

**MEMORIAL HEALTHCARE SYSTEM**

**401(a) RETIREMENT PLAN**

**Amended and Restated Effective January 1, 2014**



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## **MEMORIAL HEALTHCARE SYSTEM**

### **RETIREMENT PLAN**

**(Amended and Restated Effective January 1, 2014)**

The South Broward Hospital District (the "Company") originally established the Memorial Healthcare System 401(a) Retirement Plan (the "Plan") for the exclusive benefit of eligible employees effective as of November 1, 2011 (the "Effective Date"). The Company hereby amends and restates the Plan effective as of January 1, 2014 (the "Restated Effective Date").

The Company intends for this Plan and the related trust ("Trust Fund") to conform to and qualify under Sections 401(a) and 501(a) of the Code (as defined herein), as such provisions apply to governmental plans. The Plan shall be interpreted, wherever possible, to comply with the applicable provisions of the Code and the applicable regulations and guidance issued thereunder so that the Plan may at all times constitute a qualified plan with tax-exempt status. The Plan shall also be interpreted, wherever possible, to comply with the applicable provisions of the laws of the State of Florida.



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**ARTICLE ONE  
DEFINITIONS**

For purposes of this Plan, the following words and phrases shall have the following meanings unless a different meaning is otherwise specifically provided or is clearly required by the context.

- 1.01. "Account" - means the accounts which are credited with Employer Contributions and earnings on those contributions pursuant to the provisions of Article Three. A Participant's right to the value of the Account maintained on his behalf shall become nonforfeitable in accordance with Article Five.
- 1.02. "Adjustment Factor" - means the cost of living adjustment factor prescribed by the Secretary of the Treasury under Section 415(d) of the Code and applied to such items and in such manner as the Secretary shall provide.
- 1.03. "Administrator" - means the person, committee or entity designated and appointed in accordance with Article Six to administer and operate the Plan.
- 1.04. "Affiliated Employer" - means a corporation which is a member of a controlled group of corporations, within the meaning of Section 414(b) of the Code, of which the Company is also a member; any trade or business, whether or not incorporated, which is under common control with the Company, within the meaning of Section 414(c) of the Code; any member of an affiliated service group, within the meaning of Section 414(m) of the Code, which includes the Company; and any other organization required to be aggregated with the Company pursuant to Section 414(o) of the Code.



- 1.05. "Alternate Payee" - means an alternate payee as defined in Section 414(p)(8) of the Code. An individual's status as Alternate Payee shall terminate upon payment of such individual's interest hereunder.
- 1.06. "Beneficiary" - means any person or persons (natural or otherwise) named by a Participant by written designation filed with the Administrator to receive benefits payable in the event of the Participant's death; provided, however, if the Participant is married, his spouse shall be deemed to be the Beneficiary unless or until he elects another Beneficiary by a written designation filed with the Administrator. If no such designation is in effect at the time of death of the Participant, or if no person, persons or entity so designated shall survive the Participant, the Participant's then living descendants, if any, per stirpes, otherwise the Beneficiary will be the Participant's then living parent or parents, equally; otherwise, the Beneficiary shall be the estate of the Participant. A person's status as Beneficiary shall terminate upon payment of such person's interest hereunder.
- 1.07. "Board" - means the Board of Commissioners of the Company.
- 1.08. "Code" - means the Internal Revenue Code of 1986, as amended from time to time, and any lawful regulations or pronouncements promulgated thereunder. Whenever reference is made to a specific Code section, such reference shall be deemed to be a reference to any successor Code section or sections with the same or similar purpose.
- 1.09. "Committee" - means the persons or entity designated and appointed pursuant to Section 6.03.
- 1.10. "Company" - means South Broward Hospital District, DBA, Memorial Healthcare System, a special tax district of the State of Florida established by Chapter 24415, Laws



of Florida, Special Acts of 1947, as amended and codified in Chapter 2004-397, Laws of Florida (2004) and a tax-exempt organization described in Code Section 501(c)(3) and its successors and assigns, unless otherwise herein provided, or any other business organization which, as hereinafter provided, shall assume the obligations hereunder, or which shall agree to become a party to the Plan.

- 1.11. "Compensation" - means an amount equal to a Participant's base hourly rate of pay as of December 31st of the Plan Year for which Employer Contributions shall be made multiplied by the Participant's Hours of Service for such Plan Year. The "annual compensation" (as hereinafter defined) of each Participant taken into account in determining allocation of Employer Contributions for any Plan Year shall not exceed \$200,000. "Annual compensation" means Compensation during the Plan Year or such other consecutive 12-month period over which compensation is otherwise determined under the Plan. The \$200,000 limit shall be adjusted for cost-of-living increases in accordance with Section 401(a)(17)(B) of the Code. If Compensation for a period of less than 12 calendar months is used for a determination period, then the compensation limitation set forth above shall be reduced by multiplying that compensation limitation by a fraction, the numerator of which is the number of months in the short determination period and the denominator of which is 12. However, no proration is required if the Plan formula provides that the allocation of Employer Contributions for a Covered Employee is based on Compensation for the portion of the determination period during which the Covered Employee is a Participant.
- 1.12. "Covered Employee" - means any benefits-eligible Employee hired, re-employed or transferred to a benefits-eligible position on or after the Effective Date who is regularly



scheduled to work at least 72 hours per pay period. For this purpose, an Employee shall be considered benefits-eligible if classified as such on the Employer's payroll administration system. No Employee shall be permitted to earn benefits concurrently under the Plan and under the Retirement Plan for Employees of South Broward Hospital District, Hollywood, Florida (as amended and restated effective May 1, 2010).

- 1.13. "Date of Hire" - generally means the day on which a Covered Employee first performs an Hour of Service with the Employer, but a Date of Hire shall not occur prior to the Effective Date.
- 1.14. "Disability" - means the permanent and total inability of a Participant to engage in any substantial gainful activity, by reason of physical or mental infirmity, or both, that can be expected to result in death or be of long, continued and indefinite duration. The determination of the existence or non-existence of Disability shall be based solely upon the Participant's eligibility for Social Security disability benefits.
- 1.15. "Effective Date" - shall have the meaning ascribed thereto in the preamble to this Plan document.
- 1.16. "Employee" - means any common law employee of an Employer and shall exclude those individuals providing services as an independent contractor.
- 1.17. "Employer" - means the Company and each Affiliated Employer that adopts the Plan in accordance with Section 9.03(a). Each such adopting Employer shall be treated as an Employer only during such period as it is or was an Employer as defined above.
- 1.18. "Employer Contribution" - means the annual contribution made by an Employer and allocated to a Participant's Account, as described in Section 3.01.
- 1.19. "Hour of Service" - means, with respect to any applicable computation period:



- (a) Each regular hour (excluding overtime hours) for which the Covered Employee is paid or entitled to payment for the performance of duties for the Employer. These hours shall be credited to the Covered Employee for the computation period in which the duties are performed.
- (b) Each hour for which a Covered Employee is paid or entitled to payment by the Employer on account of a period during which no duties are performed (irrespective of whether the employment relationship has terminated) due to vacation, holiday, illness, incapacity (including disability), layoff, jury duty, military duty or leave of absence, but not more than 501 hours for any single continuous period; provided, however, that Hours of Service shall include those hours in excess of 501 which the Covered Employee would have completed during a period of military service if the Covered Employee returns to service with the Employer within the period in which his reemployment rights are protected by law;
- (c) Each hour for which back pay, irrespective of mitigation of damages, is either awarded or agreed to by the Employer, excluding any hour credited under (a) or (b), which shall be credited to the computation period or periods to which the award, agreement or payment pertains, rather than to the computation period in which the award, agreement or payment is made; and
- (d) Each hour for which service credit is required under the Family and Medical Leave Act of 1993, as amended (“FMLA”) with respect to a Covered Employee who is on FMLA leave.



