

RESOLUTION
of the
BOROUGH OF NEW PROVIDENCE
Resolution No 2013-167

Council Meeting Date: 05-13-2013

Date Adopted: 05-13-2013

TITLE: RESOLUTION AUTHORIZING AGREEMENT BETWEEN THE BOROUGH OF NEW PROVIDENCE AND AXA EQUITABLE LIFE INSURANCE COMPANY TO PROVIDE A DEFERRED COMPENSATION PLAN

Councilperson Cucco submitted the following resolution, which was duly seconded by Councilperson Madden.

WHEREAS, in order to attract and retain qualified employees there exists a need to adopt and provided deferred compensation plans for the employees of the Borough of New Providence (hereinafter referred to as "Employer"), which will provide employees the opportunity to enhance their financial security at retirement through savings of compensation on a deferred basis as provided by Section 457 of the Internal Revenue Code of 1986, as amended ("Code"); and

WHEREAS, the offering of additional investments from another contractor will provide additional retirement investment options to participating employees; and

WHEREAS, there is no direct financial cost to the Employer to adopt and implement an additional employee deferred compensation plan; and

WHEREAS, the Borough of New Providence reviewed the proposal and met with representatives of AXA Equitable; and

WHEREAS, it was deemed that AXA Equitable has the ability to: (1) maintain complete records of accounts; (2) manage accounts with absolute fidelity; (3) provide advice concerning various categories of investments; and (4) provide continuing consultation to participants.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of New Providence that they do hereby adopt a DEFERRED COMPENSATION PLAN provided by AXA-Equitable with the assigned plan identifier (66-PD- Equitable-053107) Borough of New Providence by the Division of Local Government Services; and

BE IT FURTHER RESOLVED by the Council of the Borough of New Providence that the Mayor and Borough Clerk are hereby authorized to execute the Service Agreement (bearing the identifier: 66-SA-Equitable-053107, assigned by the New Jersey Division of Local Government) with AXA Equitable for the provision of administrative and investment services.

BE IT FURTHER RESOLVED that the Borough Administrator is hereby designated as Local Plan Administrator for the administration of the DEFERRED COMPENSATION PLAN.

BE IT FURTHER RESOLVED that there has been no collusion, or evidence or appearance of collusion, between any local official and a representative of AXA Equitable in the selection of AXA Equitable as contractor for the administration of the Service Agreement pursuant to N.J.A.C. Section 5:37-5.7.

BE IT FURTHER RESOLVED that the Borough of New Providence is adopting a deferred compensation plan substantially similar to one on which a favorable Private Letter Ruling has been previously obtained from the federal Internal Revenue Service except for provision added by reason of The Small Business Job Protection Act 1996 (United State Public Law no.104-188), the Tax Payer Relief Act 2001 (United States public law no.105-34) and the Economic Growth and Tax Relief Reconciliation Act 2001 (United states public law no.107-16) , and all such provisions are stated in the plan in terms substantially similar to the text of those provisions in the Internal Revenue code section 457. The use of the Ruling is for guidance only and acknowledges that for Internal Revenue Service purposes, the Ruling of another employer is not to be considered precedent.

BE IT FURTHER RESOLVED that a certified copy of this resolution and all necessary required documents shall be submitted to the Director of the Division of Local Government Services within the State Department of Community Affairs for approval.

APPROVED, this 13th day of May, 2013.

RECORD OF VOTE

	AYE	NAY	ABSENT	NOT VOTING
GALLUCCIO	X			
GENNARO	X			
KAPNER	X			
MADDEN	X			
MUÑOZ	X			
ROBINSON	X			
HERN			TO BREAK COUNCIL TIE VOTE	

I hereby certify that the above resolution was adopted at a meeting of the Borough Council held on the 13th day of May, 2013.

Wendi B. Barry, Borough Clerk

SPECIMEN

SPECIMEN 457(b) PLAN DOCUMENT FOR NEW JERSEY GOVERNMENTAL EMPLOYERS

General Instructions:

Please note: In adapting this plan, please make sure of the following:

Sections 1.0 and 1.1	These sections should be completed.
Section 1.2	Specify in this section whether this plan document is for <ul style="list-style-type: none">- a new plan, or- an amendment and a restatement of a previously established plan, and insert the necessary information.
Certification and Signature Section (Page 33)	The Employer or the authorized representative for the employer should complete and sign in the spaces provided.

EMPLOYEE DEFERRED COMPENSATION PLAN UNDER SECTION 457 OF THE INTERNAL REVENUE CODE 66-PD-Equitable-053107

This specimen 457(b) plan document for New Jersey governmental employers is provided to the customers of AXA Equitable Life Insurance Company ("AXA Equitable"). This specimen plan incorporates the provisions of AXA Equitable's prior approved New Jersey 457(b) plan document, which received a favorable opinion letter from the IRS regarding the plan's provisions satisfying the requirements of section 457(b) of the Internal Revenue Code of 1986, as amended ("Code"), and updates that plan by this restatement to incorporate subsequent changes in the provisions of section 457(b) of the Code."

Table of Contents

Article I – EMPLOYER AND PLAN INFORMATION

1.0	Name of Employer	Page 4
1.1	Address of Employer’s Principal Office	Page 4
1.2	Effective Date	Page 5

Article II – DEFINITIONS

2.0	Accounting Date	Page 5
2.1	Account	Page 5
2.2	Alternate Payee	Page 6
2.3	Annual Deferral(s)	Page 6
2.4	Beneficiary	Page 6
2.5	Catch-up Contribution	Page 6
2.6	Code	Page 6
2.7	Compensation	Page 6
2.8	Contractor	Page 6
2.9	Contribution	Page 6
2.10	Director	Page 6
2.11	Effective Date	Page 6
2.12	Elective Deferral	Page 7
2.13	Eligible 457(b) Plan	Page 7
2.14	Eligible Retirement Plan	Page 7
2.15	Eligible Rollover Distribution	Page 7
2.16	Employee	Page 7
2.17	Employer	Page 7
2.18	Governmental Employee	Page 7
2.19	Inactive Participant	Page 7
2.20	Ineligible Plan	Page 7
2.21	Independent Auditor	Page 8
2.22	Independent Contractor	Page 8
2.23	Investment Product	Page 8
2.24	Joinder Agreement	Page 8
2.25	Nonelective Employer Contribution	Page 8
2.26	Normal Retirement Age	Page 8
2.27	Owner	Page 9
2.28	Participant	Page 9
2.29	Plan	Page 9
2.30	Local Plan Administrator	Page 9
2.31	Plan Year	Page 9
2.32	Prototypical Plan	Page 9
2.33	Rollover Contribution	Page 9
2.34	Severance from Employment	Page 9
2.35	Trust	Page 9
2.36	Trustee	Page 9

Article III – ELIGIBILITY AND PARTICIPATION

3.0	Eligibility	Page 10
3.1	Participation	Page 10
3.2	Termination of Eligibility	Page 11
3.3	Amendments to Joinder Agreements	Page 11

Article IV – CONTRIBUTIONS

4.0	Contributions	Page 12
4.1	Three Years Prior to Normal Retirement Age Catch-up Deferral Limit	Page 13
4.2	Age 50+ Catch-up Contribution Limit	Page 13
4.3	Multiple Plan Contribution Limits	Page 13
4.4	Transfers from Other 457 Plans	Page 13
4.5	Rollover into the Plan	Page 14
4.6	Excess Deferrals to the Plan	Page 14
4.7	Ownership of Plan Contributions	Page 14

Article V – INVESTMENTS

5.0	Participant Direction of Investments	Page 15
5.1	Authorized Investment Options	Page 15
5.2	Establishment of Accounts	Page 15
5.3	Valuation of Account	Page 15
5.4	Trust Requirement	Page 16
5.5	Administration of Investments	Page 16
5.6	Conditions of Investments	Page 16
5.7	Liability for Plan	Page 17

Article VI – BENEFITS

6.0	Distributions under the Plan	Page 18
6.1	Form of Distribution	Page 18
6.2	Mandatory Distributions	Page 19
6.3	Designation of Beneficiary	Page 19
6.4	Benefits upon Death	Page 20
6.5	Timing of Distribution of Benefits	Page 22
6.6	Distribution for Minor Beneficiary	Page 22
6.7	Location of Participant or Beneficiary Unknown	Page 22
6.8	Unforeseeable Emergency Withdrawals	Page 22
6.9	Involuntary Cash out Distribution	Page 23
6.10	Small Dollar Withdrawals	Page 23
6.11	Rollovers from the Plan	Page 23
6.12	Purchasing Past Service Credits under a State Defined Benefit Governmental Plan	Page 24
6.13	Transfers to Other 457 Plans	Page 24
6.14	Distributions to Alternate Payee	Page 25
6.15	Payments to Incompetents	Page 25

Article VII – ADMINISTRATION

7.0	Authority of the Employer	Page 26
7.1	Appointment of the Local Plan Administrator	Page 26
7.2	Resignation or Removal of the Trustee	Page 26
7.3	Delegation of Responsibilities	Page 27
7.4	Advisors	Page 27
7.5	Powers and Duties of the Local Plan Administrator	Page 27
7.6	Records and Reports	Page 28
7.7	Information from Employer	Page 28
7.8	Payment of Expenses	Page 28
7.9	Compliance Requirements - Prototypical Plans; Annual Audit	Page 28

Article VIII - MISCELLANEOUS

8.0	Exclusive Benefit Rule	Page 30
8.1	Employment	Page 30
8.2	Alienation	Page 30
8.3	State Law	Page 30
8.4	Receipt and Release for Payments	Page 30
8.5	« USERRA » Rights	Page 31
8.6	Pre-1979 Accounts	Page 31
8.7	Loans	Page 31
8.8	Construction	Page 31
8.9	Incorporation	Page 31
8.10	Personal Liability	Page 31
8.11	Hold Harmless	Page 31
8.12	Ban on Solicitation	Page 31
8.13	Written Notice	Page 32
8.14	Successors and Assigns	Page 32
8.15	Retirement System Integration	Page 32
8.16	Conflict of Interest	Page 32
8.17	Non-Collusion	Page 32

Article IX – AMENDMENT AND TERMINATION

9.0	Amendment	Page 33
9.1	Termination	Page 33

CERTIFICATION AND SIGNATURE

Page 34

This specimen 457(b) plan document for New Jersey governmental employers is provided to the legal and/or tax counsels of the customers of AXA Equitable Life Insurance Company (“AXA Equitable”). AXA Equitable and its representatives shall assume no responsibility for the proper operation of this plan in accordance with applicable law. This specimen plan document should be reviewed by the Employer’s attorney and/or tax advisor prior to its adoption by the Employer. AXA Equitable and its affiliates and their agents, associates and financial professionals shall assume no responsibility for the proper operation of this plan in accordance with applicable law.

