section may, at any time during the three (3) year period beginning on the date after the date on which such distribution was received, may make one (1) or more contributions in an aggregate amount not to exceed the amount of the coronavirus-related distribution.

This Section 10.6 shall be effective as soon as administratively practicable after approval by the Employer.

ARTICLE XI
DISTRIBUTION OF BENEFITS

11.1. NORMAL AND LATE RETIREMENT.

A Participant shall be entitled to full distribution of his accounts, as provided in Sections 11.5 and 11.6, upon actual retirement as of or after his Normal Retirement Age. A Participant may remain in the employment of the Employer after his Normal Retirement Age, if he desires, and shall retire at such later time as he may desire, unless the Employer lawfully directs earlier retirement.

11.2. DISABILITY.

A Participant who shall separate from employment due to Disability shall be entitled to full distribution of his accounts, as provided in Sections 11.5 and 11.6. Subject to the provisions of Section 11.5, the payments may commence as of his date of separation from employment due to Disability.

11.3. DEATH.

(a) BENEFIT. In the event that a Participant (which term for purposes of this Section includes former Participants) shall die prior to the distribution of his Accounts under the Plan, the Participant's Beneficiary shall be entitled to full distribution of the Participant's accounts at the time and in the manner provided in Sections 11.5 and 11.6.

(b) BENEFICIARY. Notwithstanding any Beneficiary designation made by the Participant to the contrary, except as otherwise noted below, a married Participant's Spouse shall be deemed to be his Beneficiary for purposes of this Plan unless the Participant's Spouse consents to the designation of a different Beneficiary in accordance with the spousal consent rules of Section 11.10.

(c) DEATH AFTER COMMENCEMENT OF BENEFITS. In the event that a former Participant shall die after his distributions from the Plan have commenced but prior to the complete distribution of all amounts to which such Participant is entitled under the provisions of Article XI, the Participant's Spouse or other designated Beneficiary shall be entitled to receive any remaining amounts to which the Participant would have been entitled had the Participant survived. The Plan Administrator may require and rely upon such proofs of death and the right of any Spouse or Beneficiary to receive benefits pursuant to this Section 11.3 as the Plan Administrator may reasonably determine, and its determination of death and the right of such Spouse or Beneficiary to receive payment shall be binding and conclusive upon all persons whomsoever.

11.4. OTHER SEPARATIONS FROM EMPLOYMENT.

A Participant who separates from employment for any reason other than retirement, death or Disability shall be entitled to distribution of his vested interest in his accounts at the time and in the manner provided in Sections 11.5 and 11.6.

11.5. TIME OF DISTRIBUTION OF BENEFITS.

(a) RETIREMENT. Subject to the requirements of paragraph (f) of this Section concerning the early commencement of distributions, payment to a Participant who is entitled to benefits under Section 11.1 normally shall commence within a reasonable time following the Participant's termination of employment following his Normal Retirement Age.

(b) TERMINATION OR DISABILITY DISTRIBUTIONS. As a general rule, and except as set forth in Section 11.6(c) regarding the automatic distribution of certain small accounts, the Plan Administrator will begin distributions pursuant to Section 11.2 or Section 11.4 following the later of the Participant's separation from employment and the Participant's written request for a distribution. If the Participant is married at the time a distribution is requested, the Participant's written request for a distribution must include Spousal consent in accordance with Section 11.10. Payments made pursuant to Section 11.6(c) and payments made at the request of a Participant on account of a Participant's termination of employment shall be made within a reasonable and appropriate time period, as determined by the Plan Administrator, in its sole and absolute discretion. If necessary and in its sole discretion, the Plan Administrator may deny a request for a distribution if the Participant is reemployed by the Employer at the time the request for the distribution is received by the Plan Administrator or if the Plan Administrator determines that the Participant has not experienced a bona fide separation from employment. If the Participant does not make a written request for a distribution pursuant to this Section, and except as provided in Section 11.6(b), distributions will be made as soon as possible following

the Participant's Normal Retirement Date.

(c) DEATH PRIOR TO COMMENCEMENT OF BENEFITS. In the event of the death of the Participant prior to the distribution of his Accounts under the Plan, payments to the Participant's Beneficiaries shall commence as soon as practicable following the Participant's death and must be paid in full by December 31 of the calendar year which includes the fifth (5th) anniversary of the date of the Participant's death, unless the surviving spouse or other designated beneficiary makes an appropriate election under Code Section 401(a)(9). All distributions made subsequent to the death of the Participant shall be made in accordance with the requirements of Code Section 401(a)(9), Treasury Regulation Section 1.401(a)(9)-1, et seq. and Section 11.7 of the Plan.

(d) DEATH AFTER COMMENCEMENT OF PAYMENTS. In the event of the death of a Participant after his Benefit Commencement Date but prior to the complete distribution to such Participant of the benefits payable to him under the Plan, any remaining benefits shall be distributed over a period that does not exceed the period over which distribution was to be made prior to the date of death of the Participant. All distributions made subsequent to the death of the Participant shall be made in accordance with the requirements of Code Section 401(a)(9), Treasury Regulation Section 1.401(a)(9)-5, Q&A-5, and Section 11.7 of the Plan.

(e) REQUIRED COMMENCEMENT OF PAYMENTS. Payment to a former Participant must commence by April 1 of the calendar year following the calendar year in which the Participant attains the age of seventy and one-half (70-½) years or, if later, by April 1 of the calendar year following the calendar year in which the Participant retires, in accordance with requirements of Code Section 401(a)(9) and Section 11.7 of the Plan.

(f) CONSENT TO EARLY DISTRIBUTIONS. Except as otherwise provided in Section 11.6(c) concerning the payment of small amounts, no benefit payments may commence pursuant to the preceding provisions of this Section, unless the Participant requests the earlier commencement of benefits in accordance with the uniform and nondiscriminatory policies and procedures of the Plan Administrator, and, if the Participant is married, the Participant's Spouse consents to the earlier commencement of payments. The Participant's request must be in a form acceptable to the Plan Administrator and any required spousal consent must comply with the spousal consent provisions of Section 11.10.

11.6. METHOD OF DISTRIBUTION.

(a) LUMP SUM DISTRIBUTIONS. The standard form of payment of benefits under this Plan shall be a single lump sum payment.

(b) INSTALLMENT DISTRIBUTIONS. Notwithstanding the foregoing, the Participant may elect to receive his benefits under this Plan in installments. Such installment payments may be annual, quarterly or monthly, over a period not to exceed the Participant's life expectancy. After installment payments commence, a Participant, or a Participant's Beneficiary, if applicable, may elect to discontinue the installment payments and receive a lump sum distribution of the remaining Account balance.

(c) DISTRIBUTION OF SMALL AMOUNTS. Notwithstanding any provision of the Plan to the contrary, the Plan Administrator, in its sole discretion, may direct payment of benefits in a single lump sum, without the Participant's consent, if the total amount distributable to the Participant (or a surviving spouse or alternate payee) from all of his accounts (excluding

Rollover and Roth Rollover Contributions) does not exceed One Thousand Dollars ($1,000) or such lesser amount determined by the Plan Administrator, in its sole discretion and pursuant to a uniform and nondiscriminatory policy, to be the appropriate small account distribution limit. No distribution may be made pursuant to the preceding sentence after the Benefit Commencement Date unless the Participant and the Participant's spouse, if any, consent in writing to the distribution.

