

**AGENDA  
ARK-TEX URBAN TRANSIT  
BOARD OF DIRECTORS MEETING  
December 16, 2021**

The Ark-Tex Urban Transit, Inc. (ATUT) Board of Directors will meet at 2:00 P.M., Thursday, December 16, 2021, at Ark-Tex Council of Governments, 4808 Elizabeth Street, Texarkana, Texas.

Item 1. Call to order.

Item 2. Public Comment.

**Regular Business**

Item 3. Review and consider approval of the minutes as submitted for the ATUT Board Meeting held September 16, 2021. (See page 2)

Item 4. Review and consider approval of the Ark-Tex Urban Transit Retirement Plan restatement. (See page 3; to be presented by Leslie McBride)

**Announcement**

The next ATUT Board of Directors meeting will be held on an as-needed basis.

**MINUTES  
ARK-TEX URBAN TRANSIT  
BOARD OF DIRECTORS MEETING  
September 16, 2021**

A meeting of the Board of Directors of the Ark-Tex Urban Transit, Inc. (ATUT) was held at 2:00 p.m. on Thursday, September 16, 2021, at Ark-Tex Council of Governments, 4808 Elizabeth Street, Texarkana, Texas.

Item 1. Chris Brown, Board President, called the meeting to order.

Item 2. Public comment.

No members of the public were present.

**Regular Business**

Item 3. The next order of business was to approve the minutes as submitted for the ATUT Board Meeting held Thursday, March 18, 2021.

Motion to approve was made by Mary Beth Rudel and seconded by Chris Brown. It was approved.

Item 4. Ms. Leslie McBride presented for consideration approval of the Employee Insurance.

Ms. Leslie presented the recommendation of the Texarkana Urban Transit District Board (TUTD) to transfer health insurance coverage from United Healthcare to Blue Cross and Blue Shield Insurance for T-line employees. She stated employee premiums will remain the same, and their co-pays will be more consistent.

Motion to approve was made by Ms. Rudel and seconded by Mr. Brown. It was approved.

Item 5. Ms. Leslie McBride presented for consideration approval of the ATUT Ethics Policy Manual.

Ms. McBride presented the ATUT Ethics Policy Manual for approval with no new revisions. She stated all T-line employees receive Ethics policy training annually. Ms. McBride recommended approval of the ATUT Ethics Policy Manual. Ms. McBride will present the ATUT Ethics Policy Manual to the TUTD Board at its next scheduled meeting.

Motion to approve was made by Ms. Rudel and seconded by Mr. Brown. It was approved.

Item 6. Ms. Debbie Purifoy presented for consideration approval of the TUTD Fiscal Year 2022 Final Budget.

Ms. Purifoy presented the TUTD Fiscal Year 2022 Final Budget to the Board, which included T-line employee salaries and benefits.

Motion to approve was made by Ms. Rudel and seconded by Mr. Brown. It was approved.

**Announcement**

The next ATUT Board of Directors meeting will be held on an as-needed basis.

With no further discussion, Mr. Brown made a motion to adjourn the meeting. Ms. Rudel seconded the motion. The meeting was adjourned.

---

**Chris Brown, President**  
**Board of Directors**  
**Ark-Tex Urban Transit**

**ATTEST:**

---

## BRIEFING PAPER

### **ITEM 4:**

Review and consider approval of the Ark-Tex Urban Transit Retirement Plan restatement.

### **BACKGROUND:**

Ark-Tex Urban Transit adopted the Ark-Tex Urban Transit Retirement Plan on October 1, 2011, as authorized under Code sections 401(a) and 501(a). This Plan must be restated in accordance with the IRS.

### **DISCUSSION:**

The Ark-Tex Urban Transit Retirement Plan restatement is due for restatement effective January 1, 2022.

The restatement does not change any information in the Plan. The restatement is intended to meet the requirements as listed in IRS Notice 2017-37 as required in IRS Revenue Procedure 2016-37.

The Plan is in compliance with the IRS regulations.

### **RECOMMENDATION:**

Staff recommends approval.

---

**ADOPTION AGREEMENT  
FOR THE SIEGEL ACTUARIAL CONSULTING, INC.  
PRE-APPROVED DOCUMENT  
20-001**

---

**DEFINED CONTRIBUTION PRE-APPROVED ADOPTION AGREEMENT  
NON-STANDARDIZED  
ALTERNATIVE THREE: PROFIT SHARING PLAN**

*Note: Section references are to the Plan or the Trust. All capitalized terms are defined in the Plan or Trust. All dates are entered in the MM/DD or MM/DD/YYYY format, as applicable.*

The DATAIR Pre-Approved Adoption Agreement Defined Contribution Plan is hereby adopted by

**Ark Tex Urban Transit, Inc.**  
(the "Employer").

The Plan shall be known as:

**Ark Tex Urban Transit, Inc. Retirement Plan**  
the "Plan".

**A. General Plan Information**

**Employer Information**

- A1. Employer Address:** 4808 Elizabeth Street , Texarkana, TX 75503
- A2. Employer Telephone:** (903) 255-3513
- A3. Employer Tax ID (EIN):** 27-5098348
- A4. Employer Fiscal Year End:** 09/30
- A5. Legal Organization of Employer:**
- a.  Sole Proprietorship
  - b.  Partnership
  - c.  C Corporation
  - d.  S Corporation
  - e.  Limited Liability Company (LLC)
  - f.  Limited Liability Partnership (LLP)
  - g.  Not for Profit Corporation
  - h.  Professional Service Corporation
  - i.  Other (Must be legal entity recognized under federal income tax laws.): \_\_\_\_\_
- A6. Business Code** (as used on Form 5500; 6-digit NAICS): 485210
- A7. State of Legal Construction:** Texas
- A8. Date Business Commenced:**     /    /
- A9. Members of a Controlled Group or Affiliated Service Group** (select all that apply):
- a.  Controlled Group (List controlled group members.): \_\_\_\_\_
  - b.  Affiliated Service Group (List affiliated service group members.): \_\_\_\_\_

*Note: This list is optional and for informational purposes only. Controlled Group and Affiliated Service Group members who are also Participating Employers will sign this Adoption Agreement, a separate Adoption Agreement, or a Participating Employer Agreement.*

**Plan Information**

- A10. Three Digit Plan Number:** 001

**A11. Plan Agent:**

Name: Ark Tex Urban Transit, Inc.  
Address: 4808 Elizabeth Street  
City: Texarkana  
State: TX  
Zip: 75503  
Phone: (903) 255-3513

**A12. Plan Administrator:**

Name: Ark Tex Urban Transit, Inc.  
Address: 4808 Elizabeth Street  
City: Texarkana  
State: TX  
Zip: 75503  
Phone: (903) 255-3513

**A13. Plan Administrator ID Number:** 27-5098348

**A14. IRS Determination Letter Date (Leave blank for a new plan.):** 06/30/2020

**A15. IRS File Folder Number (Leave blank for a new plan.):** 317B4948520-001

**Trust Information**

**A16. Plan Trustee(s)**

Not applicable, the Plan is funded solely by Insurance Contract(s).

Name: Mary Beth Rudel  
Address: \_\_\_\_\_  
City: \_\_\_\_\_  
State: \_\_\_\_\_  
Zip: \_\_\_\_\_  
Phone: ( ) -

Name: Leslie McBride  
Address: \_\_\_\_\_  
City: \_\_\_\_\_  
State: \_\_\_\_\_  
Zip: \_\_\_\_\_  
Phone: \_\_\_/\_\_\_/\_\_\_

**A17. Trust ID Number:** 27-5098348

**A18. The Trustee(s) must sign the Adoption Agreement, discretionary amendments, and interim amendments.**

- a.  No
- b.  Yes

*Note: An executed copy of the Trust Agreement must be attached to this Plan. The Plan and Trust Agreement must be read and construed together. The powers, rights, and responsibilities of the Trustee shall be those specified in the Trust Agreement.*

**A19. If there are two or more Trustees appointed, they will be bound by the following (select one).**

- a.  Not applicable.
- b.  The act of a majority of the Trustees.
- c.  The act of 1 individuals act in the capacity of Trustee.

**Participating Employers**

**A20. Participating Employers and Multiple Employer Plan (select one).**

- a.  This Plan is not a Multiple Employer Plan and no Related Employers are adopting the Plan.
- b.  The Employer is the Lead Sponsor of a Plan that includes Participating Employers. If there are Participating Employers who are not Related Employers, this Plan is a Multiple Employer Plan under Code sec. 413(c).
- c.  The Employer is a Participating Employer in the Plan. The Lead Sponsor is \_\_\_\_\_.

*Note: Participating Employers will need to sign this Adoption Agreement, a Participating Employer Agreement, or a separate Adoption Agreement.*

## B. General Plan Features

### Effective Dates

#### B1. Effective Dates

- a. The Effective Date of the Plan is: January 1, 2022.  
*Note: May not be earlier than the first day of the initial Plan Year or for restatement of an existing plan, the first day of the current Plan Year.*
- b. Special Effective Dates. The following dates will replace the Effective Date for the Plan provision provided (*select one*).
1.  Not Applicable
  2.  The following special Effective Dates will apply (*select all that apply*):
    - A.  Safe Harbor Contributions: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_
    - B.  \_\_\_\_\_: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_*Note: The date(s) entered may not be earlier than the Effective Date of the Plan.*
- c. Initial Effective Dates (*select one*).
1.  Not applicable, this is a new Plan.
  2.  The Plan was initially effective: October 1, 2013.
- d. Restatement (*select one*).
1.  Not applicable, this is a new Plan.
  2.  This Plan Document is an optional amendment of a pre-existing plan.
  3.  This Plan Document is a mandatory restatement of a pre-existing plan.
- e. Frozen Plan
1.  Not Applicable
  2.  The Plan is/was frozen effective: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_
- Note: No new Participants will enter the Plan and no benefits will accrue to any existing Participant, on or after the date the Plan has been frozen.*

### Contributions

#### B2. Contributions (*Select one for each contribution source.*)

	Not Permitted	Permitted	Formerly Permitted	Date Removed
a. Non-Elective Contributions	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____/_____/_____
b. Voluntary After-Tax Contributions	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____/_____/_____
c. Safe Harbor Contributions	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____/_____/_____
d. Prevailing Wage Contributions	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____/_____/_____

#### B3. Deemed IRA

- a. Deemed IRAs are permitted (*select one*).
1.  No.
  2.  Yes.

## C. Eligibility

#### C1. Excluded Classes of Employees

The classes of Employees specified below will not be eligible to be a Participant in the Plan (*select one*).

- a.  No Exclusions
- b.  The following exclusions will apply (*select all that apply*):
  1.  Union Employees
  2.  Non-Resident Aliens
  3.  Employees acquired in a Code section 410(b)(6)(C) transaction
  4.  HCEs
  5.  Key Employees
  6.  Leased Employees
  7.  HCEs who are Key Employees
  8.  Self-Employed Individuals



- 9.  Compensation is based solely on commissions
- 10.  Employees not covered by a CBA with: \_\_\_\_\_
- 11.  Other exclusion: \_\_\_\_\_

*Note: The exclusions selected cannot result in the group of NHCEs participating under the Plan being only those NHCEs with the lowest amount of compensation and/or the shortest periods of Service and who may represent the minimum number of these Employees necessary to satisfy coverage under Code section 410(b).*

*Note: Selection of any options other than a, b1, b2, b3, or b4 will result in the plan having to satisfy coverage testing under Code section 410(b).*

*Note: The definition of "other exclusion" provided must be objectively determinable, may not be specified in a manner that is subject to Plan Administrator discretion, and may not discriminate in favor of HCEs. The Plan Administrator will make all determinations in connection with such issues in a uniform, nondiscriminatory manner.*

*Note: The definition of "other exclusion" cannot result in an exclusion based on age or length of service or create an indirect service requirement.*

**C2. Age Requirement for Eligibility(Select one.)**

- a.  Not Applicable
- b.  Employees must be at least \_\_\_ years of age to be eligible to participate in the Plan.

*Note: Age cannot be greater than age 21. If the Plan is maintained exclusively for employees of a Code section 170(b)(a)(A)(ii) educational institution and Participants are 100% vested no later than upon attainment of one Year of Vesting Service, the age can be no greater than 26.*

**C3. Service Requirement for Eligibility**

Employees who meet the service requirements specified below during the Eligibility Computation Period will be eligible to participate in the specified portion of the Plan (select one).

- a.  No service required
- b.  Service required (select one):
  - 1.  One Year of Eligibility Service
  - 2.  Two Years of Eligibility Service
  - 3.  \_\_\_ months of Eligibility Service
  - 4.  \_\_\_ consecutive months of Eligibility Service
  - 5.  \_\_\_ Years of Eligibility Service with \_\_\_ Hours of Eligibility Service in each year
  - 6.  \_\_\_ months of Eligibility Service with \_\_\_ Hours of Eligibility Service in each month
  - 7.  Other(e.g.,6 consecutive months of service with 500 hours of service earned over the 6-month time frame): \_\_\_\_\_

*Note: The Years of Eligibility Service required cannot exceed 2. If more than 1 year of service is required, the Participant must be 100% vested in their Non-Elective Contributions at two Years of Eligibility Service.*

*Note: The months of service required cannot exceed 24. If more than 12 months of service are required, the Participant must be 100% vested in their Non-Elective Contributions at 24 months of Eligibility Service.*

*Note: The definition of "other service requirement" provided must be objectively determinable, may not be specified in a manner that is subject to Plan Administrator discretion, and may not discriminate in favor of HCEs. The Plan Administrator will make all determinations in connection with such issues in a uniform, nondiscriminatory manner.*

*Note: Hours of service failsafe: Regardless of the election made above, if eligibility is determined using the hours of service method, an Employee will be deemed to meet the eligibility requirement no later than the end of an Eligibility Computation Period during which the Employee completes 1,000 Hours of Eligibility Service; provided, that the individual is an Eligible Employee on the applicable entry date.*

**C4. For service requirements that include an hours requirement a Participant will have met the service requirement at the following time (select one).**

- a.  As soon as they have met the service requirement regardless if the entire period has passed.
- b.  At the end of the measurement period in which the service requirement was met.

**C5. Prevailing Wage Eligibility - Excluded Classes**

Prevailing Wage Contributions will have no age or service requirements and will have immediate entry dates. The following Participants will be excluded from receiving Prevailing Wage Contributions (*select one*).

- a.  No excluded classes.
- b.  The following Participants will be excluded (*select all that apply*):
  - 1.  HCEs.
  - 2.  Other: \_\_\_\_\_.

*Note: The "Other" excluded classes must be objectively determinable, may not be specified in a manner that is subject to Plan Administrator discretion, and may not discriminate in favor of HCEs. The Plan Administrator will make all determinations in connection with such issues in a uniform, nondiscriminatory manner.*

**C6. One-Time Election**

A Participant may make a one-time election pursuant to Plan Section 2.1.6 to not become a Participant under the Plan (*select one*).

- a.  No.
- b.  Yes.

**Measuring Service**

**C7. Year of Eligibility Service**

The Method of Measuring a Year of Eligibility Service is the following (*select one*).