No hours shall be credited on account of any period during which the Covered Employee performs no duties and receives payment solely for the purpose of complying with unemployment compensation, workers' compensation, disability insurance laws or reimbursement for medical or medically related expenses incurred by the Covered Employee.

- 1.20. "Normal Retirement Age" - means the later of age 65 or the completion of five (5) Years of Vesting Service.
- 1.21. "Offset Vesting Service" - has the meaning set forth in Section 5.02(b) of the Plan.
- 1.22. "Participant" - means any Covered Employee who enters the Plan as provided in Article Two and shall include former Covered Employees to the extent any such individual has a vested interest in his Account, in which case his status as a Participant shall terminate when the Vested Portion is distributed and the remainder of the Account (nonvested portion) is forfeited.
- 1.23. "Plan" - means the Memorial Healthcare System 401(a) Retirement Plan, as set forth in this document, and as may be amended from time to time.
- 1.24. "Plan Year" - means the 12-month period ending on December 31st of each year, except that the period from the Effective Date to December 31, 2011 shall constitute a short Plan Year.
- 1.25. "Restated Effective Date" - shall have the meaning ascribed thereto in the preamble to this Agreement.
- 1.26. "Trust Agreement" - means an agreement by and between the Company and one (1) or more Trustees, as it may be amended from time to time, for the management, investment and disbursement of assets held in the Trust Fund.



- 1.27. "Trust Fund" - means all money and other property received or held in trust by a Trustee under the Trust Agreement, plus all income and gains and minus all losses, expenses and distributions chargeable to the assets of such Trust Fund. All assets of the Plan shall be held in trust, but such assets may be held under one (1) or more Trust Funds.
- 1.28. "Trustee" - means the party or parties designated under a Trust Agreement who shall have exclusive authority to hold in trust any assets of the Plan for the purpose of providing benefits under the Plan and shall include any successor trustee to the trustee initially designated thereunder.
- 1.29. "Valuation Date" - means (i) the last business day of each Plan Year, (ii) where appropriate given the context, the last business day preceding the date of a distribution to a Participant or other event requiring a valuation of a Participant's Account, and (iii) any other day so designated by the Administrator.
- 1.30. "Vested Portion" - means the portion of the Account in which the Participant has a nonforfeitable right as provided in Article Five.
- 1.31. "Year of Eligibility Service" - means an "Eligibility Computation Period" beginning on a Covered Employee's Date of Hire and ending on December 31st of the calendar year of the Covered Employee's Date of Hire during which the Covered Employee completes at least 1,872 Hours of Service and is a Covered Employee on such December 31st. If the Covered Employee fails to complete a Year of Eligibility Service in the initial Eligibility Computation Period, the next Eligibility Computation Period shall be the calendar year immediately following the Covered Employee's Date of Hire. Such Covered Employee shall receive a Year of Eligibility Service so long as he completes 1,872 Hours of Service



during that, or any, subsequent Eligibility Computation Period and is a Covered Employee on the applicable December 31st.

1.32. "Year of Vesting Service" - means a Plan Year for which an Employer Contribution is allocated to a Participant's Account in accordance with Section 3.01.



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**ARTICLE TWO  
PARTICIPATION**

2.01. Initial Participation.

A Covered Employee shall become a Participant on December 31st coincident with or next following the later of the date he completes one (1) Year of Eligibility Service and the date he attains the age of 21 years, provided he is a Covered Employee on such December 31st.

2.02. Participants Must Furnish Data.

As a condition of participation in the Plan, each Covered Employee shall furnish the Administrator with such data and information and complete such forms as the Administrator may consider desirable or necessary for the effective administration of the Plan. Notwithstanding anything to the contrary provided herein, no Account shall be payable under the Plan unless the Participant has complied with the requirements of this Section, but the right of a Participant to payment of an Account maintained on his behalf shall be fully preserved upon subsequent compliance with said requirements.

2.03. Cessation of Participation.

A Participant's participation in the Plan shall end on the date he no longer satisfies the definition set forth in Section 1.22. Except as otherwise provided in Section 5.02, if a Participant is not vested in his Account (that is, the Participant's Vested Portion is zero), the Participant shall be deemed to have received a distribution of his entire Vested Portion upon termination of employment with an Employer. Except as otherwise provided in Section 5.02, upon such deemed distribution, the Participant shall forfeit his



Years of Eligibility Service and Years of Vesting Service and shall no longer be considered a Participant.

**2.04. Transferred Participants.**

A Participant who remains in the employ of the Employer but ceases to be a Covered Employee shall continue to be a Participant in the Plan but shall not be eligible to earn Vesting Service or receive an allocation of Employer Contributions to his Account while his employment status is other than as a Covered Employee. In the event a Participant's or Employee's employment is transferred on or after the Effective Date, with the result that he becomes a Covered Employee, he shall be eligible to receive an allocation of Employer Contributions made on his behalf in accordance with Section 3.01, so long as he or she meets the requirements for such allocation.

**2.05. Participation upon Reemployment.**

- (a) A Participant or former Participant who returns to employment with the Employer as a Covered Employee and has Offset Vesting Service that is greater than zero (0) shall become an active Participant in the Plan as of his re-employment date.
- (b) A Participant or former Participant who returns to employment with the Employer as a Covered Employee and has Offset Vesting Service that is equal to or less than zero (0) shall participate in the Plan in accordance with this Article Two as if he had never been a Participant in the Plan. The portion of such Participant's or former Participant's Account attributable to Employer Contributions made prior to the time of his termination of employment shall be maintained separately from



the portion of his Account attributable to Employer Contributions made following his re-employment date.

- (c) A Participant or former Participant who returns to employment with the Employer in a status other than that of a Covered Employee shall remain a Participant to the extent provided in Section 2.04 but shall not become an active Participant eligible to receive an allocation of Employer Contributions until he becomes a Covered Employee and meets the requirements of Section 2.01.

**2.06. Enrollment.**

Participation hereunder shall be automatic when the requirements of Section 2.01 have been met; provided, however, that the Company may, in its discretion, require each Covered Employee to execute a written application containing such items as may be desired by the Company including, but not limited to the Covered Employee's consent to be bound by all the terms and conditions of the Plan and all amendments thereto.

**2.07. Waiver of Participation.**

The Company may grant a waiver of participation to any Covered Employee who so requests. Whether or not such waiver shall be granted, and the terms and conditions (including duration) thereof, shall be in the sole discretion of the Company.



**ARTICLE THREE  
EMPLOYER CONTRIBUTIONS AND PARTICIPANT ACCOUNTS**

**3.01. Employer Contributions.**

- (a) As of the last day of each Plan Year, or as soon thereafter as administratively feasible and in accordance with applicable law, the Employer shall, in its sole discretion, make an Employer Contribution to the Trust Fund on behalf of each Participant who:
  - (i) as of December 31st of such Plan Year, is
    - (A) a Covered Employee and Participant, and
    - (B) actively employed by the Employer, and
  - (ii) has completed 1,872 Hours of Service during such Plan Year.
- (b) The Employer Contribution for a given Plan Year that is allocated to the Account of a Participant who satisfies the requirements set forth in subsection (a) above shall be equal to 2.5% of the Participant's Compensation during such Plan Year.
- (c) Employer Contributions described in this Section 3.01 shall be allocated to Participants' Accounts as of the last day of the Plan Year to which they pertain.

**3.02. Timing of Employer Contributions.**

All Employer Contributions for a Plan Year shall be paid to the Trust Fund no later than the 15th day of the tenth month following the end of the Company's fiscal year with or within which such Plan Year ends.