**PLAN DOCUMENT
FOR
A NEW JERSEY GOVERNMENTAL EMPLOYER
ELIGIBLE 457(b) DEFERRED COMPENSATION PLAN**

PREAMBLE

By executing this Plan Document for a New Jersey Governmental Employer Eligible 457(b) Deferred Compensation Plan (“Plan”), the undersigned Employer hereby establishes or amend an Eligible 457(b) Plan for its Employees. The Plan is intended to be a Prototypical Plan that complies with the applicable New Jersey State law and section 457(b) of the Internal Revenue Code of 1986, as amended, and any regulations issued thereunder.

The Director must approve this Plan prior to its implementation by the Employer.

The Plan consists of the provisions set forth in this document and is applicable to each Employee who elects to participate in the Plan.

ARTICLE I

EMPLOYER AND PLAN INFORMATION

1.0 Name of Employer:

1.1 Address of Employer’s Principal Office:

1.2 Effective Date:

This Plan Document:

- [] establishes a new Eligible 457(b) Plan effective as of _____
 (“Effective Date”) *(Insert month-day-year)*
- [] constitutes an amendment and restatement in its entirety of a previously established Eligible 457(b) Plan of the Employer.

Unless otherwise specified in the Plan, the effective date of this amendment and restatement is _____ (hereinafter called the “Effective Date”).
(Insert month-day-year)

The original effective date of the Plan is _____.
(Insert month-day-year)

ARTICLE II

DEFINITIONS

As used in this Plan Document, specific words and phrases shall have the following meanings, unless a different meaning is plainly required by the context and the following rules of interpretation shall apply in reading this instrument. The masculine pronoun shall include the feminine and the singular shall include the plural. All references herein to specific Sections shall mean Sections of Articles of this Plan Document unless otherwise qualified.

2..0 “Accounting Date” means that annual date at the close of its fiscal year when the Employer provides an accounting of its Plan and apprises each Participant of the value of his or her individual Account.

2.1 “Account” means the account(s) established and maintained by the Contractor for each Participant under the provisions of the Plan, and shall include, if applicable, a 457(b) Rollover Account and/or Rollover Account. **“457(b) Rollover Account”** means that portion of a Participant’s Account attributable to Eligible Rollover Contributions received from another eligible 457(b) deferred compensation plan sponsored by a Governmental Employer. **“Rollover Account”** means that portion of a Participant’s Account attributable to contributions from an Eligible Rollover Distribution(s) from an Eligible Retirement Plan(s) other than another eligible 457(b) deferred compensation plan sponsored by a Governmental Employer.

- 2.2** “**Alternate Payee**” means a spouse, former spouse, or child or other dependent of a Participant who is recognized by a domestic relations order as having a right to receive all, or a portion of, the Participant’s Account.
- 2.3** “**Annual Deferral(s)**” means, with respect to the taxable year, the amount of Compensation deferred under an Eligible 457(b) Plan, whether Elective Deferral, Accrued Unpaid Sick Pay or Accrued Unpaid Vacation Pay.
- 2.4** “**Beneficiary**” means a person(s), trust(s) or, a Participant’s estate, or any other person designated by a Participant under the Plan to receive any amount in the Participant’s Account which becomes payable in the event of the Participant’s death.
- 2.5** “**Catch-up Contribution**” means either (1) the amount of Annual Deferral permitted for a taxable year by a Participant who is at least age 50 by the end of the taxable year under section 414(v) of the Code and Section 1.457-4(c)(2) of the Treasury Regulations or (2) the amount of Annual Deferral for an eligible Participant for the taxable year under section 457(b)(3) of the Code and Section 1.457-4(c)(3) of the Treasury Regulations that may be available during the Participant’s last 3 years prior to the year the Participant attains Normal Retirement Age under the Plan.
- 2.6** “**Code**” means the Internal Revenue Code of 1986, as amended, and any regulations issued thereunder.
- 2.7** “**Compensation**” means all wages, salaries or other compensation paid during a taxable year by the Employer to an Employee that qualifies as “**includible compensation**” under section 457(e)(5) of the Code and applicable Treasury Regulations. Compensation includes elective deferrals under Code section 402(g)(3) and salary deferral amounts under Code sections 125, 132(f)(4) and 457.
- 2.8** “**Contractor**” means AXA Equitable Life Insurance Company or any other organization, person or entity, other than the Employer, authorized to do business in New Jersey, that provides investments or services or both regarding the Employer’s Plan.
- 2.9** “**Contribution**” means the amount of Elective Deferrals and Nonelective Employer Contributions made hereunder by or for the benefit of each Participant deposited into each Participant’s Account. In addition, Contribution shall include, if permitted by the Employer, the value of all or a portion of a Participant’s Accrued Unpaid Sick Pay and/or Accrued Unpaid Vacation Pay as elected by the Participant before the beginning of the month in which such amounts would otherwise be paid or made available.
- 2.10** “**Director**” means the Director of the Division of the Local Government Services in the Department of Community Affairs in the State of New Jersey.
- 2.11** “**Effective Date**” means the date indicated by the Employer in Section 1.2 of this Plan Document.

- 2.12 “Elective Deferral”** means the annual amount of Compensation that a Participant elects to defer under the provisions of the Plan pursuant to a properly executed Joinder Agreement, and also means **Deferred Compensation** as defined in the applicable New Jersey rules and/or/regulations with respect to Municipal, County and Authority employees deferred compensation plans. Compensation earned before a Joinder Agreement has been properly executed under the provisions of the Plan may not be deferred.
- 2.13 “Eligible 457(b) Plan”** means a written plan that meets the requirements of section 457(b) of the Code and Sections 1.457-3 through 1.457-10 of the Treasury Regulations and that is established and maintained by an eligible Employer. This Plan is intended to be an Eligible 457(b) Plan of a Governmental Employer.
- 2.14 “Eligible Retirement Plan”** means an eligible retirement plan described in section 402(c)(8)(B) of the Code.
- 2.15 “Eligible Rollover Distribution”** means any distribution to an Employee or former Employee that meets the requirements of section 402(c)(4) of the Code
- 2.16 “Employee”** means any person, including elected, appointed and salaried persons who perform services for the Employer. The term “Employee” shall not include Independent Contractors.
- 2.17 “Employer”** means the local unit, which is either a municipality, a county, or an authority created by one or more counties or municipalities identified in the Section 1.0 of this Plan, and any successor thereto, that elects to establish and maintain this Plan. Employer also includes any predecessor Employer that had adopted and maintained this Plan and any successor Employer.
- 2.18 “Governmental Employer”** means any entity described in section 457(e)(1)(A) of the Code and Section 1.457-2(1) of the Treasury Regulations. Governmental Employer includes the 50 states of the United States, the District of Columbia, a political subdivision of a state, or any agency or instrumentality of a state, the District of Columbia, or a political subdivision of a state. Governmental Employer does not include the Federal government or any agency or instrumentality thereof.
- 2.19 “Inactive Participant”** means any former Participant who is not currently making Elective Deferrals or receiving Employer Contributions under the Plan and who has not received a distribution of his or her entire benefit under the Plan.
- 2.20 “Ineligible Plan”** means a plan established and maintained by an eligible Employer that is not maintained in accordance with Sections 1.457-3 through 1.457-10 of the Treasury Regulations.

- 2.21 “Independent Auditor”** means a registered municipal accountant for a municipality or county pursuant to N.J.S.A. 40A:5-4 or a registered municipal accountant or a certified public accountant for an authority or fire district pursuant to N.J.S.A. 40A:5A-15.
- 2.22 “Independent Contractor”** means any individual receiving cash remuneration from the Employer for services rendered to the Employer pursuant to one or more contracts, provided such person is not an Employee.
- 2.23 “Investment Product”** means any investment product specifically approved and authorized by the Employer to be offered to Participants under the Plan, provided that such products are held in Trust, or are annuity contracts or custodial accounts that meet the requirements of Section 401(f) of the Code to be treated as a Trust to hold the Plan’s assets. For purposes of this Section 2.23, the term “annuity contract” does not include a life, health or accident, property, casualty or liability insurance contract.

Notwithstanding the provisions of this Section 2.23 to the contrary, the investment products shall be one or more of the following types of investments to the exclusion of all others:

- Interest bearing accounts or securities, in which savings banks of New Jersey are authorized to invest their funds;
- State of New Jersey Cash Management Fund;
- Individual or group annuity contracts, whether fixed or variable; or
- Mutual fund shares.

- 2.24 “Joinder Agreement”** means the agreement between the Employee and the Employer pursuant to which a portion of the Employee’s Compensation will be deferred in accordance with the provisions of this Plan.
- 2.25 “Nonelective Employer Contribution”** means a discretionary Contribution made by the Employer to a Participant’s Account under the Plan with respect to which the Participant does not have a choice to receive such Contribution in cash or property.
- 2.26 “Normal Retirement Age”** means, for purposes of the 3 years prior to Normal Retirement Age Catch-up Contribution in Section 4.1, any age that is on or after the earlier of age 65 (age 40 for qualified police and firefighters) or the age at which Participants have the right to retire and receive, under the State of New Jersey basic defined benefit plan (or a money purchase pension plan in which the Participant participates if the Participant is not eligible to participate in a defined benefit plan, if applicable), immediate retirement benefits without actuarial or similar reduction because of retirement before the normal retirement age specified in the State of New Jersey defined benefit pension plan (or money purchase pension plan, if applicable). Alternatively, a Participant is allowed to designate a Normal Retirement Age within these ages.

