

**UMB Bank, n.a. Custodian**  
**ORP Custodial Account Agreement**  
**Lincoln Investment Planning, LLC Agent**

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**SECTION 1. DEFINITIONS**

For purposes of this Custodial Account Agreement, the following terms shall have the meaning set forth thereafter:

**1.1 Administrator:** The person, committee, or other organization appointed by the Employer in the Employer's 403(b) Plan document to administer the Plan. If no such Entity is named, the Administrator shall be the Employer.

**1.2 Agreement:** This instrument setting forth the terms and conditions of the Lincoln Investment ("Lincoln") Custodial Account Agreement as set forth hereafter.

**1.3 Alternate Payee:** A spouse, former spouse, child or other dependent of a Participant who is assigned under a qualified domestic relations order [as defined in Code Section 414(p)] a right to receive all or a portion of the benefits payable with respect to a Participant.

**1.4 Application:** The written application which incorporates this Agreement and is signed by the Employee and accepted by the Sponsor and serves to establish a Code Section 403(b)(7) Custodial Account for the Employee.

**1.5 Beneficiary:** Except as provided in section 5.5, a person designated in writing by a Participant to receive a benefit under this Agreement in the event of such Participant's death.

**1.6 Code or IRC:** The Internal Revenue Code of 1986, as amended, including any regulations issued thereunder.

**1.7 Custodial Account or Account:** The individual account(s) established and maintained under this Agreement for the Employee pursuant to Code Section 403(b)(7).

**1.8 Custodian:** UMB Bank, n.a. or any successor thereto that satisfies the requirements of Code Section 401(f)(2), and which may be appointed by the Sponsor pursuant to Section 8 below. Unless the context clearly requires otherwise, any reference to the Custodian in this Agreement shall include a reference to the Sponsor, as agent for the Custodian while performing the duties of the Custodian.

**1.9 Disabled:** With respect to a Participant, that he is unable to engage in any substantial gainful activity by reason of a medically determinable physical or mental impairment which can be expected to result in death or to be of long- continued and indefinite duration, as defined under Code Section 72(m)(7).

**1.10 EGTRRA:** The Economic Growth and Tax Relief Reconciliation Act of 2001, including any regulations or other guidance issued thereunder.

**1.11 Elective Deferrals:** For any taxable year of an Employee, Elective Deferrals are the sum of:

- (a) any salary reduction contributions under a qualified cash or deferred arrangement as defined in Code Section 401(k), to the extent not includible in income under Code Section 402(a)(8);
- (b) any salary reduction contributions to a simplified employee pension plan as defined in Code Section 408(k), to the extent not includible in income under Code Section 402(h)(1)(B);
- (c) any contributions made pursuant to a Salary Reduction Agreement used to purchase an annuity contract or Custodial Account under Code Section 403(b);
- (d) any salary reduction contribution made to a SIMPLE IRA Plan described in Code Section 408(p).

**1.12 Employee:** Any person regularly employed by the Employer. Neither "leased employees" within the meaning of Code Sections 414(n) or (o), nor independent contractors shall be considered to be Employees for the purposes of this Agreement.

**1.13 Employer:** An educational organization described in Section 170(b)

(1)(A)(ii) of the Code which is an agency or instrumentality of the State of Texas or a political subdivision thereof, and which is considered a state supported institution of higher education under Chapter 830, Title 8, Public Retirement Systems of VTCAGC.

**1.14 ERISA:** The Employee Retirement Income Security Act of 1974, as amended, including any regulations thereunder.

**1.15 Excess Deferral:** For any taxable year, that portion of an Employee's Elective Deferrals that exceeds the limits of Code Section 402(g).

**1.16 Financial Hardship:** With respect to a Participant or the Participant's Beneficiary, a present or pending financial need resulting from unusual costs or expenses, such as unusual medical expenses, higher educational expenses, purchase of a residence, funeral expenses of certain family members, the need to prevent eviction from the Participant's primary residence and the repair of the Participant's primary residence due to a casualty or disaster. Financial Hardship shall be determined in accordance with Section 403(b) of the Code and the regulations thereunder, and the Employer's or Sponsor's hardship policy and procedures, if applicable. Financial Hardship distributions are only applicable to non-ORP elective deferral contributions, if permitted by the Employer's plan.

**1.17 403(b) Plan:** The document maintained by the Employer which shall govern eligibility, applicable contribution limits, benefits, distributions and the approved Vendors and Investment Companies. If there is a conflict between this Custodial Agreement and the 403(b) Plan, the 403(b) Plan shall govern.

**1.18 Includible Compensation:** The Participant's wages, salaries or other remuneration received for personal services actually rendered in the course of employment with the Employer and any other amounts treated as compensation under Section 415 of the Code. Such Compensation shall be determined under the most recent year of service pursuant to Section 403(b)(4) IRC and which precedes the taxable year by no more than five years. For taxable years beginning after 12/31/97, such term includes any elective deferral described in Code Section 402(g)(3) and any amount which is contributed or deferred by the Employer at the election of the Employee and which is not includible in the gross income of the Employee by reason of Sections 125, 132(f)(4) or 457 IRC.

