



J.P. MORGAN CLEARING CORP.
PROTOTYPE DEFINED
CONTRIBUTION PLAN

12/24/09

Table of Contents

I. Administrative Kit and Forms

A.	Notice	2
B.	Pension Protection Act of 2006	3
C.	Introduction	6
D.	Questions and Answers: Employer Guide to the J.P. Morgan Clearing Corp. Prototype Defined Contribution Plan	6
E.	Instructions for Establishing Your Plan	10
F.	Specific Directions for Completing the Adoption Agreements	10
G.	List of Participants Form	13
H.	Instructions for Preparing Summary Plan Description	15
I.	Sample Summary Plan Description	16
J.	Sample Designation of Beneficiary Form	23
K.	Sample Corporate Resolution	25

II. Plan Documents

J.P. Morgan Clearing Corp. Prototype Defined Contribution Plan	27
Money Purchase Pension Plan Adoption Agreement	67
Profit Sharing Plan Adoption Agreement	77
Amendment of the J.P. Morgan Clearing Corp. Prototype Defined Contribution Plan for EGTRRA	89

III. IRS Opinion Letters

93

NOTICE

The law requires that the vesting schedule elections you make in the *Pension Protection Act of 2006 Adoption Agreement Amendment* on the next page be the operative vesting schedule elections for your plan. Please be sure to complete the vesting schedule on the next page.

In addition, your plan will be subject to the *Pension Protection Act of 2006 Plan Document Amendment* on the two pages following the vesting schedule.

Pension Protection Act of 2006 Plan Adoption Agreement Amendment

This amendment of the Plan (hereinafter referred to as “the Amendment”) is comprised of this Pension Protection Act of 2006 Adoption Agreement Amendment (the “Adoption Agreement Amendment”) and the corresponding Plan Document Amendment. The Amendment is adopted to reflect provisions of the Pension Protection Act of 2006 (“PPA”) and other legislation, including the Worker, Retiree, and Employer Recovery Act of 2008 (other than the waiver of 2009 required minimum distributions). The Amendment is intended to provide good faith compliance with the PPA and related guidance until the Plan is formally amended to include the PPA requirements. Except as otherwise provided in the Plan Document Amendment, this Amendment is effective as specified in this Adoption Agreement Amendment. This Amendment supersedes the existing provisions of the Plan to the extent those provisions are inconsistent with the provisions of the Amendment. The previous sentence will apply to the vesting provisions of the Amendment only until the Plan is restated for the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA). After the Plan is restated for EGTRRA, the vesting schedule selected in the EGTRRA Adoption Agreement will apply.

1. Plan Account Name: _____
2. Plan Account Number: _____

VESTED INTEREST IN EMPLOYER CONTRIBUTION AND FORFEITURE ACCOUNT

Elect the appropriate vesting schedule below, which would replace in its entirety the vesting schedule you elected in Part IV of the Adoption Agreement:

YEARS OF SERVICE	Option 1 <input type="checkbox"/>	Option 2 <input type="checkbox"/>	Option 3 <input type="checkbox"/>	Option 4 <input type="checkbox"/>	Complete if Chosen
Less than One	0%	0%	100%	____%	
1	0%	0%	100%	____%	
2	0%	20%	100%	____%	(not less than 20%)
3	100%	40%	100%	____%	(not less than 40%)
4	100%	60%	100%	____%	(not less than 60%)
5	100%	80%	100%	____%	(not less than 80%)
6	100%	100%	100%	____%	(not less than 100%)

Note: If no option is selected, Option 3 will apply

Signature of Employer

1. I acknowledge that I have relied upon my own advisers regarding the completion of this Amendment and the legal and tax implications of amending this Plan;
2. I understand that my failure to properly complete this Amendment may result in disqualification of the Plan; and
3. I have received a copy of this Amendment.

Signature of Adopting Employer _____ Date Signed _____

Type Name _____ Title _____

Pension Protection Act of 2006 Plan Document Amendment

VESTING

Participant has a non-forfeitable right to that percentage of his Employer Contribution and Forfeiture Account determined under the vesting schedule elected in the Adoption Agreement Amendment. If no election is made, all benefits attributable to Employer Contributions shall fully vest when made to the plan.

Applicability and Effective Date: This provision shall apply to all Participants who have accrued benefits derived from Employer Contributions as of December 31, 2006 and all Employer Contributions previously subject to a less favorable vesting schedule.

QUALIFIED OPTIONAL SURVIVOR ANNUITY

Qualified Optional Survivor Annuity (QOSA) is added to the Plan as a new defined term in Subparagraph (c), Paragraph 6 of Article VI with the following definition:

(vii) **Qualified Optional Survivor Annuity:** An annuity 1) for the life of the Participant with a survivor annuity for the life of the Spouse that is equal to the “applicable percentage” of the amount of the annuity that is payable during the joint lives of the Participant and the Spouse, and 2) that is the actuarial equivalent of a single annuity for the life of the Participant. If the survivor annuity provided by the Qualified Joint and Survivor Annuity is less than 75 percent of the annuity payable during the joint lives of the Participant and the Spouse, the applicable percentage is 75 percent. If the survivor annuity provided by the Qualified Joint and Survivor Annuity is greater than or equal to 75 percent, the applicable percentage is 50 percent.

Subparagraph (g), Paragraph 6 of Article VI is hereby amended to read as follows:

(g) **Optional Form of Benefit.** If an optional form of benefit has been selected pursuant to a qualified election, the Participant may choose any form of benefit which, with the exception of the optional form of benefit in (ix) below, is the actuarial equivalent of a Qualified Joint and Survivor Benefit, including but not limited to,

- (i) a lump sum;
- (ii) an annuity payable for the life of the Participant
- (iii) an annuity payable for the life of the Participant but not less than a specified period certain (60, 100, 120 or 240 months);
- (iv) a joint and survivor annuity payable for the joint lives of the Participant and his spouse but not less than a specified period certain;
- (v) an annuity payable for the life of the Participant or until the total payments received equal the proceeds, whichever is greater;
- (vi) installments for a specified period not longer than the life expectancy of the Participant or thirty (30) years, whichever is shorter;
- (vii) installments of a specified amount until the proceeds and interest are exhausted;
- (viii) a deferred distribution in a specific manner and at a specified later date elected in accordance with Regulation Section 1.401(a)-14; or
- (ix) Qualified Optional Survivor Annuity.

Paragraph 6 of Article VI is hereby modified by adding the following, as new Subparagraph (k), to the end:

Other than in the case of a Plan not subject to Subparagraphs (a) through (d) of this Paragraph 6 (except to the extent provided in Subparagraph (e)) by reason of Subparagraph (j), the Plan must offer an additional survivor annuity option in the form of a qualified optional survivor annuity (QOSA). A QOSA is an annuity 1) for the life of the Participant with a survivor annuity for the life of the Spouse that is equal to the “applicable percentage” of the amount of the annuity that is payable during the joint lives of the Participant and the Spouse, and 2) that is the actuarial equivalent of a single annuity for the life of the Participant. If the survivor annuity provided by the Qualified Joint and Survivor Annuity is less than 75 percent of the annuity payable during the joint lives of the Participant and the Spouse, the applicable percentage is 75 percent. If the survivor annuity provided by the Qualified Joint and Survivor Annuity is greater than or equal to 75 percent, the applicable percentage is 50 percent. This provision applies to Plan Years beginning after December 31, 2007.

MISCELLANEOUS

Paragraph 12 of Article IV is amended by adding the following second sentence:

In the case of a Plan that holds employer securities (within the meaning of ERISA Section 407(d)(1)), the maximum bond amount is \$1,000,000 or such other amount as the Secretary of Labor prescribes.

The following is added as new Paragraph 13 to Article IV:

Distribution Notices. Distribution notices under Code Section 402(f), 411(a)(11), and 417 and notices under ERISA Section 205(c)(7)(A) (and under all related regulations) that have been subject to a 90-day maximum period will become subject to a 180-day maximum period. The revised maximum notice period applies to Plan Years beginning after December 31, 2006.