- a.  Not applicable, there are no service requirements for any source under the Plan.
- b.  Hours of service method. A Year of Eligibility Service is \_\_\_\_\_ hours (not more than 1,000) in the Eligibility Computation Period.
- c.  Elapsed time method.

*Note: If option b is not selected skip questions C8 – C9. If option a is selected skip question C10.*

**C8. Eligibility Computation Period**

If the hours of service method is selected above, the first Eligibility Computation Period is the 12-month period ending on the first anniversary of the Employee's Employment Commencement Date. Subsequent Eligibility Computation Periods will be measured as follows (*select one*).

- a.  It will remain a 12-month period based on the anniversary of the Employee's Employment Commencement Date.
- b.  It will switch the Plan Years beginning with the first Plan Year commencing prior to the first anniversary of the Employee's Employment Commencement Date.

**C9. Break in Eligibility Service**

If the hours of service method is selected above, a Break in Eligibility Service occurs if an Employee fails to complete \_\_\_\_\_ (*not more than 500*) Hours of Service in an Eligibility Computation Period.

*Note: If actual hours are being used and no Hours of Service are completed then a Break in Service will be defined as the lesser of 500 hours or the number of Hours of Service needed to earn a Year of Eligibility Service.*

**C10. Equivalencies**

**a. Hours of Service**

If the hours of service method is selected above, when records of hours are not maintained the following equivalency will apply (*select one*).

- 1.  Not applicable, actual hours will be used for all Employees.
- 2.  The following equivalency will apply (*select one*):
  - A.  Days worked (*10 hours*)
  - B.  Weeks worked (*45 hours*)
  - C.  Semi-Monthly or Bi-weekly Payroll period worked (*95 hours*)
  - D.  Months worked (*190 hours*)

**b. Elapsed Time**

If the elapsed time method is selected above, eligibility service will be measured using the following (*select one*).

1.  The exact date in years.
2.  The exact date in months.
3.  Calendar months with Employee granted a month of service if they work at least one Hour of Service in that month.
4.  The nearest calendar month.
5.  Completed calendar months.

**C11. Service with Predecessor and Prior Employers**

Service with Predecessor Employers must be treated as service for the Employer if the Employer maintains the plan of the Predecessor Employer. In all other cases, service with a Predecessor Employer or a Prior Employer is granted as specified below.

**a. Predecessor or Prior Employer Service (Select one.)**

1.  No service with a Predecessor or Prior Employer will be credited.
2.  Service with a Predecessor or Prior Employer is credited as specified below.
  - A. Service with the following entities shall be credited as service under this Plan:

**B.** Service with the above entities has been determined under the terms of the following documents, if any: \_\_\_\_\_

**b. Service with a Predecessor or Prior Employer will be credited for the following purposes (select all that apply):**

1.  Eligibility Service.
2.  Vesting Service.
3.  Contribution Allocations.
4.  Attainment of Early or Normal Retirement Age.

**c. Service with a Predecessor or Prior Employer will be limited as follows: \_\_\_\_\_**

**C12. Age and Service Waiver**

**a.**  The age and service requirements will be waived for Employees Employed on \_\_\_\_/\_\_\_\_/\_\_\_\_

**b.** The following requirements will be waived (select all that apply).

1.  The age requirement.
2.  The service requirement.

**c.** Employees subject to the waiver will enter the Plan on (select one):

1.  The Effective Date of this document.
2.  The next Plan Entry Date for the applicable contribution source.
3.  Other (e.g. specific date): \_\_\_\_\_ (date must be prior to next Plan Entry Date).

**d.** The following limitations will apply to the age and/or service waiver (select one).

1.  No limitations.
2.  Other (e.g., only Employees hired due to merger with Acme Inc. will be subject to the waiver): \_\_\_\_\_.

## Plan Entry

### C13. Entry Dates

Employees who meet the service requirements specified during the Eligibility Computation Period will be eligible to participate in the Plan (*select one*).

- a.  Daily
- b.  Weekly on the \_\_\_\_\_ (e.g., *first*) day of the week
- c.  Monthly on the \_\_\_\_\_ (e.g., *last*) day of the month
- d.  Quarterly starting on \_\_\_/\_\_\_
- e.  Semi-annually starting on \_\_\_/\_\_\_
- f.  First Day of the Plan Year
- g.  Last Day of the Plan Year
- h.  Anniversary Date of the Employee's hire date
- i.  Other Entry Date(s) (e.g. *payroll date*): \_\_\_\_\_

*Note: If option a is selected skip question C14.*

### C14. Entry Time

Employees will be eligible to participate in the specified portion of the Plan on the Entry Date \_\_\_\_\_ the date they meet the eligibility requirements specified for the contribution source (*select one*).

- a.  coincident with or next following
- b.  next following
- c.  nearest to

### C15. Special Entry Dates

In addition to the Entry Dates specified above the following dates will also be Entry Dates (*select one*).

- a.  Not Applicable
- b.  Special Entry Date(s) (e.g., 2/1/2018): \_\_\_\_\_

*Note: The special Entry Dates must be objectively determinable, may not be specified in a manner that is subject to Plan Administrator discretion, and may not discriminate in favor of HCEs. The Plan Administrator will make all determinations in connection with such issues in a uniform, nondiscriminatory manner.*

## D. Dates and Definitions

### General Dates

#### D1. Plan Year

- a. The Plan Year (*must be 12 consecutive months.*) 10/01 to 09/30.
- b.  The Plan has a short Plan Year of: \_\_\_/\_\_\_ to \_\_\_/\_\_\_.

#### D2. Limitation Year

The Limitation Year is the (*select one*):

- a.  Plan Year.
- b.  calendar year coinciding with or ending within the Plan Year.
- c.  12 consecutive month period ending \_\_\_/\_\_\_.
- d.  Employer's Fiscal Year ending with or within Plan Year.
- e.  12 consecutive month period ending \_\_\_\_\_ (e.g., *the last Friday in February*) with or within Plan Year.

#### D3. Anniversary Date

The Anniversary Date is (*select one*):

- a.  the last day of the Plan Year.
- b.  the first day of the Plan Year.
- c.  \_\_\_/\_\_\_ of each Plan Year.
- d.  other (*must be at least annually*): \_\_\_\_\_

**D4. Valuation Date**

The Valuation Date is the (select all that apply):

- a.  Last day of the Plan Year
- b.  Semiannually
- c.  Quarterly
- d.  Monthly
- e.  Daily
- f.  Other (i.e., assets held in XYZ fund will be valued on the 15th day of each calendar month, must be at least annually): \_\_\_\_\_

**Retirement Age**

**D5. Normal Retirement Age (NRA)**

For each Participant the Normal Retirement Age is (select all that apply):

- a.  The later of age 65 or the 5th anniversary of participation in the Plan (statutory).
- b.  Age \_\_\_\_.
- c.  Age \_\_\_\_ and \_\_\_\_ Years of Service.
- d.  Age \_\_\_\_ and \_\_\_\_ Years of Participation.
- e.  Age \_\_\_\_ and the \_\_\_\_ anniversary of actual participation in the Plan.
- f.  Other: \_\_\_\_\_, but in no event later than the later of age 65 or the 5th anniversary of participation.

*Note: The age specified must be at least 55 and cannot exceed 65. If an age less than 62 is specified, the IRS Opinion Letter cannot be used to show that the age is reasonably representative of the typical retirement age for the industry in which the Participants work.*

*Note: The service specified cannot be greater than 5 years.*

*Note: If more than one option is selected, NRA is attained on the first date the requirements of any option are met, but in no event later than age 65 and the 5th anniversary of participation in the Plan. For this purpose only, participation is assumed to commence as of the first day of the first Plan Year in which the Employee became a Participant.*

*Note: The definition of "Normal Retirement Age" provided must be objectively determinable, may not be specified in a manner that is subject to Plan Administrator discretion, and may not discriminate in favor of HCEs. The Plan Administrator will make all determinations in connection with such issues in a uniform, nondiscriminatory manner.*

**D6. Normal Retirement Date**

The Normal Retirement Date is (select one):

- a.  The actual date NRA is attained.
- b.  The first day of the month in which NRA is attained.
- c.  The first day of the month nearest the date NRA is attained.
- d.  The first day of the month coincident with or next following the date NRA is attained.
- e.  Anniversary Date nearest the date NRA is attained.
- f.  Anniversary Date coincident with or next preceding the date NRA is attained.
- g.  The last day of the month in which NRA is attained.
- h.  Other (e.g., The last day of the month nearest the date NRA is attained): \_\_\_\_\_

**D7. Early Retirement Age (ERA)**

For each Participant, the Early Retirement Age is (select all that apply):

- a.  The Plan does not provide an ERA.
- b.  Age \_\_\_\_.
- c.  Age \_\_\_\_ and \_\_\_\_ Years of Service.
- d.  Age \_\_\_\_ and \_\_\_\_ Years of Participation.
- e.  Age \_\_\_\_ and the \_\_\_\_ anniversary of actual participation in the Plan.
- f.  Other (e.g., Age 55 and the fifth anniversary of employment): \_\_\_\_\_

*Note: If option a is selected skip question D8.*

*Note: In no event shall ERA exceed NRA.*

*Note: If more than one option is selected, the Participant attains ERA at the earliest age when any of the selected requirements are satisfied.*

*Note: The definition of "Early Retirement Age" provided must be objectively determinable, may not be specified in a manner that is subject to Plan Administrator discretion, and may not discriminate in*

favor of HCEs. The Plan Administrator will make all determinations in connection with such issues in a uniform, nondiscriminatory manner.

**D8. Early Retirement Date**

The Early Retirement Date is (select one):

- a.  The actual date ERA is attained.
- b.  The first day of the month in which ERA is attained.
- c.  The first day of the month nearest the date ERA is attained.
- d.  The first day of the month coincident with or next following the date ERA is attained.
- e.  Anniversary Date nearest the date ERA is attained.
- f.  Anniversary Date coincident with or next following the date ERA is attained.
- g.  The last day of the month in which ERA is attained.
- h.  Other (e.g., The last day of the month nearest the date ERA is attained): \_\_\_\_\_

**General Definitions**

**D9. Highly Compensated Employee (HCE) Determination**

- a. HCEs will be determined using the top-paid group election (select one).
  - 1.  No
  - 2.  Yes
- b. HCEs will be determined using the calendar year data election (select one).
  - 1.  No
  - 2.  Yes
- c. When determining HCEs, Compensation will be measured over the following period (select one).
  - 1.  The preceding Plan Year.
  - 2.  The calendar year beginning within the preceding Plan Year (non-calendar year plans only).
  - 3.  The 12-month period ending \_\_\_/\_\_\_ . (Select this option when using the Plan Year of another plan of the Employer.)

**D10. Disability**

An Employee or Participant has a "Disability" and is "Disabled" if (select all that apply):

- a.  No disability benefits are provided and there are no disability-related vesting or waiver provisions.
- b.  The Participant suffers from a medically determinable physical or mental impairment that may be expected to result in death or to last for a continuous period of not less than \_\_\_\_\_ months and that renders him incapable of performing his duties.
- c.  The Social Security Administration has determined that the Participant is eligible to receive Social Security disability benefits.
- d.  The Participant has begun to receive payments under the long-term disability program or a comparable disability program maintained by the Employer.
- e.  Other: \_\_\_\_\_.

Note: If more than one option is selected, a Participant is Disabled on the first date the requirements of any option are met.

Note: The definition of "Disability" provided must be objectively determinable and may not be specified in a manner that is subject to Plan Administrator discretion. The Plan Administrator will make all determinations in connection with such issues in a uniform, nondiscriminatory manner.

**D11. Designated Beneficiary**

**a. Default Beneficiary**

In the event the Participant does not have a valid Designated Beneficiary, the Designated Beneficiary will be (select one):

- 1.  determined under Plan Section 3.6.1.
- 2.  the Participant's spouse; if no spouse, the Participant's estate.
- 3.  other (e.g., the Participant's spouse; if no spouse the Participant's children; if no children the Participant's estate): \_\_\_\_\_

Note: If the Plan is a REA safe harbor plan the Participant's spouse must be the first default Designated Beneficiary.

**b. Expiration of Beneficiary Designation**

A Participant's valid beneficiary designation will expire when (*select one*):

1.  designations will never expire.
2.  upon divorce the ex-spouse shall be treated as having predeceased the Participant unless a beneficiary designation is completed post-divorce naming the ex-spouse as a Beneficiary.
3.  other (*e.g., marriage of the Participant*): \_\_\_\_\_

*Note: A Beneficiary designation cannot expire upon legal separation.*

**c. One-Year Marriage Rule**

The One Year Marriage rule will apply (*select one*):

1.  No.
2.  Yes.

**E. Compensation**

**E1. Base Definition**

A Participant's Compensation is based on (*select one*):

- a.  W-2 Compensation
- b.  3401(a) Compensation
- c.  415(c)(3) Compensation
- d.  Simplified 415 Compensation

**Exclusions From Compensation**

**E2. Exclusion of Deferrals**

The selected deferrals will be excluded from the definition of Compensation for the purposes specified (*select one*).

- a.  All of the items listed below.
- b.  The following items (*select all that apply*):
  1.  125 (Cafeteria Plan)
  2.  132(f)(4) (Transportation)
  3.  402(e)(3) (401(k) and 403(b) deferrals)
  4.  402(h)(1)(B) (SEP deferrals)
  5.  408(p) (Simple Retirement Account 402(k) deferrals)
  6.  457(b) deferrals

*Note: All salary deferrals must be included or excluded to maintain a Code sec. 414(s) safe harbor definition of Compensation. Exclusion of less than the full list will necessitate testing under Code section 414(s) to ensure the definition of Compensation is not discriminatory.*

*Note: If the item is not selected it will be included in the definition of Compensation for the applicable contribution source.*

**E3. Non-Participating Non-Resident Aliens**

Provided the compensation is excluded from gross income and not effectively connected with a U.S. trade or business, compensation paid to nonresident aliens who are not Participants will be excluded from the definition of Compensation (*select one*).

- a.  No.
- b.  Yes.

**E4. Other Exclusions**

The selected items will be excluded from the definition of Compensation for the purposes specified (select one).

- a.  No other exclusions
- b.  The following items (select all that apply):
  - 1.  Overtime
  - 2.  Commissions
  - 3.  Discretionary bonuses
  - 4.  Bonuses
  - 5.  Taxable employee benefits
  - 6.  Compensation paid by an Employer who is not a Participating Employer
  - 7.  In excess of \$\_\_\_\_\_
  - 8.  Other exclusion (e.g. compensation earned under a prevailing wage agreement):

*Note: The definition of "other exclusion" provided must be objectively determinable, may not be specified in a manner that is subject to Plan Administrator discretion, and may not discriminate in favor of HCEs. The Plan Administrator will make all determinations in connection with such issues in a uniform, nondiscriminatory manner.*

*Note: Any exclusion in this section aside from taxable employee benefits will necessitate testing under Code section 414(s) to ensure the definition of Compensation is not discriminatory.*

**Inclusions in Compensation**

**E5. Other Inclusions**

The selected items will be included in the definition of Compensation for the purposes specified (select one).