(d) AMOUNT OF DISTRIBUTION. For the purpose of determining the amount to be distributed to Participants and Beneficiaries, the Participant's accounts will as a general matter be valued as of the Valuation Date preceding the date upon which distribution is to commence. Valuation procedures may vary depending on the nature of the investment alternatives selected by the Participant, but will be conducted in a non-discriminatorymanner.

(e) ADDITIONAL BENEFIT OPTIONS. The Plan Administrator may from time to time expand the available benefit options by the adoption of written administration procedures, which written procedures shall describe the additional optional methods of payment and any limitations on their availability.

11.7. MINIMUM DISTRIBUTION REQUIREMENTS.

The following provisions of this Section 11.7 are intended to demonstrate reasonable and good faith compliance with the final Treasury regulations issued pursuant to Section 401(a)(9) of the Code. Reasonable and good faith deviations from the provisions of this Section 11.7 and/or from the Treasury Regulations published under Section 401(a)(9) of the Code shall not adversely impact the Plan's compliance status as set forth in Section 823 of the PPA and Treasury Regulation Section 1.401(a)(9)-1, Q&A 2(d). The provisions of this Section 11.7 shall supersede all other provisions of the Plan to the extent that such other Sections of the Plan are inconsistent with the Treasury regulations. All distributions required under this Section 11.7 will be determined and made in accordance with the Treasury regulations under section 401(a)(9) of the Code. All references to the "designated Beneficiary" in this Section shall be deemed to incorporate the designation procedures set forth in Section 11.9 of the Plan.

(a) TIME AND MANNER OF DISTRIBUTION.

(1) 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.

(2) 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 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 70 ½, if later.

(B) If the Participant's surviving spouse is not the Participant's sole designated Beneficiary, then 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 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.

(D) 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 (a)(2), other than section (a)(2)(A), will apply as if the surviving spouse were the Participant.

For purposes of this section (a)(2) and section (d), unless section (a)(2)(D) applies, distributions are considered to begin on the Participant's required beginning date. If section (a)(2)(D) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under section (a)(2)(A).

(3) FORMS OF DISTRIBUTION. Unless the Participant's interest is distributed in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with sections (b) and (c) of this Section 11.7.

(b) REQUIRED MINIMUM DISTRIBUTIONS DURING PARTICIPANT'S LIFETIME.

(1) 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 Treasury 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 Treasury regulations, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the distribution calendar year.

(2) LIFETIME REQUIRED MINIMUM DISTRIBUTIONS CONTINUE THROUGH YEAR OF PARTICIPANT'S DEATH. Required minimum distributions will be determined under this section (b) beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the Participant's date of death.

(c) REQUIRED MINIMUM DISTRIBUTIONS AFTER PARTICIPANT'S DEATH.

(1) 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:

(i) 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.

(ii) 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 calendaryear.

(iii) 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.

(2) 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 (c)(1).

(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 (a)(2)(A), this section (c)(2)(C) will apply as if the surviving spouse were the Participant.

(d) DEFINITIONS.

(1) DESIGNATED BENEFICIARY. The individual who is designated as the Beneficiary under Section 11.9 of the plan and is the designated Beneficiary under section 401(a)(9) of the Code and section 1.401(a)(9)-4 of the Treasury regulations.

(2) 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 under section (a)(2). 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.

(3) LIFE EXPECTANCY. Life expectancy as computed by use of the Single Life Table in section 1.401(a)(9)-9 of the Treasury regulations.

(4) PARTICIPANT'S ACCOUNT BALANCE. The account balance as of the last day of the calendar year immediately preceding the distribution calendar year (valuation calendar year) increased by the amount of any contributions made and allocated or forfeitures allocated to the account balance in the distribution calendar year and decreased by distributions made in the distribution calendar year. 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.

(5) REQUIRED BEGINNING DATE. The date defined as April 1 of the calendar year following the calendar year in which the Participant attains the age of seventy and one-half (70-½) years or, if later, by April 1 of the calendar year following the calendar year in which the Participant retires.

(e) SUSPENSION OF 2009 DISTRIBUTIONS. Notwithstanding any provision of the foregoing to the contrary, a Participant or Beneficiary who would have been required to receive required minimum distributions for 2009 but for the enactment of Section 401(a)(9)(H) of the Code ("2009 RMDs"), and who would have satisfied that requirement by receiving distributions that are (1) equal to the 2009 RMDs or (2) one or more payments in a series of substantially equal distributions (that include the 2009 RMDs) made at least annually and expected to last for the life (or life expectancy) of the Participant, the joint lives (or joint life expectancy) of the Participant and the Participant's Beneficiary, or for a period of at least 10 years ("Extended 2009 RMDs"), will not receive those distributions for 2009 unless the

Participant or Beneficiary chooses to receive such distributions. Participants and Beneficiaries described in the preceding sentence will be given the opportunity to elect to receive the 2009 RMDs. In addition, notwithstanding Section 11.8 of the Plan, and solely for purposes of applying the direct rollover provisions of the Plan, neither the 2009 RMDs or the Extended 2009 RMDs shall be treated as eligible rollover distributions. A direct rollover will be offered only for distributions that would be eligible rollover distributions without regard to Code Section 401(a)(9)(H).

(f) ROTH ELECTIVE DEFERRALS ACCOUNT. Notwithstanding any provision of the foregoing to the contrary, the Plan Administrator shall process distributions required pursuant to this Section 11.7 from pre-tax contributions sources first, before any Roth Elective Deferrals or earnings thereon are distributed to a Participant or Beneficiary.

(g) SUSPENSION OF 2020 REQUIRED MINIMUM DISTRIBUTIONS. Notwithstanding any provision of the foregoing to the contrary, a Participant or Beneficiary who would have been required to receive required minimum distributions in 2020 but for the enactment of the CARES Act ("2020 RMDs"), and who would have satisfied that requirement by receiving a distribution from the Plan will not receive those distributions for 2020 unless the Participant or Beneficiary requests to receive such distributions in a form acceptable to the Plan Administrator. In addition, notwithstanding Section 11.8 of the Plan, and solely for purposes of Code Sections 401(a)(31), 3405(c) and 3405(f), 2020 RMDs shall not be treated as eligible rollover distributions.

11.8. ELIGIBLE ROLLOVER DISTRIBUTIONS.

(a) GENERAL. 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 Plan 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". Notwithstanding the foregoing, the Plan will not provide for a direct rollover if the amount of the distributions that are eligible rollover distributions are reasonably expected to total less than Two Hundred Dollars ($200) during a year.

(b) DEFINITIONS.

(1) ELIGIBLE ROLLOVER DISTRIBUTION. 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 amount that is distributed on account of hardship; 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 Section 401(a)(9) of the Code; and any other distribution that is reasonably expected to total less than Two Hundred Dollars ($200) during a year. A portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of Roth Elective Deferrals; provided, however, that such portion is transferred in accordance with the specialized Roth rule set forth in paragraph (c) below. A portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax contributions which are not includible in gross income. However, such portion may be transferred only to (1) an individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Code, (2) to a qualified defined contribution plan

described in Section 401(a) or 403(a) of the Code, or a qualified trust or annuity contract described in Code Section 403(b), that agrees to separately account for after-tax amounts so transferred.