The following is added as new Paragraph 14 to Article IV:

Diversification Requirements When Employer Securities Are Held As Investments in the Plan. For Plan Years beginning on or after January 1, 2007, Code Section 401(a)(35) requires qualified retirement plans that hold employer securities to allow Participants or Beneficiaries to diversify their investments. This Code section and other relevant guidance govern the diversification procedures, which include the following:

- 1. Employee Contributions Invested in Employer Securities - In the case of Employee Contributions that are invested in employer securities, the Participant, alternate payee under a qualified domestic relations order as defined in Section 414(p) of the Code or any domestic order entered before January, 1985, or Beneficiary, as applicable, may elect to direct the Plan to divest any such securities and to reinvest an equivalent amount in other investments that meet the investment option requirements in 3. below.
2. Employer Contributions Invested in Employer Securities - In the case of Employer Contributions that are invested in employer securities, a Participant who has completed at least three years of service, alternate payee under a qualified domestic relations order as defined in Section 414(p) of the Code or any domestic order entered before January, 1985 with respect to a Participant who has completed at least three years of service, or a Beneficiary, as applicable, may elect to direct the Plan to divest any such securities and to reinvest an equivalent amount in other investments that meet the investment option requirements in 3. below.
3. Investment Options - The diversification requirements above are met if the Plan offers not less than three investment options, other than employer securities, to which a Participant, alternate payee under a qualified domestic relations order as defined in Section 414(p) of the Code or any domestic order entered before January, 1985, or Beneficiary, as applicable, may direct the proceeds from the divestment of employer securities, each of which is diversified and has materially different risk and return characteristics. The Plan may limit the time for divestment or reinvestment to periodic, reasonable opportunities that occur no less frequently than quarterly. Except as provided in the regulations, the Plan must not impose employer securities investment restrictions or conditions that are not imposed on the investment of other Plan assets (other than restrictions or conditions imposed by securities laws or other relevant guidance).
4. Exception for Certain Plans - The diversification requirement does not apply to a one-Participant retirement plan (as defined in Section 401(a)(35) of the Code) or to an employee stock ownership plan (ESOP) if 1) there are no contributions or earnings in the ESOP that are held within such plan and that are subject to Code Sections 401(k) or (m), and 2) such plan is a separate plan for purposes of Code Section 414(l) with respect to any other defined benefit plan or defined contribution plan maintained by the same employer or employers.
5. Transition Rule for Securities Attributable to Employer Contributions - In the case of Employer Contributions that are invested in employer securities, the employer securities acquired in a Plan Year beginning before January 1, 2007, will be subject to the following divestiture and reinvestment transitions schedule, which applies separately with respect to each class of securities.

For the Plan Year in which diversification requirement applies the applicable percentage subject to diversification is:

Table with 2 columns: Category and Percentage. First.....33%, Second.....66%, Third.....100%

This three-year phase-in requirement does not apply to a Participant who has attained age 55 and who has completed at least three years of service before the first Plan Year beginning after December 31, 2005.

INTRODUCTION

J.P. MORGAN CLEARING CORP. PROTOTYPE DEFINED CONTRIBUTION PLAN

This booklet contains the J.P. Morgan Clearing Corp. Prototype Defined Contribution Plan ("JP Morgan Prototype Defined Contribution Plan"), together with information and required forms to open an account. The JP Morgans Prototype Defined Contribution Plan consists of two tax-qualified retirement plans: a Profit Sharing Plan and a Money Purchase Pension Plan. These Plans may be adopted by a self-employed individual, a sole proprietorship, a partnership, a limited liability company or a corporation. These Plans replace the Bear Stearns Master Defined Contribution Plan for Self-Employed Individuals and Corporations.

IT IS VERY IMPORTANT THAT PRIOR TO COMPLETING THE ADOPTION AGREEMENT(S) AND ADOPTING YOUR PLAN YOU CONSULT WITH YOUR LAWYER AND TAX ADVISOR REGARDING THE APPLICABLE FEDERAL, STATE AND LOCAL TAX CONSEQUENCES AND THE VARIOUS GOVERNMENTAL REQUIREMENTS IMPOSED BY SUCH PLANS. PLEASE NOTE THAT JP MORGAN DOES NOT OFFER TAX OR LEGAL ADVICE.

THE JP MORGAN PROTOTYPE DEFINED CONTRIBUTION PLAN HAS BEEN APPROVED BY THE INTERNAL REVENUE SERVICE. APPROVAL BY THE INTERNAL REVENUE SERVICE IS ONLY A DETERMINATION AS TO THE FORM OF THE PLAN AND RELATED DOCUMENTS. QUALIFICATION ALSO DEPENDS UPON YOUR PROPER ADMINISTRATION AND OPERATION OF THE PLAN. A COPY OF THE IRS OPINION LETTERS APPROVING THE PLANS AS QUALIFIED ARE SET FORTH AT PAGES 89-92.

QUESTIONS AND ANSWERS

What is the JP Morgan Prototype Defined Contribution Plan?

The JP Morgan Prototype Defined Contribution Plan permits annual tax-deductible employer contributions into a pension plan, by means of either the Money Purchase Pension Plan or the Profit Sharing Plan. Any corporation, partnership, limited liability company or sole proprietorship can adopt the Plan.

What are the advantages of adopting the JP Morgan Prototype Defined Contribution Plan for my business?

- Tax-Deductible Employer Contributions
- Self-Directed Accounts
- Tax-Deferred Growth
- Special Tax Treatment on Distributions

Why a Defined Contribution Plan?

There are tax advantages to adopting and maintaining a defined contribution plan. Contributions are tax deductible and reduce net taxable earnings. Moreover, contributions and the earnings thereon are permitted to grow on a tax-deferred basis with no payment of income tax on the contributions or the earnings until distribution. For this reason, the full amount of the earnings in your account can be invested and reinvested under the Plan, thereby maximizing growth. The Plan is designed to provide participants and their beneficiaries with an additional measure of security in special circumstances such as death or disability.

What type of plan can I establish?

You can establish different types of defined contribution plans: a Profit Sharing Plan, a Money Purchase Pension Plan, or a combination Profit Sharing Plan and Money Purchase Pension Plan. (The basic difference is the formula under which employer contributions are made and the way benefits are paid.) Since the annual limit for tax-deductible contributions for the Profit Sharing Plan has now been raised to 25% of covered compensation (effective for plan years beginning in 2002), the need for the combination plan has become obsolete.

What contributions can I make?

Any compensation that you receive (up to a maximum specified by federal tax law)¹ may be used to determine the contribution to your Defined Contribution Plan. For a self-employed individual, this means net earnings from self-employment, reduced by the tax-deductible employer contributions to the Plan and any other tax-qualified plan on behalf of such an individual and self-employment taxes. For an employee, unless otherwise elected in the Adoption Agreement, compensation means total remuneration from the employer, including salary or wages, bonuses, overtime pay and commissions, but excluding all forms of deferred compensation.

All contributions must be made in cash, except for rollover or transfer contributions (which can be made in cash or property acceptable to the Plan Administrator or the Trustee).

How much can I contribute to my plan?

More than you could for plans established prior to 2002 as a result of changes contained in the Economic Growth and Tax Relief Reconciliation Act of 2001. There is a limit on the maximum amount of employer contributions that can be allocated to your account in any year for a Money Purchase Pension Plan or a Profit Sharing Plan. For Plan Years beginning prior to January 1, 2002, this limit is the lesser of 25% of your compensation or \$30,000 (as adjusted for increases in the cost of living). For Plan Years beginning after December 31, 2001, the limit is the lesser of 100% of your compensation or \$40,000 (as adjusted for increases in the cost of living).

Profit Sharing Plan. This Plan provides an employer with maximum contribution flexibility, because each year you determine the amount you wish to contribute for that year. For Plan Years beginning prior to January 1, 2002, the annual limit for tax-deductible contributions is 15% of the compensation of all participants. For Plan Years beginning after December 31, 2001, the annual limit for tax-deductible contributions is 25% of the compensation of all participants.

Benefits may be paid in a lump sum without spousal consent (but the participant's spouse must consent to any non-spouse beneficiary). If you so elect, benefits may be paid as a joint and survivor annuity or in another form if the participant's spouse consents.