- 2.27** “**Owner**” means the Employer. The Employer is the owner of the Investment Products issued under the Plan, and the Contractor shall pay all benefits under the Investment Products to the Employer, or as may be directed by the Employer directly to a Participant or Beneficiary.
- 2.28** “**Participant**” means any Employee who voluntarily elects to participate in this Plan by filing a duly executed Joinder Agreement with the Employer.
- 2.29** “**Plan**” means the 457 (b) governmental deferred compensation plan of the Employer as set forth in this Plan Document, and as it may from time to time be amended, which is intended to meet the applicable requirements of Section 457(b) of the Code.
- 2.30** “**Local Plan Administrator**” means the person or group of local public officials or employees, including the Employer, appointed by the local governing body to act as the plan representative with respect to the Contractor and as the fiduciary responsible for the administration of the Plan and for the investments and the accounting of funds maintained under the Plan.
- 2.31** “**Plan Year**” means the calendar year in which the Plan becomes effective and each succeeding calendar year during the existence of the Plan.
- 2.32** “**Prototypical Plan**” means the Plan prepared by the Contractor and approved by the Director.
- 2.33** “**Rollover Contributions**” means a contribution of an Eligible Rollover Distribution made by a Participant from another Eligible Retirement Plan as provided in Section 4.5 of this Plan Document.
- 2.34** “**Severance from Employment**” means, as defined in Section 1.457-6 of the Treasury Regulations, that an Employee has severed employment from the Employer by dying, retiring or otherwise severing employment with the Employer.
- 2.35** “**Trust**” means any trust established by the Employer pursuant to a written agreement that constitutes a valid trust under applicable state law to hold Participant Accounts as provided in Article V. Trust includes any custodial account, annuity contract or instrument that meets the requirements of Section 401(f) of the Code to be treated as a trust to hold the Plan’s assets.
- 2.36** “**Trustee**” means the person, entity or organization, if any, designated by the Employer to act as trustee of the Plan. If the assets of the Plan are held in annuity contracts and/or custodial accounts outside of a trust, the term “Trustee” shall also mean Contractor or insurer issuing such annuity contracts and/or the custodian of such custodial accounts.

ARTICLE III.

ELIGIBILITY AND PARTICIPATION

- 3.0 ELIGIBILITY.** An Employee shall be eligible to participate in the Plan. The Employer shall determine who is an Employee as described in Section 2.17 of this Plan. Such determination shall be conclusive and binding upon all persons.
- 3.1 PARTICIPATION.** An Employee may elect to participate and become a Participant in the Plan by executing (a) a valid written Joinder Agreement and delivering such agreement to the Employer, and (b) any enrollment service/administration or other forms required by the Contractor and submitted to the Contractor. The Joinder Agreement shall specify:
- (a) the amount of the Participant's Elective Deferral which the Employer and the Participant agree to defer within the limits of section 457(b) of the Code and Contribution limits in Article IV of this Plan Document;
 - (b) the date as of which reduction and deferral of Compensation (including, if applicable, the value of Accrued Unpaid Sick Pay and/or Accrued Unpaid Vacation Pay) pursuant to the Joinder Agreement shall begin. Such reduction and deferral shall commence as early as administratively practicable following such date, but not earlier than the first day of the first calendar month in which the Compensation is paid or made available to the Employee following the execution of the Joinder Agreement;
 - (c) the beneficiary or beneficiaries, including one or more contingent Beneficiaries designated by the Participant to receive any benefits which may be payable under the Plan on the death of the Participant; and
 - (d) that the Employer and Employee may execute only one Joinder Agreement for purposes of enrolling in the Plan during one calendar year. An Employee shall be deemed to be a Participant in the Plan as of the first day of the first calendar month following satisfaction of the eligibility requirements for receiving such contribution, provided that all enrollment service, administrative and/or other forms required by the Contractor to open an Account have been executed and submitted to the Contractor by such date. The Employee's participation date shall default to the first day of each succeeding calendar month, until all required forms are received by the Contractor. The Joinder Agreement expires upon termination of service or a revocation of Elective Deferrals.

Elective Deferrals shall automatically be suspended for any pay period in which the Participant has insufficient Compensation available to make the entire salary reduction amount agreed upon in the Joinder Agreement. A Participant who has deferrals

automatically suspended may reinstate the deferrals by executing a new Joinder Agreement.

3.2 TERMINATION OF ELIGIBILITY. A Participant who ceases to be an Employee shall become an Inactive Participant and all Contributions shall immediately cease.

A Participant who is on an authorized leave of absence remains a Participant during the period of the leave.

3.3 AMENDMENTS TO JOINDER AGREEMENTS. Joinder Agreements are irrevocable as to all amounts previously deferred under the Joinder Agreement. A Participant may modify a Joinder Agreement by filing with the Local Plan Administrator a signed amendment on forms approved by the Local Plan Administrator, to do any of the following:

- (a) terminate the election to make Elective Deferrals to the Plan; or
- (b) change prospectively the amount of Elective Deferrals to the Plan.

An amendment or termination of the Participant's election to make an Elective Deferral shall be effective as soon as administratively practicable, but not earlier than the first day of the following calendar month. Further, an amendment or termination of the Participant's election to make Elective Deferrals to the Plan shall not prevent the Employer from contributing on the Participant's behalf Nonelective Employer Contributions, as long as the Participant remains an Employee.

ARTICLE IV.
CONTRIBUTIONS

4.0 CONTRIBUTIONS.

(a) Contribution Amounts:

The Contributions that may be made to the Plan by or on behalf of a Participant may include:

- (i) Elective Deferrals,
- (ii) Three Years Catch-Up Deferral described in Section 4.1 of this Plan Document,
- (iii) Age 50+ Catch Up described in Section 4.2 of this Plan Document
- (iv) Nonelective Employer Contribution,
- (v) Accrued Unpaid Sick Pay, and/or
- (vi) Accrued Unpaid Vacation Pay,

(b) Contribution Limits:

Contributions that may be contributed to the Plan by or on behalf of a Participant during any calendar year shall not exceed the limits of Section 457(b)(2) of the Code and Section 1.457-4 of the Treasury Regulations. Moreover the minimum Contribution Amount that may be made by or on behalf of a Participant at any time shall not be less than \$20 (or \$10 per period if bi-weekly payments are made).

(c) Accrued Unpaid Sick Pay and/or Accrued Unpaid Vacation Pay:

A Participant's election to defer the value of Accrued Unpaid Sick Pay and/or Accrued Unpaid Vacation Pay into the Participant's Account under the Plan for any calendar month will be effective only if permitted by the Employer and if the Joinder Agreement providing for the deferral is entered into before the beginning of the month in which the amounts would otherwise be paid or made available to the Participant.

(d) Responsibility and Timing of Contributions:

The Elective Deferrals specified by each Participant in the Joinder Agreement shall be deducted by the Employer at the end of each pay period. The Employer and the Participant have the responsibility for determining the eligibility for and the amount and timing of contributions to the Plan. As provided in the Treasury Regulation 1.457-8, amounts deferred under the Plan must be transferred by the Employer to the Trust within a period that is not longer than is reasonable for the proper administration of the Participant accounts under the Plan. Notwithstanding the foregoing sentence to the contrary, Elective Deferrals shall be turned over to the Contractor for investments within 72 hours exclusive of Sundays and holidays, from the time the Elective Deferrals are withheld from the Employee's pay. All Contributions made under this Plan shall be immediately vested.

4.1 THREE (3) YEARS PRIOR TO NORMAL RETIREMENT AGE CATCH-UP DEFERRAL LIMIT. An Active Participant may, in any or each of the three (3) years that end before the calendar year in which the Participant attains Normal Retirement Age, elect to defer from Compensation an amount not exceeding the limits of section 457(b)(3) of the Code and Section 1.457-4(c)(3) of the Treasury Regulations. The Contribution using this Catch-up is in lieu of the Contributions provided in Section 4.2.

For purposes of determining the permissible Contribution under this Section 4.1, a prior year shall be taken into account only if such year began after December 31, 1978, and the Participant was eligible to participate in the Plan during all or a portion of such prior year. In addition, Contributions using this Catch-up are only available when the Contribution amount using this Catch-up is larger than the Age 50+ Catch-up contribution limit described in Section 4.2 of this Plan Document

4.2 AGE 50+ CATCH-UP CONTRIBUTION LIMIT. A Participant who is at least age 50 on or before the last day of the calendar year may elect to increase his Elective Deferral Contribution to the Plan in accordance with the limits of section 414(v) of the Code and Section 1.457-4 of the Treasury Regulations. Such Contributions are in addition to the Contributions made in accordance with the limitations of Section 457(b)(2) of the Code, but may not be used in any taxable year in which the 3 Years Prior to Normal Retirement Age Catch-up has been used in accordance with Section 4.1 of this Plan Document, to provide a larger Contribution limit for a Participant.

4.3 MULTIPLE PLAN CONTRIBUTION LIMITS. The Contribution limit in Section 4.0 applies to all Eligible 457(b) Plans of all employers for whom a Participant has performed services during the taxable year, including both Eligible 457(b) Plans of Governmental Employers and Eligible 457(b) Plans of tax-exempt entities. For purposes of determining the amount permitted to be excluded from a Participant's gross income in any taxable year, the Contributions by and/or for the Participant under the Plan, and the contributions by and/or for the Participant under all other Eligible 457(b) Plans, must be determined on an aggregate basis. To the extent that the combined Contribution amount exceeds the maximum limitation, the amount is treated as an excess deferral and will be distributed in accordance with Section 4.6 of this Article IV.

The Catch-up Contribution limits in Section 4.1 for the 3 Years Prior to Normal Retirement Age Catch-up and Section 4.2 for the age 50+ Catch-up must also be determined based on the aggregation of Contributions to all Eligible 457(b) Plans sponsored by the Employer in which a Participant in this Plan is eligible to participate.

4.4 TRANSFERS FROM OTHER 457 PLANS. This Plan shall accept transfers of assets from other Eligible 457(b) Plans sponsored by Governmental Employers. Any such transfers are subject to Section 1.457-10(b) of the Treasury Regulations.

4.5 ROLLOVERS INTO THE PLAN. Subject to the provisions of section 457(e) of the Code and applicable Treasury Regulations, distributions from another “eligible retirement plan,” as defined in section 402(c)(8)(B) of the Code, that are “eligible rollover distributions,” as defined in section 402(c)(4) of the Code, may be rolled over by a Participant or Employee into this Plan. Eligible rollover distribution amounts received from another Eligible 457(b) Plan of a Governmental Employer shall be allocated to the Participant’s separate 457(b) Rollover Account under the Plan. Eligible rollover distributions received from an eligible retirement plan other than another Eligible 457(b) Plan of a Governmental Employer shall be allocated to the Participant’s separate Rollover Account under the Plan so that these amounts are segregated for the purpose of determining if section 72(t) of the Code is applicable to subsequent distributions from the Plan.

