

# FIDELITY SELF-EMPLOYED 401(K) ACCOUNT APPLICATION

Complete this application to open your Fidelity Retirement Plan account to trade securities or FundsNetwork® mutual funds through Fidelity Brokerage Services LLC ("FBS"). Mail your completed forms to: Fidelity Investments, P.O. Box 770001, Cincinnati, OH 45277-0036.

**Note:** There are three parties associated with the adoption of a 401(k) plan—Employer, Plan Administrator, and Plan Participant. With the Self-Employed 401(k), in many cases, the business owner may represent all three parties. Please complete this application accordingly.

## 1 RETIREMENT PLAN INFORMATION

This section requests plan information to be completed and signed by the Employer.

## 2 PARTICIPANT ACCOUNT INFORMATION

This section requests participant account information to be completed by the Participant. **All fields in bold are required for opening an account.**

## 3 PARTICIPANT FINANCIAL PROFILE

We are required by the Financial Industry Regulatory Authority (FINRA) and other industry regulators to obtain the participant information in this section.

## 4 PARTICIPANT BENEFICIARY DESIGNATION

Complete this section to designate beneficiaries to receive payment of the value of your Self-Employed 401(k) account following your death. If you are married and designate a beneficiary other than your spouse, be sure to have your spouse sign this section in the presence of a notary public.

## 5 ACCOUNT FEATURES

Complete this section if you are interested in more information about options trading.

## 6 PARTICIPANT AND PLAN ADMINISTRATOR SIGNATURES

This section must be signed by both the Participant and Plan Administrator. Please be sure to sign and date your application in ink. **We cannot process your application without your signature.**

### QUESTIONS?

For more information

**1-800-FIDELITY** or **Fidelity.com**  
(1-800-343-3548)



(Please complete and return all pages except this coversheet.)

**1 RETIREMENT PLAN INFORMATION (TO BE COMPLETED BY THE EMPLOYER)****A. Are you amending from an existing Fidelity Retirement Plan (Keogh)?**

☐ Yes ☐ No If yes, check the type of plan you are amending from and provide your existing Fidelity account number.

☐ Fidelity Profit Sharing-Only Plan Account Number \_\_\_\_\_

☐ Fidelity Safe Harbor 401(k)/Profit Sharing Plan Account Number \_\_\_\_\_

Note: To establish a Fidelity Self-Employed 401(k), you must provide Fidelity with a completed Self-Employed 401(k) Adoption Agreement.

**B. Are you adding an additional "owner" Participant to an existing Self-Employed 401(k) Plan?**

☐ Yes ☐ No If yes, please indicate the business owner's (Employer) Fidelity account number. \_\_\_\_\_

**C. Please complete the following information:**

Business Name \_\_\_\_\_

Employer Tax ID \_\_\_\_\_ (Do not use your Social Security number.)

All forms must contain your Employer Tax ID number. Do not use your Social Security number. If you need to obtain a Tax ID number, please call the IRS at 1-800-829-1040.

Name of Plan Administrator \_\_\_\_\_

(The Plan Administrator can be the Employer or a person designated by the Employer.)

Plan Administrator Address \_\_\_\_\_  
Street City State ZIP

**X**

SIGNATURE OF EMPLOYER

DATE (mm/dd/yyyy)

**2 PARTICIPANT ACCOUNT INFORMATION (TO BE COMPLETED BY THE PARTICIPANT)**

Full legal name \_\_\_\_\_  
First Name Middle Name Last Name

E-mail address \_\_\_\_\_ Date of birth (mm/dd/yyyy) \_\_\_\_\_

Social Security number \_\_\_\_\_

Permanent address \_\_\_\_\_  
(no P.O. boxes) Street City State ZIP

Mailing address \_\_\_\_\_  
(if different from above) Street City State ZIP

Phone numbers Evening \_\_\_\_\_ Day \_\_\_\_\_ Ext. \_\_\_\_\_

Country of citizenship ☐ U.S. ☐ Other \_\_\_\_\_ Country of tax residence ☐ U.S. ☐ Other \_\_\_\_\_

**GOVERNMENT ID (FOREIGN CITIZENS ONLY)** Identification document must have a reference number and photo. Please attach a photocopy.

Place of birth \_\_\_\_\_  
City State/Province Country

Immigration status ☐ Permanent resident ☐ Non-permanent resident ☐ Non-resident

Check which type of document you are providing:

☐ U.S. driver's license ☐ DHS permanent resident alien card ☐ Passport with U.S. visa ☐ Employment Authorization Document

☐ Passport without U.S. visa\*

\*Bank name required

\*Account number required

☐ Foreign national identity document\*

\*Bank address required

\*Phone number required

Document number and country of issuance \_\_\_\_\_  
(Number from the document checked above)

Be sure to sign this application before returning it to Fidelity. Please continue. ➔

## 2 PARTICIPANT ACCOUNT INFORMATION (CONTINUED)

Employment ☐ Employed ☐ Not employed ☐ Retired Occupation \_\_\_\_\_  
(if retired or not employed, indicate source of income)

Employer's name \_\_\_\_\_

Employer's address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_

### ASSOCIATIONS

☐ Check this box if you are associated with, or employed by, a stock exchange or a member firm of an exchange or FINRA, a municipal securities dealer, or Fidelity. If you checked the box, obtain and attach the compliance officer's letter of approval ("407 letter") and indicate the associated entity's name and address below. Failure to include an approval letter may delay the processing of your request. We must tell the associated entity you have applied for this account.

☐ Check this box if your association is through your employer. (If you checked this box, you are not required to complete the information below.)

Company name you are associated with \_\_\_\_\_

Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_

☐ Check this box if you are a control person or associated with either a) another member b) member organization or c) an immediate family/household member of a control person or associated with a publicly traded company under SEC Rule 144 (this would include, but is not limited to, a director, 10% shareholder, policy-making officer, and members of the board of directors).

Trading symbol \_\_\_\_\_ Company \_\_\_\_\_

## 3 PARTICIPANT FINANCIAL PROFILE (REQUIRED)

### YOUR INVESTMENT OBJECTIVE

You should choose your investments for this account based on your objectives, time frame, and tolerance for market fluctuation. From short-term liquid investments that seek to preserve capital (accepting the lowest returns in exchange for stability) to longer-term investments that seek maximum growth (but can tolerate very wide fluctuations in performance), you can choose an approach that's best for you. Simply check the box below that most closely matches your investment objective.

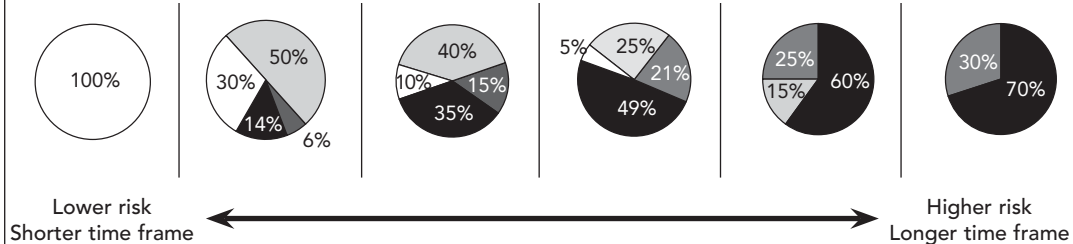
**Check one profile. (Determine your profile using the information below.)**

☐ <sub>1</sub> Short-Term ☐ <sub>2</sub> Conservative ☐ <sub>6</sub> Balanced ☐ <sub>3</sub> Growth ☐ <sub>5</sub> Aggressive Growth ☐ <sub>4</sub> Most Aggressive

### SAMPLE PORTFOLIO MIX

#### Asset Class

- ☐ Short-Term  
☐ Foreign Stocks  
☐ U.S. Domestic Stocks  
☐ Bonds



#### Short-Term

You seek to preserve your capital and can accept the lowest returns in exchange for price stability.

#### Conservative

You seek to minimize fluctuations in market values by taking an income-oriented approach with some potential for capital appreciation (minimum required for writing covered call options).

#### Balanced

You seek the potential for capital appreciation and some income and can withstand moderate fluctuations in market value.

#### Growth

You have a preference for growth and can withstand significant fluctuations in market value.

#### Aggressive Growth

You seek aggressive growth and can tolerate wide fluctuations in market values, especially over the short term.

#### Most Aggressive

You seek very aggressive growth and can tolerate very wide fluctuations in market values, especially over the short term (required for options strategies other than writing covered call options).

Generally, among asset classes, stocks may present more short-term risk and volatility than bonds or short-term instruments but may provide greater potential return over the long term. Although bonds generally present less short-term risk and volatility than stocks, bonds do entail interest rate risk (as interest rates rise, bond prices usually fall and vice versa) and the risk of default, or the risk that an issuer will be unable to make income or principal payments. Additionally, bonds and short-term investments entail greater inflation risk, or the risk that the return of an investment will not keep up with increases in the prices of goods and services, than stocks. Finally, foreign investments, especially those in emerging markets, involve greater risk and may offer greater potential return than U.S. investments.

Check one box in each column.

ANNUAL INCOME (from all sources)	ESTIMATED NET WORTH (excluding residence)	ESTIMATED LIQUID NET WORTH	FEDERAL TAX BRACKET
<input type="checkbox"/> 1 Under \$20,000	<input type="checkbox"/> 1 Under \$30,000	<input type="checkbox"/> 1 Under \$15,000	<input type="checkbox"/> 1 ≤ 15%
<input type="checkbox"/> 2 \$20,000–\$50,000	<input type="checkbox"/> 1 \$30,000–\$50,000	<input type="checkbox"/> 1 \$15,000–\$50,000	<input type="checkbox"/> 2 25%
<input type="checkbox"/> 3 \$50,001–\$100,000	<input type="checkbox"/> 2 \$50,001–\$100,000	<input type="checkbox"/> 2 \$50,001–\$100,000	<input type="checkbox"/> 3 ≥ 28%
<input type="checkbox"/> 4 Over \$100,000	<input type="checkbox"/> 3 \$100,001–\$500,000	<input type="checkbox"/> 3 \$100,001–\$500,000	
	<input type="checkbox"/> 4 Over \$500,000	<input type="checkbox"/> 4 Over \$500,000	

# 4 PARTICIPANT BENEFICIARY DESIGNATION

Designate beneficiaries to receive payment of the value of this Fidelity Retirement Plan account following your death. You may name one or more persons, trusts, or entities. This beneficiary designation applies to this account only and will not impact other Fidelity account beneficiary designations. Additionally, any beneficiary designations you have made on other Fidelity accounts will not apply to this account. However, if you have an existing Fidelity Retirement Plan account which you are now amending to a Fidelity Self-Employed 401(k) account with this application, you may elect to apply your existing beneficiary designation to this account by checking the box below.

**For an existing Fidelity Retirement Plan account only:**

☐ Please apply my existing Fidelity Retirement Plan account beneficiary designation to this Fidelity Self-Employed 401(k) account. My existing Fidelity Retirement Plan Account Number is \_\_\_\_\_.

Unless you checked the above box, fill out this section completely. Leaving this section blank will indicate no beneficiary is named by you for this account and upon your death you agree to have the payment of the value of this account made to your surviving spouse or, if no surviving spouse, your estate. If more than one person is named and no share percentages are indicated, payment shall be made in equal shares to your surviving primary beneficiary(ies). If a percentage is indicated and a primary beneficiary does not survive you, the percentage of that beneficiary's designated share shall be divided equally among the surviving primary beneficiary(ies). If no primary beneficiaries survive you, payment will be made to any surviving contingent beneficiaries according to the same rules of succession described above for primary beneficiaries.

**Please indicate the Participant's marital status.** Single ☐ Married ☐ If married and you designate a nonspouse beneficiary as your primary beneficiary, have your spouse sign the Spousal Consent section below in the presence of a notary public.

Note: If beneficiary is a trust, please provide the trust's name and address, the date of the trust, and all the trustee's names. Attach a separate sheet with this information.

**4A: Designation of Primary Beneficiary(ies) (Must add up to 100%)**

First Name	MI	Last Name	Social Security or Tax ID Number	Share %	Date of Birth or Date of Trust	Relationship			
						Spouse	Nonspouse Individual	Trust	Entity
1. _____						<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. _____						<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. _____						<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Total 100%									

**Optional Designation:** (Please consult an estate planning attorney before using Per Stirpes.)

☐ Please add a **Per Stirpes** stipulation to all named individuals in my Primary Beneficiary Designation.\*

**4B: Designation of Contingent Beneficiary(ies) (Must add up to 100%)**

First Name	MI	Last Name	Social Security or Tax ID Number	Share %	Date of Birth or Date of Trust	Relationship			
						Spouse	Nonspouse Individual	Trust	Entity
1. _____						<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. _____						<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. _____						<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Total 100%									

**Optional Designation:** (Please consult an estate planning attorney before using Per Stirpes.)

☐ Please add a **Per Stirpes** stipulation to all named individuals in my Contingent Beneficiary Designation.\*

\*If this box is checked, if any primary or contingent beneficiary, as applicable, does not survive the account owner, but leaves surviving descendants, then any share otherwise payable to such beneficiary shall instead be paid to such beneficiary's descendants by right of representation.

**Spousal consent:**

I hereby consent to the designation of the primary beneficiary(ies) listed above. I understand this consent allows the beneficiary(ies) listed above to be paid amounts that would otherwise be paid to me.

<div>X</div>	<div>X</div>
SIGNATURE OF PARTICIPANT'S SPOUSE	DATE (mm/dd/yyyy) NOTARY PUBLIC DATE (mm/dd/yyyy)

## 5 ACCOUNT FEATURES

Check the box below to receive a Fidelity Options Account Application by mail or visit Fidelity.com to print the form.

- ☐ **Options Trading:** To be considered for options trading within your brokerage account, all new account owners must complete a Fidelity Options Account Application, available online at Fidelity.com. A separate Fidelity Options Account Application must be completed for each account in which you wish to trade options.

## 6 PARTICIPANT AND PLAN ADMINISTRATOR SIGNATURES (REQUIRED)

### PARTICIPANT AGREEMENT:

- I have received and read either the Prospectus or the Profile Prospectus for Fidelity Cash Reserves. If I received the Profile Prospectus, I understand that I may purchase shares of Fidelity Cash Reserves now or request to receive and review the fund's full prospectus before I make a decision to invest in Fidelity Cash Reserves. If I choose to invest now, I understand that Fidelity Cash Reserves will serve as the money market fund used to hold assets of my Self-Employed 401(k) Account pending other investment instructions. I understand that my Self-Employed 401(k) Account will be invested in accordance with my instructions as given from time to time to FBS.
- I understand that, upon issuer's request in accordance with applicable rules and regulations, Fidelity will disclose my name to issuers of securities if securities are held in my account so that I can receive important information, unless I do not consent to disclosure and notify FBS in writing that I do not consent. I hereby certify under penalties of perjury that my Social Security number (as indicated in Section 2) is correct. I also certify that I am of legal age to enter into this agreement.
- I have read the Fidelity Brokerage Commission Schedule and Schedule of Fees and understand that certain brokerage fees and charges apply to this account. The Trustee may change this fee schedule from time to time, as provided in the Plan.
- Although Fidelity Management Trust Company is a bank, I recognize that any investment company (e.g., any mutual fund/money market fund) in which my Retirement Plan Account may be invested is not a bank and is not backed or guaranteed by any bank or insured by the FDIC or any other government agency and although a money market fund seeks to preserve the value of my investment at \$1.00 per share, it is possible to lose money by investing in a money market fund.
- This application shall be construed, administered, and enforced according to the laws of the Commonwealth of Massachusetts, except as superseded by federal law or statute. The Fidelity Brokerage Retirement Account Customer Agreement shall inure to the benefit of Fidelity's successors and assigns, whether by merger, consolidation, or otherwise.**
- I acknowledge that I have received the description of the Core Account in the Fidelity Brokerage Retirement Account Customer Agreement, including Fidelity's right to change the options available as core positions, and consent to having free credit balances held or invested in the core position indicated above.
- Acceptance will be evidenced by a Letter of Acceptance sent by, or on behalf of, Fidelity Brokerage Services LLC, Fidelity Management Trust Company, and National Financial Services LLC.
- By signing below, I hereby consent to the information and provisions set forth in this account application and instructions and to the beneficiary(ies) I have designated in the application. I understand that the payment to the beneficiaries will be made according to the rules of succession described in the beneficiary designation section of this account application.**
- I consent to have only one copy of Fidelity mutual fund shareholder documents, such as prospectuses and shareholder reports ("Documents"), delivered to me and any other investors sharing my address. My Documents, if held in eligible accounts, will be householded indefinitely; however, I may revoke this consent at any time by contacting Fidelity at 1-800-544-3018 and I will begin receiving multiple copies within 30 days. As Documents for other investments become available in the future, these Documents may also be householded in accordance with this authorization or any notice or agreement I received or entered into with Fidelity or its service providers.
- I have read, understand, and agree to be bound by the Fidelity Brokerage Retirement Account Customer Agreement governing this account as is currently in effect and as may be amended from time to time.

**The account established with this application is governed by a predispute arbitration clause, which is located on the last page of the Fidelity Brokerage Retirement Account Customer Agreement. I acknowledge receipt of the predispute arbitration clause.**

To help the government fight money laundering and the funding of terrorism, federal law requires Fidelity to obtain your name, date of birth, address, and a government-issued ID number before opening your account, and to verify the information. In certain circumstances, Fidelity may obtain and verify comparable information for any person authorized to make transactions in an account or beneficial owners of certain entities. Further documentation is required for certain entities, such as trusts, estates, corporations, partnerships, and other organizations. Your account may be restricted or closed if Fidelity cannot obtain and verify this information. Fidelity will not be responsible for any losses or damages (including, but not limited to, lost opportunities) that may result if your account is restricted or closed.

X

PARTICIPANT'S SIGNATURE

DATE (mm/dd/yyyy)

X

PLAN ADMINISTRATOR'S SIGNATURE DATE (mm/dd/yyyy)

**FOR FIDELITY USE ONLY**

☐ Cash

☐ ATP

Account # Assigned \_\_\_\_\_

Rep. Name \_\_\_\_\_ Reg. Rep. Signature \_\_\_\_\_ Corp. ID \_\_\_\_\_ Date \_\_\_\_\_

Approving Manager's Signature \_\_\_\_\_ Date \_\_\_\_\_ Investor Center Number \_\_\_\_\_

Photo ID Type \_\_\_\_\_ Expiration Date \_\_\_\_\_

ID Number (Govt. issued only) \_\_\_\_\_ Issuance Date \_\_\_\_\_ Place of Issuance \_\_\_\_\_

Second Photo ID Type \_\_\_\_\_ Expiration Date \_\_\_\_\_

ID Number (Govt. issued only) \_\_\_\_\_ Issuance Date \_\_\_\_\_ Place of Issuance \_\_\_\_\_



# **SUPPLEMENTAL INFORMATION**

This booklet contains important information about the Fidelity Retirement Plan. Please review it and keep for your records.

**Fidelity Retirement Plan, Basic Plan Document No. 03**

**Amendments**

**IRS Opinion Letters**

**Fidelity Brokerage Retirement Account Customer Agreement**

**Privacy Notice/Notice of Business Continuity Plans**

**Commission Schedule and Schedule of Fees**



<p align="center"><b>The Fidelity Retirement Plan and Trust Agreement Basic Plan Document 03</b></p>
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## Article 1. Introduction

The purpose of the Plan is to create a retirement fund intended to help provide for the future security of the Participants and their Beneficiaries. The Prototype Plan is intended to qualify under Code section 401(a). Depending upon the Adoption Agreement completed by an adopting Employer, the Prototype Plan may be used to implement:

- (a) a profit sharing plan,
- (b) a money purchase pension plan,
- (c) for a Plan Year beginning on or after January 1, 2002, a safe harbor 401(k)/profit sharing plan, or
- (d) for a Plan Year beginning on or after January 1, 2003, a standardized 401(k)/profit sharing plan.

## Article 2. Definitions

As used in the Plan the following terms shall have the meanings set forth below:

**2.1. Account or Accounts.** "Account" or "Accounts" means, with respect to any Participant or Beneficiary, the aggregate of the Participant's Employer Contribution Account, Elective Contribution Account, Nonelective Employer Contribution Account, and, if permitted under Section 4.15, his Employee Nondeductible Contribution Account, if any, as well as amounts attributable to the Participant's rollover/transfer contributions, if any. The Plan Administrator shall establish and maintain such other accounts and/or sub-accounts and records as it decides in its discretion to be reasonably required or appropriate in order to discharge its duties under the Plan.

**2.2. Adoption Agreement.** "Adoption Agreement" means the instrument, completed and executed by the Employer and accepted by the Trustee, in which the Employer adopts the Plan and Trust Agreement and selects its options under the Plan. The Adoption Agreement may be amended by the Employer from time to time, subject to Sections 10.2 and 10.3 of the Plan.

**2.3. Affiliated Employer.** "Affiliated Employer" means the Employer and a trade or business, whether or not incorporated, which is any of the following:

- (a) a member of a group of controlled corporations (within the meaning of Code section 414(b)) which includes the Employer; or
- (b) a trade or business under common control (within the meaning of Code section 414(c)) with the Employer; or
- (c) a member of an affiliated service group (within the meaning of Code section 414(m)) which includes the Employer; or
- (d) an entity otherwise required to be aggregated with the Employer pursuant to Code section 414(o).

In determining service for eligibility to participate in the Plan, all employees of Affiliated Employers will be treated as employed by a single employer.

**2.4. Annuity Starting Date.** "Annuity Starting Date" means the first day of the first period for which an amount is paid as an annuity or any other form.

**2.5. Beneficiary.** "Beneficiary" means the person or entity (including a trust or an estate, in which case the term may mean the trustee or personal representative acting in his or her fiduciary capacity) designated as such by the Participant under Section 7.4 to receive a Participant's Account upon the Participant's death, subject to the requirements of Code section 401(a)(9) and the Treasury Regulations thereunder.

**2.6. Break in Service.** "Break in Service" means a period of 12 consecutive months, commencing on the date on which an individual first performs an Hour of Service or on any anniversary thereof, during which he is not credited with more than 500 Hours of Service. Solely for the purpose of determining whether a Break in Service has occurred, an individual who is absent from work for maternity or paternity reasons shall receive credit for the Hours of Service which would otherwise have been credited to such individual but for such absence, or in any case in which such hours cannot be determined, 8 Hours of Service per day of such absence. The Hours of Service credited under this paragraph shall be credited in the 12-month period (as described above) in which the absence begins if the crediting is necessary to prevent a Break in Service in that period or, in all other cases, in the following 12-month period (as described above).

ual but for such absence, or in any case in which such hours cannot be determined, 8 Hours of Service per day of such absence. The Hours of Service credited under this paragraph shall be credited in the 12-month period (as described above) in which the absence begins if the crediting is necessary to prevent a Break in Service in that period or, in all other cases, in the following 12-month period (as described above).

**2.7. Business.** "Business" means the trade or business of any Employer, the legal form of which may be a corporation, a government entity, a limited liability company, a limited liability partnership, a partnership, an unincorporated sole proprietorship, a professional service corporation, a Subchapter S corporation, a tax exempt organization, or other unincorporated business.

**2.8. Catch-Up Contribution.** "Catch-Up Contribution" means a contribution described in Section 4.6.

**2.9. Code.** "Code" means the Internal Revenue Code of 1986, as amended, and the regulations thereunder. Reference to a section of the Code shall include that section and any comparable section or sections, or any future statutory provision which amends, supplements, or supersedes that section. "Treasury Regulation" means a regulation promulgated under the Code by the Internal Revenue Service.

### 2.10. Compensation.

- (a) For an Employee who is not a Self-Employed Individual, "Compensation" means, subject to the limits of this Section 2.10, wages, tips and other compensation paid by the Employer and reportable on Internal Revenue Service Form W-2, excluding deferred compensation, but (for Plan Years beginning after December 31, 1997) increased by amounts withheld under a salary reduction agreement in connection with a cash or deferred plan under Code section 401(k), a SIMPLE retirement account under Code section 408(p), a simplified employee pension under Code section 408(k), or a tax-deferred annuity under Code section 403(b), and any amount which is contributed by the Employer at the election of the Participant and which is not includible in the gross income of the Participant by reason of Code section 125 (cafeteria plans), Code section 132(f)(4) (qualified transportation fringe benefit programs) (for Plan Years beginning on or after January 1, 2001), or Code section 457 (deferred compensation plans of tax exempt organizations). Amounts under Code section 125 include any amounts available to a Participant in cash in lieu of group health coverage because the Participant is unable to certify that he has other health coverage. An amount will be treated as an amount under Code section 125 only if the Employer does not request or collect information concerning the Participant's other health coverage as part of the enrollment process for the health plan.
- (b) For an Employee who is a Self-Employed Individual, "Compensation" means the net earnings from self-employment derived by a Self-Employed Individual from the Business with respect to which the Plan is established, for which personal services of the individual are a material income-producing factor, excluding items not included in gross income and the deductions allocated to such items; and reduced by (1) contributions by the Employer to qualified plans, to the extent deductible under Code section 404, and (2) any deduction allowed to the Employer under Code section 164(f) for taxable years beginning after December 31, 1989. Net earnings from a trade or business that is not subject to self-employment tax because a religious exemption is claimed by the individual under Code section 1402(g) shall be included as Compensation.
- (c) A Participant's Compensation for a Plan Year is subject to the limits set forth below:
  - (1) For Plan Years beginning on or after January 1, 1989, and before January 1, 1994, the annual Compensation of each Participant taken into account for determining all contributions provided under the Plan for any Plan Year shall not exceed \$200,000. This limitation shall be adjusted by the Secretary of the Treasury at the same time and in the same manner as under Code section 415(d), except that

the dollar increase in effect on January 1 of any calendar year is effective for Plan Years beginning in such calendar year, and the first adjustment to the \$200,000 limitation is effective on January 1, 1990.

- (2) For Plan Years beginning on or after January 1, 1994, and before January 1, 2002, the annual Compensation of each Participant taken into account for determining all contributions provided under the Plan for any Plan Year shall not exceed \$150,000, as adjusted for increases in the cost of living in accordance with Code section 401(a)(17)(B). The cost-of-living adjustment in effect for a calendar year applies to any Plan Year beginning in that calendar year.
- (3) For Plan Years beginning on or after January 1, 2002, the annual Compensation of each Participant taken into account for determining all contributions provided under the Plan for any Plan Year shall not exceed \$200,000, as adjusted for increases in the cost of living in accordance with Code section 401(a)(17)(B). The cost-of-living adjustment in effect for a calendar year applies to any Plan Year beginning in that calendar year.
- (4) If a Plan Year consists of fewer than 12 months (a "short Plan Year"), the annual Compensation limit is an amount equal to the otherwise applicable annual Compensation limit multiplied by a fraction, the numerator of which is the number of months in the short Plan Year, and the denominator of which is 12.
- (5) If Compensation for any prior Plan Year is taken into account in determining a Participant's allocations for the current Plan Year, the Compensation for the prior Plan Year is subject to the applicable annual Compensation limit in effect for that prior Plan Year. For this purpose, in determining allocations in Plan Years beginning on or after January 1, 1989, the annual Compensation limit in effect for Plan Years beginning before that date is \$200,000. In addition, in determining allocations in Plan Years beginning on or after January 1, 1994 and prior to January 1, 2002, the annual Compensation limit in effect for the Plan Years beginning before that date is \$150,000.
- (6) If so elected in the Adoption Agreement, Compensation for purposes of allocating Employer contributions shall not include Compensation prior to the date the Employee's participation in the Plan commenced. Any such election in an Adoption Agreement shall not apply for purposes of applying the provisions of Section 13.2.

If the Plan is adopted as an amendment to an existing plan, the definition in this Section 2.10 is effective as of the first day of the Plan Year in which the Plan is adopted.

**2.11. Designated Roth Contributions.** "Designated Roth Contributions" means a Participant's Elective Contributions that are includible in the Participant's gross income at the time deferred and have been irrevocably designated as Designated Roth Contributions by the Participant in his or her contribution election.

**2.12. Disability.** "Disability" means inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. The permanence and degree of such impairment shall be supported by medical evidence. Disability shall be determined by a licensed physician selected by the Plan Administrator.

**2.13. Effective Date.** "Effective Date" means the date specified in the Adoption Agreement, but no earlier than the EGTRRA Effective Date.

**2.14 EGTRRA Effective Date.** "EGTRRA Effective Date" means either (i) the first Plan Year beginning on or after January 1, 2002, or (ii) in the case of the adoption of this Prototype Plan by the Employer after that Plan Year via an amendment to a preexisting plan, the earlier of the effective date of any EGTRRA-required provisions under the preexisting plan or the effective date of the adoption of this Prototype Plan by the Employer.

**2.15. Elective Contribution Account.** "Elective Contribution Account" means an account established on the books of the Trust for the purpose of recording Pre-Tax Elective Contributions and Designated Roth Contributions made on behalf of a Participant pursuant to Article 4 and any income, expenses, gains, or losses incurred thereon.

**2.16. Elective Contributions.** "Elective Contributions" means any Employer contributions made to the Plan at the election of the Participant, in lieu of cash compensation, and shall include contributions made pursuant to

a salary reduction agreement or other contribution mechanism. For purposes of Article 12, with respect to any taxable year, a Participant's Elective Contributions are the sum of all Employer contributions made on behalf of such Participant pursuant to an election to defer under any qualified cash or deferred arrangement as described in Code section 401(k), any salary reduction simplified employee pension as described in Code section 408(k)(6), any eligible deferred compensation plan under Code section 457, any plan as described under Code section 501(c)(18), any employer contribution made on the behalf of a participant for the purchase of an annuity contract under Code section 403(b) pursuant to a salary reduction agreement, and any employer contribution under Code section 408(p)(2)(A)(i). The term "Elective Contributions" includes Pre-Tax Elective Contributions and Designated Roth Contributions. "Elective Contributions" shall not include any amounts properly distributed as Excess Amounts.

**2.17. Employee.** "Employee" means (a) a common-law employee of an Affiliated Employer; (b) in the case of an Affiliated Employer which is a sole proprietorship, the sole proprietor thereof; (c) in the case of an Affiliated Employer which is a partnership, a partner thereof; and (d) any individual treated as an employee of an Affiliated Employer under the "leased employee" rules in Section 11.8 of the Plan. The term "Employee" shall include a Self-Employed Individual and an Owner-Employee, but for purposes of participation in accordance with Section 3.1 shall exclude (1) any individual who is a nonresident alien receiving no earned income from an Affiliated Employer which constitutes income from sources within the United States, and (2) any individual included in a unit of employees covered by a collective bargaining agreement as to which retirement benefits were the subject of good faith bargaining.

**2.18. Employee Nondeductible Contribution Account.** "Employee Nondeductible Contribution Account" means an account established on the books of the Trust for the purpose of recording the employee nondeductible contributions held on behalf of a Participant pursuant to Article 4 and any income, expenses, gains, or losses incurred thereon.

**2.19. Employer.** "Employer" means the Employer named in the Adoption Agreement, and any successor thereto.

**2.20. Employer Contribution Account.** "Employer Contribution Account" means an account established on the books of the Trust for the purpose of recording the Employer profit sharing or money purchase contributions made on behalf of a Participant pursuant to Article 4 and any income, expenses, gains, or losses incurred thereon.

**2.21. ERISA.** "ERISA" means the Employee Retirement Income Security Act of 1974, as amended, and the regulations thereunder. Reference to a section of ERISA shall include that section and any comparable section or sections, or any future statutory provision which amends, supplements, or supersedes that section. "DOL Regulation" means a regulation promulgated under ERISA by the Department of Labor.

**2.22. Highly Compensated Employee.** "Highly Compensated Employee" means any Employee who performs service for the Employer during the "determination year" and who (1) at any time during the "determination year" or the "look-back year" was a five percent owner or (2) received Compensation from the Employer during a "look-back year" in excess of \$80,000 (as adjusted pursuant to Code section 415(d)). For this purpose, the "determination year" shall be the Plan Year. The "look-back year" shall be the twelve-month period immediately preceding the "determination year."

**2.23. Hour of Service.** "Hour of Service" means:

- (a) Each hour for which an Employee is paid, or entitled to payment, for the performance of duties for an Affiliated Employer. These hours shall be credited to the Employee for the computation period or periods in which the duties are performed.
- (b) Each hour for which an Employee is paid, or entitled to payment, by an Affiliated Employer on account of a period of time during which no duties are performed (irrespective of whether the employment relationship has terminated) due to vacation, holiday, illness, incapacity (including Disability), jury duty, military duty, layoff, or leave of absence; provided, however, that no more than 501 Hours of Service shall be credited under this paragraph (b) to an Employee on account of any single continuous period during which the Employee performs no services (whether or not such period occurs in a single Plan Year or other computation period). Hours under this paragraph shall be calculated and credited pursuant to DOL Regulation 2530.200b-2, which is

incorporated herein by this reference.

- (c) Each hour for which back pay, irrespective of mitigation of damages, is either awarded or agreed to by an Affiliated Employer; provided, however, that the same Hours of Service shall not be credited under both paragraph (a) or (b), as the case may be, and under this paragraph (c). These hours shall be credited to the Employee for the computation period or periods to which the award or payment pertains, rather than the computation period in which the award, agreement, or payment is made.

Hours of Service shall be credited to leased employees in accordance with Section 11.8. If the Employer maintains the plan of a predecessor employer, Hours of Service shall be credited for service with such predecessor employer. Solely for purposes of determining whether a Break in Service has occurred in a computation period, an individual who is absent from work for maternity or paternity reasons shall receive credit for the Hours of Service which would otherwise have been credited to such individual but for such absence, or in any case in which such hours cannot be determined, 8 Hours of Service per day of such absence. For purposes of this paragraph, an absence from work for maternity or paternity reasons means an absence (1) by reason of the pregnancy of the individual, (2) by reason of a birth of a child of the individual, (3) by reason of the placement of a child with the individual in connection with the adoption of such child by such individual, or (4) for purposes of caring for such child for a period beginning immediately following such birth or placement. The Hours of Service credited under this paragraph shall be credited (i) in the computation period in which the absence begins if the crediting is necessary to prevent a Break in Service in that period, or (ii) in all other case, in the following computation period.

**2.24. Nonelective Employer Contribution Account.** “Nonelective Employer Contribution Account” means an account established on the books of the Trust for the purpose of recording the nonelective Employer contributions held on behalf of a Participant pursuant to Article 4 and any income, expenses, gains or losses incurred thereon.

**2.25. Non-Highly Compensated Employee.** “Non-Highly Compensated Employee” means any Employee who is not a Highly Compensated Employee.

**2.26. Normal Retirement Age.** “Normal Retirement Age” means age 59½.

**2.27. Owner-Employee.** “Owner-Employee” means the sole proprietor, if the Employer is a sole proprietorship, or a partner who owns more than 10 percent of either the capital interest or the profits interest, if the Employer is a partnership.

**2.28. Paired Plans.** “Paired Plans” mean either (a) a combination of a money purchase plan and a profit sharing plan, both of which use this Prototype Plan, or (b) a combination of a defined benefit standardized form plan and this Plan.

**2.29. Participant.** “Participant” means an Employee who has met the requirements of Section 3.1 or Section 3.2.

**2.30. Plan.** “Plan” means this Plan and Trust Agreement adopted by the Employer as provided herein and the Adoption Agreement executed by the Employer.

**2.31. Plan Administrator.** “Plan Administrator” means the person(s) or entity named to administer the Plan (as set forth in Section 11.2) on behalf of the Employer, including any successor plan administrator, as specified in the Adoption Agreement or in another form and manner acceptable to the Trustee. If the Plan Administrator resigns, dies or is otherwise unable or unwilling to act as Plan Administrator, the successor plan administrator shall assume the duties of Plan Administrator and shall be responsible for administering and terminating the Plan, as applicable.

**2.32. Plan Year.** “Plan Year” means the period of 12 consecutive months designated by the Employer in the Adoption Agreement, except that in the case of initial adoption of or termination of the Plan, or in the case of change in Plan Year, a period of less than 12 consecutive months may be designated as the Plan Year, subject to the requirements of Section 4.3 if the Adoption Agreement provides that the Plan is a safe harbor 401(k)/profit sharing plan.

**2.33. Pre-Tax Elective Contributions.** “Pre-Tax Elective Contributions” are a Participant’s Elective Contributions made under the Plan that are not includable in the Participant’s gross income at time deferred.

**2.34. Prototype Plan.** “Prototype Plan” means the form of this Plan and Trust Agreement, as approved from time to time by the Internal Revenue Service.

**2.35. Prototype Sponsor.** “Prototype Sponsor” means Fidelity Management & Research Company, a Massachusetts corporation, or its successor.

**2.36. QDRO.** “QDRO” means a qualified domestic relations order within the meaning of Code section 414(p), as determined by the Plan Administrator in accordance with Section 7.9.

**2.37. Qualified Nonelective Employer Contribution.** “Qualified Nonelective Employer Contribution” means any contribution made by the Employer to the Plan on behalf of Non-Highly Compensated Employees in accordance with Section 4.8, that may be included in determining whether the Plan meets the ADP test described in Section 12.6.

**2.38. Qualified Nonelective Employer Contribution Account.** “Qualified Nonelective Employer Contribution Account” means an account established on the books of the Trust for the purpose of recording the Qualified Nonelective Employer Contributions held on behalf of a Participant pursuant to Article 4 and any income, expenses, gains or losses incurred thereon.

**2.39. Registered Investment Company.** “Registered Investment Company” means any one or more corporations or trusts registered under the Investment Company Act of 1940 and approved by the Prototype Sponsor and the Trustee, in their discretion, for use under the Plan; and “Registered Investment Company Shares” means the shares, trust certificates, or other evidences of ownership in any such Registered Investment Company.

**2.40. Roth Effective Date.** “Roth Effective Date” means June 1, 2007 or such later date determined by the Prototype Sponsor.

**2.41. Self-Employed Individual.** “Self-Employed Individual” means an individual who is not a common-law employee and who has earned income (within the meaning of Code section 401(c)(2)) from the Business (or would have had such earned income if the Business had net profits) for the taxable year.

**2.42. Trust.** “Trust” means the trust fund established under Section 14.1, and “Trustee” means the Trustee named in the Adoption Agreement or any agent or successor to such Trustee, as may be authorized by the Trustee or the Prototype Sponsor.

**2.43. Year of Service.** “Year of Service” means a period of 12 consecutive months, commencing on the date on which an individual first performs an Hour of Service or on any anniversary thereof, during which he is credited with at least 1,000 Hours of Service; except that in the case of an Employee who returns to service with the Employer after having incurred a Break in Service, the 12-month period shall commence on the date on which he first performs an Hour of Service after the Break in Service, and each anniversary thereof.

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## Article 3. Participation

**3.1. General Rule.** Each Employee shall become a Participant on the first day of the calendar month in which he first fulfills the age and service requirements specified by the Employer in the Adoption Agreement. For purposes of this Section 3.1, an Employee who incurs a Break in Service before completing the required number of Years of Service shall not thereafter be credited with any Year of Service completed prior to the Break in Service. If a Participant is no longer an Employee (as defined in Section 2.16) and has become ineligible to participate but has not incurred a Break in Service, such individual shall participate immediately upon becoming an Employee again. If such a Participant incurs a Break in Service, eligibility shall be determined under the Break in Service rules of this Section 3.1. If an individual who is not an Employee (as defined in Section 2.16) becomes an Employee, such Employee shall participate immediately if he has satisfied the minimum age and service requirements and would have otherwise previously become a Participant.

**3.2. Special Rule for Former Participants.** A former Participant whose employment with the Employer terminates shall again become a Participant on the day on which he first performs an Hour of Service for the Employer after such termination.

## Article 4. Contributions

**4.1. Contributions by the Employer.** Subject to the requirements and limitations contained in this Article 4 and in Article 12, for each Plan Year beginning with the Plan Year in which the Effective Date falls, the Employer shall contribute to the Trust the amount or amounts determined under this Article 4. Any amounts in excess of the deductibility limit under Code section 404 (if applicable) will be subject to an excise tax under Code section 4972. Amounts in excess of the limit under Code section 404 may only be returned to the Employer in accordance with Section 14.2.

**4.2. Eligible Participant.** An “Eligible Participant” is a Participant who (a) is an active Employee on the last day of the Plan Year, or (b) is credited with more than 500 Hours of Service during the Plan Year, or (c) left employment during the Plan Year on account of death, Disability, or attainment of age 59½ or older. Notwithstanding the preceding sentence, for purposes of Sections 12.6 and 12.9, an “Eligible Participant” is a Participant who is an active Employee on any day during the Plan Year, and for purposes of Sections 4.7 and 4.8 an “Eligible Participant” is a Participant who is both (a) an active Employee on any day during the Plan Year and (b) is a Non-Highly Compensated Employee. An Eligible Participant must have Compensation during the Plan Year to receive a contribution under this Article 4.