**1.19 Institution of Higher Education:** Texas Public institutions of higher education as defined in Chapter 830, Title 8, Public Retirement Systems, VTCAGC. Such term shall include the Texas Higher Education Coordinating Board, the Texas State Technical College System and institutions defined in Chapter 821, Title 8 of VTCAGC.

**1.20 Investment Company:** Any "Regulated Investment Company" within the meaning of Code Section 851(a) which has been approved for this Agreement by the Sponsor.

**1.21 Optional Retirement Program (ORP):** The Texas Optional Retirement Program as authorized under Chapter 830, Title 8, Public Retirement Systems, VTCAGC.

**1.22 Participant:** An individual who is, or has been, employed by the Employer, who has been designated by the Employer as a Participant, and who contracts in writing with the Employer for contributions hereto or for whom contributions have been made by the Employer on his or her behalf.

**1.23 PPA:** The Pension Protection Act of 2006 including any regulations or other guidance issued thereunder.

**1.24 Required Beginning Date:** April 1 of the calendar year following the later of the calendar year in which the Participant attains age 70 ½ or retires, or such later date prescribed by Code Section 403(b)(10) and regulations under such Section.

**1.25 Salary Reduction Agreement:** A written binding contract executed by the Employee and the Employer authorizing either a reduction in the Employee's future compensation or a waiver of increasing future compen-

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sation provided that such amounts shall be contributed to the Employee's Custodial Account by the Employer.

**1.26 Sponsor:** Lincoln Investment Planning, LLC, acting as agent for the Custodian, UMB Bank, n.a. Sponsor serves as agent for the Custodian for the acquisition and disposition of investments for the Custodial Account. Sponsor will be the registered Broker/Dealer for such transactions, and may exercise any authority granted hereunder and by any separate agreement with the Custodian. Sponsor also serves as agent for the Custodian for recordkeeping and day to day operation of the Custodial Account.

**1.27 Vendor:** The provider of an Annuity Contract or Custodial Account. The Vendors selected by the Employer shall be specified in the Employer's 403(b) Plan. Such Plan shall indicate the approved Vendors with respect to on-going contributions as well as those Vendors available for transfers and exchanges.

**1.28 VTCAGC:** The Vernon's Texas Codes Annotated Government Code.

**1.29 Year of Service:** Each full tax year during which the Participant was a full-time Employee of the Employer. A fraction of a year shall be counted for each full tax year during which the Participant was a part-time Employee of the Employer and for each part of a year during which the Employee was a full-time or part-time Employee of the Employer. In no case shall the Years of Service be less than one (1).

## SECTION 2. ESTABLISHMENT OF CUSTODIAL ACCOUNT

**2.1** The Sponsor shall open and maintain a Custodial Account for each eligible Employee who completes an Application; and the Custodian shall hold and administer, in accordance with the terms hereof, contributions to the Custodial Account and any gain, loss or income from the investment thereof. The Employee shall notify the Sponsor in writing of any change in name, address, or Social Security Number.

## SECTION 3. CONTRIBUTIONS

### 3.1 Contributions to the Account:

- (a) **ORP Statutory Employer Contributions:** The Sponsor shall accept cash contributions from the Employer on behalf of Participants in accordance with Chapter 830.201, Title 8 of the VTCAGC.
- (b) **ORP Statutory Employee Contributions:** The Employer shall also contribute an amount from the Participant's salary as required pursuant to section 830.201, Title 8, of the VTCAGC.
- (c) **TSA Contributions:** In addition to contributions made pursuant to 3.1(a) or (b) above, and if the Sponsor permits, an Employer may make Elective Deferrals on behalf of an Employee subject to the Salary Reduction Agreement entered into between the Employee and the Employer. These contributions are considered non-ORP contributions and shall be separately accounted for hereunder.

### 3.2 Plan to Plan Transfer and Exchange Contributions:

Pursuant to the Employer's 403(b) Plan, the Participant may transfer (or request an exchange) in cash from another custodial account qualified under Section 403(b)(7) of the Code and/or from an annuity contract qualified under Section 403(b) of the Code to the Custodial Account if the Administrator, or Vendor, if applicable certifies that the transaction meets the requirements for a tax-free transfer or exchange under section 1.403(b)-10(b), and other applicable laws or rulings of the Internal Revenue Service, or is a rollover contribution described in Sections 403(b)(8) or 408(d)(3)(A) (iii) of the Code. Plan-to-Plan Transfer or Exchange assets once received shall be applied to the original source from such transferred or exchanged assets, on behalf of such Participant for purposes of this Custodial Agreement and shall be invested, distributed and otherwise dealt with as such. If it is not possible to determine the source of the funds being transferred

or involved in an exchange then the assets shall be placed in a restricted source under this Custodial Account and will be subject to the strictest distributable events with respect to sources under this Custodial Account Agreement.

Transferred funds shall be accounted for separately and continue to be subject to any distribution rules under the prior 403(b)(1) or (7) plan, which were more stringent than the rules contained in this Custodial Account. Rollover assets shall be accounted for separately in a rollover account. Unless the Employer has otherwise elected in the 403(b) Plan, rollover assets shall be available for distribution at any time.