**3.03. Maximum Annual Additions.**

- (a) The "annual additions" (as hereinafter defined) to a Participant's Account for any Plan Year, which shall be considered the "limitation year" for purposes of Section



415 of the Code, when added to the Participant's annual additions for that Plan Year under any other qualified defined contribution plan of the Employer or an Affiliated Employer, shall not exceed an amount which is equal to the lesser of: (i) 100% of his "remuneration" (as hereinafter defined) for that Plan Year, or (ii) \$40,000, as adjusted by applying the Adjustment Factor.

(b) For purposes of this Section, "annual additions" shall be the sum of the following amounts to the extent allocated to the Participant's Account under the Plan or to his account under such other plan or plans described below:

- (i) The total contributions, including any elective contributions, employer matching contributions and Employer Contributions made on the Participant's behalf by the Employer or an Affiliated Employer;
- (ii) All Participant contributions, exclusive of any rollover contributions;
- (iii) Reallocated forfeitures; and
- (iv) Amounts allocated to an individual medical account, as defined in Section 415(l)(2) of the Code, as part of a pension or annuity plan and amounts derived from contributions paid or accrued which are attributable to post-retirement medical benefits described in Section 419A(d) of the Code, under a welfare benefit fund (as defined in Section 419(e) of the Code) maintained by the Employer or an Affiliated Employer.

(c) For purposes of this Section, the term "remuneration" with respect to any Participant shall mean the total compensation, within the meaning of Section 415(c)(3) of the Code, paid to the Participant by the Employer within the limitation year and shall include differential wage payments as defined in Section



3401(h)(2) of the Code and any amounts that are excludable from the income of the Participant under Section 106 of the Code that are not available to a Participant in cash in lieu of group health coverage under a Code Section 125 cafeteria plan solely because the Participant is unable to verify that he or she has other health coverage, so long as the Employer does not request or collect information regarding the Participant's other health coverage as part of the enrollment process for the Employer sponsored health plan. Notwithstanding anything in the Plan to the contrary, the amount of remuneration taken into account for purposes of this Section 3.03 shall not exceed the adjusted annual limitation permitted under Section 401(a)(17) of the Code for such year. Remuneration shall not include severance pay. However, payment of regular compensation for services during the Participant's regular working hours or for services outside of the Participant's regular working hours such as overtime or shift differential, commissions, bonuses or similar payments that would have been paid had the Participant not incurred a severance from employment, if otherwise includible for purposes of remuneration as defined in Section 415(c)(3) of the Code, shall be taken into account only if paid by the later of (i) 2½ months after the date of severance from employment, or (ii) the last day of the limitation year that includes the date of severance from employment with the Employer.

- (d) In the event that a Participant's total annual additions for any limitation year exceed the limitation of Section 3.03(a), the excess amount shall be eliminated and/or the error corrected in a manner prescribed under the Internal Revenue Service's Employee Plans Compliance Resolution System.



- (e) The sole purpose of this Section 3.03 is to comply with the requirements of Section 415(c) of the Code. The terms of this Section 3.03 shall be interpreted and applied in a manner to satisfy the requirements of Section 415 of the Code.

3.04. Return of Contributions.

- (a) The Company's adoption of the Plan is conditioned upon the Plan's status as a tax qualified plan on inception. If, after the filing of materials with respect to the initial qualification of the Plan the Internal Revenue Service determines that the Plan fails to qualify under Section 401(a) of the Code, the Company may direct the Trustee to return any Employer contributions to the Employer at any time within one (1) year after such determination.
- (b) The Employer may recover, without interest, the amount of Employer Contributions made on account of a mistake of fact, reduced by any investment loss attributable to those contributions, if recovery is made within one (1) year after the date of those contributions.

3.05. Participant Accounts.

- (a) Accounts. There shall be maintained for each Participant (and each inactive Participant having an undistributed interest under the Plan) an Account reflecting all Employer Contributions made to the Trust Fund with respect to such Participant, all earnings and profits or losses thereon (including all unrealized appreciation and depreciation), and all distributions and transfers made therefrom.
- (b) Allocation of Earnings; Investment Funds. As and to the extent permitted by the Administrator, the Account of any individual having an interest under this Plan may be invested in separate investment funds. As of the last business day of each



Plan Year, and as of such other dates as the Administrator may direct (acting in a uniform and nondiscriminatory manner), Employer Contributions shall be allocated to the appropriate Accounts, the assets in the Trust Fund (and any separate investment funds) shall be valued at their fair market value, and there shall be determined the net earnings and net gain or loss on the assets of each of the investment funds since the last valuation. The net earnings and net gain or loss of each investment fund shall be allocated among the respective Accounts in such investment fund in the ratio that each Account balance bears to the sum of Account balances for that period, determined in a consistent and equitable manner. The Administrator shall determine the availability of separate investment funds and the rules and procedures governing the transfer of assets to and from such funds. Such separate investment funds shall be charged with the expenses of administration attributable thereto and for any distributions made therefrom.



**ARTICLE FOUR  
DISTRIBUTIONS**

**4.01. Distribution of the Participant's Account.**

The Vested Portion of a Participant's Account shall become subject to distribution, at the election of the Participant or Beneficiary, on the earliest to occur of the Participant's death, Disability or termination of employment. All distributions under the Plan shall be based on the Participant's Account on the Valuation Date as of which distribution is made (hereinafter, the "date of determination").

If, as of such date of determination, the Vested Portion of a Participant's Account exceeds \$1,000, the Participant may elect, in such manner as provided by the Administrator, to either take an immediate lump sum distribution of such Vested Portion of his Account in the form of a lump sum payment or to defer receipt of the same until a later date. Such election by a Participant must be made in writing to the Administrator on a form or forms designated for such purpose. The failure of any such Participant to make an election with respect to the Vested Portion of his Account in excess of \$1,000 shall be deemed an election by the Participant to defer receipt of such Vested Portion. A Participant who elects, or is deemed to elect, to defer receipt of his Vested Portion of his Account may request a complete distribution of such Vested Portion at any subsequent date.

Payment shall not be made before the Participant or Beneficiary receives notice under Section 402(f) of the Code. Such notice shall provide the Participant or Beneficiary of his right to elect immediate distribution or to defer distribution. Such notification shall be made within 180 days prior to date of distribution. In addition, distribution shall not be



made less than 30 days after such notification unless the Participant or Beneficiary is notified in writing that he is entitled to take up to 30 days to consider his choices and after receiving such notification, he affirmatively elects to waive the 30-day waiting period.

4.02. Payment of Small Accounts.

In the event that the Vested Portion of the Participant's Account is equal to or less than \$1,000, the Administrator shall distribute the Account in a lump sum payment to the Participant as soon as administratively practicable after the Participant's termination of employment. In the event that the Vested Portion of the Participant's Account exceeds \$1,000, subject to the affirmative consent and election of the Participant, the Participant's Account shall be distributed in the form of a lump sum payment to the Participant or as a direct rollover (as described in Section 4.05) as soon as administratively practicable after the Participant's termination of employment.

4.03. Mandatory Commencement of Payments.

(a) Notwithstanding any inconsistent provision of the Plan, all distributions under the Plan shall be made in accordance with Code Section 401(a)(9), including the incidental death benefit requirement of Code Section 401(a)(9)(G), and Treasury Regulations Sections 1.401(a)(9)-1 through 1.401(a)(9)-9. Specifically, distribution of the Participant's interest shall:

- (i) be completed no later than the "required beginning date" (as hereinafter defined); or
- (ii) commence not later than the required beginning date with distribution to the Participant made over the life of the Participant or joint lives of the Participant and "designated Beneficiary" (as hereinafter defined) or a



period not longer than the “life expectancy” (as hereinafter defined) of the Participant or the life expectancy of the Participant and a designated Beneficiary.