Money Purchase Pension Plan. For Plan Years beginning prior to January 1, 2002, the annual limit for tax-deductible contributions is 25% of the compensation of all participants. For Plan Years beginning after December 31, 2001, the annual limitation is unchanged. Benefits must be paid as a joint and survivor annuity, unless the participant's spouse consents to another type of payout.

When do I make my contributions?

Employer contributions can be made up to the due date for filing the employer's federal income tax returns, including extensions. Employee rollover contributions or transfer contributions may be made at any time permitted by the Plan Administrator.

Can I adopt the Plan if I currently maintain, or have in the past maintained, another tax-qualified plan?

Yes. If you maintain the predecessor Bear Stearns Master Defined Contribution Plan for Self-Employed Individuals (Keogh) and Corporations, this Plan will serve as its continuation. If you have adopted a master or prototype defined contribution plan sponsored by another financial institution, you may transfer the assets over to this Plan, which will then serve as your continuation. Otherwise, special limitations may apply, and you are urged to consult with your attorney or tax advisor.

¹ \$200,000 for 2002

QUESTIONS AND ANSWERS

Are all employees required to be covered by the Plan?

Your Plan must cover all employees who satisfy the participation rules that you elect in the Adoption Agreement. Your Plan may exclude employees covered by a collective bargaining agreement, if retirement benefits have been the subject of good faith bargaining, and non-resident aliens who have no United States source income. If you own more than one business (or more than 10% of several businesses), special rules apply and you should consult your attorney or tax advisor.

When will the Plan be considered top-heavy?

Generally, the Plan will be considered top-heavy if the total account balances of the key employees exceed 60% of the total account balances of all participants. A top-heavy plan is required to meet special rules on vesting and minimum contributions. This Plan is designed to automatically comply with these special rules.

Who is a key employee?

For Plan Years beginning prior to January 1, 2002, key employees are usually the following:

- an officer of the employer having annual compensation in excess of \$45,000 (indexed);
- a 5% owner of the employer;
- a 1% owner of the employer having annual compensation in excess of \$150,000; or
- any of the 10 employees (including partners, limited liability company members and shareholder-employees) having compensation in excess of \$30,000 and owning, directly or indirectly, the largest interests in the employer.

For Plan Years beginning after December 31, 2001, key employees are usually the following:

- an officer of the employer having annual compensation in excess of \$130,000 (indexed);
- a 5% owner of the employer; or
- a 1% owner of the employer having annual compensation in excess of \$150,000.

Most self-employed individuals and shareholders of small corporations will be key employees.

How do I invest my Defined Contribution Plan at JP Morgan?

The Plan is completely self directed, which means that you provide your Account Executive with the instructions for investing your funds. This gives you flexibility in choosing your investment instruments. You can choose from:

- Common stocks and/or preferred stocks
- Interest-earning investments such as corporate bonds, Treasuries, GNMA's and/or certificates of deposit

What types of investments are not allowed?

The following transactions are not allowed:

- Margin trades, unless specifically approved by the Firm
- Commodity trades
- Outright purchase of options and uncovered writing of options (option activity is limited to covered equity call writing and protective/married equity put buying)
- Purchase of foreign securities which would require JP Morgan to hold physical foreign certificates
- Real estate, mortgages, and deeds of trust
- Outside dividend reinvestment plans
- Collectibles (coins, gems, precious metals, antiques, bullion, etc.)
- Life insurance and annuities
- Private loans
- Any investment which JP Morgan deems not compatible with its administrative or operational requirements.

When are Plan benefits distributed?

Generally, you will start receiving plan benefits when you retire. Usually this is at 65 years of age. However, you can elect to have benefits paid before that age in the event of disability or termination of employment with the employer for any other reason. Generally, distributions must begin no later than April 1 of the calendar year following the year in which you attain age 70½.

What payment forms are available?

Benefits are payable either in a single lump sum, in installment payments over a specified period of years (not extending beyond your life expectancy or the joint life expectancy of you and your beneficiary), or by the purchase of a nontransferable annuity with the balance of your account and the distribution of this annuity. By law, spousal consent to certain distributions must be obtained.

What happens when I make early withdrawals?

Except to the extent that distributions are required to be made when you reach the age of 70½, distributions of the portion of your account that is attributable to employer contributions may not be made prior to your termination of employment. However, these distributions may be subject to a mandatory 20% federal withholding tax and, if paid before age 59½, may be subject to an additional 10% penalty tax. Otherwise, in-service distributions, not related to a triggering event such as plan termination, separation from service, retirement or death, are not permitted. If voluntary contributions were permitted under a prior plan or included in a transfer from another plan, you may withdraw them at any time.

What is a rollover?

A rollover occurs when a participant receives a distribution from one tax-qualified plan and transfers the distribution to another tax-qualified plan, or when a participant transfers funds to a tax-qualified plan from a "Rollover IRA." A rollover of funds received from another tax-qualified plan must occur within sixty (60) days after the distribution from the other plan.

Are my distributions taxable?

Distributions are taxable. Under certain circumstances, distributions may be rolled over into an IRA or another tax-qualified plan without being subject to current taxation. You should consult your attorney or tax advisor prior to making any distributions.

How do I establish a Defined Contribution Plan at JP Morgan?

To set up a plan, you need to complete one or both of the Adoption Agreements starting on page 63. Please read the included Plan, Adoption Agreements, etc., carefully. Review them with your attorney and/or tax advisor, then refer to the instructions on page 6 to complete the application. Forward the completed documents to your Account Executive.

What are my costs and fees?

Your fees include the normal brokerage commissions which vary with the type and the size of the transaction. There is an annual maintenance fee of \$35 per plan participant. This fee is not prorated for part of a year. A \$50 termination fee is applicable upon the closing of each participant's account. These fees are subject to change with notice.

The above highlights are explained in greater detail in this booklet. Please read this booklet carefully before establishing your Plan.

INSTRUCTIONS

INSTRUCTIONS FOR ESTABLISHING YOUR PLAN

You must follow these steps to establish your Plan:

1. Complete and sign either the Money Purchase Pension Plan Adoption Agreement or the Profit Sharing Plan Adoption Agreement depending upon which type of Plan you are establishing. If you are establishing a combination Money Purchase Pension Plan and a Profit Sharing Plan, complete both Adoption Agreements.
2. Corporate employers should arrange to have resolutions adopted by the board of directors of the corporation adopting the Plan and authorizing the execution of the Adoption Agreement(s) (sample resolutions are provided in this booklet). Other legal entities, for example, a partnership or a limited liability company, should arrange to have resolutions adopted by the governing body adopting the Plan and authorizing the execution of the Adoption Agreement(s) (sample resolutions are provided in this booklet).
3. Complete and sign the Amendment of the J.P. Morgan Clearing Corp. Prototype Defined Contribution Plan for The Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA").
4. Provide each employee with a Summary Plan Description (a sample Summary Plan Description is provided in this booklet). (If you and your spouse are the sole participants in the Plan(s), or if there are no common-law employees covered by the Plan(s), a Summary Plan Description does not have to be provided.)
5. Each participant should complete the "Designation of Beneficiary Form" and the Administrator should complete the "List of Participants Form."
6. Return all completed forms to your Account Executive after reviewing this material with your attorney or tax advisor.

SPECIFIC DIRECTIONS FOR COMPLETING THE ADOPTION AGREEMENTS

The following directions apply for completion of both the Money Purchase Pension Plan Adoption Agreement and the Profit Sharing Plan Adoption Agreement. Any differences will be indicated as applicable.