**3.3 Make-up Contributions for Qualified Military Service:** Notwithstanding any provisions to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the Code.

**3.4 Return of Excess Deferral:** Unless the Employer's 403(b) Plan provides a different method and date for notification of an Excess Deferral, if a Participant makes an Excess Deferral to the Custodial Account for any tax year, such Participant may give written notice to the Sponsor of the amount of the Excess Deferral no later than March 1 following the close of that tax year. If the Participant gives such written, timely notice to the Sponsor, the Sponsor may distribute to the Participant, the amount of the Excess Deferral, together with income attributable thereto, by April 15th of the following taxable year.

**3.5 Return of Excess 415 Contributions:** Excess 415 Contributions shall be corrected in the method or methods as outlined in the Employer 403(b) Plan. If permitted under the Employer's 403(b) Plan, and if as a result of a reasonable error in estimating a Participant's annual compensation, a reasonable error in determining the amount of elective deferrals under Section 402(g)(3) of the Code, or any other circumstances that the Internal Revenue Service shall determine meets the requirements of Section 415 of the Internal Revenue Code and the regulations thereunder, an excess annual addition occurs in any Participant's account, a distribution is permitted from this Custodial Account of such excess.

**3.6 Liability for Excess Amounts:** Unless otherwise agreed to in writing, the Sponsor shall not have any duty to determine whether an Excess Deferral, or contribution in excess of the limitations under Code Sections 403(b), 402(g) or 415 ("Excess Amounts") has been made by or on behalf of the Participant. The Sponsor shall not be held liable by the Participant or any other person(s), trusts or other entity for failing to determine whether an Excess Deferral or Excess Amounts was made or for failing to distribute an Excess Deferral absent the request of the Participant. The Sponsor shall not be liable to the Participant or any other person(s), trusts or entity for taxes or other penalties incurred as a result of the Excess Deferral or Excess Amounts (including any income attributable thereto) or as a result of a distribution of an Excess Deferral and any income attributable thereto.

**3.7 Mistaken Contributions:** Notwithstanding any other provision herein and to the extent permitted by law, if any Employer contribution made hereto is made as a result of a computational, recordkeeping, data entry or similar ministerial or administrative error, the Sponsor may return to the contributing Employer the amount of such erroneous contribution.

## SECTION 4. INVESTMENT OF ACCOUNT ASSETS

**4.1 Investment of Contributions:** The Sponsor shall as directed by the Participant, invest the amount of the contributions credited to the Participant's Account in full and fractional shares of one or more Investment Companies made available from time to time by the Sponsor. The Sponsor shall be responsible for the execution of such orders and for maintaining adequate records thereof. However, if any such orders are not received as required, or, if received, are unclear in the opinion of the Sponsor, all or a portion of the contribution may be held uninvested without liability for loss of income or appreciation, and without liability for interest pend-

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ing receipt of such orders or clarification, or the contribution may be returned. The Sponsor shall have no duty other than to follow the written investment directions of the Participant, and shall be under no duty to question said instructions and shall not be liable for any investment losses sustained by the Participant.

**4.2 Investment Adviser:** The Participant may appoint an Investment Adviser to direct the investment of all or a portion of this Custodial Account. The Participant shall notify the Sponsor in writing of any such appointment by providing the Sponsor a copy of the instruments appointing the Investment Adviser and evidencing the Investment Adviser's acceptance of such appointment. The Sponsor shall comply with any investment directions furnished to it by the Investment Adviser, unless and until it receives written notification from the Participant that the Investment Adviser's appointment has been terminated. The Sponsor shall have no duty other than to follow the written investment directions of such Investment Adviser and shall be under no duty to question said instructions, and the Sponsor shall not be liable for any investment losses sustained by the Participant.

**4.3 Investment of Gains and Dividends:** All dividends and capital gains distributions on shares held in the Employee's Account shall be reinvested in such shares in accordance with the Investment Company's current prospectus.

**4.4 Voting and Other Action:** All shares of Investment Companies acquired by the Custodian pursuant to the Agreement shall be held in the name of the Custodian for the benefit of the Employee. The Custodian or the Sponsor shall cause to be delivered to the Employee all notices, prospectuses, financial statements, proxies and proxy soliciting materials relating to shares held in the Custodial Account.

**4.5 Identification of Accounts:** All shares of the Investment Companies acquired by the Sponsor shall be held in the name of the Sponsor or its nominee for the benefit of the Participant (or the Beneficiary after the Participant's death).

## SECTION 5. DISTRIBUTIONS FROM THE CUSTODIAL ACCOUNT

**5.1 Request for Distribution:** Distribution from the Custodial Account shall be made by the Sponsor only to a Participant, his designated Beneficiary or Alternate Payee. No purported sale, transfer, pledge or assignment by the Participant, his spouse or Beneficiary of all or any part of an interest in the Custodial Account shall be recognized by the Sponsor except as provided herein. The interest of a Participant, his spouse or Beneficiary in the Custodial Account shall not be subject to the debts, contracts, liabilities, engagements or torts of such person or to attachment or legal process against such person. All distributions from this Custodial Account shall be requested on a form approved by the Sponsor.