- (b) Death of Participant Before Distributions Begin. If the Participant dies before distributions begin, the Participant’s entire interest will be distributed, or begin to be distributed, no later than as follows:
- (i) If the Participant’s surviving spouse is the Participant’s sole designated Beneficiary, then, except as provided in paragraph (iii) of this Section 4.03(b), distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70½, if later.
  - (ii) If the Participant’s surviving spouse is not the Participant’s sole designated Beneficiary, then, except as provided in paragraph (iii) of this Section 4.03(b), distributions to the designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.
  - (iii) Participants or Beneficiaries may elect on an individual basis whether the 5-year rule or the life expectancy rule in this Section 4.03(b) and Section 4.03(e)(ii) applies to distributions after the death of a Participant who has a designated Beneficiary. The election must be made no later than the earlier of September 30 of the calendar year in which distribution would be required to begin under this Section 4.03(b), or by September 30 of the



calendar year which contains the fifth anniversary of the Participant's (or, if applicable, surviving spouse's) death. If neither the Participant nor Beneficiary makes an election under this paragraph (iii), distributions will be made in accordance with this Section 4.03(b) and Section 4.03(e)(ii).

- (iv) If there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
- (v) If the Participant's surviving spouse is the Participant's sole designated Beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this Section 4.03(b), other than Section 4.03(b)(i), will apply as if the surviving spouse were the Participant.

For purposes of this Section 4.03(b) and Section 4.03(e), unless Section 4.03(b)(v) applies, distributions are considered to begin on the Participant's required beginning date. If Section 4.03(b)(v) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under Section 4.03(b)(i). 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 Section 4.03(b)(i)), the date distributions are considered to begin is the date distributions actually commence.



- (c) Forms of Distribution. Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first "distribution calendar year" (as hereinafter defined) distributions will be made in accordance with Sections 4.03(d) and (e). 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.
- (d) Required Minimum Distributions During Participant's Lifetime.
- (i) Amount of Required Minimum Distribution for Each Distribution Calendar Year. During the Participant's lifetime, the minimum amount that will be distributed for each distribution calendar year is the lesser of:
- (A) the quotient obtained by dividing the "Participant's account balance" (as hereinafter defined) by the distribution period in the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations, using the Participant's age as of the Participant's birthday in the distribution calendar year; or
- (B) if the Participant's sole designated Beneficiary for the distribution calendar year is the Participant's spouse, the quotient obtained by dividing the Participant's account balance by the number in the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations, using the Participant's and spouse's



attained ages as of the Participant's and spouse's birthdays in the distribution calendar year.

(ii) Lifetime Required Minimum Distributions Continue Through Year of Participant's Death. Required minimum distributions will be determined under Section 4.03(d) beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the Participant's date of death.

(e) Required Minimum Distributions After Participant's Death.

(i) Death On or After Date Distributions Begin.

(A) Participant Survived by Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is a designated Beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the longer of the remaining life expectancy of the Participant or the remaining life expectancy of the Participant's designated Beneficiary, determined as follows:

(I) The Participant's remaining life expectancy is calculated using the age of the Participant in the year of death, reduced by one (1) 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 (1) for each subsequent calendar year.

(III) If the Participant's surviving spouse is not the Participant's sole designated Beneficiary, the designated Beneficiary's remaining life expectancy is calculated using the age of the Beneficiary in the year following the year of the Participant's death, reduced by one (1) for each subsequent year.

(B) No Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is no designated Beneficiary as of September 30 of the year after the year of the Participant's death, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the Participant's remaining life expectancy calculated using the age of the Participant in the year of death, reduced by one (1) for each subsequent year.



(ii) Death Before Date Distributions Begin.

- (A) Participant Survived by Designated Beneficiary. Except as provided in subparagraph (B) of this Section 4.03(e)(ii), if the Participant dies before the date distributions begin and there is a designated Beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the remaining life expectancy of the Participant's designated Beneficiary, determined as provided in Section 4.03(e)(i).
- (B) Participants or Beneficiaries may elect on an individual basis whether the 5-year rule or the life expectancy rule in Section 4.03(b) and this Section 4.03(e)(ii) applies to distributions after the death of a Participant who has a designated Beneficiary. The election must be made no later than the earlier of September 30 of the calendar year in which distribution would be required to begin under Section 4.03(b), or by September 30 of the calendar year which contains the fifth anniversary of the Participant's (or, if applicable, surviving spouse's) death. If neither the Participant nor Beneficiary makes an election under this subparagraph (B), distributions will be made in accordance with Section 4.03(b) and this Section 4.03(e)(ii).



(C) No Designated Beneficiary. If the Participant dies before the date distributions begin and there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(D) Death of Surviving Spouse Before Distributions to Surviving Spouse Are Required to Begin. If the Participant dies before the date distributions begin, the Participant's surviving spouse is the Participant's sole designated Beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under Section 4.03(b)(i), this Section 4.03(e)(ii) will apply as if the surviving spouse were the Participant.

(f) Definitions.

(i) Designated Beneficiary. The individual who is designated as the Beneficiary under Section 1.06 of the Plan and is the designated Beneficiary under Code Section 401(a)(9) and Section 1.401(a)(9)-1, Q&A-4, of the Treasury regulations.

(ii) Distribution calendar year. A calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's required beginning date. For distributions beginning after the Participant's



death, the first distribution calendar year is the calendar year in which distributions are required to begin under Section 4.03(b). The required minimum distribution for the Participant's first distribution calendar year will be made on or before the Participant's required beginning date. The required minimum distribution for other distribution calendar years, including the required minimum distribution for the distribution calendar year in which the Participant's required beginning date occurs, will be made on or before December 31 of that distribution calendar year.

- (iii) Life expectancy. Life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9 of the Treasury regulations.
- (iv) Participant's account balance. The balance of the Participant's Account as of the last valuation date in the calendar year immediately preceding the distribution calendar year (a "valuation calendar year") increased by the amount of any contributions made and allocated or forfeitures allocated to the Account balance as of dates in the valuation calendar year after the valuation date and decreased by distributions made in the valuation calendar year after the valuation date. The Account balance for the valuation calendar year includes any amounts rolled over or transferred to the Plan either in the valuation calendar year or in the distribution calendar year if distributed or transferred in the valuation calendar year.
- (v) Required beginning date. April 1st of the calendar year following the later of the calendar year in which the Participant attains age 70½ or the calendar year in which the Participant retires.



4.04. Distributions under a Qualified Domestic Relations Order.

Upon the Administrator's receipt of a qualified domestic relations order, the following provisions shall apply:

- (a) If the balance of the Vested Portion of a Participant's Account that is transferred to an Alternate Payee does not exceed \$1,000, such balance shall be distributed to the Alternate Payee as soon as administratively practicable following the transfer of the interest in the Participant's Account to the Alternate Payee.
- (b) If the balance of the Vested Portion of a Participant's Account that is transferred to an Alternate Payee exceeds \$1,000, the Alternate Payee may elect to receive distribution of such balance in the form of a single lump sum payment at any time after the interest in the Participant's Account is transferred to the Alternate Payee and distribution shall be made to the Alternate Payee as soon as administratively practicable after such election. Alternatively, the Alternate Payee may elect to defer distribution and distribution shall occur upon appropriate election by the Alternate Payee.

