

**THE STATE OF INDIANA DEFERRED
COMPENSATION MATCHING PLAN**

Restated Effective January 1, 2015

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EXHIBIT A

EXHIBIT A-1

THE STATE OF INDIANA DEFERRED COMPENSATION MATCHING PLAN

Effective January 1, 2015, the State of Indiana hereby amends and completely restates the State of Indiana Deferred Compensation Matching Plan (hereinafter called the "Plan"), a defined contribution plan under Section 401(a) of the Internal Revenue Code, for the purpose of matching all or a specified portion of State employees' contributions to the State employees' Deferred Compensation Plan and for providing for participation by local subdivisions. The Plan consists of the provisions set forth in this document, along with the provisions set forth in an Adoption Agreement of any Participating Employer and any amendments to the Plan and the Adoption Agreement.

ARTICLE I - DEFINITIONS

1.01 **"Accounts"** means each Participant's Regular Account, each Participant's Rollover Account and the Revenue Sharing and Expense Account.

1.02 **"Administrator"** means the Auditor of the State of Indiana, or such other agency or department appointed pursuant to IC 5-10-1.1-1.5, and includes the Service Manager with regard to functions delegated to the Service Manager.

1.03 **"Adoption Agreement"** means the agreement entered into by an Employer that is a political subdivision to participate in this Plan.

1.04 **"Applicable Form"** means the appropriate form as designated and furnished by the Administrator to make an election or provide a notice as required by the Plan. If a written election or consent is not specifically required by the Code, the Administrator may prescribe a verbal, electronic or telephonic instruction in lieu of or in addition to a written form. Any use of an electronic medium shall comply with the requirements of Treas. Reg. §1.401(a)-21.

1.05 **"Beneficiary"** means the person or persons designated by a Participant to receive any benefit payable upon the Participant's death.

1.06 **"Code"** means the Internal Revenue Code of 1986, as amended, and where appropriate, the Internal Revenue Code of 1954.

1.07 **"Compensation"** means remuneration paid out of funds controlled by an Employer before any pretax deductions allowed by state or federal law are made. Pretax deductions allowed by federal law include: any elective deferral to a Code Section 403(b) plan, any deferrals by reason of Code Section 125 or 457, and picked-up contributions under Code Section 414(h)(2). Compensation does not include remuneration in excess of the limits under Code Section 401(a)(17).

1.08 **"Deferred Compensation Plan"** means the State of Indiana Deferred Compensation Plan.

1.09 “Disability or Disabled” means a total and permanent disability, based on the Participant’s inability to perform services due to medical reasons, as determined by the Employer.

1.10 “Employee” means any individual who performs services for an Employer for Compensation on a regular basis, specifically including any salaried employee or elected or appointed official. Employees who are not covered by the regular retirement plan of the Employer will not be considered “Employees” unless otherwise specifically provided by the Adoption Agreement for that Employer. An Employer may elect to cover less than all departments, pursuant to an Adoption Agreement for that Employer.

1.11 “Employer” means the State of Indiana and any other eligible entity of the State, or any political subdivision of the State, defined in IC 5-10-1.1-1, eligible to participate in the Plan pursuant to Article III.

1.12 “Employer Contribution” means the Employer contributions made pursuant to Sections 4.02, 4.03 and 4.04.

1.13 “Investment Fund” means an investment fund which forms part of the Trust Fund as established by the Trustees.

1.14 “Participant” means an Employee (a) who participates under this Plan by signing a Participation Agreement in the Deferred Compensation Plan or who participates in this Plan pursuant to an Employer’s Adoption Agreement and (b) who maintains an Account balance.

1.15 “Participating Employer” means the State of Indiana, an eligible entity of the State, or any political subdivision electing to adopt this Plan pursuant to Article III.

1.16 “Plan Year” means the calendar year.

1.17 “Regular Account” means the account maintained for a Participant by the Administrator to which contributions pursuant to Article IV shall be credited.

1.18 “Rollover Account” means the account maintained for a Participant by the Administrator to which rollover contributions under Article XIV shall be credited.

1.19 “Separation from Service” means severance of a Participant’s employment with the Employer for any reason, including retirement, within the meaning of Code Section 402(d)(4)(A)(iii). A Participant shall be deemed to have severed employment with the Employer for purposes of the Plan when, in accordance with the established personnel practices of the Employer, the employment relationship is considered actually terminated. When a Participant has not performed services for the Employer for a period of six consecutive months, the Participant shall be deemed Separated from Service for purposes of this Plan at the end of the six month period.

1.20 “Service Manager” means the person or organization appointed by the Administrator to perform service and administrative functions.

1.21 **“State”** means the State of Indiana.

1.22 **“Trust”** means the trust established by the Trustees pursuant to a written agreement that constitutes a valid trust under the law of Indiana.

1.23 **“Trustees”** mean the members of the Deferred Compensation Committee, pursuant to IC 5-10-1.1-1.5.

1.24 **“Revenue Sharing and Expense Account”** means the account maintained under this Plan by the Administrator to which revenue from the contract with the Service Manager shall be credited and from which Plan expenses may be paid.

1.25 **“Statute”** means the Indiana Code.

If a term is defined in IC 5-10-1.1, that definition applies to the term as used in this Plan. Words used herein in the masculine gender shall be construed to include the feminine gender where appropriate and words used herein in the singular or plural shall be construed as being in the plural or singular where appropriate.

ARTICLE II - PARTICIPATION

2.01 **Eligibility for Match.** An Employee of an Employer under Sections 3.01 or 3.02 shall be eligible for the Employer Contribution for any pay period for which the Employee has an effective payroll deferral for the Deferred Compensation Plan.

2.02 **Cessation of Eligibility for Match.** In no event shall a Participant of an Employer under Sections 3.01 or 3.02 receive any Employer Contributions for any pay period for which the Participant does not have an effective payroll deferral for that pay period for the Deferred Compensation Plan.

2.03 **Employees of Political Subdivisions.** Employees of a political subdivision that elects to participate in this Plan pursuant to Section 3.03 shall be eligible for matching or non-matching Employer Contributions in accordance with the terms of the Employer’s Adoption Agreement.

2.04 **Cessation of Plan Participation.** A Participant shall cease to be a Participant on the distribution of the Participant’s entire interest in the Plan.

ARTICLE III - PARTICIPATION BY ELIGIBLE EMPLOYERS

3.01 **Automatic Participation.** The following entities shall automatically be an Employer for purposes of this Plan:

State of Indiana - Regular state employees eligible for Deferred Compensation Plan
State Police
State Elected Officials and their offices
Legislative Services Agency
Legislators and Legislative staff eligible for Deferred Compensation Plan

The Judicial Branch
Courts - staff
Clerks - staff
Public Defender - staff
Prosecuting Attorney's Council
Indiana Department of Transportation -- Toll Road District
Indiana Utility Regulatory Commission
Utility Consumer Counselor

3.02 Voluntary Participation. The following entities may elect to be an Employer for purposes of this Plan:

Bureau of Motor Vehicles Commission
Board for Depositories
Indiana Development Finance Authority
State Student Assistance Commission
Indiana Natural Resources Foundation
Indiana Bond Bank
Indiana Housing Finance Authority
Lottery Commission
Intelenet Commission
State Fair Board Commission
State Office Building Commission
Indiana Port Commission
White River Park Development Commission
Indiana Transportation Finance Authority
Recreational Development Commission
Law Enforcement Academy Building Commission

The Trustees may review the above entities, and may make any additions or deletions they deem suitable or appropriate.

In order to elect to be an Employer, the entity must take the following actions:

- (a) The governing body of the entity must pass a resolution formally adopting this Plan for its Employees.
- (b) The resolution must indicate the date of adoption.
- (c) The resolution must commit the entity to make the necessary Employer contributions, as established by the State in Section 4.03.
- (d) The resolution must specify that the entity shall abide by the terms of the Plan and the Trust, including all investment, administrative and service agreements of the Plan, and all appropriate provisions of the Code and other applicable law.

- (e) The resolution must acknowledge that the Trustees are only responsible for the Plan and have no responsibility for other employee benefit plans maintained by the Employer.

The Trustees shall determine whether the resolution complies with this section, and may provide appropriate forms for the Employer to implement this election. Entities whose Employees are already Participants in the Plan as of July 1, 2002 shall be deemed to have satisfied the requirements of this Section.