**4.3. Profit Sharing Plans, Safe Harbor 401(k)/Profit Sharing Plans, and Standardized 401(k)/Profit Sharing Plans.** If the Adoption Agreement provides that the Plan is either a profit sharing plan, a safe harbor 401(k)/profit sharing plan, or a standardized 401(k)/profit sharing plan, the Employer profit sharing contribution shall be made in a discretionary amount determined by the Employer each Plan Year. An Employer may make profit sharing contributions whether or not it has current or accumulated profits. In addition, if the Adoption Agreement provides that the Plan is a safe harbor 401(k)/profit sharing plan or standardized 401(k)/profit sharing plan, Elective Contributions shall be permitted in accordance with Section 4.5. If the Adoption Agreement provides that the Plan is a safe harbor 401(k)/profit sharing plan, nonelective Employer contributions shall be made as specified in Section 4.7. Additionally, if the Adoption Agreement provides that the Plan is a safe harbor 401(k)/profit sharing plan, Elective Contributions under Section 4.5 and nonelective Employer contributions under Section 4.7 shall remain in effect for an entire 12-consecutive-month Plan Year, except as otherwise permitted by section 1.401(k)-3(e) of the Treasury Regulations (permitting maintenance of safe harbor 401(k) arrangements for periods of less than 12 consecutive months in the case of the initial Plan Year of the Plan, the addition of cash or deferred arrangements to certain existing Plans, change of Plan Year, and the final Plan Year of the Plan). If the Adoption Agreement provides that the Plan is a standardized 401(k)/profit sharing plan, Qualified Nonelective Employer Contributions may be made as specified in Section 4.8.

**4.4. Money Purchase Plans.** If the Adoption Agreement provides that the Plan is a money purchase plan, the Employer money purchase contribution for each Eligible Participant (as defined in Section 4.2) shall be made in accordance with the formula selected by the Employer in the Adoption Agreement.

**4.5. Elective Contributions.** If the Adoption Agreement provides that the Plan is a safe harbor 401(k)/profit sharing plan or a standardized 401(k)/profit sharing plan, each Participant who is an active Employee may elect to execute a salary reduction agreement with the Employer to reduce his Compensation by a specified percentage or dollar amount per payroll period, equal to a whole number multiple of one percent. In lieu of specifying a percentage of Compensation reduction, such a Participant may elect to reduce his Compensation by a specified dollar amount per payroll period.

A Participant's salary reduction agreement shall become effective on the first day of the first payroll period for which the Plan Administrator can reasonably process the request, but not earlier than the later of (a) the effective date of the provisions permitting Elective Contributions or (b) the date the Employer adopts such provisions. The Employer shall make an Elective Contribution on behalf of the Participant corresponding to the amount of said reduction. Under no circumstances may a salary reduction agreement be adopted retroactively.

Notwithstanding any other provision of the Plan to the contrary, a Participant may on and after the Roth Effective Date irrevocably designate all or a portion of his Elective Contributions for a calendar year as Designated Roth Contributions. Elective Contributions not designated as Designated Roth Contributions will be treated as Pre-Tax Elective Contributions. Elective Contributions contributed to the Plan as Designated Roth Contributions or as

Pre-Tax Elective Contributions may not later be reclassified to the other type.

A Participant's Designated Roth Contributions will be deposited in the Participant's Designated Roth Contribution account in the Plan. No contribution other than Designated Roth Contributions (and, to the extent provided in Treasury Regulations or applicable IRS guidance, Roth 401(k) or Roth IRA rollover contributions) and properly attributable earnings will be credited to each Participant's Designated Roth Contribution account, and gains, losses and other credits or charges will be allocated on a reasonable and consistent basis to such account. The Plan will maintain a record of the amount of Designated Roth Contributions in each Participant's Designated Roth Contribution account.

A Participant may elect to make Elective Contributions, or to change or discontinue the percentage or dollar amount by which his Compensation is reduced by notice to the Employer, in the form and manner prescribed by the Plan Administrator, provided that the Participant must have the effective opportunity to make, change or discontinue an election to make Pre-Tax Elective Contributions or, on and after the Roth Effective Date, Designated Roth Contributions at least once each Plan Year. A Participant may elect to change or discontinue the percentage or dollar amount by which his Compensation is reduced by notice to the Employer within a reasonable period, as specified by the Plan Administrator (but not less than 30 days), of receiving the notice described in Section 12.9.

In order for the Plan to comply with the requirements of Code sections 401(k), 402(g) and 415 or the Treasury Regulations promulgated thereunder (as described in Article 12), at any time during a Plan Year the Plan Administrator may reduce the rate of Elective Contributions to be made on behalf of any Participant, or class of Participants, for the remainder of the Plan Year, or the Plan Administrator may require that all Elective Contributions to be made on behalf of a Participant be discontinued for the remainder of that Plan Year. Upon the close of the Plan Year or such earlier date as the Plan Administrator may determine, any reduction or discontinuance in Elective Contributions shall automatically cease until the Plan Administrator again determines that such a reduction or discontinuance of Elective Contributions is required.

**4.6. Catch-Up Contributions.** All Participants who are eligible to make Elective Contributions under the Plan and who are projected to attain age 50 before the close of the calendar year shall be eligible to make catch-up contributions in accordance with, and subject to the limitations of, Code section 414(v). “Catch-Up Contributions” are Elective Contributions made to the Plan that are in excess of an otherwise applicable plan limit and that are made by participants who are age 50 or over by the end of their taxable year. An otherwise applicable plan limit is a limit in the Plan that applies to Elective Contributions without regard to Catch-Up Contributions, such as the limits on annual additions, the dollar limitations on Elective Contributions under Code section 402(g) (not counting Catch-Up Contributions) and the limit imposed by the actual deferral percentage (ADP) test under section 401(k)(3). Catch-Up Contributions for a Participant for a taxable year may not exceed (1) the dollar limit on Catch-Up Contributions under Code section 414(v)(2)(B)(i) for the taxable year or (2) when added to other Elective Contributions, the maximum amount allowed by law. The dollar limit on Catch-Up Contributions under Code section 414(v)(2)(B)(i) is \$1,000 for taxable years beginning in 2002, increasing by \$1,000 for each year thereafter up to \$5,000 for taxable years beginning in 2006 and later years. After 2006, the \$5,000 limit will be adjusted by the Secretary of the Treasury for cost-of-living increases under Code section 414(v)(2)(C). Any such adjustments will be in multiples of \$500.

Catch-Up Contributions are not subject to the limits on annual additions, are not counted in the ADP test and are not counted in determining the minimum allocation under Code section 416 (but Catch-Up Contributions made in prior years are counted in determining whether the Plan is top-heavy). Provisions in the Plan relating to Catch-Up Contributions apply to Elective Contributions made after 2001.

**4.7. Nonelective Employer Contributions.** If the Adoption Agreement provides that the Plan is a safe harbor 401(k)/profit sharing plan, the Employer shall make a nonelective Employer contribution for each Eligible Participant (as defined in Section 4.2) for the Plan Year in the amount of 3 percent of such Eligible Participant's Compensation for the Plan Year.

**4.8. Qualified Nonelective Employer Contributions.** If the Adoption Agreement provides that the plan is a standardized 401(k)/profit sharing plan, the Employer may, in its discretion, make a Qualified Non-elective Employer Contribution for the Plan Year in any amount necessary to satisfy

or help to satisfy the ADP test described in Section 12.6, provided that the conditions of section 1.401(k)-2(a)(6) of the Treasury Regulations are satisfied. Any Qualified Nonelective Employer Contribution shall be allocated among the Accounts of Eligible Participants (as defined in Section 4.2) either:

- (a) In the ratio that each such Eligible Participant's Compensation for the Plan Year bears to the total Compensation paid to all such Eligible Participants; or
- (b) As a uniform flat dollar amount for each such Eligible Participant for the Plan Year.

Qualified Nonelective Employer Contributions shall be distributable only in accordance with the distribution provisions that are applicable to Elective Contributions.

#### 4.9. Allocation of Profit Sharing Contributions (Nonintegrated Plans).

If the Plan is a profit sharing plan (including a safe harbor 401(k)/profit sharing plan or a standardized 401(k)/profit sharing plan) and the Plan is not integrated with Social Security, Employer profit sharing contributions for any Plan Year shall be allocated as of the last day of the Plan Year among the Employer Contribution Accounts of the Eligible Participants (as defined in Section 4.2) in the ratio that each Eligible Participant's Compensation for the Plan Year bears to the total Compensation of all Eligible Participants for that year.

**4.10. Allocation of Profit Sharing Contributions (Integrated Plans).** If the Adoption Agreement provides that the Plan is a profit sharing plan (including a safe harbor 401(k)/profit sharing plan) integrated with Social Security, Employer profit sharing contributions shall be allocated as follows:

- (a) Subject to the overall permitted disparity limits set forth in paragraph (f) below, Employer profit sharing contributions for the Plan Year shall be allocated to Eligible Participants' Accounts in the following manner:

**STEP 1:** Employer profit sharing contributions shall be allocated to each Eligible Participant's Account in the ratio that each Eligible Participant's total Compensation for the Plan Year bears to all Eligible Participants' total Compensation for the Plan Year, but not in excess of 3 percent of each Eligible Participant's total Compensation for that year.

**STEP 2:** Any Employer profit sharing contributions remaining after the allocation in Step One shall be allocated to each Eligible Participant's Account in the ratio that each Eligible Participant's Compensation for the Plan Year in excess of the Integration Level bears to the excess Compensation of all Eligible Participants, but not in excess of 3 percent of each Eligible Participant's excess Compensation. For purposes of this Step Two, in the case of any Eligible Participant who has exceeded the Cumulative Permitted Disparity Limit described below, such Eligible Participant's total Compensation for the Plan Year will be taken into account.

**STEP 3:** Any Employer profit sharing contributions remaining after the allocation in Step Two shall be allocated to each Eligible Participant's Account in the ratio that the sum of each Eligible Participant's total Compensation and Compensation in excess of the Integration Level bears to the sum of all Eligible Participants' total Compensation and Compensation in excess of the Integration Level, but not in excess of the Excess Contribution Percentage, which may not exceed the Profit Sharing Maximum Disparity Rate. For purposes of this Step Three, in the case of any Eligible Participant who has exceeded the Cumulative Permitted Disparity Limit described below, two times such Eligible Participant's total Compensation for the Plan Year will be taken into account.

**STEP 4:** Any remaining Employer profit sharing contributions shall be allocated to each Eligible Participant's Account in the ratio that each Eligible Participant's total Compensation for the Plan Year bears to the total Compensation of all Eligible Participants for that year.

- (b) The "Integration Level" shall be equal to the Taxable Wage Base or such lesser amount elected by the Employer in the Adoption Agreement. The "Taxable Wage Base" (TWB) is the contribution and benefit base in effect under Section 230 of the Social Security Act as of the beginning of the Plan Year.
- (c) "Compensation" means Compensation as defined in Section 2.10 of the Plan.

(d) The "Profit Sharing Maximum Disparity Rate" shall be the lesser of:

- (1) 2.7 percent; or
- (2) the applicable percentage determined in accordance with the table below:

If the Integration Level is more than	But not more than	the applicable percentage is:
\$0	X*	2.7 percent
X*	80 percent of TWB	1.3 percent
80 percent of TWB	Y**	2.4 percent

\*X = the greater of \$10,000 or 20 percent of the TWB

\*\*Y = any amount more than 80 percent of the TWB but less than 100 percent of the TWB.

If the Integration Level used is equal to the Taxable Wage Base, the applicable percentage is 2.7 percent.

- (e) "Excess Contribution Percentage" is the percentage of Compensation contributed for each Participant on such Participant's Compensation in excess of the Integration Level, as specified in the Adoption Agreement.
- (f) Overall Permitted Disparity Limits.

- (1) Annual Overall Permitted Disparity Limit: Notwithstanding the preceding paragraphs, for any Plan Year the Plan benefits any Participant who benefits under another qualified plan or simplified employee pension, as defined in Code section 408(k), maintained by the Employer that provides for permitted disparity (or imputes disparity), Employer profit sharing contributions shall be allocated to the Account of each Eligible Participant who either completes more than 500 Hours of Service during the Plan Year or who is employed on the last day of the Plan Year in the ratio that such Eligible Participant's total Compensation bears to the total Compensation of all Eligible Participants.
- (2) Cumulative Permitted Disparity Limit: Effective for Plan Years beginning on or after January 1, 1995, the "Cumulative Permitted Disparity Limit" for a Participant is 35 total cumulative permitted disparity years. "Total cumulative permitted years" means the number of years credited to the Participant for allocation or accrual purposes under the Plan, any other qualified plan or simplified employee pension plan (whether or not terminated) ever maintained by the Employer. For purposes of determining the Participant's Cumulative Permitted Disparity Limit, all years ending in the same calendar year are treated as the same year. If the Participant has not benefited under a defined benefit or target benefit plan for any year beginning on or after January 1, 1994, the Participant has no Cumulative Permitted Disparity Limit.

**4.11. Allocation of Money Purchase Contributions (Nonintegrated Plans).** If the Adoption Agreement provides that the Plan is a money purchase plan and is not integrated with Social Security, the Employer money purchase contribution for each Eligible Participant (as defined in Section 4.2) shall be an amount computed using the formula specified in the Adoption Agreement.

**4.12. Allocation of Money Purchase Contributions (Integrated Plans).** If the Adoption Agreement provides that the Plan is a money purchase plan integrated with Social Security, Employer money purchase contributions shall be allocated as follows:

- (a) Subject to the overall permitted disparity limits set forth in paragraph (d) below, the Employer shall contribute an amount equal to the Base Contribution Percentage specified in the Adoption Agreement (but not less than 3 percent) of each Eligible Participant's Compensation (as defined in Section 2.10 of the Plan) for the Plan Year, up to the Integration Level, plus the Excess Contribution Percentage specified in the Adoption Agreement (not less than 3 percent and not to exceed the Base Contribution Percentage by more than the lesser of (1) the Base Contribution Percentage, or (2) the Money Purchase Maximum Disparity Rate) of such Eligible Participant's Compensation in excess of the Integration Level.

However, in the case of any Eligible Participant who has exceeded the Cumulative Permitted Disparity Limit, the Employer shall contribute for each Eligible Participant who either completes more than 500 Hours of Service during the Plan Year or is employed on the last day of the Plan Year an amount equal to the Excess Contribution Percentage multiplied by the Eligible Participant's total Compensation for the Plan Year.

- (b) The "Integration Level" shall be equal to the Taxable Wage Base or such lesser amount elected by the Employer in the Adoption Agreement. The "Taxable Wage Base" (TWB) is the contribution and benefit base in effect under Section 230 of the Social Security Act at the beginning of the Plan Year.
- (c) The Money Purchase Maximum Disparity Rate is equal to the lesser of:
  - (1) 5.7 percent; or
  - (2) the applicable percentage determined in accordance with the table below:

If the Integration Level is more than	But not more than	the applicable percentage is:
\$0	X*	5.7 percent
X*	80 percent of TWB	4.3 percent
80 percent of TWB	Y**	5.4 percent

\*X = the greater of \$10,000 or 20 percent of the TWB

\*\*Y = any amount more than 80 percent of the TWB but less than 100 percent of the TWB.

If the Integration Level used is equal to the Taxable Wage Base (TWB), the applicable percentage is 5.7 percent.

- (d) Overall Permitted Disparity Limits.
  - (1) Annual Overall Permitted Disparity Limit. Notwithstanding the preceding paragraph, for any Plan Year this Plan benefits any Eligible Participant who benefits under another qualified plan or simplified employee pension, as defined in Code section 408(k), maintained by the Employer that provides for permitted disparity (or imputes disparity), the Employer shall contribute for each Eligible Participant who either completes more than 500 Hours of Service during the Plan Year or is employed on the last day of the Plan Year an amount equal to the Excess Contribution Percentage (as specified in the Adoption Agreement) multiplied by the Eligible Participant's total Compensation for the Plan Year.
  - (2) Cumulative Permitted Disparity Limit. Effective for the Plan Year beginning on or after January 1, 1995, the "Cumulative Permitted Disparity Limit" for a Participant is 35 total cumulative permitted disparity years. "Total cumulative permitted years" means the number of years credited to the Participant for allocation or accrual purposes under the Plan, any other qualified plan or simplified employee pension plan (whether or not terminated) ever maintained by the Employer. For purposes of determining the Participant's Cumulative Permitted Disparity Limit, all years ending in the same calendar year are treated as the same year. If the Participant has not benefited under a defined benefit or target benefit plan for any year beginning on or after January 1, 1994, the Participant has no Cumulative Permitted Disparity Limit.

**4.13. Paired Plans.** If an Employer adopts paired profit sharing and money purchase pension plans using this basic plan document, the Adoption Agreement for the money purchase pension plan must provide for a contribution rate of at least 3 percent of each Eligible Participant's Compensation for the Plan Year (unless the Employer has elected a contribution rate of zero (0) percent on the Adoption Agreement for the money purchase pension plan). Only one of the Paired Plans may be integrated with Social Security.

**4.14. Time and Manner of Employer Contributions.** Employer profit sharing, money purchase contributions, nonelective Employer contributions and Qualified Nonelective Employer Contributions for a Plan Year shall be remitted to the Trustee not later than the due date (including extensions) prescribed by law for filing the Employer's federal income tax return for the taxable year in which the Plan Year ends, or within such other timeframe as may be determined by applicable regulation or legislation. The Employer should remit Elective Contributions to the Trustee as of the earliest date on

which such contributions can reasonably be segregated from the Employer's general assets, but not later than the 15th business day of the calendar month following the month in which such amount otherwise would have been paid to the Participant, or within such other time frame as may be determined by applicable regulation or legislation. Each Employer contribution shall be accompanied by instructions (in a form and manner acceptable to the Trustee) specifying the names of the Participants who are entitled to participate in such Employer contribution. If the Trustee receives any contribution under the Plan for which instructions have not been furnished, or for which the instructions furnished are, in the opinion of the Trustee, incomplete or unclear, the Trustee may hold the contribution invested in shares of the default investment medium specified in the Adoption Agreement or other form acceptable to the Trustee pending receipt of instructions or clarification acceptable to the Trustee, hold the contribution uninvested pending receipt of instructions or clarification acceptable to the Trustee, or return the contribution to the Employer. In so doing, the Trustee shall not be deemed to have exercised any fiduciary discretion, nor shall the Trustee be liable for any fluctuation in security prices. Each contribution shall also be accompanied by investment instructions pursuant to Section 6.1. The Trustee shall have no responsibility for determining the correctness of the amount or timing of any contribution, or for the collection of any contribution if the Employer should fail to make contributions as provided in the Plan.

**4.15. Contributions by Participants.** Participants may not make contributions to the Plan. If the Plan is adopted as an amendment of an existing plan that permitted employees to make nondeductible contributions for any Plan Year beginning after December 31, 1986, such contributions in any such Plan Year may not have exceeded the maximum allowed under the nondiscrimination test contained in Code section 401(m)(2). Any Plan that has accepted employee nondeductible contributions must maintain Employee Nondeductible Contribution Accounts so long as any amounts attributable to such contributions remain in the Trust. Subject to Article 8, a Participant may at any time withdraw amounts credited to his Employee Nondeductible Contribution Account by submitting to the Trustee, through the Plan Administrator, a written request specifying the amount to be withdrawn (which shall not be less than \$100, unless the entire amount credited is less than \$100, in which case the entire amount credited must be withdrawn). Payment of such withdrawals shall be made within 30 days of the Trustee's receipt of such a request. Except to the extent that such withdrawals are made, a Participant's Employee Nondeductible Contribution Account shall be distributable at the same time and in the same manner as his other Accounts.

## Article 5. Vesting

**5.1. Vesting.** A Participant's interest in his Employee Nondeductible Contribution Account, Employer Contribution Account, Elective Contribution Account, Nonelective Employer Contribution Account, Qualified Nonelective Employer Contribution Account and Accounts consisting of rollover/transfer contributions shall immediately become and at all times remain fully vested and nonforfeitable.

## Article 6. Investment of Contributions

**6.1. Direction by Participant.** Each Participant shall determine the manner in which contributions allocated to his Account are to be invested or reinvested by providing specific instructions in a form and manner acceptable to the Trustee. The Trustee has no duty to follow instructions that are inconsistent with the applicable requirements of the Code, ERISA or other applicable law. An investment medium must be consistent with the applicable requirements of the Code, ERISA or other applicable law and must be approved by the Trustee in order to be available under the Plan. If at any time there shall be credited to a Participant's Account an amount(s) for which no such instructions have been furnished, or for which the instructions furnished are, in the opinion of the Trustee, incomplete or unclear, or for which the instructions furnished would require investment in a medium not approved by the Trustee for use under the Plan, such amount(s) may be invested in shares of the default investment medium designated in the Participant's most recent investment instructions (which may be written, electronic, or telephonic) or, if the Participant has never provided instructions, as directed by the Employer in the Adoption Agreement or other form acceptable to the Trustee. If any balance remains in the Account of a deceased Participant, the balance shall be transferred to an Account for the Beneficiary of the deceased Participant (as determined in accordance with

Section 7.4), who shall direct the investment of the Account in accordance with this Section 6.1 as if the Beneficiary were a Participant. The Trustee shall have no duty to question the directions of a Participant or a Beneficiary in the investment of his Account or to advise him regarding the purchase, retention or sale of assets credited to his Account, nor shall the Trustee be liable for any loss which may result from the Participant's or Beneficiary's exercise of control over his Account. The Trustee may designate one or more corporations as its agent or agents for the purpose of receiving investment instructions from Participants and Beneficiaries and for such other purposes as the Trustee may permit.

**6.2. Investments.** Subject to such reasonable and nondiscriminatory rules, limits and procedures as the Trustee, Plan Administrator, or Employer may establish from time to time to facilitate administration of the Plan, all contributions under the Plan shall be invested and reinvested in one or more of the following, as directed by the Participant (or, following the death of the Participant, the Beneficiary):

- (a) Registered Investment Company Shares;
- (b) marketable securities obtainable over the counter or on a recognized securities exchange which are eligible for registration on the book entry system maintained by the Depository Trust Company, if permitted by the Prototype Sponsor;
- (c) deposits bearing a reasonable rate of interest and maintained by the Trustee or by any bank acceptable to the Trustee; or
- (d) subject to the applicable requirements of the Code, ERISA, or other applicable law, any other investment medium permitted by the Trustee from time to time.

Any other provision hereof to the contrary notwithstanding, a Participant (or, following the death of the Participant, the Beneficiary) may not direct that any part or all of an Account be invested in assets other than Registered Investment Company Shares unless the aggregate amount which the Participant (or, following the death of the Participant, the Beneficiary) proposes to invest in such assets is at least such minimum amount as the Trustee shall establish from time to time. The Trustee may (but need not) require any Account that is invested in assets other than Registered Investment Company Shares to maintain an investment of not more than \$100 in the default investment medium designated by the Participant (or, following the death of the Participant, the Beneficiary) in his investment instructions (or, if the Participant has not so designated, as designated by the Employer in the Adoption Agreement), in order to provide a medium for investing available cash pending other instructions and for convenience in collecting fees and expenses from the Account. Commissions and other costs attributable to the acquisition of an investment shall be charged to the Account of the Participant (or, following the death of the Participant, the Beneficiary) for which such investment is acquired. No charge shall be made by Fidelity Management & Research Company for purchase or sale of shares of a Registered Investment Company managed by Fidelity Management & Research Company, other than the charges set forth in the most recent prospectus of such Registered Investment Company.

Provided that the Trustee or its nominee is a bank, trust company or other entity described in Section 2550.403a-1(b) of the DOL Regulations, to the extent applicable, any assets of the Plan may be held in the name of the Trustee or its nominee or nominees, and any assets so held may be commingled with other such assets registered in that name, whether or not held under similar Trust Agreements or in any fiduciary capacity whatsoever; provided, however, that the books of the Trustee shall at all times reflect the identity of the beneficial owners of such assets. The Trustee shall cause to be delivered to each Participant (or, following the death of the Participant, the Beneficiary), at his or her last address of record, all notices, prospectuses, financial statements, proxies and proxy-soliciting materials that may come into the Trustee's possession by reason of the assets held in the Participant's Account. The Participant (or his Beneficiary) may direct the Trustee as to the manner in which any voting rights shall be exercised in a form and manner acceptable to the Trustee and delivered to the Trustee or its designee within the time prescribed by it. The Trustee shall not vote or exercise any other rights with respect to any assets held hereunder except in accordance with the timely written instructions of the Participant for whose Account such assets are held; provided, however that, to the extent not otherwise voted, the Trustee is authorized to exercise any voting rights with respect to shares of Registered Investment Companies managed by Fidelity Management &

Research Company for which no timely instructions are received in the same proportions as the Trustee has been instructed in a timely manner to exercise such rights by all participants of Prototype Plans, but only to the extent necessary to establish a quorum. Notwithstanding the foregoing, to the extent the Plan is subject to ERISA, the requirements of section 2550.403a-1(b) of the DOL Regulations shall be satisfied.

**6.3. Reinvestment of Investment Earnings.** In the absence of investment instructions pursuant to this Article 6, all dividends, capital gains, income, interest and distributions of every nature received in respect of the assets in a Participant's Account (or, following the death of the Participant, the Beneficiary's Account) shall be reinvested as follows:

- (a) a distribution of any nature received in respect of Registered Investment Company Shares shall be reinvested in additional shares of that Registered Investment Company; and
- (b) any other distribution of any nature received in respect of assets in the Account shall be invested as provided in Section 6.1.

Assets of the Plan shall be valued, at their fair market value, on each December 31 and on such other dates as the Trustee considers necessary or convenient. The income, gains, expenses and losses attributable to a Participant's Account (or, following the death of the Participant, the Beneficiary's Account) shall be credited or debited, as applicable, to his Account alone.

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## Article 7. Payment of Benefits

### 7.1. Distributable Events.

- (a) The vested amount of a Participant's Account shall become payable to a Participant or his beneficiary pursuant to this Article 7 as follows:
  - (1) upon attainment of the Participant's Normal Retirement Age (whether or not employment has terminated);
  - (2) upon the death of the Participant;
  - (3) upon the Disability of the Participant; or
  - (4) upon the severance of the Participant's employment (whether before or after attainment of the Participant's Normal Retirement Age) prior to death or Disability.
- (b) Distributions on account of any of the distributable events described above are subject to the restrictions in this Article 7. Payments from the Plan shall be subject to applicable withholding taxes under the Code.

**7.2. Commencement of Benefits.** Upon a distributable event described in Section 7.1, a Participant shall file a claim for benefits with the Plan Administrator, specifying the manner of distribution in accordance with Section 7.5 and the date on which payment is to commence. A Participant may elect to postpone the commencement of benefits to any date which satisfies the requirements of this Article 7, Article 8, and Article 9; provided, however, that payment of benefits to a Participant must commence within 60 days after the end of the Plan Year in which the Participant reaches Normal Retirement Age, has his 10th anniversary of the year in which he commenced participation in the Plan, or terminates his employment with the Employer, whichever is later. For purposes of this Section 7.2, the failure of a Participant (and his spouse, if spousal consent is required pursuant to Article 8) to consent to a distribution while a benefit is "immediately distributable" within the meaning of Section 7.6 shall be considered an election to postpone the commencement of payment. Notwithstanding any provision of the Plan to the contrary, to the extent that any optional form of benefit under the Plan permits a distribution prior to the Employee's attainment of Normal Retirement Age, death, Disability, or termination of employment, and prior to plan termination, the optional form of benefit is not available with respect to benefits attributable to assets (including the post-transfer earnings thereon) and liabilities that are transferred, within the meaning of Code section 414(l), to this Plan from a money purchase pension plan qualified under Code section 401(a) (other than any portion of those assets and liabilities attributable to employee nondeductible contributions). The Plan Administrator shall notify the Trustee if a Participant's Accounts contain any such assets.

**7.3. Death Benefits.** Subject to Section 8.4, the Beneficiary of a deceased Participant who had not received a complete distribution of benefits before his death shall be entitled to benefits under the Plan, in an amount equal to



the vested balance of the deceased Participant's Accounts at the time of payment, commencing within 60 days after the end of the Plan Year in which the Participant dies; provided, however, that:

- (a) a Beneficiary shall file a claim for benefits with the Plan Administrator, specifying the manner of distribution in accordance with Section 7.5, and the date on which payment is to commence;
- (b) a Beneficiary who is the surviving spouse of a deceased Participant may elect to have benefits commence within the 90-day period following the date of the Participant's death; and
- (c) a Beneficiary may elect to postpone the commencement of benefits to any date which satisfies the requirements of this Article 7 and Article 9.

In the case of a Participant who dies after having begun to receive a distribution of benefits in installments under Section 7.5(b), distribution of installments shall continue after his death to his Beneficiary subject to Section 9.1(d). In the case of a Participant who dies after having received a distribution under Section 7.5(a) or (c), no death benefit shall be payable from the Plan.

**7.4. Designation of Beneficiary.** A Participant may designate a Beneficiary or Beneficiaries at any time, and any such designation may be changed or revoked at any time, by a designation executed by the Participant in a form and manner acceptable to, and filed with, the Trustee. The form most recently completed before the Participant's death and returned to and accepted by the Trustee shall supersede any earlier designation; provided, however, that such designation, change or revocation shall only be valid if it is received and accepted by the Trustee within 30 days after the Trustee receives notice of the Participant's death, and provided further, that such designation, change or revocation shall not be effective as to any assets distributed or transferred out of the Account (including a rollover to an IRA or a transfer to another plan or to an Account for a Beneficiary) prior to the Trustee's receipt and acceptance of such designation, change or revocation. Subject to this Section 7.4 and Section 11.3 below, the Trustee may distribute or transfer any portion of the Account immediately following the death of the Participant under the provisions of the designation then on file with the Trustee, and such distribution or transfer discharges the Trustee from any and all claims as to the portion of the Account so distributed or transferred. If a Participant has not designated any Beneficiary by filing a form with the Trustee or the Plan Administrator before his death, or if no Beneficiary so designated survives the Participant, his Beneficiary shall be his surviving spouse, or if there is no surviving spouse, his estate. A married Participant may designate a Beneficiary other than his spouse only if his spouse consents in writing to the designation, and the spouse's consent acknowledges the effect of the consent and is witnessed by a notary public. The marriage of a Participant shall nullify any designation of a Beneficiary previously executed by the Participant. If it is established to the satisfaction of the Plan Administrator that the Participant has no spouse or that the spouse cannot be located, the requirement of spousal consent shall not apply. Any spousal consent obtained pursuant to this Section 7.4, and any decision of the Plan Administrator that the consent of a spouse cannot be obtained, shall apply only with respect to the particular spouse involved.

**7.5. Manner of Distribution.** Subject to the rules of Article 8 concerning joint and survivor annuities, benefits shall be distributed in one or more of the following forms, as designated in writing by the Participant or Beneficiary:

- (a) a lump sum in cash or in kind;
- (b) a series of substantially equal annual (or more frequent) installments, in cash or in kind; and
- (c) for distributions under a Plan adopted prior to January 1, 2003, the following distribution options:
  - (1) a fixed or variable annuity contract, other than a life annuity contract, purchased from an insurance company; and
  - (2) a life annuity contract (with or without a period certain or guaranteed-refund feature) purchased from an insurance company.

If the Plan has been adopted as an amendment of an existing plan, any other form of benefit available under that plan before its amendment shall be made available under the Plan. Subject to Article 8, the Account balance of a Participant or Beneficiary who fails to elect a manner of distribution shall be distributed, at the direction of the Plan Administrator, in cash in accordance with paragraph (a) of this Section 7.5.

## **7.6. Restriction on Immediate Distributions.**

(a) General Rules. The following rules apply:

- (1) The Participant and the Participant's spouse (or where either the Participant or the spouse has died, the survivor) must consent to any distribution of the Account balance if (i) payment in the form of a QJSA (as defined in Section 8.1(d)) is required with respect to a Participant (because the Participant is married and the Plan is not a profit sharing plan described in Section 8.2(b)), (ii) either the value of a Participant's vested Account balance derived from Employer contributions, Elective Contributions, Employee contributions and amounts attributable to rollover/transfer contributions exceeds \$5,000 or there are remaining payments to be made with respect to a particular distribution option that previously commenced, and (iii) the Account balance is immediately distributable.
- (2) The Participant must consent to any distribution of his Account balance if (i) payment in the form of a QJSA (as defined in Section 8.1(d)) is not required with respect to a Participant (because the Plan is a profit sharing plan described in Section 8.2(b) or the Participant is unmarried), (ii) the value of a Participant's vested Account balance derived from Employer contributions, Employee contributions and amounts attributable to rollover/transfer contributions exceeds \$5,000, and (iii) the Account balance is immediately distributable.

(b) The consent of the Participant and the Participant's spouse shall be obtained in writing within the 90-day period ending on the Annuity Starting Date. The Plan Administrator shall notify the Participant and the Participant's spouse of the right to defer any distribution until the Participant's Account balance is no longer immediately distributable. Such notification shall include a general description of the material features, and an explanation of the relative values of, the optional forms of benefit available under the Plan in a manner that would satisfy the notice requirements of Code section 417(a)(3), and shall be provided no less than 30 days and no more than 90 days prior to the Annuity Starting Date. However, distribution may commence less than 30 days after the notice described in the preceding sentence is given, provided the distribution is one to which Code sections 401(a)(11) and 417 do not apply, the Plan Administrator clearly informs the Participant that the Participant has a right to a period of at least 30 days after receiving the notice to consider the decision of whether or not to elect a distribution (and, if applicable, a particular distribution option), and the Participant, after receiving the notice, affirmatively elects a distribution.

(c) Notwithstanding the foregoing, only the Participant need consent to the commencement of a distribution in the form of a Qualified Joint and Survivor Annuity while the Account balance is immediately distributable. (Furthermore, if payment in the form of a Qualified Joint and Survivor Annuity is not required with respect to the Participant pursuant to Article 8, only the Participant need consent to the distribution of an Account balance that is immediately distributable). Neither the consent of the Participant nor the Participant's spouse shall be required to the extent that a distribution is required to satisfy Code section 401(a)(9) or Code section 415. In addition, upon termination of the Plan, if the Plan does not offer an annuity option (under Section 7.5(c)) and if the Employer or any entity within the same controlled group as the Employer does not maintain another defined contribution Plan (other than an employee stock ownership plan as defined in Code section 4975(e)(7)), the Participant's Account balance will, without the Participant's consent, be distributed to the Participant. However, if any entity within the same controlled group as the Employer maintains another defined contribution plan (other than an employee stock ownership plan as defined in Code section 4975(e)(7)), then the Participant's Account balance shall be transferred, without the Participant's consent, to the other plan if the Participant does not consent to an immediate distribution.

(d) An Account balance is immediately distributable if any part of the Account balance could be distributed to the Participant (or surviving spouse) before the Participant attains (or would have attained if not deceased) age 62.

(e) For purposes of determining the applicability of the foregoing consent requirements to distributions made before the first day of the first Plan Year beginning after December 31, 1988, the Participant's vested Account balance shall not include amounts attributable to accumulated

deductible employee contributions within the meaning of Code section 72(o)(5)(B).

**7.7. Special Rules for Annuity Contracts.** The following rules shall apply to distributions made, in whole or in part, in the form of an annuity contract:

- (a) Any annuity contract distributed under the Plan must be nontransferable.
- (b) The terms of any annuity contract purchased and distributed by the Plan to a Participant or spouse shall comply with the requirements of this Article 7, Article 8, and Article 9.

**7.8. Distribution Procedure.** The Trustee shall make or commence distributions to or for the benefit of Participants only on receipt of a direction (in a form approved by the Trustee) from the Plan Administrator certifying that a distribution of a Participant's benefits is payable pursuant to the Plan, and specifying the manner and amount of payment. The Trustee shall be fully protected in acting upon the directions of the Plan Administrator in making benefit distributions, and shall have no duty to determine the rights or benefits of any person under the Plan or to inquire into the right or power of the Plan Administrator to direct any such distribution. A beneficiary designation form completed and filed in accordance with Section 7.4 shall be deemed a direction of the Plan Administrator for purposes of this Section 7.8. The Trustee shall be entitled to assume conclusively that any determination by the Plan Administrator with respect to a distribution meets the requirements of the Plan. The Trustee shall not be required to make any payment hereunder in excess of the net realizable value of the assets of the Trust held for the Participant at the time of such payment, nor to make any payment in cash unless the Plan Administrator has furnished instructions in a form and manner acceptable to the Trustee as to the assets to be converted to cash for the purposes of making payment. The Trustee is expressly authorized to liquidate any assets held in a Participant's Account to make a payment under this Section, but shall not be deemed to have exercised any fiduciary discretion in doing so.

**7.9. Distribution under a QDRO.**

- (a) Distributions of all or any part of a Participant's Account pursuant to the provisions of a QDRO is specifically authorized.
- (b) Effective for QDROs received by the Plan Administrator on or after January 1, 2002, the alternate payee may receive a payment of a benefit under the Plan prior to the date on which the Participant is otherwise entitled to a distribution under the Plan if the QDRO specifically provides for such earlier payment. If the present value of the payment exceeds \$5,000, the alternate payee must consent in writing to such distribution.
- (c) The alternate payee may receive a payment of benefits under the Plan in any optional form of benefit permitted under Section 7.5 other than a joint and survivor annuity.
- (d) Upon receipt of an order which appears to be a domestic relations order, the Plan Administrator shall promptly notify the Participant and each alternate payee of the receipt of the order and provide them with a copy of the procedures established by the Plan Administrator for determining whether the order is a QDRO. While the determination is being made, a separate accounting shall be made with respect to any amounts which would be payable under the order while the determination is being made. If the Plan Administrator determines that the order is a QDRO within 18 months after receipt, the Plan Administrator shall direct the Trustee to establish an Account for the alternate payee, who shall direct the investment of such Account in accordance with Section 6.1. The Plan Administrator shall further instruct the Trustee to begin making payments from the alternate payee's Account pursuant to the order when required or as soon as administratively practical or as the alternate payee otherwise directs in accordance with the order. If the Plan Administrator determines that the order is not a QDRO, or if no determination is made within 18 months after receipt of the QDRO, then the separately accounted for amounts shall be either restored to the Participant's Account or distributed to the Participant (if the Plan otherwise permits distribution), as if the order did not exist. If the order is subsequently determined to be a QDRO, such determination shall be applied prospectively to payments made after the determination.

**7.10. Direct Rollover of Distributions.**

- (a) As used in this Section 7.10, the terms set forth below have the following meanings:

- (1) Eligible Rollover Distribution. "Eligible Rollover Distribution" means any distribution of all or any portion of the balance to the credit of the Eligible Recipient, except that an Eligible Rollover Distribution does not include any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Eligible Recipient or the joint lives (or joint life expectancies) of the Eligible Recipient and the Eligible Recipient's designated beneficiary, or for a specified period of 10 years or more; any distribution to the extent such distribution is required under Code section 401(a)(9); except as provided in Treasury Regulations or applicable IRS guidance with respect to Roth 401(k) contributions, the portion of any other distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities); and any other distribution that is reasonably expected to total less than \$200 during a year (determined taking into the account the provisions of Treas. Reg. section 1.401(k)-1(f)(3)(ii)).

A portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in Code section 408(a) or (b), or to a qualified defined contribution plan described in Code section 401(a) or 403(a) that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

- (2) Eligible Plan. An "Eligible Plan" is 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, an individual retirement account described in Code section 408(a), and individual retirement annuity described in Code section 408(b), an annuity plan described in Code section 403(a), an annuity contract described in Code section 403(b), or a qualified plan described in Code section 401(a), that accepts the distributee's eligible rollover distribution. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relation order, as defined in Code section 414(p).
- (3) Eligible Recipient. "Eligible Recipient" means a Participant, the surviving spouse of a deceased Participant, or an alternate payee under a QDRO who is either the spouse or the former spouse of a Participant.
- (b) This Section 7.10 applies to distributions made on or after December 31, 2001. Notwithstanding any other provision of the Plan, an Eligible Recipient may elect, at the time and in the manner prescribed by the Plan Administrator, to have all or any portion of an Eligible Rollover Distribution that is at least \$500 paid to an Eligible Plan specified by the Eligible Recipient. Except to the extent provided in Treasury Regulations or applicable IRS guidance with respect to Designated Roth Contributions or Roth rollover contributions, an Eligible Rollover Distribution to an Eligible Recipient who does not make the election described in the preceding sentence will be subject to 20-percent federal income tax withholding or such other rate as may be required by the Code and any applicable state income tax withholding.
- (c) Notwithstanding (a)(2) above, a direct rollover of a distribution from a Designated Roth Contribution account will only be made to another Roth elective deferral account under an applicable retirement plan described in Code section 402A(e)(1) or to a Roth IRA described in Code section 408A, and only to the extent the rollover is permitted under the rules of Code section 402(c).