A. Status of Plan and Effective Date

If you have previously adopted, and currently maintain, the Bear Stearns Master Defined Contribution Plan for Self-Employed Individuals (Keogh) and Corporations, and this adoption constitutes an amendment, restatement and continuation of that plan, you should check box 4.C on page 2 of the Adoption Agreement and Part I, 1.B and specify the effective date thereof. If this is the initial adoption of a tax-qualified retirement plan, you should check box 4.A on page 2 of the Adoption Agreement and Part I, 1.A and specify the effective date of the Plan, generally the first day of the current calendar year or taxable year of the employer. (The Agreement must be signed, and corporate resolutions must be adopted, before the end of such year.) If you have previously adopted, and currently maintain, a tax-qualified master defined contribution plan sponsored by an organization other than JP Morgan or an individually designed plan and you are adopting this Plan as a continuation of that plan, you should check box 4.C on page 2 of the Adoption Agreement and specify the effective date thereof. Box 4.B on page 2 of the Adoption Agreement should be checked if you have already adopted this Plan and you now wish to change certain of your selections in the Adoption Agreement. The effective date of such changes should also be specified.

B. Employer Information

1. Complete the name, address and telephone number of the employer.
2. Indicate whether the employer is a sole proprietorship, partnership, limited liability company or corporation.

C. Trustee Information

The Employer must appoint a Trustee. Indicate the name, address and telephone number of the Trustee.

D. Plan Provisions

Part I. Definitions

1. *Plan Administrator.* You are the Administrator of the Plan. The Administrator is responsible for the administration and operation of the Plan. Some of the Administrator's duties include determining which employees are eligible to participate, determining the portion of the employer contribution that is allocable to the account of each participant, determining when a participant becomes eligible for a distribution of benefits from the Plan, filing of government reports and handling communications with the Trustee and participants, and processing benefit claims and participant elections. JP Morgan is not the Administrator. The Administrator will be a fiduciary of the Plan and must act in a prudent manner and for the exclusive benefit of participants and their beneficiaries.
2. *Compensation-Definition.* For general purposes, compensation may be defined in various ways. Select box 2.A if you wish to define compensation as wages, tips and other compensation required to be reported on the participant's W-2 form. Select box 2.B if you wish to define compensation as Code Section 415 Safe-Harbor Compensation.

Compensation-Applicable Period. Select box 2.C if you choose to have compensation determined over the Plan Year. Select box 2.D if you choose to have compensation determined over the calendar year ending with or within the Plan Year. Select box 2.E if you choose to have compensation determined over the limitation year ending with or within the Plan Year.

Compensation Exclusions. Check box 2.F, 2.G and/or 2.H if you choose to exclude any compensation.

Compensation-Includability of Contributions Made Pursuant to Salary Reduction Agreements. Select box 2.I if you do not wish to have included as compensation employer contributions made pursuant to a tax-deferred salary reduction agreement. Do not select box 2.I if you wish to have included in compensation employer contributions made pursuant to a tax-deferred salary reduction agreement.
3. *Compensation-Definition for Annual Additions.*
Select either 3.A, 3.B or 3.C.
4. *Hours of Service-Definitions.*
Select either 4.A, 4.B, 4.C, 4.D or 4.E.
5. *Adjustment Date-Definitions.*
Select an Adjustment Date. Generally, you will want to select the calendar year.
6. *Valuation Date-Definitions.*
Select a Valuation Date. Generally this should be the same as the Adjustment Date.
7. *Highly Compensated Employee-Definitions.*
You may select one or both of the optional definitions.
8. *Limitation Year-Definition.*
Select a Limitation Year.

Part II. Eligibility Requirements and Entry Date

1. *Service and Age Requirements.*
 - Select one or more of boxes 1.A, 1.B or 1.C for service and/or age requirements. Select an age which does not exceed 21 and years of service which do not exceed 2. You may choose to set no age or service requirement if you are the sole participant in your Plan and you would not otherwise satisfy these requirements, or if you choose to have all employees participate immediately in the Plan.
 - Select box 1.D(1), (2) or (3) for determining credit for Years of Service.
 - Choose 1.E(1) or (2) to include or exclude employees covered by a Collective Bargaining Agreement. You are allowed to exclude from Plan participation any employees who are covered by a collective bargaining agreement, if retirement benefits were the subject of good faith bargaining. You are also allowed to exclude non-resident aliens who have no United States source income.
2. *Entry Date.* All employees who satisfy the eligibility requirements on the effective date of the Plan become or continue as participants as of that date. Indicate the date on which future participants should be permitted entry in the Plan after satisfying any minimum service and age eligibility requirements.
3. *Eligibility Computation Period.* Choose either 3.A or 3.B.

ADOPTION AGREEMENT DIRECTIONS

NOTE: An employee will earn a “year of service” for eligibility purposes under the Plan if he or she is credited with 1,000 or more hours of service during a “computation period.” Computation periods are also used to determine whether the employee has had a “break in service.” An employee’s initial computation period is always the 12 consecutive-month-period beginning on his or her employment commencement date. Subsequent computation periods can be measured on the same basis: each 12 consecutive-month-period beginning on each anniversary of the employee’s starting date. Alternatively, subsequent computation periods can be switched to a Plan Year basis, beginning with the Plan Year that starts during the employee’s initial computation period. If you choose to switch over to a Plan Year basis and the employee completes 1,000 hours of service in his or her initial 12 consecutive-month-computation period and in the overlapping Plan Year that starts during the employee’s initial computation period, he or she will receive credit for two years of service. You may wish to select the switch over method if, for example, your employment records are kept on a Plan Year basis and it will be easier to calculate an employee’s hours of service on that basis.

Part III. Contributions and Allocations.

1. *Allocation Formula.*

Select 3.A in the Profit Sharing Plan Adoption Agreement and/or 1.A in the Money Purchase Pension Plan Adoption Agreement for a Nonintegrated Plan.

Select 3.B in the Profit Sharing Plan Adoption Agreement and/or 1.B in the Money Purchase Pension Plan Adoption Agreement for an Integrated Plan.

Profit Sharing Plan: Complete items 3.B(1)(a), 3.B(1)(b), 3.B(2), 3.B(4) and 3.B(5).

Money Purchase Pension Plan: Complete items 1.B(1)(a) and 1.B(1)(b).

NOTE: Integration permits a disproportionate contribution in favor of highly compensated individuals by giving the company credit for Social Security contributions. You should consult with your tax advisor or attorney.

2. *Allocations— Terminated Participants and Minimum Service Requirements.* This section determines the rules for allocating contributions.

Profit Sharing Plan: Select 6.A, 6.B or 6.C.

Money Purchase Pension Plan: Select 5.A, 5.B or 5.C.

3. *Top Heavy Minimum.* This section determines which company plan will provide Top Heavy Benefits.

Profit Sharing Plan: Select 7.A if there is only this Plan, or 7.A or 7.B if there are two or more Plans.

Money Purchase Plan: Select 6.A if there is only this Plan, or 6.A or 6.B if there are two or more Plans.

4. *Interest and Mortality Rates for Defined Benefit Present Value.* Section 8 applies only if you maintain a defined benefit plan.

Part IV. Distributions and Vesting.

1. *Vesting.* Select a vesting schedule—either of 1.A, 1.B, 1.C, 1.D or 1.E. If the Plan is Top Heavy, select either 1.A, 1.D or 1.E.

2. *Vesting and Participation Computation Period.* Select 2.A or 2.B.

3. *Limitations regarding Years of Service.* Select 4.B(1), 4.B(2) or 4.B(3).

4. *Normal Retirement Age.* You may select any retirement age that is reasonable in the context of your business (not to exceed 65) or you may select the later of the participant’s attainment of such specified age (not to exceed 65) and an anniversary (not to exceed the 5th) of the participant’s entry into the Plan. Complete 7.A and 7.B.

7. *Pre-break Distributions.* Select 8.A or 8.B for the Profit Sharing Plan.

8. *Years of Service with other Employers.* Under certain circumstances you can give credit for service with other employers. Select 9.A, 9.B or 9.C.

9. *Required Beginning Date.* Complete by selecting either 10.A, 10.B or 10.C. If 10.C is selected, complete 10.C(1), 10.C(2), or 10.C(3).

10. *Form of Benefit.* (Profit Sharing Plan only) Select A or B.

Part V. Administrative Committee—Optional.

If this option is chosen, select a Committee.

Execution. The Adoption Agreement should be signed by the company, the Trustee and the Sponsor.

PARTICIPANTS FORM

Account Number

LIST OF PARTICIPANTS FORM

_____, the Employer named herein, has adopted the following Plan:

[Check the type of Plan selected.]