- a.  No other inclusions
- b.  The following items (select all that apply):
  - 1.  Earned before entry date
  - 2.  Deemed 125 Compensation
  - 3.  Post Year End Compensation
  - 4.  Post-Severance Compensation
  - 5.  Differential Wage Payments
  - 6.  Military Continuation Payments
  - 7.  Unfunded Deferred Compensation Plan
  - 8.  Other inclusion (e.g. compensation earned under a prevailing wage agreement):

*Note: The definition of "other inclusions" provided must be objectively determinable, may not be specified in a manner that is subject to Plan Administrator discretion, and may not discriminate in favor of HCEs. The Plan Administrator will make all determinations in connection with such issues in a uniform, nondiscriminatory manner.*

*Note: Elections made other than items a, b1, b2, or b3 will necessitate testing under Code section 414(s) to ensure the definition of Compensation is not discriminatory.*

**Other Compensation**

**E6. Salary Continuation for Disabled Participants**

Salary paid to Participants who are disabled is (select one):

- a.  Excluded.
- b.  Included for all Participants.
- c.  Included for all Participants who are not HCEs.

**E7. Compensation Computation Period**

The Compensation Computation Period is the following period that ends with or within the Plan Year (select one).

- a.  Plan Year
- b.  Limitation Year
- c.  Calendar year
- d.  Pay period
- e.  Monthly period



- f.  Quarterly period
- g.  Semi-Annually
- h.  Bi-Weekly
- i.  Weekly period
- j.  The 12-consecutive month period ending on \_\_\_/\_\_\_/\_\_\_

*Note: The Compensation Computation Period for Safe Harbor Non-Elective Contributions is the Plan Year.*

*Note: If option j is selected, for Employees whose Employment Commencement Date is less than 12 months before the end of the 12-month period designated, Compensation will be determined over the Plan Year.*

### Code Section 415 and 416 Compensation

#### E8. Code Section 415 and 416 Compensation

a. For the purposes of Code section 415 and 416, Compensation will be defined as (select one):

- 1.  W-2 Compensation.
- 2.  3401(a) Compensation.
- 3.  415(c)(3) Compensation.
- 4.  Simplified 415 Compensation.

b. For the purposes of Code section 415 and 416, the selected items will be included in the definition of Compensation (select all that apply).

- 1.  Deemed 125 Compensation
- 2.  Post Year End Compensation
- 3.  Post-Severance Compensation
- 4.  Differential Wage Payments
- 5.  Military Continuation Payments
- 6.  Unfunded Deferred Compensation Plan
- 7.  Nonparticipating Nonresident Aliens salary
- 8.  Other Inclusion (e.g., PTO Payments): \_\_\_\_\_

*Note: The definition of "other inclusions" provided must be objectively determinable, may not be specified in a manner that is subject to Plan Administrator discretion, and may not discriminate in favor of HCEs. The Plan Administrator will make all determinations in connection with such issues in a uniform, nondiscriminatory manner.*

c. For the purposes of Code section 416, salary paid to Participants who are disabled is (select one):

- 1.  Excluded.
- 2.  Included for all Participants.
- 3.  Included for all Participants who are not HCEs.

## F. Voluntary After-Tax Contributions and Safe Harbor Contributions

### Voluntary After-Tax Contributions

F1. Voluntary After-Tax Contributions are limited to (select one):

- a.  No Plan limitations.
- b.  The following limitations (select all that apply):
  - 1.  Voluntary After-Tax Contributions cannot exceed \_\_\_% of Compensation per Plan Year.
  - 2.  Voluntary After-Tax Contributions cannot exceed \$ \_\_\_\_\_ per Plan Year.

### Safe Harbor Contributions

#### F2. ADP Safe Harbor Contributions

The Plan will make the following ADP Test Safe Harbor Non-Elective Contribution of at least \_\_\_% of Compensation (must be at least 3%) to Participants eligible to receive Safe Harbor Contributions under the following plan: \_\_\_\_\_.

*Note: The full name of the other Employer plan must be completed. The other Employer plan must have the same Plan Year and safe harbor contributions as this Plan.*

**F3. Allocation Dates**

Safe Harbor Contributions will be allocated as of the (select one):

- a.  last day of the Plan Year
- b.  last day of each pay period
- c.  last day of each Plan quarter
- d.  last day of each calendar month
- e.  other: (e.g., last day of the calendar year): \_\_\_\_\_

**G. Non-Elective Contributions**

**G1. Allocation Conditions**

In order to be eligible to receive a Non-Elective Contribution, the Participant must (select one):

- a.  No allocation conditions.
- b.  The following allocation conditions will apply (select all that apply):
  - 1.  be employed on the last day of the Plan Year
  - 2.  have received Compensation since the prior Allocation Date for Non-Elective Contributions
  - 3.  must be employed on the Allocation Date for Non-Elective Contributions
  - 4.  must complete the following service requirement:
    - A.  \_\_\_\_\_ (no more than 1,000) Hours of Credited Service in the Plan Year.
    - B.  \_\_\_\_\_ (no more than 365) days using the Elapsed Time method of counting service.
    - C.  \_\_\_\_\_ (no more than 12) months using the Elapsed Time method of counting service.

Note: If option a is selected, skip question G2.

**G2. Allocation Condition Waivers**

The allocation conditions for Non-Elective Contributions will be waived if, during the Plan Year, a Participant (select one for each applicable purpose):

	All Allocation Conditions	Last Day Requirement	Service Requirement
a. No allocation condition waivers	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. The following waivers apply (select all that apply)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
1. dies.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. becomes Disabled.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. terminates from service after reaching NRA.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. is employed on the last day of the Plan Year.	N/A	N/A	<input type="checkbox"/>
5. other event:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Specify the other event (e.g., furloughed longer than 4 weeks):

- A. All Allocation Conditions: \_\_\_\_\_
- B. Last Day Requirement: \_\_\_\_\_
- C. Service Requirement: \_\_\_\_\_

Note: The definition of "other events" provided must be objectively determinable, may not be specified in a manner that is subject to Plan Administrator discretion and, may not discriminate in favor of HCEs. The Plan Administrator will make all determinations in connection with such issues in a uniform, nondiscriminatory manner.

**G3. Non-Elective Contribution Amount**

Non-Elective Contributions will be made in the following amount (select one):

- a.  a discretionary amount determined by the Employer each Plan Year.
- b.  an amount necessary to meet the requirements of the Non-Elective Contribution allocation formula specified below.
- c.  \_\_\_\_\_% (no more than 25%) of eligible Plan Compensation.
- d.  \$\_\_\_\_\_ per Plan Year, but no more than 25% of eligible Plan Compensation.
- e.  the amount required under any applicable collectively bargained for agreement (CBA).

Note: Options b – e are mandatory contributions that must be made every Plan Year.

Note: Option b cannot be chosen unless option G4a is chosen or G4i is chosen and the formula specified includes a dollar or percentage amount per Participant.

Note: If option e is chosen, the CBA provisions related to the Non-Elective Contribution amount must be included as an addendum to the Plan.

#### G4. Non-Elective Contribution Allocation Formula

Non-Elective Contributions will be allocated to Participants eligible to receive a Non-Elective Contribution according to the following formula (select one):

- a.  Flat dollar amount. The allocation will be based on the (select one):
1.  Plan Year.
  2.  Compensation Computation Period.
- b.  Pro-rata. The allocation will be based on the (select one):
1.  Plan Year.
  2.  Compensation Computation Period.
- c.  \_\_\_\_\_% of Compensation per Participant.
- d.  Age Weighted.
1. Pre-Retirement Interest Rate: \_\_\_\_\_ (must between 7.5% and 8.5%).
  2. Post-Retirement Interest Rate: \_\_\_\_\_ (must between 7.5% and 8.5%).
  3. Post-Retirement Mortality (e.g., UP-84 Unisex): \_\_\_\_\_.
- e.  Integrated Formula. (Complete Question G5.)
- f.  Uniform Points. (Complete Question G6.)
- g.  Class Allocation based on each Participant in an individual group.
- h.  Class Allocation based on defined groups. (Complete Question G7.)
- i.  Other (e.g., the greater of \$500 or 1% of Plan Year Compensation): \_\_\_\_\_.

Note: Options a - e are design based safe harbor allocation formulas. Options f - i will require testing under Code section 401(a)(4).

Note: Unless option e is selected, skip question G5. Unless option f is selected, skip question G6.

Unless option h is selected, skip question G7.

Note: The other Non-Elective Contribution Allocation Formula specified must be objectively determinable, may not be specified in a manner that is subject to Plan Administrator discretion, and may not discriminate in favor of HCEs. The Plan Administrator will make all determinations in connection with such issues in a uniform, nondiscriminatory manner.

Note: In order to be covered by the IRS pre-approval letter, the other Non-Elective Contribution allocation formula must be a combination of Non-Elective Contribution allocation formulas available in this Plan Document. Any other formulas will not be covered by the IRS pre-approval letter.

#### G5. Integrated Non-Elective Contribution Allocation Formula

- a. If an integrated allocation formula is selected above the Plan will allocate the Non-Elective Contribution in a (select one):
1.  2-step integrated allocation as described in Plan Section 2.3.5.  
The Base Contribution Percentage will be \_\_\_\_\_%  
The Excess Contribution Percentage will be \_\_\_\_\_%
  2.  4-step integrated allocation as described in Plan Section 2.3.5.  
The Base Contribution Percentage will be \_\_\_\_\_%  
Permitted Disparity will be limited to \_\_\_\_\_%
  3.  Pro-rata integrated allocation as described in Plan Section 2.3.5
    - A. Will the pro-rata integrated allocation formula satisfy the requirements under Code section 401(l) (select one)?
      1.  No.
      2.  Yes.
    - B. If the Plan is Top-Heavy, the Non-Elective Contribution allocation formula will (select one):
      1.  remain the same with the Minimum Top-Heavy Allocation determined last.
      2.  change to the 4-step integrated allocation as described in Plan Section 2.3.5.
- b. If an integrated formula is selected above the Integration Level will be (select one):
1.  The Taxable Wage Base (TWB) under the Social Security Act.
  2.  \_\_\_\_\_% of the TWB (if more than 100% testing under Code section 401(l) will be

required)

3.  The greater of \$ \_\_\_\_\_ or \_\_\_\_\_% of the TWB (if more than 100% testing under Code section 401(l) will be required)
4.  The lesser of \$ \_\_\_\_\_ or the TWB (the dollar amount must be greater than 80% of the TWB or testing under Code section 401(l) will be required)
5.  80% of the TWB plus \$ \_\_\_\_\_ (not more than \$1,000 or testing under Code section 401(l) will be required)
6.  Other (e.g., 80% of the TWB rounded up to the next \$3,000): \_\_\_\_\_.

**G6. Uniform Points Non-Elective Contribution Allocation Formula**

If a uniform points allocation formula is selected above the Plan will allocate the Non-Elective Contribution as specified below.

- a. The Non-Elective Contribution will be allocated (select one):
  1.  pro-rata by based on all points awarded for the Plan Year.
  2.  \$ \_\_\_\_\_ for each point awarded to the Participant.
  3.  \_\_\_\_\_% of the Participant's Compensation for each point awarded to that Participant.
- b. Points will be awarded to each Participant following the formula below (select all that apply):
  1.  \_\_\_\_\_ points for each year of age
  2.  \_\_\_\_\_ points for each Year of Credited Service
  3.  \_\_\_\_\_ points for each \$ \_\_\_\_\_ (not more than \$200) of Compensation
  4.  \_\_\_\_\_ points for \_\_\_\_\_ (e.g., 1 point for each Year of Credited Service at NRA)
- c.  Total points for each Participant will be limited to \_\_\_\_\_ points.

**G7. Group Allocation Non-Elective Contribution Allocation Formula**

If the group allocation formula is selected above the Plan will allocate the Non-Elective Contribution as specified below.

- a. For Group A: \_\_\_\_\_ the Non-Elective Contributions will be allocated (select one):
  1.  pro-rata based on Compensation to all Participants in the group.
  2.  the same dollar amount to all Participants in the group.
  3.  \_\_\_\_\_ cents per Hour of Credited Service .

*Note: The allocation groups must be objectively determinable and must not violate the definite predetermined allocation formula requirement of Treasury Regulation section 1.401-1(b)(1)(ii). Note: The allocation groups cannot be designed in a manner to benefit only those non-HCEs with the lowest Compensation, shortest period of service, or who are needed to pass testing under Code section 410(b).*

*Note: For Self-Employed Individuals, the allocation method must not result in a cash or deferred election under Treasury Regulation section 1.401(k)-1(a)(6).*

*Note: The Employer must provide the Plan Administrator or Trustee, if applicable, written notification of the Non-Elective Contribution to be allocated to each allocation group. The instructions must be provided no later than the Employer's tax return due date, including extensions, of the year for which the allocation is made.*

**G8. Limitations**

Non-Elective Contributions will be limited by (select one):

- a.  No Plan imposed limitations
- b.  The following limitations apply (select all that apply):
  1.  Minimum Non-Elective Contribution for each Participant for a Plan Year is (select one):
    - A.  \$ \_\_\_\_\_.
    - B.  \_\_\_\_\_% of the Participant's Compensation.
  2.  Maximum Non-Elective Contribution for each Participant for a Plan Year is (select one):
    - A.  \$ \_\_\_\_\_.
    - B.  \_\_\_\_\_% of the Participant's Compensation.
  3.  other (e.g., maximum of \$1,500 per HCE): \_\_\_\_\_

*Note: The other limitations on Non-Elective Contributions must be objectively determinable, may not be specified in a manner that is subject to Plan Administrator discretion, and may not discriminate in*

favor of HCEs. The Plan Administrator will make all determinations in connection with such issues in a uniform, nondiscriminatory manner.

**G9. Allocation Dates**

- a. Non-Elective Contributions will be allocated as of the (select one):
1.  last day of the Plan Year
  2.  last day of each pay period
  3.  last day of each Plan quarter
  4.  last day of each calendar month
  5.  other (e.g., last day of each calendar quarter): \_\_\_\_\_
- b.  If Non-Elective Contributions are not allocated on the last day of the Plan Year, any allocation conditions will be pro-rated.

**G10. 410(b) Coverage Failure**

Participants who normally would not be given an allocation of Non-Elective Contributions may be given an allocation in order to satisfy the requirements of Code section 410(b) (select one):

- a.  No. The Plan must be amended in the case of a failure under Code section 410(b).
- b.  Yes. The Code section 410(b) fail safe will be used in the case of a failure under Code section 410(b).