3.03 Adoption by Political Subdivision. Any political subdivision, defined in IC 36-1-213, that elects to participate in the Deferred Compensation Plan may elect to participate in this Plan pursuant to IC 5-10-1.1-7.3 if it takes the following actions:

- (a) The governing body of the political subdivision must pass a resolution or ordinance formally adopting this Plan for its Employees and approving an Adoption Agreement.
- (b) The resolution, ordinance or Adoption Agreement must indicate the date of adoption.
- (c) The resolution, ordinance or Adoption Agreement must commit the entity to make the necessary Employer Contributions, in accordance with the applicable provisions of Article IV, the Adoption Agreement, and subject to the limits of Article V.
- (d) The resolution, ordinance or Adoption Agreement must specify that the entity shall abide by the terms of the Plan, the Trust, and the Adoption Agreement, including all investment, administrative and service agreements of the Plan, and all appropriate provisions of the Code and other applicable law.
- (e) The resolution, ordinance or Adoption Agreement must acknowledge that the Trustees are only responsible for the Plan and have no responsibility for other employee benefit plans maintained by the Employer.
- (f) Employers whose Employees are participating in a defined contribution plan under Code Sections 401 (a) and 414(d) as of the effective date of the Adoption Agreement must inform the Administrator of the name and provider of that plan and must provide other information requested by the Administrator.

The Trustees shall determine whether the resolution or ordinance complies with this section, and may provide appropriate forms for the Employer to implement this election.

ARTICLE IV - CONTRIBUTIONS

4.01 Contributions. Contributions shall be made to the Plan in accordance with this Article and subject to the limitations under Article V.

4.02 Contributions by State-Section 3.01 Employers. Contributions by those Employers identified in Section 3.01 shall be made in accordance with the provisions of this Section 4.02 and the other applicable provisions of this Article, subject to the limitations under Article V.

- (a) **Matching Contributions.** For each Plan Year, the Budget Agency shall determine the amount available for contribution, which may be adjusted throughout the Plan Year. Given that amount, the State shall determine the amount of the match, which may be all or a specified portion of a Participant's contribution to the Deferred Compensation Plan. The State may set the matching Employer Contribution for each Participant as a percentage of their contribution or a stated dollar amount per payroll period. The Administrator shall adjust the match to a comparable match, as it deems appropriate, for Participants not on a biweekly payroll schedule.
- (b) **Non-Matching Contributions.** To the extent authorized by IC 5-10-1.1-1.5(a), the State may make non-matching contributions, which may be a fixed amount or a specified portion of a Participant's Compensation. Any such non-matching contributions may be made only as set forth in Exhibit A to this Plan, which shall specify: (1) the Employer responsible for making such non-matching contributions, (2) the class or category of Employees eligible for such non-matching contributions and any conditions that must be satisfied to entitle the Employee to such contributions, (3) the statutory provision in the Indiana Code authorizing or requiring such non-matching contributions, and (4) the amount of, and method of making, such non-matching contributions. Exhibit A may be amended from time to time by the Administrator.

4.03 Contributions by Other Employers-Section 3.02 Employers. For each Plan Year, the Budget Agency shall determine the amount available for contribution, which may be adjusted throughout the Plan Year. Given that amount, the State shall determine the amount of the match, which may be all or a specified portion of a Participant's contribution to the Deferred Compensation Plan. The State may set the matching Employer Contribution for each Participant as a percentage of their contribution or a stated dollar amount per payroll period. The Administrator shall adjust the match to a comparable match, as it deems appropriate, for Participants not on a biweekly payroll schedule.

4.04 Contributions by Political Subdivisions-Section 3.03 Employers. Contributions by a political subdivision that has elected to participate in this Plan pursuant to Section 3.03 shall be made in accordance with applicable provisions of this Article, the Adoption Agreement, and subject to the limitations under Article V.

- (a) **Contributions Generally.** A Participating Employer shall specify in the Adoption Agreement whether it will make matching contributions and/or non-matching contributions. Matching contributions shall be made to match all or a portion of the Participant's contributions to the Deferred Compensation Plan, in accordance with the formula and method specified by the Participating Employer in the Adoption Agreement. Non-matching contributions are not tied to

Participant contributions to the Deferred Compensation Plan and shall be made in accordance with the formula and method specified by the Participating Employer in the Adoption Agreement. The Adoption Agreement establishing the amount and method of calculating contributions continues in effect from Plan Year to Plan Year until amended or repealed by the governing body or until the Participating Employer's participation in the Plan is terminated.

- (b) **Matching Contributions.** If the Adoption Agreement provides for matching contributions, the governing body shall determine and specify in the Adoption Agreement the formula for calculating the matching contributions, which may be all or a specified portion of a Participant's contributions to the Deferred Compensation Plan.
- (c) **Eligibility for Matching Contributions.** If the Adoption Agreement provides for matching contributions, a Participant shall be eligible for matching contributions for any payroll period only if the Participant meets the conditions set forth in the Adoption Agreement. In no event shall a Participant receive any matching contributions for any payroll period for which the Participant does not have an effective payroll deferral to the Deferred Compensation Plan for that payroll period.
- (d) **Non-Matching Contributions.** If the Adoption Agreement provides for non-matching contributions, the governing body shall determine and specify in the Adoption Agreement the formula for calculating the non-matching contributions, which may be a fixed amount or a specified portion of a Participant's Compensation.
- (e) **Eligibility for Non-Matching Contributions.** If the Adoption Agreement provides for Employer non-matching contributions, a Participant shall be eligible for non-matching contributions only if the Participant meets the conditions set forth in the Adoption Agreement.
- (f) **Changes in Employer Contributions.** A Participating Employer may adjust the amount or method of Employer contributions throughout the Plan Year by adopting a resolution or ordinance to amend its Adoption Agreement in accordance with Section 18.03. The resolution or ordinance must be sent to the Administrator. The Trustees must approve or disapprove the amendment and, if approved, establish the effective date of any change to the Employer Contributions.

4.05 Unused Accrued Leave Conversion.

- (a) **Applicability.** This Section shall apply only to Employees of State Agencies, as defined in IC § 5-10-1.1-7.5(a) and any applicable rules adopted by the State of Indiana Department of Personnel. An Employee of a State Agency that meets the requirements of this Section shall have the option of having a portion of the Employee's unused accrued vacation leave and/or sick leave converted to a

monetary contribution to be made by the Employer to the Employee's Regular Account, pursuant to the provisions of this Section and subject to IC § 5-10-1.1-7.5(a) and any applicable rules adopted by the State of Indiana Department of Personnel.

- (b) **Leave Conversion Contribution.** Effective December 31, 2002, and on December 31 of each calendar year thereafter, subject to any procedures which may be established by the Administrator, an Employee of a State Agency may have the following amount of unused leave converted to a monetary contribution, pursuant to the formula under subsection (c), to be made by the Employer to the Employee's Regular Account:

<u>Vacation Leave Balance as of December 31</u> <u>(in Hours)</u>	<u>Hours Converted</u>
At least 300 but less than 375	45
At least 375 but less than 525	90
At least 525 but less than 750	150
750 or more	240

<u>Sick Leave Balance as of December 31</u> <u>(in Hours)</u>	<u>Hours Converted</u>
At least 300 but less than 375	45
At least 375 but less than 525	90
At least 525 but less than 750	150
750 or more	240

Personal leave and special sick leave are not eligible for conversion. In no event may an Employee ever convert more than their leave balance outstanding as of the date of the conversion.

- (c) **Conversion Formula.** For purposes of conversion, the value of sick and vacation hours are determined as follows:

STEP ONE: Divide the Employee's biweekly salary, as reflected on the State Personnel Department's staffing report as of the conversion date, by seventy-five (75).

STEP TWO: Multiply the quotient determined in Step One by the number of hours to be converted.

STEP THREE: Multiply the product of Step Two by sixty percent (60%).

The Administrator shall adjust this formula to a comparable formula, as it deems appropriate, for Participants not on a biweekly payroll schedule.

4.06 Payment of Contributions. The Employer Contributions for each payroll period determined under Sections 4.02, 4.03 and 4.04 and any applicable Adoption Agreement shall be paid within such time as permitted by law.

4.07 Employee Contributions. Other than contributions pursuant to Section 4.05 (which shall be treated as Employer Contributions) or rollovers pursuant to Article XIV, Employee contributions under the Plan are not required or permitted.

ARTICLE V - LIMITATIONS ON EMPLOYER CONTRIBUTIONS

5.01 Applicability of Article. Notwithstanding any provision of the Plan to the contrary, contributions to the Plan and additions to the Accounts of each Participant shall be limited as provided in Code Section 415 as provided in this Article.

5.02 Limitation under Code Section 415. Notwithstanding anything in the Plan to the contrary, the following limitations shall apply:

- (a) For Plan Years prior to 2002, to the extent required under Code Section 415(c), in no event shall the “annual addition,” as defined in this Section for a Participant for any Plan Year, exceed the lesser of:
 - (1) Thirty Thousand Dollars (\$30,000), as adjusted for inflation, or
 - (2) twenty-five percent (25%) of the “compensation,” as defined in this Section, of such Participant received during the Plan Year.
- (b) Effective for Plan Years beginning on or after January 1, 2002, to the extent required under Code Section 415(c), in no event shall the “annual addition,” as defined in this Section for a Participant for any Plan Year, exceed the lesser of:
 - (1) Forty Thousand Dollars (\$40,000), as adjusted under Code Section 415(d), or
 - (2) one-hundred percent (100%) of the “compensation,” as defined in this Section, of such Participant received during the Plan Year.
- (c) The Plan shall be administered so as to comply with the limitations of Code Section 415.
- (d) For purposes of this Section and subject to Code Section 415(h), all defined contribution plans of the Employers are to be treated as a single defined contribution plan, and all Employers shall be considered as a single employer.
- (e) Notwithstanding any provision of the Plan to the contrary, if the annual additions (within the meaning of Code Section 415) are exceeded for any Participant, then the Plan may only correct such excess in accordance with the Employee Plans Compliance Resolution System (EPCRS) as set forth in Revenue Procedure 2008-

50 or any superseding guidance, including, but not limited to, the preamble of the final Section 415 regulations.