### 7.11. Benefit Claims Procedure.

- (a) Any claim for benefits under the Plan shall be made in writing to the Plan Administrator. If such claim for benefits is wholly or partially denied, the Plan Administrator shall notify the Participant or Beneficiary of the denial of the claim within 90 days after receipt of the claim (or within 180 days, if special circumstances require an extension of time for processing the claim, and if written notice of such extension and circumstances is given to the claimant within the initial 90-day period). Notwithstanding the foregoing, if a claim is for distribution of benefits under the Plan as a result of a Disability, written notice of the disposition of the claim shall be furnished to the claimant within 45 days after the application is filed. If the claim is unable to be processed within the initial 45-day period for reasons beyond the control of the Plan Administrator, the time for reviewing the claim may be extended an additional 30 days provided that written notice of the extension is provided to the claimant before the initial 45-day review period expires. If at the end of the 30-day extension period, the claim is still unable to be processed due to reasons beyond the control of the Plan Administrator, the time for reviewing the claim may be extended for an additional 30 days provided that written notice of the extension is provided to the claimant before the 30-day extension period expires. Such notice of denial shall:
- (1) be in writing;
  - (2) be written in a manner calculated to be understood by the Participant or Beneficiary; and
  - (3) contain:
    - (i) the specific reason or reasons for denial of the claim;
    - (ii) a reference to the specific Plan provisions upon which the denial is based;
    - (iii) a description of any additional material or information necessary to perfect the claim, along with an explanation of why such material or information is necessary; and
    - (iv) an explanation of the claims review procedure and the applicable time limits in accordance with the provisions of this Section, as well as a statement of the claimant's right to bring an action under ERISA section 502(a) following an adverse determination upon review.
- (b) Within 60 days after the receipt by the Participant or Beneficiary of a written notice of denial of the claim, or such later time as shall be deemed reasonable taking into account the nature of the benefit subject to the claim and any other attendant circumstances, the Participant or Beneficiary (or his duly authorized representative) may file a written request with the Plan Administrator that it conduct a full and fair review of the denial of the claim for benefits. However, if the claim that was denied was for distribution of benefits under the Plan as a result of a Disability, a claimant shall have 180 days from the date that the claim was denied to file such a request. As part of such a request, the Participant or Beneficiary (or his duly authorized representative) may submit written comments, documents, records, and other information relating to the claim for benefits (regardless of whether such information was submitted or considered in the initial benefit determination). A claimant shall be provided, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the claimant's claim for benefits.
- (c) The Plan Administrator shall deliver to the Participant or Beneficiary a written decision on the claim within 60 days after the receipt of the aforementioned request for review, except that if there are special circumstances (such as the need to hold a hearing, if necessary) which require an extension of time for processing, the aforementioned 60-day period shall be extended to 120 days (if written notice of such extension and circumstances is given to the claimant within the initial 60-day period). Notwithstanding the foregoing, if the claim is for distribution of benefits under the Plan as a result of a Disability, a final decision shall be made by the Plan Administrator within 45 days of receipt of the appeal. The Plan may extend the review period for an additional 45 days provided that written notice of the extension is provided to the claimant before the initial 45-day review period expires. Such decisions shall:
- (1) be written in a manner calculated to be understood by the Participant or Beneficiary;

- (2) include the specific reason or reasons for the decision;
  - (3) contain a reference to the specific Plan provisions upon which the decision is based;
  - (4) include a statement that the claimant is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records and other information relevant to the claimant's claim for benefits; and
  - (5) include a statement of the claimant's right to bring an action under ERISA section 502(a).
- (d) The decision of the Plan Administrator shall be final and binding on all parties, unless determined by a court of competent jurisdiction to be arbitrary and capricious.

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## Article 8. Joint and Survivor Annuity Requirements

### 8.1. Definitions. The following definitions apply to this Article:

- (a) Election Period. "Election Period" means the period beginning on the first day of the Plan Year in which a Participant attains age 35 and ending on the date of the Participant's death. If a Participant separates from service before the first day of the Plan Year in which he reaches age 35, the Election Period with respect to his Account balance as of the date of separation shall begin on the date of separation.
- (b) Earliest Retirement Age. "Earliest Retirement Age" means the earliest date on which the Participant could elect to receive retirement benefits under the Plan.
- (c) Qualified Election. "Qualified Election" means a waiver of a QJSA or a QPSA. Any such waiver shall not be effective unless: (1) the Participant's spouse consents in writing to the waiver; (2) the waiver designates a specific Beneficiary, including any class of Beneficiaries or any contingent Beneficiaries, which may not be changed without spousal consent (unless the spouse's consent expressly permits designations by the Participant without any further spousal consent); (3) the spouse's consent acknowledges the effect of the waiver; and (4) the spouse's consent is witnessed by a notary public. Additionally, a Participant's waiver of the QJSA shall not be effective unless the waiver designates a form of benefit payment which may not be changed without spousal consent (unless the spouse's consent expressly permits designations by the Participant without any further spousal consent). If it is established to the satisfaction of the Plan Administrator that there is no spouse or that the spouse cannot be located, a waiver will be deemed a Qualified Election. Any consent by a spouse obtained under these provisions (and any establishment that the consent of a spouse may not be obtained) shall be effective only with respect to the particular spouse involved. A consent that permits designations by the Participant without any requirement of further consent by the spouse must acknowledge that the spouse has the right to limit the consent to a specific Beneficiary and a specific form of benefit where applicable, and that the spouse voluntarily elects to relinquish either or both of those rights. A revocation of a prior waiver may be made by a Participant without the consent of the spouse at any time before the commencement of benefits. The number of revocations shall not be limited. No consent obtained under this provision shall be valid unless the Participant has received notice as provided in Section 8.5.
- (d) Qualified Joint and Survivor Annuity (QJSA). A "QJSA" means an immediate annuity for the life of a Participant, with a survivor annuity for the life of the spouse which is not less than 50 percent and not more than 100 percent of the amount of the annuity which is payable during the joint lives of the Participant and the spouse, and which is the amount of benefit that can be purchased with the Participant's vested Account Balance. The percentage of the survivor annuity under the Plan shall be 50 percent.
- (e) Qualified Preretirement Survivor Annuity (QPSA). A "QPSA" is an annuity purchased for the life of a Participant's surviving spouse, in accordance with Section 8.4.

### 8.2. Applicability.

- (a) Generally. The provisions of Sections 8.3 through 8.5 set forth the joint and survivor annuity requirements of Code sections 401(a)(11) and 417 and shall generally apply to a Participant who is credited with at least 1 Hour of Service on or after August 23, 1984, and such other Participants as provided in Section 15.2.

(b) Exception for Certain Profit Sharing Plans. The provisions of Sections 8.3 through 8.5 shall not apply to a Participant in a profit sharing plan (including a safe harbor 401(k)/profit sharing plan or a standardized 401(k)/profit sharing plan) if: (1) the Participant does not or cannot elect payment of benefits in the form of a life annuity, and (2) on the death of the Participant, his vested Account Balance will be paid to his surviving spouse (unless there is no surviving spouse, or the surviving spouse has consented to the designation of another Beneficiary in a manner conforming to a Qualified Election) and the surviving spouse may elect to have distribution of the vested Account Balance (adjusted in accordance with Section 6.3 for gains or losses occurring after the Participant's death) commence within the 90-day period following the date of the Participant's death. (The provisions of Section 7.4 meet the requirements of clause (2) of the preceding sentence.) The Participant may waive the spousal death benefit described in this paragraph (b) at any time, provided that no such waiver shall be effective unless it satisfies the conditions applicable under Section 8.1(c) to a Participant's waiver of a QPSA. The exception in this paragraph (b) shall not be operative with respect to a Participant in a profit sharing plan if the Plan:

- (i) is a direct or indirect transferee of a defined benefit plan, money purchase pension plan, target benefit plan, stock bonus plan, or profit sharing plan which is subject to the survivor annuity requirements of Code sections 401(a)(11) and 417; or
- (ii) is adopted as an amendment of a plan subject to the survivor annuity requirements of Code sections 401(a)(11) and 417.

(c) Exception for Certain Amounts. The provisions of Sections 8.3 through 8.5 shall not apply to any distribution made on or after the first day of the first Plan Year beginning after December 31, 1988, from or under a separate account attributable solely to accumulated deductible employee contributions as defined in Code section 72(o)(5)(B), and maintained on behalf of a Participant in a money purchase pension plan or a target benefit plan, provided that the exceptions applicable to certain profit sharing plans under paragraph (b) are applicable with respect to the separate account (for this purpose, "vested Account Balance" means the Participant's separate Account balance attributable solely to accumulated deductible employee contributions within the meaning of Code section 72(o)(5)(B)).

**8.3. Qualified Joint and Survivor Annuity.** Unless an optional form of benefit is selected pursuant to a Qualified Election within the 90-day period ending on the Annuity Starting Date, a married Participant's vested Account Balance shall be paid in the form of a QJSA and an unmarried Participant's vested Account Balance shall be paid in the form of a straight life annuity. In either case, the Participant may elect to have such annuity distributed upon his attainment of the Earliest Retirement Age under the Plan. A "straight life annuity" is an annuity payable in equal installments for the life of the Participant that terminates upon the Participant's death.

**8.4. Qualified Preretirement Survivor Annuity.** Unless an optional form of benefit has been selected within the Election Period pursuant to a Qualified Election, the vested Account Balance of a Participant who dies before the Annuity Starting Date shall be applied toward the purchase of an annuity for the life of his surviving spouse (a QPSA). The surviving spouse may elect to have such annuity distributed within the 90-day period after the Participant's death. For purposes of this Article 8, the term "spouse" means the current spouse or surviving spouse of a Participant, except that a former spouse will be treated as the spouse or surviving spouse (and a current spouse will not be treated as the spouse or surviving spouse) to the extent provided under a QDRO.

**8.5. Notice Requirements.** In the case of a QJSA, no less than 30 days and no more than 90 days before a Participant's Annuity Starting Date, the Plan Administrator shall provide a written explanation of (a) the terms and conditions of a QJSA, (b) the Participant's right to make, and the effect of, an election to waive the QJSA form of benefit, (c) the rights of the Participant's spouse, and (d) the right to make, and the effect of, a revocation of a previous election to waive the QJSA. The Annuity Starting Date for a distribution in a form other than a QJSA may be less than 30 days after receipt of the written explanation described in the preceding paragraph provided (1) the Participant has been provided with information that clearly indicates that the Participant has at least 30 days to consider whether to waive the QJSA and elect (with spousal consent) a form of distribution other than a QJSA; (2) the Participant is permitted to revoke any affirmative distribution election at least until the Annuity Starting Date or if later, at any time prior to the expiration

of the 7-day period that begins the day after the explanation of the QJSA is provided to the Participant; and (3) the Annuity Starting Date is a date after the date that the written explanation was provided to the Participant. In addition, for distributions on or after December 31, 1996, the Annuity Starting Date may be a date prior to the date the written explanation is provided to the Participant if the distribution does not commence until at least 30 days after such written explanation is provided, subject to the waiver of the 30-day period described above.

In the case of a QPSA, the Plan Administrator shall provide each Participant, within the applicable period for such Participant, a written explanation of the QPSA, in terms and manner comparable to the requirements applicable to the explanation of a QJSA as described in the preceding paragraph. The applicable period for a Participant is whichever of the following periods ends last: (i) the period beginning with the first day of the Plan Year in which the Participant attains age 32 and ending with the close of the Plan Year preceding the Plan Year in which the Participant attains age 35; (ii) a reasonable period ending after an individual becomes a Participant; and (iii) a reasonable period ending after this Article 8 first applies to the Participant. Notwithstanding the foregoing, in the case of a Participant who separates from service before attaining age 35, notice must be provided within a reasonable period ending after his separation from service.

For purposes of applying the preceding paragraph, a reasonable period ending after the enumerated events described in (i), (ii) and (iii) is the end of the 2-year period beginning 1 year before the date the applicable event occurs, and ending one year after that date. In the case of a Participant who separates from service before the Plan Year in which he reaches age 35, notice shall be provided within the 2-year period beginning one year before the separation and ending one year after the separation. If such a Participant thereafter returns to employment with the Employer, the applicable period for the Participant shall be redetermined.

A Participant who will not attain age 35 as of the end of a Plan Year may make a special Qualified Election to waive the QPSA for the period beginning on the date of such election and ending on the first day of the Plan Year in which the Participant will attain age 35. Such election shall not be valid unless the Participant receives a written explanation of the QPSA in such terms as are comparable to the explanation required under this Section 8.5. QPSA coverage shall be automatically reinstated as of the first day of the Plan Year in which the Participant attains age 35. Any new waiver on or after such date shall be subject to the full requirements of this Article.

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## Article 9. Minimum Distribution Requirements

### 9.1. Required Minimum Distributions.

(a) General Rules.

- (1) Subject to Article 8, Joint and Survivor Annuity Requirements, the requirements of this Article shall apply to any distribution of a Participant's interest and will take precedence over any inconsistent provisions of this Plan. Unless otherwise specified, the provisions of this Article apply to calendar years beginning after December 31, 2002.
- (2) All distributions required under this Article shall be determined and made in accordance with the regulations under section 401(a)(9) and the minimum distribution incidental benefit requirement of section 401(a)(9)(G) of the Code.
- (3) Limits on Distribution Periods. As of the first distribution calendar year, distributions to a Participant, if not made in a single-sum, may only be made over one of the following periods:
  - (i) the life of the Participant,
  - (ii) the joint lives of the Participant and a designated Beneficiary,
  - (iii) a period certain not extending beyond the life expectancy of the Participant, or
  - (iv) a period certain not extending beyond the joint life and last survivor expectancy of the Participant and a designated Beneficiary.
- (4) TEFRA Section 242(b)(2) Elections. Notwithstanding the other provisions of this Section 9.1, distributions may be made under a designation made before January 1, 1984, in accordance with section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and Section 15.3.

(b) Time and Manner of Distribution.

- (1) Required Beginning Date. The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's Required Beginning Date.
- (2) Death of Participant Before Distributions Begin. If the Participant dies before the 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 otherwise elected under Section 9.1(f), 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 otherwise elected under Section 9.1(f), 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) 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.
  - (iv) 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 9.1(b)(2), other than Section 9.1(b)(2)(i), will apply as if the surviving spouse were the Participant.

For purposes of this Section 9.1(b)(2) and Section 9.1(d), unless Section 9.1(b)(2)(iv) applies, distributions are considered to begin on the Participant's Required Beginning Date. If Section 9.1(b)(2)(iv) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under Section 9.1(b)(2)(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 required to begin to the surviving spouse under Section 9.1(b)(2)(i)), the date distributions are considered to begin is the date distributions actually commence.

- (3) Forms of Distribution. Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the Required Beginning Date, as of the first distribution calendar year distributions will be made in accordance with Section 9.1(c) and (d). If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of section 401(a)(9) of the Code and the Treasury Regulations.

(c) Required Minimum Distributions during Participant's Lifetime.

- (1) 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:
  - (i) the quotient obtained by dividing the Participant's Account balance by the distribution period in the Uniform Lifetime Table set forth in section 1.401(a)(9)-9, Q&A-2 of the Treasury Regulations, using the Participant's age as of the Participant's birthday in the distribution calendar year; or
  - (ii) 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, Q&A-3 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.

- (2) Lifetime Required Minimum Distributions Continue through Year of Participant's Death. Required minimum distributions will be determined under this Section 9.1(c) beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the Participant's date of death.

(d) Required Minimum Distributions after Participant's Death.

- (1) Death On or After Date Distributions Begin.
  - (i) 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:
    - (A) 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.
    - (B) 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.
    - (C) If the Participant's surviving spouse is not the Participant's sole designated Beneficiary, the designated Beneficiary's remaining life expectancy is calculated using the age of the Beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.
  - (ii) No Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is no designated Beneficiary as of September 30 of the year after the year of the Participant's death, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account balance by the Participant's remaining life expectancy calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.
- (2) Death before Date Distributions Begin.
  - (i) Participant Survived by Designated Beneficiary. Except as otherwise elected under Section 9.1(f), 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 9.1(d)(1).
  - (ii) 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.
  - (iii) 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 9.1(b)(2)(i), this Section 9.1(d)(2) will apply as if the surviving spouse were the Participant.

(e) Definitions.

- (1) Designated Beneficiary. The individual who is designated as the Beneficiary under Section 7.4 of the Plan and is the designated Beneficiary under section 401(a)(9) of the Code and section 1.401(a)(9)-1, Q&A-4, of the Treasury Regulations.
- (2) 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 9.1(b)(2). 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 the distribution calendar year.
- (3) Life expectancy. Life expectancy as computed by use of the Single Life Table in section 1.401(a)(9)-9, Q&A-1 of the Treasury Regulations.
- (4) Participant's Account balance. The Account balance as of the last valuation date in the calendar year immediately preceding the distribution calendar year (valuation calendar year) increased by the amount of any contributions made and allocated or forfeitures allocated to the Account balance as of dates in the valuation calendar year after the valuation date and decreased by distributions made in the valuation calendar year after the valuation date. 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.
- (5) Required Beginning Date. The later of the April 1 of the calendar year following the calendar year in which the Participant attains age 70½ or retires, except that distributions to a 5-percent owner must commence by the April 1 of the calendar year following the calendar year in which such Participant attains age 70½.
- (6) 5% Owner. A Participant who is a 5-percent owner as defined in Code section 416(i) (determined in accordance with Code section 416 but without regard to whether the Plan is top heavy) at any time during the Plan Year ending with or within the calendar year in which he attains age 66½, or any subsequent Plan Year. Once distributions have begun to a 5-percent owner under this Article 9, they must continue, even if the Participant ceases to be a 5-percent owner in a subsequent year.

(f) Elections.

- (1) Participants or Beneficiaries May Elect 5-Year Rule. Participants or Beneficiaries may elect on an individual basis whether the 5-year rule or the life expectancy rule in Sections 9.1(b)(2) and 9.1(d)(2) 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 9.1(b)(2), or by September 30 of the calendar year which contains the fifth anniversary of the Participant's (or, if applicable, the surviving spouse's) death. If neither the Participant nor the Beneficiary makes an election under this paragraph (f), distributions will be made in accordance with Sections 9.1(b)(2) or 9.1(d)(2).
- (2) Designated Beneficiary Receiving Distributions under 5-Year Rule May Elect Life Expectancy Distributions. A designated Beneficiary who is receiving payments under the 5-year rule may make a new election to receive payments under the life expectancy rule until December 31, 2003, provided that all amounts that would have been required to be distributed under the life expectancy rule for all distribution calendar years before 2004 are distributed by the earlier of December 31, 2003 or the end of the 5-year period.

**9.2. Transition Rules.**

- (a) For plans in existence before 2003, required minimum distributions for periods after 1984 and made before September 1, 2001 were made in accordance with section 401(a)(9) of the Code and the proposed Treasury Regulations thereunder published in the Federal Register on July 27, 1987.
- (b) Required minimum distributions made on or after September 1, 2001 and prior to the effective date of the final Treasury Regulations under Code section 401(a)(9) were made pursuant to the proposed Treasury Regulations under Code section 401(a)(9) published in the Federal Register on January 17, 2001.

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**Article 10. Amendment and Termination**

**10.1. Prototype Sponsor's Right to Amend.** The Prototype Sponsor may amend any part of the Prototype Plan by delivering written notice of such amendment to the Employer; provided, however, that:

- (a) the Prototype Sponsor shall have no power to amend or terminate the Prototype Plan in such manner as would cause or permit any part of the assets in the Trust to be diverted to purposes other than for the exclusive benefit of Participants and Beneficiaries as described in Section 14.2, or as would cause or permit any portion of such assets to revert to or become the property of the Employer in violation of such Section;
- (b) the Prototype Sponsor shall not have the right to amend the Prototype Plan in a manner that violates Section 10.3; and
- (c) the Prototype Sponsor shall have no power to amend the Prototype Plan in such a manner as would increase the duties or liabilities of the Trustee unless the Trustee consents thereto in writing.

**10.2. Employer's Right to Amend.** The Employer may at any time and from time to time modify or amend the Plan in whole or in part (including retroactive amendments); provided, however, that any such amendment (other than an amendment described in paragraphs (a), (b), (c) or (d) below) shall constitute substitution by the Employer of an individually designed plan for the approved Prototype Plan, including an amendment because of a waiver of the minimum funding requirement under Code section 412(d). In the event of such an amendment, the Trustee shall resign pursuant to Section 14.6. The following amendments shall not cause the Plan to be an individually designed plan:

- (a) a change of the Employer's prior choice of an optional provision indicated on the Adoption Agreement;
- (b) the addition or modification of provisions stated in the Adoption Agreement to allow the Plan to satisfy Code section 415, or to avoid duplication of minimum benefits under Code section 416 because of the required aggregation of multiple plans;
- (c) the addition of certain sample or model amendments published by the Internal Revenue Service or other required good-faith amendments which specifically provide that their adoption will not cause a plan to be treated as individually designed; or
- (d) add or change provisions permitted under the Plan and/or specify or change the effective date of a provision as permitted under the Plan and correct obvious and unambiguous typographical errors and/or cross references that merely correct a reference but that do not in any way change the original intended meaning of the provisions.

An election made by the Employer within the terms of the Prototype Plan shall be deemed to continue after amendment of the Prototype Plan by the Prototype Sponsor and until the Employer expressly further amends the election by execution of a written document.

**10.3. Certain Amendments Prohibited.** No amendment to the Plan shall be effective to the extent that it has the effect of reducing a Participant's accrued benefit. An amendment shall be treated as reducing a Participant's accrued benefit if it has the effect of reducing his Account balance (except that a Participant's Account balance may be reduced to the extent permitted by Code section 412(c)(8)) with respect to amounts attributable to contributions made before the adoption of the amendment. Furthermore, if the vesting schedule of the Plan is amended, in the case of an Employee who is a Participant as of the later of the date such amendment is adopted or the date it becomes effective, the vested percentage (determined as of such date) of such Participant's Employer-derived Account balance shall not be less than the percentage computed under the Plan without regard to such amendment.

No amendment to the Plan shall be effective to eliminate or restrict an optional form of benefit. The preceding sentence shall not apply to an amendment that eliminates or restricts the ability of a Participant to receive payment of his Account balance under a particular optional form of benefit if the amendment satisfies the conditions in (a) and (b) below:

- (a) The amendment provides a single-sum distribution form that is otherwise identical to the optional form of benefit eliminated or restricted. For purposes of paragraph (a), a single-sum distribution form is otherwise identical only if it is identical in all respects to the eliminated or restricted optional form of benefit (or would be identical except that it provides greater rights to the Participant) except with respect to the timing of payments after commencement.
- (b) The amendment is not effective unless the amendment provides that the amendment shall not apply to any distribution with an Annuity Starting Date earlier than the earlier of: (1) the 90th day after the date the Participant receiving the distribution has been furnished a summary that reflects the amendment and that satisfies the ERISA requirements at 29 CFR 2520.104b-3 relating to a summary of material modifications or (2) the first day of the second Plan Year following the Plan Year in which the amendment is adopted.

**10.4. Amendment of Vesting Schedule.** If the Plan's vesting schedule is amended, or the Plan is amended in any way that directly or indirectly affects the computation of a Participant's vested percentage, each Participant with at least 3 Years of Service with the Employer may elect, within a reasonable period (as determined by the Plan Administrator) after the adoption of the amendment or change, to have the vested percentage computed under the Plan without regard to such amendment or change. For Participants who do not have at least 1 Hour of Service in any Plan Year beginning after December 31, 1988, the preceding sentence shall be applied by substituting "5 Years of Service" for "3 Years of Service" where such language appears.

The period during which the election may be made shall commence with the date the amendment is adopted or deemed to be made and shall end on the latest of:

- (a) 60 days after the amendment is adopted;
- (b) 60 days after the amendment becomes effective; or
- (c) 60 days after the Participant is issued written notice of the amendment by the Employer or Plan Administrator.

**10.5. Maintenance of Benefit upon Plan Merger.** If there is a merger or consolidation with, or transfer of assets or liabilities to any other plan, each Participant shall receive a benefit immediately after such merger, consolidation, or transfer (as if the Plan were then terminated) which is at least equal to the benefit to which the Participant was entitled immediately before such merger, consolidation, or transfer (as if the Plan had been terminated).

**10.6. Termination of the Plan and Trust.** The Employer may terminate the Plan, or the Plan and the Trust, at any time by delivering to the Trustee a written notice signed by or on behalf of the Employer and specifying the date or dates as of which the Plan and Trust shall terminate. If the Employer no longer exists as a legal entity, if the Employer is a natural person and is deceased, or if so ordered by a court of competent jurisdiction, the Trustee, in its discretion, may terminate the Plan or permit another person or entity to terminate the Plan. The Trustee and any such person or entity shall each have the power to complete all filings, forms, or other procedures permitted or required by law in connection with such plan termination, but the Trustee shall not be liable for any actions or inactions of the Employer or any such person or entity with respect to the Plan's operation.

**10.7. Procedure upon Termination of Trust.** As soon as administratively feasible after the stated date that the Plan terminates pursuant to Section 10.6, the Trustee shall, after paying all expenses of the Trust, allocating any unallocated assets of the Trust, and adjusting all Accounts to reflect such expenses and allocations, distribute to Participants, former Participants and Beneficiaries the assets credited to their Accounts in accordance with the instructions of the Plan Administrator or the Employer; provided, however, that the Trustee shall not be required to make any such distribution until it has received notice of any determination by the Internal Revenue Service which the Trustee may reasonably require. Each such distribution shall be made promptly in accordance with Article 7. Upon completion of such distribution the Trustee shall be relieved from all further liability with respect to all amounts so paid.

## Article 11. Miscellaneous

**11.1. Status of Participants.** Neither the establishment of the Plan and the Trust or any modification thereof, nor the creation of any fund or account, nor the payment of any benefits, shall be construed as giving to any Participant or other person any legal or equitable right against the Employer or the Trustee, and in no event shall the terms of employment of any Employee or Participant be modified or in any way be affected hereby.

### 11.2. Administration of the Plan.

(a) Responsibilities of the Employer. The Employer shall have the following responsibilities with respect to administration of the Plan:

- (1) The Employer shall appoint a Plan Administrator to administer the Plan. In absence of such an appointment, the Employer shall serve as Plan Administrator. The Employer may remove and reappoint a Plan Administrator from time to time.
- (2) The Employer shall, formally or informally, review the performance from time to time of persons appointed by it or to which duties have been delegated by it, such as the Trustee and Plan Administrator (if the Employer is not the Plan Administrator).
- (3) If the Employer is not the Plan Administrator, the Employer shall supply the Plan Administrator in a timely manner with all information necessary for it to fulfill its responsibilities under the Plan. The Plan Administrator may rely upon such information and shall have no duty to verify it.

(b) Rights and Responsibilities of Plan Administrator. The Plan Administrator shall administer the Plan according to the Plan's terms for the exclusive benefit of Participants, former Participants, and their Beneficiaries.

- (1) The Plan Administrator's responsibilities shall include but not be limited to the following:
  - (i) Determining all questions relating to the eligibility of Employees to participate or remain Participants hereunder, based on the information provided by the Employer.
  - (ii) Computing, certifying and directing the Trustee with respect to the amount and form of benefits to which a Participant may be entitled hereunder.
  - (iii) Authorizing and directing the Trustee with respect to disbursements from the Trust.
  - (iv) Maintaining all necessary records for administration of the Plan.
  - (v) Interpreting the provisions of the Plan and preparing and publishing rules and operational procedures for the Plan that are not inconsistent with its terms and provisions.
  - (vi) Complying with any applicable requirements of the Code and ERISA, including, but not limited to, reporting, disclosure and notice requirements such as annual reports (under ERISA section 101(b)), summary annual reports (under ERISA section 104(b)), summary plan descriptions (under ERISA section 101(a)), summaries of material modifications (under ERISA section 101(a)), special tax notices (under Code section 402(f)), notices regarding consent for distributions (under Code section 411(a)(11)), written explanations of QJSAs and QPSAs (under Code section 417(a)), and the Code section 401(k) safe harbor notice described in Section 12.9.
- (2) In order to fulfill its responsibilities, the Plan Administrator shall have all powers necessary or appropriate to accomplish its duties under the Plan, including the discretionary power to determine all questions arising in connection with the administration, interpretation and application of the Plan. Any such determination shall be conclusive and binding upon all persons in the absence of clear and convincing evidence that the Plan Administrator acted arbitrarily and capriciously (as determined by a court of competent jurisdiction). However, all discretionary acts, interpretations and constructions shall be done in a nondiscriminatory manner based upon uniform principles consistently applied. No action shall be taken which would be inconsistent with the intent that the Plan remain qualified under Code section 401(a). The Plan Administrator is specifically authorized to employ or retain suitable employees, agents,

and counsel as may be necessary or advisable to fulfill its responsibilities hereunder, and to pay their reasonable compensation, which may, in the discretion of the Plan Administrator and to the extent permitted by law, be reimbursed from the Trust if not paid by the Employer within 30 days after the Plan Administrator advises the Employer of the amount owed.

- (3) The Plan Administrator shall serve as the designated agent for legal process under the Plan. Service of summons, subpoena, or other legal process of a court upon the Trustee in its capacity as such shall also constitute service upon the Plan.
- (4) In carrying out its duties and responsibilities hereunder, the Plan Administrator shall, to the extent the Plan is subject to ERISA, act with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like aims or, if the Plan is not subject to ERISA, in accordance with the standards of applicable law.
- (c) Death or Incapacity of the Plan Administrator. If the Plan Administrator dies or becomes incapacitated and a successor Plan Administrator is not appointed in accordance with the terms of the Plan and Adoption Agreement, the Trustee may rely on the instructions of the executor or administrator of the Plan Administrator's estate in the case of death or a court-appointed guardian or conservator (or other legally authorized representative under applicable state law) in the case of incapacity, provided that such instructions are made in accordance with the terms of the Plan and in a form and manner acceptable to the Trustee.
- (d) Missing Plan Administrator. The Trustee may use reasonable efforts to locate a missing Plan Administrator, including the use of a locator service. If a missing Plan Administrator is unable to be located notwithstanding reasonable efforts by the Trustee, the Trustee, in its sole discretion, may rely on a court order or the instructions of a Participant or, following a Beneficiary's notification of the Trustee of the death of a Participant, a Beneficiary regarding distributions from the Plan to said Participant or Beneficiary.

**11.3. Transfers and Rollovers.** Notwithstanding any other provision hereof, with the consent of the Trustee, the Plan Administrator may cause to be transferred to the Plan all or any of the assets held in any other plan which satisfies the applicable requirements of Code section 401, and which is maintained by the Employer for the benefit of any of the Participants. Any such assets so transferred shall be accompanied by written instructions from the Plan Administrator, which shall be conclusive, naming the Participants for whose benefit such assets have been transferred and showing separately the respective contributions by the Employer and by the Participants and identifying the assets attributable to the various contributions. The Plan Administrator, with the consent of the Trustee, may permit an Employee (whether or not a Participant) to transfer or cause to be transferred to the Plan any assets held for his benefit in a qualified plan of a former employer of his or in an individual retirement savings plan which has been used by the Employee exclusively as a conduit for a prior distribution of assets held for his benefit in his former employer's qualified plan. Such a transfer shall be made in the form of cash (excluding currency) or property permitted as an investment hereunder or readily marketable assets, either:

- (a) directly between the trustee or custodian of the prior employer's plan and the Trustee, in which case the transferred assets shall be accompanied by written instructions showing separately the respective contributions by the prior employer and by the transferring Employee, and identifying the assets attributable to the various contributions; or
- (b) by the Employee to the Trustee, in which case the assets transferred must be accompanied by a written representation by the Employee that the assets meet the requirements for rollover contributions set forth in Code section 402(c) and (e) or Code section 408(d)(3) (whichever is applicable).

If permitted by the Trustee in a form and manner acceptable to it, the Plan will accept Participant rollover contributions and/or direct rollovers of distributions made after December 31, 2001 (including rollover contributions received by the Participant as a surviving spouse, or a spouse or former spouse who is an alternate payee pursuant to a qualified domestic relations order), from the following types of plans:

- (1) qualified plan described in Code sections 401(a) or 403(a), excluding after-tax employee contributions (except as provided below with respect to Roth 401(k) contributions);
- (2) an annuity contract described in Code section 403(b), excluding after-tax employee contributions (except as provided below with respect to Roth 403(b) contributions);
- (3) 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
- (4) Participant rollover contributions of the portion of a distribution from an individual retirement account or annuity described in Code section 408(a) or 408(b) that is eligible to be rolled over and would otherwise be includible in gross income (except as provided below with respect to Roth IRA contributions).

Notwithstanding the foregoing, a rollover/transfer of a Roth 401(k) or Roth 403(b) contribution or, to the extent permitted by Treasury Regulations or applicable IRS guidance, Roth IRA balance to the Plan shall be permitted in accordance with Treasury Regulations or applicable IRS guidance under the rules of Code section 402(c) after both (i) the Roth Effective Date and (ii) the establishment of a Designated Roth Contribution account under the Plan for the benefit of the Participant making the rollover/transfer. No rollover/transfer contribution may be made to the Plan unless such contribution has been approved by the Plan Administrator. The Trustee shall not accept assets unless they are in a medium proper for investment hereunder or in cash (excluding currency). It shall hold the assets for investment in accordance with the provisions of Article 6, and shall in accordance with the written instructions of the Employer make appropriate credits to the Employer Contribution Account of the Employee for whose benefit assets have been transferred or such other account and/or subaccount as the Plan Administrator may deem appropriate. Any amounts so credited as contributions previously made by an employer or by an Employee under a transferor plan, as specified by the Employer, shall be treated as contributions previously made under the Plan by the Employer or by the Employee, as the case may be. For purposes of Section 4.15 concerning withdrawal of Employee nondeductible contributions, employee nondeductible contributions made by an Employee under any other plan and transferred to this Plan pursuant to paragraph (a) of this Section 11.3 shall be considered Employee nondeductible contributions held under this Plan pursuant to Section 4.15.

Subject to the provisions of Article 14, the Plan Administrator may direct the Trustee to transfer assets held in the Trust for the account of a former Participant to the custodian or trustee of any other plan or plans maintained by the employer of the former Participant for the benefit of the former Participant, or to the custodian or trustee of an individual retirement plan established by the former Participant, provided that the Trustee has received evidence satisfactory to it that such other plan meets all applicable requirements of the Code. The assets so transferred shall be accompanied by written instructions from the Employer naming the person for whose benefit such assets have been transferred, showing separately the respective contributions by the Employer and by the Participant, and identifying the assets attributable to the various contributions. If the Employer transfers the assets of the Plan to another custodian or trustee, the Employer shall be responsible for ensuring that the Accounts of all Participants, former Participants, and Beneficiaries are also transferred to such custodian or trustee at the same time. The Trustee shall have no further liabilities under the terms of this Agreement with respect to assets so transferred.

**11.4. Condition of Plan and Trust Agreement.** It is a condition of the Plan, and each Employee by participating herein expressly agrees, that he shall look solely to the assets of the Trust for the payment of any benefit under the Plan.

**11.5. Inalienability of Benefits.** The benefits provided hereunder shall not be subject to alienation, pledge, use as security for a loan, assignment, garnishment, attachment, execution or levy of any kind, and any attempt to cause such benefits to be so subjected shall not be recognized; provided, however, that the rule just stated shall not apply in the case of a QDRO or any domestic relations order entered before January 1, 1985. Furthermore, notwithstanding any provisions of this Section 11.5 to the contrary, the benefits provided hereunder to a Participant may be offset pursuant to either (a) a judgment, (b) an order, (c) a decree, or (d) a settlement agreement, any of which involves the Participant's actions with respect to the Plan and otherwise satisfies the conditions of Code section 401(a)(13)(C); provided that the



requirements of Code section 401(a)(13)(C) and (D) are met, to the extent they are applicable.

**11.6. Governing Law.** The Plan shall be construed, administered and enforced according to the laws of the Commonwealth of Massachusetts to the extent not pre-empted by the laws of the United States of America (including ERISA); any provision of the Plan in conflict with applicable federal law shall survive to the extent permitted by that law. References to ERISA or to DOL Regulations or other guidance under ERISA shall apply only to the extent that the Plan is subject to ERISA and is not excluded from coverage under ERISA pursuant to DOL Regulation Section 2510.3-3(b) or otherwise.

**11.7. Failure of Qualification.** If the Plan as maintained by the Employer fails to attain or to maintain qualification under the Code, it shall be considered an individually designed plan and no longer a Prototype Plan; upon knowledge of such event the Trustee shall resign pursuant to Section 14.6. An Employer who is not entitled to rely on the opinion letter issued to the Prototype Sponsor with respect to the Prototype Plan, as set forth in the Adoption Agreement, shall promptly apply for a determination letter as to the Plan.

**11.8. Leased Employees.** Any leased employee within the meaning of Code section 414(n) shall be treated as an employee of the recipient employer; however, contributions or benefits provided by the leasing organization which are attributable to services performed for the recipient employer shall be treated as provided by the recipient employer. The preceding sentence shall not apply to any person who would otherwise be considered a leased employee, if leased employees do not constitute more than 20 percent of the recipient's non-highly compensated workforce (as defined by Code section 414(n)(5)(C)(ii)), and such employee is covered by a money purchase pension plan providing: (a) a non-integrated employer contribution rate of at least 10 percent of compensation (as defined in Code section 415(c)(3), but including amounts contributed by the employer pursuant to a salary reduction agreement which are excludable from the employee's gross income under Code section 125, Code section 402(e)(3), Code section 402(h)(1)(B) or Code section 403(b)), (b) immediate participation, and (c) full and immediate vesting. The term "leased employee" means any person (other than an employee of the Employer) who pursuant to an agreement between the recipient and any other person ("leasing organization") has performed services for the recipient (or for the recipient and related persons determined in accordance with Code section 414(n)(6)) on a substantially full-time basis for a period of at least one year, and such services are performed under primary direction or control by the recipient employer.

**11.9. USERRA—Military Service Credit.** 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 Code section 414(u).

**11.10. Directions, Notices and Disclosure.** Any notice or other communication in connection with the Plan shall be deemed delivered in writing if addressed as provided below and if either actually delivered at said address or, in the case of a letter, three business days shall have elapsed after the same shall have been deposited in the United States mail, first-class postage prepaid and registered or certified:

- (a) if to the Employer or Plan Administrator, to it at the most recent address of record communicated to the Trustee, and, if to the Employer, to the attention of the most recent contact communicated to the Trustee;
- (b) if to the Trustee, to it at the address set forth in the Adoption Agreement; or, in each case at such other address as the addressee shall have specified by written notice delivered in accordance with the foregoing to the addressor's then effective notice address.

Any direction, notice or other communication provided to the Employer, the Plan Administrator or the Trustee by another party which is stipulated to be in written form under the provisions of the Plan may also be provided in any medium which is permitted under applicable law or regulation. Any written communication or disclosure to Participants required under the provisions of the Plan may be provided in any other medium (electronic, telephone or otherwise) that is permitted under applicable law or regulation.

**11.11. No Tax Advice.** Neither the Trustee nor the Prototype Sponsor, nor any affiliate of either the Trustee or the Prototype Sponsor shall provide tax or legal advice. Employers, Plan Administrators, Participants and Beneficiaries

are strongly encouraged to consult with their attorneys or tax advisors with regard to their specific situations.

**11.12. Missing Participants.** If a distribution is required under the terms of the Plan, the Plan Administrator shall provide the Trustee with the information necessary to make such distribution, including the last known address of the Participant or Beneficiary.

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## Article 12. Limitations on Contributions

**12.1. Definitions.** For purposes of this Article 12, the following terms shall have the meanings set forth below:

- (a) Annual Additions. "Annual Additions" means the sum of the following amounts credited to a Participant's Account for the Limitation Year:
  - (1) Employer contributions, other than Catch-Up Contributions;
  - (2) for any Plan Year beginning after December 31, 1986, employee non-deductible contributions;
  - (3) forfeitures; and
  - (4) allocations under a simplified employee pension.