- Money Purchase Pension Plan
- Profit-Sharing Plan
- A combination of the Money Purchase Pension Plan and Profit Sharing Plan—Separate accounts must be opened with JP Morgan for each plan.

J.P. Morgan Clearing Corp. is hereby authorized to establish accounts under the Plan for the following participants:

Name	Date of Birth	Address	Social Security Number	Account Number
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

The Employer hereby agrees to promptly provide J.P. Morgan Clearing Corp. with the names of any new Plan participants.

Dated: _____ Employer Signature: _____

DETACH HERE

DETACH HERE

INSTRUCTIONS FOR PREPARING THE SUMMARY PLAN DESCRIPTION

A Summary Plan Description ("SPD") must be provided to all Plan participants, unless you and your spouse are the only Plan participants or no common-law employees are covered by the Plan. We have enclosed a sample SPD which you can complete by inserting the appropriate alternative language in accordance with the options you have selected in the Adoption Agreement(s).

PLEASE CONSULT WITH YOUR ATTORNEY AND TAX ADVISOR BEFORE DISTRIBUTING THE SPD TO PARTICIPANTS.

Federal regulations require the following:

- (1) Each Plan participant must receive a copy of the SPD within 120 days after the Plan is established (and every 10 years thereafter, unless there has been a material change in the Plan, in which case a summary of the change or a revised SPD must be furnished within 210 days after the end of the Plan Year in which the change is adopted).
- (2) Each new Plan participant must receive a copy of the SPD within 90 days after joining the Plan.
- (3) Each beneficiary must receive a copy of the SPD within 90 days after the Plan participant's death.

SUMMARY PLAN DESCRIPTION

SUMMARY PLAN DESCRIPTION FOR THE _____

[NAME OF PLAN]

PLEASE NOTE: THIS SUMMARY PLAN DESCRIPTION DOES NOT SET FORTH EACH AND EVERY RULE OF THE PLAN. A PARTICIPANT'S RIGHTS AND OBLIGATIONS AND THE EMPLOYER'S RIGHTS AND OBLIGATIONS ARE GOVERNED BY THE RULES STATED IN THE PLAN. NOTHING IN THIS SUMMARY CHANGES THE RULES OF THE PLAN. IN THE EVENT OF ANY DISCREPANCY, THE RULES OF THE PLAN WILL GOVERN.

I. GENERAL DESCRIPTION OF PLAN

1. Eligibility Requirements

[Include A, B or C according to the option chosen in Part II, Item 1 of the Adoption Agreement.]

- (A) All employees who have attained age ____ will be eligible to become Plan participants at the time of their initial employment.
- (B) All employees who are at least _____ years of age and who have completed at least _____ years of service with the employer will be eligible to become Plan participants.
- (C) All employees who have completed at least _____ years of service with the employer will be eligible to become Plan participants.

[Include one or both of the excluded groups (A and B below) according to the option chosen in Part II, Items 1.E and 1.F of the Adoption Agreement, or, if neither group is excluded, omit the entire statement.]

Notwithstanding the foregoing, the following classes of employees are excluded from participation in the Plan:

- (A) employees who are covered by a collective bargaining agreement where retirement benefits were the subject of good faith bargaining
- (B) non-resident aliens who receive no earned income from United States sources.

An employee will be credited with a "year of service" for each "computation period" during which he or she is credited with 1,000 or more hours of service. Hours of service include hours during which the employee is at work, hours for which he or she is paid while absent from work, including holidays, sick pay, jury duty, leaves of absence including maternity and paternity leave, and also periods for which back pay is due. You will not receive more than 501 hours of credit for time paid but not worked.

For eligibility purposes, the computation period for crediting service is:

[Include A or B according to the option chosen in Part II, Item 3 of the Adoption Agreement.]

- (A) the 12 consecutive-month-period commencing on the date the employee first commenced employment with the employer, and thereafter each Plan Year commencing with the Plan Year which begins in the employee's initial 12 consecutive-month computation period. An employee who completes at least 1,000 hours of service during both the initial 12 consecutive-month computation period and the Plan Year commencing during the initial computation period will be credited with 2 years of service for purposes of the Plan.
- (B) the 12 consecutive-month period commencing on the date the employee first commenced employment with the employer, and each anniversary thereof.

Special eligibility rules apply when a participant incurs a break in service and then returns to work with the employer. A break in service occurs when an employee has less than 501 hours of service during a computation period. Former employees who are reemployed by the employer should ask the Administrator how these rules will affect them. Transfers of employees between the employer and any other employer which adopts this Plan will not affect their eligibility to participate in the Plan.

2. Entry Date

Each employee who has satisfied the eligibility requirements set forth in Section 1 above on the effective date of the Plan shall become a participant on such date. Each other employee shall become a participant on the "entry date" coinciding with or next following his or her satisfaction of the eligibility requirements. The term "entry date" means:

[Select either A, B, C, D, E or F according to the option chosen in Part II, Item 2 of the Adoption Agreement.]

- (A) the first day of each month;
- (B) the first day of each of the following months:
_____(Specify the first month of the Plan Year.)

SUMMARY PLAN DESCRIPTION

_____(Specify the seventh month of the Plan Year.)

- (C) Succeeding Anniversary Entry Date. The first day of the Plan Year (or the Effective Date) coincident with or next following the date on which the employee fulfills the service and age requirements specified above.
- (D) Preceding Anniversary Date. The first day of the Plan Year (or the Effective Date) next preceding the date on which the employee fulfills the service and age requirements specified above.
- (E) Nearest Anniversary Entry Date. The first day of the Plan Year (or the Effective Date) nearest to the date on which the employee fulfills the service and age requirements specified above.
- (F) Other.

3. Employer Contributions

[Include A or B or both according to the type of Plan established. If you established both a Money Purchase Pension Plan and a Profit Sharing Plan also include C.]

- (A) *Money Purchase Pension Plan – Non-Integrated.* The amounts of the employer contribution to your Money Purchase Pension Plan account for each year that you are eligible (see Section 5 below) will be equal to _____% of your compensation paid during the year, up to \$30,000 (indexed) for Plan Years beginning before January 1, 2002, and up to \$40,000 (indexed) for Plan Years beginning after December 31, 2001.
- (A) *Money Purchase Pension Plan – Integrated.* The amounts of the employer contribution to your Money Purchase Pension Plan account for each year that you are eligible (see Section 5 below) will be equal to the sum of _____% of your compensation and _____% of your excess compensation, up to \$30,000 (indexed) for Plan Years beginning before January 1, 2002, and up to \$40,000 (indexed) for Plan Years beginning after December 31, 2001. Excess compensation is the amount of your compensation in excess of the Integration Level. The Integration Level equals _____% of the Social Security Taxable Wage Base in effect for the calendar year in which the Plan Year begins. (See explanation in Part III, Paragraph 1.B. of the Adoption Agreement.)
- (B) *Profit Sharing Plan – Non-Integrated.* The employer, in its sole discretion, determines each year the amount of the annual contribution, if any, that will be made to the Profit Sharing Plan. If you are eligible for a contribution (see Section 5 below), you will receive a proportionate share of the contribution based on your compensation for the year, but in no event more than \$30,000 (indexed) for Plan Years beginning before January 1, 2002, and in no event more than \$40,000 (indexed) for Plan Years beginning after December 31, 2001.
- (B) *Profit Sharing Plan – Integrated.* Company contributions and forfeitures shall be allocated to each participant in the ratio that each participant's compensation for the Plan Year bears to the aggregate compensation of all participants up to three percent (3%) of each participant's compensation. Any remaining contribution and forfeitures shall be allocated to each participant in the ratio each participant's compensation in excess of the Integration Level (if any) bears to the compensation of all participants in excess of the Integration Level up to three percent (3%) of each participant's compensation in excess of the Integration Level. Any remaining contribution and forfeitures shall be allocated to each participant in the ratio that the sum of each participant's total compensation and compensation in excess of the Integration Level (if any) bears to the sum of the aggregate compensation of all participants and the aggregate compensation in excess of the Integration Level up to _____ (Choose either 2.4% or 2.7% depending upon the choice of Integration Level) of the sum of each participant's total contribution, and forfeitures shall be allocated to each participant in the ratio that each participant's compensation bears to the aggregate compensation of all participants. The Integration Level equals _____ (Choose either 80.1% or 100% depending on the Integration Level) of the Social Security Taxable Wage Base in effect for the calendar year in which the Plan Year begins. (See explanation in Part III, Paragraph 3.B. of the Adoption Agreement.)
- (C) *Combination of Plans.* If the employer adopts both a Profit Sharing Plan and a Money Purchase Pension Plan, the maximum annual total contribution for you under both Plans for Plan Years prior to January 1, 2002, may not exceed 25% of your compensation for the year or \$30,000 (as adjusted for increases in the cost of living), whichever is less. For Plan Years after December 31, 2001, the maximum annual total contribution for you under both Plans may not exceed 100% of your compensation for the year or \$40,000 (as adjusted for increases in the cost of living), whichever is less.