(2) ELIGIBLE RETIREMENT PLAN. An eligible retirement plan is an individual retirement account described in Section 408(a) of the Code; an eligible plan under section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan; an individual retirement annuity described in Section 408(b) of the Code; an annuity plan described in Section 403(a) of the Code; an annuity contract described in Section 403(b) of the Code; a qualified trust described in Section 401(a) of the Code; or a Roth IRA described in Section 408A(b) of the Code (provided that any such distribution is made in accordance with Section 408A of the Code) that accepts the distributee's eligible rollover distribution. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving Spouse, or to a Spouse or former spouse who is the alternate payee under a Qualified Domestic Relations Order.

(3) 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 or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code, are distributees with regard to the interest of the spouse or former spouse. A distributee also includes the Participant's non-spouse Beneficiary. In the case of a non-spouse Beneficiary, the direct rollover may be made only to an individual retirement account or annuity described in Section 408(a) or 408(b) of the Code ("IRA") that is established on behalf of the Beneficiary and that will be treated as an inherited IRA pursuant to the provisions of Code Section 402(c)(11).

(4) DIRECT ROLLOVER. A direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee.

(c) ROTH ELECTIVE DEFERRALS. Notwithstanding paragraph (b)(2) above, a direct rollover of a distribution from a Participant's Roth Elective Deferrals Account will be made only to another Roth elective deferral account under an applicable retirement plan described in Code Section 402A(e)(1) or to a Roth IRA described in Code Section 408A, and only to the extent the rollover is permitted under the rules of Code Section 402(c). Any distribution from a Participant's Roth Elective Deferrals Account is not taken into account in determining whether distributions from a Participant's other Accounts are reasonably expected to total less than Two Hundred Dollars ($200) during a year. However, eligible rollover distributions from a Participant's Roth Elective Deferral Account are taken into account in determining whether the total amount of the Participant's Account balances under the Plan exceeds One Thousand Dollars ($1,000) for purposes of mandatory distributions from the Plan.

11.9. DESIGNATION OF BENEFICIARY.

Subject to Section 11.3, each Participant shall have the right to designate, on forms supplied by and delivered to the Plan Administrator, a Beneficiary or Beneficiaries to receive his benefits hereunder in the event of the Participant's death. As provided in Section 11.3, if the Participant is married when the Beneficiary designation is filed, the designation will be ineffective unless the Participant's Spouse consents to the election. Subject to the spousal consent requirements of Section 11.10, each Participant may change his Beneficiary designation from time to time in the manner described above. Upon receipt of such designation

by the Plan Administrator, such designation or change of designation shall become effective as of the date of the notice, whether or not the Participant is living at the time the notice is received. There shall be no liability on the part of the Employer, the Plan Administrator or the Trustee with respect to any payment authorized by the Plan Administrator in accordance with the most recent valid Beneficiary designation of the Participant in its possession before receipt of a more recent and valid Beneficiary designation. If no designated Beneficiary is living when benefits become payable, or if there is no designated Beneficiary, the Beneficiary shall be the Participant's Spouse; or if no Spouse is then living, such Participant's issue, including any legally adopted child or children, in equal shares by right of representation; or if no such designated Beneficiary and no such Spouse or issue, including any legally adopted child or children, is living upon the death of a Participant, or if all such persons die prior to the full distribution of such Participant's benefits, then the Beneficiary shall be the estate of the Participant.

11.10. SPOUSAL CONSENT.

(a) GENERAL RULE. Except as set forth in Section 11.6(c), all distributions, in-service withdrawals and Participant loans made pursuant to this Plan are subject to the spousal consent requirements set forth in this Section 11.10. If a Participant is married and is required by the terms of the Plan to obtain spousal consent, such spousal consent will be irrevocable once given. The consent of the Participant's Spouse to an election under the Plan shall be in writing, acknowledge the effect of such an election, be witnessed by a notary public or a designated representative of the Plan Administrator and be provided to the Plan Administrator. No spousal consent will be required if the Plan Administrator determines, in its sole discretion, that such consent cannot be obtained because the Spouse cannot be located or other circumstances exist that preclude the Participant from obtaining such consent (to the degree permitted under applicable regulations issued by the United States Treasury Department). Any spousal consent given pursuant to this Section or dispensed with pursuant to the preceding sentence will be valid only with respect to the Spouse who signs the consent or with respect to whom the consent requirement is waived by the Plan Administrator.

(b) BENEFICIARY DESIGNATIONS. A Participant's Spouse may not give a general consent to the designation of a Beneficiary other than the Spouse, but rather must consent to the designation of a particular Beneficiary. If the Participant elects to change the Beneficiary, the Spouse's prior consent will be null and void and a new consent will be required, unless the Spouse's consent expressly permits a change of designation without the further consent of the Spouse.

(c) PARTICIPANT LOANS. The required spousal consent to a Participant loan must be filed with the Plan Administrator prior to the date on which the loan is made and not more than ninety (90) days in advance of the date the loan is made. The Plan Administrator may, in accordance with uniform and nondiscretionary rules and procedures, shorten the advance time period during which spousal consent may be obtained. A Spouse may not consent to Participant loans generally but rather may consent only to loans of specific amounts to be made at specified times and on specified terms and conditions. If the amount of the loan or the terms and conditions under which the loan will be made are later changed, a new consent will be required. A new consent will be required each time a Participant borrows money from the Plan.

11.11. PAYMENTS TO DISABLED.

If a person entitled to any payment hereunder shall be under a disability, or in the sole judgment of the Plan Administrator shall otherwise be unable to apply such payment to his own interest and advantage, the Plan Administrator in the exercise of its discretion may direct the Trustee to make any such payment in any one (1) or more of the following ways: (a) directly to such person, (b) to his legal guardian or conservator, or (c) to his Spouse or to any person charged with the legal duty of his support, to be expended for his benefit. The decision of the Plan Administrator shall in each case be final and binding upon all persons in interest.

11.12. UNCLAIMED ACCOUNTS; NOTICE.

(a) GENERAL. Neither the Employer, the Plan Administrator nor the Trustee shall be obliged to search for, or ascertain the whereabouts of, any Participant or Beneficiary. If a Participant or Beneficiary becomes entitled to a distribution under the Plan, the Plan Administrator shall notify the Participant or Beneficiary that he is entitled to a distribution by certified or registered mail addressed to the Participant's or Beneficiary's last known address of record with the Plan Administrator or the Employer. In the event that the Participant or Beneficiary fails to respond to a distribution notice sent via certified or registered mail, or in the event Plan account statements, investment statements, or other Plan communication materials are returned to the Plan Administrator (regardless of whether they are sent via certified or registered mail) indicating that the Participant is no longer at the address on record, the Plan Administrator may, at its option, publish a notice in the Tribe's newspaper or other appropriate newspaper and/or post notices in an attempt to locate missing participants. Upon failure of the foregoing, the Plan Administrator shall take commercially reasonable steps to locate the Participant.