For this purpose, any Excess Amount (as defined below) applied under Section 12.2 or 12.3 in the Limitation Year (as defined below) to reduce Employer contributions shall be considered Annual Additions for such Limitation Year. Amounts allocated after March 31, 1984 to an individual medical account, as defined in Code section 415(1)(2), which is part of a pension or annuity plan maintained by the Employer, are treated as Annual Additions to a defined contribution plan. Also, amounts derived from contributions paid or accrued after December 31, 1985, in taxable years ending after such date, which are attributable to post-retirement medical benefits allocated to the separate account of a key employee, as defined in Code section 419A(d)(3), under a welfare benefit fund, as defined in Code section 419(e), maintained by the Employer, are treated as Annual Additions to a defined contribution plan.

- (b) Compensation. "Compensation" means a Participant's earned income, wages, salaries, and fees for professional services and other amounts received (without regard to whether an amount is paid in cash) for personal services actually rendered in the course of employment with the Employer maintaining the Plan including, but not limited to, commissions paid to salesmen, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips, bonuses, fringe benefits, reimbursements, and expense allowances under a nonaccountable plan (as described in Treasury Regulation section 1.62-2(c), and excluding the following:
  - (1) Employer contributions to a plan of deferred compensation which are not includible in the Employee's gross income for the taxable year in which contributed, or Employer contributions under a simplified employee pension plan, or any distributions from a plan of deferred compensation;
  - (2) amounts realized from the exercise of a non-qualified stock option, or when restricted stock (or property) held by the Employee either becomes freely transferable or is no longer subject to a substantial risk of forfeiture;
  - (3) amounts realized from the sale, exchange or other disposition of stock acquired under a qualified stock option; and
  - (4) other amounts which received special tax benefits, or contributions made by the Employer (whether or not under a salary reduction agreement) towards the purchase of an annuity described in Code section 403(b) (whether or not the amounts are actually excludable from the gross income of the Employee).

For purposes of applying the limitations of this Article, Compensation for a Limitation Year is the Compensation actually paid or includible in gross income during such year.

For Limitation Years beginning after December 31, 1997, for purposes of applying the limitations of this Article, Compensation paid or made available during such limitation year shall include any elective deferral (as defined in Code section 402(g)(3)), and any amount which is contributed or deferred by the Employer at the election of the Employee and which is not includible in the gross income of the Employee by reason of

Code section 125, 132(f)(4), or 457. Amounts under Code section 125 include any amounts available to a Participant in cash in lieu of group health coverage because the Participant is unable to certify that he has other health coverage. An amount will be treated as an amount under Code section 125 only if the Employer does not request or collect information concerning the Participant's other health coverage as part of the enrollment process for the health plan.

- (c) Deferral Ratio. "Deferral Ratio" means the ratio (expressed as a percentage) of (1) the amount of Includible Contributions made on behalf of an Eligible Participant for the Plan Year to (2) an Eligible Participant's Compensation for such Plan Year. An Eligible Participant who does not receive Includible Contributions for a Plan Year shall have a Deferral Ratio of zero.
- (d) Defined Benefit Fraction. "Defined Benefit Fraction" means a fraction, the numerator of which is the sum of the Participant's Projected Annual Benefits under all the defined benefit plans (whether or not terminated) maintained by the Employer, and the denominator of which is the lesser of 125 percent of the dollar limitation determined for the Limitation Year under Code sections 415(b) and (d) or 140 percent of the Highest Average Compensation, including any adjustments under Code section 415(b). Notwithstanding the above, if the Participant was a participant as of the first day of the first Limitation Year beginning after December 31, 1986, in one or more defined benefit plans maintained by the Employer which were in existence on May 6, 1986, the denominator of this fraction shall not be less than 125 percent of the sum of the annual benefits under such plans which the Participant had accrued as of the close of the last Limitation Year beginning before January 1, 1987, disregarding any changes in the terms and conditions of the plan after May 5, 1986. The preceding sentence applies only if the defined benefit plans individually and in the aggregate satisfied the requirements of Code section 415 for all Limitation Years beginning before January 1, 1987.
- (e) Defined Contribution Dollar Limitation. "Defined Contribution Dollar Limitation" means \$40,000, as adjusted under Code section 415(d).
- (f) Defined Contribution Fraction. "Defined Contribution Fraction" means a fraction, the numerator of which is the sum of the Annual Additions to the Participant's account under all the defined contribution plans (whether or not terminated) maintained by the Employer for the current and all prior Limitation Years (including the Annual Additions attributable to the Participant's nondeductible employee contributions to all defined benefit plans, whether or not terminated, maintained by the Employer, and the Annual Additions, as defined above, attributable to all welfare benefit funds, as defined in Code section 419(e), individual medical accounts, as defined in Code section 415(1)(2), and simplified employee pensions maintained by the Employer), and the denominator of which is the sum of the maximum aggregate amounts for the current and all prior Limitation Years of service with the Employer (regardless of whether a defined contribution plan was maintained by the Employer). The maximum aggregate amount in any Limitation Year is the lesser of 125 percent of the dollar limitation determined under Code sections 415(b) and (d) in effect under Code section 415(c)(1)(A) or 35 percent of the Participant's Compensation for such year. If the Employee was a participant as of the first day of the first Limitation Year beginning after December 31, 1986, in one or more defined contribution plans maintained by the Employer which were in existence on May 6, 1986, the numerator of this fraction will be adjusted if the sum of this fraction and the defined benefit fraction would otherwise exceed 1.0 under the terms of the Plan. Under the adjustment, an amount equal to the product of (1) the excess of the sum of the fractions over 1.0 multiplied by (2) the denominator of this fraction, will be permanently subtracted from the numerator of this fraction. The adjustment is calculated using the fractions as they would be computed as of the end of the last Limitation Year beginning before January 1, 1987, and disregarding any changes in the terms and conditions of the plan made after May 5, 1986, but using the Code section 415 limitation applicable to the first Limitation Year beginning on or after January 1, 1987.

The Annual Addition for any Limitation Year beginning before January 1, 1987, shall not be recomputed to treat all Employee contributions as Annual Additions.

- (g) Employer. For purposes of this Article 12, "Employer" means the employer that adopts the Plan, and all members of a controlled group of corporations (as defined in Code section 414(b) as modified by Code

section 415(h)), all commonly controlled trades or businesses (as defined in Code section 414(c) as modified by Code section 415(h)) or affiliated service groups (as defined in Code section 414(m)) of which the adopting employer is a part, and any other entity required to be aggregated with the employer pursuant to Code section 414(o).

- (h) Excess Amount. "Excess Amount" means the excess of the Participant's Annual Additions for the Limitation Year over the Maximum Permissible Amount.
- (i) Excess Contributions. "Excess Contributions" means, with respect to any Plan Year, the excess of
  - (1) The aggregate amount of Includible Contributions actually taken into account in computing the average deferral percentage of Eligible Participants who are Highly Compensated Employees for such Plan Year, over
  - (2) The maximum amount of Includible Contributions permitted to be made on behalf of Highly Compensated Employees under Section 12.6 (determined by reducing Includible Contributions made for the Plan Year on behalf of Eligible Participants who are Highly Compensated Employees in order of their Deferral Ratios, beginning with the highest of such Deferral Ratios).
- (j) Excess Deferrals. "Excess Deferrals" shall mean those Elective Contributions that are includible in a Participant's gross income under Code section 402(g) of the Code to the extent such Participant's Elective Contributions for a taxable year exceed the dollar limitation under such Code section (including, if applicable, the dollar limitation on Catch-Up Contributions defined in Code section 414(v)). Excess Deferrals shall be treated as Annual Additions under the Plan, unless such amounts are distributed no later than the first April 15 following the close of the Participant's taxable year.
- (k) Highest Average Compensation. "Highest Average Compensation" means the average compensation for the three consecutive Years of Service with the Employer that produces the highest average.
- (l) Includible Contributions. "Includible Contributions" mean:
  - (1) Any Elective Contribution (other than Catch-Up Contributions) made on behalf of an Eligible Participant, including Excess Deferrals of Highly Compensated Employees, but excluding Excess Deferrals of Non-Highly Compensated Employees that arise solely from Elective Contributions made under the Plan or plans maintained by the Employer;
  - (2) At the election of the Employer, Qualified Nonelective Employer Contributions.

To be included in determining an Eligible Participant's Deferral Ratio for the Plan Year, Includible Contributions must be allocated to the Participant's Account as of a date within such Plan Year and made before the last day of the 12-month period immediately following the Plan Year to which the Includible Contributions relate.

- (m) Limitation Year. "Limitation Year" means a calendar year, or the other period of 12 consecutive months elected by the Employer in the Adoption Agreement. All qualified plans maintained by the Employer must use the same Limitation Year. If the Limitation Year is amended to a different period of 12 consecutive months, the new Limitation Year must begin on a date within the Limitation Year in which the amendment is made.
- (n) Master or Prototype Plan. "Master or Prototype Plan" means a plan, the form of which is the subject of a favorable opinion letter from the Internal Revenue Service.
- (o) Maximum Permissible Amount. "Maximum Permissible Amount" means
  - (1) For Limitation Years beginning before January 1, 2002, the lesser of (i) the Defined Contribution Dollar Limitation or (ii) 25 percent of the Participant's Compensation for the Limitation Year; and
  - (2) For Limitation Years beginning on or after January 1, 2002, except for Catch Up Contributions, the (i) Defined Contribution Dollar Limitation or (ii) 100 percent of the Participant's Compensation for the Limitation Year. The compensation limitation referred to in (ii) shall not apply to any contribution for medical benefits (within the meaning of Code section 401(h) or Code section 419A(f)(2)) which is otherwise treated as an Annual Addition under Code section 415(l)(1) or Code section 419A(d)(2). If a short Limitation Year is

created because of an amendment changing the Limitation Year, the Maximum Permissible Amount shall not exceed the Defined Contribution Dollar Limitation multiplied by a fraction of which the numerator is equal to the number of months in the short Limitation Year, and the denominator is 12.

(p) Projected Annual Benefit. "Projected Annual Benefit" means the annual retirement benefit (adjusted to an actuarially equivalent straight life annuity if such benefit is expressed in a form other than a straight life annuity or a QJSA (as defined in Section 8.1(d)) to which the Participant would be entitled under the terms of the Plan assuming:

- (1) the Participant will continue employment until Normal Retirement Age under the Plan (or current age, if later), and
- (2) the Participant's Compensation for the current Limitation Year and all other relevant factors used to determine benefits under the Plan were to remain constant for all future Limitation Years.

**12.2. Code Section 415 Limitations: Participation Only in This Plan.** If the Participant does not participate in, and has never participated in, another qualified plan, a welfare benefit fund (as defined in Code section 419(e)), an individual medical account (as defined in Code section 415(l)(2)) or a simplified employee pension (as defined in Code section 408(k)) maintained by the Employer, which provides an Annual Addition, the amount of Annual Additions which may be credited to the Participant's Account for any Limitation Year shall not exceed the lesser of the Maximum Permissible Amount or any other limitation contained in this Plan. If the Employer contribution that would otherwise be contributed or allocated to the Participant's Account would cause the Annual Additions for the Limitation Year to exceed the Maximum Permissible Amount, the amount contributed or allocated shall be reduced so that the Annual Additions for the Limitation Year will equal the Maximum Permissible Amount.

Prior to determining the Participant's actual Compensation for the Limitation Year, the Employer may determine the Maximum Permissible Amount for a Participant on the basis of a reasonable estimation of the Participant's Compensation for the Limitation Year, uniformly determined for all Participants similarly situated. As soon as is administratively feasible after the end of the Limitation Year, the Maximum Permissible Amount for the Limitation Year shall be determined on the basis of the Participant's actual Compensation for the Limitation Year. If, pursuant to the last sentence of the preceding paragraph or as a result of the allocation of Forfeitures, there is an Excess Amount, the excess shall be disposed of as follows:

- (a) Any Employee nondeductible contributions (plus attributable earnings), to the extent they would reduce the Excess Amount, shall be returned to the Participant.
- (b) If after the application of paragraph (a) an Excess Amount still exists, any Elective Contributions (plus attributable earnings), to the extent they would reduce the Excess Amount, will be distributed to the Participant.
- (c) If after the application of paragraph (b) an Excess Amount still exists, and the Participant is covered by the Plan at the end of the Limitation Year, the Excess Amount in the Participant's Account shall be used to reduce Employer contributions under Article 4 for such Participant in the next Limitation Year, and each succeeding Limitation Year if necessary.
- (d) If after the application of paragraph (c) an Excess Amount still exists, and the Participant is not covered by the Plan at the end of the Limitation Year, the Employer contribution on behalf of the Participant shall be reduced to the extent necessary to eliminate the Excess Amount, and the Excess Amount will be held unallocated in a suspense account. The suspense account shall be applied to reduce future Employer contributions for all remaining Participants in the next Limitation Year, and each succeeding Limitation Year thereafter, if necessary.
- (e) If a suspense account is in existence at any time during a Limitation Year pursuant to this Section 12.2, it shall participate in the allocation of the Trust's investment gains and losses. If a suspense account is in existence at any time during a particular Limitation Year, all amounts in the suspense account must be allocated and reallocated to Participants' Accounts before any Employer or any Employee contributions may be made to the Plan for that Limitation Year. Excess Amounts may not be distributed to Participants or former Participants.

**12.3. Code Section 415 Limitations: Participation in Additional Defined Contribution Plan.** This Section 12.3 applies if, in addition to this Plan, the Participant is covered under another qualified defined contribution

plan, a welfare benefit fund (as defined in Code section 419(e)), an individual medical account (as defined in Code section 415(l)(2)), or a simplified employee pension (as defined in Code section 408(k)) maintained by the Employer, which provides an Annual Addition during any Limitation Year. The Annual Additions which may be credited to a Participant's Account under this Plan for any such Limitation Year will not exceed the Maximum Permissible Amount reduced by the Annual Additions credited to a Participant's Account under the other defined contribution plans, welfare benefit funds, individual medical accounts, and simplified employee pensions for the same Limitation Year. If the Annual Additions with respect to the Participant under other defined contribution plans, welfare benefit funds, individual medical accounts, and simplified employee pensions maintained by the Employer are less than the Maximum Permissible Amount and the Employer contribution that would otherwise be contributed or allocated to the Participant's Account under this Plan would cause the Annual Additions for the Limitation Year to exceed this limitation, the amount contributed or allocated shall be reduced so that the Annual Additions under all such plans and funds for the Limitation Year will equal the Maximum Permissible Amount. If the Annual Additions with respect to the Participant under such other defined contribution plans, welfare benefit funds, individual medical accounts, and simplified employee pensions in the aggregate are equal to or greater than the Maximum Permissible Amount, no amount shall be contributed or allocated to the Participant's Account under this Plan for the Limitation Year.

Prior to determining the Participant's actual Compensation for the Limitation Year, the Employer may determine the Maximum Permissible Amount for a Participant in the manner described in Section 12.2. As soon as is administratively feasible after the end of the Limitation Year, the Maximum Permissible Amount for the Limitation Year shall be determined on the basis of the Participant's actual Compensation for the Limitation Year.

If a Participant's Annual Additions under this Plan and such other plans would result in an Excess Amount for a Limitation Year, the Excess Amount shall be deemed to consist of the Annual Additions last allocated, except that Annual Additions attributable to a simplified employee pension shall be deemed to have been allocated first, followed by Annual Additions to a welfare benefit fund or individual medical account, regardless of the actual allocation date.

If an Excess Amount was allocated to a Participant on an allocation date of this Plan which coincides with an allocation date of another plan, the Excess Amount attributed to this Plan shall be the product of:

- (a) the total Excess Amount allocated as of such date, multiplied by
- (b) the ratio of (1) the Annual Additions allocated to the Participant for the Limitation Year as of such date under this Plan to (2) the total Annual Additions allocated to the Participant for the Limitation Year as of such date under this and all other qualified Master or Prototype defined contribution plans.

Any Excess Amount attributed to this Plan shall be disposed of in the manner described in Section 12.2.

**12.4. Code Section 415 Limitations: Participation in Defined Benefit Plan.** If the Employer maintains, or at any time maintained, a qualified defined benefit plan covering any Participant in this Plan, the sum of the Participant's Defined Benefit Plan Fraction and Defined Contribution Plan Fraction shall not exceed 1.0 in any Limitation Year. The Annual Additions which may be credited to the Participant's Account under this Plan for any Limitation Year shall be limited in accordance with the method described by the Employer in the Adoption Agreement, which shall preclude Employer discretion. This Section 12.4 does not apply for Limitation Years beginning on or after January 1, 2000.

**12.5. Code Section 402(g) Limitation on Elective Contributions.** In no event shall the amount of Elective Contributions made under the Plan for a calendar year, when aggregated with the elective contributions made under any other plan maintained by the Employer or an Affiliated Employer, exceed the dollar limitation contained in Code section 402(g) in effect at the beginning of such calendar year, except to the extent permitted under Section 4.6 and Code section 414(v), if applicable.

A Participant may assign to the Plan any Excess Deferrals made during a calendar year by notifying the Plan Administrator on or before March 15 following the calendar year in which the Excess Deferrals were made of the amount of the Excess Deferrals to be assigned to the Plan. A Participant is deemed to notify the Plan Administrator of any Excess Deferrals that arise by taking into

account only those Elective Contributions made to the Plan and those elective contributions made to any other plan maintained by the Employer of an Affiliated Employer. Notwithstanding any other provision of the Plan, Excess Deferrals, plus any income and minus any loss allocable thereto, as determined under Section 12.8, less the amount of any Excess Contributions (and allocable income) previously distributed with respect to the Participant for the Plan Year beginning with or within the taxable year, shall be distributed no later than April 15 to any Participant to whose Account Excess Deferrals were so assigned for the preceding calendar year and who claims Excess Deferrals for such calendar year. Distributions of Excess Deferrals for a year shall be made first from the Participant's Pre-Tax Elective Contribution Account, to the extent Pre-Tax Elective Contributions were made that year, unless the Participant specifies otherwise. Excess Deferrals shall be treated as Annual Additions under the Plan, unless such amounts are distributed no later than the first April 15 following the close of the calendar year in which the Excess Deferrals were made.

**12.6. Additional Limit on Elective Contributions ("ADP" Test).** Except as provided in Section 12.9 below with respect to Adoption Agreements providing that the Plan is a safe harbor 401(k)/profit sharing plan, the Elective Contributions made with respect to a Plan Year on behalf of Eligible Participants who are Highly Compensated Employees for such Plan Year may not result in an average Deferral Ratio for such Eligible Participants that exceeds the greater of:

- (a) The average Deferral Ratio for the Plan Year of Eligible Participants who are Non-Highly Compensated Employees for the Plan Year multiplied by 1.25; or
- (b) The average Deferral Ratio for the Plan Year of Eligible Participants who are Non-Highly Compensated Employees for the Plan Year multiplied by two, provided that the average Deferral Ratio for Eligible Participants who are Highly Compensated Employees for the Plan Year being tested does not exceed the average Deferral Ratio for Participants who are Non-Highly Compensated Employees for the Plan Year by more than two percentage points.

The Deferral Ratios for an Eligible Participant who is a Highly Compensated Employee for the Plan Year being tested and who is eligible to have Includible Contributions allocated to his accounts under two or more cash or deferred arrangements described in Code section 401(k) that are maintained by the Employer or an Affiliated Employer, shall be determined as if such Includible Contributions were made under a single arrangement. If a Highly Compensated Employee participates in two or more cash or deferred arrangements that have different plan years, all cash or deferred arrangements ending with or within the same calendar year shall be treated as a single arrangement. Notwithstanding the foregoing, certain plans shall be treated as separate if mandatorily disaggregated under regulations under Code section 401(k).

If this Plan satisfies the requirements of Code section 401(k), 401(a)(4) or 410(b) only if aggregated with one or more other plans, or if one or more other plans satisfy the requirements of such Code sections only if aggregated with this Plan, then this Section shall be applied by determining the Deferral Ratios of Employees as if all such plans were a single plan. Plans may be aggregated in order to satisfy Code section 401(k) only if they have the same plan year.

The Employer shall maintain records sufficient to demonstrate satisfaction for the "ADP" test and the amount of Qualified Nonelective Employer Contributions used in such test.

The Trustee shall have no responsibility for conducting the ADP test or for initiating without direction from the Plan Administrator any corrective measures as a result of the Plan not satisfying the ADP test.

#### **12.7. Allocation and Distribution of Excess Contributions.**

Notwithstanding any other provision of this Plan, the Excess Contributions allocable to the Account of a Participant, plus any income and minus any loss allocable thereto, as determined under Section 12.8, less any amounts previously distributed to the Participant from the Plan to correct Excess Deferrals for the Participant's taxable year ending with or within the Plan Year, shall be distributed to the Participant no later than the last day of the Plan Year immediately following the Plan Year in which the Excess Contributions were made, except to the extent such Excess Contributions are classified as Catch-Up Contributions. Distribution of Elective Contributions that are Excess Contributions shall be made from the Participant's Pre-Tax Elective Contribution Account before the Participant's Designated Roth Contribution Account, to the extent Pre-Tax Elective Contributions were made for the year,

unless the Participant specifies otherwise. If such excess amounts are distributed more than 2 ½ months after the last day of the Plan Year in which the Excess Contributions were made, a ten-percent excise tax shall be imposed on the Employer maintaining the Plan with respect to such amounts.

The Excess Contributions allocable to a Participant's Account shall be determined by reducing the Includible Contributions made for the Plan Year on behalf of Eligible Participants who are Highly Compensated Employees in order of the dollar amount of such Includible Contributions, beginning with the highest dollar amount. To the extent a Highly Compensated Employee has not reached his Catch-Up Contribution limit under the Plan, Excess Contributions shall be Catch-Up Contributions and will not be classified as Excess Contributions.

Excess Contributions shall be treated as Annual Additions.

#### **12.8. Income or Loss on Excess Deferrals or Excess Contributions.**

The income or loss allocable to Excess Deferrals or Excess Contributions shall be determined under one of the following methods:

- (a) the sum of (1) the income or loss allocable to the Participant's Elective Contribution Account for the taxable year multiplied by a fraction, the numerator of which is the amount of the distributable contributions for the year and the denominator of which is the balance of the Participant's Elective Contribution Account, determined without regard to any income or loss occurring during the calendar year in which the Excess Deferrals distributable contributions were made and (2) 10 percent of the amount determined under (1) multiplied by the number of whole calendar months between the end of the Participant's taxable year and the date of distribution if distribution occurs after the 15th day of such month; or
- (b) the income or loss for the calendar year in which the distributable contributions were made determined under any other reasonable method, provided that such method is used consistently for all Participants in determining the income or loss allocable to distributable contributions hereunder for the Plan Year, and is used by the Plan in allocating income or loss to Participants' Accounts.

#### **12.9. Deemed Satisfaction of Actual Deferral Percentage Test.**

Notwithstanding any other provision of this Article 12 to the contrary, if the Adoption Agreement provides that the Plan is a safe harbor 401(k)/profit sharing plan, the Plan shall be deemed to have satisfied the "actual deferral percentage" test under Code section 401(k)(3) and the Treasury Regulations thereunder for each Plan Year. The Employer shall provide a notice to each Eligible Participant during each Plan Year describing the following:

- (a) the amount of the safe harbor nonelective Employer contribution to be made on behalf of Eligible Participants for the Plan Year who are Non-Highly Compensated Employees (which shall be equal to at least three percent of each such Eligible Participant's Compensation for the Plan Year);
- (b) any other Employer contributions provided under the Plan and any requirements that Eligible Participants must satisfy to be entitled to receive such Employer contributions;
- (c) the type and amount of Compensation that may be contributed to the Plan as Elective Contributions;
- (d) the procedures for making a cash or deferred election under the Plan and the periods during which such elections may be made or changed; and
- (e) the withdrawal and vesting provisions applicable to contributions under the Plan.

The descriptions required in (b) through (e) may be provided by cross references to the relevant sections of an up-to-date summary plan description. Such notice shall be written in a manner calculated to be understood by the average Eligible Participant. The Employer shall provide the notice to each Eligible Participant within one of the following periods, whichever is applicable:

- (f) if the Employee is an Eligible Participant 90 days before the beginning of the Plan Year, within the period beginning 90 days and ending 30 days before the first day of the Plan Year; or
- (g) if the Employee becomes an Eligible Participant after the date described in paragraph (f) above, within the period beginning 90 days before and ending on the date he becomes an Eligible Participant;

provided, however, that such notice shall not be required to be provided to an Eligible Participant earlier than is required under any guidance published by the Internal Revenue Service.

## Article 13. Top-Heavy Provisions

**13.1. Definitions.** For purposes of this Article, the following special definitions shall apply:

- (a) Determination Date. "Determination Date" means, for any Plan Year subsequent to the first Plan Year, the last day of the preceding Plan Year. For the first Plan Year of the Plan, "determination date" means the last day of that Plan Year.
  - (b) Key Employee. "Key Employee" means
    - (1) In determining whether the Plan is top-heavy for Plan Years beginning after December 31, 2001, any Employee or Former Employee (and the Beneficiary of any such Employee) who at any time during the Plan Year that includes the Determination Date is an officer of the Employer having annual Compensation greater than \$130,000 (as adjusted under Code section 416(i)(7) for Plan Years beginning after December 31, 2002), a 5-percent owner of the Employer, or a 1 percent owner of the Employer having an annual compensation of more than \$150,000;
    - (2) In determining whether the Plan is top-heavy for Plan Years beginning before January 1, 2002, any Employee or former Employee (and the Beneficiary of any such Employee) who at any time during the 5-year period ending on the Determination Date is (1) an officer of the Employer or an Affiliated Employer whose annual Compensation exceeds 50 percent of the dollar limitation under Code section 415(b)(1)(A), (2) one of the ten Employees whose annual Compensation from the Employer or an Affiliated Employer exceeds the dollar limitation under Code section 415(c)(1)(A) and who owns (or is considered as owning under Code section 318) one of the largest interests in the Employer and all Affiliated Employers, (3) a five percent owner of the Employer and all Affiliated Employers or (4) a one percent owner of the Employer and all Affiliated Employers whose annual Compensation exceeds \$150,000. The determination of who is a Key Employee shall be made in accordance with Code section 416(i)(1) and regulations issued thereunder.
- For purposes of this paragraph (b), annual Compensation means Compensation within the meaning of Section 12.1(b).
- (c) Permissive Aggregation Group. "Permissive Aggregation Group" means the Required Aggregation Group plus any other qualified plans of the Employer or an Affiliated Employer which, when considered as a group with the Required Aggregation Group, would continue to satisfy the requirements of Code sections 401(a)(4) and 410.
  - (d) Required Aggregation Group. "Required Aggregation Group" means:
    - (1) Each qualified plan of the Employer or Affiliated Employer in which at least one Key Employee participates, or has participated at any time during the Plan Year containing the Determination Date or any of the four preceding Plan Years (regardless of whether the plan has terminated), and
    - (2) any other qualified plan of the Employer or Affiliated Employer which enables a plan described in Section 13.1(e)(1) above to meet the requirements of Code section 401(a)(4) or 410.
  - (e) Top-Heavy Plan. "Top-Heavy Plan" means a plan in which any of the following conditions exists:
    - (1) the Top-Heavy Ratio for the plan exceeds 60 percent and the Plan is not part of any Required Aggregation Group or Permissive Aggregation Group;
    - (2) the plan is a part of a Required Aggregation Group but not part of a Permissive Aggregation Group and the Top-Heavy Ratio for the Required Aggregation Group exceeds 60 percent; or
    - (3) the plan is a part of a Required Aggregation Group and a Permissive Aggregation Group and the Top-Heavy Ratio for both groups exceeds 60 percent.
  - (f) Top-Heavy Ratio. "Top-Heavy Ratio" means:
    - (1) If the Employer maintains one or more defined contribution plans (including any simplified employee pension plan) and the Employer has not maintained any defined benefit plan which during the 1-year period (5-year period in determining whether the plan is top-heavy for plan years beginning before January 1, 2002) ending on the determination date(s) has or has had accrued benefits, the Top-Heavy

Ratio for this Plan alone or for the required or permissive aggregation group as appropriate is a fraction, the numerator of which is the sum of the account balances of all Key Employees as of the Determination Date(s) including any part of any account balance distributed in the 1-year period ending on the Determination Date(s) (5-year period ending on the Determination Date in the case of a distribution made for a reason other than severance from employment, death or disability and in determining whether the Plan is top-heavy for Plan Years beginning before January 1, 2002), and the denominator of which is the sum of all account balances (including any part of any account balance distributed in the 1-year period ending on the Determination Date(s)) (5-year period ending on the Determination Date in the case of a distribution made for a reason other than severance from employment, death or disability and in determining whether the Plan is top-heavy for Plan Years beginning before January 1, 2002), both computed in accordance with Code section 416 and the regulations thereunder. Both the numerator and denominator of the Top-Heavy Ratio are increased to reflect any contribution not actually made as of the Determination Date, but which is required to be taken into account on that date under Code section 416 and the regulations thereunder.

- (2) If the Employer maintains one or more defined contribution plans (including any simplified employee pension plan) and the Employer maintains or has maintained one or more defined benefit plans which during the 1-year period (5-year period in determining whether the Plan is top-heavy for Plan Years beginning before January 1, 2002) ending on the Determination Date(s) has or has had any accrued benefits, the Top-Heavy Ratio for any required or permissive aggregation group as appropriate is a fraction, the numerator of which is the sum of account balances under the aggregated defined contribution plan or plans for all Key Employees, determined in accordance with (1) above, and the present value of accrued benefits under the aggregated defined benefit plan or plans for all Key Employees as of the Determination Date(s), and the denominator of which is the sum of the account balances under the aggregated defined contribution plan or plans for all Participants, determined in accordance with (a) above, and the present value of accrued benefits under the defined benefit plan or plans for all participants as of the Determination Date(s), all determined in accordance with Code section 416 and the regulations thereunder. The accrued benefits under a defined benefit plan in both the numerator and denominator of the Top-Heavy Ratio are increased for any distribution of an accrued benefit made in the 1-year period ending on the Determination Date (5-year period ending on the Determination Date in the case of a distribution made for a reason other than severance from employment, death or disability and in determining whether the Plan is top-heavy for Plan Years beginning before January 1, 2002).
- (3) For purposes of (1) and (2) above the value of account balances and the present value of accrued benefits will be determined as of the most recent valuation date that falls within or ends with the 12-month period ending on the Determination Date, except as provided in Code section 416 and the regulations thereunder for the first and second plan years of a defined benefit plan. The account balances and accrued benefits of a Participant (1) who is not a Key Employee but who was a Key Employee in a prior year, or (2) who has not been credited with at least one hour of service with any employer maintaining the plan at any time during the 1-year period (five-year period in determining whether the Plan is top-heavy or Plan Years beginning before January 1, 2002) ending on the Determination Date will be disregarded. The calculation of the Top-Heavy Ratio, and the extent to which distributions, rollovers, and transfers are taken into account will be made in accordance with Code section 416 and the regulations thereunder. Deductible employee contributions will not be taken into account for purposes of computing the Top-Heavy Ratio. When aggregating plans the value of account balances and accrued benefits will be calculated with reference to the determination dates that fall within the same year.

The accrued benefit of a Participant other than a Key Employee shall be determined under (a) the method, if any, that uniformly applies for accrual purposes under all defined benefit plans maintained by the Employer, or (b) if there is no such method, as if such benefit accrued not more rapidly than the slowest accrual rate permitted under the fractional rule of Code section 411(b)(1)(C).

**13.2. Minimum Contribution.** Except as otherwise specifically provided in this Section 13.2, the nonelective Employer contributions made for the Plan Year on behalf of any Eligible Participant who is not a Key Employee shall not be less than the lesser of three percent of such Participant's Compensation for the Plan Year or, in the case where neither the Employer nor any Affiliated Employer maintains a defined benefit plan which uses the Plan to satisfy Code section 401(a)(4) or 410, the largest percentage of employer contributions (including Elective Contributions) made on behalf of any Key Employee for the Plan Year, expressed as a percentage of the Key Employee's Compensation for the Plan Year.

The minimum contribution required under this Section 13.2 shall be made to the Account of an Eligible Participant even though, under other Plan provisions, the Participant would not otherwise be entitled to receive a contribution, or would have received a lesser contribution for the Plan Year; provided, however, that no minimum contribution shall be made for a Plan Year to the Account of an Active Participant who is not employed by the Employer or an Affiliated Employer on the last day of the Plan Year.

The minimum contribution for the Plan Year made on behalf of each Eligible Participant who is not a Key Employee and who is a participant in a defined benefit plan maintained by the Employer or an Affiliated Employer shall not be less than five percent of such Participant's Compensation for the Plan Year.

That portion of a Participant's Account that is attributable to minimum contributions required under this Section 13.2, to the extent required to be non-forfeitable under Code section 416(b), may not be forfeited under Code section 411(a)(3)(B).

Notwithstanding any other provision of the Plan to the contrary, for purposes of this Article, Compensation shall include amounts that are not includable in the gross income of the Participant under a salary reduction agreement by reason of the application of Code section 125, 132(f)(4), 402(e)(3), 402(h), or 403(b). Compensation shall generally be based on the amount actually paid to the Eligible Participant during the Plan Year.

**13.3. Application.** If the Adoption Agreement provides that the Plan is a standardized 401(k)/profit sharing plan and the Plan is or becomes a Top-Heavy Plan in any Plan Year, the provisions of this Article shall apply and shall supersede any conflicting provision of the Plan. Notwithstanding the foregoing, if the Adoption Agreement provides that the Plan is a safe harbor 401(k)/profit sharing plan, a money purchase plan, or a profit sharing plan (without a 401(k) feature), the Plan is deemed to be top heavy within the meaning of Code section 416 and satisfies the requirements for a top-heavy plan under Code section 416 and the Treasury Regulations thereunder without regard to this Article 13.

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## Article 14. Rights and Duties of Trustees

**14.1. Establishment of Trust.** The Trustee shall accept and hold in the Trust such contributions by or on behalf of Participants as it may receive from time to time from the Employer together with the earnings thereon, and shall open and maintain records of contributions to and withdrawals from the Accounts for such individuals as the Employer shall from time to time certify to it, by name and Social Security number, as Participants in the Plan.

**14.2. Exclusive Benefit and Return of Employer Contributions.** In accordance with Code section 401(a)(2) and ERISA section 403(c) (if applicable), the Trustee shall hold the assets of the Trust for the exclusive purpose of providing benefits to Participants and Beneficiaries and defraying the reasonable expenses of administering the Plan, and no such assets shall ever revert to the Employer except that if the Employer or the Plan Administrator so direct:

- (a) contributions made by the Employer by mistake of fact may be returned to the Employer within 1 year of the date of payment,
- (b) contributions that are conditioned on the deductibility thereof under Code section 404 may be returned to the Employer within 1 year of the disallowance of the deduction,
- (c) contributions that are conditioned on the initial qualification of the Plan under the Code may be returned to the Employer within 1 year after such qualification is denied by determination of the Internal Revenue Service, but only if an application for determination of such qualification is made within the time prescribed by law for filing the Employer's federal income tax return for its taxable year in which the Plan is adopted, or such later date as the Secretary of the Treasury may prescribe, and

- (d) amounts held in a suspense account (as described in Section 12.2(c)) may be returned to the Employer on termination of the Plan, to the extent that they may not then be allocated to any Participant's Account in accordance with Article 12.

All contributions under the Plan are hereby expressly conditioned on the initial qualification of the Plan and their deductibility under the Code.

**14.3. Reports of the Trustee and the Employer.** Not later than 120 days after the close of each Plan Year where the Plan Year is the calendar year (or after the Trustee's resignation or removal pursuant to Section 14.6), the Trustee shall furnish to the Employer a written report containing such information as shall be reasonably necessary to complete reports and disclosures required of the Employer pursuant to ERISA, including, without limitation, records of the transactions performed in connection with the Plan during the period in question, and either a statement of the fair market value of the assets of each Participant's Account as of the end of the period, or information adequate to permit the Employer to compare such value. Upon the expiration of 60 days following the date on which such a report is furnished to the Employer, the Trustee shall be forever released and discharged from all liability and accountability to anyone with respect to its acts, transactions, duties, obligations or responsibilities as shown in or reflected by such report, except with respect to any such acts or transactions as to which the Employer shall have filed written objections within such 60-day period or as otherwise required by law. With respect to a Plan Year on other than a calendar basis, the Trustee shall provide the reports described herein upon request.

The Employer shall be responsible for the preparation and filing of such reports and disclosures as may be required by ERISA, and for providing notice to interested parties as required by Code section 7476. The Employer shall also prepare any return or report required as a result of liability incurred by the Plan for tax on unrelated business taxable income, or windfall profits tax, or any return or report necessary to preserve the availability of any credit or deduction with respect thereto.

**14.4. Fees and Expenses of the Trust.** The Trustee shall be entitled to the fees set forth in the materials provided to Participants by the Trustee, as amended from time to time, and to reimbursement of all reasonable expenses incurred in the performance of its duties. If the Employer fails to pay agreed compensation or to reimburse expenses, the same shall be paid from the assets of the Trust. To the extent incurred by the Trustee, any income, gift, estate and inheritance taxes and other taxes of any kind whatsoever (including transfer taxes incurred in connection with the investment or reinvestment of the assets of the Trust) that may be levied or assessed in respect of such assets, if allocable to specific Participants, shall be charged to their Accounts, and if not so allocable shall be charged proportionately to all Participants' Accounts. All other administrative expenses incurred by the Trustee in the performance of its duties, including fees for legal services rendered to the Trustee, shall be charged proportionately to all Accounts. All such fees and taxes and other administrative expenses charged to a Participant's Account shall be collected from the amount of any contribution or distribution to be credited to such Account, or by selling assets credited to such Account, and the Trustee is expressly authorized to liquidate any assets held in a Participant's Account for the purpose of paying such amounts. The Trustee shall not be deemed to be exercising discretion by causing the sale of any such assets to pay such fees or expenses. The Employer shall be responsible for payment of any deficiency.

**14.5. Limitation of Duties and Liabilities.** The Trustee shall not be responsible in any way for the collection of contributions provided for under the Plan, the purpose or propriety of any distribution made pursuant to Article 7 or any other action or nonaction taken pursuant to the request of the Employer, the Plan Administrator, a Participant or a Beneficiary; the validity or effect of the Plan and Trust Agreement; the qualification of the Plan or the Trust under the Code and ERISA; or the examination of the Plan by the Internal Revenue Service or the Department of Labor. The Employer and the executor, administrator, or successor of the Employer, as appropriate, shall at all times fully indemnify and save harmless the Trustee, and its successors and assigns from any liability arising from distributions so made or actions so taken, and from any and all liability whatsoever which may arise in connection with the Plan, except liability arising from the gross negligence or willful misconduct of the Trustee.

The Trustee shall not be under any duty to take any action other than as herein specified with respect to the Trust, unless the Employer shall furnish the Trustee with instructions in proper form and such instructions shall have been specifically agreed to by the Trustee, or to defend or engage in any suit

with respect to the Trust unless the Trustee shall have first agreed to do so and shall have been fully indemnified to its satisfaction.

The Trustee and its agents may conclusively rely upon and shall be protected in acting upon any written order from the Employer or its delegate or any other notice, request, consent, certificate or other instrument or paper believed by it to be genuine and to have been properly executed, and, so long as it acts in good faith, in taking or omitting to take any other action. The Trustee may delegate to one or more corporations the performance of record-keeping and other ministerial services in connection with the Plan, for a reasonable fee to be borne by the Trustee and not by the Plan or the Trust. Any such agent's duties and responsibilities shall be confined solely to the performance of such services, and shall continue only for so long as the Trustee named in the Adoption Agreement serves as Trustee. The Trustee shall not have any liability with respect to money transferred to an insurance company pursuant to the Plan.