4.6 EXCESS DEFERRALS TO THE PLAN. Any amount deferred under Article IV of this Plan Document for the taxable year of a Participant that exceeds the maximum deferral limitations under section 457(b) of the Code and accompanying regulations will be distributed to the Participant, with allocable net income, as soon as administratively practical after the Plan Administrator determines that the amount is an excess deferral. The distribution of an excess deferral is taxable to the Participant for that taxable year. In determining if the Participant has an excess deferral in the Plan, all Eligible 457(b) Plans under which a Participant participates by virtue of his relationship with the Employer are treated as a single plan. If the Plan fails to correct any excess deferrals as provided in the previous sentence, the Plan will be an ineligible plan under which benefits are subject to tax in accordance with Section 1.457-11 of the Treasury Regulations.

In addition, an excess deferral in this Plan which results from an Employee’s participation in a 457(b) plan sponsored by an employer other than the Employer, may be corrected either by (1) distributing the excess deferral with allocable net income to the Participant as soon as administratively practicable after the Plan determines that the amount is an excess deferral, or (2) leaving the excess deferral in the Plan, in which case the benefits are subject to tax to the Participant in accordance with Section 1.457-11 of the Treasury Regulations.

4.7 OWNERSHIP OF PLAN CONTRIBUTIONS. Notwithstanding any contrary provision of the Plan, in accordance with section 457(g) of the Code, all amounts of Compensation deferred pursuant to the Plan, all property and rights purchased with such amounts, and all income attributable to such amounts, shall be owned and maintained in trust for the exclusive benefit of Participants and their Beneficiaries in accordance Section 5.5 of the Plan. Interest in the Account of a Participant who changes employment may, under certain prescribed conditions, be transferred to an Eligible 457(b) Plan of a new Governmental Employer.

ARTICLE V.

INVESTMENTS

5.0 PARTICIPANT DIRECTION OF INVESTMENTS. Participants shall provide investment instructions, on such forms as may be required by the Local Plan Administrator or by the Contractor as may be authorized by the Local Plan Administrator, for Contributions to be deposited into the appropriate investment option(s) which are available under the Investment Products for the Plan. If a Participant fails to instruct the Local Plan Administrator or the Contractor of the appropriate investment option(s) for investment of Contributions made to his Account, or if instructions are not clear, complete or understandable, as determined by the Local Plan Administrator or the Contractor, then any Contributions shall be returned to the Employer.

5.1 AUTHORIZED INVESTMENT OPTIONS. The Employer shall authorize, upon prior approval by the Director, the Investment Products and investment funds in which Participants may invest their Accounts under the Plan. No Accounts may be invested in any Investment Product that is not approved and authorized by the Employer and the Director for the Plan.

5.2 ESTABLISHMENT OF ACCOUNTS. Appropriate Accounts shall be established for each Participant. These Accounts shall reflect the Contributions made for each Participant, and investment earnings or losses in accordance with Section 5.3 and shall record and reflect reductions in the Account balance occurring as a result of withdrawals or distributions from the Account.

If the Participants' Accounts and the Contributions made on behalf of the Participants are invested in annuity contracts issued by the Contractor, a separate annuity certificate shall be maintained for each Participant. For convenience, and to facilitate an orderly administration of the Plan, individual annuity certificates for all Participants will be maintained by the Employer showing the Participant's name. A written report of the status of the Participant's Account shall be furnished to each Participant at least quarterly by the Contractor through the Employer.

5.3 VALUATION OF ACCOUNT. The Participant's Account shall be credited with the Contribution, Rollover Contributions, and/or Transfers described in Section 4.0 (collectively referred to in this Section 5.3 as "Remittances"), received by the Contractor at its Processing Office if such Remittances are received by 4:00 p.m. New York time, or as of the next business day, if later. Moreover, the Account of each Participant shall be adjusted in accordance with the investment experience of the Investment Products utilized by the Participant to reflect any appreciation or depreciation in their fair market value. All interest, dividends, charges for premiums, capital, or market changes applicable to each Participant's Account shall be credited or debited to the Accounts as they occur. The fair market value of each Participant's Account shall represent the fair market value of all assets held, plus

deposits and earnings, less expenses (including administrative expenses) and proper charges against each Participant's Account as of each valuation date. The valuation date of each Account shall be at least once per month.

Such credits described above in this Section 5.3 shall be made in a nondiscriminatory manner. In addition, notwithstanding the foregoing provisions to the contrary, after the first year of program operation, the Contractor or plan manager shall not permit the cumulative plan balance to be less than the total cumulative sum of all amounts deferred by all Participants, or any Participant's Account to have a balance less than the cumulative sum of all of the individual Participant's deferrals since participation in the Plan commenced. The only exception to this provision contained in this last paragraph of Section 5.3 shall be:

- a. Variable annuities which guarantee that during the first three years of fund accumulation a Participant will have distribution, upon withdrawal from the Plan, an amount equal to the amount deferred;
- b. A variable annuity with no such guarantee which is offered as part of a fixed and variable product line; and
- c. Life insurance contracts.

5.4 TRUST REQUIREMENT. Accounts shall be held in trust for the exclusive benefit of Participants in a Trust, or in annuity contracts or custodial accounts that meet the requirements of section 401(f) of the Code. Any investment made shall be subject to the terms and conditions of the Trust, annuity contract or custodial account to the extent such terms are not inconsistent with the provisions of the Plan or applicable Federal and state law (including regulations and other guidance provided thereunder). In such instance, the provisions of the Plan or such applicable law shall control.

5.5 ADMINISTRATION OF INVESTMENTS. Contributions made by or on behalf of Participants shall continue to be invested in the manner directed by the Participant (or, if applicable, the Beneficiary) until the Local Plan Administrator has received new investment instructions. A change in investment directions may be made with respect to future contributions and/or all, or a portion of, amounts held in the Participant's Account(s) unless otherwise restricted by the Trust, annuity contract or custodial account.

Participant investment directions will be processed as soon as administratively practicable following receipt of such directions by the Contractor.

Notwithstanding the foregoing provisions to the contrary, all funds including Contributions, Rollover Contributions, and Transfers from other Eligible 457 Plans as described in Sections 4.4 and 4.5 of the Plan shall be invested by the Contractor within 72 hours, exclusive of Sundays and holidays, from the time the Contractor receives funds.

5.6 CONDITIONS OF INVESTMENTS. Amounts allocated to each Participant's Account shall be invested in the funds available under the Investment Product selected by the Participant (or, if applicable, the Beneficiary). Accounts are invested subject to the terms and conditions of any agreement governing the Investment Product in which the Accounts

are invested. The terms and conditions of such Investment Products are considered part of, and shall be construed as having been incorporated into this Plan except to the extent any provision of an Investment Product agreement is inconsistent with the provisions of the Plan or applicable Federal and state law (including regulations and other guidance provided thereunder). In such instance, the provisions of the Plan or such applicable law shall govern.

5.7 LIABILITY FOR PLAN. The Contractor or providers of Investment Products shall have no liability or responsibility for the validity of this Plan or for the tax or legal aspects of this Plan. The Contractor shall not be required to question any actions directed by the Local Plan Administrator or Employer. The Contractor shall not be required to permit any action or allow any benefit or privilege contrary to the terms of any Investment Product.

ARTICLE VI.

BENEFITS

6.0 DISTRIBUTIONS UNDER THE PLAN. Except as may be provided under this Article VI, benefits from the Plan shall be payable only when a Participant has a Severance from Employment with the Employer. It shall be the Local Plan Administrator's responsibility to provide the Contractor with the appropriate completed forms required to make any distribution required from the Plan. The Contractor shall make payment of all benefits due to the Employer unless otherwise directed by the Local Plan Administrator and agreed to by Contractor. A Participant's Account shall be subject to assessment of any expenses or fees that are provided by the terms of an annuity contract, fund, custodial or Trust account.

6.1 FORM OF DISTRIBUTION. Except as may be provided by the terms of any Investment Product or the provisions of any applicable federal or state law or regulation, the Participant, or Beneficiary or Alternate Payee under a Qualified Domestic Relations Order, may choose to have the distribution of the Account payable in the following form of payment:

- (a) Lump Sum,
- (b) A periodic payment over a period not exceeding the joint life expectancies of the Participant and the Beneficiary or Alternate Payee paid not less frequently than annually,
- (c) A partial lump-sum and periodic payment as described above,
- (d) An annuity payment in any form as may be permitted under the terms of the annuity contract, or
- (e) Any such other form as may be agreed to by the Local Plan Administrator and the Contractor and consistent with Section 457(b) of the Code.

No distribution option may be selected by a Participant or Beneficiary under this Plan unless it satisfies the requirements of Code sections 401(a)(9) and 457(d)(2), and the regulations thereunder including that installment payments be made in substantially non-increasing amounts and that payments commencing before the death of a Participant satisfy the incidental death benefits requirement of Code section 457(d)(2)(B)(i)(I), notwithstanding any provisions of the Plan to the contrary. Unless otherwise elected by the Participant or Beneficiary, all distribution periods based on life expectancies shall be determined in the manner required under Code section 401(a)(9) without recalculation of life expectancies.

6.2 MANDATORY DISTRIBUTIONS. Notwithstanding anything to the contrary in this Plan, a Participant shall be required to receive a distribution from his Account by April 1 of the calendar year following the later of the calendar year in which the Participant attains age 70½ (or such later date as may be provided for in applicable guidance) or the year of the Participant's Severance from Employment ("required beginning date"). Unless an optional distribution form is elected by the required beginning date, the Participant's Account shall then be distributed under the single lump sum option. During the Participant's lifetime, the minimum amount that will be distributed for each distribution calendar year (as defined in Revenue Ruling 2002-29) is the lesser of:

- (a) The quotient obtained by dividing the Participant's Account balance (as defined in Revenue Ruling 2002-29) by the distribution period in the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the Regulations, using the Participant's age as of the Participant's birthday in the distribution calendar year; or
- (b) If the Participant's sole designated Beneficiary for the distribution calendar year is the Participant's spouse, the quotient obtained by dividing the Participant's Account balance by the number in the Joint and Last Survivor Table set forth in section 1.401(a)(9)-9 of the Treasury Regulations, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the distribution calendar year. The designated Beneficiary is the Beneficiary who is the "designated beneficiary" under Code section 401(a)(9) and section 1.401(a)(9)-1, Q&A 4, of the Treasury Regulations.

Required minimum distributions will be determined under this Section 6.2 beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the Participant's date of death.