(b) SEGREGATION OF ACCOUNT. If the Participant or Beneficiary cannot be located by the Plan Administrator, the Plan Administrator, in its discretion, may thereafter direct the Trustee to segregate the Participant's benefits in an "Unclaimed Accounts" fund maintained under the Trust Fund. The Unclaimed Accounts fund shall hold the assets of all unclaimed Participant and Beneficiary accounts on a commingled basis, subject to appropriate recordkeeping requirements. Any such Unclaimed Accounts fund shall be invested in the Plan's default Investment Fund and the Plan Administrator and the Trustee shall have no other investment responsibility with regard to such benefits until the Participant or Beneficiary provides current investment directions pursuant to the Plan and/or claims any distributions which may be due. The segregated deposits shall be entitled to all income they earn and shall bear all expense or loss (including administration expenses) they incur.

(c) FORFEITURE OF ACCOUNT; RESTORATION. Should the Plan Administrator not be able to locate a Participant who is entitled to be paid a benefit under the Plan after making reasonable efforts to contact said Participant under the above procedures, and a period of one (1) year has elapsed from the Participant's termination date, a forfeiture of the Participant's vested benefit may occur and be treated as other forfeitures under this Plan. Notwithstanding said forfeiture, in the event that the Participant (or Beneficiary) should thereafter make a claim for his benefits, as determined prior to the date of the forfeiture, the Plan Administrator shall restore his account balance together with annual interest at the "Short Term Federal Rate," as defined in Code Section 1274, from the date of the forfeiture. Such amounts shall be restored to the extent possible with other forfeitures available for allocation in the year of restoration. Should there be insufficient forfeitures occurring at the time ofthe

restoration, the Employer shall be obligated to restore said account by means of a special contribution to the Plan.

11.13. UNDERPAYMENT OR OVERPAYMENT OF BENEFITS.

In the event that, through misstatement or computation error, benefits are underpaid or overpaid, there shall be no liability for any more than the correct benefit sums under the Plan. Overpayment may be deducted from future payments under the Plan, and under payments may be added to future payments under the Plan. In lieu of receiving reduced benefits under the Plan, a Participant or beneficiary may elect to make a lump sum repayment of any overpayment.

ARTICLE XII
INALIENABILITY OF BENEFITS

12.1. NO ASSIGNMENT PERMITTED.

(a) GENERAL PROHIBITION. No Participant or Beneficiary, and no creditor of a Participant or Beneficiary, shall have any right to assign, pledge, hypothecate, anticipate or in any way create a lien upon the Trust Fund. All payments to be made to Participants or their Beneficiaries shall be made only upon their personal receipt or endorsement, except as provided in Section 11.11, and no interest in the Trust Fund shall be subject to assignment or transfer or otherwise be alienable, either by voluntary or involuntary act or by operation of law or equity, or subject to attachment, execution, garnishment, sequestration, levy or other seizure under any legal, equitable or other process, or be liable in any way for the debts or defaults of Participants and Beneficiaries.

(b) PERMITTED ARRANGEMENTS. This Section shall not preclude arrangements for the withholding of taxes from benefit payments, arrangements for the recovery of benefit overpayments, arrangements for the transfer of benefit rights to another plan, or arrangements for direct deposit of benefit payments to an account in a bank, savings and loan association or credit union (provided that such arrangement is not part of an arrangement constituting an assignment or alienation). Additionally, this Section shall not preclude arrangements for the distribution of the benefits of a Participant or Beneficiary pursuant to the terms and provisions of a Qualified Domestic Relations Order in accordance with the following provisions of this Article XII.

12.2. QUALIFIED DOMESTIC RELATIONS ORDERS.

A Qualified Domestic Relations Order is an order described in Section 401(a)(13) and Section 414(p) of the Code that is (1) issued by, domesticated through, or recognized by the Courts of the Navajo Nation or any State court, and (2) permits distribution of benefits in a distribution mode provided under the Plan, does not require payment of increased benefits and does not require payment of benefits allocated to a different alternate payee under a prior Qualified Domestic Relations Order.

12.3. PROCESSING QUALIFIED DOMESTIC RELATIONS ORDERS.

(a) NOTICE. All decisions and determinations with respect to a domestic relations order, including whether such order is a Qualified Domestic Relations Order within the meaning of this Article XII, shall be made by the Plan Administrator within a reasonable time

following its receipt of such order and in accordance with such uniform rules and procedures as may be adopted by the Plan Administrator. Upon receipt of a domestic relations order, the Plan Administrator shall notify the Participant or Beneficiary whose benefits may be affected by such order of its receipt of such order. The Plan Administrator shall also advise the Participant or Beneficiary and the alternate payee named in the order of its rules and procedures relating to the determination of the qualified status of such order.

(b) RETENTION OF PAYMENTS. If payment of benefits to the Participant or Beneficiary has commenced at the time a domestic relations order is received by the Plan Administrator or benefits become payable after receipt of such order, the Plan Administrator shall direct the Trustee to segregate and hold the amounts which would be payable to the alternate payee under the order if such order is ultimately determined to be a Qualified Domestic Relations Order. If the Plan Administrator determines that the order is a Qualified Domestic Relations Order within eighteen (18) months of the segregation of benefits payable to the alternate payee under such order, the Plan Administrator shall direct the Trustee to pay the segregated amounts (plus any earnings thereon) as well as such future amounts as may be specified in such order to the alternate payee. If the Plan Administrator determines that the order is not a Qualified Domestic Relations Order or is unable to determine whether such order is a Qualified Domestic Relations Order within the eighteen (18) month period following the segregation of benefits, the Plan Administrator shall direct the Trustee to pay the segregated amounts (plus any earnings thereon) to the Participant or Beneficiary. A determination by the Plan Administrator after the close of such eighteen (18) month period that the order is a Qualified Domestic Relations Order shall be applied prospectively. All determinations of the Plan Administrator hereunder with respect to the status of an order as a Qualified Domestic Relations Order shall be binding and conclusive on all interested parties, subject to the provisions of Section 13.4.

12.4. EARLY COMMENCEMENT OF PAYMENTS TO ALTERNATE PAYEES.

(a) EARLY PAYMENTS. An order requiring payment to an alternate payee before a Participant has separated from employment may qualify as a Qualified Domestic Relations Order even if it requires payment prior to the Participant's "earliest retirement age," which is the earliest date on which the Participant could elect to receive retirement benefits pursuant to this Plan. If the order requires payments to commence prior to a Participant's actual retirement, the amounts of the payments must be determined as if the Participant had retired on the date on which such payments are to begin under such order, but taking into account only the present account balances at that time.

(b) ALTERNATE PAYMENT FORMS. The order may call for the payment of benefits to an alternate payee in any form in which benefits may be paid under the Plan to the Participant.

ARTICLE XIII
ADMINISTRATION

13.1. PLAN ADMINISTRATOR.

The Employer is the Plan Administrator, but has delegated its duties as such to a committee in accordance with the procedures described in Section 13.7.

13.2. ALLOCATION OF FIDUCIARY RESPONSIBILITY.

The Plan Administrator is the named fiduciary with respect to the administration of the Plan. The Plan Administrator shall not be responsible for any fiduciary functions or other duties assigned to a discretionary Trustee pursuant to this Plan or the Trust Agreement. If the Trustee appointed pursuant to the Trust Agreement is a passive, directed Trustee, then the Trustee shall not be responsible for maintaining the Plan in compliance with any applicable laws, rules or regulations.