**14.6. Substitution, Resignation or Removal of Trustee.** The Prototype Sponsor may at any time appoint as a substitute for the Trustee named in the Adoption Agreement another institution that is a bank or is a nonbank trustee that has received approval from the Internal Revenue Service; provided that the Prototype Sponsor shall notify the Employer in writing at least 30 days in advance of the effective date of any such appointment. The Trustee may resign at any time upon 30 days' notice in writing to the Employer, and may be removed by the Employer at any time upon 30 days' notice in writing to the Trustee. Upon resignation of the Trustee, the Prototype Sponsor may propose a successor trustee. Upon removal of the Trustee, the Employer shall appoint a successor Trustee, but in that event the Plan shall be considered an individually designed plan for purposes of Section 10.2. Upon receipt by the Trustee of written acceptance of appointment by a substitute or successor trustee, the Trustee shall transfer and pay over to such successor the assets of the Trust. The Trustee is authorized, however, to reserve such sum of money or property as it may deem advisable for payment of all its fees, compensation, costs and expenses, or for payment of any other liabilities constituting a charge on or against the assets of the Trust or on or against the Trustee, with any balance of such reserve remaining after the payment of all such items to be paid over to the substitute or successor trustee. The Trustee and the Prototype Sponsor shall not be liable for the acts or omissions of any substitute or successor trustee. If within 90 days after the Trustee's resignation or removal a successor Trustee has not been appointed, the Trustee shall terminate the Trust pursuant to Section 10.6. The Trustee named in the Adoption Agreement has accepted its appointment, and intends to serve, only for so long as the Employer's plan is a Prototype Plan. If the Plan is no longer a Prototype Plan, the Trustee shall resign in accordance with this Section 14.6. Notwithstanding the foregoing, any successor to the Trustee or successor trustee, either through sale or transfer of the business or trust department of the Trustee or successor trustee, or through reorganization, consolidation, or merger, or any similar transaction of either the Trustee or successor trustee, shall, upon consummation of the transaction, become the successor trustee under this Agreement.

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## Article 15. Transitional Rules

**15.1. Applicability.** The provisions of this Article 15 apply only to Employers who maintained a qualified retirement plan prior to the adoption of this Plan and which was the predecessor plan to this Plan.

**15.2. Joint and Survivor Annuity Rules Applicable to Prior Participants.** Any living Participant not receiving benefits on August 23, 1984, who would otherwise be entitled to but would not receive the benefits prescribed by Sections 8.3 and 8.4, must be given the opportunity to elect to have Article 8 apply, if such Participant is credited with at least one Hour of Service under this Plan or a predecessor plan in a Plan Year beginning on or after January 1, 1976, and such Participant had at least 10 Years of Service when he separated from service. Any living Participant not receiving benefits on August 23, 1984, who was credited with at least one Hour of Service under this Plan or a predecessor plan on or after September 2, 1974, and who is not otherwise credited with any service in a Plan Year beginning on or after January 1, 1976, must be given the opportunity to have his benefits paid in accordance with this Section 15.2. The respective opportunities to elect (as described in the two preceding sentences) must be afforded to the appropriate Participants during the period commencing on August 23, 1984, and ending on the date benefits would otherwise commence to said Participants. Notwithstanding the preceding sentences, such a Participant will not have the opportunity to have his benefits paid in accordance with this

Section 15.2 if his Annuity Starting Date is later than the earlier of (i) the 90th day after notice that the forms of benefit described in this Section 15.2 will no longer be available is provided in accordance with Treasury Regulation section 1.411(d)-4 Q&A-2(e)(1)(i) and (B) the first day of the second Plan Year following the Plan Year in which such forms of benefit are eliminated by amendment.

Any Participant who has elected pursuant to the second sentence of this Section 15.2 to have Article 8 apply, and any Participant who does not so elect under the first sentence of this Section 15.2, or who meets the requirements of the first sentence except that he does not have at least 10 Years of Service when he separates from service, shall have his benefits distributed in accordance with all of the following requirements, if benefits would have been payable in the form of a life annuity:

- (a) Automatic joint and survivor annuity. If benefits in the form of a life annuity become payable to a married Participant who:
  - (1) begins to receive payments under the Plan on or after Normal Retirement Age; or
  - (2) dies on or after Normal Retirement Age while still working for the Employer; or
  - (3) begins to receive payments on or after the qualified early retirement age; or
  - (4) separates from service on or after attaining Normal Retirement Age (or the qualified early retirement age) and after satisfying the eligibility requirements for the payment of benefits under the Plan and thereafter dies before beginning to receive such benefits;

then such benefits shall be received under the Plan in the form of a qualified joint and survivor annuity, unless the Participant has elected otherwise during his election period. The election period must begin at least six months before the Participant attains the qualified early retirement age and end not more than 90 days before the commencement of benefits. Any election hereunder shall be made in writing and may be changed by the Participant at any time.

- (b) Election of early survivor annuity. A Participant who is employed after attaining the qualified early retirement age shall be given the opportunity to elect, during the election period, to have a survivor annuity payable on death. If the Participant elects the survivor annuity, payments under such annuity must not be less than the payments which would have been made to the spouse under the qualified joint and survivor annuity if the Participant had retired on the day before his death. Any election under this provision shall be made in writing and may be changed by the Participant at any time.
- (c) For purposes of this Section 15.2:
  - (1) "Qualified early retirement age" is the latest of (i) the earliest date, under the Plan, on which the Participant may elect to receive retirement benefits, (ii) the first day of the 120th month beginning before the Participant reaches Normal Retirement Age, or (iii) the date the Participant begins participation.
  - (2) "Qualified joint and survivor annuity" is an annuity for the life of the Participant with a survivor annuity for the life of the spouse, as described in Section 8.1(d).
  - (3) "Election period" begins on the later of (i) the 90th day before the Participant attains the qualified early retirement age, or (ii) the date on which participation begins, and ends on the date the Participant terminates employment.

**15.3. Certain Distributions under Pre-1984 Designations.** Subject to the requirements of Article 8, and notwithstanding the provisions of Article 9, distribution on behalf of any Participant, including a 5-percent owner, may be made in accordance with all of the following requirements (regardless of when such distribution commences):

- (a) The distribution by the Trust is one which would not have disqualified the trust under Code section 401(a)(9) as in effect prior to amendment by the Deficit Reduction Act of 1984.
- (b) The distribution is in accordance with a method of distribution designated by the Employee whose Account is being distributed or, if the Employee is deceased, by a Beneficiary of such Employee.
- (c) Such designation was in writing, was signed by the Employee or the Beneficiary, and was made before January 1, 1984.

- (d) The Employee had an Account balance under the Plan as of December 31, 1983.
- (e) The method of distribution designated by the Employee or the Beneficiary specifies the time at which distribution will commence, the period over which distributions shall be made, and in the case of any distribution upon the Employee's death, the Beneficiaries of the Employee listed in order of priority.

A distribution upon death shall not be covered by this transitional rule unless the information in the designation contains the required information described above with respect to the distributions to be made upon the death of the Employee. For any distribution that commences before January 1, 1984, but continues after December 31, 1983, the Employee or the Beneficiary to whom such distribution is being made shall be presumed to have designated the method of distribution under which the distribution is being made if the method of distribution was specified in writing and the distribution satisfies the requirements in subsections (a) and (e). If a designation is revoked, any subsequent distribution must satisfy the requirements of Code section 401(a)(9) and the Treasury Regulations thereunder. If a designation is revoked after the date distributions are required to begin, the Trust must distribute by the end of the calendar year following the calendar year in which the revocation occurs the total amount not yet distributed which would have been required to have been distributed to satisfy Code section 401(a)(9) and the Treasury Regulations thereunder, but for the designation described in paragraphs (b) through (e). For calendar years beginning after December 31, 1988, such distributions must meet the minimum distribution incidental benefit requirements in Treasury Regulation section 1.401(a)(9)-2. Any changes in the designation generally shall be considered to be a revocation of the designation, but the mere substitution or addition of another beneficiary (one originally not named in the designation) under the designation will not be considered to be a revocation of the designation, so long as such substitution or addition does not alter the period over which distributions are to be made under the designation, directly or indirectly (for example, by altering the relevant measuring life). In the case of an amount transferred or rolled over from one plan to another plan, the rules in Q&A J-2 and Q&A J-3 of Treasury Regulation section 1.401(a)(9)-1 shall apply.

**15.4. Other Protected Benefits.** If a Participant's vested Account balance is subject to any optional form of benefit (including an in-service withdrawal) not currently offered under the Plan, such Participant shall be entitled to elect such optional form of benefit until the earlier of (A) the 90th day after notice that such optional benefit will no longer be available is provided in accordance with Treasury Regulation section 1.411(d)-4 Q&A-2(e)(1)(i) and (B) the first day of the second Plan Year following the Plan Year in which the amendment eliminating such optional form of benefit is adopted.





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

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

Plan Description: Prototype Standardized Money Purchase Pension Plan  
EPN: 31218740003-002 Case: 200600570 EIN: 04-2033129  
Letter Serial No: M280112a  
Date of Submission: 01/30/2006

FIDELITY MANAGEMENT & RESEARCH CO  
82 DEVONSHIRE STREET  
BOSTON, MA 02109

Contact Person:  
Janell Hayes/Leticia Young  
Telephone Number:  
513-263-3602/513-263-3584  
In Reference To:  
TRIM:EP:7521  
Date: 03/31/2008

Dear Applicant:

In our opinion, the form of the plan identified above is acceptable under section 401 of the Internal Revenue Code for use by employers for the benefit of their employees. This opinion relates only to the acceptability of the form of the plan under the Internal Revenue Code. It is not an opinion of the effect of other Federal or local statutes.

You must furnish a copy of this letter, a copy of the approved plan, and copies of any subsequent amendments to each employer who adopts this plan.

This letter considers the changes in qualification requirements contained in the 2004 Cumulative List of Notice 2004-84, 2004-2 C.B. 1030.

Our opinion on the acceptability of the form of the plan is not a ruling or determination as to whether an employer's plan qualifies under Code section 401(a). The employer can generally rely on the letter as described in Rev. Proc. 2005-16, 2005-1 C.B. 674, provided the terms of the plan are followed in operation, and thus Employee Plans Determinations, except as provided below, will not issue a determination letter to an employer who adopts this plan. Please review Announcement 2008-23 I.R.B. 2008-14 to determine the items necessary for filing an application for a determination letter if one is required for reliance, or is otherwise desired. Generally, the employer may request a determination letter by filing an application with Employee Plans Determinations on Form 5307, Application for Determination for Adopters of Master or Prototype or Volume Submitter Plans.

Our opinion does not apply for purposes of Code section 401(a)(10)(B) and section 401(a)(16) if an employer ever maintained another qualified plan for one or more employees who are covered by this plan. For this purpose, the employer will not be considered to have maintained another plan merely because the employer has maintained another defined contribution plan(s), provided such other plan(s) has been terminated prior to the effective date of this plan and no annual additions have been credited to the account of any participant under such other plan(s) as of any date within the limitation year of this plan. See section 19.01(l) of Rev. Proc. 2005-16, 2005-1 C.B. 674, regarding standardized defined contribution plans and the repeal of Code section 415(e). Our opinion also does not apply for purposes of Code section 401(a)(16) if, after December 31, 1985, the employer maintains a welfare benefit fund defined in Code section 419(e), which provides postretirement medical medical benefits allocated to separate accounts for key employees as defined in Code section 419A(d)(3), or an individual medical account as defined in Code section 415(l)(2).

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Letter 4333

pts this plan may not rely on this opinion letter with respect to: (1) whether any amendment to the plan satisfies the nondiscrimination requirements of section 1.401(a)(4)-5(a) of except with respect to plan amendments granting past service that meet the safe harbor described in section 1.401(a)(4)-5(a)(5) and are not part of a pattern of amendments that significantly discriminates in favor of highly compensated employees; or (2) whether the plan satisfies the effective availability requirement of section 1.401(a)(4)-4(c) of the regulations with respect to any benefit, right or feature.

An employer that adopts this plan as an amendment to a plan other than a standardized plan may not rely on this opinion letter with respect to whether a benefit, right or other feature that is prospectively eliminated satisfies the current availability requirements of section 1.401(a)(4)-4 of the regulations.

The employer may request a determination (1) as to whether the plan, considered with all related qualified plans and, if appropriate, welfare benefit funds and individual medical benefit accounts, satisfies the requirements of Code section 401(a)(16) as to limitations on benefits and contributions in Code section 415 and the requirements of Code section 401(a)(10)(B) as to the top-heavy plan requirements in Code section 416; (2) regarding the nondiscriminatory effect or grants of past service; and (3) with respect to whether a prospectively eliminated benefit, right or feature satisfies the current availability requirements. The employer may request a determination letter by filing an application with Employee Plans Determinations on Form 5307, Application for Determination for Adopters of Master or Prototype or Volume Submitter Plans.

If you, the master or prototype sponsor, have any questions concerning the IRS processing of this case, please call the above telephone number. This number is only for use of the sponsor. Individual participants and/or adopting employers with questions concerning the plan should contact the master or prototype sponsor. The plan's adoption agreement must include the sponsor's address and telephone number for inquiries by adopting employers.

If you write to the IRS regarding this plan, please provide your telephone number and the most convenient time for us to call in case we need more information. Whether you call or write, please refer to the Letter Serial Number and File Folder Number shown in the heading of this letter.

You should keep this letter as a permanent record. Please notify us if you modify or discontinue sponsorship of this plan.

Sincerely yours,

Andrew Zuckerman  
Director,  
Employee Plans Rulings and Agreements



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

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

Plan Description: Prototype Standardized Profit Sharing Plan with CODA  
FPN: 31218740003-001 Case: 2006000564 EIN: 04-2033129  
Letter Serial No: M280106a  
Date of Submission: 01/30/2006

FIDELITY MANAGEMENT & RESEARCH CO  
82 DEVONSHIRE STREET  
ROXTON, MA 02109

Contact Person:  
Janell Hayes/Leticia Young  
Telephone Number:  
513-263-3602/513-263-3584  
In Reference To:  
TRGE:EP:7521  
Date: 01/31/2006

Dear Applicant:

In our opinion, the form of the plan identified above is acceptable under section 401 of the Internal Revenue Code for use by employers for the benefit of their employees. This opinion relates only to the acceptability of the form of the plan under the Internal Revenue Code. It is not an opinion of the effect of other Federal or local statutes.

You must furnish a copy of this letter, a copy of the approved plan, and copies of any subsequent amendments to each employer who adopts this plan.

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Letter 4333

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Sincerely yours,

Andrew Zuckerman  
Director,  
Employee Plans Rulings and Agreements



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

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

Plan Description: Prototype Standardized Profit Sharing Plan with CODA  
PPN: 11218740003-003 Case: 200600573 EIN: 04-2033129  
Letter Serial No: M280114  
Date of Submission: 01/30/2006

FIDELITY MANAGEMENT & RESEARCH CO  
82 DEVONSHIRE STREET  
BOSTON, MA 02109

Contact Person:  
Janell Hayes/Leticia Young  
Telephone Number:  
512-263-3602/512-263-3584  
In Reference To:  
TEDE:EP-7521  
Date: 01/31/2006

Dear Applicant:

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& RESEARCH CO

Letter 4333

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Sincerely yours,

Andrew Zuckerman  
Director,  
Employee Plans Rulings and Agreements



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

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

Plan Description: Prototype Standardized Profit Sharing Plan with CODA  
PFN: 31218740003-004 Case: 200600576 EIN: 04-2033129  
Letter Serial No: M2R01188  
Date of Submission: 01/30/2006

FIDELITY MANAGEMENT & RESEARCH CO  
82 DEVONSHIRE STREET  
BOSTON, MA 02109

Contact Person:  
Janell Hayes/Leticia Young  
Telephone Number:  
513-263-3602/513-263-3584  
In Reference To:  
TEOB:EP-7521  
Date: 01/31/2008

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RESEARCH CO

An employer that adopts this plan may not rely on this opinion letter with respect to: (1) whether any amendment or series of amendments to the plan satisfies the nondiscrimination requirements of section 1.401(a)(4)-5(a) of the regulations, except with respect to plan amendments granting past service that meet the safe harbor described in section 1.401(a)(4)-5(a)(5) and are not part of a pattern of amendments that significantly discriminates in favor of highly compensated employees; or (2) whether the plan satisfies the effective availability requirement of section 1.401(a)(4)-4(c) of the regulations with respect to any benefit, right or feature.

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Sincerely yours,

Andrew Zuckerman  
Director,  
Employee Plans Rulings and Agreements

## **RE: Normal Retirement Age for Money Purchase Plans**

This amendment was adopted as a good faith interim amendment to comply with Treasury Regulation section 1.401(a)-1(b)(2), as contemplated by Internal Revenue Service Notice 2007-69 and is intended to be construed in accordance with such Notice. The amendment shall be effective for Plan Years that begin after June 30, 2008.

Supersession of Inconsistent Provisions. This amendment shall supersede the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this amendment.

The definition of "Normal Retirement Age" in Section 2.26 is amended to read in its entirety as follows:

2.26 Normal Retirement Age. "Normal Retirement Age" means age 59½; provided, however, that if the Adoption Agreement provides that the Plan is a money purchase plan, and age 59½ is earlier than the earliest age that is reasonably representative of the typical retirement age for the industry in which the Employees perform services, "Normal Retirement Age" means age 62.

## **Re: Code section 415 Final Regulations**

### **Preamble**

**Adoption and Effective Date of Amendment.** This amendment of the Plan is adopted to reflect the final regulations under the Internal Revenue Code (Code) section 415. This amendment is intended as good-faith compliance with the requirements of Code section 415 and is to be construed in accordance with the guidance issued thereunder. This amendment shall be effective for Limitation Years that begin on or after July 1, 2007.

**Supersession of Inconsistent Provisions.** This amendment shall supersede the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this amendment.

1. Section 12.1(a) "Annual Additions" is amended by adding the following sentence to the end thereof:

"A "restorative payment" as defined in Treasury Regulation section 1.415(c)-1(b)(2)(ii)(c) shall not be included as an Annual Addition."

2. The definition of "Compensation" in Section 12.1(b) is amended to add to the end thereof the following text:

"For any Self-Employed Individual, Compensation shall mean earned income (as described in Code section 401(c)(2) and the Treasury Regulations promulgated thereunder), plus amounts deferred at the election of the Self-Employed Individual that would be includible in gross income but for the rules of section 402(e)(3), 402(h)(1)(B), 402(k), or 457(b).

For Limitation Years beginning on or after July 1, 2007, Compensation for a Limitation Year shall also include compensation paid by the later of 2½ months after an Employee's severance from employment with the Employer maintaining the Plan or the end of the Limitation Year that includes the date of the Employee's severance from employment with the Employer maintaining the Plan, if:

- (1) the payment is regular compensation for services during the Employee's regular working hours, or compensation for services outside the Employee's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments, and, absent a severance from employment, the payments would have been paid to the Employee while the Employee continued in employment with the Employer; or
- (2) the payment is for unused accrued bona fide sick, vacation, or other leave that the Employee would have been able to use if employment had continued.

Any payments not described above shall not be considered Compensation if paid after severance from employment, even if they are paid by the later of 2½ months after the date of severance from employment or the end of the Limitation Year that includes the date of severance from employment, except (a) payments to an individual who does not currently perform services for the Employer by reason of qualified military service (within the meaning of Code section 414(u)(1)) to the extent these payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the Employer rather than entering qualified military service; or (b) compensation paid to a Participant who is permanently and totally disabled, as defined in Code section 22(e)(3), provided salary continuation applies to all Participants who are permanently and totally disabled for a fixed or determinable period, or the Participant was not a highly compensated employee, as defined in Code section 414(q), immediately before becoming disabled.

Back pay, within the meaning of section 1.415(c)-2(g)(8) of the Treasury Regulations, shall be treated as Compensation for the Limitation Year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.

Compensation shall not include amounts paid as compensation to a nonresident alien, as defined in Code section 7701(b)(1)(B), who is not a Participant in the Plan to the extent the compensation is excludable from gross income and is not effectively connected with the conduct of a trade or business within the United States.

For Limitation Years beginning on or after July 1, 2007, Compensation shall be limited to amounts not in excess of the limit of Code section 401(a)(17) as amended."

3. Section 12.1(o)(2) is amended by adding the following sentence to the end thereof:

"If a Plan is terminated effective as of a date other than the last day of the Plan's Limitation Year, the Plan is treated as if the Plan were amended to change its Limitation Year."

4. The last sentence of Section 12.2 (including paragraphs (a) through (e) of Section 12.2) is deleted and replaced with the following:

"If, pursuant to the last sentence of the preceding paragraph or as a result of the allocation of forfeitures, there is an Excess Amount, such Excess Amount may be corrected through the Internal Revenue Service Employee Plans Compliance Resolution System (EPCRS) or any successor program or as otherwise permitted by Internal Revenue Service guidance."

## Re: Pension Protection Act of 2006 Heroes Earnings Assistance and Relief Tax Act of 2008, and Worker, Retiree, and Employer Recovery Act of 2008

### PREAMBLE

**Adoption and Effective Date of Amendment.** This amendment of the Plan is adopted to reflect certain statutory changes pursuant to the Pension Protection Act of 2006 ("PPA"), the Heroes Earnings Assistance and Relief Tax Act of 2008 ("HEART"), the Worker, Retiree, and Employer Recovery Act of 2008 ("WRERA"), and related guidance. This amendment is intended as good faith compliance with the requirements of these statutory changes and is to be construed in accordance with guidance issued thereunder.

Except as provided otherwise below, the amendments contained herein shall be effective for Plan Years beginning after December 31, 2006.

**Supersession of Inconsistent Provisions.** This amendment shall supersede the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this amendment.

**1. Nonspouse Beneficiary Rollovers.** Effective for distributions after December 31, 2006, a designated beneficiary (as defined in Code section 401(a)(9)(E)) of a Participant who is not the surviving spouse of the Participant may elect to directly roll over such distribution to an inherited individual retirement account or annuity as described in clause (i) or (ii) of paragraph (8)(B) of Code section 402(c) established for the purposes of receiving such a distribution.

**2. Roth IRA.** Effective for distributions after December 31, 2007, a Roth IRA described in Code section 408A shall be an "eligible retirement plan," as defined in Article 7.10(a)(2).

**3. Employee Contributions.** Effective for taxable years beginning after December 31, 2006, the portion of an "eligible rollover distribution" as described in Article 7.10(a)(1) consisting of after-tax Employee Contributions that are not includable in gross income may be rolled over in a direct rollover distribution to an annuity contract described in Code section 403(b), provided such contract provides for separate accounting of amounts so transferred (and earnings thereon).

**4. Qualified Optional Survivor Annuity.** Notwithstanding anything herein to the contrary, if Article 8 is applicable to the Plan, then, effective for Plan Years beginning after December 31, 2007, (subject to the effective date applicable in the event that the Plan is maintained pursuant to a collective bargaining agreement under certain circumstances, as described in section 4.1, below) the Plan shall also permit the Participant, subject to the spousal consent rules described in Article 8.1(c), to elect a qualified optional survivor annuity, which provides for a life annuity payable to the Participant and a survivor annuity payable to the Participant's beneficiary equal to 75%.

4.1 Notwithstanding the effective date described above in this Article 4, if the Plan is maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified on or before August 17, 2006, then this Article 4 shall be effective for Plan Years beginning on and after the earlier of:

(a) The later of:

(i) January 1, 2008, or

(ii) The date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after August 17, 2006, or

(b) January 1, 2009.

### 5. Transfers to the Pension Benefit Guarantee Corporation upon

**Plan Termination.** In the event that the Employer terminates the Plan, as described in Articles 10.6 and 10.7, and, at the time, the whereabouts of one or more distributees are unknown, and the Employer so directs the Trustee, subject to applicable guidance, the Trustee shall transfer the Accounts of such distributees to the Pension Benefit Guarantee Corporation.

### 6. Removal of Income or Loss on Excess Contribution or Excess

**Deferrals.** Effective for Plan Years beginning after December 31, 2007, notwithstanding anything in the Basic Plan Document or Adoption Agreement (including addenda thereto) to the contrary, the calculation of income or loss allocable to "excess deferrals" or "excess contributions" shall be determined without regard to the period of time elapsing between the end of the "determination year" and the date of distribution.

**7. Notice Timing Adjustment.** Effective for Plan Years (and the notices issued therein) beginning after December 31, 2006, references to a period of "90" days in Articles 7.6(b) and 8.5 are hereby changed to "180" days in the text of each such articles.

**8. Qualified Reservist Distribution.** Notwithstanding anything herein to the contrary, effective September 11, 2001, a Participant ordered or called to active duty for a period in excess of 179 days or for an indefinite period after September 11, 2001, by reason of being a member of a reserve component (as defined in section 101 of title 37, United States Code), shall be eligible to elect to receive a Qualified Reservist Distribution. For purposes of this Article 8, a "Qualified Reservist Distribution" means a distribution from the Participant's Account of amounts attributable to Deferral Contributions, provided such distribution is made during the period beginning on the date of the order or call to active duty and ending at the close of the active duty period.

## Re: The Heroes Earnings Assistance and Relief Act of 2008, The Worker, Retiree and Employee Recovery Act of 2008 And The Emergency Economic Stabilization Act of 2008

### Preamble

**Adoption and Effective Date of Amendment.** This amendment of the Plan is adopted to reflect statutory changes pursuant to the Heroes Earnings Assistance and Relief Act of 2008 ("HEART"), the Worker, Retiree and Employee Recovery Act of 2008 ("WRERA"), the Emergency Economic Stabilization Act of 2008 ("EESA"), and related guidance. This amendment is intended as good faith compliance with the requirements of the HEART, WRERA and EESA and is to be construed in accordance with guidance issued thereunder.

Except as provided otherwise below, the amendments contained herein shall be effective for Plan Years beginning after December 31, 2008.

**Supersession of Inconsistent Provisions.** This amendment shall supersede the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this amendment.

### Article 1 Death of Participant While Performing Qualified Military Service.

In the case of a Participant who dies on or after January 1, 2007 while performing qualified military service as defined in Code Section 414(u)(5) ("QMS"), such Participant shall be treated (except as otherwise provided in Article 2 for purposes of benefit accruals related to QMS as described in Code Section 414(u)(9)) under the Plan as having resumed employment with the Employer and then terminated employment on account of death.

**Article 2 Treatment of QMS for Other Benefit Accrual Purposes.** Participants dying and/or becoming disabled while performing QMS on or after January 1, 2007 shall not be treated as having resumed employment pursuant to Section 11.9 of the Plan on the day prior to dying or becoming disabled for purposes of calculating contributions pursuant to Code Section 414(u)(9).

**Article 3 Differential Wages.** For purposes of this Amendment, "Differential Wages" shall be defined as wages paid to an Employee by the Employer with regard to military service meeting the definition of differential wage payment found in Code Section 3401(h)(2).

- 3.1 Effective for wages paid after 12/31/2008, Differential Wages shall be specifically included in the definition of Compensation under the Plan.
- 3.2 Compensation shall not include Differential Wages for purposes of determining the amount or allocation of contributions under Article 4 of the Plan effective for all Differential Wages paid after 12/31/2008.

### Article 4 Available In-Service Withdrawal.

- 4.1 A Participant performing service in the uniformed services as described in Code Section 3401(h)(2)(A) shall be treated as having been severed from employment with the Employer for purposes of Code Section 401(k)(2)(B)(i)(I) and shall, as long as that service in the uniformed services continues, have the option to request a distribution of all or any part of his or her Account restricted from distribution only due to Code Section 401(k)(2)(B)(i)(I).

- 4.2 Any distribution taken by a Participant pursuant to section 4.1 shall be considered an eligible rollover distribution pursuant to Section 7.10 of the Plan and any Participant taking such a distribution shall be suspended from making Deferral Contributions and Employee Contributions under the Plan for a period of 6 months following the date of any such distribution.

### Article 5 Modification of Minimum Distribution Rules for 2009.

- 5.1 Participant or Beneficiary who would have been required to receive required minimum distributions for 2009 but for the enactment of Code Section 401(a)(9)(H) ("2009 RMDs"), and who would have satisfied that requirement by receiving distributions specifically equal to the 2009 RMDs, will not receive those distributions for 2009 unless the Participant or Beneficiary chooses to receive such distributions.
- 5.2 Any Participant or Beneficiary who had elected a systematic withdrawal plan to (in part or wholly) satisfy an RMD in accordance with Section 9 of the Plan for 2009 is hereby permitted to elect to stop those installments.
- 5.3 For only those Participants and Beneficiaries who have made the election described in section 5.2, there is hereby added to the Plan a partial withdrawal to allow such a Participant or Beneficiary to withdraw any part of his or her Account prior to December 31, 2009.
- 5.4 Participants and Beneficiaries described in section 5.1 will be given the opportunity to elect to receive 2009 RMDs as described in the preceding sentences of this Article 5.
- 5.5 Notwithstanding Article 9 of the Plan, and solely for purposes of applying the direct rollover provisions of the plan, 2009 RMDs will be treated as eligible rollover distributions.

**Article 6 Temporary Relief for 2008 Midwestern Disaster Area.** For purposes of this Article 6, the "Applicable Disaster Date" means the date declared by the President on or after May 20, 2008, and before August 1, 2008, under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of severe storms, tornados, or flooding occurring in any of the States of Arkansas, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, and Wisconsin (the "Midwest Disaster Area"). Articles 2 and 3 of the Amendment to Implement the Katrina Emergency Tax Relief Act of 2005 and Gulf Opportunity Zone Act of 2005 shall be treated as applying to any Participant who, on the Applicable Disaster Date, has his principal place of abode within the Midwest Disaster Area, sustains an economic loss attributable to the reasons mentioned in the previous sentence of this Article 6, and takes a distribution after the Applicable Disaster Date and prior to December 31, 2009.



## Re: Amendments to Basic Plan Document 03 to Implement Katrina Emergency Tax Relief Act of 2005 and Gulf Opportunity Zone Act of 2005

**Preamble and Effective Date of Amendment.** This amendment of the Plan is adopted to reflect certain provisions of the Katrina Emergency Tax Relief Act of 2005 ("KETRA") and the Gulf Opportunity Zone Act of 2005 ("GOZA"). The amendment is effective with respect to Qualified Hurricane Distributions (as defined below) made on or after the Effective Date (as defined below).

**Supersession of Inconsistent Provisions.** This amendment shall supersede the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Amendment.

**1. Qualified Individuals (as defined below) may designate all or a portion of a qualifying distribution as a Qualified Hurricane Distribution.**

**2. A "Qualified Hurricane Distribution" means any distribution made on or after the Effective Date and before January 1, 2007, to a Qualified Individual, to the extent that such distribution, when aggregated with all other qualified hurricane distributions to the Qualified Individual made under the Plan (and any other plan maintained by the Employer or an Affiliated Employer), does not exceed \$100,000. A Qualified Hurricane Distribution must be made in accordance with and pursuant to the distribution provisions of the Plan, except that:**

- (a) if the Adoption Agreement provides that the Plan is a profit sharing plan (including a safe harbor 401(k)/profit sharing plan or a standardized 401(k) profit sharing plan), distribution of amounts attributable to profit sharing contributions, Elective Contributions and Qualified Nonelective Employer Contributions shall be permitted to be made prior to the occurrence of any distributable events otherwise applicable under Section 7.1 or Code section 401(k)(2)(B)(i), such as termination of the Participant's employment, and
- (b) the requirements of Code sections 401(a)(31), 402(f) and 3405 and Section 7.10 shall not apply.

**3. A "Qualified Individual" is**

- (a) An individual whose principal place of abode on August 28, 2005, is located in the Hurricane Katrina disaster area and who has sustained an economic loss by reason of Hurricane Katrina,
- (b) An individual whose principal place of abode on September 23, 2005, is located in the Hurricane Rita disaster area and who has sustained an economic loss by reason of Hurricane Rita, or
- (c) An individual whose principal place of abode on October 23, 2005, is located in the Hurricane Wilma disaster area and who has sustained an economic loss by reason of Hurricane Wilma.

**4. The "Effective Date" of this amendment shall be:**

- (a) August 25, 2005, with respect to a Qualified Individual described in Section 3(a).
- (b) September 23, 2005, with respect to a Qualified Individual described in Section 3(b).
- (c) October 23, 2005, with respect to a Qualified Individual described in Section 3(c).

**5. This amendment shall be interpreted in accordance with Code section 1400Q and applicable IRS guidance, including Notice 2005-92.**

## Re: Code Section 401(k) 2004 Final Regulations

### Preamble

**Adoption and Effective Date of Amendment.** This amendment of the Plan is adopted to reflect the final regulations under the Internal Revenue Code (Code) section 401(k). This amendment is intended as good-faith compliance with the requirements of Code section 401(k) and is to be construed in accordance with the guidance issued thereunder. This amendment shall be effective for Plan Years that begin on or after January 1, 2006.

**Supersession of Inconsistent Provisions.** This amendment shall supersede the provision of the Plan to the extent those provisions are inconsistent with the provisions of this amendment.

1. The definition of "Plan Year" in Section 2.32 is amended to read in its entirety as follows:

**"Plan Year.** 'Plan Year' means the period of 12 consecutive months designated by the Employer in the Adoption Agreement, except that in the case of initial adoption of or termination of the Plan, or in the case of change in the Plan Year, a period of less than 12 consecutive months may be designated as the Plan Year."
2. Section 4.3 is amended by adding the following sentence to the end thereof:

"Additionally, if the Adoption Agreement provides that the Plan is a safe-harbor 401(k)/profit sharing plan, deferral contributions under Section 4.5 and nonelective Employer contributions under Section 4.7 shall remain in effect for an entire 12-consecutive-month Plan Year, except as otherwise permitted by Section 1.401(k)-3(e) of the Treasury Regulations."
3. The first sentence of the third paragraph of Section 4.5 is amended by adding the words "provided that the Participant must have the effective opportunity to make, change, or discontinue an election to make deferral contributions at least once each Plan Year" to the end thereof.
4. The first sentence of Section 4.7 is amended by adding the words "  
, provided that the conditions of Section 1.401(k)-2(a)(6) of the Treasury Regulations are satisfied" to the end thereof.
5. The third sentence of the last paragraph of Section 12.5 is amended to read in its entirety as follows:

"Notwithstanding any other provision of the Plan, Excess Deferrals, plus any income and minus any loss allocable thereto, as determined under Section 12.8, less the amount of any Excess Contributions (and allocable income) previously distributed with respect to the Participant for the Plan Year beginning with or within the taxable year, shall be distributed no later than April 15 to any Participant to whose Account Excess Deferrals were so assigned for the preceding calendar year and who claims Excess Deferrals for such calendar year."
6. The first sentence of Section 12.7 is amended to read in its entirety as follows:

"Notwithstanding any other provision of this Plan, the Excess Contributions allocable to the Account of a Participant, plus any income and minus any loss allocable thereto, as determined under Section 12.8, less any amounts previously distributed to the Participant from the Plan to correct Excess Deferrals for the Participant's taxable year ending with or within the Plan Year, shall be distributed to the Participant no later than the last day of the Plan Year immediately following the Plan Year in which the Excess Contributions were made."
7. The last sentence of Section 12.8 beginning "Income or loss allocable..." is deleted.

[Note: This sentence was deleted as a result of the 2008 restatement.]

## Things to Know Before Using Your Account

The information in this box is only a summary. Please read the agreement for more complete information.

### Using your brokerage retirement account involves risks, for which you assume full responsibility.

As the account owner, you are fully responsible for monitoring your account and for all investment decisions and instructions concerning your account.

Placing orders during times when markets are volatile can be risky, particularly when you are using electronic services to access information or to place orders through your brokerage retirement account.

Before you start using your account or any account feature, it's essential that you understand the terms, conditions, and policies that apply.

A joint owner or any one of multiple trustees can place any order in a joint account or trust account (including removing all of the assets) without the approval of the other owner(s) or trustee(s) and without any obligation on Fidelity's part to question the action.

### There are certain situations in which it is essential that you get in touch with us.

You need to tell us immediately if any of the following occur:

- You notice anything incorrect or suspicious concerning your orders, account activity, or statements.
- Your financial circumstances or goals change.
- You become subject to laws or regulations concerning corporate insiders, the reporting of certain investments, or employment in the securities industry.

### The terms of this agreement apply only to certain Fidelity retirement accounts.

This account agreement applies to Fidelity IRAs (including traditional, rollover, and SEP IRAs), Fidelity Roth IRAs, Fidelity SIMPLE-IRAs, and Fidelity Retirement Plan accounts [Profit Sharing, Money Purchase, and Self-Employed 401(k) plans].

### Disputes between you and Fidelity are settled by arbitration.

As with most brokerage accounts, the parties agree to waive their rights to sue in court, and agree to abide by the findings of an arbitration panel established in accordance with an industry self-regulatory organization.

## How to Contact Us

For matters concerning your account, including questions, changes, and notifications of errors, contact us:

### By Phone

800-544-6666

### Online

Fidelity.com

### In Writing

Fidelity Investments  
Client Services  
P.O. Box 770001  
Cincinnati, OH 45277-0045

## Who's Who in This Agreement

In this document, "Fidelity," "us," and "we" include Fidelity Brokerage Services LLC ("FBS") and National Financial Services LLC ("NFS") and their employees, agents, and representatives as the context may require. "You" and "account owner" refer to the owner indicated on the account application.

# About This Agreement

## Fidelity's Commitments to You

Under this agreement, Fidelity has certain rights and responsibilities. When we accept your account application, we are agreeing to serve as your broker and to maintain an account for you. We agree, subject to our acceptance of an authorized order, to buy, sell, or otherwise dispose of, or acquire, securities for you according to your instructions. We also agree to provide various services and features, as described on the following pages.

## Your Commitments to Fidelity

Many of these commitments are spelled out more completely on the following pages, but, in general, when you sign the account application, you agree:

- to accept full responsibility for the content and accuracy of all authorized instructions placed on your account, and for all results and consequences of these instructions, including all investment decisions, trading orders, and all instructions placed by you or any other person you authorize
- to pay all fees, charges, and expenses incurred on your account, in accordance with the provisions of this agreement and the fee schedule in effect at the time (a current schedule is provided with this agreement); for services we perform at your request that are not covered in our current fee schedule, you agree to pay the applicable fee
- to maintain enough assets in your account to satisfy all obligations as they become due, and to understand that we may take whatever steps we consider necessary to resolve unpaid debts or other obligations
- to use the account and its features according to this agreement and for your own personal purposes only
- if you use any of our electronic services, or provide us with your e-mail address, to have your personal financial information transmitted electronically, and to receive your initial notice of our privacy policy electronically
- to keep secure your account number, username, and password, and any devices, such as mobile phones or pagers, you use in connection with your account
- to let us monitor and/or record any phone conversations with you
- to let us verify the information you provide and obtain credit reports and other credit-related information about you at any time, such as payment and employment information, and to permit any third-party financial services provider to do likewise
- to resolve disputes concerning your relationship with us (other than class actions) through arbitration rather than in a court of law
- if applying for, or using, any optional features or services (including online or other electronic services), to understand and accept the terms associated with them
- to protect Fidelity against losses arising from your use of market data and other information provided by third parties
- to understand that, whenever you invest in, or exchange into, any mutual fund (including any fund serving as your core position), you are responsible for reading that fund's prospectus, including its description of the fund, the fund's fees and charges, and the operation of the fund
- to notify us in writing anytime there is a material change in your financial circumstances or investment objectives
- to be bound by the current and future terms of this agreement, from the time you first use your account or sign your application, whichever happens first

# Account Features

Certain features and services are standard with your Fidelity retirement account. Others are optional, and may be added either when you open your account or later. Note that some features and fees vary depending on the nature of your relationship with Fidelity.

Industry regulations require that Fidelity Brokerage Services LLC (FBS) and its clearing firm, National Financial Services LLC (NFS), allocate between them certain functions regarding the administration of your account. The following is a summary of the allocation of those functions performed by FBS and NFS.

FBS is responsible for:

- Obtaining and verifying account information and documentation.
- Opening, approving and monitoring trading and other activity in your account.
- Acceptance of orders and other instructions from you regarding your account, and for promptly and accurately transmitting those orders and instructions to NFS.
- Determining the suitability of investment recommendations and advice, and that those persons placing instructions for your account are authorized to do so. NFS will not give you advice about your investments and will not evaluate the suitability of investments made by you, your investment representative or any other party.
- Operating and supervising your account and its own activities in compliance with applicable laws and regulations, including compliance with federal, industry and NFS margin rules pertaining to your margin account and for advising you of margin requirements.
- Maintaining the required books and records for the services it performs.
- Investigating and responding to any questions or complaints you have about your account(s), confirmations, your periodic statement or any other matter related to your account(s). FBS will notify NFS with respect to matters involving services performed by NFS.

NFS is responsible, at the direction of FBS, for:

- The clearance and settlement of securities transactions.
- The execution of securities transactions, in the event NFS accepts orders from FBS.
- Preparing and sending transaction confirmations and periodic statements of your account (unless FBS has undertaken to do so).
- Acting as custodian for funds and securities received by NFS on your behalf.
- Following the instructions of FBS with respect to transactions and the receipt and delivery of funds and securities for your account.
- Extending margin credit for purchasing or carrying securities on margin.
- Maintaining the required books and records for the services it performs.