4. Compensation

For a self-employed individual (including a partner or a member of a limited liability company), compensation means such individual's net earnings from self-employment, reduced by the tax-deductible employer contributions to the Plan and any other tax-qualified plan on behalf of such individual and deductible self-employment taxes. For an employee (other than a self-employed individual), compensation means the employee's total remuneration from the employer, including salary or wages, bonuses, overtime pay, and commissions, but excluding employer contributions to the Plan on behalf of the employee and other forms of deferred compensation. For Plan Years beginning after 1994, compensation is limited to \$150,000, increased as permitted by the IRS. For Plan Years beginning after December 31, 2001, compensation is limited to \$200,000, increased as permitted by the IRS.

SUMMARY PLAN DESCRIPTION

5. Participant Share of Employer Contributions

Separate accounts are established and maintained by JP Morgan for each participant in the Plan.

The annual Plan contributions are made for, and divided among, the following participants:

[Select A, B or C according to your selection in Part III, Item 5 of the Money Purchase Pension Plan Adoption Agreement and/or Item 6 of the Profit Sharing Plan Adoption Agreement.]

- (A) All participants who participated in the Plan during the Plan Year for which the contribution is made.
- (B) Only participants who either are still in the employ of the employer on the last day of the Plan Year for which the contribution is made or who complete at least 501 hours of service during the Plan Year.
- (C) Only participants who are still in the employ of the employer on the last day of the Plan Year for which the contribution is made, who complete at least 501 hours of service during the Plan Year, or who retire on or after their normal retirement age, become disabled or die during the Plan Year.

6. Voluntary Participant Contributions

No participant contributions are required or permitted under the Plan.

[Include the following Section 7 if employee rollover or transfer contributions are permitted.]

7. Rollover or Transfer Contributions

You may direct the Trustee of any other eligible retirement plan from which you are entitled to receive a distribution (other than a distribution that is (i) part of a series of substantially equal payments over your life or life expectancy or over the joint lives or joint life expectancies of you and your beneficiary for a period of ten years or more, (ii) a required distribution following your attainment of age 70½ or (iii) a hardship distribution under 401(k)(2)(b)(i)(IV) made after December 31, 1998) to make a direct rollover to a separate account established for you under the Plan. In addition, within 60 days of receiving such a distribution of assets from another tax-qualified retirement plan, you may be able to roll over or transfer such distribution to a separate account established for you under the Plan. You may make this rollover or transfer, even if you are not yet a participant in the Plan. In that event, you will be considered a participant solely with respect to the rollover or transfer contribution. You will not be eligible to share in employer contributions until you become a regular participant in the Plan. If you want to make a rollover or transfer contribution, contact the Administrator of the Plan for details on how to accomplish the rollover or transfer.

8. Vesting

Your employer contributions and earnings thereon will become fully vested and nonforfeitable in accordance with the following table: [Select same table chosen in Part IV, Item 1 of the Adoption Agreement.]

- Immediate Vesting: 100% immediately
- 5-Year Vesting: None prior to completion of five (5) years of service. 100% upon completion of five (5) years of service.
- 7-Year Graded Vesting:

Years of Service	Vested Percentage
0-2	0
3	20%
4	40%
5	60%
6	80%
7 and over	100%

- Top Heavy Vesting:

Years of Service	Vested Percentage
0-1	0
2	20%
3	40%
4	60%
5	80%
6 and over	100%

- Other: _____
(The vesting schedule cannot be slower than the schedule in B and C above.)

9. Investment of Your Plan Accounts

Each participant makes all investment decisions with respect to his or her Plan accounts. You are responsible for directing the Sponsor

as to the investments you wish to make with the assets in your accounts. You will deal directly with an Account Executive. You will be able to change your investments, at any time, by directing your Account Executive to sell certain assets and to purchase other assets. However, your investments will be limited to publicly traded securities and other lawful investments which are acceptable to JP Morgan.

If you wish, you may appoint a professional investment manager to manage the assets in your accounts. JP Morgan will follow the investment directions of any qualifying investment manager that you appoint upon receipt by JP Morgan from the Trustee of the appropriate documentation of such appointment.

The value of your accounts may increase or decrease because the assets earn income or appreciate or depreciate in value. Therefore, the value of your accounts will depend on the performance of the investments you or your investment manager select.

JP Morgan is under no duty to question any investment direction of the participant or the investment manager he or she appoints. JP Morgan is under no duty to review any securities or other property held in the account or to make suggestions to the participant or his or her investment manager with respect to the investment, retention or disposition of any assets held in the participant's account. The Plan is intended to constitute a plan described in section 404(c) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA") and, as such, the fiduciaries of the Plan are relieved of liability for any losses which result from your investment instructions.

10. Statement of Your Plan Account

You will receive a statement of your accounts at least annually and at such other times as the Trustee determines. The statement will show how your Plan accounts are currently invested, the value of the assets of your Plan accounts and the earnings on such investments over the period covered by the statement.

11. Distribution of Benefits at Normal Retirement Age

Benefits are payable to you when you retire on or after reaching your normal retirement age, which is:

[Include A or B according to the option chosen in Part IV, Item 7 of the Adoption Agreement.]

- (A) _____ age
- (B) the later of age _____ or the _____ anniversary of the first day of the Plan Year in which you commenced participation in the Plan.

12. Distribution of Benefits Prior to Normal Retirement Age

Benefits will also be payable to you at your election upon your termination of employment with the employer prior to reaching your retirement age.

13. Taxation of Distributions

Generally, distributions attributable to employer contributions and earnings on employee contributions are taxed as ordinary income. Taxable distributions prior to age 59½ (other than for death, disability and certain other exceptions) are also subject to a 10% penalty tax. Generally, distributions may be rolled over tax free to an IRA or another qualified plan. Direct distributions to a plan participant or beneficiary are subject to a mandatory federal income tax withholding at a flat rate of 20%. You should consult your own tax advisor regarding the taxation of any distribution.

14. Payment of Benefits on Disability

If you become "disabled," your benefits will be payable to you, at your option, as soon as you have demonstrated by competent medical evidence to the Committee's satisfaction that you are disabled. The term "disabled" means for purposes of the Plan, being unable to perform satisfactorily the duties assigned to you by reason of any medically determined physical or mental impairment which is expected to be permanent.

15. Methods of Payment

Benefits may be payable to you in cash, or by distribution of the assets in your Plan accounts, in one of the following ways:

- (1) a single lump sum payment;
- (2) installment payments over a specified period of years, but not exceeding your life expectancy, or the joint life expectancy of you and your designated beneficiary; or
- (3) by the purchase and distribution of an annuity contract providing payments over the remainder of your life.

[Include A (below) if you adopted the Money Purchase Pension Plan; include B if you adopted the Profit Sharing Plan; and include both A and B if you adopted a combination of the Plans.]