(f) For purposes of this Section, “annual addition” means the annual addition as defined in Code Section 415(c) and as modified in Code Sections 415(1)(1) and 419A(d)(2). In general, Code Section 415(c) defines the annual addition as the sum of the following amounts credited to a Participant’s accounts for the limitation year under this Plan and any other defined contribution plan maintained by an Employer:

- (1) employer contributions;
- (2) employee contributions; and
- (3) forfeitures.

Annual additions for purposes of Code Section 415 shall not include restorative payments. A restorative payment is a payment made to restore losses to the Plan resulting from actions by a fiduciary for which there is reasonable risk of liability for breach of a fiduciary duty under applicable federal or state law, where Participants who are similarly situated are treated similarly with respect to the payments. Generally, payments are restorative payments only if the payments are made in order to restore some or all of the Plan’s losses due to an action (or a failure to act) that creates a reasonable risk of liability for such a breach of fiduciary duty (other than a breach of fiduciary duty arising from failure to remit contributions to the Plan). This includes payments to the Plan made pursuant to a court-approved settlement, to restore losses to a qualified defined contribution plan on account of the breach of fiduciary duty (other than a breach of fiduciary duty arising from failure to remit contributions to the Plan). Payments made to the Plan to make up for losses due merely to market fluctuations and other payments that are not made on account of a reasonable risk of liability for breach of a fiduciary duty are not restorative payments and generally constitute contributions that are considered annual additions.

Annual additions for purposes of Code Section 415 shall not include: (1) the direct transfer of a benefit or employee contributions from a qualified plan to this Plan; (2) rollover contributions (as described in Code Sections 401(a)(31), 402(c)(1), 403(a)(4), 403(b)(8), 408(d)(3), and 457(e)(16)); (3) repayments of loans made to a Participant from the Plan; and (4) repayments of amounts described in Code Section 411(a)(7)(13) (in accordance with Code Section 411(a)(7)(C)) and Code Section 411(a)(3)(D) or repayment of contributions to a governmental plan (as defined in Code Section 414(d)) as described in Code Section 415(k)(3), as well as Employer restorations of benefits that are required pursuant to such repayments.

Employer contributions are treated as credited to a Participant’s account for a particular limitation year only if the contributions are actually made to the plan no

later than the 15th day of the tenth calendar month following the end of the calendar year or fiscal year (as applicable, depending on the basis on which the Employer keeps its books) with or within which the particular limitation year ends.

- (g) For purposes of this Section, “compensation” means compensation as defined in Code Section 415(c)(3). In general, Code Section 415(c)(3) defines compensation as all of a Participant’s wages as defined in Code Section 3401 (a) for the purposes of income tax withholding at the source but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code Section 3401(a)(2)); provided, however, compensation shall also include the amount of any elective deferrals, as, defined in Code Section 402(g)(3), and any amount contributed or deferred by the employer at election of the Employee and which is not includible in the gross income of the Employee by reason of Code Section 125 or 457. Compensation shall not include picked-up contributions under Code Section 414(h)(2).

Compensation used for purposes of complying with Section 415 of the Code shall be adjusted as set forth herein for the following types of compensation paid after a Participant’s severance from employment with the Employer maintaining the Plan (or any other entity that is treated as the Employer pursuant to Code Section 414(b), (c), (m) or (o)). However, effective for limitation years beginning on or after July 1, 2007, amounts described in subsections (1) and (2) below may only be included in Compensation to the extent such amounts are paid by the later of 2½ months after severance from employment or by the end of the limitation year that includes the date of such severance from employment. Any other payment of compensation paid after severance of employment that is not described in the following types of compensation is not considered Compensation within the meaning of Code Section 415(c)(3), even if payment is made within the time period specified above.

- (1) Section 415 Compensation shall include regular pay after severance of employment if:
- (i) the payment is regular compensation for services during the Participant’s regular working hours, or compensation for services outside the Participant’s regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments; and
 - (ii) the payment would have been paid to the Participant prior to a severance from employment if the Participant had continued in employment with the Employer.
- (2) Leave cashouts shall be included in Compensation if those amounts would have been included in the definition of Compensation if they were paid

prior to the Participant's severance from employment, and the amounts are payment for unused accrued bona fide sick, vacation, or other leave, but only if the Participant would have been able to use the leave if employment had continued. In addition, deferred compensation shall be included in Compensation if the compensation would have been included in the definition of Compensation if it had been paid prior to the Participant's severance from employment, and the compensation is received pursuant to a nonqualified unfunded deferred compensation plan, but only if the payment would have been paid at the same time if the Participant had continued in employment with the Employer and only to the extent that the payment is includible in the Participant's gross income.

- (3) Compensation does include payments to an individual who does not currently perform services for the Employer by reason of qualified military service (as that term is used in Code Section 414(u)(1)) to the extent those payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the Employer rather than entering qualified military service.
 - (4) Compensation does include compensation paid to a Participant who is permanently and totally disabled (as defined in Code Section 22(e)(3)).
 - (5) Compensation for a limitation year shall include amounts earned but not paid during the limitation year solely because of the timing of pay periods and pay dates, provided the amounts are paid during the first few weeks of the next limitation year, the amounts are included on a uniform and consistent basis with respect to all similarly situated Participants, and no compensation is included in more than one limitation year.
- (h) For purposes of this Section 5.02, the Plan's limitation year shall be the Plan Year. The limitation year may only be changed by a Plan amendment. Furthermore, if the Plan is terminated effective as of a date other than the last day of the Plan's limitation year, then the Plan is treated as if the Plan had been amended to change its limitation year.
- (i) For purposes of applying the limitations of Code Section 415, all defined contribution plans (without regard to whether a plan has been terminated) ever maintained by the Employer (or a "predecessor employer") under which the Participant receives annual additions are treated as one defined contribution plan. The "Employer" means the Employer that adopts this Plan and all members of a controlled group or an affiliated service group that includes the Employer (within the meaning of Code Sections 414(b), (c), (m) or (o)), except that for purposes of this Section 5.02(i), the determination shall be made by applying Code Section 415(h), and shall take into account tax-exempt organizations under Treasury Regulation Section 1.414(c)-5, as modified by Treasury Regulation Section 1.415(a)-1(f)(1). For purposes of this Section 5.02(i):

- (1) A former Employer is a “predecessor employer” with respect to a Participant in a plan maintained by an Employer if the Employer maintains a plan under which the Participant had accrued a benefit while performing services for the former Employer, but only if that benefit is provided under the plan maintained by the Employer. For this purpose, the formerly affiliated plan rules in Treasury Regulation Section 1.415(f)-1(b)(2) apply as if the Employer and predecessor employer constituted a single employer under the rules described in Treasury Regulation Section 1.415(a)-1(f)(1) and (2) immediately prior to the cessation of affiliation (and as if they constituted two, unrelated employers under the rules described in Treasury Regulation Section 1.415(a)-1(f)(1) and (2) immediately after the cessation of affiliation) and cessation of affiliation was the event that gives rise to the predecessor employer relationship, such as a transfer of benefits or plan sponsorship.
- (2) With respect to an Employer of a Participant, a former entity that antedates the Employer is a “predecessor employer” with respect to the Participant if, under the facts and circumstances, the employer constitutes a continuation of all or a portion of the trade or business of the former entity.

For purposes of aggregating plans for Code Section 415, a “formerly affiliated plan” of an employer is taken into account for purposes of applying the Code Section 415 limitations to the employer, but the formerly affiliated plan is treated as if it had terminated immediately prior to the “cessation of affiliation.” For purposes of this paragraph, a “formerly affiliated plan” of an employer is a plan that, immediately prior to the cessation of affiliation, was actually maintained by one or more of the entities that constitute the employer (as determined under the employer affiliation rules described in Treasury Regulation Section 1.415(a)-1(f)(1) and (2)), and immediately after the cessation of affiliation, is not actually maintained by any of the entities that constitute the employer (as determined under the employer affiliation rules described in Treasury Regulation Section 1.415(a)-1(f)(1) and (2)). For purposes of this paragraph, a “cessation of affiliation” means the event that causes an entity to no longer be aggregated with one or more other entities as a single employer under the employer affiliation rules described in Treasury Regulation Section 1.415(a)-1(f)(1) and (2) (such as the sale of a subsidiary outside a controlled group), or that causes a plan to not actually be maintained by any of the entities that constitute the employer under the employer affiliation rules of Treasury Regulation Section 1.415(a)-1(f)(1) and (2) (such as a transfer of plan sponsorship outside of the controlled group).