4.05. Direct Rollover of Eligible Rollover Distribution.

Notwithstanding any provision of the Plan to the contrary a "Distributee" (as hereinafter defined) may elect, subject to provisions adopted by the Administrator which shall be consistent with Treasury Regulations, to have any portion of an "Eligible Rollover Distribution" (as hereinafter defined) paid directly to an "Eligible Retirement Plan" (as hereinafter defined) specified by the Distributee in a "Direct Rollover" (as hereinafter defined) to such plan. For purposes of this Section:



- (a) The term "Distributee" shall mean a Covered Employee or former Covered Employee. In addition, such an individual's surviving spouse, or an individual's non-spouse Beneficiary that is a designated Beneficiary under Section 402(c)(11) of the Code or such an individual's spouse or former spouse who is an Alternate Payee are Distributees with respect to the interest of the spouse or former spouse.
- (b) The term "Eligible Rollover Distribution" shall mean any distribution of all or any portion of the balance to the credit of the Distributee other than (i) any distribution that is one of a series of substantially equal periodic payments made for the life (or life expectancy) of the Distributee or the joint lives (or joint life expectancies) of the Distributee and his Beneficiary, or for a specified period of ten (10) years or more; (ii) any distribution to the extent such distribution is required under Section 401(a)(9) of the Code; and (iii) any portion of a hardship withdrawal. In addition, a portion of a distribution shall not fail to be an Eligible Rollover Distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be paid only to an individual retirement account or annuity described in Code Sections 408(a) or (b), respectively, or to a Roth IRA described in Section 408A of the Code, to a qualified trust defined in Section 401(a) of the Code, or to an annuity contract described in Section 403(b) of the Code provided such account, annuity, IRA, trust or annuity contract agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.



- (c) The term "Eligible Retirement Plan" shall mean an individual retirement account or annuity, as described in Code Sections 408(a) and 408(b), respectively, an annuity plan described in Section 403(a) of the Code, an annuity contract described in Section 403(b) of the Code, a qualified trust described in Section 401(a) of the Code, a Roth IRA under Section 408A of the Code or an eligible plan under Code Section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan that accepts the Distributee's Eligible Rollover Distribution.
- (d) The term "Direct Rollover" shall mean a payment by the Plan to the Eligible Retirement Plan specified by the Distributee.



**ARTICLE FIVE  
VESTED PORTION OF ACCOUNT**

**5.01. Vesting of Account.**

- (a) A Participant's interest in his Account shall become 100% vested and nonforfeitable upon the earliest of:
  - (i) his attainment of Normal Retirement Age, if an Employee at such time;
  - (ii) his death, if an Employee at such time;
  - (iii) his termination of employment with an Employer on account of Disability;
  - (iv) the date on which occurs:
    - (A) a complete discontinuance of contributions to the Plan, if an affected Employee at such time; or
    - (B) the termination or partial termination of the Plan, if an affected Employee at such time; or
  - (v) the time provided under subsection (b) below.
- (b) Absent the occurrence of an event described in paragraphs (i) through (iv) of Section 5.01(a), a Participant's interest in his Account shall become vested and nonforfeitable upon the Participant completing five (5) or more Years of Vesting Service.

**5.02. Forfeitures and Restoration.**

- (a) Except as otherwise provided in subsection (b), below, in the event a Participant terminates his employment with all Employers prior to such time as he becomes vested in accordance with Section 5.01, the Participant's nonvested interest in his Account shall be forfeited as of the date on which the Participant receives a



deemed distribution in accordance with Section 2.03. As of such date of forfeiture, the Participant shall no longer be considered a Participant hereunder.

(b) Notwithstanding the foregoing, a Participant or former Participant who returns to employment with the Employer as a Covered Employee may have his prior Vesting Service and all or a portion of his prior Account balance restored, as provided below:

- (i) A Participant's or former Participant's Vesting Service that accrued prior to his termination of employment shall be reduced by one (1) year for each "subtractive year" between the date of Participant's termination of employment and the date of the Participant's rehire as a Covered Employee ("Offset Vesting Service"). "Subtractive year" means a calendar year in which the Participant was not employed as a Covered Employee for at least 181 days.
- (ii) A former Participant who (x) is rehired as a Covered Employee, (y) was not vested in his interest in the Account maintained on his behalf under the Plan at the time of his termination of employment, and (z) has Offset Vesting Service that is greater than zero (0):
  - (A) shall immediately be credited with Vesting Service that equals his Offset Vesting Service; and
  - (B) shall have his Account restored to an amount equal to the amount of his Account at his date of termination multiplied by a fraction, the numerator of which is his Offset Vesting Service and the



denominator of which is his Vesting Service that accrued prior to termination of employment.

- (iii) A Participant or former Participant who (x) is rehired as a Covered Employee, (y) was vested in his interest in the Account maintained on his behalf under the Plan at his termination of employment, and (z) has Offset Vesting Service that is greater than zero (0) shall immediately be credited with Vesting Service that equals his Offset Vesting Service for purposes of determining the Vested Portion of his Account attributable to Employer Contributions made after his date of rehire. If the portion of the Account of such Participant or former Participant attributable to Employer Contributions made prior to the time of his termination of employment has not been distributed, such portion of his Account shall be credited with investment gains and losses as provided under Section 3.05(b). Employer Contributions following such Participant's or former Participant's date of rehire shall be allocated to a separate Account maintained on his behalf under the Plan.
- (c) Any forfeitures will be applied towards the Employer Contribution for the Plan Year in which the forfeitures occurred or the following Plan Year.



**ARTICLE SIX  
ADMINISTRATION OF PLAN**

**6.01. Administrative Authority.**

Except as otherwise specifically provided herein, the Company shall have the sole responsibility for and the sole control of the operation and administration of the Plan, and shall have the power and authority to take all action and to make all decisions and interpretations which may be necessary or appropriate in order to administer and operate the Plan, including, without limiting the generality of the foregoing, the power, duty and responsibility to:

- (a) Resolve and determine all disputes or questions arising under the Plan, including the power to determine the rights of Employees, Participants and Beneficiaries, and their respective benefits, and to remedy any ambiguities, inconsistencies or omissions;
- (b) Adopt such rules of procedure and regulations as in its opinion may be necessary for the proper and efficient administration of the Plan and as are consistent with the Plan;
- (c) Implement the Plan in accordance with its terms and the rules and regulations adopted as above; and
- (d) Direct the Trustee with respect to the crediting and distribution of the Trust Fund, which are to be made only upon the basis of instructions from the Company pursuant to the terms of the Plan.



6.02. Company Administration.

The Plan shall be operated and administered on behalf of the Company by an Administrator. The Administrator shall be the named fiduciary of the Plan and shall be governed by the following:

- (a) In the absence of any designation and appointment to the contrary pursuant to Section 6.03, and subject to the power to delegate pursuant to this Section, the Administrator shall be the Board. Except as the Board shall otherwise expressly determine, the Administrator shall have full authority to act for the Company before all persons in any matter directly pertaining to the Plan, including the exercise of any power or discretion otherwise granted to the Company pursuant to the terms of the Plan, other than (if the Administrator is not the Board) the power to amend or terminate the Plan, to determine Employer Contributions, to affect the employer employee relationship between the Company and any Employee, and to retain and/or replace the Trustee, all of which powers are reserved to the Company unless expressly granted to the Administrator by the Board. Fiduciary duties, powers and responsibilities (other than those reserved with respect to management or control of Plan assets) may be allocated among the fiduciaries (if there be more than one) to whom such duties, powers and responsibilities have been delegated, so long as such allocation is pursuant to action of the Board or by written agreement executed by the involved fiduciaries and approved by the Board, in which case, no such fiduciary shall have any liability, with respect to any duties, powers or responsibilities not allocated to him, for the acts or



omissions of any other fiduciary. Any person may serve in more than one (1) fiduciary capacity under the Plan.