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## Standard Features

### Securities Trading

This account is a brokerage account that allows the trading and holding of many securities that are publicly traded in the United States, such as most securities in these categories:

- stocks, including common and preferred
- bonds, including corporate, municipal, and government
- convertible securities
- mutual funds, including Fidelity funds, non-Fidelity funds, and closed-end funds such as exchange-traded funds (ETFs)
- options, although retirement accounts are only eligible for writing covered calls, buying calls/puts, and buying long straddles/strangles/combinations with respect to index and equity options in all cases
- options spreads may be permitted in IRA accounts provided certain conditions are met; please contact your Fidelity Representative for more information
- certificates of deposit (CDs)
- unit investment trusts (UITs)

In addition, the account can be used to trade certain foreign securities (either directly or as depositary receipts) and certain precious metals.

Fidelity may make non-personal historical trading data available to institutional clients on an aggregate basis for analysis purposes (such as trending).

Some investments that **cannot** be traded through your Fidelity retirement account are futures and commodities.

When you place a trade, you may have a choice of order types, including market orders, limit orders, stop orders, and stop-limit orders. To find out how these different types of orders work, and for other helpful information, go to [Fidelity.com/brokerage](https://www.fidelity.com/brokerage).

### Core Account

Your Fidelity retirement account includes a core account that is used for settling transactions and holding balances awaiting investment. Amounts contributed or received will be invested in the core position. As detailed below, the options for your core position may include a money market mutual fund, a bank sweep (sometimes referred to herein as the "FDIC Insured Deposit Sweep" or "Bank Sweep") or an interest-bearing option. More details about the money market mutual fund and Bank Sweep can be found, respectively, in the fund's prospectus or the FDIC Insured Deposit Sweep Program Disclosure, both of which will be made available to you if applicable.

If available, the interest-bearing option represents funds payable to you on demand by Fidelity. Subject to applicable law, Fidelity may use these funds in connection with its business. Fidelity may, but is not required to pay you interest on these funds. Interest, if paid, will be based upon a schedule set by Fidelity, which may change from time to time in Fidelity's sole discretion. Fidelity reserves the right to make changes to the available options and/or the options available to you at any time.

Newly established Fidelity IRAs (including traditional, rollover, and SEP IRAs), and newly established Fidelity Roth IRAs and Fidelity SIMPLE-IRAs, will utilize the default core position indicated on the account application. During the account opening process, you may have the option of affirmatively electing a different core position, provided it is available. Note that inherited IRAs and any IRAs, Roth IRAs, or SIMPLE-IRAs that utilize Fidelity's Portfolio Advisory Services will not have the ability to use the Bank Sweep. For more information about the Bank Sweep, please refer to the FDIC-Insured Deposit Sweep Program Disclosures document, which is attached hereto, incorporated herein, and forms a part of this Agreement.

Once the Fidelity IRA, Fidelity Roth IRA, or Fidelity SIMPLE-IRA is established, you can switch the core account position between the Bank Sweep and a then available Fidelity money market mutual fund core position option without restriction. Information about the rates of return on these different core position options can be found at [www.fidelity.com/ira](https://www.fidelity.com/ira).

For Fidelity Retirement Plan accounts (including Profit Sharing, Money Purchase, and Self-Employed 401(k) plan accounts), the core position is generally Fidelity Cash Reserves, or any other core position that Fidelity might make available for this purpose.

If you establish or maintain a Fidelity IRA (including traditional, rollover, and SEP IRAs), a Fidelity Roth IRA, or a Fidelity SIMPLE-IRA and you wish to transfer to or otherwise utilize Fidelity's Portfolio Advisory Services, as a condition of enrolling in Fidelity's Portfolio Advisory Services, your core position in the Portfolio Advisory Services account will be a then available Fidelity money market mutual fund (generally Fidelity Cash Reserves or any other core position Fidelity might make available for this purpose). As a result, any balance in the Bank Sweep or other core position will be liquidated prior to such a transfer or utilization.

If you maintain a Fidelity IRA (including traditional, rollover, and SEP IRA), a Fidelity Roth IRA, or a Fidelity SIMPLE-IRA and you wish to establish a relationship with an independent third-party investment adviser that utilizes Fidelity or its affiliates for clearing and custody services and technology support, your core position will be a then available money market mutual fund or other core position Fidelity might make available for this purpose. As a result, any balance in the Bank Sweep or other core position must be liquidated in connection with the establishment of such relationship.

The Bank Sweep is not available in inherited IRAs (including inherited Roth IRAs). Therefore, in connection with the establishment of an inherited IRA, prior to transferring the assets to the inherited IRA, any balance maintained by the deceased IRA depositor in the Bank Sweep will be liquidated.

If your Fidelity IRA, Fidelity Roth IRA, or Fidelity SIMPLE-IRA was established by your employer in accordance with the terms of your workplace savings plan and your employer elected as the core position a then available Fidelity money market mutual fund (generally Fidelity Cash Reserves or any other core position Fidelity might make available for this purpose), at the time that you activate your employer-established IRA, you will not be able to select the Bank Sweep. Your only available core position at that time will be a then available Fidelity money market mutual fund (generally Fidelity Cash Reserves or any other core position Fidelity might make available for this purpose). However, after you activate your IRA, you may switch the core position between the Bank Sweep and any then available Fidelity money market mutual fund option without restriction.

## Statements

We will send an account statement to the address of record:

- every calendar quarter, at a minimum
- for any month when you have trading or cash management activity

Your account statements will show all activity in your account for the stated period, including securities transactions, cash balances, credits and debits to your core account, and all fees paid directly from your account.

We will also send a confirmation for every securities transaction in your account. The only exceptions are automatic investments, automatic withdrawals, dividend reinvestments, and transactions that involve only your core account; for these activities, your regular account statement serves in place of a confirmation.

To receive your account statements and confirmations faster, you can arrange to have them delivered electronically instead of through the mail. This option is free, and you can switch to or from it at any time upon request.

## Account Protection

The securities in your account are protected in accordance with the Securities Investor Protection Corporation (SIPC) for up to \$500,000 (including up to \$250,000 for uninvested cash). We also provide additional coverage above these limits. Neither coverage protects against a decline in the value of your securities, nor does either coverage extend to certain securities that are considered ineligible for coverage.

For more details on the SIPC, or to request an SIPC brochure, visit [www.sipc.org](http://www.sipc.org) or call 202-371-8300.

Please note that if you utilize the Bank Sweep, any balance you maintain in your core account is swept to an FDIC-insured position at a bank with which Fidelity has established a relationship (a "Program Bank"). Funds are swept to the Program Bank on the business day following the date that funds are credited to your account. Until funds are swept to the Program Bank, they are covered by SIPC. Once funds are swept to a Program Bank, they are no longer covered by SIPC, but they are eligible for FDIC insurance subject to FDIC insurance coverage limits. For more information about the Bank Sweep, please refer to the FDIC-Insured Deposit Sweep Program Disclosures document, which is attached hereto, incorporated herein, and forms a part of this Agreement.

## Optional Features

You can set up these services using your account application. To add them to an existing account, contact Fidelity. Some of these features are covered by their own customer agreements, which are incorporated into this agreement by reference (are legally considered part of this agreement) and will be provided to you as applicable. Note that some services are not available for certain types of accounts.

## Checkwriting

Checkwriting is available on certain retirement accounts. Note that cancelled checks are not returned to you, although check imaging may be available.

## Electronic Funds Transfer

You may transfer cash in and out of your core account using electronic funds transfer (EFT), which works like an electronic check. You can also arrange for your brokerage account to receive periodic payments from other accounts, or transfers from other sources, such as Automatic Investments.

## Dividend Reinvestment

In addition to reinvestment of mutual fund dividends, reinvestment of dividends from eligible equities and closed-end funds is an option for most retirement accounts. You can choose to have the service apply to all eligible securities in your account, or only to certain ones. You can request this feature by phone or in writing (for all securities or for individual ones) once you have established your account.

## Accessing Your Account

There are a variety of ways you can place orders, access your account, get market and investment information, or contact Fidelity. Online choices include Fidelity.com, Fidelity Active Trader Pro,® alerts and wireless trading services, and other interactive services for computers or hand-held devices. Some of these services are offered by Fidelity directly; others are offered by outside providers.

Telephone choices include Fidelity Automated Service Telephone (FAST®) as well as Fidelity's telephone representatives. Both services are generally available 24 hours a day, seven days a week. You can also speak with a Fidelity Representative in person, during business hours, at any of our Fidelity Investor Centers around the country. Please note that our telephone lines may be recorded, and, by signing the account application, you are consenting to such recording. If you do not wish to be recorded, you should contact Fidelity via another means.

# Account Policies

## Account Registration

### Custodial Accounts

For accounts opened by a parent, guardian, or custodian for the benefit of a minor: By opening this type of account, you agree that all account assets will be used only for the minor's benefit. Note that the IRA Custodian or Plan Trustee may restrict the use of this type of account.

## Account Usage

### First Use of a Core Account

If you choose a money market fund for your core position, making your first investment into that fund is your acknowledgment that you have received and read a prospectus or profile prospectus for that fund. Note that your core positions must meet the investment minimums for that fund.

### Retirement Account Funding for Canadian Residents

If you have provided Fidelity with an address and/or tax information that indicates that you are a resident of Canada, you warrant and represent to Fidelity that any cash or assets used to fund this account constitute proceeds from an existing IRA or retirement plan account previously established in the United States for your benefit.

### Prohibited Uses and Actions

You are strictly prohibited from using your account in conjunction with any business as a broker-dealer, trader, agent, or adviser in any type of security, commodity, future, or contract, or in any business or organization connected with individuals performing these functions. You are also prohibited from publicizing or sharing with anyone any information you

obtain through your account (such as securities quotes). In addition, be aware that we may freeze your account or suspend certain privileges, features, or services at any time without notice.

### Limits on Mutual Fund Trades

Because excessive trading in mutual fund shares can be detrimental to a fund and its shareholders, we may block account owners or accounts that engage in excessive trading from making further transactions in fund shares. A block on trading fund shares may be temporary or permanent, and may apply only to certain mutual funds or all mutual funds, including Fidelity funds.

The decision to impose a block may originate with a mutual fund company or may be made by Fidelity at the brokerage account level, if Fidelity believes such a block is warranted. To see what a given fund company's definition of "excessive trading" is, check the fund's prospectus.

In addition, we may restrict or limit any transaction in any mutual fund or other investment company that we or an affiliate manages or advises if we believe the transaction could adversely affect the investment company or its shareholders.

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## How Transactions Are Settled

### Credits to Your Account

Any new deposits or proceeds from transactions are automatically swept daily into your core account.

Each check deposited is promptly credited to your core account. However, the money may not be available to use until up to six business days later, and we may decline to honor any debit that is applied against the money before the deposited check has cleared.

If a deposited check does not clear, the deposit will be removed from your account, and you are responsible for returning any interest you received on it. Note that we can only accept checks denominated in U.S. dollars and drawn on a U.S. bank account (including a U.S. branch of a foreign bank). We cannot accept third-party checks. In addition, we may restrict assets in your account if we have reason to believe that such assets were incorrectly credited to your account.

### Debits to Your Account

All debit items (including checks, securities purchases, and electronic transfers of money) are paid daily to the extent that sufficient funds are available. Note that debits to resolve securities transactions or the payment of account fees will be given priority over other debits, such as checks.

As an account owner, you are responsible for satisfying all debits on your account, including any debit balance outstanding after all assets have been removed from an account, and any costs (such as legal fees) that we incur in collecting the debit. If a check issued to you from your account remains uncashed and outstanding for at least six months, you authorize and instruct Fidelity to cancel the check and return the underlying proceeds to you by depositing the proceeds into your account's core position.

To help ensure the proper discharge of debits, it is our policy to turn to the following sources, in this order, when settling debits against your account:

- any money that is added to your account (such as checks, interest, or transaction proceeds) on the same day the debit is applied
- any money in your core account
- any shares in a Fidelity money market fund held in this or another brokerage retirement account that has the same registration (which you authorize us to sell for this purpose when you sign the application)
- any other securities in this or another brokerage retirement account

Money market fund shares used to pay debits are redeemed at the share price in effect at the time (typically \$1.00). For disclosures concerning money market funds, see "Money Market Fund Investments" in the "Disclosures" section of this agreement.

Note that distributions from a Fidelity retirement plan account are subject to certain plan and IRS restrictions.

## Resolving Unpaid Obligations or Other Obligations

If the sources listed above in "Debits to Your Account" (which are defined as your "available balance" for purposes of this agreement) are not enough to satisfy a given debit, we reserve the right to take action as we see fit, including declining to honor the debit, which may result in fees (such as a returned check fee) or other consequences for you.

Note that at any time, we may reduce your available balance to cover obligations that have occurred but not yet been debited including but not limited to withholding taxes that should have been deducted from your account.

It is important to understand that we do have additional choices for resolving unsatisfied obligations. Like many other securities brokers, we reserve the right to sell or otherwise use assets in an account to discharge any obligations the account owner(s) may have to us (including unmatured and contingent obligations), and to do so without further notice or demand. For example, if you have bought securities but not paid for them, we may sell them ourselves and use the proceeds to settle the purchase.

Although Fidelity may use other methods when it determines they may be more appropriate, Fidelity reserves the right to use the provisions described in this section at any time, except when they would conflict with the Employee Retirement Income Security Act of 1974 (ERISA) or the Internal Revenue Code of 1986, both as amended.

### Transaction Settlement Deadlines

Generally, you need to pay for all transactions or deliver all securities by 2 p.m. Eastern time on the settlement date. We reserve the right to cancel or liquidate, at your risk, any transaction not settled in a timely way.

### Non-Transferable Securities

In the event that any securities in your account become non-transferable, NFS may remove them from your account without prior notice. Non-transferable securities are those where transfer agent services have not been available for six or more years. A lack of transfer agent services may be due to a number of reasons, including that the issuer of such securities may no longer be in business and may even be insolvent. NFS may remove non-transferable securities from your account pursuant to a Securities and Exchange Commission approved program that permits our custodian for these securities to no longer maintain the physical certificates representing the positions in these securities. Please note the following:

- There are no known markets for these securities
- We are unable to deliver certificates to you representing these positions
- These transactions will not appear on Form 1099 or any other tax-reporting form
- If the position is held in a retirement account, we will not report the removal of the position as a taxable distribution and any reinstatement of the position will not be reported as a contribution
- If transfer agent services become available sometime in the future, NFS will use its best efforts to have the position reinstated in your account
- Positions removed from your account will appear on your next available account statement following such removal as an "Expired" transaction

By opening and maintaining an account with us, you consent to our actions as we have described them above, and you waive any claims against us arising out of such actions. You also understand that we do not provide tax advice concerning your account or any securities that may be the subject of removal from or reinstatement into your account, and you agree to consult with your own tax advisor concerning any tax implications that may arise as a result of any of these circumstances.

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## Policies on Optional Features

### EFT Transactions

EFT transactions are normally completed within three to seven business days of your request. An EFT transfer may be for between \$10 and \$99,999. The two accounts involved in an EFT transaction must have at least one owner's name in common (and that name must match exactly). To send and receive EFT transactions, your bank must be a member of the Automated Clearing House (ACH) system.

For EFT transactions, you hereby grant us limited power of attorney for purposes of redeeming any shares in your accounts (with the right to make any necessary substitutions), and direct us to accept any orders to make payments to an authorized bank account and to fulfill these orders through the redemption of shares in your account. You agree that the above appointments and authorizations will continue until we receive written notice of any change at the address listed following "Things to Know Before Using Your Account," although we may cease to act as agents to the above appointments on 30 days' written notice to your account's address of record. You further understand that Fidelity may notify you electronically or by phone when the EFT feature is set up or EFT transactions are initiated on your account.

## Dividend Reinvestment Program

With this feature, all dividends paid by eligible securities that you designate for reinvestment are automatically reinvested in additional shares of the same security. (For purposes of the Dividend Reinvestment Program, "dividends" means cash dividends and capital gain distributions, late ex-dividend payments, and special dividend payments, but not cash-in-lieu payments.) In designating any eligible security for reinvestment, you authorize us to purchase shares of that security for your account.

To be eligible for this feature, a security must satisfy all of the following:

- be a closed-end fund, common stock, or foreign security (generally American depository receipts [ADRs])
- be margin-eligible (as defined by NFS)
- be held in street name by NFS (or at a securities depository on its behalf)
- not be held as a short position

Dividends are reinvested on shares that satisfy all of the following:

- the security is eligible
- you own the shares on the dividend record date
- you own the shares on the dividend payable date (even if you sell them that day)
- your position in the security has been settled on or before the dividend record date
- the shares are designated for reinvestment as of 9 p.m. Eastern time on the dividend record date

Shares purchased through the Dividend Reinvestment Program will generally be placed in your account as of the dividend payable date. Note, however, that the stock price at which your reinvestment occurs is not necessarily the same as the price that is in effect on the dividend payable date. This is because we generally buy the shares of domestic companies three business days before the dividend payable date, at the market price(s) in effect at the time, in order to help ensure that we have shares on hand to place in your account on the dividend payable date. Other factors may require the purchase of the shares on a different business day, which may be before, on, or after the dividend payable date, e.g., dividends of foreign companies. Also, shares of securities which have an unusual ex-dividend date are purchased on the ex-dividend date and placed in your account on the first business day following the dividend payable date. Therefore, you may end up receiving more or fewer shares than if your dividend had been reinvested on the dividend payable date itself, particularly if there are significant changes in the market price of a security just before its dividend payable date. If several purchase transactions are necessary to reinvest your and other customers' dividends in a particular security, the price per share will be the weighted average price per share for all shares purchased. If sufficient shares are unavailable in the market to satisfy all customers' requirements for dividend reinvestment for a security, the dividend will not be reinvested. The reinvestment of dividends may be delayed in certain circumstances. NFS reserves the right to suspend or completely remove securities from participation in dividend reinvestment and credit such dividends in cash at any time without notice.

Automatic reinvestments often involve purchase of fractional shares, calculated to three decimal places. Partial shares pay prorated dividends and can be sold if you sell your entire share position, and will be liquidated automatically in transfers and certain other situations, but otherwise typically cannot be sold.

Although for dividend reinvestments your regular account statement takes the place of a trade confirmation, you can generally obtain status information the day after the reinvestment date by contacting Fidelity.

If you transfer or reregister your account within Fidelity (for example, by changing from a traditional IRA to a Roth IRA), you need to redesignate any securities whose dividends you want reinvested.

Wherever possible, we will buy reinvestment shares through a program offered by the Depository Trust Company (DTC), which offers a share price discount (generally up to 5%). To find out which securities are currently available through the DTC, contact Fidelity. Note that the availability through this program of any given security may change without notice. Also note that DTC program transactions take longer to process: Although the transactions are effective as of the dividend payable date, they are generally not posted to your account until 10 to 15 days later. If you sell your dividend-generating shares before the posting date, the dividend will not be reinvested.

Note that dividend reinvestment does not ensure a profit on your investments and does not protect against loss in declining markets.

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## Precious Metals

In general, precious metals and other collectibles within the meaning of Section 408(m) of the Internal Revenue Code may not generally be purchased in an IRA or other retirement account except as otherwise permitted under ERISA and the Internal Revenue Code, as applicable, and to the extent permitted by Fidelity. To the extent that collectibles, including precious metals, are held in an underlying trust or other investment vehicle such as an exchange traded fund, it is your responsibility to determine whether or not such an investment is appropriate for an IRA or retirement plan account and whether the acquisition of such investment may result in a taxable distribution from such account under Section 408(m).

Precious metals are not covered by SIPC account protection, but are insured by the depository at market value if stored through us. When trading precious metals, note that because they can experience sudden and rapid price changes, they are risky as investments, and we cannot guarantee you an advantageous price when you trade them.

If you store precious metals through us, storage fees will apply.

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## Closing Your Account

We can close your account, or terminate any optional feature, at any time, for any reason, and without prior notice. You can close your account, or terminate any optional feature, by notifying us in writing or calling us on a recorded line. We may automatically close accounts with zero balances.

Regardless of how or when your account is closed, you will remain responsible for all charges, debit items, or other transactions you initiated or authorized, whether arising before or after termination. Note that a final disbursement of assets may be delayed until any remaining issues have been resolved.

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## Monitoring Your Account and Notifying Us of Errors

As an account owner, you are responsible for monitoring your account. This includes making sure that you are receiving transaction confirmations, account statements, and any other expected communications. It also includes reviewing these documents to see that information about your account is accurate and contains nothing suspicious.

Note that so long as we send communications to you at the physical or electronic address of record given on the application, or to any other address given to us by an authorized person, the communications are legally presumed to have been delivered, whether you actually received them or not. In addition, confirmations and statements are legally presumed to be accurate unless you specifically tell us otherwise.

If you have not received a communication you expected, or if you have a question or believe you have found an error in any communication from us, telephone us immediately, then follow up with written confirmation (see contact information following “Things to Know Before Using Your Account”).

You agree to notify us immediately if:

- you placed an order electronically but did not receive a reference number for it (an electronic order is not considered received until we have issued an acknowledgment)
- you received confirmation of an order you did not place, or any similar conflicting report
- there is any other type of discrepancy or suspicious or unexplained occurrence relating to your account
- your password or access device is lost or stolen, or you believe someone has been using it without authorization

## Trading in Volatile Markets — Understand the Risks

Volatile markets can present higher trading risks, especially when you are using electronic services to access information or place orders. Ways to manage some of these risks include:

- **Consider placing limit orders instead of market orders** In certain market conditions or with certain types of volatile securities, price changes may be significant and rapid during regular or after-hours trading. In these cases, placing a market order could result in a transaction that exceeds your available funds, meaning that Fidelity would have the right to sell other assets in your account. This is especially a risk in accounts that you cannot easily add money to, such as retirement accounts.
- **Be aware that quotes, order executions, and execution reports could be delayed** During periods of heavy trading or volatility, quotes that are provided as “real time” may be stale—even if they appear not to be—and you may not receive every quote update. Security prices can change dramatically during such delays.
- **Order cancellations are performed on a “best efforts” basis.** There is no guarantee that an open order can be cancelled, in whole or in part.
- **Use other ways to access Fidelity during peak volume times** Phone or computer capacity limitations could mean delays in getting information or placing orders. If you are having problems with one method, try another.

The chances of encountering these risks are higher for individuals using day-trading strategies. In part for this reason, Fidelity does not promote day-trading strategies.

For more information on trading risks and how to manage them, visit [Fidelity.com](https://www.fidelity.com) or contact Fidelity.

If any of these conditions occurs and you fail to notify us immediately, neither we nor any other Fidelity affiliate will be liable for any consequences. If you do immediately notify us, our liability is limited as described in this agreement.

With any feature or service that is governed by a separate agreement (such as an options trading agreement), note that different policies concerning error resolution and liability may apply, as described in the separate agreement.

If, through any error, you have received property that is not rightfully yours, you agree to notify us and to immediately return the property and any earnings it may have yielded.

## Complying with Applicable Laws and Regulations

In keeping with federal and state laws, and with securities industry regulations, you agree to notify us in writing if any of the following occur (with all terms in quotes defined as being within the meaning of the Securities Act of 1933):

- if you are, or later become, an “affiliate” or employee of a stock exchange, a member firm of an exchange or the Financial Industry Regulatory Authority (FINRA), a municipal securities dealer, or Fidelity or any Fidelity “affiliate”
- if you are, or later become, an “affiliate” or “control person” with respect to any security held in your account
- if any transactions in your account regarding securities whose resale, transfer, delivery, or negotiation must be reported under state or federal laws

You also agree to:

- ensure that your account transactions comply with all applicable laws and regulations, understanding that any transaction subject to special conditions may be delayed until those conditions are met
- comply with all policies and procedures concerning “restricted” and “control” securities that we may require
- comply with any insider trading policies that may apply to you as an employee or “affiliate” of the issuer of a security

If you or another individual associated with your account resides outside the US, Fidelity may at any time in its sole discretion terminate that relationship, or modify your rights to access any or all account features, products, or services. By opening or maintaining an account with Fidelity, you acknowledge that Fidelity does not solicit offers to buy or sell securities, or any other product or service, to any person in any jurisdiction where such offer, solicitation, purchase, or sale would be unlawful under the laws of such jurisdiction.

## Limits to Our Responsibility

Although we strive to ensure the quality and reliability of our services, including electronic services (such as online, wireless, and automated telephone services), neither we nor any third party whose services we arrange for are responsible for the availability, accuracy, timeliness, completeness, or security of any service related to your account.

You therefore agree that we are not responsible for any losses you incur (meaning claims, damages, actions, demands, investment losses, or other losses, as well as any costs, charges, attorneys’ fees, or other fees and expenses) as a result of any of the following:

- cancellation of an accepted trade in which Fidelity reasonably determines, in its sole discretion, that there was a data, clerical or other similar error in the handling or processing of the trade, including but not limited to a situation where a third party caused such error
- the acceptance and processing of any order placed on your account, whether received electronically or through other means, as long as the order reasonably appears to be authentic
- cancellation of an accepted/executed trade when dealers and/or contra-parties notify Fidelity that they are unable to deliver the bonds because the order was filled in error
- investment decisions or instructions placed on your account, or other such actions attributable to you or any authorized person



- occurrences related to governments or markets, such as restrictions, suspensions of trading, or high market volatility or trading volumes
- uncontrollable circumstances in the world at large, such as wars, earthquakes, power outages, or unusual weather conditions
- occurrences related to computers and communications, such as a network or systems failure, a message interception, or an instance of unauthorized access or breach of security
- with respect to electronically provided market data or other information provided by third parties, any flaw in the timing, transmission, receipt, or substance (such as any inaccuracy, error, delay, omission, or sequence error, any nonperformance, or any interruption of information), regardless of who or what has caused it to occur
- the storage and use of information about you and your account(s) by our systems and transmission of this information between you and us; these activities occur entirely at your risk
- the usage of information received by you or us through any electronic services
- telephone requests for redemptions, so long as we transmit the proceeds to you or the bank account number identified
- difficulties receiving information or accessing your account that are due to the equipment you use, including difficulties resulting from technical incompatibilities, malfunctions, inherent limitations, or interruptions in service
- any checks or other debits to your account that are not honored because the account has insufficient funds

If any service failure is determined to be our responsibility, we will be liable only for whatever benefit you would have realized up to the time by which you should have notified us, as specified earlier in "Monitoring Your Account and Notifying Us of Errors."

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## Indemnification

You agree to indemnify us from, and hold us harmless for, any losses (as defined in "Limits to Our Responsibility") resulting from your actions or failures to act, whether intentional or not, including losses resulting from actions taken by third parties.

If you use any third-party services or devices in connection with your account (such as Internet service or wireless devices), all service agreements and payments for these are your responsibility. Rates and terms are set by the service providers and are not Fidelity's responsibility.

Note that beyond taking reasonable steps to verify the authenticity of instructions, we have no obligation to inquire into the purpose, wisdom, or propriety of any instruction we receive.

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## Terms Concerning This Agreement

### Applicability

This agreement is the only agreement between you and us concerning its subject matter, and covers all accounts that you, at whatever time, open, reopen, or have opened with us. In addition, if you have already entered into any agreements concerning services or features that relate to this account (such as the usage agreement for Fidelity.com), or if you do so in the future, this agreement incorporates by reference the terms, conditions, and policies of those agreements. In the case of any conflict between this agreement and an agreement for a particular service or feature, the service or feature agreement will prevail.

### Governing Laws and Policies

**This agreement and its enforcement are governed by the laws of the Commonwealth of Massachusetts, except with respect to its conflicts-of-law provisions.**

All transactions through Fidelity are subject to the rules and customs of the marketplace where they are executed, as well as to applicable state and federal laws. In addition, the services below are subject to the following laws and policies:

- Securities trades: any Fidelity trading policies and limitations that are in effect at the time
- Online services: the license or usage terms posted online
- Checkwriting: the applicable provisions of the Uniform Commercial Code and the terms governing the service

## Modification and Enforcement

We may amend or terminate this agreement at any time. This may include changing, dropping, or adding fees and policies; changing features and services or the entities that provide them (such as the bank that provides checkwriting); and limiting the usage or availability of any feature or service, within the limits of applicable laws and regulations. Although it is our policy to send notice to account owners of any material changes, we are not obligated to do so in most cases. Apart from changes originating in these ways, no provision of this agreement can be amended or waived except in writing by an authorized representative of Fidelity.

Fidelity may transfer its interests in this account or agreement to any of its successors and assigns, whether by merger, consolidation, or otherwise. You may not transfer your interests in your account or agreement (including de facto transferral by giving a nonowner access to the account using a password) except with the prior written approval of Fidelity, or through inheritance, divorce, or similar circumstance, as allowed by law, in which case any rights and obligations in existence at the time will accrue to, and be binding on, your heirs, executors, administrators, successors, or assigns.

We may enforce this agreement against any and all account owners. In addition, any securities exchanges or associations that provide information to you through your account may enforce the terms of this agreement directly against you. Although we may not always enforce certain provisions of this agreement, we retain our full right to do so at any time.

If any provision of this agreement is found to be in conflict with applicable laws, rules, or regulations, either present or future, that provision will be enforced to the maximum extent allowable, or made to conform, as the case may be. However, the remainder of this agreement will remain fully in effect.

Fidelity may use the electronically stored copy of your (or your agent's) signature, any written instructions or authorization, the account application and this agreement as the true, complete, valid, authentic, and enforceable record, admissible in judicial, administrative, or arbitration proceedings to the same extent as if the documents and records were originally generated and maintained in printed form. You agree to not contest the admissibility or enforceability of the electronically stored copies of such documents in any proceeding between you and Fidelity.

# Disclosures

### Service Providers

Retirement brokerage services are provided by NFS, an affiliate of FBS. Bonds may be traded through NFS (which may choose to act as principal or agent) or through external dealers. Services available through this account are the property of Fidelity or the third parties from which Fidelity has obtained rights. Market data provided by national securities exchanges or associations remain the property of those entities.

### Routing of Orders

FBS routes most customer orders to its affiliated broker-dealer, NFS, which in turn sends orders to various exchanges or market centers for execution. In deciding where to send an order, NFS looks at a number of factors, such as size of order, trading characteristics of the security, favorable execution prices (including the opportunity for price improvement), access to reliable market data, availability of efficient automated transaction processing, and execution cost. Some market centers may execute orders at prices superior to publicly quoted market prices. Although you can instruct us to send an order to a particular marketplace, our order-routing policies are designed to result in transaction processing that is favorable for you. NFS reserves the right to wait for the primary exchange to open before commencing trading in a particular security.

## Certain Fees We Receive

Fidelity and its affiliates receive fees for providing certain products and services. Below is a partial list of affiliates, and the services they are paid for:

- Fidelity Management & Research Company—fee for serving as an investment adviser to the Fidelity funds.
- FBS, NFS, or their affiliates may receive compensation in connection with the purchase and/or ongoing maintenance of positions in certain mutual funds in your account. FBS, NFS, or their affiliates may also receive compensation for such things as systems development necessary to establish a fund on their systems, a fund's attendance at events for FBS' clients, and/or representatives and opportunities for the fund to promote its products and services. This compensation may take the form of sales loads and 12b-1 fees described in the prospectus and/or additional compensation paid by the fund, its investment advisor, or an affiliate.

## Warranty Disclaimer

**Neither we nor any third party makes any representations or warranties express or implied, including, without limitation, any implied warranties of merchantability or fitness for a particular purpose in respect of any services provided in connection with this account, or any information programs or products obtained from, through, or in connection with these services. In no event will we or any third party be liable for direct, indirect, incidental, or consequential damages resulting from any defect in or use of these services.**

## Money Market Fund Investments

An investment in a money market fund is neither insured nor guaranteed by the Federal Deposit Insurance Corporation or any other U.S. government agency. Although a money market fund seeks to preserve the value of your investment at \$1.00 per share, it is possible to lose money by investing in a money market fund.

## Wisconsin Marital Property Act

Married Wisconsin residents should be aware that no provision of any marital property agreement, unilateral agreement, or court decree under Wisconsin's Marital Property Act will adversely affect a creditor's interest unless, prior to the time credit is granted, the creditor is furnished a copy of, or given complete information about, that agreement or decree.

## Unclaimed Property

Your account balance and certain uncashed checks issued from your account may be transferred to a state unclaimed property administrator if no activity occurs in the account or the check remains outstanding within the time period specified by the applicable state law.

## Callable Securities Lottery

When street name or bearer securities held for you are subject to a partial call or partial redemption by the issuer, NFS may or may not receive an allocation of called/redeemed securities by the issuer, transfer agent, and/or depository. If NFS is allocated a portion of the called/redeemed securities, NFS utilizes an impartial lottery allocation system, in accordance with applicable rules, that randomly selects the securities within customer accounts that will be called/redeemed. NFS's allocations are not made on a pro rata basis and it is possible for you to receive a full or partial allocation, or no allocation. You have the right to withdraw uncalled fully paid securities at any time prior to the cutoff date and time established by the issuer, transfer agent, and/or depository with respect to the partial call, and also to withdraw excess margin securities, provided your account is not subject to restriction under the Federal Reserve's Regulation T or such withdrawal will not cause an undermargined condition. For more information and an example of the impartial lottery process, please go to: [http://personal.fidelity.com/products/fixedincome/FI\\_Common\\_Risk.shtml](http://personal.fidelity.com/products/fixedincome/FI_Common_Risk.shtml).

## Resolving Disputes — Arbitration

This agreement contains a predispute arbitration clause. Under this clause, which you agree to when you sign your account application, you and Fidelity agree as follows:

- All parties to this agreement are giving up the right to sue each other in court, including the right to a trial by jury, except as provided by the rules of the arbitration forum in which a claim is filed.
- Arbitration awards are generally final and binding; a party's ability to have a court reverse or modify an arbitration award is very limited.
- The ability of the parties to obtain documents, witness statements, and other discovery is generally more limited in arbitration than in court proceedings.
- The arbitrators do not have to explain the reason(s) for their award unless, in an eligible case, a joint request for an explained decision has been submitted by all parties to the panel at least 20 days prior to the first scheduled hearing date.
- The panel of arbitrators may include a minority of arbitrators who were or are affiliated with the securities industry.
- The rules of some arbitration forums may impose time limits for bringing a claim in

arbitration. In some cases, a claim that is ineligible for arbitration may be brought in court.


- The rules of the arbitration forum in which the claim is filed, and any amendments thereto, shall be incorporated into this agreement.

**All controversies that may arise between you and us concerning any subject matter, issue, or circumstance whatsoever (including, but not limited to, controversies concerning any account, order, or transaction, or the continuation, performance, interpretation, or breach of this or any other agreement between you and us, whether entered into or arising before, on, or after the date this account is opened) shall be determined by arbitration through the Financial Industry Regulatory Authority (FINRA) or any United States securities self-regulatory organization or United States securities exchange of which the person, entity, or entities against whom the claim is made is a member, as you may designate. If you commence arbitration through a United States self-regulatory organization or United States securities exchange and the rules of that organization or exchange fail to be applied for any reason, then you shall commence arbitration with any other United States securities self-regulatory**

**tory organization or United States securities exchange of which the person, entity, or entities against whom the claim is made is a member. If you do not notify us in writing of your designation within five (5) days after such failure or after you receive from us a written demand for arbitration, then you authorize us to make such designation on your behalf. The commencement of arbitration through a particular self-regulatory organization or securities exchange is not integral to the underlying agreement to arbitrate. You understand that judgment upon any arbitration award may be entered in any court of competent jurisdiction.**

**No person shall bring a putative or certified class action to arbitration, nor seek to enforce any predispute arbitration agreement against any person who has initiated in court a putative class action; or who is a member of a putative class action who has not opted out of the class with respect to any claims encompassed by the putative class action until: (i) the class certification is denied; (ii) the class is decertified; or (iii) the customer is excluded from the class by the court. Such forbearance to enforce an agreement to arbitrate shall not constitute a waiver of any rights under this agreement except to the extent stated herein.**



FACTS	<h1>What do Fidelity Investments and the Fidelity Funds do with your personal information?</h1> <div></div>																						
WHY?	Financial companies choose how they share your personal information. Federal law gives consumers the right to limit some but not all sharing. Federal law also requires us to tell you how we collect, share, and protect your personal information. Please read this notice carefully to understand what we do.																						
WHAT?	<p>The types of personal information we collect and share depend on the product or service you have with us. This information can include:</p> <ul style="list-style-type: none"><li>■ Social Security number and employment information</li><li>■ assets and income</li><li>■ account balances and transaction history</li></ul> <p>When you are <i>no longer</i> our customer, we continue to share your information as described in this notice.</p>																						
HOW?	All financial companies need to share customers’ personal information to run their everyday business. In the section below, we list the reasons financial companies can share their customers’ personal information, the reasons Fidelity Investments and the Fidelity Funds (hereinafter referred to as “Fidelity”) choose to share, and whether you can limit this sharing.																						
<table><tr><th>REASONS WE CAN SHARE YOUR PERSONAL INFORMATION</th><th>DOES FIDELITY SHARE?</th><th>CAN YOU LIMIT THIS SHARING?</th></tr><tr><td>For our everyday business purposes— such as to process your transactions, maintain your account(s), respond to court orders and legal investigations, or report to credit bureaus</td><td>Yes</td><td>No</td></tr><tr><td>For our marketing purposes— to offer our products and services to you</td><td>Yes</td><td>No</td></tr><tr><td>For joint marketing with other financial companies</td><td>No</td><td>We don’t share</td></tr><tr><td>For our affiliates’ everyday business purposes— information about your transactions and experiences</td><td>Yes</td><td>No</td></tr><tr><td>For our affiliates’ everyday business purposes— information about your creditworthiness</td><td>No</td><td>We don’t share</td></tr><tr><td>For nonaffiliates to market to you</td><td>No</td><td>We don’t share</td></tr></table>			REASONS WE CAN SHARE YOUR PERSONAL INFORMATION	DOES FIDELITY SHARE?	CAN YOU LIMIT THIS SHARING?	For our everyday business purposes— such as to process your transactions, maintain your account(s), respond to court orders and legal investigations, or report to credit bureaus	Yes	No	For our marketing purposes— to offer our products and services to you	Yes	No	For joint marketing with other financial companies	No	We don’t share	For our affiliates’ everyday business purposes— information about your transactions and experiences	Yes	No	For our affiliates’ everyday business purposes— information about your creditworthiness	No	We don’t share	For nonaffiliates to market to you	No	We don’t share
REASONS WE CAN SHARE YOUR PERSONAL INFORMATION	DOES FIDELITY SHARE?	CAN YOU LIMIT THIS SHARING?																					
For our everyday business purposes— such as to process your transactions, maintain your account(s), respond to court orders and legal investigations, or report to credit bureaus	Yes	No																					
For our marketing purposes— to offer our products and services to you	Yes	No																					
For joint marketing with other financial companies	No	We don’t share																					
For our affiliates’ everyday business purposes— information about your transactions and experiences	Yes	No																					
For our affiliates’ everyday business purposes— information about your creditworthiness	No	We don’t share																					
For nonaffiliates to market to you	No	We don’t share																					
QUESTIONS?	Call 800-544-6666. If we serve you through an investment professional, please contact them directly. Specific Internet addresses, mailing addresses, and telephone numbers are listed on your statements and other correspondence.																						