6.3 DESIGNATION OF BENEFICIARY. The Participant has the right to name and file with the Local Plan Administrator a written Beneficiary or change of Beneficiary form, designating the person or persons who shall receive the benefits payable under this Plan in the event of the Participant's death. The form for this purpose shall be provided by the Local Plan Administrator. It is not binding on the Local Plan Administrator until it is signed, filed with the Local Plan Administrator by the Participant and accepted by the Local Plan Administrator. If the Participant dies without having a Beneficiary form on file, or if a Participant's designated Beneficiary predeceased him, any death benefits shall be paid to the Participant's surviving children in equal shares or, should none survive, then to the Participant's executors or administrators. The Participant accepts and acknowledges that he has the burden for executing and filing with the Local Plan Administrator a proper Beneficiary designation form.

6.4 BENEFITS UPON DEATH. Subject to the requirements of section 401(a)(9) of the Code and in accordance with the procedures established by the Local Plan Administrator, distributions payable to a Beneficiary due to a Participant's death shall be payable to the Beneficiary as follows:

- (a) If the Participant dies prior to the required beginning date set forth in Section 6.2 of this Plan Document, and:
 - (i) If the Participant has a designated Beneficiary, the commencement date shall be December 31 of the calendar year immediately following the calendar year in which the Participant dies (or, if the sole beneficiary is the Participant's surviving spouse, by December 31 of the calendar year in which the Participant would have attained age 70½) and shall be paid over a period that does not exceed the life or life expectancy (as computed by use of the Single Life Table in section 1.401(a)(9)-9 of the Treasury Regulations) of the Beneficiary.
 - (ii) If there is no designated Beneficiary as of September 30 of the calendar year following the calendar year of the Participant's death, the entire Account balance shall be distributed no later than the last day of the Plan Year which includes the 5th anniversary of the Participant's death.
 - (iii) 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 subsection (a) will apply as if the surviving spouse were the Participant (except for the rule for surviving spouses in paragraph (a)(i) above).
- (b) If the Participant dies after the required beginning date set forth in Section 6.2 of this Plan Document or after the commencement of distributions in the form of an annuity, 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. If the Participant dies before the date distributions begin and the surviving spouse dies before the date distributions are required to begin to the surviving spouse under subsection (a), this subsection (b) will apply as if the surviving spouse were the Participant.
 - (iii) If the sole beneficiary designated by the Participant is not the Participant's surviving spouse, 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. If 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 5th anniversary of the Participant's death.
- (c) In the event the Beneficiary dies before all payments to the Beneficiary have been completed, the remaining value of the Participant's Account shall be paid to the estate of the Beneficiary in a lump sum.
 - (d) If there are 2 or more Beneficiaries, the provisions of this Section shall be applied separately to each Beneficiary with respect to that Beneficiary's share in the Participant's Account.
 - (e) No Beneficiary shall have any right of recovery against the Employer or the Plan for any distributions that are made in the name of the Participant before a Plan representative has been duly notified of the Participant's death.
 - (f) For purposes of subsections (a) and (b) above, distributions are considered to begin on the Participant's required beginning date except that if subsection (a)(iii) above applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under subsection (a)(i) above. If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's required beginning date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under subsection (a)(i)), the date distributions are considered to begin is the date distributions actually commence.

(g) 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 6.2 and this Section. 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 Code section 401(a)(9) and the Treasury regulations.

6.5 TIMING OF DISTRIBUTION OF BENEFITS. A Participant who has a Severance from Employment may commence distributions immediately thereafter, or may defer distributions to an alternate commencement date of the Participant's choice that meets the requirements of Section 6.2 of the Plan and Code Section 457(d)(2).

6.6 DISTRIBUTION FOR MINOR BENEFICIARY. If a distribution is payable to a legal minor as Beneficiary of a Participant's Account under the Plan, the Local Plan Administrator may direct that such distribution be paid to the legal guardian of the minor Beneficiary, or if none has been duly appointed, then to any of the following:

(a) any parent of the minor Beneficiary, or

(b) the custodian for the minor Beneficiary under a Uniform Gift/Transfer to Minors Act, if such is permitted by the laws of the state in which the minor Beneficiary resides. A payment to the legal guardian, custodian or parent of a minor Beneficiary shall fully discharge the Contractor, the Local Plan Administrator, Employer, and Plan from further liability on account thereof.

6.7 LOCATION OF PARTICIPANT OR BENEFICIARY UNKNOWN. If all, or any portion of the distribution payable to a Participant (or, if applicable, his Beneficiary) from the Plan shall remain unpaid solely by reason of the inability of the Local Plan Administrator or Employer to ascertain the whereabouts of such Participant (or, if applicable, his Beneficiary), the amount so distributable shall be maintained in the Participant's Account

6.8 UNFORESEEABLE EMERGENCY WITHDRAWALS. This Section shall apply only if permitted by the Investment Products in which a Participant's Account is invested. Such distribution is subject to section 457(b) of the Code and Section 1.457-6 of the Treasury Regulations and the provisions of the Investment Products. Notwithstanding Section 6.0 of the Plan, a Participant may request a withdrawal due to an Unforeseeable Emergency by submitting that request, in writing on the Plan's approved form, to the Local Plan Administrator. After considering all information provided by the Participant, the Local Plan Administrator shall approve or deny the request. If the request is denied, the Participant may submit additional information for consideration by the Local Plan Administrator no later than thirty (30) days after the date of the denial. The Local Plan Administrator shall again review the information and make a final determination of the request for an Unforeseeable Emergency Withdrawal. If a request for an Unforeseeable Emergency withdrawal is approved, the Local Plan Administrator shall direct the Contractor to distribute the approved amount from the Participant's Account. For purposes of this Section, "Unforeseeable Emergency" is generally a severe financial hardship of the Participant (or, if applicable, the

Beneficiary) as a result of events beyond the control of the Participant (or, if applicable, the Beneficiary) as further defined in section 457(d)(1)(A)(iii) and the regulations issued thereunder.

- 6.9 INVOLUNTARY CASH OUT DISTRIBUTIONS.** This Section reflects the requirements of the automatic rollover requirements implemented under Section 657 of the Economic Growth Taxpayer Relief and Reconciliation Act of 2001 and shall be effective with respect to any distributions made from the Plan after March 28, 2005.

There are no involuntary cash-out distributions permitted under the Plan.

If the value of a Participant's Account (inclusive of transfers and rollover contributions and earnings) is not less than \$1,000 and the Account balance is otherwise eligible for distribution from the Plan, then the Participant must consent, in writing, to any distribution of the Participant's Account. Any such consent shall be valid only if it conforms to the requirements of Section 411(a) of the Code.

- 6.10 SMALL DOLLAR WITHDRAWALS.** Prior to Severance of Employment and upon the request of a Participant, a distribution will be made to the Participant or Beneficiary of his full Account balance, provided that the following conditions are satisfied:

- (a) the amount of the Participant's Account (excluding Rollover Contributions) does not exceed \$5,000.00 (or the dollar limit under section 411(a)(11) of the Code, if greater),
- (b) no amount has been deferred under the Plan by or for the Participant during the two-year period ending on the date of the distribution, and
- (c) the Participant has not previously taken a distribution under this Section 6.10.

- 6.11 ROLLOVERS FROM THE PLAN.** Notwithstanding any provision of the Plan to the contrary that would otherwise limit a Distributee's election under this Section 6.11, a Distributee may elect to have any portion of an Eligible Rollover Distribution from the Plan paid directly to an Eligible Retirement Plan specified by the Distributee as a Direct Rollover. The Distributee shall, in the time and manner prescribed by the Local Plan Administrator, specify the amount to be rolled over and the Eligible Retirement Plan to receive the rollover. Any portion of a distribution that is not rolled over shall be distributed to the Participant (or, if applicable, the Beneficiary). For purposes of this Section 6.11, the following terms have the following meanings:

- (a) "Direct Rollover" means a payment by the Plan to the Eligible Retirement Plan specified by the Distributee.
- (b) "Distributee" means a Participant or former Participant entitled to receive a distribution from this Plan. In addition, a Participant's surviving spousal Beneficiary and a Participant's spouse or former spouse who is the Alternate Payee are Distributees with regard to the interest of the spouse or former spouse.

(c) “Eligible Retirement Plan” means an eligible retirement plan described in section 402(c)(8)(B) of the Code.

(d) “Eligible Rollover Distribution” means any distribution to a Distributee that qualifies as such under section 402(c)(4) of the Code. Amounts required to be distributed under section 401(a)(9) of the Code are not Eligible Rollover Distributions and amounts paid under Section 6.7 of this Plan Document (unforeseeable emergency withdrawals) are not Eligible Rollover Distributions hereunder.

6.12 PURCHASING PAST SERVICE CREDITS UNDER A STATE DEFINED BENEFIT GOVERNMENTAL PLAN. If permitted by the applicable New Jersey defined benefit pension plan, and the terms of the Investment Product in which a Participant’s Account is invested, a Participant (or, if applicable, the Beneficiary) may direct the Local Plan Administrator to transfer amounts in the Participant’s Account in accordance with section 457(e)(17) of the Code and Section 1.457-10 of the Treasury Regulations directly to the New Jersey State defined benefit plan. Such transfer can only be for the purpose of purchasing permissive past service credit (as defined in section 415(n)(3)(A) of the Code) under the receiving New Jersey State defined benefit governmental pension plan or to repay amounts previously cashed out under such plan to which section 415 of the Code does not apply by reason of Section 415(k)(3) of the Code. An amount transferred under this Section is not includible in the Participant’s gross income by reason of the transfer if the conditions in Section 1.457-10 of the Treasury Regulations are met. Such transfer may be made by a Participant before Severance from Employment with the Employer.

6.13 TRANSFERS TO OTHER 457 PLANS. To the extent permitted by the Investment Products in which a Participant’s Accounts are invested and subject to any provisions thereof and to section 457(e)(10) of the Code and Section 1.457-10 of the Treasury Regulations, a Participant (or, if applicable, a Beneficiary) may transfer all or any portion of his Account to another Eligible 457(b) Plan sponsored by a Governmental Employer, provided such other plan provides for the acceptance or receipt of such amounts. In addition, transfers to other Eligible 457(b) Plans sponsored by a Governmental Employer must meet the following conditions:

(a) The amount deferred immediately after the transfer must be at least equal to the amount deferred immediately before the transfer; and

(b) The Participant has had a Severance from Employment with the transferring Employer and is performing services for the entity maintaining the receiving plan, unless the following are satisfied:

(i) All of the assets held by the transferring eligible governmental 457(b) plan are transferred;

- (ii) The transfer is to another eligible governmental 457(b) plan maintained by an eligible Employer that is a state entity within the same state; and
- (iii) The Participants whose Accounts are being transferred are not eligible for additional contributions including Annual Deferrals in the receiving plan unless they are performing services for the entity maintaining the receiving plan, or unless the requirements of Treasury Regulation 1.457-10(b)(4) (plan-to-plan transfers among eligible governmental plans of the same employer) are met.