**5.2 Limitations on Distributions:** The Custodian shall distribute, or commence distribution of, pursuant to the Participant's written direction, the balance credited to a Participant's account upon receipt of evidence satisfactory to it that one or more of the following events have occurred:

- (1) the Participant becomes Disabled;
- (2) the Participant separates from service with all Employers as defined under Section 1.13; or
- (3) the Participant dies.

Such distributions may only be made upon the written authorization of the Employer.

**5.3 Timing of Distributions:** Distribution from the Custodial Account shall commence within thirty (30) days after the Participant notifies the Sponsor of his entitlement to distributions, unless the Participant makes a prior election to defer distribution or the commencement of distribution to a subsequent date which is not later than the Participant's Required Be-

ginning Date, unless a later date is permitted by the Code, the regulations issued thereunder, or other Internal Revenue Service pronouncements. Such election shall be made by written notice filed with the Sponsor. Notwithstanding this provision, the Sponsor shall not be responsible for making any distribution until such time as it has received proper written notification from the Participant, his or her surviving spouse or Beneficiary of the occurrence of an event described in Section 5.2 herein.

Unless the Employer's 403(b) Plan indicates otherwise, the Required Beginning Date shall mean the April 1st following the later of the year the Participant attains age 70 ½ or the year in which the Participant retires.

**5.4 Form of Distribution:** Unless otherwise required under applicable laws, distribution shall be made in cash or in kind in any one or more of the following ways:

- (a) a single payment; or
- (b) installments for a period certain not to exceed the life expectancy of the Participant or the Participant's designated Beneficiary or the joint lives and last survivor expectancies of the Participant and the Participant's designated Beneficiary; or
- (c) a combination of (a) and (b).

### 5.5 Designation of Beneficiary:

- (a) Each Participant may, by written notice filed with the Sponsor and in a form acceptable to the Sponsor, designate a Beneficiary or Beneficiaries to receive the Participant's benefit at the Participant's death. Such designation may be changed or revised from time to time by written instrument filed with the Sponsor. If no designation has been made, or if no Beneficiary is living at the time of a Participant's death, his designated Beneficiary shall be: his surviving spouse, but if he has no surviving spouse; then his surviving children, or if there are no surviving children; then his estate.
- (b) Upon the death of the Participant, any Beneficiary may name a subsequent beneficiary(ies) to receive the balance of the account to which such Beneficiary is entitled upon the death of the original Beneficiary. Such original Beneficiary may name a subsequent beneficiary(ies) by completing a Beneficiary Designation form acceptable to and filed with the Sponsor.
- (c) Payments to such subsequent Beneficiary(ies) shall be distributed in accordance with the payment schedule applicable to the original Beneficiary. In no event can any subsequent Beneficiary be treated as a designated Beneficiary of the Participant. The preceding sentence shall not apply with respect to the subsequent Beneficiary(ies) of an original spouse beneficiary where the Participant dies before his or her required beginning date. If the balance of the account has not been completely distributed to the original Beneficiary and such Beneficiary has not named a subsequent Beneficiary or no named subsequent Beneficiary is living on the date of the original Beneficiary's death, such balance shall be payable to the estate of the original Beneficiary.
- (d) Participants may designate primary and secondary Beneficiaries. A secondary Beneficiary and/or Beneficiaries will become entitled to a distribution of any remaining balance of the Participant's Account only after the death of any and all primary Beneficiaries.
- (e) If more than one Beneficiary is named in either category, benefits will be paid according to the following rules:
  - (1) Beneficiaries can be designated to share equally in or to receive specific percentages of, the remaining balance, if any, of the Participant's Account.
  - (2) If a Beneficiary dies before the Participant, only the surviving

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Beneficiaries will be eligible to receive any benefits in the event of the death of the Participant. If more than two Beneficiaries are originally named to receive different percentages of the benefits, surviving Beneficiaries will share in the same proportion to each other as indicated in the original designation.

## 5.6 Minimum Distribution Requirements

### (a) General Rules:

- (i) **Effective Date:** Unless an earlier effective date is used by the Sponsor, the provisions of this Section 5.6 will apply for purposes of determining required minimum distributions for calendar years beginning with the 2003 calendar year.
- (ii) **Coordination with Minimum Distribution Requirements Previously in Effect:** If the Sponsor uses an effective date of this Section that is earlier than calendar years beginning with the 2003 calendar year, required minimum distributions for 2002 under this Section will be determined as follows. If the total amount of 2002 required minimum distributions under the plan made to the distributee prior to the effective date of this Section equals or exceeds the required minimum distributions determined under this Section, then no additional distributions will be required to be made for 2002 on or after such date to the distributee. If the total amount of 2002 required minimum distributions under the plan made to the distributee prior to the effective date of this Section is less than the amount determined under this Section, then required minimum distributions for 2002 on and after such date will be determined so that the total amount of required minimum distributions for 2002 made to the distributee will be the amount determined under this Section 5.6.
- (iii) **Precedence:** The requirements of this Section will take precedence over any inconsistent provisions of the plan.
- (iv) **Requirements of Treasury Regulations Incorporated:** All distributions required under this Section will be determined and made in accordance with the Treasury regulations under section 401(a)(9) of the Internal Revenue Code.