- (A) Notwithstanding the foregoing, benefits payable under the Money Purchase Pension Plan to a married participant will be in the form of a qualified joint and survivor annuity purchased with the balance of the participant's account, unless the participant elects a different payment form and his or her spouse consents to such election in writing, such spousal consent is witnessed by the Plan Representative or a notary public, and such election and consent are made at least 30 days (but no more than 90 days) before benefit payments begin.
- (B) Under the Profit Sharing Plan, a participant may elect to receive his or her benefits in any of the above-mentioned forms

SUMMARY PLAN DESCRIPTION

provided, however, that, if a married participant elects payment in an annuity form, such annuity must be in the form of a qualified joint and survivor annuity, unless the participant spouse consents in writing to another annuity form, such spousal consent is witnessed by the Plan Representative or a notary public, and such election and consent are made at least 30 days (but no more than 90 days) before benefit payments begin.

Under a qualified joint and survivor annuity, the participant receives a reduced monthly benefit for the remainder of his or her life, and, after the participant dies, the spouse receives a monthly benefit for the remainder of the spouse's life. The spouse's monthly benefit will be an amount that is not less than 50%, nor more than 100%, of the monthly benefit that was payable to the participant. The amount of the survivor annuity is elected by the participant. The larger the survivor benefit, the greater the reduction in the monthly benefit payable to the participant.

16. Distributions Upon Death

If you die after you have begun receiving your benefits under an installment form of payment, such payments will continue to be made to your beneficiary under that payment form. If you die after you have received a distribution of an annuity contract, a survivor benefit will be paid only if provided for under the terms of such annuity contract. If you die before distribution of your benefits commences, your account will be distributed to your designated beneficiary no later than 5 years after your death. However, a beneficiary other than your surviving spouse may elect to have payments made over a period not to exceed his or her life expectancy, commencing no later than 1 year after your death. If your beneficiary is your surviving spouse, he or she may make the same election described in the preceding sentence, except that distributions need not commence before the date on which you would have attained age 70½.

17. Withdrawals Prior to Termination of Employment

- (A) By making a written request to the Plan Representative, which request shall be transmitted to the Trustee, you may, at any time, withdraw all or part of any voluntary contributions that may have been made by you at a time when such contributions to the Plan were permitted; such a withdrawal may result in a distribution of taxable earnings. If these contributions were made to the Money Purchase Pension Plan, they may not be withdrawn without spousal consent.
- (B) Generally, you may not withdraw the portion of your Plan account that is attributable to employer contributions and forfeitures prior to your termination of employment with the employer. If this Plan was in existence prior to January 1, 2001, and permitted such withdrawals, you may withdraw amounts attributable to your account balance on December 31, 1999, in accordance with the rules of the Plan.

18. Designating a Beneficiary

You may name one or more beneficiaries or contingent beneficiaries to receive your benefits under the Plan in the event of your death, by signing a beneficiary form and returning it to the Administrator. If you are married, you may not designate someone other than your spouse as your beneficiary unless your spouse consents. Such spousal consent must be signed by the spouse and witnessed by the Plan Representative or a notary public.

Your subsequent marriage prior to the earlier of your death or the commencement of benefit payments under the Plan will constitute a revocation of any prior beneficiary designation. If you wish to designate a beneficiary other than your new spouse, a new designation of beneficiary form should be completed in accordance with the rules specified above.

The Plan Representative will make payments according to the most recent beneficiary designation form on file with the Plan. If you do not complete a designation of beneficiary form, your beneficiary will be your spouse. If you fail to designate a beneficiary and you are not survived by a spouse, your estate will be deemed your beneficiary.

19. Procedures for Claiming Benefits

General Claims Procedure. If you or your beneficiary believes you are entitled to benefits under the Plan that are not being paid, you must present a written claim for such benefits to the Claims Administrator. If your claim is denied, you shall be provided with a notice of the denial within 90 days after the claim is filed. The 90-day period may be extended by up to an additional 90 days if special circumstances require more time, provided that, within the original 90-day period, you receive a written notice explaining the special circumstances and the date by which a decision is expected to be rendered. The notice of denial shall set forth specific reasons for the denial, including references to pertinent Plan provisions, a description of additional material or information necessary to perfect the claim, an explanation as to why such information is necessary, information as to the steps you must take to submit the claim for review, and notification of your right to bring a civil action under section 502(a) of ERISA following an adverse determination on review.

If your claim is denied, you may present a written appeal of the denial to the Committee within 60 days after receipt of the notice of the denial. Upon appeal, you have the right to review relevant documents, submit issues and comments in writing, request a hearing before the Committee and be represented by legal counsel or other representative. The Committee shall issue a final written decision, which shall include reasons for the decision, references to pertinent Plan provisions, information that you may obtain, free of charge, reasonable access to and copies of all relevant documents and records, and notification of your right to bring a civil action under section 502(a) of ERISA. The Committee shall render a decision within 60 days after receipt of the request for review. The 60-day period may be extended by up to an additional 60 days if special circumstances require more time, provided the Committee so notifies you in writing within the original 60-day period, explains the special circumstances and indicates the date by which a final decision shall be rendered. If the period for review is extended because you fail to provide necessary information, the period for review shall be tolled from the date the notice of extension is sent until the date on which you respond, whichever is earlier.

SUMMARY PLAN DESCRIPTION

Disability Claims Procedure. Notwithstanding the foregoing, if you or your beneficiary believes you are entitled to benefits under the Plan on the basis of disability, you must present a written claim for such benefits to the Claims Administrator, as determined by the Employer from time to time. If your claim is denied, you shall be provided with notice of the denial within 45 days after the claim is filed. The 45-day period may be extended by up to an additional 30 days if special circumstances require more time. If, due to special circumstances, the Claims Administrator is unable to make a decision within the 30-day extension period, the period for making a decision may be further extended by up to an additional 30 days. In such cases, you must receive, within the original 45-day period, and, if applicable, within the first 30-day extension period, written notice explaining the special circumstances, the date by which a decision is expected to be rendered, the standard on which the right to benefits is based, any unresolved issues preventing a decision and any necessary additional information. If the period for making a determination is extended because you fail to submit necessary information, you shall have 45 days from receipt of the notice of extension to provide the information. The period for making a determination shall be tolled from the date the notice of extension is sent until the date on which you provide the requested information or the expiration of the 45-day period, whichever is earlier.

The notice of denial shall set forth reasons for the denial, including references to pertinent Plan provisions, a description of additional material or information necessary to perfect the claim, an explanation as to why such information is necessary, information as to the steps you must take to submit the claim for review, and notification of your right to bring a civil action under section 502(a) of ERISA following an adverse determination on review. In addition, if the Claims Administrator relies on an internal rule, guideline, protocol or other criterion to decide the claim, the Claims Administrator shall so notify you and inform you that a copy of such rule, guideline, protocol or criterion is available free of charge. If the Claims Administrator bases the denial of the claim on a medical necessity, experimental treatment or other similar limit, the notice shall also provide that the claimant may obtain free of charge an explanation of the scientific or clinical judgment for the determination and the application of the Plan's terms to the claimant's medical circumstances.

If your claim is denied, you may appeal that decision to the Committee by filing a written request for review within 180 days after receipt of written notification of the denial of your claim. Upon appeal, you may review relevant documents, submit issues and comments in writing, request a hearing before the Committee and be represented by legal counsel or other representative. If the denial of the claim is based in whole or in part on a medical judgment, the Committee shall disclose the identity of any expert consulted with respect to the initial denial of the claim, even if the Claims Administrator did not rely on such expert's advice.

The Committee shall ordinarily render a decision within 45 days after receipt of a request for review. If special circumstances require more time, this 45-day period may be extended by up to an additional 45 days, provided the Committee so notifies you in writing within the original 45-day period, explains the special circumstances and indicates the date by which a final decision is expected. If the period for review is extended because you fail to provide necessary information, the period for review shall be tolled from the date the notice of extension is sent until the date on which you respond to the request for additional information or the expiration of the 45-day extension period, whichever is earlier.

Notice of the Committee's decision on review shall include reasons for the decision as well as references to the Plan provisions on which the decision is based, notify you that you may obtain free of charge reasonable access to and copies of all relevant documents, records and information and inform you of your right to bring a civil action under section 502(a) of ERISA. In addition, if, on review, the Committee relies on an internal rule, guideline, protocol or other criterion, they shall so notify you and inform you that you may obtain a copy of such rule, guideline, protocol or criterion free of charge. If the Committee bases their decision on review on a medical necessity, experimental treatment or other similar limit, the Committee shall provide you free of charge an explanation of the scientific or clinical judgment for the determination and the application of the Plan's terms to your medical circumstances.