13.3. POWERS OF THE PLAN ADMINISTRATOR.

(a) GENERAL POWERS. The Plan Administrator shall have the power and discretion to perform the administrative duties described in this Plan or required for proper administration of the Plan and shall have all powers necessary to enable it to properly carry out such duties. Without limiting the generality of the foregoing, the Plan Administrator shall have the power and discretion to construe and interpret this Plan, to hear and resolve claims relating to this Plan, and to decide all questions and disputes arising under this Plan. The Plan Administrator shall determine, in the exercise of its discretion, the eligibility of employees to participate in the Plan, the service credited to the Employees, the status and rights of a Participant, and the identity of the Beneficiary or Beneficiaries entitled to receive any benefits payable hereunder on account of the death of a Participant.

(b) BENEFIT PAYMENTS. Except as is otherwise provided hereunder, the Plan Administrator shall determine the manner and time of payment of benefits under this Plan. All benefit disbursements by the Trustee shall be made upon the instructions of the Plan Administrator.

(c) EXERCISE OF DISCRETION; DECISIONS FINAL. All powers and duties conferred on the Plan Administrator shall be exercised or performed by the Plan Administrator in the exercise of its discretion regardless of whether the Plan provision conferring such power or imposing such duty specifically refers to the Plan Administrator's discretion. All decisions of the Plan Administrator upon all matters within the scope of its authority shall be binding and conclusive upon all persons.

(d) REPORTING AND DISCLOSURE. The Plan Administrator shall file all reports and forms lawfully required to be filed by the Plan Administrator with any governmental agency or department, federal or tribal, and shall distribute any forms, reports, statements or plan descriptions lawfully required to be distributed to Participants and others by any governmental agency or department, federal or tribal.

(e) INVESTMENT. The Plan Administrator shall keep itself advised with respect to the investment of the Trust Fund and shall report to the Employer regarding the investment and reinvestment of the Trust Fund not less frequently than annually. The Plan Administrator shall have power to direct specific investments of the Trust Fund only where such power is expressly conferred by this Plan and only to the extent described in this Plan. The Trustee shall have the responsibility of taking and holding of title to the assets of the Plan in the Trustee's name. All other investment duties shall be the responsibility of the Participants directing investment in Investment Funds established pursuant to Article VIII or, in the event that a discretionary Trustee is appointed pursuant to the terms of the Trust Agreement, the Trustee.

13.4. CLAIMS.

(a) FILING OF CLAIM. A Participant or Beneficiary entitled to benefits need not file a written claim to receive benefits. If an Employee, Participant, Beneficiary or any other person is dissatisfied with the determination of his benefits, eligibility, participation or any other right or interest under this Plan, such person may file a written statement setting forth the basis of the claim with the Plan Administrator in a manner prescribed by the Plan Administrator. In connection with the determination of a claim, the claimant may examine this Plan and any other pertinent documents generally available to Participants relating to the claim.

(b) NOTICE OF DECISION. A written notice of the disposition of any such claim shall be furnished to the claimant within thirty (30) days after the claim is filed with the Plan Administrator. Such notice shall refer, if appropriate, to pertinent provisions of this Plan, shall set forth in writing the reasons for denial of the claim if the claim is denied (including references to any pertinent provisions of this Plan), and where appropriate shall explain how the claimant can perfect the claim. If the claim is denied, in whole or in part, the notice of disposition also shall include a description of the Plan's review procedures, including time limitations applicable to such procedures.

(c) REVIEW. Within ninety (90) days after receiving the written notice of the Plan Administrator's disposition of the claim, the claimant may request in writing, and shall be entitled to, a review meeting with the Plan Administrator to present reasons why the claim should be allowed. The claimant shall be entitled to be represented by counsel at the review meeting. The claimant also may submit a written statement of his claim and the reasons for granting the claim. Such statement may be submitted in addition to, or in lieu of, the review meeting with the Plan Administrator. The claimant shall be provided, upon request and free of charge, reasonable access to and copies of all documents, records and other information relevant to the claimant's claim for benefits. The Plan Administrator shall have the right to request of and receive from a claimant such additional information, documents or other evidence as the Plan Administrator may reasonably require. If the claimant does not request a review meeting within ninety (90) days after receiving written notice of the Plan Administrator's disposition of the claim, the claimant shall be deemed to have accepted the Plan Administrator's written disposition, unless the claimant shall have been physically or mentally incapacitated so as to be unable to request review within the ninety (90) day period.

(d) DECISION FOLLOWING REVIEW. A decision on review shall be rendered in writing by the Plan Administrator ordinarily not later than sixty (60) days after review, and a written copy of such decision shall be delivered to the claimant. If special circumstances require an extension of the ordinary period, the Plan Administrator shall so notify the claimant.

(e) DECISIONS FINAL; PROCEDURES MANDATORY. To the extent permitted by law, a decision on review by the Plan Administrator shall be binding and conclusive upon all persons whomsoever. To the extent permitted by law, completion of the claims procedures described in this Section shall be a mandatory precondition that must be complied with prior to commencement of a judicial action by a person claiming rights under the Plan or by another person claiming rights through such a person. The Plan Administrator may, in its sole discretion, waive these procedures as a mandatory precondition to such an action.

(f) RECOURSE FOLLOWING CLAIMS EXHAUSTION. Any claims which are not resolved following exhaustion of the claims procedures set forth herein shall be subject to review in the Courts of the Navajo Nation.

13.5. PAYMENT OF PLAN EXPENSES.

(a) GENERAL. Expenses of the Plan, to the extent that the Employer does not pay such expenses, may be paid out of the assets of the Plan. Expenses that may be paid by the Plan shall include any expenses incurred by the Plan Administrator or Trustee in the exercise of their duties under the Plan, including, but not limited to, expenses for recordkeeping and other administrative services; audit and accounting expenses fees and expenses of the custodian; expenses for investment education and investment management services; and direct costs that the Employer incurs with respect to the Plan. By action dated June 3, 2010, the Plan Administrator adopted a written Administrative Policy on the Payment of Plan Expenses governing the payment of expenses with Plan assets. The Administrative Policy on the Payment of Plan Expenses may be amended from time to time in the discretion of the PlanAdministrator.

(b) SOURCE OF FUNDS. When the Plan Administrator determines that an expense may be paid out of the assets of the Plan and the expense is not allocated to individual Participant accounts in accordance with Section 6.2(g), the expense shall be paid from the Plan's investment fee credit account maintained pursuant to Section 13.6. If the Plan's investment fee credit account is insufficient to pay the entire expense, the expense (or the remaining portion of the expense) shall be charged to the Plan's forfeiture suspense account.

13.6. INVESTMENT FEE CREDIT ACCOUNT.

The Plan Administrator shall maintain an investment fee credit account under the Plan. Any and all investment fees which are rebated to the Plan by the Plan's service providers on a quarterly basis shall be allocated to the investment fee credit account. On a periodic basis, the Plan Administrator shall allocate the assets accumulated in the investment fee credit account to pay Plan expenses, in accordance with the terms of Section 13.5 above. The funds allocated to the investment fee credit account shall be applied to Plan expense payments on an annual basis, with the exception of a minimum balance the Plan Administrator may elect to leave in the investment fee credit account. If the assets held in the investment fee credit account at the end of Plan Year exceed the Plan expenses approved for payment by the Plan Administrator, the Plan Administrator shall determine in its discretion whether such excess shall continue to be held for payment of Plan expenses incurred in the subsequent Plan Year or shall be allocated to Participant accounts in a uniform and nondiscriminatory manner.