### (b) Time and Manner of Distribution.

- (i) **Required Beginning Date:** The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's required beginning date.
- (ii) **Death of Participant Before Distributions Begin:** If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:
  - (A) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary, then, except as provided in section below, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70 ½, if later.
  - (B) If the Participant's surviving spouse is not the Participant's sole Designated Beneficiary, then, except as provided below, distributions to the Designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which

the Participant died.

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

- (D) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this section 5.6 (b)(ii), other than section 5.6(b)(ii)(A), will apply as if the surviving spouse were the Participant.

For purposes of this sections 5.6(b)(ii) and section 5.6(d), unless section 5.6(b)(ii)(D) applies, distributions are considered to begin on the Participant's Required Beginning Date. If section 5.6(b)(ii)(D) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under section 5.6(b)(ii)(A).

- (E) Notwithstanding sections 5.6(b)(ii) and 5.6(d)(ii), Participants or beneficiaries may elect on an individual basis whether the 5-year rule or the life expectancy rule in sections 5.6(b)(ii) and 5.6(d)(ii) of the plan applies to distributions after the death of a Participant who has a designated beneficiary. The election must be made no later than the earlier of September 30 of the calendar year in which distribution would be required to begin under section 5.6(b)(ii) of the plan, or by September 30 of the calendar year which contains the fifth anniversary of the Participant's (or, if applicable, surviving spouse's) death. If neither the Participant nor Beneficiary makes an election under this paragraph, distributions will be made in accordance with sections 5.6(b)(ii) and 5.6(d)(ii) of the plan and, if applicable, the elections in section 5.6(b) above.

- (iii) **Forms of Distribution:** Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with sections 5.6(c) and 5.6(d) of this section 5.6. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of section 401(a)(9) of the Code and the Treasury regulations.

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

- (i) Amount of Required Minimum Distribution For Each Distribution Calendar Year. During the participant's lifetime, the minimum amount that will be distributed for each distribution calendar year is the lesser of:
  - (A) the quotient obtained by dividing the participant's account balance by the distribution period in the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the Treasury regulations, using the Participant's age as of the Participant's birthday in the distribution calendar year; or
  - (B) if the Participant's sole Designated Beneficiary for the distribution calendar year is the Participant's spouse, the quotient obtained by dividing the Participant's account balance by the number in the Joint and Last Survivor

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Table set forth in section 1.401(a)(9)-9 of the Treasury regulations, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the distribution calendar year.

- (ii) **Lifetime Required Minimum Distributions Continue Through Year of Participant's Death:** Required minimum distributions will be determined under this section 5.6(c) beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the Participant's date of death.
- (d) **Required Minimum Distributions After Participant's Death**
  - (i) **Death On or After Date Distributions Begin:**
    - (A) **Participant Survived by Designated Beneficiary.** If the Participant dies on or after the date distributions begin and there is a Designated Beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the longer of the remaining life expectancy of the Participant or the remaining life expectancy of the Participant's Designated Beneficiary, determined as follows:
      - (I) The Participant's remaining life expectancy is calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.
      - (II) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary, the remaining life expectancy of the surviving spouse is calculated for each distribution calendar year after the year of the Participant's death using the surviving spouse's age as of the spouse's birthday in that year. For distribution calendar years after the year of the surviving spouse's death, the remaining life expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.
      - (III) If the Participant's surviving spouse is not the Participant's sole Designated Beneficiary, the Designated Beneficiary's remaining life expectancy is calculated using the age of the beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.
    - (B) **No Designated Beneficiary.** If the Participant dies on or after the date distributions begin and there is no designated beneficiary as of September 30 of the year after the year of the Participant's death, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the participant's remaining life expectancy calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.
  - (ii) **Death Before Date Distributions Begin:**
    - (A) **Participant Survived by Designated Beneficiary.** If the Participant dies before the date distributions begin and there is a Designated Beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the remaining life expectancy of the Participant's Designated Beneficiary, determined as follows:
      - (I) The Participant's remaining life expectancy is calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.
      - (II) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary, the remaining life expectancy of the surviving spouse is calculated for each distribution calendar year after the year of the Participant's death using the surviving spouse's age as of the spouse's birthday in that year. For distribution calendar years after the year of the surviving spouse's death, the remaining life expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.
      - (III) If the Participant's surviving spouse is not the Participant's sole Designated Beneficiary, the Designated Beneficiary's remaining life expectancy is calculated using the age of the beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.
    - (B) **No Designated Beneficiary.** If the Participant dies before the date distributions begin and there is no Designated Beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
    - (C) **Death of Surviving Spouse Before Distributions to Surviving Spouse Are Required to Begin.** If the Participant dies before the date distributions begin, the Participant's surviving spouse is the Participant's sole Designated Beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under section 5.6(b)(ii)(A), this section 5.6(d)(ii) will apply as if the surviving spouse were the Participant.
    - (D) A Designated Beneficiary who is receiving payments under the 5-year rule may make a new election to receive payments under the life expectancy rule until December 31, 2003, provided that all amounts that would have been required to be distributed under the life expectancy rule for all distribution calendar years before 2004 are distributed by the earlier of December 31, 2003 or the end of the 5-year period.
- (e) **Definitions.**
  - (i) **Designated Beneficiary.** The individual who is designated as the beneficiary under this custodial account and is the Designated Beneficiary under section 401(a)(9) of the Internal Revenue Code and section 1.401(a)(9)-1, Q&A-4, of the Treasury regulations.
  - (ii) **Distribution Calendar Year.** A calendar year for which a minimum distribution is required. For distributions beginning before the participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's Required Beginning Date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin under section 5.6(b)(ii). The required minimum distribution for the Participant's first distribution calendar year will be made on or before the Participant's Required Beginning Date. The required minimum distribution for other distribution calendar years, including the required minimum distribution for the distribution calendar year in which the Participant's Required Beginning Date occurs, will be made on or before December 31 of that distribution calendar year.
  - (iii) **Life expectancy.** Life expectancy as computed by use of the Single Life Table in section 1.401(a)(9)-9 of the Treasury regulations.
  - (iv) **Participant's account balance.** The account balance as of the last valuation date in the calendar year immediately preceding the distribution calendar year (valuation calendar year) increased by the amount of any contributions made and allocated or forfeitures allocated to the account balance as of dates in the valuation calendar year after the valuation date and decreased by distributions made in the valuation calendar year after the valuation date.