Two or more defined contribution plans that are not required to be aggregated pursuant to Code Section 415(f) and the Treasury Regulations thereunder as of the first day of a limitation year do not fail to satisfy the requirements of Code Section 415 with respect to a Participant for the limitation year merely because they are aggregated later in that limitation year, provided that no annual additions

are credited to the Participant's account after the date on which the plans are required to be aggregated.

5.03 Limitation under Code Section 401(a)(17). For Plan Years prior to 2002, the annual compensation of each Participant taken into account in determining the limits under this Section for any Plan Year shall not exceed \$150,000, as adjusted for cost-of-living increases in accordance with section 401(a)(17)(B) of the Code. For any Plan Year beginning after December 31, 2001, the annual compensation of each Participant taken into account in determining the limits under this Section for any Plan Year shall not exceed \$200,000, as adjusted for cost-of-living increases in accordance with section 401(a)(17)(B) of the Code. Annual compensation means compensation received during the Plan Year (the determination period). The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year.

5.04 Responsibility for Contribution Limits. The Participating Employer is responsible for monitoring contribution limits with respect to its Employees.

ARTICLE VI - ACCOUNTS AND REPORTS

6.01 Accounts. The Administrator or a duly appointed Service Manager shall maintain a Regular Account with respect to each Participant, and that Regular Account shall be credited with the Participant's Employer Contributions under Article IV for each pay period. In addition, a Rollover Account shall also be maintained for any Participant making a rollover contribution to the Plan pursuant to Article XIV. The balance of such Accounts shall be adjusted daily to reflect any distribution to the Participant and all interest, dividends, account charges and changes of market value resulting from the investment of the Participant's Accounts. All Plan records, including individual account information, that are maintained by the Service Manager shall be the exclusive property of the Administrator.

6.02 Statements of Accounts. A written report of the status of each Participant's Accounts shall be furnished by the Service Manager within thirty (30) days after the end of each Plan quarter. All reports to Participants shall be based on the fair market value of investments credited to their Accounts as of the reporting dates. Participant reports shall be deemed to have been accepted by the Participant as correct unless written notice to the contrary is received by the Service Manager within sixty (60) days after the mailing or distribution of a report to the Participant.

6.03 Year End Reports. Within ninety (90) days after the end of each Plan Year, a written report shall be prepared and maintained on file by the Administrator showing the assets held under the Plan, a schedule of all receipts and disbursements and all material transactions of the Plan during the preceding year. This report shall be in a form and shall contain other information as the Administrator requires. The report shall also contain such information as is necessary to enable the Trustees to prepare their accounting due under Article IX of the Trust.

6.04 Account Review. The Administrator's records shall be open to inspection during normal business hours by any Participant or a designated representative of the Participating

Employer or a Participant. However, no Participant may review any record specifically relating to any other Participant.

ARTICLE VII - VALUATION OF ACCOUNTS

7.01 Valuation. The Administrator shall value the investments each business day based on acceptable industry practices. All daily transactions shall be based on that day's closing market values.

7.02 Deposits. In all cases, deposits of contributions shall be treated as actually made only as of the date the funds are accepted as in good order by the Administrator.

7.03 Report from Administrator to Trustees. The Administrator shall provide a report to the Trustees concerning such valuation within forty-five (45) days after the end of each calendar quarter.

ARTICLE VIII - TRUST

8.01 Trust Status. All assets held in connection with the Plan, including all contributions to the Plan, all property and rights acquired or purchased with such amounts and all income attributable to such amounts, property or rights shall be held in trust for the exclusive benefit of Participants and their Beneficiaries under the Plan. No part of the assets and income of the Plan shall be used for, or diverted to, purposes other than for the exclusive benefit of Participants and their Beneficiaries and for defraying reasonable expenses of the Plan.

8.02 Trust Fund. All amounts of compensation deferred pursuant to the Plan, all property and rights acquired or purchased with such amounts and all income attributable to such amounts, property or rights held as part of the Plan, shall be transferred to the Trustees to be held, managed, invested and distributed as part of the Trust Fund in accordance with the provisions of the Plan and the Trust Agreement. All contributions to the Plan must be transferred by the Participating Employers to the Trust Fund. All benefits under the Plan shall be distributed solely from the Trust Fund pursuant to the Plan.

ARTICLE IX - INVESTMENT OF ACCOUNTS

9.01 Investment Options. The Trustees shall determine the available Investment Funds for Participants (or Beneficiaries upon the death of the Participant). The Participants, (or Beneficiaries) may direct the investment of their Accounts among the Investment Funds selected by the Trustees. The Administrator or the Service Manager shall follow the Participants' (or Beneficiaries') directions with respect to the investment of the Accounts. The Participant's Rollover Account shall be invested in the same manner as the Participant's Regular Account.

9.02 Remittance of Contributions. All amounts of contributions under the Plan shall be transferred by the Participating Employers to the Trust immediately following the payroll date under Sections 4.02, 4.03 or 4.04 and the Adoption Agreement. In no event shall contributions under the Plan be transferred by the Participating Employer to the Plan later than 15 business days after the payroll under Sections 4.02, 4.03 or 4.04 and the Adoption Agreement. In the event the Administrator becomes aware of a Participating Employer's failure to remit

contributions, the Administrator shall give written notice to the governing body of the delinquent Employer, the highest elected or appointed official of the delinquent Employer and the Indiana State Board of Accounts.

9.03 Investment Default. In the event that a Participant does not have a valid investment direction on file for any portion of the amount in that Participant's Accounts, that portion of the Accounts shall be invested in such default option or options as determined from time to time by the Trustees. In such event, the Participant shall be deemed to have directed that option (or those options) for investment of his or her Account. The Trustees intend to establish default options based upon various factors, including but not limited to, market risk, stability, rate of return and the Participant's anticipated retirement date.

ARTICLE X - VESTING

10.01 Vesting Standards. A Participant shall be one hundred percent (100%) Vested in the Participant's Regular Account and Rollover Account at all times.

ARTICLE XI - BENEFITS

11.01 Benefit Payments. Benefits shall be paid from the Trust Fund in accordance with this Article following a Participant's Separation from Service, Death, Disability. Benefits payable to a Participant or a Beneficiary shall be based upon the value of the Participant's Accounts.

- (a) **Separation from Service.** Upon Separation from Service, a Participant may elect to have benefits commence on a date which is no later, than age 70½. Such election shall be made within 45 days after Separation from Service. If no election is made, benefits shall commence 75 days after Separation from Service. A Participant may elect to change the commencement date of distribution of the Accounts to a later date otherwise permitted under this Article, so long as the commencement date meets the required distribution commencement date provisions of Code Section 401(a)(9). All benefits shall be paid under a payment option under Section 11.02, subject to the restrictions in Section 11.04.
- (b) **Death.** In the event of the Participant's death prior to the commencement of benefits under paragraph (a), the value of the Participant's Accounts shall be paid to the Beneficiary under a payment option elected by the Beneficiary under Section 11.02, subject to the restrictions in Section 11.06. Such benefits shall be payable commencing within 60 days after receipt by the Administrator of satisfactory proof of the Participant's death. However, if the Beneficiary is the spouse of the Participant, then the spouse may elect within 60 days of Participant's death, to defer distribution to a date not later than the date when the Participant would have attained age 70½.
- (c) **Disability.** Upon Separation from Service with the Employer because of becoming Disabled, a Participant may elect to have benefits commence on a date which is no later than age 70½. Such election shall be made within 45 days after becoming Disabled. If no election is made, benefits will commence 75 days after

becoming Disabled. A Participant may change the commencement date of distribution of the Accounts to a later date otherwise permitted under this Article, so long as the later commencement date meets the required distribution commencement date provisions of Code Section 401(a)(9). All benefits shall be paid under a payment option under Section 11.02, subject to the restrictions in Section 11.04.

11.02 Payment Options. The election of a payment option by a Participant or a Beneficiary under this Section must be made no later than 30 days before the commencement of such benefits. Subject to restrictions established by the Administrator, the Plan shall permit payout options in the form of lump sums, periodic payments of a fixed amount or fixed duration, or life contingent annuities. Absent such an election, the Accounts will be paid in a lump sum.

11.03 Lump Sum Settlement. Notwithstanding anything in this Plan to the contrary, if a Participant's Regular Account balance is less than the amount specified under Code Section 411(a)(11) (as of January 1, 2008, \$1,000) (or such other lesser amount as determined by the Administrator for the year) at the time of Separation of Service, the Administrator shall effect a lump sum distribution of the Participant's Regular Account.