- (b) The Administrator may appoint any persons or firms, or otherwise act to secure specialized advice or assistance as it deems necessary or desirable in connection with the administration and operation of the Plan. The Administrator shall be entitled to rely conclusively upon, and shall be fully protected in any action or omission taken by it in good faith reliance upon, the advice or opinion of such firms or persons.
- (c) The Administrator shall have the power and authority to delegate from time to time by written instrument all or any part of its duties, powers or responsibilities under the Plan, both ministerial and discretionary, as it deems appropriate, to any person, and in the same manner to revoke any such delegation of duties, powers or responsibilities. Any action of such person in the exercise of such delegated duties, powers or responsibilities shall have the same force and effect for all purposes hereunder as if such action had been taken by the Administrator. Further, the Administrator may authorize one or more persons to execute any certificate or document on behalf of the Administrator, in which event any person notified by the Administrator of such authorization shall be entitled to accept and conclusively rely upon any such certificate or document executed by such person as representing action by the Administrator until such third person shall have been notified of the revocation of such authority. The Administrator shall not be liable for any act or omission of any person to whom the Administrator's duties, powers or responsibilities have been delegated, nor shall any person to whom any duties,



powers or responsibilities have been delegated have any liabilities with respect to any duties, powers or responsibilities not delegated to him.

- (d) All members of the Board and/or the Committee, if one be appointed, shall use the care and diligence prescribed in Section 6.06 in the performance of their administrative and other fiduciary duties pertaining to the Plan. To the fullest extent permitted by law, including Section 112.66(4) of the Florida Statutes, the Company and each adopting Affiliated Employer shall each indemnify and hold harmless each member from the effects and consequences of his acts, omissions and conduct in his official capacity with respect to the Plan, except to the extent that such effects and consequences shall result from his failure to comply with Section 6.06.
- (e) The Plan may purchase, as an expense of the Plan, liability insurance for its named fiduciary to cover liability or losses occurring by reason of an act or omission of such fiduciary, provided such insurance contract permits recourse by the insurer against the fiduciary in the case of breach of fiduciary obligation by such fiduciary. Any fiduciary may purchase, from and for his own account, insurance to protect himself in the event of a breach of fiduciary duty, and the Company may also purchase insurance to cover the potential liability of one or more persons who serve in a fiduciary capacity with regard to the Plan.
- (f) Nothing in this Plan shall be construed so as to prevent any fiduciary from
  - (i) receiving any benefit to which he may be entitled as a Participant or Beneficiary, (ii) receiving any reasonable compensation for services rendered, or for the reimbursement of expenses properly incurred in the performance of his



duties under the Plan (except that no person so serving who receives compensation as an Employee shall receive compensation from the Plan, except for reimbursement of expenses properly incurred), or (iii) serving as a fiduciary in addition to being an officer, Employee, agent, or other representative of the Company or any related entity.

- (g) Unless otherwise specifically provided herein, "notice" means (i) written notice on an appropriate form provided by the Administrator that is, in the discretion of the Administrator, properly completed and executed by the party giving such notice and which is delivered by hand or by mail to the Administrator or to such other party designated by the terms of the Plan or by the Administrator to receive the notice, or (ii) notice by electronic communication to the person or entity designated by the Administrator to perform recordkeeping and other administrative services on behalf of the Plan. The form of notice satisfactory in any given circumstance under the Plan shall be determined by the Administrator, in its discretion, and shall be applied uniformly to all Participants. Notice to any party as provided herein shall be deemed to be given when it is actually received (either physically or by electronic communication, as the case may be) by the party to whom such notice is given.

6.03. The Committee.

The Board shall have the right to designate and appoint a Committee as Administrator of the Plan. Except to the extent that the Board has retained any power or authority, or allocated duties and responsibilities to another administrator or fiduciary, said Committee shall have full power and authority to administer and operate the Plan in accordance with



its terms and in particular the authority contained in this Article Six, and, in acting pursuant thereto, shall have full power and authority to deal with all persons in any matter directly connected with the Plan, including, but not limited to, the Trustee, other fiduciaries, insurance companies, investment advisors, other advisors and specialists, Participants, Beneficiaries and their representatives, in accordance with the following provisions:

- (a) The Committee shall consist of one or more individuals designated by resolution of the Board. Subject to his right to resign at any time, each member of the Committee shall serve at the pleasure of the Board, and the Board may appoint, and may revoke the appointment of, additional members to serve with the Committee as may be determined to be necessary or desirable from time to time. Each member of the Committee, by accepting his appointment to the Committee, shall thereby be deemed to have accepted all of the duties and responsibilities of such appointment, and to have agreed to the faithful performance of his duties thereunder.
- (b) The Committee shall adopt such formal organization and method of operation as it shall deem desirable for the conduct of its affairs related to the Plan. The Committee shall act as a body, and the individual members of the Committee shall have no powers and duties as such, except as provided herein. The Committee shall act by vote of a majority of its members at the time in office, either at a meeting or in writing without a meeting.
- (c) The determination of the Committee on any matter pertaining to the Plan within the powers and discretion granted to it shall be final and conclusive on the



Company, the Trustee, all Participants and Beneficiaries and all those persons dealing in any way or capacity with the Plan.

- (d) Unless otherwise determined by the Company, the members of the Committee shall serve without compensation for services as such, but all expenses of the Committee shall be paid for in accordance with Section 7.07; such expenses shall include any expenses incident to the administration and operation of the Plan and to the functioning of the Committee, including, but not limited to, fees and other compensation to firms or persons retained for advice and assistance pursuant to Section 6.02(b).
- (e) The Committee shall have the same powers of appointment and delegation as are set forth in Section 6.02(b) and (c).

**6.04. Mutual Exclusion of Responsibility.**

Neither the Trustee nor the Company shall be obliged to inquire into or be responsible for any act or failure to act, or the authority therefore, on the part of the other.

**6.05. Uniformity of Discretionary Acts.**

Whenever in the administration or operation of the Plan discretionary actions by the Company or the Administrator are required or permitted, such action shall be consistently and uniformly applied to all persons similarly situated, and no such action shall be taken which shall discriminate in favor of officers, shareholders or highly-compensated Employees.

**6.06. Fiduciary Standards.**

The Administrator and all other persons in any fiduciary capacity with respect to the Plan shall discharge their duties with respect to the Plan solely in the interest of the



Participants and Beneficiaries for the exclusive purposes of providing benefits to Participants and their Beneficiaries and defraying reasonable expenses of administering and operating the Plan; provided, however, that with respect to their investment duties under the Plan, the Administrator and all other persons in any fiduciary capacity with respect to the Plan shall also discharge their duties (i) with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, and (ii) by diversifying the investments of the Plan so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.

6.07. Litigation.

Except as may be otherwise required by law, no Participant or Beneficiary shall be entitled to any notice or service of process, and any final judgment entered in such action shall be binding on all persons interested in, or claiming under, the Plan.



6.08. Claims Procedure.

In the event that any Participant or Beneficiary (hereinafter referred to as the "Claimant") believes that he is entitled to a benefit under the Plan, and such benefit has not been paid or commenced, or if such benefit has been paid or commenced under terms or in an amount with which the Claimant is not in agreement, said Claimant shall have the right to file a written claim with the Administrator setting forth the reason he believes he is entitled to the benefit, or setting forth the nature of his dispute with the terms or amount of the benefit, as the case may be. Such claim shall be delivered or mailed to the Administrator.