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The account balance for the valuation calendar year includes any amounts rolled over or transferred to the plan either in the valuation calendar year or in the distribution calendar year if distributed or transferred in the valuation calendar year.

- v) Required Beginning Date. The date specified in section 1.22.

## 5.7 Distributions under a Qualified Domestic Relations Order:

- (a) Distributions of all or any part of a Participant's Account pursuant to the provisions of a qualified domestic relations order (QDRO) as defined in Code Section 414(p) are specifically authorized.
- (b) The earliest retirement age shall be the earlier of:
  - (1) The earliest date that benefits are payable under this Agreement to the Participant; or
  - (2) The later of the date the Participant attains age 50 or the date on which the Participant could obtain a distribution from this Agreement if the Participant had separated from service.
- (c) The Alternate Payee may receive a payment of benefits under this Agreement in any optional form of benefit available under Section 5.4 herein, including a Direct Rollover.
- (d) The Alternate Payee may receive a payment of a benefit under this Agreement prior to the earliest retirement age as defined in Section 5.7 herein if the QDRO specifically provides for such earlier payment. If the present value of the payment exceeds \$5,000, the Alternate Payee must consent in writing to such distribution.

**5.8 Plan-to-Plan Transfers from this Custodial Account.** The Participant may cause the transfer (or exchange), in cash, of all or any portion of the balance credited to a Participant's account from this Custodial Account directly to the custodian of another custodial account qualified under Section 403(b)(7) of the Code or to an insurance company designated by the Participant for the purchase, for the benefit of the Participant, of an annuity contract qualified under Section 403(b) of the Code if the Administrator, or Vendor, if applicable certifies that the transaction meets the requirements for a tax-free transfer or exchange under section 1.403(b)-10(b), and any other applicable laws or rulings of the Internal Revenue Service. Plan-to-Plan Transfer or Exchange assets once received by the new custodian or issuer shall be applied to the original source from such transferred or exchanged assets, on behalf of such Participant. If it is not possible to determine the source of the funds being transferred or involved in an exchange then instructions shall accompany the assets for such assets to be placed in a restricted source under the new custodial account (or annuity) and will be subject to the strictest distributable events with respect to sources under the new custodial account or annuity.

**5.9 Beneficiary Direct Rollover:** If elected under the Employer's 403(b) Plan and effective for distributions made after December 31, 2006, a direct trustee-to-trustee transfer of any portion of a distribution from an eligible retirement plan may be made to an individual retirement plan described in section 408(a) or (b) (an "IRA") that is established for the purpose of receiving the distribution on behalf of a designated beneficiary who is a beneficiary (whether spouse or nonspouse), and such transfer shall be treated as a direct rollover of an eligible rollover distribution for purposes of section 402(c).

## 5.10 Direct Rollovers:

- (a) This section applies to distributions made on or after January 1, 1993. Notwithstanding any provision of this Custodial Account or the Employer's 403(b) Plan to the contrary that would otherwise limit a distributee's election under this section, a Distributee may elect, at the time and in the manner prescribed

by the Sponsor, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a direct rollover.

- (b) Definitions:

(i) **Eligible Rollover Distributions:** An Eligible Rollover Distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee and the distributee's designed beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Code; any hardship distribution described in Treasury Notice 2000-32 (and subsequent rulings) received after 12-31-99, the portion of any other distribution(s) that is not includable in gross income; and any other distribution(s) that is reasonably expected to total less than \$200 during the year.