**G11. Non-Elective Contributions to Disabled Participants**

a. Non-Elective Contributions will be allocated to the following Participants eligible to receive a Non-Elective Contribution without regard to any allocation conditions (select one):

1.  not applicable.
2.  all Disabled Participants who are not HCEs.
3.  all Disabled Participants.

b. Disabled Participants eligible to receive a Non-Elective Contribution under this section will (select one):

1.  receive the contribution only for the Plan Year in which they became Disabled.
2.  receive the contribution for \_\_\_\_\_ Plan Years provided they remain Disabled. However Non-Elective Contributions will cease (select one):
  - A.  at the end of the Plan Year in which the Participant attains ERA.
  - B.  at the end of the Plan Year immediately preceding the Plan Year in which the Participant attains ERA.
  - C.  at the end of the Plan Year in which the Participant attains NRA.
  - D.  at the end of the Plan Year immediately preceding the Plan Year in which the Participant attains NRA.

**Measuring Credited Service**

**G12. Year of Credited Service**

The Method of Measuring a Year of Credited Service is (select one):

- a.  Not Applicable.
- b.  Hours of service method. A Year of Credited Service is \_\_\_\_\_ hours (not more than 1,000) in the Credited Service Computation Period.
- c.  Elapsed time method.

If option b is not selected, skip questions G13 and G14.

**G13. Credited Service Computation Period**

If the hours of service method is selected above, the Credited Service Computation Period will be (select one):

- a.  the Plan Year.
- b.  the 12-month period ending on the employment anniversary date.
- c.  the calendar year ending with or within the Plan Year.
- d.  the Employee's Eligibility Computation Period.

**G14. Equivalencies**

**a. Hours of Service**

If the hours of service method is selected above, when records of hours are not maintained the following equivalency will apply (*select one*).

1.  Not applicable, actual hours will be used for all Employees.
2.  Days worked (*10 hours*).
3.  Weeks worked (*45 hours*).
4.  Semi-Monthly or Bi-weekly Payroll period worked (*95 hours*).
5.  Months worked (*190 hours*).

**b. Elapsed Time**

If the elapsed time method is selected above, credited service will be measured using (*select one*).

1.  Exact date in years.
2.  Exact date in months.
3.  Calendar months with Employee granted a month of service if they work at least one Hour of Service in that month.
4.  Nearest calendar month.
5.  Completed calendar months.

**G15. Break in Credited Service**

If the hours of service method is selected above, a Break in Credited Service occurs if an Employee fails to complete \_\_\_\_\_ (*not more than 500*) Hours of Service in a Credited Service Computation Period.

*Note: If actual hours are being used and no Hours of Service are completed then a Break in Service will be defined as the lesser of 500 hours or the number of Hours of Service needed to earn a Year of Credited Service.*

**G16. Qualified Military Service**

In the case of death or Disability resulting from Qualified Military Service, the Participant will be eligible for an allocation as if they returned to employment with the Employer immediately prior to death or Disability (*select one*):

- a.  No.
- b.  Yes.

**H. Other Contributions**

**Prevailing Wage Contributions**

**H1. Designation of Contribution**

Prevailing Wage Contributions will be treated as the following contribution source (*select one*):

- a.  Non-Elective Contributions.
- b.  Qualified Non-Elective Contributions.
- c.  The determination between Non-Elective Contribution and Qualified Non-Elective Contribution will be made at the time the contribution is allocated to the Participant's Account.

**H2. Offset**

Prevailing Wage Contributions will offset the following Employer Contributions (*select one*):

- a.  Not applicable; Prevailing Wage Contributions will supplement other Employer Contributions.
- b.  the following Employer Contributions (*select all that apply*):
  1.  Non-Elective Contributions.
  2.  Other (*e.g., Qualified Non-Elective Contributions*): \_\_\_\_\_

**H3. Prevailing Wage Allocation Formula**

Prevailing Wage Contributions will be allocated to Participants' Account (*select all that apply*):

- a.  \_\_\_\_\_% of Participant's Compensation per payroll period.
- b.  \$\_\_\_\_\_ per payroll period.
- c.  pursuant to the following collective bargaining agreement: \_\_\_\_\_.
- d.  \_\_\_\_\_% of Participant's fringe benefits per payroll period.
- e.  as described in the Prevailing Wage Addendum.

f.  Other (e.g., \$.25 per Hour of Service): \_\_\_\_\_

#### Qualified Non-Elective Contributions (QNECs)

##### H4. QNECs

The Employer may always make QNECs on behalf of Participants in order to correct any testing or operational failures. In addition, the Employer may make additional discretionary QNECs (*select one*).

- a.  No.  
b.  Yes.

*Note: If option a is selected, skip questions H5 – H7.*

##### H5. Eligibility for QNECs

The following Participants will be eligible for the additional discretionary QNEC (*select one*):

- a.  all Participants.  
b.  the following Participants (*select all that apply*):  
1.  non-HCE Participants.  
2.  Participants employed on the last day of the Plan Year.  
3.  other (e.g., Participants covered under a collective bargaining agreement): \_\_\_\_\_.

##### H6. QNEC Allocation Formula

The additional discretionary QNEC will be allocated to Participants eligible for such contributions (*select one*):

- a.  in proportion to a Participant's Compensation.  
b.  as a uniform dollar amount.  
c.  other (e.g., 3% of Compensation): \_\_\_\_\_

##### H7. QNEC Limitations

The additional discretionary QNEC will be allocated to Participants eligible for such contributions (*select one*):

- a.  \_\_\_\_\_ % (no more than 25%) of eligible Plan Compensation.  
b.  \$\_\_\_\_\_ per Plan Year, but no more than 25% of eligible Plan Compensation.  
c.  other (e.g., \$1,000 per Plan Quarter, but not more than 25% of eligible Plan Compensation): \_\_\_\_\_

#### Rollovers

##### H8. Rollover Contributions

Rollover Contributions may be contributed to the Plan (*select one*):

- a.  No.  
b.  Yes (*select all that apply*):  
1.  Direct Rollover Contributions are allowed.  
2.  In-Direct Rollover Contributions are allowed.

*Note: If option a is selected, skip questions H9 – H10.*

##### H9. Rollover Contribution Eligibility

The following individuals will be permitted to make Rollover Contributions to the Plan (*select one*):

- a.  all Employees.  
b.  all Employees who do not fall into an excluded class.  
c.  all Participants who are Employees, have met eligibility requirements, and passed an entry date.  
d.  other (e.g., all Participants): \_\_\_\_\_

##### H10. Rollover Contribution Types

In addition to pre-tax assets, Rollover Contributions of the following types will be permitted (*select all that apply*):

- a.  non-Roth after-tax (*direct rollover only*).  
b.  Participant loans (*direct rollover only*).  
c.  Rollover of in-kind assets will be permitted for (*select all that apply*):

1.  Participant loans.
2.  other plans of the Employer.
3.  all Rollover Contributions.

## I. Top-Heavy and Other Testing

### Minimum Top-Heavy Allocation

#### 11. Top-Heavy Minimum Allocation

In the event the Plan is Top-Heavy, if necessary, the Employer will (*select one*):

- a.  make an additional contribution to meet the Top-Heavy Minimum Allocation requirements.
- b.  first satisfy the Top-Heavy Contribution requirements then allocate the remaining Employer Contribution.

#### 12. Top-Heavy Minimum Eligibility

The Top-Heavy Minimum allocation will not be given to (*select one*):

- a.  not applicable.
- b.  the following Participants (*select all that apply*):
  1.  Participants who are Key Employees.
  2.  Participants who are Key Employees will be eligible at the discretion of the Plan Administrator.
  3.  Participants who are covered by a collectively bargained agreement.

#### 13. Top-Heavy Minimum Allocation Formula

The Top-Heavy Minimum Allocation will be (*select one*):

- a.  The lesser of 3% or the highest percentage allocated to any Key Employee.
- b.  \_\_\_\_% (*at least 3%*).

### Multiple Plans Top-Heavy Provisions

#### 14. Top-Heavy Minimum Allocation

The Employer that maintains a qualified defined benefit plan in which any Participant in the Plan is, was, or could become a Participant adds the following optional provisions that it deems necessary to satisfy Code section 416 because of the required aggregation of multiple plans (*select one*):

- a.  Not applicable - No other plan or all other plans terminated prior to the Effective Date of this Adoption Agreement.
- b.  A minimum contribution allocation of 5% of each eligible Non-Key Employee's total Compensation shall be provided in a defined contribution plan of the Employer.
- c.  A minimum benefit of the lesser of 2% times Years of Service or 20% of each eligible Non-Key Employee's Average Compensation shall be provided in a defined benefit plan of the Employer.
- d.  A minimum benefit of the lesser of 2% times Years of Service or 20% of each eligible Non-Key Employee's Average Compensation shall be provided in a defined benefit plan of the Employer but offset by the amount contributed on such eligible Non-Key Employee's behalf under any defined contribution plan of the Employer.
- e.  other (e.g., 6% of each eligible Non-Key Employee's total Compensation shall be provided in a defined contribution plan of the Employer): \_\_\_\_\_

*Note: If option a is selected skip question 15.*

#### 15. Top-Heavy Assumptions

The interest rate and mortality table used to establish the present value of accrued benefits in order to calculate the Top-Heavy Ratio under Code section 416 will be (*select one*):

- a.  same as the following defined benefit plan: \_\_\_\_\_.
- b.  other assumptions.  
Interest Rate: \_\_\_\_%  
Mortality table: \_\_\_\_\_

#### 16. Top-Heavy Duplications

If Employer maintains two or more defined contribution plans, the Employer has determined that a



Minimum Top-Heavy Allocation will be provided as follows (*select one*):

- a.  Not applicable - No other plan or other plan terminated prior to the Effective Date of this Adoption Agreement.
- b.  A minimum contribution of \_\_\_\_ % of each Non-Key Participant's Compensation shall be provided by:
  - 1.  this Plan.
  - 2.  The following defined contribution plan: \_\_\_\_\_.
  - 3.  Employees who will receive the minimum contribution under such other plan: \_\_\_\_\_.

*Note: Satisfying the Minimum Top-Heavy Allocation in another plan for some but not all of the Participants may cause the Plan to fail to satisfy the uniformity requirement of Treasury Regulations section 1.401(a)(4)-2(b)(2)(ii) for plans using a design-based safe harbor, even though all other requirements of the safe harbor are met.*

## J. Vesting and Forfeitures

All Voluntary After-Tax Contributions, Prevailing Wage Contributions, Traditional Safe Harbor ADP Contributions and QNECs will be 100% vested and nonforfeitable at all times.

### Vesting Schedules

#### J1. Non-Elective Contribution Vesting Schedule

A Participant's Non-Elective Contributions will vest according to the following schedule (*select one*):

- a.  100% immediate vesting.
- b.  6-year tiered vesting schedule.
- c.  100% vested after \_\_\_\_ (*no more than 3*) Years of Vesting Service.
- d.  another vesting schedule.
  - 1. \_\_\_\_ % at less than 1 Year of Vesting Service.
  - 2. \_\_\_\_ % at more than 1 but less than 2 Years of Vesting Service.
  - 3. \_\_\_\_ % at more than 2 but less than 3 Years of Vesting Service.
  - 4. \_\_\_\_ % at more than 3 but less than 4 Years of Vesting Service.
  - 5. \_\_\_\_ % at more than 4 but less than 5 Years of Vesting Service.
  - 6. \_\_\_\_ % at more than 5 but less than 6 Years of Vesting Service.
  - 7. 100% at more than 6 Years of Vesting Service.

*Note: Option a must be selected if the service requirement for Non-Elective Contributions specified in C3 is greater than 1 Year of Eligibility Service or 12 months of Eligibility Service.*

*Note: If option d is chosen and d4 is not 100%, d3 cannot be less than 20%, d4 cannot be less than 40%, d5 cannot be less than 60%, and d6 cannot be less than 80%.*

#### J2. Top-Heavy Contribution Vesting Schedule

Participant's Top-Heavy Contributions will vest according to the following schedule (*select one*):

- a.  not applicable.
- b.  100% immediate vesting.
- c.  6-year tiered vesting schedule.
- d.  100% vested after \_\_\_\_ (*no more than 3*) Years of Vesting Service.
- e.  another vesting schedule.
  - 1. \_\_\_\_ % at less than 1 Year of Vesting Service.
  - 2. \_\_\_\_ % at more than 1 but less than 2 Years of Vesting Service.
  - 3. \_\_\_\_ % at more than 2 but less than 3 Years of Vesting Service.
  - 4. \_\_\_\_ % at more than 3 but less than 4 Years of Vesting Service.
  - 5. \_\_\_\_ % at more than 4 but less than 5 Years of Vesting Service.
  - 6. \_\_\_\_ % at more than 5 but less than 6 Years of Vesting Service.
  - 7. 100% at more than 6 Years of Vesting Service.

*Note: If option e is chosen and e4 is not 100%, e3 cannot be less than 20%, e4 cannot be less than 40%, e5 cannot be less than 60%, and e6 cannot be less than 80%.*

#### J3. Accelerated Vesting

A Participant will become 100% vested in all their accounts if they are still employed when they (*select all that apply*):

- a.  reach ERA.
- b.  die.
- c.  become Disabled.
- d.  other (e.g., terminated from service due to closing of factory):  
\_\_\_\_\_.

**Measuring Vesting Service**

**J4. Year of Vesting Service**

The Method of Measuring a Year of Vesting Service is (select one):

- a.  Not Applicable.
- b.  Hours of service method. A Year of Vesting Service is 1000 hours (not more than 1,000) in the Vesting Service Computation Period.
- c.  Elapsed time method.

**J5. Vesting Service Computation Period**

If the hours of service method is selected above, the Vesting Service Computation Period will be (select one):

- a.  the Plan Year.
- b.  the 12-month period ending on the employment anniversary date.
- c.  the calendar year ending with or within the Plan Year.
- d.  the Employee's Eligibility Computation Period.

**J6. Equivalencies**

**a. Hours of Service**

If the hours of service method is selected above, when records of hours are not maintained the following equivalency will apply (select one).

- 1.  Not applicable, actual hours will be used for all Employees.
- 2.  Days worked (10 hours).
- 3.  Weeks worked (45 hours).
- 4.  Semi-Monthly or Bi-weekly Payroll period worked (95 hours).
- 5.  Months worked (190 hours).

**b. Elapsed Time**

If the elapsed time method is selected above, credited service will be measured using (select one).

- 1.  Exact date in years.
- 2.  Exact date in months.
- 3.  Calendar months with Employee granted a month of service if they work at least one Hour of Service in that month.
- 4.  Nearest calendar month.
- 5.  Completed calendar months.

**J7. Break in Vesting Service**

If the hours of service method is selected above, a Break in Vesting Service occurs if an Employee fails to complete 500 (not more than 500) Hours of Service in a Vesting Service Computation Period.

*Note: If actual hours are being used and a no Hours of Service are completed then a Break in Service will be defined as the lesser of 500 hours or the number of Hours of Service needed to earn a Year of Vesting Service.*

**J8. Exclusions from Years of Vesting Service**

The following Years of Vesting Service will be excluded when determining a Participant's Vesting Account Balance (select one):

- a.  all Years of Vesting Service are counted.
- b.  the following years will be excluded (select all that apply):
  - 1.  years before the Participant attains age 18.
  - 2.  years before the Plan's Original Effective Date.
  - 3.  years before a predecessor plan's original effective date. The predecessor plan's original effective date is \_\_\_/\_\_\_/\_\_\_.