13.7. PLAN ADMINISTRATIVE COMMITTEE.

The Retirement Savings Plan Administration Committee (the "Committee") as appointed by the Budget and Finance Committee of the Council shall serve as the Plan Administrator. The Committee shall consist of the Chairman and the Vice Chairman of the Budget and Finance Committee of the Council, the Controller of the Division of Finance or his designee, the Director of the Department of Personnel Management or his designee, and the Director of the Division of Community Development or his designee. All designees shall be appointed through written notice to the Committee. The Committee members shall serve without compensation but shall be reimbursed for all expenses by the Employer. The Committee shall conduct itself in accordance with the provisions of this Article XIII. The members of the Committee may resign by providing thirty (30) days written notice to the Budget and Finance Committee of the Council

and may be removed immediately at any time by written notice from the Budget and Finance Committee.

13.8. CHAIRPERSON, VICE-CHAIRPERSON AND SECRETARY.

The Committee shall elect a Chairperson and Vice-Chairperson from among its members. The Chairperson, or Vice-Chairperson when designated or in the absence of the Chairperson, shall be authorized to execute any document or documents on behalf of the Committee. The Committee shall record all acts and determinations of the Committee and shall preserve and retain custody of all such records, together with such other documents as may be necessary for the administration of this Plan or as may be required by law. The Committee may appoint a secretary, who is not required to be a member of the Committee, to assist with the maintenance of Plan and Committee documents and records.

13.9. APPOINTMENT OF AGENTS.

The Committee may appoint such other agents, who need not be members of the Committee, as it may deem necessary for the effective performance of its duties, whether ministerial or discretionary, as the committee may deem expedient or appropriate. The appointment of agents shall be established in writing and signed by the Chairperson. The compensation of any agents who are not Employees of the Employer shall be fixed by the Committee within any limitations set by the Council.

13.10. MAJORITY VOTE AND EXECUTION OF INSTRUMENTS.

In all matters, questions and decisions, the action of the Committee shall be determined by a majority vote of its permanent voting members. They may meet informally or take any ordinary action without the necessity of meeting as a group. All instruments executed by the Committee shall be executed by a majority of its members or by any member of the Committee designated to act on its behalf.

13.11. ALLOCATION OF RESPONSIBILITIES AMONG COMMITTEE MEMBERS.

The Committee may allocate responsibilities among its members or designate other persons to act on its behalf. Any allocation or designation, however, must be set forth in writing and must be retained in the permanent records of the committee.

13.12. CONFLICT OF INTEREST.

No member of the Committee who is a Participant shall take any part in any action in connection with his participation as an individual. Such action shall be voted or decided by the remaining members of the Committee, or by another individual appointed by the Council to vote on or decide such action if no Committee member is permitted to take action pursuant to this Section.

13.13. OTHER FIDUCIARY CAPACITIES.

The members of the Committee may also serve in any other fiduciary capacity, and, specifically, all or some members of the Committee may serve as Trustee. Notwithstanding any other provision of this Plan, if and so long as any two (2) members of the Committee also serve as Trustee, any provision of this Plan or the Trust Agreement which requires a direction,

certification, notification, or other communication from the Plan Administrator to the Trustee shall be inapplicable. If and so long as any two (2) members of the Committee also serve as Trustee, any action taken by either the Committee or the Trustee shall be deemed to be taken by the appropriate party.

ARTICLE XIV
PARTICIPATING AFFILIATES

14.1. ADOPTION BY RELATED EMPLOYERS.

Any Affiliate of the Employer, governmental unit, branch, division, program or office of the Employer may adopt this Plan for the benefit of its Employees with the consent of the Council and the Plan Administrator; provided that only Affiliates and governmental entities of the Employer which are consistent with the treatment of this Plan as a governmental plan within the meaning of Code Section 414 and Section 3(32) of the Act, and in accordance with the Nation's reasonable and good faith interpretation of Section 906 of the Pension Protection Act of 2006, shall be permitted to adopt or continue participating in this Plan.

14.2. ELIGIBLE CHAPTERS.

Under Title 26, Section 2003(D) of the Navajo Nation Code, a Governance Certified Chapter of the Nation may elect to participate or continue to participate in this Plan for the benefit of its Employees, with the consent of the Council or Plan Administrator.

14.3. ELECTION TO PARTICIPATE.

Any Affiliate that meets the requirements of Section 14.1 or any Eligible Chapter that meets the requirements of Section 14.2, may elect, by a duly approved resolution, to participate or continue to participate in this Plan. References to the "Employer" in this Plan document shall refer to the Employer and all Participating Affiliates, unless the context clearly indicates otherwise.

14.4. APPROVAL OF PARTICIPATION.

Participation or continued participation in the Plan by an Affiliate or an Eligible Chapter must be approved, by a duly approved resolution, by the Committee, in its role as Plan Administrator. Upon approval of the participation of an Affiliate or Eligible Chapter in the Plan, such Affiliate or Eligible Chapter shall be referred to as a Participating Affiliate. References to the "Employer" in this Plan document shall refer to the Employer and all Participating Affiliates, unless the context clearly indicates otherwise.

14.5. REQUIREMENTS APPLICABLE TO PARTICIPATING AFFILIATES.

(a) Each Participating Affiliate shall enter into an agreement with the Plan Administrator or its designee, as well as any other entity or entities as required by the Council or the Plan Administrator; such agreement shall set forth certain terms and conditions required by the Council or Plan Administrator regarding the Participating Affiliate's participation in the Plan. In addition to the requirements of such agreement, the Participating Affiliate shall also be subject to the requirements set forth in this Section 14.4.

(b) Each Participating Affiliate shall be deemed to have delegated to the Council all authority to amend or terminate the Plan, and to appoint and remove the Plan Administrator and the Trustee.

(c) Each Participating Affiliate shall be deemed to designate the Employer as its agent with respect to all relations with the Trustee, the Plan Administrator, the investment manager, the recordkeeper and all other Plan service providers.

(d) Each Participating Affiliate consents to the deposit and investment of all funds contributed to the Plan in a single Trust Fund, administered by the Trustee.

(e) Each Participating Affiliate consents to the pooling of forfeitures that arise under the Plan, and the use of such forfeitures as directed by the Plan Administrator, in accordance with the terms of the Plan.

(f) Each Participating Affiliate shall be deemed to designate the Employer as its agent with respect to all relations with the Trustee, the Plan Administrator, the investment manager, the recordkeeper and all other Plan service providers.

(g) Each Participating Affiliate consents to the imposition of restrictions on the features available under the Plan to the Employees of the Participating Affiliate, in the event that the Plan Administrator determines that the Participating Affiliate does not have the systems capability or resources necessary to effectively administer a feature of the Plan, such as automatic enrollment. If a Participating Affiliate participates in the Plan on a restricted basis, the Participating Affiliate and the Plan Administrator shall make appropriate disclosures to the Employees of the Participating Affiliate regarding the restrictions imposed by the Plan Administrator and the features of the Plan available to the Employees of the Participating Affiliate.