## (ii) Eligible Retirement Plan:

(A) An Eligible Retirement Plan is an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, a tax-sheltered annuity plan described in Section 403(b) of the Code, or a custodial account described in Section 403(b)(7) of the Code, that accepts the distributee's Eligible Rollover Distribution. However, in the case of an Eligible Rollover Distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.

(B) For distributions made after December 31, 2001, and for purposes of the Direct Rollover provisions in this section of the Custodial Agreement, an Eligible Retirement Plan shall also mean an annuity contract described in Section 403(b) of the Code and an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Custodial Agreement. The definition of Eligible Retirement Plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a Qualified Domestic Relation Order, as defined in Section 414(p) of the Code.

(iii) **Distributee:** A Distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code, are distributees with regard to the interest of the spouse or former spouse.

(iv) **Direct Rollover:** A Direct Rollover is a payment by the Plan to the Eligible Retirement Program specified by the Distributee.

## SECTION 6. NONFORFEITABILITY

**6.1** A Participant's interest in the balance of his account attributable to his/her salary reduction contributions (including ORP Statutory Employee Contributions and TSA Contributions) shall at all times be nonforfeitable.

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**6.2 ORP Statutory Contributions:** Each Employee shall become 100% vested with respect to ORP Statutory Employer Contributions after one year of participation in one or more ORPs.

## SECTION 7. LOANS

**7.1** Loans are not permitted under this ORP custodial account.

## SECTION 8. THE CUSTODIAN AND SPONSOR

**8.1 Notices:** All notices, requests and other communications to the Sponsor by the Employer or any Participant (or his spouse or Beneficiary) shall be in writing and in such form as the Sponsor may from time to time prescribe. The Sponsor shall be entitled to rely on any such instruments believed by it to be genuine.

**8.2 Custodian's Powers:** Subject to the terms of this Agreement and applicable law, the Sponsor as Agent for the Custodian shall have the power and authority in the administration of the Custodial Account to do all acts, to execute and deliver all instruments and to exercise for the benefit of the Participants and their Beneficiaries any and all powers which would be lawful were it in its own right the actual owner of the property held.

**8.3 Fees and Expenses of the Account:** In consideration of its services hereunder, the Sponsor will be entitled to receive compensation as may be agreed upon from time to time, including but not limited to maintenance, administrative and custodial fees. Such fee schedule, as amended from time to time, shall be disclosed on the current Fee Schedule Disclosure and is available upon request. The Sponsor will be entitled to reimbursement for all reasonable and necessary costs, expenses, and disbursements incurred by it in the performance of such services, including, without limitation, attorneys' fees. All fees, taxes and expenses charged to a Custodial Account may be collected by the Sponsor from the amount of any contribution, transfer or dividend credited or to be credited to an Account or by redeeming Investment Company shares credited to that Custodial Account. Any income taxes or other taxes of any kind whatsoever that may be levied or assessed upon or in respect of the Account shall be paid from the assets of the Account. Any sales charges, brokerage fees, short-term trading fees, investment advisory fees or similar expenses incurred in connection with the investment of the assets of the Account, and all other administrative expenses incurred by the Sponsor, the Employer or their designee (i.e. the authorized Third Party Administrator), in the performance of its duties, shall similarly be paid from the assets of the Account.

**8.4 Termination:** The Custodian may resign at any time upon sixty (60) days notice in writing to the Sponsor, Employer and Participant (unless such notice is waived) and may be removed by the Sponsor at any time upon thirty (30) days notice in writing to the Custodian. Upon such resignation or removal, the Sponsor shall appoint a successor custodian, which successor shall be acceptable under Code Section 401(f)(2). If, within sixty (60) days after effective date of the Custodian's resignation, the Sponsor has not appointed a qualified successor custodian which has accepted such appointment, the Custodian may appoint, such successor itself. Upon receipt by the Custodian of written acceptance of appointment by the successor custodian, the Custodian, through its Agent, the Sponsor, shall transfer and pay over to such successor the assets of the Custodial Account and all records pertaining thereto, reserving such sum as it may deem advisable for payment of all its fees, compensation, costs and expenses and any other liabilities constituting a charge on or against the assets of the Custodial Account. The successor custodian shall thereafter be the Custodian under this Agreement.

**8.5 Responsibilities:** The Custodian and Sponsor shall not be responsible in any way, except as specifically provided herein, for the collection of contributions, the purpose or propriety of any distribution, or any other action taken at the direction of the Employer, the Participant, or a Beneficiary. Each Participant and Employer shall at all times fully indemnify and hold harmless the Custodian and Sponsor, its successors and assigns,

from any liability arising from the receipt of contributions, payment of distributions, or actions taken at the direction of such Employer, Participant, or Beneficiary.

**8.6 Liability:** The Custodian's and Sponsor's liability under this Agreement and matters which it contemplates shall be limited to matters arising from their negligence or willful misconduct. To the extent permitted by applicable law, the Custodian and Sponsor shall be protected in acting upon any written order from the

Employer or Participant or any other notice, request, instruction or direction, consent certificate or other instrument or paper reasonably believed by it to be genuine and to have been properly executed, and, so long as it acts in good faith, in taking or omitting to take any other action. The Custodian and Sponsor may submit any question arising hereunder or in respect of the Account to counsel, including its own general counsel, and shall be protected to the extent permitted by applicable law, in acting on the advice of such counsel.