**J9. Vesting for Disabled Participants**

A Disabled Participant will continue to earn Vesting Service as though they were still employed  
(select one):

- a.  No.
- b.  Yes.

**J10. Reemployment**

If a Participant has been rehired their Years of Vesting Service will be calculated using the following rules (select one):

- a.  not applicable.
- b.  5 one-year break in service rule.
- c.  one-year hold out rule.
- d.  all Years of Vesting Service are included for pre-break in vesting service Account balances.

**Forfeitures**

**J11. Use of Forfeitures**

Forfeitures may be used to (select one):

- a.  offset Employer Contributions at the Plan Administrator's discretion in a nondiscriminatory and uniform manner.
- b.  provide a supplemental Employer Contributions at the Plan Administrator's discretion in a nondiscriminatory and uniform manner.

*Note: Forfeitures may always be used to reduce administrative expense of the Plan or to restore forfeited account balances of rehired Employees.*

*Note: If option a is selected skip question J12 and J13.*

**J12. Forfeiture Eligibility Requirements**

If Forfeitures will be used to supplement Employer Contributions (select one):

- a.  Participants eligible to receive an allocation of the respective type of contribution
- b.  All Participants
- c.  Participant who are employed on the date the Forfeitures are determined
- d.  Participant who are employed on the date the Forfeitures are allocated
- e.  Other: (e.g. Participants who are employed on the last day of the Plan Year):

---

**J13. Forfeiture Allocation Method**

If Forfeitures will be used to supplement Employer Contributions (select one):

- a.  In the same manner as the respective Employer Contribution for the Plan Year
- b.  pro-rata for the Plan Year
- c.  pro-rata for the Compensation Computation Period
- d.  Other: (e.g., following the Non-Elective Allocation Formula).

---

**J14. Forfeiture Determination Period**

Forfeitures will be determined (select one):

- a.  during the Plan Year.
- b.  since the prior Valuation Date.
- c.  since the prior allocation date.
- d.  other (e.g., for the period before the prior Valuation Date): \_\_\_\_\_

*Note: The "Other" forfeiture determination period must be objectively determinable, may not be specified in a manner that is subject to Plan Administrator discretion, and may not discriminate in favor of HCEs. The Plan Administrator will make all determinations in connection with such issues in a uniform, nondiscriminatory manner.*

**J15. Forfeiture Allocation Date**

Forfeitures will be allocated on (select all that apply):

- a.  each allocation date for Non-Elective Contributions
- b.  each Valuation Date

c.  other (e.g., each Anniversary Date): \_\_\_\_\_

*Note: The "Other" forfeiture allocation date must be objectively determinable, may not be specified in a manner that is subject to Plan Administrator discretion, and may not discriminate in favor of HCEs. The Plan Administrator will make all determinations in connection with such issues in a uniform, nondiscriminatory manner.*

**J16. Deemed Forfeiture Date**

The non-vested portion of Participant's Account Balance will be deemed distributed and forfeited as of (select one):

- a.  the Participant's date of termination.
- b.  the last day of the Plan Year that contains the Participant's date of termination.
- c.  the last day of the Plan Year that contains the Participant's fifth consecutive break in service.
- d.  other (e.g., the Valuation Date next following the Participant's date of termination): Date of Distribution

*Note: The "Other" deemed forfeiture date must be objectively determinable, may not be specified in a manner that is subject to Plan Administrator discretion, and may not discriminate in favor of HCEs. The Plan Administrator will make all determinations in connection with such issues in a uniform, nondiscriminatory manner.*

**K. Distributions**

**REA Requirements**

**K1. REA Safe Harbor**

The Plan meets the requirements to be exempt from the QJSA and spousal consent rules of REA (select one).

- a.  No.
- b.  Yes, REA will apply only to assets merged in from plans subject to the REA requirements.
- c.  Yes.

**K2. Qualified Joint and Survivor Annuity (QJSA)**

If the Plan does not meet the requirement to be a REA safe harbor plan, the Qualified Joint and Survivor Annuity percentage is (select one).

- a.  not applicable.
- b.  \_\_\_\_% (no less than 50 and no more than 100).

*Note: In addition to the percentage provided for the Qualified Joint and Survivor Annuity, a Participant must be permitted to elect an optional form of annuity. If the selected Qualified Joint and Survivor Annuity percentage is less than 75%, the Qualified Optional Survivor Annuity will be 75%. If the selected percentage is 75% or more, the Qualified Optional Survivor Annuity will be 50%.*

**Forms of Distribution**

**K3. Available Forms of Distributions**

Participants eligible to take a distribution can take the distribution in the following format(s) (select all that apply):

- a.  lump sum distributions with the following limitations (e.g., not to exceed \$10,000): \_\_\_\_\_
- b.  partial, non-periodic distributions with the following limitations (e.g., each distribution must be at least \$200): \_\_\_\_\_
- c.  installment payments with the following limitations (e.g., each distribution must be at least \$200): \_\_\_\_\_
- d.  Annuities with the following limitations (e.g., each distribution must be at least \$200): \_\_\_\_\_

*Note: If a distribution form is selected and no limitation is completed, no further limitation will apply.*

**K4. Minimum Distribution Amount**

- a.  The Plan will provide the lesser of the account balance or \$ \_\_\_\_\_ (amount cannot exceed \$100) to a Participant with no vested balance.

**K5. Distribution due to Disability**

A distributable event due to Disability occurs (*select all that apply*):

- a.  Termination Date. (*Distributable event occurs upon the Participant's termination of employment.*)
- b.  The Participant's actual date of Disability, as determined by the Plan Administrator.
- c.  \_\_\_ months after the Participant's actual date of Disability, as determined by the Plan Administrator.
- d.  The date the Plan Administrator determines the Participant to be Disabled.

**K6. Distribution Determination Date**

For distribution purposes due to a distributable event, the value of a Participant's vested account balance shall be determined as of (*select one for each applicable event*):

	Termination for Reasons Other Than Death, Disability, or Retirement	Death, Disability, or Retirement	Voluntary After-Tax and Rollover Accounts
a. The last day of the Plan Year coinciding with or next following the date of the distributable event.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. The Valuation Date coinciding with or next following the date of the distributable event.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. The Valuation Date coinciding with or immediately preceding the date of the distributable event.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. As soon as administratively feasible following the date of the distributable event, based on the preceding Valuation Date.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
e. The Valuation Date preceding the Participant's Normal or Early Retirement Date.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. Other:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Specify the other determination date (*e.g. last day of the Plan Year*).

- 1. Termination for Other Reasons: \_\_\_\_\_.
- 2. Death, Disability, or Retirement: \_\_\_\_\_.
- 3. Elective Deferrals, etc.: \_\_\_\_\_.

**K7. Time of Distribution**

For distributions other than mandatory cash out distributions, the distribution shall be made as indicated below:

- a. Distributions at termination for reasons other than death, Disability, or retirement will be (*select one*):
  - 1.  made within a reasonable period following the Distribution Determination Date.
  - 2.  made within a reasonable period following the Anniversary Date.
  - 3.  Deferred until the Participant's Normal or Early Retirement Date.
- b. Distributions to Participants who have a distributable event due to death, Disability, or retirement will be (*select one*):
  - 1.  made within a reasonable period following the Distribution Determination Date.
  - 2.  made within a reasonable period following the Anniversary Date.
- c. Distributions of Voluntary After-Tax and Rollover Accounts will be (*select one*):
  - 1.  made within a reasonable period following the Distribution Determination Date.
  - 2.  made within a reasonable period following the Anniversary Date.

**K8. Minimum Distribution for Rollovers**

In order to be considered an Eligible Rollover Distribution, the total distribution must be at least (*select one*):

- a.  No limit
- b.  \$200.
- c.  \$ \_\_\_\_\_ (amount cannot exceed \$200)

**In-Service Distributions**

**K9. In-Service Distributions**

In-Service Distributions are available under the Plan (select one):

- a.  No.
- b.  Yes.

Note: If option a is selected, skip questions K10 – K13.

**K10. In-Service Distribution Event**

In-Service Distributions will be permitted from the following Accounts upon reaching the specified event (select one):

	Age 59½	NRA	ERA	Disability	Other Age	Specify age
a. All Sources	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
b. the following sources (select all that apply):	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
1. Non-Elective Contributions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
2. QNECs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
3. Rollover Contributions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
4. Transfer Contributions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
5. Voluntary After-Tax Contributions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
6. Other (e.g. Money Purchase Contributions)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____

Note: Regardless of what is selected above, In-Service Distributions from QNECs cannot take place before the Participant has reached age 59 ½ or incurred a disability under Code section 22(e).

Note: Participants will be eligible for an In-Service Distribution upon meeting one or more of the requirements selected above.

**K11. Other In-Service Distribution Events**

In-Service Distribution will be permitted from the Non-Elective Account for the specified reason (select all that apply):

- a.  Amounts have been allocated for \_\_\_\_\_ years. (Must be at least 2.)
- b.  Require participation for at least \_\_\_\_\_ years. (Must be at least 5.)
- c.  Amounts have been allocated for \_\_\_\_\_ years (Must be at least 2.) AND require participation for at least \_\_\_\_\_ years. (Must be at least 5.)
- d.  Amounts have been allocated for \_\_\_\_\_ years (Must be at least 2.) OR require participation for at least \_\_\_\_\_ years. (Must be at least 5.)

Note: Participants will be eligible for an In-Service Distribution upon meeting one or more of the requirements selected above. These events are independent of the events selected in K10 above.

**K12. In-Service Distributions at Any-Time**

In-Service Distributions are permitted under the Plan at any-time for the following sources (select all that apply):

- a.  Rollover Contributions.
- b.  Voluntary After-Tax Contributions.

**K13. In-Service Distributions Limitations**

All In-Service Distributions will be limited by the following (select one):

- a.  No limitations.
- b.  The following limitations (select all that apply):
  - 1.  Participant must be 100% vested in all Plan Accounts.
  - 2.  Participant may request \_\_\_\_\_ In-Service Distributions during each Plan Year.
  - 3.  each In-Service Distribution must be at least the lesser of \$ \_\_\_\_\_ (no greater than \$1,000) or the total value of the vested account balances eligible for an In-Service Distribution.

4.  other (e.g., five distributions in total): \_\_\_\_\_.

Note: One request, regardless of the number of Accounts from which the distribution is to be taken, is considered a single In-Service Distribution.

### Hardship Distributions

#### K14. Hardship Distributions

Hardship Distributions will be permitted from the following Accounts for the following reasons (the safe harbor hardship reasons is defined under Plan Section 2.5.10) (select one):

	Safe Harbor Hardship Definition	Non-Safe Harbor Hardship Definition
a. <input checked="" type="checkbox"/> None		
b. <input type="checkbox"/> All Accounts Listed Below	<input type="checkbox"/>	<input type="checkbox"/>
c. <input type="checkbox"/> The following Accounts (select all that apply):	<input type="checkbox"/>	<input type="checkbox"/>
1. <input type="checkbox"/> Non-Elective Contributions	<input type="checkbox"/>	<input type="checkbox"/>
2. <input type="checkbox"/> Rollover Contributions	<input type="checkbox"/>	<input type="checkbox"/>
3. <input type="checkbox"/> Transfer Contributions	<input type="checkbox"/>	<input type="checkbox"/>
4. <input type="checkbox"/> Voluntary After-Tax Contributions	<input type="checkbox"/>	<input type="checkbox"/>
5. <input type="checkbox"/> Other (e.g., Top-Heavy Contributions): _____	<input type="checkbox"/>	<input type="checkbox"/>

Note: If option a is selected, skip questions K15 – K16.

#### K15. Non-Safe Harbor Hardship Distributions

If Hardship Distributions are allowed for a non-safe harbor hardship definition, the definition will be (select one):

- a.  A hardship will be defined as immediate and heavy financial need where the Participant lacks other available resources. The determination will be made by the Plan Administrator in a uniform and non-discriminatory manner.
- b.  Other (e.g., medical expenses): \_\_\_\_\_

#### K16. Limitations on Hardship Distributions

Hardship Distributions will be limited by the following (select one):

- a.  no limitations.
- b.  the following limitations (select all that apply):
- a Participant can receive no more than \_\_\_\_\_ Hardship Distributions in each Plan Year.
  - each Hardship Distribution must be at least \$\_\_\_\_ or 100% of the Participant's Account Balance available for Hardship Distributions, if less.
  - other (e.g., must take any available loan from the Plan): \_\_\_\_\_.

### Other Distribution Provisions

#### K17. Distributions due to Qualified Military Service

Participants performing Qualified Military Service will be permitted to take the following distributions (select one):

- a.  None.
- b.  Yes, the following distributions are permitted (select all that apply).
- Deemed Severance Distributions.
  - Qualified Reservist Distributions.

#### K18. Qualified Domestic Relations Orders

Distributions to an Alternate Payee are permitted while the Participant continues to be employed on or after the date a Domestic Relations Order is determined to be a Qualified Domestic Relations Order by the Plan Administrator (select one):

- a.  No.
- b.

- Yes.

**K19. Non-REA Safe Harbor Assets**

Distributions of Account Balances transferred from a Money Purchase Pension Plan, Target Benefit Plan or defined benefit plan can be distributed upon (*select one*):

- a.  Not applicable.  
b.  attainment of age 62.  
c.  other (*e.g., age 62 and 100% vested*): \_\_\_\_\_ (cannot be earlier than age 62).

**Required Minimum Distributions**

**K20. Required Beginning Date**

The Required Beginning Date for Participants who are not a 5% Owner will be (*select one*):

- a.  April 1st of the calendar year following the calendar year in which the Participant attains age 70½.  
b.  the later of April 1st of the calendar year following the calendar year in which the Participant attains age 70½, or April 1st of the calendar year following the calendar year in which the Participant retires.  
c.  the Participant has the ability to choose between (1) April 1st of the calendar year following the calendar year in which the Participant attains age 70½ or, (2) if later the April 1st of the calendar year following the calendar year in which the Participant retires.

**K21. Distributions to Beneficiaries**

Beneficiaries of deceased Participants (*select one*):

- a.  may not elect to apply the 5-year rule.  
b.  may elect to apply the 5-year rule.

**Mandatory Cash-Out and Automatic Direct Rollover**

**K22. Mandatory Cash-Out Threshold**

The Mandatory Cash Out threshold is (*select one*):

- a.  no Mandatory Cash Out.  
b.  \$ 1000.

*Note: If option a is selected, skip questions K23 – K25.*

**K23. Mandatory Cash Out Timing**

The Mandatory Cash Out will occur \_\_\_\_\_ following the Participant's termination from service (*select all that apply*).

- a.  as soon as administratively feasible  
b.  as soon as administratively feasible after the next Valuation Date  
c.  as soon as administratively feasible after the last day of the Plan Year

**K24. Rollover Contributions Included in Mandatory Cash Out**

Rollover Contributions will be included when determining if the Mandatory Cash Out threshold has been exceeded (*select one*):

- a.  No.  
b.  Yes.

**K25. Automatic Rollover**

If a Mandatory Cash-Out distribution takes place (*select one*).