11.04 Minimum Distribution Rules. Notwithstanding any provision of this Plan to the contrary, any distribution under the Plan shall be made in accordance with Code Section 401(a)(9) and the regulations established thereunder as they are amended and applicable. No payment option may be selected by a Participant unless the amounts payable to the Participant are expected to be at least equal to the minimum distribution required under Section 401(a)(9) of the Code. The amounts payable also must satisfy the minimum distribution incidental benefit requirements of Section 401(a)(9)(G) of the Code. Payment of the Accounts of a Participant shall begin not later than the "required beginning date." For purposes of this Section, "required beginning date" means April 1 of the calendar year following the later of (i) the calendar year in which the Participant reaches age seventy and one-half (70½), or (ii) the calendar year in which the Participant retires. For purposes of this Section, "first distribution year" means the calendar year described in (i) or (ii) of the preceding sentence. The amount to be distributed each year, beginning with distributions for the first distribution year, shall not be less than the quotient obtained by dividing the Participant's benefit by the lesser of (i) the applicable divisor of the Participant or the Participant and their spouse if the spouse is the designated beneficiary, or (ii) if the Participant's spouse is not the designated beneficiary, the applicable divisor specified in Code Section 401(a)(9) or the regulations promulgated thereunder. Distributions after the death of the Participant shall be distributed using the applicable life expectancy as the relevant divisor.

With respect to distributions under the Plan made for calendar years beginning on or after January 1, 2002, the Plan will apply the minimum distribution requirements of section 401(a)(9) of the Internal Revenue Code in accordance with the regulations under section 401(a)(9) that were proposed on January 17, 2001, notwithstanding any provision of the Plan to the contrary. For Plan Years beginning on and after January 1, 2003, the Plan shall apply a reasonable good faith interpretation of Section 401(a)(9) of the Code.

The Administrator shall develop policies and procedures for notifying Participants and designated beneficiaries of the requirements of Code Section 401(a)(9) and this Section 11.04.

If, within a reasonable period of time after being notified of such requirements, a Participant or designated beneficiary who is subject to the minimum distribution requirements of Code Section 401(a)(9) and this Section 11.04 does not elect a payment option that satisfies the requirements of Code Section 401(a)(9) and this Section 11.04, the Administrator shall cause the Participant's or beneficiary's Accounts to be distributed in five annual installments. The first such installment shall be paid as soon as practicable after the December 31 immediately preceding the Participant's or beneficiary's "required beginning date," and each of the next four installments shall be paid as soon as practicable after each December 31 thereafter. A Participant or beneficiary who begins receiving distribution of his or her Accounts in accordance with the preceding sentence shall be permitted to elect a different form of payment that complies with Code Section 401(a)(9) and this Section 11.04 any time prior to the completion of his or her five annual installment payments, but only with respect to the unpaid portion of his or her Accounts.

11.05 Designated Beneficiary. A Participant shall have the right to file with the Administrator an Applicable Form designating the Beneficiary or Beneficiaries who shall receive the benefits payable under the Plan in the event of the Participant's death. No Beneficiary designation shall take effect until an Applicable Form is signed by the Participant and received and accepted by the Administrator. If the Participant fails to make such a designation, the Participant's Beneficiary shall be the Participant's Beneficiary under the Deferred Compensation Plan. If the Participant dies without a Beneficiary form on file for the Deferred Compensation Plan; the benefit' payments shall be made to the Participant's estate in a lump sum.

A Participant shall have the right to designate at least one primary and contingent Beneficiary and to indicate whether the Beneficiaries in each class are to share equally or according to specified percentages. A contingent Beneficiary shall receive benefit payments only if there is no surviving primary Beneficiary. If a Beneficiary predeceases the Participant, the surviving Beneficiaries in the same class (*i.e.*, primary or contingent) will share among each other all benefits in the same proportion as originally designated by the Participant. In the event of the death of a Beneficiary, after the Beneficiary has become entitled to receive benefits, the remaining benefits shall be paid to the estate of the Beneficiary in a lump sum.

11.06 Payments to Beneficiary. In the event of the Participant's death, any remaining benefit shall be distributed according to the following:

- (a) If the Participant had begun receiving periodic payments of a fixed amount or fixed duration from the Plan which were not annuitized, the balance of the Accounts shall be paid to the Beneficiary at least as rapidly as under the payment option selected by the Participant.
- (b) If the Participant had begun receiving payments under an annuity contract, the Beneficiary shall be bound by all restrictions of that contract and the form of payment selected thereunder, and remaining payments, if any, shall be paid to the Beneficiary under the contract.
- (c) If the Participant dies before distributions have commenced, a spouse Beneficiary may delay the commencement of benefits until the Participant would have

attained age 70½ and may elect to receive payments at such time over the Beneficiary's life expectancy.

- (d) If the Participant dies before distributions have commenced, a non-spouse Beneficiary may take a lump sum or a periodic payment. In the case of a lump sum, payment must be made no later than five years after the date of the Participant's death. In the case of a periodic distribution, payment must commence no later than one year after the date of the Participant's death, but in no event over a period longer than the Beneficiary's life expectancy at the time the distribution commences.

Notwithstanding the foregoing, any payment to an estate shall be made in a lump sum.

11.07 Distributions from the Rollover Account. Effective July 1, 2004, a Participant shall have the right to a distribution of the Participant's Rollover Account at any time at the direction of the Participant, subject to any applicable penalties or other distribution requirements under the Code.

11.08 Plan Loans. Plan Loans to Participants shall not be permitted.

11.09 Eligible Retired Public Safety Officer Distribution Deduction Election. For distributions in each taxable year beginning after December 31, 2011, an "Eligible Retired Public Safety Officer" may elect, in accordance with rules, policies and procedures as may be adopted by the Administrator and applied on a uniform and non-discriminatory basis, to have the Plan (i) deduct an amount from the distribution which the Eligible Retired Public Safety Officer otherwise would receive (and include in income) and (ii) pay such deducted amounts directly to the provider of an accident or health insurance plan or qualified long-term care insurance contract. The amount deducted (and paid to the provider) may not exceed the lesser of \$3,000 or the amount the Participant paid for such taxable year for qualified healthcare premiums, and which otherwise complies with Code Section 402(l). For purposes of this section: (i) an "Eligible Retired Public Safety Officer" is an individual who, by reason of disability or attainment of normal retirement age, has experienced a Severance from Employment as a Public Safety Officer with the Employer, (ii) a "Public Safety Officer" has the same meaning as in Section 1204(9)(A) of the Omnibus Crime Control and Safe Streets Act of 1968, and (iii) the term "qualified health insurance premiums" means premiums for coverage for the Eligible Retired Public Safety Officer, his spouse and dependents, by an accident or health plan or a qualified long-term care insurance contract (as defined in Code Section 7702B(b)).

ARTICLE XII - DOMESTIC RELATIONS ORDERS

Domestic relations orders which satisfy the requirements of Code Section 414(p)(1)(A)(i) and 414(p)(1)(B) and the procedures established by the Administrator for such orders shall be honored by the Plan. The Plan shall not honor any domestic relations orders issued by a court before January 1, 2002.

ARTICLE XIII - ELIGIBLE ROLLOVERS FROM THIS PLAN

13.01 Plan Distributions and Withholding Requirements. Notwithstanding any provision of the Plan to the contrary that would otherwise limit a Distributee's election under this Section, a Distributee may elect, at the time and in the manner prescribed by the Administrator, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover.

13.02 Definitions. The following definitions shall apply to this Section:

- (a) An "Eligible Rollover Distribution" is any distribution under Article XI of all or any portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include: (i) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or joint life expectancies) of the Distributee and the Distributee's designated beneficiary, or for a specified period of ten (10) years or more; (ii) any distribution to the extent such distribution is required under Code Section 401(a)(9); (iii) the portion of any distribution that is not includible in gross income; or (iv) effective January 1, 2002, any distribution which is made upon the hardship of the Distributee. Effective for distributions made after December 31, 2001, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in Section 408(a) or (b) of the Code, or to a qualified defined contribution plan described in Section 401(a) or 403(a) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible; provided, however, that effective after December 31, 2006 such amount may be transferred to a qualified retirement plan regardless of whether it is a defined contribution plan.
- (b) An "Eligible Retirement Plan" is an individual retirement account described in Code Section 408(a), an individual retirement annuity described in Code Section 408(b), an annuity plan described in Code Section 403(a), or a qualified trust described in Code Section 401(a), that accepts the Distributee's Eligible Rollover Distribution; provided, however, in the case of an Eligible Rollover Distribution to a surviving spouse, an Eligible Retirement Plan is an individual retirement account or individual retirement annuity. Effective January 1, 2002, an Eligible Retirement Plan shall also include a tax-sheltered annuity or account under Code Section 403(b) and an eligible deferred compensation plan described in Code Section 457(b) 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 which agrees to separately account for amounts transferred into such plan from this Plan that accepts the Distributee's Eligible Rollover Distribution and, in the case of an Eligible Rollover Distribution to a surviving spouse, an Eligible Retirement Plan

shall have the same meaning as for a Participant. Effective January 1, 2008, an Eligible Retirement Plan shall also include a Roth IRA.