6.14 DISTRIBUTION TO ALTERNATE PAYEE. Notwithstanding any other provision herein, the Local Plan Administrator may authorize an immediate distribution to any Alternate Payee named under a domestic relations order which has been issued by a court of competent jurisdiction and determined by the Local Plan Administrator to be a qualified domestic relations order (“QDRO”) under section 414(p) of the Code and Section 1.457-10 of the Treasury Regulations. If a distribution or payment is made from the Plan to an alternate payee pursuant to a QDRO, rules similar to Section 402(e)(1)(A) of the Code shall apply.

6.15 PAYMENTS TO INCOMPETENTS. If the Local Plan Administrator shall find that any person to whom an amount is payable under the Plan is unable to care for that person’s affairs, is a minor, or has died, any payments due the person or that person’s estate may be paid to the person’s spouse, a child, a relative or any other person maintaining or having custody of such person unless a prior claim has been made by a duly appointed legal representative. Any such payment shall be a complete discharge of any liability under the plan.

ARTICLE VII.

ADMINISTRATION

- 7.0 AUTHORITY OF THE EMPLOYER.** After determining its eligibility to establish the Plan, the Employer has full authority to establish and maintain the Plan and to interpret and construe the Plan in a manner consistent with its terms and with section 457(b) of the Code, including regulations thereunder, and to establish practices and procedures conforming to those provisions taking into consideration the provisions of the Investment Products for the Plan. In all such cases, the Employer's determination shall be final and conclusive upon all persons. It is recognized that unusual circumstances may occur and questions may arise that are not specifically covered by any provision of the Plan, and the Employer shall have the right to resolve all such questions based upon section 457(b) of the Code, including regulations thereunder, and the provisions of the Investment Product.
- 7.1 APPOINTMENT OF THE LOCAL PLAN ADMINISTRATOR.** The Employer shall act as the Local Plan Administrator of the Plan; however, the Employer is authorized to appoint an alternate Local Plan Administrator and to change an alternate Local Plan Administrator as it deems necessary for the proper administration of the Plan and to assure that the Plan is being operated for the exclusive benefit of the Participants and their Beneficiaries in accordance with the provisions of the Plan and Federal and New Jersey State law. The Employer may appoint a committee ("Committee") of one or more Employees or local public officials to serve as the Local Plan Administrator and to discharge the Local Plan Administrator's responsibilities under the Plan. The Employer may remove a Committee member for any reason by giving such member ten (10) days written notice and may thereafter fill any vacancy thus created.
- 7.2 RESIGNATION OR REMOVAL OF THE TRUSTEE.** A Trustee may resign at any time upon 60 days notice in writing to the Employer and may be removed by the Employer at any time upon 60 days notice in writing to the Trustee. Upon such resignation or removal, the Employer shall appoint a successor Trustee.

Upon receipt by the Trustee of written notice of acceptance of appointment as successor Trustee, the Trustee subject to the provisions of the trust agreement, shall transfer and pay over to such successor Trustee the assets of the Trust and all records pertaining thereto; provided, that, any successor Trustee shall agree not to dispose of any such records without the Trustee's consent.

If all Participants' Accounts are invested in annuity contracts issued by the Contractor and all financial records and data including transactions involving Participants' Accounts are maintained by the Contractor, the Trustee, if applicable, need not furnish the Employer a final report of the Plan to the successor Trustee if all Plan assets will continue to be invested

in the Contractor's annuity contract(s) and all parties agree that such final report is not necessary.

- 7.3 DELEGATION OF RESPONSIBILITIES.** The Local Plan Administrator or Employer may delegate its responsibilities to other qualified parties.
- 7.4 ADVISORS.** The Local Plan Administrator or Employer may appoint and employ such agents, attorneys, actuaries, accountants, auditors, investment counsel, and clerical assistants, and other persons as the Local Plan Administrator or Employer deems necessary or desirable in connection with the administration of this Plan.
- 7.5 POWERS AND DUTIES OF THE LOCAL PLAN ADMINISTRATOR.** The primary responsibility of the Local Plan Administrator is to administer the Plan for the benefit of the Participants and their Beneficiaries, in accordance with applicable Federal and state laws and subject to the specific provisions of the Plan and the Investment Products. The Local Plan Administrator shall have the power and absolute discretion to construe the provisions of the Plan and determine the response to all questions arising in connection with the administration, interpretation, and application of the Plan. Any such determination by the Local Plan Administrator shall be conclusive and binding upon all persons. The Local Plan Administrator may establish procedures, correct any defect, supply any information, or reconcile any inconsistency in such manner and to such extent as shall be deemed necessary or advisable to carry out the purpose of the Plan; provided, however, that any procedure, discretionary act, interpretation or construction shall be done in a manner consistent with the intent that the Plan shall continue to be deemed an eligible plan under the provisions of section 457(b) of the Code including regulations thereunder. The Local Plan Administrator shall have all powers necessary or appropriate to accomplish its duties under this Plan. The Local Plan Administrator shall be charged with the duties of the general administration of the Plan in accordance with applicable Federal and state laws and subject to the provisions of the Plan and Investment Products, including, but not limited to, the following:
- (a) to resolve questions relating to the eligibility of Employees to participate or remain a Participant hereunder and to receive benefits under the Plan;
 - (b) to determine the amounts to be contributed to each Participant's Account based upon a Participant's Joinder Agreement and to remit Contributions to Participants' Accounts in a timely manner;
 - (c) to authorize and direct the Contractor with respect to all disbursements to which a Participant is entitled under the Plan;
 - (d) to prescribe such forms necessary to carry out the purposes of the Plan;
 - (e) to maintain all necessary records for the administration of the Plan;
 - (f) to maintain practices and procedures necessary to administer the Plan as are consistent with the terms hereof; and

- (g) to assist the Employer in determining the size and type of any Investment Product to be purchased from the Contractor.

7.6 RECORDS AND REPORTS. The Local Plan Administrator shall keep a record of all actions taken and shall keep all other books of account, records, and other data that may be necessary for proper administration of the Plan and shall be responsible for supplying all information and reports, if required, to the Internal Revenue Service and, to Participants, Beneficiaries and others as required by law.

Any records, reports or other information relating to the Plan as a whole, including but not limited to cash flow analysis, investment reports, audits and semi-annual reports, shall be made available by the Local Plan Administrator, the plan manager and the Contractor, to the extent that each or all of them have such records and/or reports, to any Participant and/or Division of Local Government Services of the State of New Jersey upon request. However, all records regarding participation, Contributions, Rollover Contributions and Transfers from other Eligible 457(b) Plan of another Governmental Employer, account balances withdrawals and any other information regarding a Participant's Account shall be held confidential by the Local Plan Administrator, his staff, and/or the Contractor.

7.7 INFORMATION FROM EMPLOYER. To enable the Local Plan Administrator to perform its functions, the Employer shall supply the necessary information to the Local Plan Administrator on a timely basis regarding the Participants under the Plan, including but not limited to Compensation, date of hire, date of death, or severance from service, and such other pertinent facts as the Local Plan Administrator may require. The Local Plan Administrator may rely upon such information as is supplied by the Employer and shall have no duty or responsibility to verify such information.

7.8 PAYMENT OF EXPENSES. The Employer will pay all expenses of administration. Such expenses shall include any expenses incident to the functioning of the Local Plan Administrator, including, but not limited to, Trustee fees, fees of accountants, counsel, and other specialists and their agents, and other costs of administering the Plan. Notwithstanding the preceding, any expenses or fees related to Investment Products shall be paid by each Participant in accordance with the terms of the Investment Products in which each Participant's Account is invested.

7.9 COMPLIANCE REQUIREMENTS – PROTOTYPICAL PLANS; ANNUAL AUDIT. The audit of the local government's deferred compensation program is included as part of the annual audit of the local government's books, accounts and financial transactions. The local government's audit must be submitted within six (6) months of the conclusion of its fiscal year.

- (a) The Contractor shall transmit to the Employer a summary of financial data in statement form providing a full accounting of all Plan transactions occurring during the Employer's fiscal year, including beginning transactions and ending fund balance. The accounting for these transactions must reflect the amount

and date of each contribution received, the beginning fund balance by investment option, earnings or losses incurred, administrative charges and fees assessed, any transfers made among funds, all deposits and withdrawals, and the ending fund balance, including any and all adjustments made to such Plan. The Contractor will provide a uniform system of accounting pursuant to the provisions of N.J.A.C. 5:37-3.3 for each Participant who elects to invest in the Investment Products made available by the Contractor.

- (b) At the request of the Employer, the Contractor shall make available details of all transactions for each Employee. The Employer in receipt of this information shall retain it in accordance with the State of New Jersey record retention requirements as found in N.J.A.C. 15:3.
- (c) The Contractor shall retain the transaction information in accordance with the State of New Jersey record retention requirements found in N.J.A.C. 15:3.
- (d) The Contractor shall furnish annually to the Director and to the Local Plan Administrator of each local governmental unit for which it serves as Contractor, a copy of the Contractor's Statement on Accounting Standards (SAS) 70 Report, as defined by the American Institute of Certified Public Accountants (AICPA).
- (e) The Contractor shall certify to the Director that the annual accounting data supplied to the employer is accurate and complete.
- (f) The independent auditor of the Employer shall then evaluate the Employer payroll records and Joinder Agreements against the information transmitted by the Contractor.
- (g) The Director may establish disclosure requirements to be included in the annual audit of the local government in accordance with N.J.S.A. 40A:5-4 or 40A:5A-15.

ARTICLE VIII.

MISCELLANEOUS

8.0 EXCLUSIVE BENEFIT RULE. As provided in section 457(g) of the Code and Section 1.457-8 of the Treasury Regulations, all amounts held pursuant to the Plan, all property and rights which may be purchased with such amounts and all income attributable to such amounts, property or rights shall be held in trust or in a custodial account or annuity contract that meets the requirements described in section 401(f) of the Code for the exclusive benefit of Participants and their Beneficiaries. All such amounts set aside for Participants hereunder shall not be subject to the claims of the Employer's general creditors.

8.1 EMPLOYMENT. This Plan shall not be deemed to constitute a contract between the Employer and any Participant or to be a consideration or an inducement for the employment of any Participant or Employee. Nothing contained in this Plan shall be deemed to give any Participant or Employee the right to be retained in the service of the Employer or to interfere with the right of the Employer to discharge any Participant or Employee at any time regardless of the effect, which such discharge shall have upon him as a Participant of this Plan.