- a.  All Mandatory Cash-Out Distributions will be paid directly to the Participant or Beneficiary.  
b.  Mandatory Cash-Out Distributions not in excess of \$ \_\_\_\_\_ (*cannot exceed \$1,000*) will be paid directly to the Participant or Beneficiary. Mandatory Cash-Out Distributions in excess of the specified amount will be directly rolled over into an IRA.  
c.  All Mandatory Cash-Out Distributions will be directly rolled over into an IRA.

*Note: In order to select option a, the Mandatory Cash-Out Level must be \$1,000 or less and Rollover Accounts must be included in determining the Mandatory Cash-Out Level.*

**L. Administrative Provisions**



## Loans

### L1. Loans

Participants will be permitted to take loans from their Account balance (*select one*):

- a.  No.
- b.  Yes.

## Earnings

### L2. Designation of Contribution

If the Plan does not value Accounts on a daily basis, for Participants who receive distributions on any date other than a Valuation Date, earnings will be (*select one*):

- a.  not applicable.
- b.  credited solely as of the immediately preceding Valuation Date.
- c.  the actual earnings on the date of distribution.

### L3. Earnings on Forfeiture Accounts

Forfeiture Account holding the Plan's aggregate Forfeitures be subject to Trust earnings (*select one*):

- a.  No.
- b.  Yes.

## Investments

### L4. Participant Direction

Participants may direct the investment of their following Accounts (*select one*):

- a.  None
- b.  All Accounts
- c.  The following Accounts (*select all that apply*):
  - 1.  Non-Elective Contributions
  - 2.  QNECs
  - 3.  Rollover Contributions
  - 4.  Transfer Contributions
  - 5.  Voluntary After-Tax Contributions
  - 6.  Other (e.g., *Top-Heavy Contributions*): \_\_\_\_\_.

*Note: If option a is selected skip questions L5 – L6.*

### L5. Limitations on Participant Direction

Participant direction of investments will be limited by the following (*select one*):

- a.  no limitations.
- b.  the following limitations (*select all that apply*):
  - 1.  must be 100% vested in directed Accounts.
  - 2.  other (e.g., *XXXXXX*): \_\_\_\_\_

### L6. 404(c)

The Plan intends to comply with ERISA section 404(c) (*select one*):

- a.  No.
- b.  Yes.

### L7. Life Insurance

Life Insurance Policies may be purchased to provide incidental insurance benefits (*select one*):

- a.  No.
- b.  Yes.

**M. Authorizations and Signatures**

The name, address and telephone number of the Document Sponsor which is also the document provider, is:

**Document Sponsor and Document Provider**

Siegel Actuarial Consulting, Inc.  
420 Commonwealth Drive, Suite 101  
Warrendale, PA 15086  
(724) 934-4780

This Plan must be registered with the Document Sponsor within 60 days of adoption of this document, and the Document Serial Number assigned by the Document Sponsor shall be affixed to this signature page. The adopting Employer must notify the Document Sponsor if the Plan is terminated, merged, or of any changes in the name, address, or EIN of the adopting employer at least annually, and within 30 days of any request of the Document Sponsor. If the adopting Employer terminates its relationship with the Document Sponsor, its Plan will no longer be considered a pre-approved plan sponsored by the Document Sponsor.

Unregistered use of this document will result in the Plan no longer participating in this pre-approved plan, and the document will be considered an individually designed plan, without reliance on the opinion letter of the Document Sponsor, which could result in the disqualification of the Plan.

If the Employer's Plan fails to attain or retain qualification, such Plan will no longer participate in this pre-approved plan and will be considered an individually designed plan.

The Document Sponsor will inform the Employer of any amendments made to the Plan or of the discontinuance or abandonment of the Plan.

The adopting Employer may rely on an opinion letter issued by the Internal Revenue Service as evidence that the Plan is qualified under Code section 401 except to the extent provided in Revenue Procedure 2011-49.

The Employer may not rely on the opinion letter in certain other circumstances or with respect to certain qualification requirements that are specified in the opinion letter issued with respect to the Plan and in Revenue Procedure 2011-49.

In order to have reliance in such circumstances or with respect to such qualification requirements, application for a determination letter must be made to Employee Plans Determinations of the Internal Revenue Service.

This Adoption Agreement may be used only in conjunction with Basic Plan Document #20 (the Siegel Actuarial Consulting, Inc. Pre-Approved Defined Contribution Plan) Revised 06/30/2020.

\* \* \*

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

**Employer:**  
Ark Tex Urban Transit, Inc.

\_\_\_\_\_  
Officer of Employer

Plan Serial Number: \_\_\_\_\_

---

**SIEGEL ACTUARIAL CONSULTING, INC.  
TRUST AGREEMENT  
DEFINED CONTRIBUTION PRE-APPROVED PLAN  
BASE PLAN DOCUMENT #20**

---

**SIEGEL ACTUARIAL CONSULTING, INC.  
TRUST AGREEMENT  
DEFINED CONTRIBUTION PRE-APPROVED PLAN  
BASE PLAN DOCUMENT #20**

<b>ARTICLE I - INTRODUCTION</b>	<b>1</b>
1.1 Creation and Title.	1
1.2 Subject to the Requirements of the Plan.	1
1.3 Effective Date.	1
1.4 Purpose.	1
1.5 Plan Administration.	1
<b>ARTICLE II - TRUSTEE</b>	<b>2</b>
2.1 Acceptance of Trust.	2
2.2 Trustee Capacity - Co-Trustees.	2
2.3 Resignation, Removal, and Successors.	2
2.4 Consultations.	2
2.5 Rights, Powers, and Duties.	2
2.6 Right of Trustee to Contributions.	4
2.7 Trustee Indemnification.	5
2.8 Changes in Trustee Authority.	5
2.9 Right to Compensation.	5
<b>ARTICLE III - FIDUCIARY DUTIES</b>	<b>6</b>
3.1 Standard of Conduct.	6
3.2 Individual Fiduciaries.	6
3.3 Incorporation of Plan Provisions Regarding Fiduciaries.	6
<b>ARTICLE IV - TRUST ASSETS</b>	<b>7</b>
4.1 Trustee Is Exclusive Owner.	7
4.2 Investments.	7
4.3 Administration of Trust Assets.	8
4.4 Segregated Funds.	9
4.5 Investment Control Option.	9
<b>ARTICLE V - AMENDMENT AND TERMINATION</b>	<b>11</b>
5.1 Amendments.	11
5.2 Manner of Amending.	11
5.3 Limitations On Amendments.	11
5.4 Trustee Powers Pending Final Distribution.	11
5.5 Delegation to Sponsor.	11
<b>ARTICLE VI - MISCELLANEOUS</b>	<b>12</b>
6.1 No Reversion to Employer.	12
6.2 Persons Dealing With Trustee Protected.	12
6.3 Notices.	12
6.4 Governing Law.	12
6.5 Severability of Provisions.	12

<b>6.6 Gender and Number.</b>	<b>12</b>
<b>6.7 Qualification Under Internal Revenue Laws.</b>	<b>12</b>

## ARTICLE I

### INTRODUCTION

**1.1 Creation and Title.** The Employer and the undersigned Trustee(s) hereby create a Trust to be used with the Plan Ark Tex Urban Transit, Inc. Retirement Plan (the "Trust"). All terms used herein have the same meaning as described in the Siegel Actuarial Consulting, Inc. Defined Contribution Pre-Approved Base Plan Document #20.

**1.2 Subject to the Requirements of the Plan.** All Plan provisions are hereby incorporated by reference and apply to the Trustee in the same manner as if they were stated in this Trust Agreement. This Trust is subject to the terms of the Plan, and the Plan shall control in the event of any conflict between the Plan document and this Agreement.

**1.3 Effective Date.** The provisions of this Trust shall be effective as of the Effective Date specified in the most recent Adoption Agreement unless modified herein.

**1.4 Purpose.** The Plan and this Trust are established to provide retirement benefits to Eligible Employees in accordance with the Plan and the Adoption Agreement.

**1.5 Plan Administration.** The Plan is administered by the Plan Administrator. The Trustee shall act according to the Plan Administrator's directions unless such directions are inconsistent with the terms of the Plan or applicable law.

## ARTICLE II

### TRUSTEE

**2.1 Acceptance of Trust.** The Trustee, by the execution of this Trust Agreement, agrees to act in accordance with the express terms and conditions hereof and the Plan.

#### **2.2 Trustee Capacity - Co-Trustees.**

- (a) The Trustee may be a bank, trust company, or other corporation possessing trust powers under applicable state or federal law or one or more individuals or any combination thereof.
- (b) The term "Trustee" as used herein also includes any person holding the assets of a custodial account, an annuity contract, or other contract that is treated as a qualified trust pursuant to Code section 401(f), and references to the Trust Fund shall be construed to apply to such custodial account, annuity contract, or other contract.
- (c) At any time that a group of individuals is acting as Trustee, the number of such persons who shall act in such capacity from time to time shall be determined by the Employer. The Employer shall appoint such persons, who may or may not be Participants or Employees of the Employer. When there are two or more Trustees, they may allocate specific responsibilities, obligations, or duties among themselves by their written agreement. An executed copy of such written agreement shall be delivered to, and retained by, the Plan Administrator. Unless otherwise elected by the Employer in the Adoption Agreement, any action taken by the Trustees shall be taken at the direction of a majority of such Trustees, or, if the number of such Trustees is two, by unanimous consent.

**2.3 Resignation, Removal, and Successors.** Any Trustee may resign at any time by delivering to the Employer a written notice of resignation to take effect at a date specified therein, which shall not be less than thirty days after the delivery thereof; the Employer may waive such notice. The Trustee may be removed by the Employer with or without cause, by tendering to the Trustee a written notice of removal to take effect at a date specified therein.

Upon such removal or resignation of a Trustee, the Employer shall either appoint a successor Trustee who shall have the same powers and duties as those conferred upon the resigning or discharged Trustee, or, if a group of individuals is acting as Trustee, determine that a successor shall not be appointed, and the number of Trustees shall be reduced by one.

In the event that a removal, resignation or incapacity of a Trustee results in no remaining Trustees and the Employer will not, or cannot, appoint a successor Trustee in a timely manner, a majority of the Participants in the Plan will have the authority, but not an obligation, to appoint a successor Trustee.

**2.4 Consultations.** The Trustee shall be entitled to advice of counsel, which may be counsel for the Plan or the Employer, in any case in which the Trustee shall deem such advice necessary. The Trustee shall not be liable for any action taken or omitted in good faith reliance upon the advice of such counsel.

With the exception of those powers and duties specifically allocated to the Trustee by the express terms of the Plan, it shall not be the responsibility of the Trustee to interpret the terms of the Plan, and the Trustee may request, and is entitled to receive, guidance and written direction from the Plan Administrator on any point requiring construction or interpretation of the Plan documents.

The Trustee shall be entitled to rely and act on the information provided by the Employer and/or Plan Administrator and shall have no duty or responsibility to further verify or question such provided information.

**2.5 Rights, Powers, and Duties.** The rights, powers, and duties of the Trustee are:

- (a)** The Trustee shall have exclusive authority, discretion, and responsibility for the management and control of the assets of the Trust Fund in accordance with the provisions of the Plan and any amendments thereto, but the Employer may limit the exclusive authority, discretion, and responsibility of the Trustee by written direction delivered to the Trustee. The duties of the Trustee under the Plan shall be determined solely by the express provisions hereof, and no other further duties or responsibilities shall be implied. Subject to the terms of the Plan, the Trustee shall be fully protected and shall incur no liability in acting in reliance upon the written instructions or directions of the Employer, the Plan Administrator, a duly designated investment manager, or any other named Fiduciary.
- (b)** The Trustee shall have all powers necessary or convenient for the orderly and efficient performance of its duties hereunder, including but not limited to those specified in this Section. The Trustee shall have the power generally to do all acts, whether or not expressly authorized, that the Trustee in the exercise of its fiduciary responsibility may deem necessary or desirable for the protection of the Trust Fund and the assets thereof.
- (c)** The Trustee shall have the power to collect and receive any and all moneys and other property due the Plan and to give full discharge and release therefor; to settle, compromise, or submit to arbitration any claims, debts, or damages due to or owing to or from the Trust Fund; to commence or defend suits or legal proceedings whenever, in the Trustee's judgment, any interest of the Trust Fund requires it; and to represent the Trust Fund in all suits or legal proceedings in any court of law or equity or before any other body or tribunal. Claims that are not subject to arbitration are ERISA claims, claims involving participants and claims that affect the qualification of the Plan.
- (d)** The Trustee shall cause any Life Insurance Policies or assets of the Trust Fund to be registered in its name as Trustee and shall be authorized to exercise any and all ownership rights regarding these assets, subject to the terms of the Plan.

  - (i)** The requirements of paragraph (d) of this Section will not fail to be satisfied merely because securities of a plan are held in the name of a nominee or in street name, provided such securities are held on behalf of the Plan by:

    - (A)** A bank or trust company that is subject to supervision by the United States or a State, or a nominee of such bank or trust company;
    - (B)** A broker or dealer registered under the Securities Exchange Act of 1934, or a nominee of such broker or dealer; or
    - (C)** A "clearing agency," as defined in section 3(a)(23) of the Securities Exchange Act of 1934, or its nominee.
  - (ii)** Where a corporation described in section 501(c)(2) of the Internal Revenue Code holds property on behalf of the Plan, the requirements of paragraph (d) of this Section are satisfied with respect to such property if all the stock of such corporation is held in trust on behalf of the Plan by one or more trustees.
  - (iii)** If the assets of an entity in which the Plan invests include Plan assets by reason of the Plan's investment in the entity, the requirements of paragraph (d) of this Section are satisfied with respect to such investment if the indicia of ownership of the Plan's interest in the entity are held in trust on behalf of the Plan by one or more trustees.
- (e)** The Trustee may temporarily hold cash balances and shall be entitled to deposit any funds received in a bank account in the name of the Trust Fund in any bank selected by the Trustee, including the banking department of a corporate Trustee, if any, pending disposition of such funds in accordance with the Plan. Any such deposit may be made with or without interest.
- (f)** The Trustee shall pay the premiums and other charges due and payable at any time on any Life Insurance Policies as the Plan Administrator may direct, provided funds for such payments are then available in the Trust. The Trustee shall be responsible only for such funds and Life Insurance Policies



that it actually receives as Trustee and shall have no obligation to make payments other than from such funds and cash values of Life Insurance Policies.

- (g) If the whole or any part of the Trust Fund shall become liable for the payment of any estate, inheritance, income, or other tax that the Trustee shall be required to pay, the Trustee shall have full power and authority to pay such tax out of any moneys or other property in its possession for the Account of the person whose Plan interest is so liable. Prior to making any payment, the Trustee may require such releases or other documents from any lawful taxing authority as it shall deem necessary. The Trustee shall not be liable for any nonpayment of tax when it distributes an interest hereunder on instructions from the Plan Administrator.
- (h) The Trustee shall keep a full, accurate, and detailed record of all transactions of the Trust, which the Employer and the Plan Administrator shall have the right to examine at any time during the Trustee's regular business hours. As of the close of each Plan Year, the Trustee shall furnish the Plan Administrator with a statement of account setting forth all receipts, disbursements, and other transactions effected by the Trustee during the year. The Plan Administrator shall promptly notify the Trustee in writing of his approval or disapproval of the statement of account.