(h) Each Participating Affiliate consents to the requirement that the Participating Affiliate's election to participate in the Plan may be terminated or modified only with the consent of the Council and the Plan Administrator.

ARTICLE XV
SCOPE OF RESPONSIBILITY

15.1. SCOPE OF RESPONSIBILITY.

(a) GENERAL. The Employer, the Plan Administrator, the investment manager and the Trustee shall perform the duties respectively assigned to them under this Plan and the Trust Agreement and shall not be responsible for performing duties assigned to others under the terms and provisions of this Plan or the Trust Agreement. No inference of approval or disapproval is to be made from the inaction of any party described above or the employee or agent of any of them with regard to the action of any other such party. Persons, organizations or corporations acting in a position of any fiduciary responsibility with respect to the Plan or the Trust Fund may serve in more than one fiduciary capacity.

(b) ADVISORS. The Employer, the Plan Administrator and the Trustee shall have authority to employ advisors, legal counsel, accountants and investment managers in connection with the administration of the Trust Fund, as set forth in the Trust Agreement. To the extent permitted by applicable law, the Employer, the Plan Administrator and the Trustee shall

not be liable for complying with the directions of any advisors, legal counsel, accountants or investment managers appointed pursuant to this Plan or the Trust Agreement.

(c) INDEMNIFICATION. To the extent permitted by law, the Employer shall and does hereby jointly and severally indemnify and agree to hold harmless its employees, officers and directors who serve in fiduciary capacities with respect to the Plan and the Trust Agreement, including members of the Committee, from all loss, damage, or liability, joint or several, including payment of expenses in connection with defense against any such claim, for their acts, omissions and conduct, and for the acts, omissions and conduct of their duly appointed agents, which acts, omissions, or conduct constitute or are alleged to constitute a breach of such individual's fiduciary or other responsibilities under the Act or any other law, except for those acts, omissions, or conduct resulting from his own willful misconduct, breach of good faith, or gross negligence in the performance of their duties; provided, however, that if any party would otherwise be entitled to indemnification hereunder in respect of any liability and such party shall be insured against loss as a result of such liability by any insurance contract or contracts, such party shall be entitled to indemnification hereunder only to the extent by which the amount of such liability shall exceed the amount thereof payable under such insurance contract or contracts.

(d) INSURANCE. The Employer may obtain insurance covering itself and others for breaches of fiduciary obligations under this Plan or the Trust Agreement to the extent permitted by law, and nothing in the Plan or the Trust Agreement shall restrict the right of any person to obtain such insurance for himself in connection with the performance of his duties under this Plan or the Trust Agreement. No bond shall be required of the Trustee unless required by law notwithstanding this provision. The Trustee, the Plan Administrator and the Employer do not in any way guarantee the Trust Fund from loss or depreciation. The Employer does not guarantee the payment of any money which may be or become due to any person from the Trust Fund, and the liability of the Plan Administrator and the Trustee to make any payment hereunder at any and all times will be limited to the then available assets of the Trust Fund.

15.2. PROHIBITION AGAINST CERTAIN PERSONS HOLDING POSITIONS.

No person who has been convicted of a felony shall be permitted to serve as a fiduciary, officer, trustee, custodian, counsel, agent, or employee of this Plan, or as a consultant to this Plan, unless permitted under the Act and regulations thereunder. The Plan Administrator shall ascertain to the extent practical that no violation of this Section occurs. In any event, no person knowingly shall permit any other person to serve in any capacity which would violate this Section.

ARTICLE XVI
AMENDMENT, MERGER AND TERMINATION

16.1. AMENDMENT.

The Employer shall have the right at any time, by an instrument in writing duly executed, acknowledged and delivered to the Plan Administrator and the Trustee, to modify, alter or amend this Plan, in whole or in part, prospectively or retroactively; provided, however, that the duties and liabilities of the Plan Administrator and the Trustee hereunder shall not be substantially increased without their written consent; and provided further that the amendment shall not reduce any Participant's interest in the Plan, calculated as of the date on which the

amendment is adopted. If the Plan is amended by the Employer after it is adopted by a Participating Affiliate, unless otherwise expressly provided, it shall be treated as so amended by such Participating Affiliate without the necessity of any action on the part of the Participating Affiliate. To the extent that the Plan must be amended solely to incorporate legislative, regulatory or other changes required to maintain the tax-qualified status of the Plan, any such amendment may be authorized and approved by the Chair or Vice Chair of the Nation's Budget and Finance Committee and without specific approval of such amendment by the Council, the Budget and Finance Committee or the Retirement Savings Plan Administration Committee; provided, however, that the compliance amendment is reviewed and approved by the Nation's Office of the Attorney General prior to execution.

16.2. PLAN MERGER OR CONSOLIDATION.

Subject to the restrictions noted in this Section, the Employer reserves the right to merge or consolidate this Plan with any other plan or to direct the Trustee to transfer the assets held in the Trust Fund and/or the liabilities of this Plan to any other plan or to accept a transfer of assets and liabilities from any other plan. In the event of the merger or consolidation of this Plan and the Trust Fund with any other plan, or a transfer of assets or liabilities to or from the Trust Fund to or from any other such plan, then each Participant shall be entitled to a benefit immediately after such merger, consolidation or transfer (determined as if the plan was then terminated) that is equal to or greater than the benefit he would have been entitled to receive immediately before such merger, consolidation or transfer (if this Plan had then terminated).

16.3. TERMINATION OF PLAN OR DISCONTINUANCE OF CONTRIBUTIONS.

(a) COMPLETE TERMINATION OR DISCONTINUANCE. It is the expectation of the Employer that this Plan and the payment of contributions hereunder will be continued indefinitely. However, continuance of the Plan is not assumed as a contractual obligation of the Employer, and the right is reserved at any time to terminate this Plan or to reduce, temporarily suspend or discontinue contributions hereunder. In the event the Council decides that it is impossible or inadvisable for the Employer to make its contributions as herein provided, the Council shall have the power to terminate this Plan or its contributions by appropriate resolution. A copy of such resolution or resolutions shall be delivered to the Trustee. In such event or in the event the Employer shall discontinue contributions without the delivery to the Trustee of such a resolution, then after the date specified in such resolution, or after the date of such discontinuance of contributions, the balance credited to the Employer Contributions Account of each Participant shall be fully vested and nonforfeitable.

(b) LIQUIDATION OF TRUST FUND. In the event of termination of the Plan or discontinuance of contributions, the Plan Administrator shall either promptly direct the Trustee to liquidate and distribute all assets remaining in the Trust Fund to Participants in accordance with Article XI as though their employment with the Employer had terminated or shall direct the Trustee to continue the Plan, in which event benefits shall be distributed at the times and in the manner specified in Article XI. Upon the liquidation of all assets of the Trust Fund, the Plan Administrator, after deducting all costs and expenses of liquidation and distribution, shall make the allocations required under Article VI where applicable. No distributions shall be made after termination of the Plan or discontinuance of Employer Contributions until a reasonable time after the Employer has received from the United States Treasury Department a determination under the provisions of the Code as to the effect of such termination or discontinuance upon the qualification of the Plan. In the event such determination is unfavorable, then prior to making any distributions hereunder, the Trustee shall pay any

Federal income taxes due because of the income of the Trust Fund and shall then distribute the balance in the manner above provided. The Employer may, by written notice delivered to the Trustee, waive the Employer's right hereunder to apply for such a determination, and if no application for determination shall have been made within sixty (60) days after the date specified in the terminating resolution or after the date of discontinuance of contributions, the Employer shall be deemed to have waived such right. All Plan assets shall be allocated in accordance with the terms of the Plan and no Employer Contributions shall be returned to the Employer except as set forth in Section 5.5 or as otherwise permitted by statute or Revenue Ruling 91-4.