Subject to the provisions of applicable law, the Participant, his Beneficiary or the personal representative shall have the sole authority to enforce this Agreement on behalf of any all persons having or claiming any interest in the Account by virtue of this Agreement. To protect the account from expenses which might otherwise be incurred, it has been imposed as a condition to the acquisition of any interest in the Account, and it is hereby agreed, that subject to the provisions of applicable law, no person other than the Participant, his Beneficiary or personal representative, or the Employer, to the extent that the Custodian and/or Sponsor owes a duty to the Employer under this Agreement, may institute or maintain any action or proceeding against the Custodian and/or Sponsor in the absence of a determination of a court of competent jurisdiction to the contrary.

**8.7 Information Sharing:** The Sponsor is authorized to provide to, and receive from, an authorized representative of the Employer information relating to the Participant's Custodial Account, including non-public, personal information. Such information includes, but is not limited to, information regarding the Participant's employment status and any plan loans or hardship distributions. The Participant acknowledges that this information exchange is necessary to enable the Employer to satisfy the applicable requirements of Section 403(b) of the Code and regulations issued thereunder, in order to maintain the tax-favored status of the Participant's Custodial Account.

## SECTION 9. REPORTS AND RETURNS

**9.1** The Sponsor shall:

- (a) maintain separate records of the interest of each Participant (or his designated Beneficiary) in the Custodial Account indicating (i) the amounts and dates of all contributions, (ii) the investment of such contributions, (iii) the earnings on such investments, (iv) the amounts and dates of all distributions and (v) such other data as deemed useful in carrying out its duties hereunder;
- (b) send each Participant, no less frequently than once per calendar quarter, a written statement containing information with respect to the investment of such contributions, and the current status of the account;
- (c) mail a quarterly summary of activity in the Custodial Account during the preceding quarter and a statement showing the value of the assets held in the Custodial Account as of the end of such quarter.

**9.2** The Sponsor shall file such returns or reports with respect to the Custodial Account as are required to be filed by it under the Code and the regulations thereunder, or by the Department of Labor, and the Employer and each Participant shall provide the Sponsor with such information available to them as the Sponsor may be required to file such reports.

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## SECTION 10. AMENDMENTS AND TERMINATION

**10.1** This Custodial Agreement may be amended by the Sponsor by submitting a copy of the amendment to the Participant. The Participant hereby delegates to the Sponsor the power to amend this Custodial Agreement and shall be deemed to have consented to any such amendment. Notwithstanding the above, no amendment shall be made by the Sponsor which shall cause or permit

- (a) any part of the assets in the Account to be diverted to purposes other than for the exclusive benefit of the Participant or his Beneficiaries; or
- (b) except as may be permitted under Section 3.11 herein, any part of such assets to revert to or become the property of the Employer; or
- (c) any Participant, or his Beneficiary, to be deprived of any benefit to which he was entitled under the Account by reason of contributions made by the Employer prior to such amendment, unless such amendment is necessary either to conform the Account to, or to satisfy the condition of, any law, governmental regulation or ruling, or to permit the Account to meet the requirements of the Code; or
- (d) any responsibilities of the Custodian under the Agreement to be increased without its written consent.

**10.2** This Custodial Agreement shall terminate upon the complete distribution of assets in the Custodial Account or in the event that a determination is made by the Internal Revenue Service that the Custodial Account does not satisfy the requirements of Code Section 401(f)(2) or that contributions thereto are not treated under Code Section 403(b)(7)(A) as contributed for annuity contracts. In event of termination as aforesaid, the balance in the Custodial Account shall be distributed to the Participants (or their respective surviving spouses or Beneficiaries, as the case may be) in accordance with their interests in the Custodial Account.

**10.3** If permitted under the Employer's 403(b) Plan, a distributable event shall also include Plan Termination by the Employer. The Employer by proper action has the right, at any time, to terminate the 403(b) Plan. However, if the Employer does not have any rights under the individual Agreements including this Custodial Agreement, the Employer may not force the distribution to the assets in the individual Accounts and termination of the 403(b) Plan may not occur.

## SECTION 11. CONSTRUCTION AND GOVERNING LAW

**11.1** The Custodial Account is established with the intention that it qualify as a custodial account under Code Section 401(f)(2) and that contributions thereto be treated under Code Section 403(b)(7)(A) as amounts contributed for annuity contracts, and the provisions of this Agreement shall be construed in accordance with such intention. This Agreement shall be governed by the laws of the State of Missouri, to the extent such laws are not preempted by the laws of the United States, and if applicable the provisions of the Employee Retirement Income Security Act of 1974 (ERISA).

**11.2** The determination that any provision of this Agreement is not enforceable shall not affect the validity or enforceability of the remaining provisions of this Agreement. Unenforceable provisions shall be stricken or modified in accordance with such determination only as to such parties and this Agreement, as modified, shall continue to bind the specific parties involved therein and otherwise all other parties in unmodified form.