The Plan Administrator's failure to provide written disapproval of the statement within sixty (60) days after receipt shall be considered an approval. Except as otherwise required by law, the Plan Administrator's approval shall be binding on all matters embraced in any statement to the same extent as if the statement of the Trustee had been settled by judgment or decree of a court of competent jurisdiction under which the Trustee, Employer, and all persons having or claiming any interest in the Trust Fund were parties; provided, however, that the Trustee may have its account judicially settled if it so desires.

- (i) The Trustee is hereby authorized to execute all necessary receipts and releases to any parties concerned; and shall be under a duty, upon being advised by the Plan Administrator that the proceeds of any Life Insurance Policies are payable, to give reasonable assistance to the Beneficiary designated therein to collect such sums as may appear to be due and upon payment, transfer such sums to the Beneficiary.
- (j) If, at any time, as the result of the death of the Participant, there is a dispute regarding the person to whom payment or delivery of moneys or property should be made by the Trustee, or regarding any action to be taken by the Trustee, the Trustee may postpone such payment, delivery, or action, retaining the funds or property involved, until such dispute shall have been resolved in a court of competent jurisdiction, the Trustee shall have been indemnified to its satisfaction, or it has received written direction from the Plan Administrator.
- (k) Anything in this instrument to the contrary notwithstanding, the Trustee shall have no duty or responsibility with respect to the determination of matters pertaining to the eligibility of any Employee to become or remain a Participant under the Plan, the amount of benefit to which any Participant or Beneficiary shall be entitled under the Plan, or the size and type of any Life Insurance Policy to be purchased from any Insurer for any Participant under the Plan; all such responsibilities being vested in the Plan Administrator.

**2.6 Right of Trustee to Contributions.** Unless provided with written direction to the contrary, by the Employer or the Plan Administrator, the Trustee shall have the duty to require any contribution to be made or to determine whether contributions delivered to the Trustee by the Employer comply with the provisions of this Agreement. In the event the Employer assigns the duty to another Fiduciary Trustee shall be notified in writing of the Named Fiduciary to whom such responsibility has been assigned. In this case, the Trustee shall be accountable only for funds actually received by the Trustee.

If the Plan has two or more Named Fiduciaries or Trustees assigned this duty, it may be allocated to a single Named Fiduciary or Trustee. The Employer or Plan Administrator may also provide that a Named Fiduciary may direct the Trustee as to this responsibility or may appoint an Investment Manager to take on this duty. To the extent the nature and scope of the Trustee's responsibilities are specifically limited in the Plan documents, Trust Agreement or by written direction, it will be the responsibility of the Named Fiduciary with the authority to hire and monitor Trustees to assure that all Trustee responsibilities with respect to the management and control of the Plan's assets (including collecting delinquent contributions) have been

properly assigned to a Trustee, Investment Manager or Named Fiduciary.

The Plan must make systematic, reasonable and diligent efforts to collect delinquent Employer Contributions. The steps necessary to discharge this duty to collect contributions will depend on the available facts. In determining what collection actions to take, a Named Fiduciary must weigh the value of the Plan assets involved, the likelihood of a successful recovery, and the expenses expected to be incurred. Among other factors, the Named Fiduciary may take into account the Employer's solvency in deciding whether to expend Plan assets to pursue a claim.

**2.7 Trustee Indemnification.** The Employer shall indemnify and hold harmless the Trustee, its affiliates, and their respective directors, managers, officers, employees, agents, and other representatives for and from the assertion or occurrence of any liability to a Participant or Beneficiary for any action taken or omitted by the Trustee pursuant to any written direction to the Trustee from the Employer or the Plan Administrator. Such indemnification obligation of the Employer shall not be applicable to the extent that any such liability is covered by insurance. The Trustee shall have no duty to take any action other than the express responsibilities under this Plan unless the Trustee and the Employer agree to further responsibilities in an additional written document.

The Trustee shall not be liable to the Employer for any act, omission, or determination made in connection with the Plan except for its gross negligence or willful misconduct.

**2.8 Changes in Trustee Authority.** If a successor Trustee is appointed, neither an Insurer nor any other person who has previously had dealings with the former Trustee shall be chargeable with knowledge of such appointment or change until furnished with written notice. Until such notice, the Insurer and any other such party shall be fully protected in relying on any action taken or signature presented that would have been proper in accordance with information previously received.

**2.9 Right to Compensation.** The Trustee may receive reasonable compensation as may be agreed upon between the Trustee and the Employer. The Trustee is entitled to reimbursement for all proper expenses incurred in carrying out their duties under the Plan including, but not limited to, reasonable legal, accounting, and actuarial expenses.

## ARTICLE III

### FIDUCIARY DUTIES

**3.1 Standard of Conduct.** The duties and responsibilities of the Trustee with respect to the Plan shall be carried out (a) in a non-discriminatory manner; (b) for the exclusive benefit of Participants and their Beneficiaries; (c) by defraying the reasonable expenses of administering the Plan; (d) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; (e) by diversifying the investments of the Plan to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and (f) in accordance with the documents and instruments governing the Plan insofar as such documents and instruments are consistent with the provisions of the Act.

**3.2 Individual Fiduciaries.** At any time that a group of individuals is acting in the same Fiduciary capacity, the number of such persons who shall act in such capacity from time to time shall be determined by the Employer. Such persons shall be appointed by the Employer and may or may not be Participants or Employees of the Employer. Unless otherwise elected by the Employer in the Adoption Agreement, any action taken by a group of individuals acting in such capacity shall be taken at the direction of a majority of such persons, or, if the number of such persons is two (2), by unanimous consent.

**3.3 Incorporation of Plan Provisions Regarding Fiduciaries.** The provisions of Sections 3.3.1 through 3.3.11 of the Plan are hereby incorporated by reference, and such provisions shall apply to the Trustee in the same manner as they apply to any other Fiduciary.

## ARTICLE IV

### TRUST ASSETS

**4.1 Trustee Is Exclusive Owner.** All assets held by the Trustee, whether in the Trust Fund or Segregated Funds, shall be owned exclusively by the Trustee, and no Participant or Beneficiary shall have any individual ownership thereof. Participants and their Beneficiaries shall share in the assets of the Trust, its net earnings, profits and losses, only as provided in the Plan.

**4.2 Investments.** The Trustee shall invest and reinvest the Trust Fund without distinction between income and principal in one or more of the following ways, as the Trustee shall from time to time determine:

- (a) The Trustee may invest the Trust Fund or any portion thereof in obligations issued or guaranteed by the United States of America or of any instrumentality thereof, or in other bonds, notes, debentures, mortgages, preferred or common stocks, options to buy or sell stocks or other securities, mutual fund shares, limited partnership interests, commodities, real estate or any interest therein, or in such other property, real or personal, as the Trustee shall determine.
- (b) The Trustee may cause the Trust Fund or any portion thereof to be invested in a common trust fund established and maintained by a national or other bank regulated by the Federal Deposit Insurance Corporation, for the collective investment of fiduciary funds, even though the bank is acting as the Trustee or investment manager, provided such common trust fund is a qualified trust under the applicable Code section, or corresponding provisions of future federal internal revenue laws, and is exempt from income tax under the applicable Code section. In the event any assets of the Trust Fund are invested in such a common trust fund, the Declaration of Trust creating such common trust fund, as it may be amended from time to time, shall be incorporated into the Plan by reference and made a part thereof.

Further, all or any portion of the assets subject to this Trust Agreement may be invested in any collective investment fund maintained exclusively for the investment of assets of (1) exempt, qualified employee benefit trusts and (2) collective investment funds consisting exclusively of assets of such qualified trust. The assets so invested shall be subject to all the provisions of the instrument establishing such collective investment fund, as such instrument may be amended from time to time. Such instrument, as amended from time to time, is hereby incorporated and made a part of this Trust Agreement and shall control notwithstanding any contrary provision of this Trust Agreement or the Plan.

- (c) The Trustee may deposit any portion of the Trust Fund in savings accounts in federally insured banks or savings and loan associations or invest in certificates of deposit issued by any such bank or savings and loan association. The Trustee may retain, without liability for interest, any portion of the Trust Fund in cash balances pending investment thereof or payment of expenses.
- (d) The Trustee may buy and sell put and call options, covered or uncovered, engage in spreads, straddles, ratio writing and other forms of options trading, including sales of options against convertible bonds, and sales of Standard & Poor futures contracts, and trade in and maintain a brokerage account on a cash or margin basis.
- (e) The Trustee may invest any portion or all of the assets of the Trust Fund that are attributable to the vested and nonforfeitable interest in the Accounts of a Participant in the purchase of group or individual Life Insurance Policies issued on the life of the Participant or someone in whom the Participant has an insurable interest and for the benefit of the Participant with the consent of the Participant, subject to the following conditions, as they are represented by the Plan Administrator:
  - (i) If ordinary Life Insurance Policies are used, the aggregate life insurance premiums must be less than one-half of the aggregate Employer Contributions and Forfeitures allocated to the Participant's Account at any particular time, without regard to Trust earnings, capital gains and losses; for purposes of this Plan, the term "Ordinary Life Insurance Policies" shall mean Policies

with both nondecreasing death benefits and nonincreasing premiums.

- (ii) The aggregate premiums paid for Life Insurance Policies on the life of any Participant or someone in whom the Participant has an insurable interest that are either term, universal or any other contracts which are not ordinary whole life Policies shall not at any time exceed twenty-five percent (25%) of the aggregate amount of Employer Contributions and Forfeitures that have been allocated to the Accounts of such Participant.
- (iii) The sum of one-half of the aggregate premiums for ordinary whole Life Insurance Policies and all premiums for other Life Insurance Policies shall not at any time exceed twenty-five percent (25%) of the aggregate amount of Employer Contributions and Forfeitures that have been allocated to the Accounts of such Participant.
- (iv) If the Plan permits in-service distributions to a Participant prior to his Normal Retirement Date, the amount that may be distributed to the Participant may be applied to the purchase of Life Insurance Policies.
- (f) The Trustee may invest the Trust Fund or any portion thereof to acquire or hold Qualifying Employer Securities or Real Property, provided that the portion so invested shall not exceed the amount allowed as an investment under ERISA section 407. There shall be no limit on the acquisition of Qualifying Employer Securities in an individual account balance plan in which Participants may direct the Trustee to buy Qualifying Employer Securities on their behalf.
- (g) If permitted, the Participant may direct the purchase of life insurance on his life, on the joint lives of the Participant and someone in whom the Participant has an insurable interest, or on the life of someone in whom the Participant has an insurable interest. The amount that can be used to pay life insurance premiums shall be determined according to this Section.

**4.3 Administration of Trust Assets.** Subject to the limitations expressly set forth here, and in the Plan, the Trustee shall have the following powers and authority in connection with the administration of the assets of the Trust:

- (a) To hold and administer all contributions made by the Employer to the Trust Fund and all income or other property derived therefrom as a single Trust Fund, except as otherwise provided in the Plan;
- (b) To manage, control, sell, convey, exchange, petition, divide, subdivide, improve, repair, grant options, sell upon deferred payments, lease without limit as determined for any purpose, compromise, arbitrate, or otherwise settle claims in favor of or against the Trust Fund, institute, compromise, and defend actions and proceedings, and to take any other action necessary or desirable in connection with the administration of the Trust Fund;
- (c) To vote any stock, bonds, or other securities of any corporation or other issuer; otherwise consent to or request any action on the part of any such corporation or other issuer; to give general or special proxies or powers of attorney, with or without power of substitution; to participate in any reorganization, recapitalization, consolidation, merger, or similar transaction with respect to such securities; to deposit such stocks or other securities in any voting trusts, or with any protective or like committee, or with the trustee, or with the depositories designated thereby; to exercise any subscription rights and conversion privileges or other options and to make any payments incidental thereto; and generally to do all such acts, execute all such instruments, take all such proceedings and exercise all such rights, powers, and privileges with respect to the stock or other securities or property constituting the Trust Fund as if the Trustee were the absolute owner thereof;
- (d) To apply for and procure, at the election of any Participant, Life Insurance Policies on the life of the Participant or someone in whom the Participant has an insurable interest; to exercise whatever rights and privileges may be granted to the Trustee under such Policies, and to cash in, receive, and collect such Policies or the proceeds therefrom as and when entitled to do so under the provisions thereof;
- (e) To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein

granted;

- (f) To register any investment held in the Trust in the Trustee's own name or in the name of a nominee for the benefit of the Plan, or to hold any investment in bearer form, provided that the books and records of the Trustee shall at all times show that all such investments are part of the Trust;
- (g) To borrow money for the purposes of the Plan in such amounts and upon such terms and conditions as the Trustee deems appropriate;
- (h) To commingle the assets of the Trust Fund with the assets of other similar trusts that are exempt from income tax, whether sponsored by the Employer, an affiliate of the Employer, or an unrelated employer, provided that the books and records of the Trustee shall at all times show the portion of the commingled assets that are part of the Trust; and
- (i) To do all acts, whether or not expressly authorized, that the Trustee may deem necessary or proper for the protection of the property held hereunder.

**4.4 Segregated Funds.** Unless otherwise determined by the Trustee to be imprudent, the Trustee shall invest and reinvest each Segregated Fund without distinction between income and principal. Such accounts shall be held for the benefit of the Participant for whom such Segregated Fund is established in accordance with the terms of the Plan, and the Participant's Segregated Account shall be credited with any interest earned in connection with such accounts. If the Trustee determines that an alternative investment is appropriate, the Trustee may invest the Segregated Fund in any manner permitted with respect to the Trust Fund and such Segregated Fund shall be credited with the net income or loss or net appreciation or depreciation in value of such investments. No Segregated Fund shall share in any Employer Contributions or Forfeitures, any net income or loss from, or net appreciation or depreciation in value of, any investments of the Trust Fund, or any allocation for which provision is made in the Plan that is not specifically attributable to the Segregated Fund.

**4.5 Investment Control Option.** If the Employer elects in the Adoption Agreement to permit Participants to direct the investment of their 414(k) Accounts and Rollover Accounts, each Participant may elect to transfer funds that do not exceed the balances in his Trustee-directed Accounts to a Controlled Account and exercise investment control of those funds by appropriate direction to the Trustee.

To the extent that the funds to be transferred from a Participant's Account include his share of an Employer Contribution or other funds that have not yet been received by the Trustee, such transfer shall not occur until the Trustee receives such funds. Funds transferred to a Controlled Account on behalf of the Participant shall be thereafter be invested by the Trustee in such property, real or personal (other than collectibles), as the Participant shall direct from time to time in writing, unless policies adopted pursuant to Section 3.4.6 of the Plan permit electromechanical communications in this context. The Participant may not direct the Trustee to make distributions or loans to himself, nor to make loans to the Employer, and the Trustee may limit the investment alternatives available to the Participant in a uniform and nondiscriminatory manner.