Unless it is determined that the matter is to be resolved in accordance with the wishes of the Claimant as set forth in the claim, the Administrator shall provide the Claimant with a written notice setting forth the specific reason or reasons for the denial, specific reference to pertinent Plan provisions on which the denial is based, a description of any additional material or information necessary for the Claimant to perfect his claim and an explanation of why such material or information is necessary, and an explanation of the Plan's claim review procedure. If such a notice has not been provided to the Claimant within 90 days after the claim was received by the Company, and the claim has not been granted within such period of time, the claim shall be deemed denied and the Claimant shall be entitled to institute review procedures as hereinafter set forth, except that the 90 day period may in special circumstances be extended to 180 days provided that the Company so notifies the Claimant, before expiration of the initial 90 day period, in a written notice setting forth the reason for the extension and the estimated decision date.



For a period of 60 days following the date on which a Claimant has been provided with a notice of denial as aforesaid, the Claimant may appeal the denial by submitting to the Administrator a written request for a review by the Administrator of the denial. At any time prior to the filing of such an appeal, the Claimant shall have a right to review all pertinent documents (which shall be made available to the Claimant during normal business hours at his place of employment or such other place as may be reasonably designated by the Administrator). The Claimant shall have the right to submit to the Administrator, at any time during the duration of the review procedure, any written statement of issues and comments which the Claimant believes it relevant for the Administrator to consider. A decision by the Administrator shall be made promptly, and not later than 60 days after the Administrator's receipt of the request for review, unless special circumstances require an extension of time for processing, and the Administrator so notifies the Claimant in writing prior to the expiration of the initial 60 day period, in which case a decision shall be rendered as soon as possible but not later than 120 days after such receipt of a request for review. The Administrator's decision shall be set forth in writing and delivered to the Claimant and shall include specific reasons for the decision and specific references to the pertinent Plan provisions on which the decision is based. The Administrator's decision shall be final and binding on the Company, the Claimant, and all other parties claiming any interest under the Plan, and their heirs and assigns. Any reference herein to the "Claimant" shall be deemed to include any person named by the Claimant as his duly authorized representative, provided that such representative delivers to the Company a written power of attorney or otherwise satisfies the Administrator that he has been duly authorized to act for the Claimant.





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**ARTICLE SEVEN  
TRUST FUND**

**7.01. Trust Fund.**

The Trust Fund shall be held by the Trustee, or by a successor trustee or trustees, for use in accordance with the Plan under a Trust Agreement. The Trust Agreement may from time to time be amended in the manner therein provided. Similarly, the Trustee may be changed from time to time in the manner provided in the Trust Agreement and Section 6.02(a).

**7.02. Investment of Trust Fund.**

All contributions under the Plan shall be paid to the Trustee and deposited into the Trust Fund. Such contributions, all investments made therewith and proceeds thereof and all earnings and profits thereon, less authorized disbursements, shall constitute the Trust Fund, which Trust Fund and the Trust Agreement, under which it is maintained, shall in all respects constitute a part of the Plan. The Board will establish a written investment policy which shall apply to the assets of the Plan. Such policy shall comply, as applicable, with Section 112.661 of the Florida Protection of Public Employees Retirement Benefits Act.

**7.03. Prohibition Against Diversion of Assets.**

It shall be impossible by operation of the Plan, by power of revocation or amendment, by the happening of any contingency, by collateral arrangement or by other means, for any part of the corpus or income of the Trust Fund, or any funds contributed thereto, to inure to the benefit of the Company or otherwise be used for or diverted to purposes other than



providing benefits to Participants and Beneficiaries and defraying reasonable expenses of administering the Plan except that:

- (a) Except as the Board shall otherwise expressly determine, all contributions made by the Company to the Plan are and shall be conditioned on the qualification of the Plan under Section 401 of the Code, so that in the event of a denial of qualification at any date subsequent to the initial qualification of the Plan, the Trustee, within one (1) year of the denial of qualification, shall return to the Company all contributions made after the effective date of the denial (less any Trust Fund losses attributable thereto). An unfavorable determination shall be deemed to have occurred when appeal rights with respect thereto have expired or been waived or exhausted.
- (b) The amount of any contribution made by the Company by reason of a mistake of fact (less any Trust Fund losses attributable thereto) shall be returned by the Trustee to the Company within one (1) year after the payment of the contribution.

7.04. Appointment of Investment Manager.

The Administrator may, in its discretion, appoint one (1) or more investment managers to manage all or part of the assets of the Plan, including the power to acquire and dispose of said assets, as the Administrator shall designate. In that event authority over and responsibility for the management of the assets so designated shall be the sole responsibility of that investment manager.

7.05. Investment in Group Trust Fund.

The Company, by adopting this Plan, specifically authorizes the Trustee to invest all or any portion of the assets comprising the Trust Fund in any group trust fund which at the



time of the investment provides for the pooling of the assets of plans qualified under Code Section 401(a), including a group trust fund that also permits the pooling of qualified plan assets with assets of an individual retirement account that is exempt from taxation under Code Section 408(e) or assets of an eligible governmental plan under Code Section 457(b) that is exempt from taxation under Code Section 457(g). This authorization applies solely to a group trust fund exempt from taxation under Code Section 501(a) and the trust agreement of which satisfies the requirements of Revenue Ruling 81-100 (as modified and clarified by Revenue Ruling 2004-67), or any successor thereto. The provisions of the group trust fund agreement, as amended from time to time, are by this reference incorporated within this Plan and Trust Fund. The provisions of the group trust fund will govern any investment of Plan assets in that fund. To comply with Code Section 4975(d)(8) as to any group trust fund maintained by a disqualified person, including the Trustee, the Trustee may invest in any such fund at the direction of the Administrator.

7.06. Spendthrift Provisions.

Except as otherwise specifically provided by applicable law, no amount payable under the Plan will be subject in any manner to anticipation, alienation, attachment, garnishment, sale, transfer, assignment (either in law or equity), levy, execution, pledge, encumbrance, charge or any other legal or equitable process, and any attempt to do so will be void; nor will any benefit be in any manner liable for or subject to the debts, contracts, liabilities, engagements or torts of the person entitled thereto. The foregoing shall not preclude, and the Trustee (at the direction of the Company or to the extent necessary to comply with a directive of a court or other governmental agency of competent jurisdiction) shall honor the (i) enforcement of a federal tax levy made



pursuant to Section 6331 of the Code, (ii) collection by the United States on a judgment resulting from an unpaid tax assessment, or (iii) creation, assignment or recognition of a right to any benefit payable with respect to a Participant pursuant to a qualified domestic relations order (as defined in Section 414(p) of the Code). Further, the foregoing events shall not preclude any arrangement for the (w) withholding of taxes from Plan benefit payments, (x) recovery by the Plan of overpayments of benefits previously made to a Participant, (y) transfer of benefit rights from the Plan to another plan, or (z) direct deposit of benefit payments to an account in a banking institution (if not part of an arrangement constituting an assignment or alienation).

Notwithstanding the foregoing, any Participant or Beneficiary may make any arrangement (so long as it is revocable at any time by the Participant or Beneficiary) whereby the Participant or Beneficiary assigns to the Company (i) all or any portion of a presently due benefit payment, or, (ii) once the Participant or Beneficiary begins receiving benefits, the right to up to 10% of any future benefit payment. The Company acknowledges to the Administrator that as to (i), it has no enforceable right in or to any Plan benefit payment or portion thereof under any such arrangement, except to the extent of payments actually received pursuant to the terms of the arrangement.



7.07. Expenses of the Plan.

All reasonable expenses, taxes and fees of the Plan, the Administrator and the Trustee incurred in the administration of the Plan and Trust Fund shall be paid from the Trust Fund; provided, however, that the obligation of the Trust Fund to pay such expenses, taxes and fees shall cease to exist to the extent that the same are paid, at the discretion of the Company, by the Employer.