- (c) A "Distributee" includes an employee or former employee, as well as, the employee's or former employee's surviving spouse.
- (d) A "Direct Rollover" is a payment by the Plan to the Eligible Retirement Plan specified by the Distributee.
- (e) The Plan shall permit, as provided under Code Section 402(c)(11), a direct trustee to trustee transfer of the Account balance of a deceased Participant to an individual retirement account or annuity ("IRA") of a non-spouse beneficiary who is a designated beneficiary of the Participant within the meaning of Code Section 401(a)(9)(E), provided that the distributed amount satisfies all the requirements to be an eligible rollover distribution other than the requirement that the distribution be made to the Participant or the Participant's spouse. The direct rollover must be made to an IRA established on behalf of the designated beneficiary that will be treated as an inherited IRA pursuant to the provisions of Code Section 402(c)(11).

ARTICLE XIV - ELIGIBLE ROLLOVERS TO THIS PLAN

Effective January 1, 2002, rollovers from other permissible sources will be allowed to the extent permitted by law, subject to any conditions, proofs, or acceptance the Administrator or its designee deems appropriate. Permissible sources shall include a qualified plan described in sections 401(a) or 403(a) of the Code, including after-tax contributions (if made by trustee to trustee transfer); an annuity contract described in section 403(b) of the Code, excluding after-tax contributions; or 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. The Plan will accept a Participant rollover contribution of the portion of a distribution from an individual retirement account or annuity described in section 408(a) or 408(b) of the Code that is eligible to be rolled over and would otherwise be includible in gross income. The Plan shall separately account for any after-tax contributions. A rollover contribution shall be allocated to the Rollover Account of the Participant as of the date of the contribution. The Participant's Rollover Account shall be invested in the same manner as the Participant's Regular Account. Effective July 1, 2004, the Participant's Rollover Account shall be separately accounted for by the Trustees and shall be available for distribution without regard to those restrictions in the Code governing the distribution of benefits from qualified retirement plans at any time at the direction of the Participant, subject to any applicable penalties or other distribution requirements under the Code.

A rollover contribution shall be accepted if the Administrator reasonably concludes that the rollover contribution is valid. The Administrator shall cause the Plan to distribute any ineligible rollover contribution, with earnings, within a reasonable time of discovery that the rollover contribution was ineligible to be rolled over.

ARTICLE XV - PARTICIPATING EMPLOYER OBLIGATIONS

Each Participating Employer is required to remit contributions on a timely basis pursuant to Section 9.02 and all other applicable provisions of this Plan. Beyond that, a Participating Employer's obligation to each Participant of the Employer shall be limited to the value of the amounts credited to the Participant's Accounts. A Participating Employer shall not be liable for losses arising from expense charges of any kind or from depreciation or shrinkage in the value of investments made under this Plan. Additionally, a Participating Employer is required to provide and/or distribute any reports, information, or notices as required by the Administrator, and to comply with all requirements of the Plan. The Plan for a Participating Employer who fails to comply with its obligations under the Plan may be terminated by the Trustees in their discretion. Additionally, a Participating Employer is required to (i) notify the Administrator of any change in the Adoption Agreement at least forty-five (45) days prior to the proposed effective date of the change; (ii) provide and/or distribute any reports, information, or notices as required by the Administrator; and (iii) comply with all requirements of the Plan. The Plan for a Participating Employer who fails to comply with the Participating Employer's obligations under the Plan may be terminated by the Trustees in their discretion.

ARTICLE XVI - ADMINISTRATION OF PLAN

16.01 Compliance with Code Section 401(a). At all times, the Plan shall be administered in accordance and construed to be consistent with Section 401(a) of the Code and its accompanying regulations. The Plan is a money purchase plan, whereby contributions are determined pursuant to Sections 4.02, 4.03 and 4.04 of the Plan.

16.02 Administrator Duties and Powers. The Administrator shall have the authority to control and manage the operation and administration of the Plan and shall be a named fiduciary of the Plan. The Administrator is authorized to accept service of legal process.

- (a) The Administrator shall have such power and authority (including discretion with respect to the exercise of that power and authority) as may be necessary, advisable, desirable or convenient to enable the Administrator to carry out its duties under the Plan. By way of illustration and not limitation, the Administrator is empowered and authorized:
- (1) to establish procedures with respect to administration of the Plan, not inconsistent with the Plan and the Code, and to amend or rescind such procedures;
 - (2) to determine, consistent with the Plan, applicable law, rules or regulations, all questions of law or fact that may arise as to the eligibility for participation in the Plan and eligibility for distribution of benefits from the Plan, and the status of any person claiming benefits under the Plan, including without limitation, Participants, former Participants, Beneficiaries, Employees and former Employees;

- (3) pursuant to Article XI of the Plan, to make payments from the Trust Fund to Participants, their Beneficiaries and other persons as the Administrator may determine;
 - (4) to contract with a Service Manager to perform enrollment and administrative services under this Plan;
 - (5) subject to and consistent with the Code, to construe and interpret the Plan as to administrative issues and to correct any defect, supply any omission or reconcile any inconsistency in the Plan with respect to same.
 - (6) to pay or authorize payment of reasonable and necessary expenses of the Plan and Trust and to the extent not inconsistent with the Statute to allocate those expenses among Participant Accounts or to the Revenue Sharing and Expense Account.
 - (7) to engage a third party to audit the books, records and transactions of the Plan and Trust, which shall no less than annually include an audit of the Revenue Sharing and Expense Account.
- (b) Any action by the Administrator, which is not found to be an abuse of discretion, shall be final, conclusive and binding on all individuals affected thereby. The Administrator may take any such action in such manner and to such extent as the Administrator in its sole discretion may deem expedient and the Administrator shall be the sole and final judge of such expediency.

16.03 Advice. The Administrator may employ one (1) or more persons to render advice with regard to its responsibilities under the Plan.

16.04 Delegation by Administrator. In addition to the powers stated in Section 15.02, the Administrator may delegate to an individual, committee or organization certain of its fiduciary or other responsibilities under the Plan. Any such individual, committee or organization shall remain a fiduciary until such delegation is revoked by the Administrator, which revocation may be without cause and without advance notice. Such individual, committee or organization shall have such power and authority with respect to such delegated fiduciary or other responsibilities as the Administrator has under the Plan.

16.05 Fiduciary Insurance. The Trustees may require the purchase of fiduciary liability insurance for any of such fiduciaries to cover liability or losses occurring by reason of the act or omission of a fiduciary.

16.06 Payment of Benefits. The Administrator, if in doubt concerning the correctness of its action in making a payment of a benefit, may suspend payment until satisfied as to the correctness of the payment or the person to receive the payment, or may file, in any state court of competent jurisdiction, a suit, in such form as it considers appropriate, for legal determination of the benefits to be paid and the persons to receive them. The Administrator may also bring a suit or take such other action as it deems appropriate in the case of questions involving investment directions. The Administrator shall comply with the final order of the court in any such suit, and

Participants, Beneficiaries, Participating Employers and Trustees shall be bound thereby insofar as such order affects the benefits payable under this Plan or the method or manner of payment.

16.07 Limitation on Recovery. Participating Employers, Participants and Beneficiaries may not seek recovery against the Trustees or Administrator, or any employee, contractor or agent of the Trustees or Administrator, for any loss sustained by any Participating Employer, Participant or Beneficiary due to the nonperformance of their duties, negligence or any other misconduct of the above-named persons. Participants and Beneficiaries may not seek recovery against a Participating Employer, or any employee, contractor or agent of a Participating Employer, for any loss sustained by any Participant or Beneficiary due to the nonperformance of their duties, negligence or any other misconduct of the above-named persons. This paragraph shall not, however, excuse fraud or a wrongful taking by any person.

ARTICLE XVII - CLAIMS PROCEDURE

17.01 Claims Procedure. Any person who believes that he is entitled to any benefit under the Plan shall present such claim in writing to the Service Manager.

- (a) The Service Manager shall within ninety (90) days provide adequate notice in writing to any claimant as to the decision of any such claim. Such notice shall be written in a manner calculated to be understood by the Participant. If such claim has been denied, in whole or in part, such notice shall set forth:
 - (1) the specific reasons for such denial,
 - (2) specific reference to any pertinent provisions of the Plan on which denial is based,
 - (3) a description of any additional material or information necessary for the claimant to perfect the claim and an explanation of why such material or information is necessary and
 - (4) an explanation of the review procedure for the Plan.
- (b) The claimant or a duly authorized representative may review any Plan document which is pertinent to the claim and may submit issues and comments to the Service Manager in writing.