This Plan Document and the Joinder Agreement, and any subsequently adopted amendment thereof, shall constitute the total agreement or contract between the Employer and the Participant regarding the Plan. No oral statement regarding the Plan may be relied upon by the Participant.

8.2 ALIENATION. Subject to applicable state law, section 401(g) of the Code and except as provided in Section 6.13, no benefit which shall be payable to any Participant or Beneficiary shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or charge, and any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, or charge the same shall be void; and no such benefit shall in any manner be liable for, or subject to, the debts, contracts, liabilities, engagements, or torts of any such person, nor shall be subject to attachment or legal process for or against such person, and the same shall not be recognized except to such extent as may be required by Federal and state law.

8.3 STATE LAW. In addition to Federal income tax laws, this Plan shall be construed and enforced according to the state and local laws of the State of New Jersey. The Employer warrants that there are no restrictions under state or local law prohibiting the establishment of this Plan.

8.4 RECEIPT AND RELEASE FOR PAYMENTS. Any payment to any Participant, his legal representative, Beneficiary, or to any guardian or committee appointed for such Participant or Beneficiary in accordance with the provisions of this Plan, shall, to the extent thereof, be in full satisfaction of all claims hereunder against the Contractor, Trustee, Local Plan Administrator and Employer.

- 8.5 “USERRA” RIGHTS.** Notwithstanding any provision of the Plan to the contrary, contributions, benefits, service credit and any other conditions of the Plan shall comply with the requirements for Participants serving qualified military service in accordance with section 414(u) of the Code.
- 8.6 PRE-1979 ACCOUNTS.** Any amounts held by the Employer that can be identified as resulting from deferrals made by a Participant before January 1, 1979 shall be held under this Plan until the latest of (a) the Effective Date; (b) the date on which the Participant elects to have this Plan apply to such amount; or (c) the date on which such Participant exercises any right or power available under this Plan but not under the Plan agreement pursuant to which such deferral was made. All such persons who were Participants in any prior plan, who exercise any such right or privilege and who have not yet received a distribution of the amounts to which they are entitled under such prior plan shall be deemed to be Participants under this Plan for all purposes.
- 8.7 LOANS.** To the extent permitted by applicable Federal and New Jersey State law and subject to the terms and conditions of the Investment Product in which a Participant’s Account is invested, loans may be made available hereunder. Any loans made hereunder must conform to section 72(p) of the Code, Sections 1.457-6(f)(2) and 1.457-7 of the Treasury Regulation, and applicable New Jersey State regulations.
- 8.8 CONSTRUCTION.** This Plan is not intended to satisfy the requirements of the Employee Retirement Income Security Act of 1974, as amended, but it is intended to qualify as a plan established as an Eligible Plan for deferral of taxation on Contributions under section 457(b) of the Code including regulations thereunder. In accordance with such intent, this Plan shall be construed and administered in a manner consistent with such purpose and all applicable Federal and state laws and regulations.
- 8.9 INCORPORATION.** To the extent that the Trust, applicable annuity contracts or custodial accounts control or influence the continued qualification of the Plan as an Eligible 457(b) Plan, such Trust, annuity contracts and custodial accounts are incorporated herein.
- 8.10 PERSONAL LIABILITY.** Neither the Employer nor the Plan Administrator shall be held personally liable, individually or collectively, for any negative returns on investment of Plan funds which is less than any Participant or group of Participants expected.
- 8.11 HOLD HARMLESS.** The Contractor shall hold the Employer and Plan Administrator harmless from any and all liability arising out of or as a result of services rendered to the Employer or Plan Administrator which are in connection with its administration of all or part of the Plan.
- 8.12 BAN ON SOLICITATION.** No organization seeking a contract pursuant to regulations governing the creation, implementation and operations of municipal and county deferred compensation programs shall by any means solicit Employee participation in any deferred compensation program or solicit Employees to support the efforts of the organization to

secure such a contract; no representative of an organization under contract pursuant to those regulations shall communicate with any prospective Participant or Employee without the express written consent and knowledge of the Employer

- 8.13 WRITTEN NOTICE.** Any notice or other communication required or permitted under the Plan shall be in writing, and if directed to the Employer shall be sent to the designated office of the Employer and, if directed to a Participant or to a Beneficiary, shall be set to such Participant or Beneficiary at his/her last known address as it appears on the Employer's records.
- 8.14 SUCCESSORS AND ASSIGNS.** The Plan shall be binding upon and shall inure to the benefit of the Employer, its successors and assigns, all Participants and Beneficiaries and their heirs and legal representatives.
- 8.15 RETIREMENT SYSTEM INTEGRATION.** Benefits payable by, and deductions for Employee contributions to, any retirement system of the Employer shall be computed without reference to amounts deferred pursuant to this Plan and shall instead be based upon gross Compensation the Participant would receive if such Participant had not elected to participate in this Plan and to defer Compensation.
- 8.16 CONFLICT OF INTEREST.** No official or employee providing services to an Employer, or any members of the family of such officials or employees, or any businesses in which such officials or employees have a 10% or greater interest shall have any interest, financial or otherwise, in any contract entered into by the Employer for administration, in whole or in part, of the Employer's Plan. The Employer shall not enter into a contract with any private contractor, which pays money to an organization, of which the Employer is a member, for endorsement of its Plan.
- 8.17 NON-COLLUSION.** There shall be no collusion, or evidence or appearance of collusion, between any official or employee of the Employer and any official or employee of any contractor, vendor, insurance company, bank, consultant, brokerage firm or other profit making or non-profit firm attempting to solicit a contract with the Employer or awarded a contract by the Employer.

ARTICLE IX.

AMENDMENT AND TERMINATION

9.0 AMENDMENT. The Employer has the right at any time to amend this Plan for various reasons including but not limited to changes in the Code, Federal statutes, state laws or rules or operation experience, provided that no amendment to the Plan shall be effective if it authorizes or permits any part of the Investment Product (other than such part as is required to pay taxes, investment charges and administration expenses) to be used for or diverted to any purpose other than for the exclusive benefit of the Participants or their Beneficiaries or estates; or causes any reduction in the amount credited to the account of any Participant; or causes or permits any portion of the Investment Product to revert to or become property of the Employer. Any such amendment shall become effective as provided therein upon its execution, except that any amendment which conforms the Plan to the requirements of any applicable law or regulation shall be effective as of the date required for continued qualification as an eligible plan under section 457(b) of the Code.

Prior to any amendment, the Local Plan Administrator shall notify all Participants in writing that an amendment will be made, what the proposed amendment will be, why the Plan is to be amended and what the likely impact will be on the Participants as a result of the proposed amendment, and whether or not the proposed amendment will have any adverse affect or impact on any or all Participants. Each Participant adversely affected shall have the right to modify his or her Joinder Agreement as necessary to reduce or eliminate any adverse foreseen impact on his or her account. Any amendment will be submitted to the Director for approval prior to implementation with a resolution of the Employer adopting the amendment. Any amendments required by the Internal Revenue Service do not require Director approval before implementation; however, such amendments will be filed with the Director.

9.1 TERMINATION. The Employer has the right at any time to terminate the Plan at any time by notifying all Active Participants (and, if applicable, Beneficiaries) and Trustee and/or Contractor hereunder with written notice of such termination. Upon the complete and total termination of the Plan, the Employer, or the Local Plan Administrator as directed by the Employer, shall direct the distribution of the assets held in Accounts of the Participants (or, if applicable, Beneficiaries) as soon as administratively practicable after the termination in a manner which is consistent with applicable regulations, and in accordance with each Participant's benefit option selection.

If the Participant fails to select a benefit or payment option, the Participant shall be deemed to have elected to have his benefits payable as follows:

- (i) if the Participant has designated his spouse as Beneficiary and such spouse is alive on the date benefits are to commence, under the Joint and Survivor Life Annuity form with the Participant's spouse as the contingent annuitant (100% continuation), or

- (ii) (ii) if the Participant has not designated his spouse as Beneficiary or the Participant's spouse is not alive on the date benefits are to commence, under the Life Annuity form.

CERTIFICATION AND SIGNATURE

The Employer represents and warrants that it is a unit of the State of New Jersey or local government or an agency or instrumentality of one or more units of the State of New Jersey or local government as described in Section 457(e)(1)(A) of the Code. Moreover, the Employer attests that it has consulted with its own attorney with reference to this Plan.

It is understood that neither AXA Equitable Life Insurance Company (the Contractor) nor any of its subsidiaries or affiliates assumes responsibility for the legal and tax aspects of this Plan.

By affixing its signature hereunder to this Plan Document, the Employer hereby adopts the Plan. This Plan document and any Trust, annuity contract or custodial account holding assets of the Plan, and any necessary forms and administrative policies and procedures incorporated by Employer, Local Plan Administrator or Trustee shall constitute the entire Plan document.

EMPLOYER:

(Print Name of Employer)

By:

Date:

Signature of Employer's Authorized Representative

(Month-Day-Year)

Print Name and Title/Position of Employer's Authorized Representative

This specimen 457(b) plan document for New Jersey governmental employers is provided to the customers of AXA Equitable Life Insurance Company ("AXA Equitable"). This specimen plan incorporates the provisions of AXA Equitable's prior approved New Jersey 457(b) plan document, which received a favorable opinion letter from the IRS regarding the plan's provisions satisfying the requirements of section 457(b) of the Internal Revenue Code of 1986, as amended ("Code"), and updates that plan by this restatement to incorporate subsequent changes in the provisions of section 457(b) of the Code."

New Jersey EDC or 457 Governmental Plan

SERVICE AGREEMENT 79-SA-Equitable-051811

This Agreement is made and entered into by and between _____

_____ (“Employer”) and AXA Equitable Life Insurance Company, a New York stock life insurance company authorized by the Commissioner of Insurance to do business in the State of New Jersey (“AXA Equitable”) and AXA Advisors LLC an affiliated company of AXA Equitable wholly owned by AXA Financial (collectively “AXA”).

For purposes of this Agreement, AXA has subcontracted with PenServ Plan Services, Inc. (“PenServ”) or PlanConnect, LLC. (“PlanConnect”) to provide certain services associated with the offering of the mutual fund account under the New Jersey 457(b) Governmental Plan (“Plan”). Matrix Financial Solutions, Inc., (“Matrix”) through its relationship with PenServ or PlanConnect will provide custodial services for the program and will process trades in the mutual funds selected by Plan Participants.