A Participant shall make such election by giving notice thereof to the Trustee as the Trustee deems necessary, and such notice shall specify the source and amount of such funds to be transferred. Any such election shall be at the absolute discretion of the individual Participant and shall be binding upon the Trustee unless the Trustee has actual knowledge that such transaction is a prohibited transaction under the Code or the Act. Upon any such election being made, the amount of such funds to be transferred shall be deducted from his Trustee-directed Accounts as appropriate and added to a Controlled Account of the Participant. All earnings thereafter received with respect to such transferred funds, as well as any appreciation or depreciation in his investments, shall be added to or deducted from his Controlled Account.

If the Employer elects to follow ERISA section 404(c), the Plan Administrator or appropriate Fiduciary shall ensure that the Plan provides Participants with the minimum options and information required by ERISA section 404(c) and the regulations thereunder.

If a Participant elects to transfer funds from his Trustee-directed Accounts to a Controlled Account as of a date other than a Valuation Date, the Trustee may defer such transfer until the next succeeding Valuation Date or may make such transfer, provided that the Trustee determines that the assets in the Trust Fund are

such that it is feasible and practical to make such transfer. As of the date of such transfer, adjustments to the Participant's Accounts shall be made as if such date is a Valuation Date.

As of any Valuation Date, the Participant may elect to have all or any portion of any cash contained in his Controlled Account transferred back to the general assets of the Trust Fund, in which case the Trustee shall again invest such cash as part of the general assets of the Trust Fund. A Participant shall make such election by giving notice to the Trustee, in the manner that the Trustee deems necessary, and the notice shall specify the amount of cash to be transferred. The amount of such funds so transferred shall be deducted from the Participant's Controlled Account and added to the appropriate Account of the Participant. Any such election shall be at the absolute discretion of the individual Participant and shall be binding upon the Trustee.

The Trustee shall not have any investment responsibility with respect to a Participant's Controlled Account. In the event that a Participant elects to have any such funds transferred to a Controlled Account and invested in particular securities or assets pursuant to this Section, the Trustee shall not be liable for any loss or damage resulting from the investment decision of the Participant.

## ARTICLE V

### AMENDMENT AND TERMINATION

**5.1 Amendments.** The Employer may at any time or times amend this Trust, in whole or in part.

**5.2 Manner of Amending.** Each amendment of this Trust shall be made by delivery to the Trustee of a copy of the Employer resolution that sets forth such amendment.

**5.3 Limitations On Amendments.**

**No amendment to this Trust shall:**

- (1) Directly or indirectly operate to give the Employer any interest whatsoever in the assets of the Trust or a custodial account or to deprive any Participant or Beneficiary of his vested and nonforfeitable interest in the assets of the Trust as then constituted, or cause any part of the income or corpus of the Trust to be used for, or diverted to purposes other than the exclusive benefit of Employees or their Beneficiaries; or
- (2) Increase the duties or liabilities of the Trustee without the Trustee's prior written consent. The will not be considered to have an individually designed plan merely because the Employer amends administrative provisions of the Trust or custodial account document (such as provisions relating to investments and duties of Trustees) so long as the amended provisions are not in conflict with any other provision of the Plan and do not cause the Plan to fail to qualify under Code section 401(a).

**5.4 Trustee Powers Pending Final Distribution.** Sections 3.8.4 through 3.8.6 of the Plan provide for the termination or partial termination of the Plan and the withdrawal of an Employer from participation in the Plan. Until final distribution of the assets of the Trust, the Trustee shall continue to have all the powers provided under the Plan and this Trust as are necessary for the orderly administration, liquidation, and distribution of the assets of the Trust.

**5.5 Delegation to Sponsor.** The Employer expressly delegates authority to the Plan Sponsor the right to amend any part of this Trust on its behalf to the extent necessary to preserve the qualified status of the Plan. For purposes of amendments by the Plan Sponsor, the Plan Document Provider shall be recognized as the agent of the Plan Sponsor. If the Plan Sponsor does not adopt the amendments made by the Plan Document Provider, the Plan shall no longer be identical to or a minor modifier of the Mass Submitter plan. The Plan Sponsor shall submit a copy of the amendment to each Employer who has adopted the Plan after first having received a ruling or favorable determination from the Internal Revenue Service that the Plan as amended satisfies the applicable requirements of the Code.



## ARTICLE VI

### MISCELLANEOUS

**6.1 No Reversion to Employer.** Except as specifically provided in the Plan, no part of the corpus or income of the Trust shall revert to the Employer or be used for, or diverted to, purposes other than for the exclusive benefit of Participants and their Beneficiaries.

**6.2 Persons Dealing With Trustee Protected.** No person dealing with the Trustee shall be required or entitled to see to the application of any money paid or property delivered to the Trustee, or determine whether the Trustee is acting pursuant to the authorities granted to the Trustee hereunder or to authorizations or directions herein required. The certificate of the Trustee that the Trustee is acting in accordance with the Plan shall protect any person relying thereon.

**6.3 Notices.** Any notice or direction to be given in accordance with this Trust shall be deemed to have been effectively given if hand delivered to the recipient or sent by certified mail, return receipt requested, to the recipient at the recipient's last known address. At any time that a group of individuals is acting as Trustee or in a Fiduciary capacity, notice to the Trustee or such Fiduciary may be given by giving notice to any one or more of such individuals.

**6.4 Governing Law.** The provisions of this Trust shall be construed, administered, and enforced in accordance with the provisions of the Act and, to the extent applicable, the laws of the state specified in the Adoption Agreement. All contributions to the Trust shall be deemed to take place in such state.

**6.5 Severability of Provisions.** In the event that any provision of this Trust shall be held to be illegal, invalid, or unenforceable for any reason, said illegality, invalidity or unenforceability shall not affect the remaining provisions, but shall be fully severable and the Trust shall be construed and enforced as if said illegal, invalid or unenforceable provisions had never been inserted herein.

**6.6 Gender and Number.** Whenever appropriate, words used in the singular shall include the plural, and the masculine gender shall include the feminine gender and vice versa.

**6.7 Qualification Under Internal Revenue Laws.** The Employer intends that the Trust qualify under the applicable Code provisions. Until advised to the contrary, the Trustee may assume that the Trust is so qualified and is entitled to tax exemption under the Code. If the Plan of the Employer fails to attain or retain qualification, the Employer's Plan shall no longer participate in the Prototype Plan and shall be considered an individually designed plan.

The Employer and the Trustee(s) hereby adopt the foregoing Trust on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**Employer:**

Ark Tex Urban Transit, Inc.

**Trustee:**

\_\_\_\_\_  
Officer of Employer

\_\_\_\_\_  
Mary Beth Rudel  
Trustee

\_\_\_\_\_  
Leslie McBride  
Trustee



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

Plan Description: Non-Standardized Pre-Approved Profit Sharing/Money Purchase/CODA  
FFN: 317B4948520-001 Case: 201901084 EIN: 65-1279994  
Letter Serial No: Q703761a  
Date of Submission: 12/31/2018

SIEGEL ACTUARIAL CONSULTING INC  
420 COMMONWEALTH DRIVE, SUITE 101  
WARRENDALE, PA 15086

Contact Person:  
Janell Hayes  
Telephone Number:  
513-975-6319  
In Reference To: TEGE:EP:7521  
Date: 06/30/2020

Dear Applicant:

In our opinion, the form of the plan identified above is acceptable for use by employers for the benefit of their employees under Internal Revenue Code (IRC) Section 401.

We considered the changes in qualification requirements in the 2017 Cumulative List of Notice 2017-37, 2017-29 Internal Revenue Bulletin (IRB) 89. Our opinion relates only to the acceptability of the form of the plan under the IRC. We did not consider the effect of other federal or local statutes.

You must provide the following to each employer who adopts this plan:

- . A copy of this letter
- . A copy of the approved plan
- . Copies of any subsequent amendments including their dates of adoption
- . Direct contact information including address and telephone number of the plan provider

Our opinion on the acceptability of the plan's form is a determination as to the qualification of the plan as adopted by a particular employer only under the circumstances, and to the extent, described in Revenue Procedure (Rev. Proc.) 2017-41, 2017-29 I.R.B. 92. The employer who adopts this plan can generally rely on this letter to the extent described in Rev. Proc. 2017-41. Thus, Employee Plans Determinations, except as provided in Section 12 of Rev. Proc. 2020-4, 2020-01 I.R.B. 148 (as updated annually), will not issue a determination letter to an employer who adopts this plan. Review Rev. Proc. 2020-4 to determine the eligibility of an adopting employer, and the items needed, to submit a determination letter application. The employer must also follow the terms of the plan in operation.

Except as provided below, our opinion doesn't apply to the requirements of IRC Sections 401(a)(4), 401(l), 410(b), and 414(s). Our opinion doesn't apply to IRC Sections 415 and 416 if an employer maintains or ever maintained another qualified plan for one or more employees covered by this plan. For this purpose, we will not consider the employer to have maintained another defined contribution plan provided both of the following are true:

- . The employer terminated the other plan before the effective date of this plan
- . No annual additions have been credited to any participant's account under the other plan as of any date within the limitation year of this plan

Also, for this purpose, we'll consider an employer as maintaining another defined contribution plan, if the employer maintains any of the following:

- . A welfare benefit fund defined in IRC Section 419(e), which provides post-retirement medical benefits allocated to separate accounts for key employees as defined in IRC Section 419A(d)

- . An individual medical account as defined in IRC Section 415(l)(2), which is part of a pension or annuity plan maintained by the employer
- . A simplified employee pension plan

Our opinion doesn't apply to Treasury Regulations Section 1.401(a)-1(b)(2) requirements for a money purchase plan or target benefit plan where the normal retirement age under the employer's plan is lower than age 62.

Our opinion doesn't constitute a determination that the plan is an IRC Section 414(d) governmental plan. This letter is not a ruling with respect to the tax treatment to be given contributions which are picked up by the governmental employing unit within the meaning of IRC Section 414(h)(2).

Our opinion doesn't constitute a determination that the plan is an IRC Section 414(e) church plan.

Our opinion may not be relied on by a non-electing church plan for rules governing pre-ERISA participation and coverage.

Our opinion applies to the requirements of IRC Section 410(b) if 100 percent of all non-excludable employees benefit under the plan.

Employers who choose a safe harbor allocation formula and a safe harbor compensation definition may also rely on this opinion letter for the non-discriminatory amounts requirement under IRC Section 401(a)(4).

If this plan includes a cash or deferred arrangement (CODA) or otherwise provides for contributions subject to IRC Sections 401(k) and/or 401(m), the employer may rely on the opinion letter regarding the form of the non-discrimination tests of IRC Sections 401(k)(3) and 401(m)(2), if the employer uses a safe harbor compensation definition. For plans described in IRC Sections 401(k)(12) or (13) and/or 401(m)(11) or (12), employers may rely on the opinion letter regarding whether the plan's form satisfies the requirements of those sections unless the plan provides for the safe harbor contribution to be made under another plan. For SIMPLE plans described in IRC Sections 401(k)(11) and 401(m)(10), employers may also rely on the opinion letter regarding whether the plan's form satisfies the requirements of those sections.

The provisions of this plan override any conflicting provision contained in the trust or custodial account documents used with the plan, and an adopting employer may not rely on this letter to the extent that provisions of a trust or custodial account that are a separate portion of the plan override or conflict with the provisions of the plan document. This opinion letter does not cover any provisions in trust or custodial account documents.

An employer who adopts this plan may not rely on this letter when:

- . the plan is being used to amend or restate a plan of the employer which was not previously qualified
- . the employer's adoption of the plan precedes the issuance of the letter
- . the employer doesn't correctly complete the adoption agreement or other elective provisions in the plan
- . the plan is not identical to the pre-approved plan (that is, the employer has made amendments that cause the plan not to be considered identical to the pre-approved plan, as described in Section 8.03 of Rev. Proc. 2017-41)

Our opinion doesn't apply to what is contained in any documents referenced outside the plan or adoption agreement, if applicable, such as a collective bargaining agreement.

Our opinion doesn't consider issues under Title I of the Employee Retirement Income Security Act (ERISA) which are administered by the Department of Labor.

If you, the pre-approved plan provider, have questions about the status of this case, you can call the telephone number at the top of the first page of this letter. This number is only for the provider's use.

SIEGEL ACTUARIAL CONSULTING INC

FFN: 317B4948520-001

Page: 3

Individual participants or adopting eligible employers with questions about the plan should contact you.

You must include your address and telephone number on the pre-approved plan or the plan's adoption agreement, if applicable, so that adopting employers can contact you directly.

If you write to us about this plan, provide your telephone number and the best time to call if we need more information. Whether you call or write, refer to the letter serial number and file folder number at the top of the first page of this letter.

Let us know if you change or discontinue sponsorship of this plan.

Keep this letter for your records.

Sincerely Yours,



Khin M. Chow  
Director, EP Rulings & Agreements

**Letter 6186 (June-2020)**  
**Catalog Number 72434C**

**RESOLUTION NO. ATUT22-01**

**RESOLUTION OF THE ARK-TEX URBAN TRANSIT BOARD OF DIRECTORS APPROVING THE RESTATEMENT OF THE ARK-TEX URBAN TRANSIT RETIREMENT PLAN.**

**WHEREAS**, the form of Plan presented to the Board of Directors is a Profit Sharing Plan as authorized under Code sections 401(a) and 501(a). This restatement shall be effective January 1, 2022; and

**WHEREAS**, the form of the Plan presented to the Board of Directors is a restatement intended to meet the requirements as listed in IRS Notice 2017-37 as required in IRS Revenue Procedure 2016-37; and

**WHEREAS**, the Ark-Tex Urban Transit, Inc. Retirement Plan (the Plan) presented to this meeting are hereby adopted and approved and that the proper officers of the Employer are hereby authorized and directed to execute and deliver to the Plan Administrator one or more counterparts of the Plan; and

**WHEREAS**, the proper Officers of the Employer shall act as soon as possible to notify employees of the Employer of the restatement of the Plan by delivering to each employee a copy of the Summary Plan Description of the Plan in the form of the Summary Plan Description presented to the Board of Directors of Ark-Tex Urban Transit, which form is hereby approved.

**NOW, THEREFORE, BE IT RESOLVED BY THE ARK-TEX URBAN TRANSIT:**

- Section 1 - That the Board of Directors approves the restatement of the Ark-Tex Urban Transit Retirement Plan.
  
- Section 2 - That the Executive Director, Chris Brown, has full authority to act on behalf of the ATUT Board in all matters pertaining to the restatement of the Ark-Tex Urban Transit Retirement Plan.
  
- Section 3 - That this resolution is approved by majority vote in accordance with the bylaws of Ark-Tex Urban Transit and applicable law, and shall be in effect immediately upon its adoption.

**REVIEWED AND APPROVED THIS 16TH DAY OF DECEMBER, 2021.**

---

**Chris Brown, President  
Board of Directors  
Ark-Tex Urban Transit**

**ATTEST:**

  

---