17.02 Appeals Procedure.

- (a) Within sixty (60) days after receipt by the claimant of notification of denial, the claimant shall have the right to present a written appeal, including any additional material to the Administrator. If such appeal is not filed within said sixty (60) day period, the decision of the Administrator shall be final and binding.
- (b) The Administrator, in its discretion, may make a decision on appeal without a hearing, in which case a decision by the Administrator shall be made no later than sixty (60) days after its receipt of the appeal. However, if the Administrator

decides a hearing at which the claimant or a duly authorized representative may be present is necessary and such a hearing is held, such decision shall be rendered as soon as possible, but not later than one hundred twenty (120) days after its receipt of the appeal. Any such decision of the Administrator shall be in writing and shall provide adequate notice to the claimant setting forth the specific reasons for any denial and written in a manner calculated to be understood by a Participant. Any such decision by the Administrator shall be final.

17.03 Report to Trustees Concerning Claims and Appeals. The Administrator shall present a report to the Trustees concerning any such claim or appeal.

ARTICLE XVIII - AMENDMENT OF THE PLAN

18.01 Amendment of the Plan and the Adoption Agreement.

- (a) Subject to the provisions of any applicable law, the Trustees and the Administrator may at any time amend or modify this Plan without the consent of the Participating Employers or of the Participants (or any Beneficiaries thereof). Any modification, alteration, or amendment of the Plan, made in accordance with this Section, may be made retroactively if deemed necessary or appropriate by the Trustees and the Administrator.
- (b) Subject to the provisions of any applicable law, the Trustees and the Administrator may at any time amend or modify the form of the Adoption Agreement with the consent of the Participating Employers unless otherwise required under Section 18.02.
- (c) If the Plan is amended or modified, the Administrator shall nonetheless be responsible for the supervision and the payment of benefits resulting from amounts contributed prior to the amendment or modifications in accordance with this Article.
- (d) To reflect the duties and responsibilities assigned to it under the Statute, the Administrator shall have the authority to amend the Plan and the form of the Adoption Agreement (i) to comply with the requirements of the Statute, or (ii) as necessary or appropriate to facilitate the administration of the Plan. The Administrator shall promptly provide the Trustees with a copy of any such amendment; provided, however, that the failure of the Administrator to comply with the foregoing requirement shall not affect the validity or enforceability of any amendment.

18.02 Amendment for Qualification of Plan. It is the intent of the State that the Plan shall be and remain qualified for tax purposes under the Code. The Administrator may submit the Plan from time to time for approval under the Code and all expenses incident thereto shall be borne by the State or, to the extent permitted by the Statute and Code, by the Plan. The Administrator may make any modifications, alterations, or amendments to the Plan or the form of Adoption Agreement necessary to obtain or retain approval of the Secretary of the Treasury or his delegate as may be necessary to establish and maintain the status of the Plan as qualified

under the provisions of the Code or other federal legislation, as now in effect or hereafter enacted, and the regulations issued thereunder. Any modification, alteration, or amendment of the Plan, made in accordance with this Section, may be made retroactively, if necessary or appropriate. A certified copy of the amendment shall be delivered to the Trustees, and the Plan shall be amended in the manner and effective as of the date set forth in such amendment, and the Participating Employers, Employees, Participants, beneficiaries, Trustees, Administrator and all others having interest in the Plan shall be bound thereby. The Administrator shall promptly provide the Trustees with a copy of such modification, alteration, or amendment made under this Section 17.02; provided, however, that the failure of the Administrator to comply with the foregoing requirement shall not affect the validity or enforceability of any modification, alteration or amendment.

18.03 Amendment of Adoption Agreement by Political Subdivision. A political subdivision shall have the right at any time to amend, in whole or in part, any or all of its elections under the Adoption Agreement; provided, however, that no such amendment shall:

- (a) Deprive any Participant or Beneficiary of any of the Benefits to which the Participant or Beneficiary is entitled under this Plan with respect to amounts credited prior to the effective date of the amendment; or
- (b) Authorize or permit any part of the Trust Fund to be diverted to purposes other than for the exclusive benefit of Participants or their Beneficiaries; or
- (c) Become effective until approved by the Trustees. In order to be approved by the Trustees, any amendment must comply with all applicable state and federal laws, including Code Section 401(a), and the Plan. If the Trustees do not approve an amendment, the Trustees or Administrator shall continue to administer the Plan as if such amendment had not been made.

A Participating Employer must notify the Administrator of any proposed change to the Adoption Agreement at least forty-five (45) days prior to the proposed effective date of the change.

18.04 Effective Date of Amendments. All amendments shall become effective on the first day of the month following the giving of not less than forty five (45) days prior notice of the amendment to Participants. However, this forty-five (45) day notice requirement shall be applicable only if the amendment limits or otherwise restricts the deferral and distribution rights of the Participants. If the amendment was made by the Trustees and the Administrator, notice shall be deemed given when the amendment is posted in the office of the Administrator and is sent to each Employer. If the amendment was made by the Participating Employer, notice shall be deemed given when the amendment is posted in the office of the Participating Employer and is sent to the Administrator. No amendments shall deprive any Participant of any of the benefits to which the Participant is entitled under this Plan with respect to amounts credited prior to the effective date of the amendment.

ARTICLE XIX - TERMINATION

19.01 Plan Termination by Employer. An Employer participating pursuant to Section 3.02 may terminate its participation in the Plan, including but not limited to, its contribution requirements, if it takes the following actions:

- (a) The governing body of the entity must adopt a resolution terminating its participation in the Plan.
- (b) The resolution must specify when the participation will end.

The Trustees shall determine whether the resolution complies with this section and all appropriate federal and state laws, shall determine an appropriate effective date and shall provide appropriate forms to the Employer to terminate ongoing participation. Distributions under the Plan of existing accounts to these Participants are subject to Article XI. However, if the Employer requests a plan-to-plan transfer of Plan assets with respect to the Employer's Employees who are Participants, the Trustees may in their discretion make the transfer.

19.02 Plan Termination by Political Subdivisions. A political subdivision which became a Participating Employer pursuant to Section 3.03 may terminate its participation if it takes the following actions:

- (a) The governing body of the political subdivision must adopt a resolution or ordinance terminating its participation in the Plan.
- (b) The resolution or ordinance must specify when the participation will end.

The Trustees shall determine whether the resolution complies with this section and all appropriate federal and state laws, shall determine an appropriate effective date and shall provide appropriate forms to the Employer to terminate ongoing participation. Distributions under the Plan of existing accounts to these Participants are subject to Article XI. However, if the Employer requests a plan-to-plan transfer of Plan assets with respect to the Employer's Employees who are Participants, the Trustees may in their discretion make the transfer.

19.03 Effect of Termination by Employer. In the case of the termination of the Plan as to one (1) or more Employers, including a termination arising from the discontinuance and/or delinquency of contributions under Section 19.04, the affected portion of the Trust Fund shall continue to be held pursuant to the direction of the Trustees, for the benefit of affected Participants pursuant to Article XI. The Plan shall remain in full effect with respect to each Employer that does not terminate its participation in the Plan on behalf of its Employees.

19.04 Discontinuance/Delinquency of Contributions. At the discretion of the Trustees, a Participating Employer that fails to make contributions for a period of one (1) year, or fails to make timely contributions over a period of one (1) year shall be considered to have terminated participation.

19.05 Termination of Plan. This Plan may be completely terminated at any time pursuant to the Indiana Code. In such an event, the Administrator shall be responsible for

directing distribution of all assets of the Trust Fund to Participants, Beneficiaries or to a successor plan.

ARTICLE XX - NONASSIGNABILITY

20.01 Nonassignment. Subject to the provisions of Article XII, no Participant, Beneficiary or designee may commute, sell, assign, transfer or otherwise convey the right to receive any payment under the Plan, provided that such payment and right thereto is expressly declared to be nonassignable and nontransferable.

20.02 Rights. Subject to the provisions of Article XII, the rights of Participants and Beneficiaries under this Plan shall not be subject to the rights of their creditors, and shall be exempt from execution; attachment, prior assignment or any other judicial relief or order for the benefit of creditors or other third person, except to the extent a benefit distributable under Article XI is subject to a federal tax levy.

ARTICLE XXI - MISCELLANEOUS

21.01 Federal Taxes. The Trustees, the Participating Employers and the Administrator do not guarantee that any particular Federal or State income, payroll or other tax consequence will occur because of participation in this Plan.

21.02 Contract. This Plan and the Adoption Agreement, including any properly adopted amendments thereof, shall constitute the total agreement or contract between the Participating Employer and any Participant regarding the Plan. No oral statement regarding the Plan may be relied upon by any Participant or other person.

21.03 Conflicts. The Plan is intended to constitute a qualified governmental plan under the provisions of Code Sections 401 and 414(d) and the Trust to be exempt from tax under Code Sections 115 and 501. In resolving any conflict between provisions of the Plan and in resolving any other uncertainty as to the meaning or intention of any provision of the Plan, the interpretation that (i) is consistent with the foregoing intent, (ii) causes the Plan to comply with all applicable requirements of the Code and (iii) causes the Plan to comply with all applicable Indiana statutes and rules, shall prevail over any different interpretation.