The intent of this Agreement is for AXA to provide the services with regard to its annuity used as a funding vehicle under the Plan and for PenServ or PlanConnect to provide services with respect to the Mutual Fund Program, as hereinafter defined, under the Plan. The Plan shall be administered in accordance with the provisions of Section 457 of the Internal Revenue Code of 1986, as amended (“Code”).

Section 1. Definitions

Unless this Agreement expressly provides otherwise, the following definitions shall apply herein.

- A. “Participant” means an Employee of the Employer participating in the Plan.
- B. “Plan” means a document consistent with the requirement of Section 457 of the Code under which an Employee may defer payment of a specified amount of compensation until the future receipt thereof.
- C. “Director” means the Director of the Division of Local Government Services in the Department of Community Affairs in the State of New Jersey.
- D. “Employee” means any person, including elected, appointed and salaried persons working for the Employer.
- E. “EQUI-VEST[®]” is a group deferred variable annuity contract issued by AXA Equitable Life Insurance Company. For purposes of this agreement, EQUI-VEST[®] shall include individual certificates that may be issued to Participants as part of a group annuity contract.
- F. “Mutual Fund Program” is the custodial account program that AXA has subcontracted with PenServ PlanConnect to make available a mutual fund platform offering only those fund families with which AXA Advisors has a selling agreement.

All other words and phrases used in this Agreement shall, except where otherwise noted, have the same meanings as such words and phrases have wherever they appear in N.J.A.C. §5:37-1 *et seq.*, *Municipal County and Authority Employees Deferred Compensation Plans Rule*, promulgated by the Division of Local Government Services of the State of New Jersey (referred to as “Deferred Compensation Rules”), the Plan (copy attached hereto), and applicable provisions of the Code and regulations promulgated thereunder.

Section 2. Scope of Service

AXA and/or PenServ or PlanConnect shall perform the services described below in connection with the EQUI-VEST[®] contract or mutual fund program. Any EQUI-VEST[®] contract or certificates or mutual fund account issued for the Participants of the Plan shall be owned by the Employer for the exclusive benefit of the Participants.

AXA and/or PenServ or PlanConnect, however, shall not perform such services, and shall not solicit Employee participation in the Plan until this Agreement becomes effective. In addition, AXA and/or PenServ or PlanConnect agrees not to communicate with any prospective Participant without the express consent and knowledge of the Employer.

Section 3. Term

This Agreement shall become effective immediately upon execution by both parties and shall remain in force until terminated by either party as provided herein [in Section 17].

Notwithstanding the foregoing provision to the contrary, this Agreement shall not be made effective and implemented prior to the approval by the Director.

Section 4. Relationship of the Parties

AXA or its subcontractors shall perform its obligations hereunder as an agent for the Employer. The Employer may administer this Agreement and monitor AXA or its subcontractors compliance with its obligations hereunder. The Employer shall not supervise or direct AXA or its subcontractors other than as expressly provided in this Agreement.

Section 5. Services to be Performed

AXA/PenServ/PlanConnect shall:

- (i) provide education concerning categories of investments available to Participants under the EQUI-VEST[®] contract and/or mutual fund program,
- (ii) explain investment guidelines and any restrictions under the Plan;
- (iii) provide individual consultation on Plan matters to Participants;
- (iv) maintain records of any written correspondence in connection with (i) through (iii) above for six years, and furnish on request, copies of such records to the Employer; and
- (v) credit contributions if received on a business day as of the date received up to 4:00 p.m., Eastern Time at its Processing Office, or the next business day, if later. (The Employer shall send all contributions, which are subject to this agreement, received by it as directed by AXA/PenServ/PlanConnect within 72 hours of receipt.)

AXA/PenServ/PlanConnect shall also provide:

- (a) an EQUI-VEST[®] certificate for each Participant stating the EQUI-VEST[®] contract features and guarantees and/or an account for each Participant under the mutual fund program;
- (b) a confirmation notice for each financial transaction plus annual and semi-annual notices as required under the Securities Exchange Act of 1934 and applicable insurance laws and quarterly reports;
- (c) a contribution reminder notice at frequencies agreed upon between the Employer and AXA for the EQUI-VEST[®] contract or certificate or between the Employer and Penserv/PlanConnect for the mutual fund account;
- (d) a current prospectus or prospectus supplement for each Participant, which describes the EQUI-VEST[®] contract or certificate and/or a current prospectus or prospectus supplement will be available online during the enrollment process for the mutual fund program that is being offered under the Plan as may be required by the Securities and Exchange Commission.

AXA and/ PenServ or PlanConnect its subcontractor shall do all such acts as are required to be performed by a private contractor as set forth in N.J.A.C. §5:37-9.3 and §5:37-10.3 of the Deferred Compensation Rules pertinent to the Plan.

Section 6. Records Maintenance

- A. AXA/PenServ/PlanConnect will be responsible for the administration and maintenance of individual account records.
- B. Upon prior request and during normal business hours, AXA shall allow the Employer full and complete access to all records retained by AXA pursuant to paragraph A above. AXA shall also make arrangements with PenServ or PlanConnect to provide complete access to all records pursuant to Paragraph A. The Employer shall have the right upon reasonable notice, exercised directly or through its attorneys or independent auditors, to examine and audit such records and accounts to determine AXA and PenServ or PlanConnect's compliance with the terms and conditions hereof. The provisions of this subsection B are not intended to limit the provisions of Section 5 (iv) of this agreement.

Section 7. Hold Harmless

AXA or its subcontractors hereby agrees to indemnify and hold harmless the Employer (the "Indemnitee") with regard to all losses, damages, penalties, claims and expenses as a result of any cause of action brought against it as a result of negligent acts or omissions of AXA and/or PenServ or PlanConnect arising out of or in connection with the administration of the contracts. AXA, at its own expense and risk, and by its own counsel shall defend any legal proceeding which may be brought against the Indemnitee with respect to any such failure and shall satisfy any judgment which may be rendered against the Indemnitee as the result of any such proceeding, provided that the Indemnitee notifies it in writing within a reasonable period of the commencement of such proceeding or of any threat of such proceeding in order that appropriate and timely action may be taken by AXA.

Notice shall be addressed to AXA Equitable Life Insurance Company, 1290 Avenue of the Americas, New York 10104, Attention: St. Clair Davis. Failure to so notify AXA or to cooperate with AXA in the defense of such proceeding shall relieve AXA Equitable and PenServ or PlanConnect of any and all liability assumed under this agreement with respect to such proceeding or any other proceeding in which a claim is based in whole or in part on the proceeding with respect to which the failure of notice occurred.

Section 8. Non-discrimination

AXA or its subcontractors represents that it does not discriminate in its employment or investment policies and practices.

Section 9. Bonding and Evidence of Liability

AXA or its subcontractors has a fidelity bond program, which insures against the loss of its clients funds under management due to theft or dishonesty. Such bond covers all AXA or its subcontractors activities including activities pertinent to the Plan. In addition, authorized representatives of AXA Advisors also have errors and omissions insurance. The authorized representative(s) of AXA Advisors designated to the Plan shall provide the Employer and Director with evidence of appropriate errors and omissions insurance.

Section 10. Non-waiver

The failure of the Employer or AXA or its subcontractors at any time to enforce a provision of this Agreement shall in no way constitute a waiver of the provision, nor in any way affect the validity of this Agreement or any part hereof, or the right of the Employer or AXA or its subcontractors thereafter to enforce each and every provision hereof.

Section 11. Assignments

Any assignment or attempted assignment of this Agreement or any part hereof without the written consent of (1) AXA or its subcontractors, in the case of the Employer, or (2) the Division of Local Government Services, in the case of AXA, shall be void, except that any assignment or attempted assignment by AXA to a subsidiary or affiliate or the assignment of part of its responsibilities to PenServ or PlanConnect under this Agreement does not require the written consent of the Division of Local Government Services.

Section 12. Amendment

This agreement may not be modified or altered except by a written instrument duly executed by both parties.

Section 13. Notices

Any Notice provided for herein (other than the Notice described in Section 7) shall be in writing and shall be deemed to have been given when received by personal delivery or United States mail addressed as follows:

If to Employer:

(Address of the Employer)

If to AXA:

AXA Equitable Life Insurance Company
EQUI-VEST[®] Processing Office
100 Madison Street, Suite 1000
Syracuse, NY 13202

or to such other persons or addresses which the Employer or AXA may from time to time designate in writing.

Section 14. Jurisdiction/Choice of Law

The laws of the State of New Jersey shall govern the rights and obligations of the parties under this Agreement.

This Agreement is subject to the Deferred Compensation Rules, which are hereby made a part of this Agreement.

Section 15. Integration

This instrument and any written appendices and amendments hereto and the EQUI-VEST[®] contract and certificates or accounts under the mutual fund program embody the entire agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained herein and this Agreement shall supersede all previous communications, representations or agreements, either oral or written, between the parties hereto with respect to this Agreement.

Section 16. Expenses

The services rendered by AXA or its subcontractors under Section 5 and Section 6(A) hereof shall be performed at no cost to the Employer. The cost of any audit shall be borne by the Employer.

AXA or its subcontractors will disclose any fees that may be charged with respect to the investment options or funds available under the EQUI-VEST[®] contract in the certificates issued to the Participants or accounts under the mutual fund program, the applicable prospectus and/or prospectus supplement for the EQUI-VEST[®] contract and the individual fund families offered under the mutual fund program and/or such other material that AXA or its subcontractors deems necessary.

Section 17. Termination

- A. This agreement may be terminated without any further liability of either party for any obligation maturing subsequent to the date of such termination.
 - 1. by either party, sixty (60) days following the giving of written notice to the other part of the intent to terminate.
 - 2. by the Employer, thirty (30) days following the giving of written notice to AXA or its subcontractors if the Employer learns of AXA's or its subcontractors' violation of any Federal, State or local law, ordinance or regulation that governs activities related to AXA's or its subcontractors' performance of this Agreement.

- B. Upon termination, AXA/PenServ/PlanConnect shall:
 - 1. deliver to the Employer copies of all records and things required by law or reasonably required for administrative ease.
 - 2. deliver, within thirty (30) days after the date of termination of this Agreement, all investment, financial, performance and any other reports required to comply with applicable law.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be signed as of the date shown below:

Name of Employer

By: _____
Signature of Authorized Individual for the Employer

Date: _____

(Print Name and Title of Authorized Individual)

AXA Equitable Life Insurance Company

By: _____
Signature

Date: _____

Name and Title