(c) PARTIAL TERMINATION. If the Plan is terminated or contributions are discontinued with respect to a group or class of Participants, then after the date of partial termination or partial discontinuance of contributions, the balance credited to the Employer Contributions Accounts of all Participants affected by such partial termination or partial discontinuance of contributions shall become fully vested and nonforfeitable and the accounts of such Participants either shall be distributed or held pending the subsequent termination of employment of such Participants, as provided in paragraph (b) above.

16.4. LIMITATION OF EMPLOYER LIABILITY.

The adoption of this Plan is strictly a voluntary undertaking on the part of the Employer and shall not be deemed to constitute a contract between the Employer and any Employee or Participant or to be consideration for, an inducement to, or a condition of the employment of any Employee. A Participant, Employee, or Beneficiary shall not have any right to retirement or other benefits except to the extent provided herein.

ARTICLE XVII
GENERAL PROVISIONS

17.1. LIMITATION ON PARTICIPANT'S RIGHTS.

Participation in the Plan shall not give any Employee the right to be retained in the Employer's employ or any right or interest in the Trust Fund other than as herein provided. The Employer reserves the right to dismiss any Employee without any liability for any claim either against the Trust Fund, except to the extent herein provided, or against the Employer.

17.2. EXCLUSIVE BENEFIT.

Except as otherwise provided herein or in the Trust Agreement, it shall be impossible for any part of the Trust Fund to be used for or diverted to purposes other than for the exclusive benefit of Participants and their Beneficiaries, except that payment of taxes and administration expenses may be made from the Trust Fund as provided in the Trust Agreement.

17.3. UNIFORM ADMINISTRATION.

Whenever in the administration of the Plan any action is required by the Plan Administrator, such action shall be uniform in nature as applied to all persons similarly situated and no such action shall be taken which will discriminate in favor of Highly Compensated Employees.

17.4. HEIRS AND SUCCESSORS.

All of the provisions of this Plan shall be binding upon all persons who shall be entitled to any benefits hereunder, and their heirs and legal representatives.

17.5. ASSUMPTION OF QUALIFICATION.

Unless and until advised to the contrary, the Trustee may assume that the Plan is a qualified plan under the provisions of the Code relating to such plans, and that the Trust Fund is entitled to exemption from income tax under such provisions.

17.6. INSURANCE POLICIES.

No individual insurance policies shall be purchased with assets of the Trust Fund on the life of any Plan Participant.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Navajo Nation has adopted the Plan effective _____, 2021.

ATTEST:

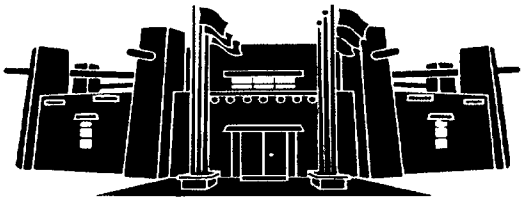
BY: _____
Chairperson of Budget and Finance Committee

DATE: _____

BY: _____
Chairperson
Retirement Savings Plan Administration Committee

DATE: _____

Office of Legislative Counsel
Telephone: (928) 871-7166
Fax # (928) 871-7576



Honorable Seth Damon
Speaker
24th Navajo Nation Council

MEMORANDUM

TO: Honorable Jamie Henio
24th Navajo Nation Council

FROM: KA Lowell
Kristen Lowell, Principal Attorney
Office of Legislative Counsel

DATE: March 31, 2021

SUBJECT: AN ACTION RELATING TO THE BUDGET AND FINANCE COMMITTEE; APPROVING AND ADOPTING AN AMENDMENT AND RESTATEMENT OF THE NAVAJO NATION 401(k) SAVINGS PLAN TO AMEND THE PLAN'S AUTOMATIC CONTRIBUTION, AUTOMATIC ENROLLMENT ARRANGEMENT, AND HARDSHIP PROVISIONS

As requested, I have prepared the above-referenced proposed resolution and associated legislative summary sheet pursuant to your request for legislative drafting. Based on existing law and review of documents submitted, the resolution as drafted is legally sufficient. As with any action of government however, it can be subject to review by the courts in the event of proper challenge.

Please ensure that this particular resolution request is precisely what you want. You are encouraged to review the proposed resolution to ensure that it is drafted to your satisfaction.

The Office of Legislative Counsel confirms the appropriate standing committee(s) based on the standing committees' powers outlined in 2 N.N.C. §§301, 401, 501, 601 and 701. Nevertheless, "the Speaker of the Navajo Nation Council shall introduce [the proposed resolution] into the legislative process by assigning it to the respective oversight committee(s) of the Navajo Nation Council having authority over the matters for proper consideration." 2 N.N.C. §164(A)(5).

If the proposed resolution is unacceptable to you, please contact me at the Office of Legislative Counsel and advise me of the changes you would like made to the proposed resolution.

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION

LEGISLATION NO: _0069-21__ **SPONSOR: Jamie Henio**

TITLE: An Action Relating to the Budget and Finance Committee; Approving and Adopting an Amendment and Restatement of the Navajo Nation 401(k) Savings Plan to Amend the Plan's Automatic Contribution, Automatic Enrollment Arrangement, and Hardship Provisions

***Date posted*: April 7, 2021 at 4:35PM**

Digital comments may be e-mailed to comments@navajo-nsn.gov

Written comments may be mailed to:

Executive Director
Office of Legislative Services
P.O. Box 3390
Window Rock, AZ 86515
(928) 871-7586

Comments may be made in the form of chapter resolutions, letters, position papers, etc. Please include your name, position title, address for written comments; a valid e-mail address is required. Anonymous comments will not be included in the Legislation packet.

Please note: This digital copy is being provided for the benefit of the Navajo Nation chapters and public use. Any political use is prohibited. All written comments received become the property of the Navajo Nation and will be forwarded to the assigned Navajo Nation Council standing committee(s) and/or the Navajo Nation Council for review. Any tampering with public records are punishable by Navajo Nation law pursuant to 17 N.N.C. *§374 et. seq*.

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW SUMMARY

LEGISLATION NO.: 0069-21

SPONSOR: Honorable Jamie Henio

TITLE: An Action Relating to the Budget and Finance Committee; Approving and Adopting an Amendment and Restatement of the Navajo Nation 401(k) Savings Plan to Amend the Plan's Automatic Contribution, Automatic Enrollment Arrangement, and Hardship Provisions

Posted: April 7, 2021 at 04:45 PM

5 DAY Comment Period Ended: April 12, 2021

Digital Comments received:

Comments Supporting	*None*
Comments Opposing	*None*
Comments/Recommendations	*None*

Vanessa
Legislative Tracking Secretary
Office of Legislative Services

April 13, 2021 8:23AM
Date/Time