21.04 Limitation on Rights. Neither the establishment nor maintenance of the Plan (including the Adoption Agreement), nor any amendment thereof nor any act or omission under the Plan (or resulting from the operation of the Plan) shall be construed:

- (a) as conferring upon any Participant, Beneficiary or any other person a right or claim against the Trust, Trustees, Participating Employer or Administrator, except to the extent that such right or claim shall be specifically expressed and provided in the Plan;
- (b) as creating any responsibility or liability of the Participating Employer for the validity or effect of the Plan;

- (c) as a contract between the Participating Employer and any Participant or other person;
- (d) as being consideration for, or an inducement or condition of, employment of any Participant or other person, or as affecting or restricting in any manner or to any extent whatsoever the rights or obligations of the Participating Employer or any Participant or other person to continue or terminate the employment relationship at any time; or
- (e) as giving any Participant the right to be retained in the service of the Participating Employer or to interfere with the right of the Participating Employer to discharge any Participant or other person at any time.

21.05 USERRA Compliance. Notwithstanding any provision of this Plan to the contrary, contributions, benefits and service credit with respect to qualified military service shall be provided in accordance with Code Section 414(u), and as required by the Uniformed Services Employment and Reemployment Rights Act (“USERRA”). The following additional rules shall apply in accordance with the Heroes Earning Assistance and Relief Tax Act of 2008:

- (a) Effective January 1, 2007, in the case of a Participant who dies while performing qualified military service (as defined in Section 414(u) of the Code), the survivors of the Participant shall be entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the Plan had the participant resumed and then terminated employment on account of death.
- (b) Effective January 1, 2009, an individual receiving a “differential wage payment” (as defined below) shall be treated as an Employee of an Employer making the payments and the differential wage payment shall be treated as compensation. This Plan shall not be treated as failing to meet the requirements of any provision described in Section 414(u)(1)(C) of the Code by reason of any contribution or benefit which is based on the differential wage payment, as long as all employees of an Employer performing service in the uniformed services (as defined in chapter 43 of title 38, United States Code) while on active duty for a period of more than 30 days are entitled to receive differential wage payments on reasonably equivalent terms and, if eligible to participate in a retirement plan maintained by an Employer, to make contributions based on the payments on reasonably equivalent terms.

For purposes of this Section, the term “differential wage payment” means any payment which:

- (1) is made by an Employer to an individual with respect to any period during which the individual is performing service in the uniformed services (as defined in chapter 43 of title 38, United States Code) while on active duty for a period of more than 30 days, and

- (2) represents all or a portion of the wages the individual would have received from an Employer if the individual were performing service for the Employer.
- (c) Effective January 1, 2011, for purposes of Sections 401(k)(2)(B)(i)(I), 403(b)(7)(A)(ii), 403(b)(11)(A) or 457(d)(1)(A)(ii) of the Code, an individual shall be treated as having a severance from employment during any period the individual is performing services in the uniformed services (as defined in chapter 43 of title 38, United States Code) while on active duty for a period of more than 30 days even if the individual is receiving “differential wage payments” as described in subsection (b). If an individual elects to receive a distribution by reason of the preceding sentence, the individual shall not be permitted to make an elective deferral or employee contribution during the six month period beginning on the date of the distribution.
- (d) Effective January 1, 2011, for purposes of entitlement to any Employer contribution under Article IV, an individual who dies or becomes disabled (as defined under the terms of the Plan) while performing qualified military service with respect to an Employer shall be treated as if the individual had resumed employment in accordance with the individual’s reemployment rights under chapter 43 of title 38, United States Code, on the day preceding death or disability (as the case may be) and terminated employment on the actual date of death or disability. The preceding sentence shall apply only if all individuals performing qualified military service with respect to an Employer who die or became disabled as a result of performing qualified military service prior to reemployment by the Employer are credited with service and benefits on reasonably equivalent terms.

For purposes of calculating any matching contribution to which an individual may be entitled under this subsection (d), the amount of employee contributions and the amount of elective deferrals of an individual treated as reemployed under this subsection (d) shall be determined on the basis of the individual’s average actual employee contributions or elective deferrals for the lesser of –

- (1) the 12-month period of service with an Employer immediately prior to qualified military service, or
- (2) if service with an Employer is less than such 12-month period, the actual length of continuous service with the Employer.

21.06 Erroneous Payments. If the Trustees or Administrator make any payment that according- to the terms of the Plan and the benefits provided hereunder should not have been made, the Trustees or Administrator may recover that incorrect payment, by whatever means necessary, whether or not it was made due to the error of the Trustees or Administrator, from the person to whom it was made or from any other appropriate party. For example, if any such incorrect payment is made directly to a Participant, the Trustees or Administrator may deduct it when making any future payments directly to that Participant.

21.07 Release. Any payment to any Participant shall, to the extent thereof, be in full satisfaction of the claim of such Participant being paid thereby and the Trustees or Administrator may condition payment thereof on the delivery by the Participant of the duly executed receipt and release in such form as may be determined by the Trustees or Administrator.

21.08 Liability. The Administrator shall not incur any liability in acting upon any notice, request, signed letter, telegram or other paper or document or electronic transmission believed by the Administrator to be genuine or to be executed or sent by an authorized person.

21.09 Governing Laws. The law of the State of Indiana shall apply in determining the construction and validity of this Plan.

21.10 Necessary Parties to Disputes. Necessary parties to any accounting, litigation or other proceedings relating to the Plan shall include only the Trustees and the Administrator. However, the Service Manager is a necessary party for those duties that have been delegated to the Service Manager. The settlement or judgment in any such case in which the Trustees are duly served shall be binding upon all affected Participants in the Plan, their beneficiaries, estates and upon all persons claiming by, through or under them.

21.11 Severability. If any provision of the Plan shall be held by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions of the Plan shall continue to be fully effective.

21.12 Supersession. The terms of the Plan shall supersede any previous agreement between the parties pertaining to the Plan.

21.13 Counterparts. This Plan may be executed in one (1) or more counterparts, each of which shall constitute an original.

21.14 General Provision. Trustees may adopt procedures for persons to act on behalf of incompetent Participants and Beneficiaries.

IN WITNESS WHEREOF the undersigned have executed this Plan on the dates indicated:

“TRUSTEES”

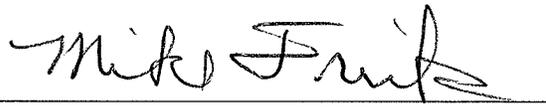
1/28/16
Date


Zac Jackson

1/28/16
Date


Suzanne Crouch

1/28/16
Date


Mike Frick

01/29/2016
Date


Lisa Acobert

1/29/2016
Date


Dan Bastin

“ADMINISTRATOR”

1/29/2016
Date


Auditor of State, as Administrator of the Plan

EXHIBIT A
ADDITIONAL STATE NON-MATCHING CONTRIBUTIONS

1. Name of Employer - State Department of Health
- Authorizing Statute - IC 16-19-6-7
- Eligible Employees - All Institutional Teachers employed at the Indiana Soldiers' and Sailors' Children's Home
- Contribution Amount - Initial contribution equal to the amount set forth in Exhibit A-1, and ongoing contributions to be determined annually by the State Department of Health based on each eligible employee's years of service, whether they are on a 9 or 12 month pay cycle and the Rush County School Salary Schedule
- Contribution Method - Initial contribution to be made as of October 31, 2007 and ongoing contributions to be made bi-weekly beginning with the October 31, 2007 pay day.

EXHIBIT A-1

Last Name	First Name	Employee ID	Contribution
Applegate	Myron		\$7,614.63
Bramell	Dan		\$1,104.72
Brown	James		\$7,533.32
Chew	Nancy		\$1,020.25
Edwards	Mereda		\$858.29
Farthing	Charles		\$1,866.73
Guillaume	Robert		\$1,898.47
Hamm	Lisa		\$1,511.47
Hickey	Deborah		\$1,136.59
Higgins	Mary Beth		\$7,533.32
Isom	Donna		\$1,511.47
Kendall	Cynthia		\$7,533.32
Little	Curtis		\$273.35
Lundquist	Marsha		\$1,511.47
Maxwell	James		\$9,624.60
McClelland	Sonny		\$1,281.47
Miller	Cheryl		\$1,527.78
Morgan	Bradley		\$1,156.85
Nash	Nancy		\$9,624.60
Newkirk	Linda		\$1,465.10
Philhower	Taylor		\$1,078.04
Philhower	George		\$1,117.02
Porter	Kevin		\$1,918.96
Price	Vonda		\$7,533.32
Rayburn	Megan		\$273.35
Richardson	Lou		\$1,511.47
Richardson	Dennis		\$1,511.89
Scott	Deborah		\$6,538.77
Stearns	Rona M.		\$7,467.15
Thomas	Shelly		\$470.80
Thompson	Richard		\$1,918.96
Thompson	Travis		\$273.35
Trump	Bruce		\$7,533.32
Vanosdol	Palestine		\$1,511.89
York	Mike		\$1,511.89