<b>WHO WE ARE</b>	
<b>Who is providing this notice?</b>	Companies owned by Fidelity Investments using the Fidelity name to provide financial services to customers, and the Fidelity Funds. A list of companies is located at the end of this notice.
<b>WHAT WE DO</b>	
<b>How does Fidelity protect my personal information?</b>	To protect your personal information from unauthorized access and use, we use security measures that comply with federal law. These measures include computer safeguards and secured files and buildings.
<b>How does Fidelity collect my personal information?</b>	<p>We collect your personal information, for example, when you</p> <ul style="list-style-type: none"> <li>■ open an account or direct us to buy/sell your securities</li> <li>■ provide account information or give us your contact information</li> <li>■ tell us about your investment portfolio</li> </ul> <p>We also collect your personal information from others, such as credit bureaus, affiliates, or other companies.</p>
<b>Why can't I limit all sharing?</b>	<p>Federal law gives you the right to limit only</p> <ul style="list-style-type: none"> <li>■ sharing for affiliates' everyday business purposes—information about your creditworthiness</li> <li>■ affiliates from using certain information to market to you</li> <li>■ sharing for nonaffiliates to market to you</li> </ul> <p>State laws and individual companies may give you additional rights to limit sharing.</p>
<b>DEFINITIONS</b>	
<b>Affiliates</b>	<p>Companies related by common ownership or control. They can be financial and nonfinancial companies.</p> <ul style="list-style-type: none"> <li>■ Fidelity Investments affiliates include companies with the Fidelity name (excluding the Fidelity Funds), as listed below, and other financial companies such as National Financial Services LLC, Strategic Advisers, Inc., and Pyramis Global Advisors, LLC.</li> </ul>
<b>Nonaffiliates</b>	<p>Companies not related by common ownership or control. They can be financial and nonfinancial companies.</p> <ul style="list-style-type: none"> <li>■ Fidelity does not share with nonaffiliates so they can market to you.</li> </ul>
<b>Joint marketing</b>	<p>A formal agreement between nonaffiliated financial companies that together market financial products or services to you.</p> <ul style="list-style-type: none"> <li>■ Fidelity doesn't jointly market.</li> </ul>
<b>OTHER IMPORTANT INFORMATION</b>	
<p>If you transact business through Fidelity Investments life insurance companies, we may validate and obtain information about you from an insurance support organization. The insurance support organization may further share your information with other insurers, as permitted by law.</p> <p>If you establish an account in connection with your employer, your employer may request and receive certain information relevant to the administration of employee accounts.</p> <p>If you interact with Fidelity Investments directly as an individual investor (including joint account holders), we may exchange certain information about you with Fidelity Investments financial services affiliates, such as our brokerage and insurance companies, for their use in marketing products and services as allowable by law. Information collected from investment professionals' customers is not shared with Fidelity Investments affiliates for marketing purposes, except with your consent and as allowed by law.</p> <p>The Fidelity Funds have entered into a number of arrangements with Fidelity Investments companies to provide for investment management, distribution, and servicing of the Funds. The Fidelity Funds do not share personal information about you with other entities for any reason, except for everyday business purposes in order to service your account. For additional information, please visit <a href="https://www.fidelity.com">Fidelity.com</a>.</p>	
<b>WHO IS PROVIDING THIS NOTICE?</b>	
<p>Fidelity Investments companies: Fidelity Brokerage Services LLC; Fidelity Distributors Corporation; Fidelity Investments Institutional Operations Company, Inc.; Fidelity Investments Institutional Services Company, Inc.; Fidelity Management Trust Company; Fidelity Personal Trust Company, FSB; Fidelity Investments Life Insurance Company; Empire Fidelity Investments Life Insurance Company; Fidelity Insurance Agency, Inc.; National Financial Services LLC; Strategic Advisers, Inc.; Pyramis Global Advisors, LLC.</p> <p>The Fidelity Funds, which include funds advised by Strategic Advisers, Inc.</p>	

## NOTICE OF BUSINESS CONTINUITY

Fidelity is committed to providing continuous customer service and support; however, we recognize that there are potential risks that could disrupt our ability to serve you. We are confident that we have taken the necessary steps that will allow us to reduce or eliminate the impact of a business disruption.

Fidelity recognizes the responsibility we have to our customers. We have implemented a business continuity management program with a strong governance model and commitment from senior management. Our continuity program's primary objectives are to meet the needs of our customers, maintain the wellbeing and safety of our employees, and meet our regulatory obligations. The planning process is risk based and involves the understanding and prioritization of critical operations across the firm, the anticipation of probable threats, and the proactive development of strategies to mitigate the impact of those events.

Our continuity planning teams work closely with local governments and officials in the event of an outage impacting our operations. Additionally, Fidelity has identified three large scale scenarios that require particular focus: pandemics, events impacting stock and bond market operations, and cyber events. Detailed response plans have been developed and cross-discipline teams have been trained to address both day-to-day disruptions as well as these specific events.

Each Fidelity department has developed the capabilities to recover both operations and systems. All continuity plans are designed to account for disruptions of various lengths and scopes, and to ensure that critical functions are recovered to meet their business objectives. Critical business groups operate from multiple sites. Dedicated teams within our technology organizations ensure that critical applications and data have sufficient redundancy and availability to minimize the impact of an event. Key components of Fidelity's continuity and technology recovery planning include:

- Alternate physical locations and preparedness
- Alternative means to communicate with our customers
- Back-up telecommunications and systems
- Employee safety programs

Plans are tested regularly to ensure they are effective should an actual event occur. Fidelity's Business Continuity Plans are reviewed no less than annually to ensure the appropriate updates are made to account for operations, technology, and regulatory changes. Material changes will be reflected in an updated "Notice of Business Continuity Plan." You may obtain a copy of this notice at any time by contacting a Fidelity Representative.



# Brokerage Commission and Fee Schedule

## FEES AND COMPENSATION

Fidelity brokerage accounts are highly flexible, and our cost structure is flexible as well. Our use of “à la carte” pricing for many features helps to ensure that you only pay for the features you use.

### About Our Commissions and Fees

The most economical way to place trades is online, meaning either through Fidelity.com, Fidelity Active Trader Pro®, or Fidelity Mobile®. The next most economical way is Fidelity Automated Service Telephone (FAST®). This automated service is available around the clock and can be accessed from a touch-tone phone.

The fees described in this document apply to the Fidelity Account®, Non-Prototype Retirement Accounts, Health Savings Accounts (HSAs), and Fidelity Retirement Accounts (including Traditional, Roth, Rollover, SEP-IRA, SIMPLE IRAs, and Fidelity Retirement Plans (Keogh and SE 401(k)), and inherited IRAs and inherited Keogh accounts). Note that different fee schedules generally apply for Stock Plan Services. The fees described in this document may change from time to time without notice. Before placing a trade, consider Fidelity's most recent Brokerage Commission and Fee Schedule, available at Fidelity.com or through a Fidelity representative.

### STOCKS/ETFs

Online **\$7.95 per trade**

FAST® **\$12.95 per trade**

Rep-Assisted **\$32.95 per trade**

*These commissions and fees apply to securities including, but not limited to, domestic (U.S.) equities traded on national exchanges, short sales, exchange-traded funds (ETFs), and U.S.-traded foreign securities (ADRs, or American Depositary Receipts, and ORDs, or Ordinaries).<sup>1</sup> For details on foreign stock trading, see the Foreign Stocks section.*

*There is an assessment of between \$0.01 and \$0.03 per \$1,000 of principal in addition to your commission that is added to sell orders. This assessment is imposed on the financial services industry by the Securities and Exchange Commission to cover the government's costs of regulating the security markets and security professionals.*

*Fidelity Brokerage Services LLC (“FBS”) and/or NFS receives remuneration, compensation, or consideration for directing orders in equity securities to particular broker/dealers or market centers for execution. The payer, source, and nature of any compensation received in connection with your particular transaction will vary based on the venue that a trade has been routed to for execution and will be disclosed upon written request to FBS. Please refer to Fidelity's customer agreement for additional information about order flow practices and to Fidelity's commitment to execution quality ([http://personal.fidelity.com/products/trading/Fidelity\\_Services/Service\\_Commitment.shtml](http://personal.fidelity.com/products/trading/Fidelity_Services/Service_Commitment.shtml)) for additional information about order routing. Also review FBS's annual disclosure on payment for order flow policies and order routing policies.*

*FBS has entered into a long-term, exclusive and significant arrangement with the advisor to the iShares Funds that includes but is not limited to FBS's promotion of iShares funds, as well as in some cases purchase of certain iShares funds at a reduced commission rate (“Marketing Program”). FBS receives compensation from the fund's advisor or its affiliates in connection with the Marketing Program. FBS is entitled to receive additional payments during or after termination of the Marketing Program based upon a number of criteria, including the overall success of the Marketing Program. The Marketing Program creates significant incentives for FBS to encourage customers to buy iShares funds. Additional information about the sources, amounts, and terms of compensation is described in the ETF's prospectus and related documents.*

### Short-term Trading Fees

*Effective September 30, 2013, Fidelity will charge a short-term trading fee each time you sell iShares Funds purchased commission free that are sold within 30 days.*

*The short-term trading fee will be applied on a first-in, first-out basis, and will not apply to iShares Funds purchased through dividend reinvestment. The short-term trading fee is based on the following schedule:*

- Online: \$7.95
- FAST®: \$12.95

*Please note: Rep-Assisted trades for iShares Funds will be subject to the \$32.95 commission per trade, but will not be subject to the short-term trading fee.*

Fidelity ETFs can be purchased commission free online and via FAST® in a Fidelity Account with a minimum opening balance of \$2,500.

The sales of Fidelity ETFs are subject to an activity assessment fee (of between \$0.01 and \$0.03 per \$1,000 of principal) by Fidelity and, after January 31, 2014, subject to a short-term trading fee by Fidelity, if held less than 30 days.

### NEW ISSUE

Fidelity makes certain new issue products available without a separate transaction fee. Fidelity may receive compensation for participating in the offering as a selling group member or underwriter. The compensation Fidelity receives from issuers when acting as both underwriter and selling group member is reflected in the “Range of Fees from Underwriting” column. When Fidelity acts as underwriter but securities are sold through other selling group members, Fidelity receives the underwriting fees less the selling group fees.

Securities	Range of Fees from Participation in Selling Group	Range of Fees from Underwriting
IPOs	• 3% to 4.2% of the investment amount	• 5% to 7% of the investment amount
Follow-Ons	• 1.8% to 2.4% of the investment amount	• 3% to 4% of the investment amount

Please refer to the applicable pricing supplement or other offering document for the exact percentage sales concession or underwriting discount.

### OPTIONS

Online **\$7.95 per trade** + 75¢ per contract

FAST® **\$12.95 per trade** + 75¢ per contract

Rep-Assisted **\$32.95 per trade** + 75¢ per contract

*Buy-to-close trades: regular online stock rates apply when the contract price is 65¢ or less; or regular options rates (as above) apply when the contract price exceeds 65¢. Exercises and assignments: regular online stock rates apply. Maximum charge: 5% of principal (subject to a minimum charge of \$7.95 for Online trades, \$12.95 for FAST trades, and \$32.95 for Rep-Assisted trades).*

*Multi-Leg Option orders are charged only on base commission, plus a per contract charge for the total number of contracts executed in the trade.*

*The Options Regulatory Fee applies to both option buy and sell transactions. This fee is in addition to your commission, and is included on your trade confirmation in the Activity Assessment Fee. The current cumulative fee charged by participating options exchanges is \$0.0346 per contract and is subject to change at any time. In addition, other options exchanges may decide to impose similar fees. If so, these fees will also be included in the Activity Assessment Fee. All fees collected by Fidelity are passed on to the appropriate regulatory body to meet this requirement.*

### BONDS AND CDS

#### New Issues, Primary Purchases (all other fixed-income securities except U.S. Treasury)

Fidelity makes certain new issue products available without a separate transaction fee. Fidelity may receive compensation from issuers for participating in the offering as a selling group member and/or underwriter. The compensation Fidelity receives from issuers when acting as both underwriter and selling group member is reflected in the “Range of Fees from Underwriting” column. When Fidelity acts as underwriter but securities are sold through other selling group members, Fidelity receives the underwriting fees less the selling group fees.

<sup>1</sup> A Financial Transaction Tax of 0.20% of principal per trade on purchases of French securities and 0.12% of principal per trade on purchases of Italian securities may be assessed.

## BONDS

Securities	Range of Fees from Participation in Selling Group	Range of Fees from Underwriting
Agency/GSE	N/A	• 0.05% to 1.00% of the investment amount
Corporate Notes	• 0.01% to 2.5% of the investment amount	• 0.01% to 3.0% of the investment amount
Corporate Bond	• 0.01% to 2.5% of the investment amount	• 0.05% to 3.0% of the investment amount
Municipal Bonds and Taxable Municipal Bonds	• 0.1% to 2% of the investment amount	• 0.1% to 2.5% of the investment amount
Structured Products (Registered Notes)	• 0.05% to 5.0% of the investment amount	N/A
Fixed-Rate Capital	• 2% of the investment amount	• 3% of the investment amount

Please refer to the applicable pricing supplement or other offering document for the exact percentage sales concession or underwriting discount.

## CDs

Securities	Range of Fees from Participation in Selling Group	Range of Fees from Underwriting
CDs—CDIPs (Inflation Protected)	• 0.1% to 2% of the investment amount	• 0.1% to 2.5% of the investment amount
Structured Products (Market-linked CDs)	• 0.05% to 5% of the investment amount	N/A

## U.S. Treasury, including TIPS—Auction Purchases

Online **No charge**

Rep-Assisted **\$19.95 per trade**

## SECONDARY MARKET TRANSACTIONS

Concessions for all secondary bond (fixed-income) trades are listed below.

## U.S. Treasury, including TIPS

Online **No charge**

\*\*Rep-Assisted **\$19.95**

## All Other Bonds

Online **\$1.00 per bond\***

Rep-Assisted **\$1.00 per bond\*\***

\*Online \$8.00 minimum

\*\*Rep-Assisted \$19.95 minimum

Please note that a \$250 maximum applies to all trades and is reduced to a \$50 maximum for bonds maturing in one year or less.

*Bond orders cannot be placed through FAST.®*

*The offering broker, which may be our affiliate National Financial Services ("NFS"), may separately mark up or mark down the price of the security and may realize a trading profit or loss on the transaction. If NFS is not the offering broker, Fidelity compensation is limited to the prices above.*

## Foreign Fixed-Income Trading

When purchasing a foreign currency-denominated fixed-income security for settlement in USD, the following additional charges will apply:

<\$1M	0.30% of principal
\$1M–\$5M	0.20% of principal
>\$5M	negotiated rate

## MUTUAL FUNDS

This section only describes fees associated with your account. Fees charged by a fund itself (for example, expense ratios, redemption fees [if any], exchange fees [if any], sales charges [for certain load funds]) are in the fund's prospectus. Read it carefully before you invest.

## Fidelity Funds

All Methods **No transaction fee**

## FundsNetwork Funds

Through FundsNetwork,® your account provides access to over 5,700 mutual funds. At the time you purchase shares of funds, those shares will be assigned either a transaction fee (TF), a no transaction fee (NTF) or a load status. When you subsequently sell those shares, any applicable fees will be assessed based on the status assigned to the shares at the time of purchase.

Fidelity Brokerage Services LLC, or its affiliates, may receive compensation in connection with the purchase and/or the ongoing maintenance of positions in certain mutual funds in your account. FBS may also receive compensation for such things as systems development necessary to establish a fund on its systems, a fund's attendance at events for FBS's clients and/or representatives, and opportunities for the fund to promote its products and services. This compensation may take the form of sales loads and 12b-1 fees described in the prospectus and/or additional compensation paid by the fund, its investment advisor, or an affiliate.

## FundsNetwork No Transaction Fee Funds.

All Methods **No transaction fee\* Most NTF Funds will have no load.**

**Certain NTF Funds will be available load waived.**

## Short-term Trading Fees

Fidelity charges a short-term trading fee each time you sell or exchange shares of a FundsNetwork NTF fund held less than 60 days. This fee does not apply to Fidelity funds, money market funds, FundsNetwork Transaction Fee funds, FundsNetwork load funds, funds redeemed through the Personal Withdrawal Service, or shares purchased through dividend reinvestment. In addition, Fidelity reserves the right to exempt other funds from this fee, such as funds designed to achieve their stated objective on a short-term basis. The fee will be based on the following fee schedule:

Online **\$49.95 flat fee**

Fidelity Automated Service Telephone (FAST®): **0.5625% of principal** (25% off representative-assisted rates), maximum \$187.50, minimum \$75

Representative-Assisted: **0.75% of principal**, maximum \$250, minimum \$100

Keep in mind that the short-term trading fee charged by Fidelity on FundsNetwork NTF funds is different and separate from a short-term redemption fee assessed by the fund itself. Not all funds have short-term redemption fees, so please review the fund's prospectus to learn more about a potential short-term redemption fee charged by a particular fund.

\*Fidelity reserves the right to change the funds available without transaction fees and reinstate the fees on any funds.

## FundsNetwork Transaction-Fee Funds

### Purchases:

Online: **\$49.95 or \$75 per purchase.** To identify any applicable transaction fees associated with the purchase of a given fund, please refer to the "Fees and Distributions" tab on the individual fund page on Fidelity.com.

FAST®: **0.5625% of principal per purchase;** minimum \$75, maximum \$187.50

Rep-Assisted: **0.75% of principal per purchase;** minimum \$100, maximum \$250

### Redemptions:

Fidelity does not charge a transaction fee on any redemption of shares of a transaction-fee fund that were purchased with no load. A fund's own redemption fees may apply.

You can buy shares in a transaction-fee fund from its principal underwriter or distributor without a Fidelity transaction fee.

## FundsNetwork Load Funds

**A fund's sales charges may apply.** Fidelity does not charge a transaction fee on a load fund. A fund's own redemption fees may apply.

## FOREIGN STOCKS

Fidelity offers you two different ways to trade foreign stocks. You can utilize either Fidelity's "International Trading" functionality or its "Foreign Ordinary Share Trading" service. Depending on the service, different commissions, taxes and fees may apply as more fully described below. You can also call a Fidelity representative for further detail.

## International Trading

*International Trading* allows customers to trade stocks from 25 countries and exchange between 16 currencies. These trades are placed using a root symbol, followed by a colon (:) and then the two-letter country code for the market the customer wants to trade in. The commission and additional charges that may apply for International Trading will vary as noted below, depending on the market and whether the trade is placed online or through a representative. Please also note that if a security trading on an exchange



in one of the markets noted below is only listed for trading in a currency other than that country's local market's currency, then the commissions and fees that will be charged will be based on the currency the security is trading in instead of the local market's currency. The list of countries, currencies, taxes and fees provided below is subject to change without notice.

**Austria, Belgium, Finland, France, Germany, Greece, Ireland, Italy, Netherlands, Portugal, and Spain**

Online **19 EUR per trade**

Rep-Assisted **50 EUR per trade**

*Note: There may be additional fees or taxes imposed on transactions in certain securities including: Financial Transaction Tax: **0.20% of principal per trade** on purchases of French securities and **0.12% of principal per trade** on purchases of Italian securities.*

Stamp Tax **1.00% of principal per trade** on purchases of Irish securities.

**Australia**

Online **\$32 AUD per trade**

Rep-Assisted **\$70 AUD per trade**

**Canada**

Online **\$19 CAD per trade**

Rep-Assisted **\$70 CAD per trade**

**Denmark**

Online **160 DKK per trade**

Rep-Assisted **420 DKK per trade**

**Hong Kong**

Online **HK\$250 HKD per trade**

Rep-Assisted **HK\$600 HKD per trade**

*Note: Additional fees or taxes imposed on transactions in Hong Kong securities include:*

Transaction Levy **0.004% of principal** per trade

Trading Fee **0.005% of principal** per trade

Stamp Duty **0.10% of principal** per trade

**Japan**

Online **¥3,000 JPY per trade**

Rep-Assisted **¥8,000 JPY per trade**

**Mexico**

Online **\$360 MXN per trade**

Rep-Assisted **\$960 MXN per trade**

**New Zealand**

Online **\$35 NZD per trade**

Rep-Assisted **\$90 NZD per trade**

**Norway**

Online **kr160 NOK per trade**

Rep-Assisted **kr400 NOK per trade**

**Poland**

Online **90 PLN per trade**

Rep-Assisted **235 PLN per trade**

**S. Africa**

Online **225 ZAR per trade**

Rep-Assisted **600 ZAR per trade**

*Note: Additional fees or taxes imposed on transactions in S. African securities include:*

Securities Transfer Tax: **0.25% of principal** on purchases

**Singapore**

Online **\$35 SGD per trade**

Rep-Assisted **\$90 SGD per trade**

*Note: Additional fees or taxes imposed on transactions in Singapore securities include:*

Clearing fee **0.04% of principal** per trade

**Sweden**

Online **kr180 SEK per trade**

Rep-Assisted **kr480 SEK per trade**

**Switzerland**

Online **CHF25 CHF per trade**

Rep-Assisted **CHF65 CHF per trade**

**United Kingdom**

Online **£9 GBP per trade**

Rep-Assisted **£30 GBP per trade**

*Note: Additional fees or taxes imposed on transactions in UK securities include: PTM Levy **£1 GBP** per trade where principal amount is >£10,000 GBP Stamp Duty **0.50% of principal** only on purchases*

*There may also be further fees, taxes, or other charges assessed when conducting transactions in foreign securities beyond those described here. Details regarding these charges are available from a Fidelity representative. These fees, taxes, and charges, if any, will be disclosed on your trade confirmation (either individually or in the aggregate) and/or may be incorporated into the execution price.*

**Foreign Currency Exchange**

*In addition to the commissions, taxes, fees, and other charges noted above, a currency exchange fee (in the form of a markup or markdown **on the exchange rate**) will be charged based on the size of the currency conversion, pursuant to the following schedule:*

<\$100K	1.0% of principal
\$100K–\$249K	0.75% of principal
\$250K–\$499K	0.50% of principal
\$500K–\$999K	0.30% of principal
\$1M+	0–0.20% of principal

**Foreign Ordinary Share Trading**

*Foreign Ordinary Share Trading* allows customers to trade shares in foreign corporations on the over-the-counter (OTC) market using a five-character symbol ending in "F." Trades in foreign ordinary shares can be placed online or through a Fidelity representative. In either case, the domestic commission schedule for stocks/ETFs will apply. A \$50 fee will also be charged on each transaction in any foreign ordinary stock that is not Depository Trust Company eligible. Depending on the security and the market, additional charges will apply, as described below. There may also be further fees, taxes, or other charges assessed when conducting transactions in foreign securities beyond those described here. Details regarding these charges are available from a Fidelity representative. These fees and taxes, if any, will be disclosed on the trade confirmation (either individually or in the aggregate) and/or may be incorporated into the execution price.

**Canada**

When trading in Canadian stocks, orders are generally routed to brokers in Canada. However, dually listed Canadian stocks may be routed to a Canadian broker or U.S. market center for execution. If the order is routed to a Canadian broker, a local broker's fee of \$0.0025 CAD if less than \$1 CAD and \$0.005 CAD if greater than \$1 CAD and a foreign exchange fee of up to 0.01% of the principal may also be incorporated into the execution price.

**All Other Countries**

For every country other than Canada, shares will be traded on the over-the-counter market through a U.S. market maker, unless you direct otherwise when you place your trade through a representative. In that situation (that is, if you direct that the transaction occur other than on the over-the-counter market), an additional foreign exchange fee of up to 0.30% of principal per trade may be incorporated into the execution price.

**OTHER INVESTMENTS**

**Commercial Paper \$50 per transaction**

**Unit Investment Trusts (UITs) \$35 minimum per redemption;** no fee to purchase. Fidelity makes certain new issue products available without a separate transaction fee. Fidelity receives compensation for participating in the offering as a selling group member. Fees from participating in the selling group range from 1% to 4% of the public offering price. Fidelity may also receive compensation for reaching certain sales levels, which range from 0.001%–0.0025% of the monthly volume sold.

**Precious Metals**

Buy	Gross Amount	% Charged on Gross Amount	Sell	Gross Amount	% Charged on Gross Amount
\$0–\$9,999		2.90%	\$0–\$49,999		2.00%
\$10,000–\$49,999		2.50%	\$50,000–\$249,999		1.00%
\$50,000–\$99,999		1.98%	\$250,000+*		0.75%
\$100,000+*		0.99%			

\*delivery charges and applicable taxes if you take delivery

Fidelity charges a quarterly storage fee of 0.125% of the total value or \$3.75, whichever is greater. Storage fees are pre-billed based on the value of the precious metals in the marketplace at the time of billing.

*For more information on these other investments and the cost of a specific transaction, contact Fidelity at 800-544-6666. Minimum fee per precious*

<sup>1</sup> Households with \$1 million or more in assets or \$25,000 or more in assets + 120 trades a year. For details, see Fee Waiver Eligibility section on the next page.

metals transaction: \$44. Minimum precious metals purchase: \$2,500 (\$1,000 for IRAs). Precious metals may not be purchased in a Fidelity Retirement Plan (Keogh), and are restricted to certain types of investments in a Fidelity IRA.

## OTHER FEES AND COMPENSATION

### All Accounts

**Mutual Fund Low Balance Fee** \$12 per year for each noncore Fidelity fund under \$2,000; other policies described below

**Bank Wire** \$10 per online transaction, \$15 per transaction via form or representative; waived for households that meet certain asset and trade minimums at Fidelity<sup>2</sup>

**Foreign Currency Wires** up to 3% of principal; charged when converting USD to wire funds in a foreign currency

**Foreign Dividends/Reorganizations** 1% of principal; charged when a dividend is paid or a reorganization event occurs on a foreign asset held in an account in USD

**Voluntary Reorganizations** \$38 per transaction; applies to voluntary transactions such as exercising rights or warrants, participating in tender offers, bonds or preferred stock; waived for households that meet certain asset and trade minimums at Fidelity<sup>1</sup>

### Nonretirement Accounts

**Checkwriting** \$15 per returned check or stop-payment; nominal fees may apply for services such as check reorders, copies of checks, and specialty check orders

**Debit Card** No card fee for Fidelity VISA® Gold Check Card + \$1.00 per ATM transaction above five transactions per month; households with \$500,000 in assets or 120 trades per year pay no Fidelity ATM fee and Fidelity reimburses domestic ATM fees charged by other institutions up to \$75 per year. ATM not available for Fidelity HSA debit card.

**Late Settlement** \$15 per transaction; charged when a securities purchase settles one or more days late due to insufficient funds being available in your account

**Transfer Limited Partnership Positions** \$75 per partnership; applies only when moving a holding in an unregistered partnership to your account

**Transfer and Ship Certificates** \$100 per certificate; applies only to customers who have certificate shares reregistered and shipped; waived for households that meet certain asset and trade minimums at Fidelity<sup>2</sup>

**Cashier's Check** \$10 Available by overnight delivery to customer's address by calling a Representative, or in person at the Boston Congress St. Investor Center. Cashier's Checks, which are purchased with funds from a Fidelity account, are subject to a \$10 fee (waived for Gold-level accounts)<sup>2</sup>

### Retirement Accounts and HSAs

**Annual Fees** \$25 per year for SIMPLE IRAs; deducted from account (usually in November) unless employer has already paid separately. Fidelity may deduct an administrative fee of \$12 per quarter (\$48 annually) from your Fidelity HSA; waived for households that meet certain asset minimums at Fidelity.<sup>2</sup> The administrative fee will not be deducted if it's paid by your employer.

**Close Account** \$50 per account for Fidelity IRAs (excluding SIMPLE IRAs), Fidelity Retirement Plan (Keogh) Accounts

**Check Ordering** HSAs will be subject to a fee of \$10 per order of 25 checks.

## Fee and Trading Policies

Commissions will be charged per order. For commission purposes, orders executed over multiple days will be treated as separate orders. Unless noted otherwise, all fees and commissions are debited from your core account.

## Fee Waiver Eligibility

To determine your eligibility for fee waivers, we group the assets and trading activity of all of the eligible accounts shown on your periodic account statement.

Eligible accounts generally include those maintained with Fidelity Service Company, Inc., or FBS [such as 401(k), 403(b), or 457 plan assets] or held in Fidelity Investments Life Insurance Company accounts, Fidelity Portfolio Advisory Service® or Fidelity Private Portfolio Service® accounts. Assets maintained by Fidelity Personal Trust Company, FSB, are generally not included. We may include other assets at our discretion.

We will review your account periodically to confirm that your household is receiving the best fee waivers it qualifies for, and may change your fee waiver eligibility at any time based on these reviews. We update fee waiver eligibility across household accounts promptly after a daily review of trading activity, and monthly after a review of household assets. All trading activity is measured on a rolling 12-month basis.

If you believe there are eligible accounts within your household that are not being counted in our fee waiver eligibility process—for example, accounts held by immediate family members who reside with you—you may authorize Fidelity to consolidate these accounts into an aggregated relationship household and review them for eligibility. Any resulting fee waivers would extend both to you and to all immediate family members residing with you. Most customers receive only a single customer reporting statement from Fidelity and do not need to take any action. However, for more information, go to [Fidelity.com/goto/commissions](https://www.fidelity.com/goto/commissions) or call us at 800-544-6666.

## Mutual Fund Low-Balance Fee

Fund positions are normally valued each year on the second Friday in November. Positions opened after September 30, or after January 1 if using regular, periodic investment plans, are not subject to the fee for that calendar year. See your Fidelity fund's prospectus for additional information. This fee does not apply to Portfolio Advisory Services, SIMPLE IRA, CIT, or Fidelity BrokerageLink® accounts.

## ATM Fees

For ATM transactions, assets are calculated each business day and free ATM use is extended to the account the following day. Accounts which do not maintain the stated balances may be charged the fee without notice. ATM withdrawals may be subject to other fees and limits.

## Limits on Feature Eligibility

Retirement accounts and Fidelity BrokerageLink® accounts cannot trade foreign securities or sell short, are not eligible for margin loans, and may be subject to other rules and policies. Please see the literature for these accounts for details.

## Prospectuses and Fact Sheets

Free prospectuses are available for UITs, Fidelity funds, and Fidelity FundsNetwork® funds. Fact sheets are available for certificates of deposit. To obtain any of these documents, and for other information on any fund offered through Fidelity, including charges and expenses, call 800-544-6666 or visit [Fidelity.com](https://www.fidelity.com).

## Margin Fees

Understanding how margin charges are calculated is essential for any investor considering or using margin. The information below, provided in conformity with federal securities regulations, is designed to help you understand the terms, conditions, and methods associated with our margin interest charges.

For all margin borrowing—regardless of what you use it for—we charge interest at an annual rate that is based on two factors: our

<sup>2</sup> Households with \$250k or more in assets. For details, see Fee Waiver Eligibility section.

base rate, and your average debit balance. We set our base rate with reference to commercially recognized interest rates, industry conditions regarding margin credit, and general credit conditions. The table below shows the premiums and discounts we apply to our base rate depending on the average debit balance:

#### Interest Charged

Average Debit Balance	Interest Charged Above/Below Base Rate
\$0–\$9,999.99	+2.00%
\$10,000–\$24,999.99	+1.50%
\$25,000–\$49,999.99	+1.00%
\$50,000–\$99,999.99	+0.50%
\$100,000–\$499,999.99	0.00%
\$500,000	–2.825%

In determining your debit balance and interest rate, we combine the margin balances in all your accounts except short accounts and income accounts. We then compute interest for each account based on the rate resulting from averaging the daily debit balances during the interest period. Interest is charged from the date we extend you credit.

Your rate of interest will change without notice based on changes in the base rate and in your average debit balance. When your interest rate is increased for any other reason, we will give you at least 30 days' written notice. If the base rate is stated as a range, we may apply the high end of the range.

For any month where your monthly margin charges are \$1 or more, your monthly statement will show both the dollar amount and the rate of your interest charges. If your interest rate changed during the month, separate charges will be shown for each rate. Each interest cycle begins the first business day following the 20th of each month.

#### Other Charges

You may be assessed separate interest charges, at the base rate plus two percentage points, in connection with any of the following:

- Payments of the proceeds of a security sale in advance of the regular settlement date (such prepayments must be approved in advance)
- When the market price of a "when-issued" security falls below your contract price by more than the amount of your cash deposit
- When payments for securities purchased are received after the settlement date

#### How Interest Is Computed

Interest on debit balances is computed by multiplying the average daily debit balance of the account by the applicable interest rate in effect and dividing by 360, times the number of days a daily debit balance was maintained during the interest period.

#### Marking to Market

The credit balance in the short account will be decreased or increased in accordance with the corresponding market values of all short positions. Corresponding debits or credits will be posted to the margin account. These entries in the margin account will, of course, affect the balance on which interest is computed. Credits in your short account, other than marking to market, will not be used to offset your margin account balance for interest computation.

# Addendum to Brokerage Commission and Fee Schedule

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## **FundsNetwork®**

FBS and/or NFS has contracted with certain mutual funds, their investment advisors, or their affiliates and certain ETF investment advisors to receive other compensation in connection with the purchase and/or the ongoing maintenance of positions in certain mutual fund shares and ETFs in your brokerage account. This additional annual compensation may be paid with respect to the mutual fund by the mutual fund, its investment advisor, or one of its affiliates and with respect to the ETF by its investment advisor or its affiliates.

- **FundsNetwork No Transaction Fee (NTF) Funds and ETFs**
  - For funds participating in the NTF program and certain ETFs, Fidelity receives compensation that can typically range from 0 to 50 basis points based on the average daily balance. As of 12/31/2012, 96% of the mutual funds currently in the NTF program are in the 35–40 basis point range.
- **FundsNetwork Transaction Fee (TF) Funds**
  - For funds participating in the TF program, Fidelity receives compensation based on: (1) per-position fees that typically range from \$3 to \$19 per brokerage account or (2) 1 to 15 basis points based on average daily assets. As of 12/31/2012, 98% of the mutual funds participating in the TF program are in the \$10–\$19 per-position-fee range. TF compensation is in addition to any 12b-1 fees as described in the fund's prospectus.
- If you would like more information on any of the mutual funds in the FundsNetwork program, please call Fidelity at 800-544-5373 Option 3.

## **Use of funds held overnight**

FBS is the introducing broker-dealer for Fidelity brokerage accounts ("Accounts"). Its affiliate, NFS, provides clearing and other related services on Accounts. As compensation for services provided with respect to Accounts, NFS receives use of: amounts from the sale of securities prior to settlement; amounts that are deposited in the Accounts before investment; and disbursement amounts made by check prior to the check being cleared by the bank on which it was drawn. Any of the above amounts will first be netted against outstanding Account obligations. The use of such amounts may generate earnings (or "float") for NFS or instead may be used by NFS to offset its other operational obligations. Information concerning the time frames during which NFS may have use of such amounts and rates at which float earnings are expected to accrue is provided as follows:

- (1) **Receipts.** The deposit of amounts that settle from the sale of securities or that are deposited into an Account (by wire, check, ACH [Automated Clearing House] or other means) will generally be purchased into the Account's core sweep vehicle by close of business on the business day that NFS receives such funds. NFS gets the use of such amounts from the time it receives funds until the core sweep vehicle purchase settles on the next business day. Note that amounts disbursed from an Account (other than as referenced in Section 2 below) or purchases made in an Account will result in a corresponding "cost" to NFS. This occurs because NFS provides funding for these disbursements or purchases one day prior to the receipt of funds from the Account's core sweep vehicle. These "costs" may reduce or eliminate any benefit that NFS derived from the receipts described previously.
- (2) **Disbursements.** NFS gets the use of amounts disbursed by check from Accounts from the date the check is issued by NFS until the check is presented and paid.
- (3) **Float Earnings.** To the extent that such amounts generate float earnings, such earnings will generally be realized by NFS at rates approximating the Target Federal Funds Rate.

**Supplement to the  
Fidelity® Cash Reserves and  
Fidelity U.S. Government Reserves  
January 29, 2013  
Prospectus**

*Previously the group fee rate component of certain Fidelity funds' management fees was based on the monthly average net assets of all of the registered investment companies with which FMR has management contracts. Going forward, FMR has agreed that assets of Fidelity's sector funds that previously counted toward group assets will continue to be counted even after Fidelity SelectCo, LLC, an affiliate of FMR, has assumed management responsibilities for certain sector funds.*

The following information replaces similar information in the Fund Management section:

The group fee rate is based on the average net assets of all the mutual funds advised by FMR. For this purpose, the average net assets of any mutual funds previously advised by FMR that currently are advised by Fidelity SelectCo, LLC are included.

<u>Fund</u>	<u>Ticker</u>
Fidelity <sup>®</sup> Cash Reserves	FDRXX
Fidelity <sup>®</sup> U.S. Government Reserves	FGRXX

## Prospectus

January 29, 2013

Like securities of all mutual funds, these securities have not been approved or disapproved by the Securities and Exchange Commission, and the Securities and Exchange Commission has not determined if this prospectus is accurate or complete. Any representation to the contrary is a criminal offense.



82 Devonshire Street, Boston, MA 02109

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# Fund Summary

## Fund: Fidelity® Cash Reserves Investment Objective

The fund seeks as high a level of current income as is consistent with the preservation of capital and liquidity.

### Shareholder fees (fees paid directly from your investment)

Wire redemption fee	\$5.00
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### Annual fund operating expenses (expenses that you pay each year as a % of the value of your investment)

Management fee	0.17%
Distribution and/or Service (12b-1) fees	None
Other expenses	0.21%
<b>Total annual fund operating expenses</b>	<b>0.38%</b>

This **example** helps compare the cost of investing in the fund with the cost of investing in other mutual funds.

Let's say, hypothetically, that the annual return for shares of the fund is 5% and that your shareholder fees and the annual operating expenses for shares of the fund are exactly as described in the fee

1 year	\$ 39
3 years	\$ 122
5 years	\$ 213
10 years	\$ 480

## Principal Investment Strategies

- Investing in U.S. dollar-denominated money market securities of domestic and foreign issuers and repurchase agreements.
- Potentially entering into reverse repurchase agreements.
- Investing more than 25% of total assets in the financial services industries.
- Investing in compliance with industry-standard regulatory requirements for money market funds for the quality, maturity, and diversification of investments.

## Principal Investment Risks

- **Interest Rate Changes.** Interest rate increases can cause the price of a money market security to decrease.
- **Foreign Exposure.** Entities located in foreign countries can be affected by adverse political, regulatory, market, or economic developments in those countries.
- **Financial Services Exposure.** Changes in government regulation and interest rates and economic downturns can have a significant negative effect on issuers in the financial services sector,

## Fee Table

The following table describes the fees and expenses that may be incurred when you buy, hold, or sell shares of the fund.

table. This example illustrates the effect of fees and expenses, but is not meant to suggest actual or expected fees and expenses or returns, all of which may vary. For every \$10,000 you invested, here's how much you would pay in total expenses if you sell all of your shares at the end of each time period indicated:

including the price of their securities or their ability to meet their payment obligations.

- **Issuer-Specific Changes.** A decline in the credit quality of an issuer or a provider of credit support or a maturity-shortening structure for a security can cause the price of a money market security to decrease.

An investment in the fund is not a deposit of a bank and is not insured or guaranteed by the Federal Deposit Insurance Corporation or any other government agency. Although the fund seeks to preserve the value of your investment at \$1.00 per share, it is possible to lose money by investing in the fund.

## Performance

The following information is intended to help you understand the risks of investing in the fund. The information illustrates the changes in the performance of the fund's shares from year to year. Past performance is not an indication of future performance.

Visit [www.fidelity.com](http://www.fidelity.com) for updated return information.



## Fund Summary – continued

### Year-by-Year Returns

Calendar Years	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
	0.90%	1.06%	2.93%	4.75%	5.06%	2.89%	0.61%	0.06%	0.01%	0.02%

Percentage (%)

10

0

-10

During the periods shown in the chart:

Highest Quarter Return

Lowest Quarter Return

Returns	Quarter ended
1.27%	September 30, 2007
0.00%	June 30, 2011

### Average Annual Returns

For the periods ended  
December 31, 2012

Fidelity Cash Reserves

Past 1 year	Past 5 years	Past 10 years
0.02%	0.71%	1.81%

### Investment Advisers

Fidelity Management & Research Company (FMR) is the fund's manager. Fidelity Investments Money Management, Inc. (FIMM) and other investment advisers serve as sub-advisers for the fund.

### Purchase and Sale of Shares

You may buy or sell shares of the fund through a Fidelity brokerage or mutual fund account, through a retirement account, or through an investment professional. You may buy or sell shares in various ways:

#### Internet

[www.fidelity.com](http://www.fidelity.com)

#### Phone

Fidelity Automated Service Telephone (FAST®) 1-800-544-5555

To reach a Fidelity representative 1-800-544-6666

#### Mail

##### Additional purchases:

Fidelity Investments  
P.O. Box 770001  
Cincinnati, OH 45277-0003

##### Redemptions:

Fidelity Investments  
P.O. Box 770001  
Cincinnati, OH 45277-0035

#### TDD – Service for the Deaf and Hearing Impaired

1-800-544-0118

The price to buy one share of the fund is its net asset value per share (NAV). Your shares will be bought at the NAV next calculated after your investment is received in proper form.

The price to sell one share of the fund is its NAV. Your shares will be sold at the NAV next calculated after your order is received in proper form.

The fund is open for business each day the New York Stock Exchange (NYSE) is open. Even if the NYSE is closed, the fund will be

open for business on those days on which the Federal Reserve Bank of New York (New York Fed) is open, the primary trading markets for the fund's portfolio instruments are open, and the fund's management believes there is an adequate market to meet purchase and redemption requests.

**Initial Purchase Minimum** **\$2,500**

**For Fidelity Simplified Employee Pension-IRA and Keogh accounts, and Non-Fidelity Prototype Retirement accounts** **\$500**

**Through regular investment plans in Fidelity Traditional IRAs, Roth IRAs, and Rollover IRAs (requires monthly purchases of \$200 until fund balance is \$2,500)** **\$200**

The fund may waive or lower purchase minimums in other circumstances.

### Tax Information

Distributions you receive from the fund are subject to federal income tax and generally will be taxed as ordinary income or capital gains, and may also be subject to state or local taxes, unless you are investing through a tax-advantaged retirement account (in which case you may be taxed later, upon withdrawal of your investment from such account).