**ARTICLE EIGHT  
GENERAL PROVISIONS**

**8.01. Exclusive Benefit Rule.**

Except as otherwise provided in the Plan, no part of the corpus or income of the funds of the Plan shall be used for, or diverted to, purposes other than for the exclusive purpose of providing benefits to Participants and other persons entitled to benefits under the Plan and defraying reasonable expenses of administering the Plan. No person shall have any interest in or right to any part of the earnings of the funds of the Plan, or any right in, or to, any part of the assets held under the Plan, except as and to the extent expressly provided in the Plan.

**8.02. Nonalienation.**

Neither the Trust Fund nor any Account held under the Plan shall in any manner be liable for or subject to the debts or liabilities of any Participant, Beneficiary or Alternate Payee. No right or benefit under the Plan shall at any time be subject to alienation, sale, transfer, assignment, pledge or encumbrances of any kind and any attempt to do so shall be void. However, the preceding sentence shall not apply to the creation, assignment, or recognition of a right or interest in the Account of a Participant to the extent the right or interest was created by a domestic relations order that is determined to be a "qualified domestic relations order," as defined in Section 414(p) of the Code.

**8.03. Conditions of Employment Not Affected by Plan.**

The establishment and maintenance of the Plan shall not confer any legal rights upon any Employee or other person for a continuation of employment, nor shall it interfere with the rights of an Employer to discharge any such person and to treat him without regard to the



effect which that treatment might have upon him as a Participant or potential Participant of the Plan.

**8.04. Facility of Payment.**

If the Administrator shall find that a Participant, Beneficiary or other person entitled to a benefit is unable to care for his affairs because of illness or accident or is a minor, the Administrator may direct that any benefit due him, unless claim shall have been made for the benefit by a duly appointed legal representative, be paid to his spouse, a child, a parent or other blood relative, or to a person with whom he resides. Any payment so made shall be a complete discharge of the liabilities of the Plan for that benefit.

**8.05. Information.**

Each Participant, Beneficiary or other person entitled to a benefit, before any benefit shall be payable to him or on his account under the Plan, shall file with the Administrator or its designee the information that it shall require to establish his rights and benefits under the Plan. The Administrator and any Participant, delegate or appointee thereof shall be entitled to rely on the correctness of any information furnished by the Employer, Trustee, Participants, Alternate Payees and Beneficiaries.

**8.06. Construction.**

- (a) The Plan shall be construed, regulated and administered under the Internal Revenue Code and the laws of the State of Florida.
- (b) The masculine pronoun shall mean the feminine wherever appropriate.
- (c) Any terms defined in the singular shall mean the plural wherever appropriate.



- (d) The titles and headings of the Articles and Sections in this Plan are for convenience only. In the case of ambiguity or inconsistency, the text rather than the titles or headings shall control.

8.07. Severability.

If any provision of this Plan is held to be invalid or unenforceable, such determination shall not affect the other provisions of this Plan. In such event, this Plan shall be construed and enforced as if such provision had not been included herein.

8.08. Employer Records.

The records of a Participant's Employer shall be presumed to be conclusive of the facts concerning his employment or non-employment, Hours of Service, Years of Eligibility Service, Years of Vesting Service and Compensation unless shown beyond a reasonable doubt to be incorrect.

8.09. Application of Plan Provisions.

This Plan shall be binding on all Participants, Alternate Payees and Beneficiaries and upon heirs, executors, administrators, successors, and assigns of all persons having an interest herein. The provisions of the Plan in no event shall be considered as giving any such person any legal or equitable right against the Employer, any of its officers or Employees, or against the Trustee, except such rights as are specifically provided for in the Plan or hereafter created in accordance with the terms of the Plan.

8.10. Missing Participants.

If a Participant who has left employment with the Employer has failed to file an application for benefits within 120 days after attainment of his Normal Retirement Age, the Administrator shall treat the Participant's Account as forfeited; provided, however,



that such Account shall be reinstated upon the subsequent filing of a completed application with the Administrator or its designee. Distribution of the Vested Portion of the Participant's Account shall commence within 90 days after such application is filed.

8.11. Qualified Military Service.

Notwithstanding any provision of the Plan to the contrary, contributions, benefits and service credit with respect to qualified military service shall be provided in accordance with Section 414(u) of the Code and the Heroes Earning Assistance and Relief Tax Act ("HEART Act"). The Plan is intended to provide the benefits required by the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended ("USERRA"), and the HEART Act, is not intended to provide any other benefits and shall be construed with such intent. If a Participant dies while performing "qualified military service" (as defined in Section 414(u) of the Code), the Participant's Beneficiary shall receive the same benefits under the Plan as if the Participant had returned to employment as an active Participant immediately prior to his death and then terminated employment on account of his death.



**ARTICLE NINE  
AMENDMENT, MERGER AND TERMINATION**

9.01. Amendment of Plan.

The Company reserves the right at any time and from time to time, and retroactively if deemed necessary or appropriate, to amend in whole or in part any or all of the provisions of the Plan. Any such amendment shall be expressed in an instrument executed, adopted or ratified by the Company. However, no amendment shall make it possible for any part of the assets of the Plan to be used for, or diverted to, purposes other than for the exclusive benefit of persons entitled to benefits under the Plan.

9.02. Merger, Consolidation or Transfer.

The Company may authorize the merger of any defined contribution plan that is qualified under Section 401(a) of the Code (the "Merged Plan") and that is maintained by the Company or by an Affiliated Employer with and into the Plan. Any such merger shall be deemed to be an amendment and restatement of the Merged Plan in the form of the Plan.

9.03. Additional Participating Employers.

- (a) If any organization is or becomes an Affiliated Employer, the Company may designate such organization as an Employer upon appropriate action necessary to adopt the Plan being taken by that organization. In that event, or if any persons become Covered Employees of an Employer as the result of merger or consolidation or as the result of acquisition of all or part of the assets or business of another organization, the Company shall determine to what extent, if any, previous service with the other organization shall be recognized under the Plan,



but subject to the continued qualification of the Trust Fund for the Plan as tax-exempt under the Code.

- (b) Any Employer may terminate its participation in the Plan upon appropriate action by it. In that event, the funds of the Plan held on account of Participants in the employ of that Employer, and any unpaid balances of the Accounts of all Participants who have separated from the employ of that Employer, shall be determined by the Administrator. Those funds shall be distributed as provided in Section 9.04 if the Plan should be terminated, or shall be segregated by the Trustee as a separate trust, pursuant to certification to the Trustee by the Administrator, continuing the Plan as a separate plan for the employees of the former Employer under which the governing body of that organization shall succeed to all the powers and duties of the Company, including the appointment of a plan administrator.

9.04. Termination of Plan.

- (a) The Company may terminate the Plan or completely discontinue contributions under the Plan for any reason at any time. In case of termination or partial termination of the Plan, or complete discontinuance of Employer contributions to the Plan, the rights of affected Participants to their Accounts under the Plan as of the date of the termination or discontinuance shall be nonforfeitable.
- (b) Upon termination of the Plan, Accounts maintained on behalf of Participants, Beneficiaries and Alternate Payees shall be distributed to such persons as soon as administratively practicable in accordance with applicable law. If Accounts are



not distributable in accordance with the preceding sentence, such Accounts shall be maintained in a manner consistent with applicable law.

IN WITNESS WHEREOF, the Company has caused this Plan to be executed on this

12<sup>th</sup> day of September, 2014.

SOUTH BROWARD HOSPITAL  
DISTRICT, DBA MEMORIAL  
HEALTHCARE SYSTEM

By: \_\_\_\_\_

  
Frank V. Sacco,  
President and Chief Executive Officer