### Payments to Financial Intermediaries

The fund, FMR, Fidelity Distributors Corporation (FDC), and/or their affiliates may pay intermediaries, including retirement plan sponsors, administrators, or service-providers (who may be affiliated with FMR or FDC), for the sale of fund shares and related services. These payments may create a conflict of interest by influencing your intermediary and your investment professional to recommend the fund over another investment. Ask your investment professional or visit your intermediary's web site for more information.

# Fund Summary

**Fund:**  
**Fidelity® U.S. Government Reserves**  
**Investment Objective**

The fund seeks as high a level of current income as is consistent with the security of principal and liquidity.

**Shareholder fees**  
**(fees paid directly from your investment)**

Wire redemption fee	\$5.00
---------------------	--------

**Annual fund operating expenses**  
**(expenses that you pay each year as a % of the value of your investment)**

Management fee	0.17%
Distribution and/or Service (12b-1) fees	None
Other expenses	0.15%
Total annual fund operating expenses	0.32%

This **example** helps compare the cost of investing in the fund with the cost of investing in other mutual funds.

Let's say, hypothetically, that the annual return for shares of the fund is 5% and that your shareholder fees and the annual operating expenses for shares of the fund are exactly as described in the fee

1 year	\$ 33
3 years	\$ 103
5 years	\$ 180
10 years	\$ 406

## Principal Investment Strategies

- Normally investing at least 80% of assets in U.S. Government securities and repurchase agreements for those securities.
- Investing in U.S. Government securities issued by entities that are chartered or sponsored by Congress but whose securities are neither issued nor guaranteed by the U.S. Treasury.
- Potentially entering into reverse repurchase agreements.
- Investing in compliance with industry-standard regulatory requirements for money market funds for the quality, maturity, and diversification of investments.

## Principal Investment Risks

- **Interest Rate Changes.** Interest rate increases can cause the price of a money market security to decrease.
- **Issuer-Specific Changes.** A decline in the credit quality of an issuer or a provider of credit support or a maturity-shortening structure for a security can cause the price of a money market security to decrease.

An investment in the fund is not a deposit of a bank and is not insured or guaranteed by the Federal Deposit Insurance Corporation

## Fee Table

The following table describes the fees and expenses that may be incurred when you buy, hold, or sell shares of the fund.

table. This example illustrates the effect of fees and expenses, but is not meant to suggest actual or expected fees and expenses or returns, all of which may vary. For every \$10,000 you invested, here's how much you would pay in total expenses if you sell all of your shares at the end of each time period indicated:

or any other government agency. Although the fund seeks to preserve the value of your investment at \$1.00 per share, it is possible to lose money by investing in the fund.

## Performance

The following information is intended to help you understand the risks of investing in the fund. The information illustrates the changes in the performance of the fund's shares from year to year. Past performance is not an indication of future performance.

Visit [www.fidelity.com](http://www.fidelity.com) for updated return information.

## Fund Summary – continued

### Year-by-Year Returns

Calendar Years	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
	0.91%	1.09%	2.95%	4.77%	4.97%	2.45%	0.37%	0.02%	0.01%	0.01%

Percentage (%)

10

0

-10

During the periods shown in the chart:

Highest Quarter Return

Lowest Quarter Return

Returns	Quarter ended
1.26%	December 31, 2006
0.00%	March 31, 2010

### Average Annual Returns

For the periods ended  
December 31, 2012

Fidelity U.S. Government Reserves

Past 1 year	Past 5 years	Past 10 years
0.01%	0.57%	1.74%

### Investment Advisers

Fidelity Management & Research Company (FMR) is the fund's manager. Fidelity Investments Money Management, Inc. (FIMM) and other investment advisers serve as sub-advisers for the fund.

### Purchase and Sale of Shares

You may buy or sell shares of the fund through a Fidelity brokerage or mutual fund account, through a retirement account, or through an investment professional. You may buy or sell shares in various ways:

#### Internet

[www.fidelity.com](http://www.fidelity.com)

#### Phone

Fidelity Automated Service Telephone (FAST®) 1-800-544-5555

To reach a Fidelity representative 1-800-544-6666

#### Mail

##### Additional purchases:

Fidelity Investments  
P.O. Box 770001  
Cincinnati, OH 45277-0003

##### Redemptions:

Fidelity Investments  
P.O. Box 770001  
Cincinnati, OH 45277-0035

#### TDD – Service for the Deaf and Hearing Impaired

1-800-544-0118

The price to buy one share of the fund is its net asset value per share (NAV). Your shares will be bought at the NAV next calculated after your investment is received in proper form.

The price to sell one share of the fund is its NAV. Your shares will be sold at the NAV next calculated after your order is received in proper form.

The fund is open for business each day the New York Stock Exchange (NYSE) is open. Even if the NYSE is closed, the fund will be

open for business on those days on which the Federal Reserve Bank of New York (New York Fed) is open, the primary trading markets for the fund's portfolio instruments are open, and the fund's management believes there is an adequate market to meet purchase and redemption requests.

**Initial Purchase Minimum** **\$2,500**

**For Fidelity Simplified Employee Pension-IRA and Keogh accounts, and Non-Fidelity Prototype Retirement accounts** **\$500**

**Through regular investment plans in Fidelity Traditional IRAs, Roth IRAs, and Rollover IRAs (requires monthly purchases of \$200 until fund balance is \$2,500)** **\$200**

The fund may waive or lower purchase minimums in other circumstances.

### Tax Information

Distributions you receive from the fund are subject to federal income tax and generally will be taxed as ordinary income or capital gains, and may also be subject to state or local taxes, unless you are investing through a tax-advantaged retirement account (in which case you may be taxed later, upon withdrawal of your investment from such account).

### Payments to Financial Intermediaries

The fund, FMR, Fidelity Distributors Corporation (FDC), and/or their affiliates may pay intermediaries, including retirement plan sponsors, administrators, or service-providers (who may be affiliated with FMR or FDC), for the sale of fund shares and related services. These payments may create a conflict of interest by influencing your intermediary and your investment professional to recommend the fund over another investment. Ask your investment professional or visit your intermediary's web site for more information.

# Fund Basics

## Investment Details

### *Investment Objective*

**Fidelity Cash Reserves** seeks as high a level of current income as is consistent with the preservation of capital and liquidity.

### *Principal Investment Strategies*

FMR invests the fund's assets in U.S. dollar-denominated money market securities of domestic and foreign issuers and repurchase agreements. FMR also may enter into reverse repurchase agreements for the fund.

FMR will invest more than 25% of the fund's total assets in the financial services industries.

In buying and selling securities for the fund, FMR complies with industry-standard regulatory requirements for money market funds regarding the quality, maturity, and diversification of the fund's investments. FMR stresses maintaining a stable \$1.00 share price, liquidity, and income.

### *Investment Objective*

**Fidelity U.S. Government Reserves** seeks as high a level of current income as is consistent with the security of principal and liquidity.

### *Principal Investment Strategies*

FMR normally invests at least 80% of the fund's assets in U.S. Government securities and repurchase agreements for those securities. Certain issuers of U.S. Government securities are sponsored or chartered by Congress but their securities are neither issued nor guaranteed by the U.S. Treasury. FMR also may enter into reverse repurchase agreements for the fund.

In buying and selling securities for the fund, FMR complies with industry-standard regulatory requirements for money market funds regarding the quality, maturity, and diversification of the fund's investments. FMR stresses maintaining a stable \$1.00 share price, liquidity, and income.

### *Description of Principal Security Types*

*Money market securities* are high-quality, short-term securities that pay a fixed, variable, or floating interest rate. Securities are often specifically structured so that they are eligible investments for a money market fund. For example, in order to satisfy the maturity restrictions for a money market fund, some money market securities have demand or put features, which have the effect of shortening the security's maturity. Money market securities include bank certificates of deposit, bankers' acceptances, bank time deposits, notes, commercial paper, and U.S. Government securities.

*U.S. Government securities* are high-quality securities issued or guaranteed by the U.S. Treasury or by an agency or instrumentality of the U.S. Government. U.S. Government securities may be backed by the full faith and credit of the U.S. Treasury, the right to borrow from the U.S. Treasury, or the agency or instrumentality issuing or guaranteeing the security. Certain issuers of U.S. Government

securities, including Fannie Mae, Freddie Mac, and the Federal Home Loan Banks, are sponsored or chartered by Congress but their securities are neither issued nor guaranteed by the U.S. Treasury.

A *repurchase agreement* is an agreement to buy a security at one price and a simultaneous agreement to sell it back at an agreed-upon price.

### *Principal Investment Risks*

Many factors affect each fund's performance. A fund's yield will change daily based on changes in interest rates and other market conditions. Although each fund is managed to maintain a stable \$1.00 share price, there is no guarantee that the fund will be able to do so. For example, a major increase in interest rates or a decrease in the credit quality of the issuer of one of a fund's investments could cause the fund's share price to decrease. It is important to note that neither the funds' share prices nor their yields are guaranteed by the U.S. Government.

The following factors can significantly affect a fund's performance:

**Interest Rate Changes.** Money market securities have varying levels of sensitivity to changes in interest rates. In general, the price of a money market security can fall when interest rates rise and can rise when interest rates fall. Securities with longer maturities and the securities of issuers in the financial services sector can be more sensitive to interest rate changes. Short-term securities tend to react to changes in short-term interest rates.

**Foreign Exposure.** Issuers located in foreign countries and entities providing credit support or a maturity-shortening structure that are located in foreign countries can involve increased risks. Extensive public information about the issuer or provider may not be available and unfavorable political, economic, or governmental developments could affect the value of the security.

Global economies and financial markets are becoming increasingly interconnected, which increases the possibilities that conditions in one country or region might adversely impact issuers or providers in, or foreign exchange rates with, a different country or region.

**Financial Services Exposure.** Financial services companies are highly dependent on the supply of short-term financing and can be sensitive to changes in government regulation and interest rates and to economic downturns in the United States and abroad. These events can significantly affect the price of issuers' securities as well as their ability to make payments of principal or interest or otherwise meet obligations on securities or instruments for which they serve as guarantors or counterparties.

**Issuer-Specific Changes.** Changes in the financial condition of an issuer or counterparty, changes in specific economic or political conditions that affect a particular type of issuer, and changes in general economic or political conditions can increase the risk of default by an issuer or counterparty, which can affect a security's or instrument's credit quality or value. Entities providing credit support or a maturity-shortening structure also can be affected by these types of changes. If the structure of a security fails to function as intended, the security could decline in value.

## Fund Basics – continued

In response to market, economic, political, or other conditions, FMR may temporarily use a different investment strategy (including leaving a significant portion of a fund's assets uninvested) for defensive purposes. Uninvested assets do not earn income for a fund, which may have a significant negative impact on the fund's yield and may prevent the fund from achieving its investment objective.

### Fundamental Investment Policies

The following policies are fundamental, that is, subject to change only by shareholder approval:

**Fidelity Cash Reserves** seeks as high a level of current income as is consistent with preservation of capital and liquidity.

**Fidelity U.S. Government Reserves** seeks as high a level of current income as is consistent with the security of principal and liquidity.

### Shareholder Notice

The following policy is subject to change only upon 60 days' prior notice to shareholders:

**Fidelity U.S. Government Reserves** normally invests at least 80% of its assets in U.S. Government securities and repurchase agreements for those securities.

## Valuing Shares

Each fund is open for business each day the NYSE is open. Even if the NYSE is closed, a fund will be open for business on those days on which the New York Fed is open, the primary trading markets for the fund's portfolio instruments are open, and the fund's management believes there is an adequate market to meet purchase and redemption requests.

Each fund's NAV is the value of a single share. Fidelity normally calculates each fund's NAV as of the close of business of the NYSE, normally 4:00 p.m. Eastern time. Each fund's assets normally are valued as of this time for the purpose of computing the fund's NAV.

NAV is not calculated and a fund will not process purchase and redemption requests submitted on days when the fund is not open for business. The time at which shares are priced and until which purchase and redemption orders are accepted may be changed as permitted by the Securities and Exchange Commission (SEC).

To the extent that a fund's assets are traded in other markets on days when the fund is not open for business, the value of the fund's assets may be affected on those days. In addition, trading in some of a fund's assets may not occur on days when the fund is open for business.

Each fund's assets are valued on the basis of amortized cost.



# Shareholder Information

## Additional Information about the Purchase and Sale of Shares

### General Information

Fidelity Investments was established in 1946 to manage one of America's first mutual funds. Today, Fidelity is one of the world's largest providers of financial services.

In addition to its mutual fund business, the company operates one of America's leading brokerage firms, Fidelity Brokerage Services LLC. Fidelity is also a leader in providing tax-advantaged retirement plans for individuals investing on their own or through their employer.

You may buy or sell shares of a fund through a Fidelity brokerage account or a Fidelity mutual fund account. If you buy or sell shares of a fund (other than by exchange) through a Fidelity brokerage account, your transactions generally involve your Fidelity brokerage core (a settlement vehicle included as part of your Fidelity brokerage account).

If you do not currently have a Fidelity brokerage account or a Fidelity mutual fund account and would like to invest in a fund, you may need to complete an application. For more information about a Fidelity brokerage account or a Fidelity mutual fund account, please visit Fidelity's web site at [www.fidelity.com](http://www.fidelity.com), call 1-800-FIDELITY, or visit a Fidelity Investor Center (call 1-800-544-9797 for the center nearest you).

You may also buy or sell shares of the funds through a retirement account (such as an IRA or an account funded through salary deduction) or an investment professional. Retirement specialists are available at 1-800-544-4774 to answer your questions about Fidelity retirement products. If you buy or sell shares of a fund through a retirement account or an investment professional, the procedures for buying, selling, and exchanging shares of the fund and the account features and policies may differ from those discussed in this prospectus. Fees in addition to those discussed in this prospectus may also apply. For example, you may be charged a transaction fee if you buy or sell shares of a fund through a non-Fidelity broker or other investment professional.

If the fund is your Fidelity brokerage core, you will pay fees charged in connection with certain activity in your Fidelity brokerage account directly from your fund investment. Please see your Fidelity brokerage account materials for additional information.

### You should include the following information with any order to buy, sell, or exchange shares:

- Your name;
- Your account number;
- Name of fund whose shares you want to buy or sell; and
- Dollar amount or number of shares you want to buy or sell.

Certain methods of contacting Fidelity, such as by telephone or electronically, may be unavailable or delayed (for example, during

periods of unusual market activity). In addition, the level and type of service available may be restricted based on criteria established by Fidelity.

A fund may reject for any reason, or cancel as permitted or required by law, any purchase or exchange, including transactions deemed to represent excessive trading, at any time.

Excessive trading of fund shares can harm shareholders in various ways, including reducing the returns to long-term shareholders by increasing costs to a fund (such as spreads paid to dealers who sell money market instruments to a fund) and disrupting portfolio management strategies.

FMR anticipates that shareholders will purchase and sell shares of each fund frequently because a money market fund is designed to offer investors a liquid cash option. Accordingly, the Board of Trustees has not adopted policies and procedures designed to discourage excessive trading of money market fund shares and each fund accommodates frequent trading.

A fund may in its discretion restrict, reject, or cancel any purchases or exchanges that, in FMR's opinion, may be disruptive to the management of that fund or otherwise not be in the fund's interests.

Each fund has no limit on purchase or exchange transactions. Each fund reserves the right at any time to restrict purchases or exchanges or impose conditions that are more restrictive on excessive or disruptive trading than those stated in this prospectus.

### Buying Shares

The price to buy one share of each fund is its NAV. Each fund's shares are sold without a sales charge.

Your shares will be bought at the NAV next calculated after your investment is received in proper form.

Each fund has authorized certain intermediaries to accept orders to buy shares on its behalf. When authorized intermediaries receive an order in proper form, the order is considered as being placed with the fund, and shares will be bought at the NAV next calculated after the order is received by the authorized intermediary. Orders by funds of funds for which FMR or an affiliate serves as investment manager will be treated as received by the fund at the same time that the corresponding orders are received in proper form by the funds of funds.

There is no minimum balance or purchase minimum for investments through Portfolio Advisory Services, a mutual fund or a qualified tuition program for which FMR or an affiliate serves as investment manager, Fidelity health savings accounts, certain Fidelity retirement accounts funded through salary deduction, or fund positions opened with the proceeds of distributions from such retirement accounts or from a Fidelity systematic withdrawal service. In addition, each fund may waive or lower purchase minimums in other circumstances.

Each fund may stop offering shares completely or may offer shares only on a limited basis, for a period of time or permanently.

## Shareholder Information – continued

If your payment is not received and collected, your purchase may be canceled and you could be liable for any losses or fees a fund or Fidelity has incurred.

Under applicable anti-money laundering regulations and other federal regulations, purchase orders may be suspended, restricted, or canceled and the monies may be withheld.

### Selling Shares

The price to sell one share of each fund is its NAV.

Your shares will be sold at the NAV next calculated after your order is received in proper form. Normally, redemptions will be processed by the next business day, but it may take up to seven days to pay the redemption proceeds if making immediate payment would adversely affect a fund.

Each fund has authorized certain intermediaries to accept orders to sell shares on its behalf. When authorized intermediaries receive an order in proper form, the order is considered as being placed with the fund, and shares will be sold at the NAV next calculated after the order is received by the authorized intermediary. Orders by funds of funds for which FMR or an affiliate serves as investment manager will be treated as received by the fund at the same time that the corresponding orders are received in proper form by the funds of funds.

A signature guarantee is designed to protect you and Fidelity from fraud. If you submit your request to Fidelity by mail, Fidelity may require that your request be made in writing and include a signature guarantee in certain circumstances, such as:

- When you wish to sell more than \$100,000 worth of shares;
- When the address on your account (record address) has changed within the last 15 days or you are requesting that a check be mailed to an address different than the record address;
- When you are requesting that redemption proceeds be paid to someone other than the account owner; or
- In certain situations when the redemption proceeds are being transferred to a Fidelity account with a different registration.

You should be able to obtain a signature guarantee from a bank, broker (including Fidelity Investor Centers), dealer, credit union (if authorized under state law), securities exchange or association, clearing agency, or savings association. A notary public cannot provide a signature guarantee.

When you place an order to sell shares, note the following:

- If you are selling some but not all of your shares, keep your fund balance above the required minimum to keep your fund position open, except fund positions not subject to balance minimums.
- Redemption proceeds (other than exchanges) may be delayed until money from prior purchases sufficient to cover your redemption has been received and collected.
- Redemptions may be suspended or payment dates postponed when the NYSE is closed (other than weekends or holidays), when trading on the NYSE is restricted, or as permitted by the SEC.

• Redemption proceeds may be paid in securities or other property rather than in cash if FMR determines it is in the best interests of a fund.

• If you hold your shares in a Fidelity mutual fund account and you sell shares by writing a check, if available, and the amount of the check is greater than the value of your fund position, your check will be returned to you and you may be subject to additional charges.

• You will not receive interest on amounts represented by uncashed redemption checks.

• If you hold your shares in a Fidelity mutual fund account and your redemption check remains uncashed for more than one year, the check may be invested in additional shares of the fund at the NAV next calculated on the day of the investment.

• Under applicable anti-money laundering regulations and other federal regulations, redemption requests may be suspended, restricted, canceled, or processed and the proceeds may be withheld.

To sell shares issued with certificates, call Fidelity for instructions. The funds do not currently issue share certificates.

### Exchanging Shares

An exchange involves the redemption of all or a portion of the shares of one fund and the purchase of shares of another fund.

As a shareholder, you have the privilege of exchanging shares of a fund for shares of other Fidelity funds.

However, you should note the following policies and restrictions governing exchanges:

• Each fund may refuse any exchange purchase for any reason. For example, each fund may refuse exchange purchases by any person or group if, in FMR's judgment, the fund would be unable to invest the money effectively in accordance with its investment objective and policies, or would otherwise potentially be adversely affected.

• Before exchanging into a fund, read its prospectus.

• The fund you are exchanging into must be available for sale in your state.

• Exchanges may have tax consequences for you.

• If you are exchanging between accounts that are not registered in the same name, address, and taxpayer identification number (TIN), there may be additional requirements.

• Under applicable anti-money laundering regulations and other federal regulations, exchange requests may be suspended, restricted, canceled, or processed and the proceeds may be withheld.

The funds may terminate or modify exchange privileges in the future.

Other funds may have different exchange restrictions and minimums, and may impose redemption fees of up to 2.00% of the amount exchanged. Check each fund's prospectus for details.

## Features and Policies

### Features

The following features may be available to buy and sell shares of a fund or to move money to and from your account, depending on

whether you are investing through a Fidelity brokerage account or a Fidelity mutual fund account. Please visit Fidelity's web site at [www.fidelity.com](http://www.fidelity.com) or call 1-800-544-6666 for more information.

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#### Electronic Funds Transfer: electronic money movement through the Automated Clearing House

- To transfer money between a bank account and a Fidelity brokerage account or Fidelity mutual fund account.
- You can use electronic funds transfer to:
  - Make periodic (automatic) purchases of Fidelity fund shares or payments to your Fidelity brokerage account.
  - Make periodic (automatic) redemptions of Fidelity fund shares or withdrawals from your Fidelity brokerage account.

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#### Wire: electronic money movement through the Federal Reserve wire system

- To transfer money between a bank account and a Fidelity brokerage account or Fidelity mutual fund account.

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#### Automatic Transactions: periodic (automatic) transactions

- To directly deposit all or a portion of your compensation from your employer (or the U.S. Government, in the case of Social Security) into a Fidelity brokerage account or Fidelity mutual fund account.
- To make contributions from a Fidelity mutual fund account to a Fidelity mutual fund IRA.
- To sell shares of a Fidelity money market fund and simultaneously to buy shares of another Fidelity fund in a Fidelity mutual fund account.

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#### Checkwriting

- To sell Fidelity fund shares from your Fidelity mutual fund account or withdraw money from your Fidelity brokerage account.

### Policies

The following policies apply to you as a shareholder.

**Statements** that Fidelity sends to you include the following:

- Confirmation statements (after transactions affecting your fund balance except, to the extent applicable, reinvestment of distributions in the fund or another fund, certain transactions through automatic investment or withdrawal programs, certain transactions that are followed by a monthly account statement, and other transactions in your Fidelity brokerage core).
- Monthly or quarterly account statements (detailing fund balances and all transactions completed during the prior month or quarter).

To reduce expenses, only one copy of most financial reports and prospectuses may be mailed to households, even if more than one person in a household holds shares of a fund. Call Fidelity at 1-800-544-8544 if you need additional copies of financial reports or prospectuses. If you do not want the mailing of these documents to be combined with those for other members of your household, contact Fidelity in writing at P.O. Box 770001, Cincinnati, Ohio 45277-0002.

Electronic copies of most financial reports and prospectuses are available at Fidelity's web site. To participate in Fidelity's electronic delivery program, call Fidelity or visit Fidelity's web site for more information.

You may initiate many **transactions by telephone or electronically**. Fidelity will not be responsible for any loss, cost, expense, or other liability resulting from unauthorized transactions if it follows

reasonable security procedures designed to verify the identity of the investor. Fidelity will request personalized security codes or other information, and may also record calls. For transactions conducted through the Internet, Fidelity recommends the use of an Internet browser with 128-bit encryption. You should verify the accuracy of your confirmation statements upon receipt and notify Fidelity immediately of any discrepancies in your account activity. If you do not want the ability to sell and exchange by telephone, call Fidelity for instructions.

You may also be asked to provide additional information in order for Fidelity to verify your identity in accordance with requirements under anti-money laundering regulations. Accounts may be restricted and/or closed, and the monies withheld, pending verification of this information or as otherwise required under these and other federal regulations.

Fidelity may deduct a **small balance maintenance fee** of \$12.00 from a fund balance with a value of less than \$2,000 in shares. It is expected that fund balances will be valued after November 1 but prior to December 31 of each calendar year. Fund positions opened after September 30 will not be subject to the fee for that calendar year. The fee, which is payable to Fidelity, is designed to offset in part the relatively higher costs of servicing smaller fund positions. This fee will not be deducted from fund positions opened after January 1 of that calendar year if those positions use certain regular investment plans.

If your **fund balance** falls below \$2,000 worth of shares (\$500 for fund balances in Fidelity Simplified Employee Pension-IRA and



## Shareholder Information – continued

Keogh accounts, and Non-Fidelity Prototype Retirement accounts) for any reason and you do not increase your balance, Fidelity may sell all of your shares and send the proceeds to you after providing you with at least 30 days' notice to reestablish the minimum balance. Your shares will be sold at the NAV on the day Fidelity closes your fund position. Certain fund positions are not subject to these balance requirements and will not be closed for failure to maintain a minimum balance.

Fidelity may charge a **fee for certain services**, such as providing historical account documents.

## Dividends and Capital Gain Distributions

Each fund earns interest, dividends, and other income from its investments, and distributes this income (less expenses) to shareholders as dividends. Each fund may also realize capital gains from its investments, and distributes these gains (less losses), if any, to shareholders as capital gain distributions.

Distributions you receive from each fund consist primarily of dividends. Each fund normally declares dividends daily and pays them monthly.

### Earning Dividends

A fund processes purchase and redemption requests only on days it is open for business.

Shares generally begin to earn dividends on the first business day following the day of purchase.

Shares generally earn dividends until, but not including, the next business day following the day of redemption.

Exchange requests will be processed only when both funds are open for business.

### Distribution Options

When you open an account, specify on your application how you want to receive your distributions. The following distribution options are available for shares of each fund:

**1. Reinvestment Option.** Your dividends and capital gain distributions, if any, will be automatically reinvested in additional shares of the fund. If you do not indicate a choice on your application, you will be assigned this option.

**2. Cash Option.** Your dividends and capital gain distributions, if any, will be paid in cash.

**3. Directed Dividends<sup>®</sup> Option.** Your dividends will be automatically invested in shares of another identically registered Fidelity fund. Your capital gain distributions, if any, will be automatically invested in shares of another identically registered Fidelity fund, automatically reinvested in additional shares of the fund, or paid in cash.

If the distribution option you prefer is not listed on your account application, or if you want to change your current distribution

option, visit Fidelity's web site at [www.fidelity.com](http://www.fidelity.com) or call 1-800-544-6666 for more information.

If you elect to receive distributions paid in cash by check and the U.S. Postal Service does not deliver your checks, your distribution option may be converted to the Reinvestment Option. You will not receive interest on amounts represented by uncashed distribution checks.

If your dividend check(s) remains uncashed for more than six months, your check(s) may be invested in additional shares of the fund at the NAV next calculated on the day of the investment.

## Tax Consequences

As with any investment, your investment in a fund could have tax consequences for you. If you are not investing through a tax-advantaged retirement account, you should consider these tax consequences.

Distributions you receive from each fund are subject to federal income tax, and may also be subject to state or local taxes.

For federal tax purposes, certain of each fund's distributions, including dividends and distributions of short-term capital gains, are taxable to you as ordinary income, while certain of each fund's distributions, including distributions of long-term capital gains, if any, are taxable to you generally as capital gains. Because each fund's income is primarily derived from interest, dividends from each fund generally will not qualify for the long-term capital gains tax rates available to individuals.

Any taxable distributions you receive from a fund will normally be taxable to you when you receive them, regardless of your distribution option. If you elect to receive distributions in cash or to invest distributions automatically in shares of another Fidelity fund, you will receive certain December distributions in January, but those distributions will be taxable as if you received them on December 31.

# Fund Services

## Fund Management

Each fund is a mutual fund, an investment that pools shareholders' money and invests it toward a specified goal.

FMR is each fund's manager. The address of FMR and its affiliates, unless otherwise indicated below, is 82 Devonshire Street, Boston, Massachusetts 02109.

As of December 31, 2011, FMR had approximately \$1.0 billion in discretionary assets under management.

As the manager, FMR has overall responsibility for directing each fund's investments and handling its business affairs.

FIMM serves as a sub-adviser for each fund. FIMM has day-to-day responsibility for choosing investments for each fund.

FIMM is an affiliate of FMR. As of December 31, 2011, FIMM had approximately \$602.4 billion in discretionary assets under management.

Other investment advisers assist FMR with foreign investments:

- Fidelity Management & Research (U.K.) Inc. (FMR U.K.), at 10 Paternoster Square, 4th Floor, London, EC4M 7LS, United Kingdom, serves as a sub-adviser for each fund. As of December 31, 2011, FMR U.K. had approximately \$13.4 billion in discretionary assets under management. FMR U.K. may provide investment research and advice on issuers based outside the United States and may also provide investment advisory services for each fund. FMR U.K. is an affiliate of FMR.
- Fidelity Management & Research (Hong Kong) Limited (FMR H.K.), at Floor 19, 41 Connaught Road Central, Hong Kong, serves as a sub-adviser for each fund. As of December 31, 2011, FMR H.K. had approximately \$7.1 billion in discretionary assets under management. FMR H.K. may provide investment research and advice on issuers based outside the United States and may also provide investment advisory services for each fund. FMR H.K. is an affiliate of FMR.
- Fidelity Management & Research (Japan) Inc. (FMR Japan), at Kamiyacho Prime Place, 1-17, Toranomon-4-Chome, Minato-ku, Tokyo, Japan, serves as a sub-adviser for each fund. FMR Japan was organized in 2008 to provide investment research and advice on issuers based outside the United States. FMR Japan may provide investment research and advice on issuers based outside the United States and may also provide investment advisory services for each fund. FMR Japan is an affiliate of FMR.

From time to time a manager, analyst, or other Fidelity employee may express views regarding a particular company, security, industry, or market sector. The views expressed by any such person are the views of only that individual as of the time expressed and do not necessarily represent the views of Fidelity or any other person in the Fidelity organization. Any such views are subject to change at any time based upon market or other conditions and Fidelity disclaims any responsibility to update such views. These views may not be relied on as investment advice and, because investment

decisions for a Fidelity fund are based on numerous factors, may not be relied on as an indication of trading intent on behalf of any Fidelity fund.

Each fund pays a management fee to FMR. The management fee is calculated and paid to FMR every month.

The monthly management fee for each fund is calculated by adding a group fee to an income-related fee. The income-related fee varies depending on the level of the fund's monthly gross income from an annualized rate of 0.05% (at a fund annualized gross yield of 0%) to 0.27% (at a fund annualized gross yield of 15%) of the fund's average net assets throughout the month. The group fee rate is divided by twelve and multiplied by the fund's average net assets throughout the month.

The group fee rate is based on the average net assets of all the mutual funds advised by FMR. This rate cannot rise above 0.37%, and it drops as total assets under management increase.

For November 2012, the group fee rate was 0.11%.

The total management fee for the fiscal year ended November 30, 2012, was 0.17% of the fund's average net assets for Fidelity Cash Reserves and 0.17% of the fund's average net assets for Fidelity U.S. Government Reserves. Because each fund's management fee rate may fluctuate, a fund's management fee may be higher or lower in the future.

FMR pays FIMM, FMR U.K., FMR H.K., and FMR Japan for providing sub-advisory services.

The basis for the Board of Trustees approving the management contract and sub-advisory agreements for each fund is available in each fund's annual report for the fiscal period ended November 30, 2012.

FMR may, from time to time, agree to reimburse a fund for, or waive, management fees and other expenses above a specified limit. FMR retains the ability to be repaid by a fund if expenses fall below the specified limit prior to the end of the fiscal year.

Reimbursement or waiver arrangements can decrease expenses and boost performance.

## Fund Distribution

FDC distributes each fund's shares.

Intermediaries, including retirement plan sponsors, administrators, and service-providers (who may be affiliated with FMR or FDC), may receive from FMR, FDC, and/or their affiliates compensation for providing recordkeeping and administrative services, as well as other retirement plan expenses, and compensation for services intended to result in the sale of shares of the fund. These payments are described in more detail in this section and in the statement of additional information (SAI).

Each fund has adopted a Distribution and Service Plan pursuant to Rule 12b-1 under the Investment Company Act of 1940 (1940 Act) with respect to its shares that recognizes that FMR may use its management fee revenues, as well as its past profits or its

## **Fund Services – continued**

resources from any other source, to pay FDC for expenses incurred in connection with providing services intended to result in the sale of shares of each fund and/or shareholder support services. FMR, directly or through FDC, may pay significant amounts to intermediaries, including retirement plan sponsors, service-providers, and administrators, that provide those services. Currently, the Board of Trustees of each fund has authorized such payments for shares of each fund.

If payments made by FMR to FDC or to intermediaries under a Distribution and Service Plan were considered to be paid out of a fund's assets on an ongoing basis, they might increase the cost of your investment and might cost you more than paying other types of sales charges.

From time to time, FDC may offer special promotional programs to investors who purchase shares of Fidelity funds. For example, FDC may offer merchandise, discounts, vouchers, or similar items to investors who purchase shares of certain Fidelity funds during certain periods. To determine if you qualify for any such programs, contact Fidelity or visit our web site at [www.fidelity.com](http://www.fidelity.com).

No dealer, sales representative, or any other person has been authorized to give any information or to make any representations, other than those contained in this prospectus and in the related SAI, in connection with the offer contained in this prospectus. If given or made, such other information or representations must not be relied upon as having been authorized by the funds or FDC. This prospectus and the related SAI do not constitute an offer by the funds or by FDC to sell shares of the funds to or to buy shares of the funds from any person to whom it is unlawful to make such offer.

# Appendix

## Financial Highlights

The financial highlights tables are intended to help you understand the financial history of each fund's shares for the past 5 years. Certain information reflects financial results for a single share of a fund. The total returns in the table represent the rate that an investor would have earned (or lost) on an investment in shares of a

fund (assuming reinvestment of all dividends and distributions). This information has been audited by PricewaterhouseCoopers LLP, independent registered public accounting firm, whose reports, along with each fund's financial highlights and financial statements, are included in each fund's annual report. A free copy of each annual report is available upon request.

### Fidelity Cash Reserves

Years ended November 30,	2012	2011	2010	2009	2008
<b>Selected Per-Share Data</b>					
Net asset value, beginning of period	\$ 1.00	\$ 1.00	\$ 1.00	\$ 1.00	\$ 1.00
Income from Investment Operations					
Net investment income (loss)	— <sup>C</sup>	— <sup>C</sup>	.001	.008	.031
Net realized and unrealized gain (loss) <sup>C</sup>	—	—	—	—	—
Total from investment operations	— <sup>C</sup>	— <sup>C</sup>	.001	.008	.031
Distributions from net investment income	— <sup>C</sup>	— <sup>C</sup>	(.001)	(.008)	(.031)
Distributions from net realized gain	—	— <sup>C</sup>	—	—	—
Total distributions	— <sup>C</sup>	— <sup>C</sup>	(.001)	(.008)	(.031)
Net asset value, end of period	\$ 1.00	\$ 1.00	\$ 1.00	\$ 1.00	\$ 1.00
<b>Total Return<sup>A</sup></b>	.02%	.02%	.06%	.77%	3.12%
<b>Ratios to Average Net Assets<sup>B</sup></b>					
Expenses before reductions	.38%	.37%	.37%	.41%	.39%
Expenses net of fee waivers, if any	.36%	.34%	.37%	.41%	.39%
Expenses net of all reductions	.36%	.34%	.37%	.41%	.39%
Net investment income (loss)	.02%	.01%	.06%	.77%	3.05%
<b>Supplemental Data</b>					
Net assets, end of period (in millions)	\$ 116,471	\$ 119,541	\$ 118,986	\$ 132,568	\$ 135,058

<sup>A</sup> Total returns would have been lower if certain expenses had not been reduced during the applicable periods shown.

<sup>B</sup> Expense ratios reflect operating expenses of the Fund. Expenses before reductions do not reflect amounts reimbursed or waived or reductions from expense offset arrangements and do not represent the amount paid by the Fund during periods when reimbursements, waivers or reductions occur. Expenses net of fee waivers reflect expenses after reimbursement and waivers but prior to reductions from expense offset arrangements. Expenses net of all reductions represent the net expenses paid by the Fund.

<sup>C</sup> Amount represents less than \$.001 per share.

## Appendix – continued

### Fidelity U.S. Government Reserves

Years ended November 30,

	2012	2011	2010	2009	2008
<b>Selected Per-Share Data</b>					
Net asset value, beginning of period . . . . .	\$ 1.00	\$ 1.00	\$ 1.00	\$ 1.00	\$ 1.00
Income from Investment Operations					
Net investment income (loss) . . . . .	— <sup>C</sup>	— <sup>C</sup>	— <sup>C</sup>	.005	.027
Net realized and unrealized gain (loss) <sup>C</sup> . . . . .	—	—	—	—	—
Total from investment operations . . . . .	— <sup>C</sup>	— <sup>C</sup>	— <sup>C</sup>	.005	.027
Distributions from net investment income . . . . .	— <sup>C</sup>	— <sup>C</sup>	— <sup>C</sup>	(.005)	(.027)
Distributions from net realized gain . . . . .	— <sup>C</sup>	— <sup>C</sup>	— <sup>C</sup>	—	—
Total distributions . . . . .	— <sup>C</sup>	— <sup>C</sup>	— <sup>C</sup>	(.005)	(.027)
Net asset value, end of period . . . . .	<u>\$ 1.00</u>	<u>\$ 1.00</u>	<u>\$ 1.00</u>	<u>\$ 1.00</u>	<u>\$ 1.00</u>
<b>Total Return<sup>A</sup></b> . . . . .	.01%	.02%	.01%	.49%	2.71%
<b>Ratios to Average Net Assets<sup>B</sup></b>					
Expenses before reductions . . . . .	.32%	.33%	.32%	.34%	.34%
Expenses net of fee waivers, if any . . . . .	.18%	.19%	.28%	.34%	.34%
Expenses net of all reductions . . . . .	.18%	.19%	.28%	.34%	.34%
Net investment income (loss) . . . . .	.01%	.01%	.01%	.50%	2.62%
<b>Supplemental Data</b>					
Net assets, end of period (in millions) . . . . .	\$ 2,479	\$ 2,649	\$ 2,849	\$ 4,012	\$ 4,716

<sup>A</sup> Total returns would have been lower if certain expenses had not been reduced during the applicable periods shown.

<sup>B</sup> Expense ratios reflect operating expenses of the Fund. Expenses before reductions do not reflect amounts reimbursed or waived or reductions from expense offset arrangements and do not represent the amount paid by the Fund during periods when reimbursements, waivers or reductions occur. Expenses net of fee waivers reflect expenses after reimbursement and waivers but prior to reductions from expense offset arrangements. Expenses net of all reductions represent the net expenses paid by the Fund.

<sup>C</sup> Amount represents less than \$.001 per share.

## Notes

## Notes

## Notes



#### IMPORTANT INFORMATION ABOUT OPENING A NEW ACCOUNT

To help the government fight the funding of terrorism and money laundering activities, the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT ACT), requires all financial institutions to obtain, verify, and record information that identifies each person or entity that opens an account.

**For individual investors opening an account:** When you open an account, you will be asked for your name, address, date of birth, and other information that will allow Fidelity to identify you. You may also be asked to provide documents that may help to establish your identity, such as your driver's license.

**For investors other than individuals:** When you open an account, you will be asked for the name of the entity, its principal place of business and taxpayer identification number (TIN) and may be requested to provide information on persons with authority or control over the account such as name, residential address, date of birth and social security number. You may also be asked to provide documents, such as drivers' licenses, articles of incorporation, trust instruments or partnership agreements and other information that will help Fidelity identify the entity.

You can obtain additional information about the funds. A description of each fund's policies and procedures for disclosing its holdings is available in the funds' SAI and on Fidelity's web sites. The SAI also includes more detailed information about each fund and its investments. The SAI is incorporated herein by reference (legally forms a part of the prospectus). Each fund's annual and semi-annual reports also include additional information.

For a free copy of any of these documents or to request other information or ask questions about a fund, call Fidelity at 1-800-544-8544. In addition, you may visit Fidelity's web site at [www.fidelity.com](http://www.fidelity.com) for a free copy of a prospectus, SAI, or annual or semi-annual report or to request other information.

The SAI, the funds' annual and semi-annual reports and other related materials are available from the Electronic Data Gathering, Analysis, and Retrieval (EDGAR) Database on the SEC's web site (<http://www.sec.gov>). You can obtain copies of this information, after paying a duplicating fee, by sending a request by e-mail to [publicinfo@sec.gov](mailto:publicinfo@sec.gov) or by writing the Public Reference Section of the SEC, Washington, D.C. 20549-1520. You can also review and copy information about the funds, including the funds' SAI, at the SEC's Public Reference Room in Washington, D.C. Call 1-202-551-8090 for information on the operation of the SEC's Public Reference Room.

*Investment Company Act of 1940, File Number, 811-02890*

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