20. No Assignment of Benefits

Your benefits under the Plan may not be assigned, pledged, garnished, attached, sold or otherwise transferred to a third party except as provided by law. Your benefits, however, may be subject to assignment or attachment pursuant to a qualified domestic relations order. A "qualified domestic relations order" is a court order, decree or judgment that requires the Plan Representative to pay a portion of your benefits under the Plan to your spouse or child for child support, alimony, or in satisfaction of marital property rights.

21. Plan Termination and Amendment

In the event that the Plan is terminated, all assets remaining in your account will be distributed to you in accordance with Article VI of the Plan. The employer has reserved the right to terminate or amend the Plan at any time.

22. Fees

Normal brokerage commissions will be charged against your accounts. There is an annual custodial fee of \$35 per plan participant. This fee is not prorated for part of a year. A \$50 fee will also be charged upon termination of each participant's account. These fees are subject to change with notice.

II. STATEMENT OF ERISA RIGHTS

As a participant in the Plan, you are entitled to certain rights under the Employee Retirement Income Security Act of 1974 ("ERISA"). Under ERISA, all participants are entitled:

1. To examine (without charge), at the office of the Administrator, all Plan documents, including the Plan, and copies of all documents filed with the United States Department of Labor, such as detailed annual reports and the Plan description.

SUMMARY PLAN DESCRIPTION

2. To obtain copies of all Plan documents and other Plan information upon written request to the Administrator. A reasonable charge may be made for such copies.
3. To receive a summary of the Plan's annual financial report. The Administrator is required under ERISA to furnish each participant in the Plan with a copy of this summary annual report.
4. To obtain a statement of the balance of your account under the Plan as of a recent valuation date. This must be requested in writing and need not be given more than once a year. The Administrator must provide the statement free of charge.

In addition to creating rights for participants in the Plan, ERISA imposes duties upon the people who are responsible for the operation of the Plan. The people who operate the Plan (called "fiduciaries") have a duty to do so prudently and in the interest of you and other participants and beneficiaries. No one, including the employer or any other person, may fire you or otherwise discriminate against you in any way to prevent you from obtaining a benefit from the Plan, or exercising your rights under ERISA. If your claim for benefits from the Plan is denied, in whole or in part, you must receive a written explanation of the reason for the denial. You must have the right to have the Administrator review and reconsider your claim.

Under ERISA, there are steps you can take to enforce the above rights. For instance, if you request materials from the Plan and do not receive them within 30 days, you may file suit in a federal court. In such a case, the court may require the Administrator to provide the materials and pay you up to \$110 a day until you receive the materials, unless the materials were not sent because of reasons beyond the control of the Administrator. If you have a claim for benefits which is denied or ignored, in whole or in part, you may file suit in a state or federal court. If the fiduciaries misuse the Plan's money, or if you are discriminated against for asserting your rights, you may seek assistance from the United States Department of Labor or you may file suit in a federal court. The court will decide who should pay court costs and legal fees. If you are successful, the court may order the person you have sued to pay these costs and fees. If you are unsuccessful, the court may order you to pay these costs and fees; for example, this may be the case if your claim is frivolous. If you have any questions about the Plan, you should contact the Administrator. If you have any questions about this statement or about your rights under ERISA, you may contact the nearest area office of the United States Labor-Management Services Administration, Department of Labor.

III. ADDITIONAL INFORMATION CONCERNING THE PLAN

1. Name of Plan: _____
2. Type of Plan (Elect one): _____
 - Money Purchase Pension Plan
 - Profit-Sharing Plan
 - Combination Money Purchase Pension Plan and Profit Sharing Plan
3. Plan Year: _____
4. Employer's Name: _____
5. Employer's Address: _____
6. Employer's Taxpayer Identification Number or Social Security Number:

7. Plan Administrator: _____
8. Business Address: _____
9. Business Phone: _____
10. Plan's Named Fiduciary: Plan Administrator
Plan Trustee(s)
Name: _____
Title: _____
Address of principal place of business: _____
11. Agent for service of legal process: _____ Service of legal process may also be made on the Plan Administrator [or the Plan Trustee]
12. Plan participants and beneficiaries can obtain, without charge, a copy of procedures governing qualified domestic relations orders from the Plan Administrator.
13. *The benefits under the Plan are not insured under Title IV of ERISA because this is a defined contribution plan to which that Title does not apply.*

BENEFICIARY DESIGNATION FORM

Account Number

DESIGNATION OF BENEFICIARY FORM

[All Participants must complete Part A]

Part A

1. BENEFICIARY DESIGNATION

Pursuant to the JP Morgan Prototype Defined Contribution Plan established by _____ I hereby designate the person(s) listed below as my Beneficiary(ies):

Name: _____

SS#: _____

Address: _____

Relationship: _____

Name: _____

SS#: _____

Address: _____

Relationship: _____

(If more than one beneficiary is designated, check the appropriate box below.)

- The first beneficiary designated is my primary beneficiary who will receive my entire account balance and the second beneficiary will receive a benefit only if my primary beneficiary does not survive me.
- Each beneficiary designated will share my entire account equally, but if one fails to survive me, the other will receive the entire amount.

I reserve the right to change or revoke the above beneficiary designation without notice to any beneficiary. I understand that any change or revocation of beneficiary designation shall not be effective until the Administrator receives notice of such change or revocation.

2. PARTICIPANT'S STATEMENT

I, _____, do hereby declare:

(check one)

- I am not legally married at this time.
- I am unable to locate my spouse.

Signature of Participant

Date

DETACH HERE

DETACH HERE

BENEFICIARY DESIGNATION FORM

Account Number

SPOUSE'S CONSENT

[A spouse of a married Participant must complete Part B if someone other than the spouse is designated as the Participant's beneficiary or if a form other than a qualified joint and survivor annuity has been selected.]

Part B

I, _____, do hereby declare that I am the legal spouse of the employee named above. I have read the Designation of Beneficiary form, and I understand that my spouse has elected to have his or her benefits under the Plan distributed upon his or her death to a beneficiary other than myself or, upon his or her retirement, in a form other than a qualified joint and survivor annuity. I hereby consent to such beneficiary designation.

I understand that the account balance remaining upon my spouse's death could have been paid to me if I had not consented to another beneficiary. I also understand that I cannot change my mind later and revoke this consent. If my spouse has designated his or her estate or a trust as beneficiary, I understand that this permits my spouse to decide, without my consent at a later date, who will receive the Plan's death benefits. I understand that I have the right not to consent to this type of designation, and to consent only to a designation of particular individuals (or not to consent to any designation of a person other than myself).

Signature of Spouse

Date

STATE OF _____)

:

COUNTY OF _____)

On the _____ day of _____, 2____, before me came _____ to me known and known to me to be the person described in and who executed the foregoing statement and s(he) duly acknowledged to me that s(he) executed the same.

Notary Public

Account Number

CERTIFICATION OF RESOLUTIONS FOR [NAME OF LEGAL ENTITY]

I, _____, hereby certify that I am the _____ [insert title] of _____ [name of legal entity], organized under the laws of _____ [state of organization] and further certify that the following resolutions were duly adopted at a meeting of the governing body of _____ [name of legal entity] held on _____ [date]; that such resolutions have not been amended, modified or rescinded and remain in full force and effect as of the date hereof; that the signatures appearing opposite the names of persons appearing in the text of such resolutions are the genuine signatures of such persons; and that I have signed this Certificate by order of the governing body of _____ [name of legal entity]:

RESOLVED that _____ [name of legal entity] hereby adopts the _____ [Plan name] Plan (the "Plan") in the form presented to this meeting, effective _____ [effective date];

RESOLVED that the appropriate officers/members/partners/managers [circle one] of the _____ [name of legal entity] are hereby authorized to execute such documents, including the Plan, and to take such other action which they deem necessary or appropriate to implement the foregoing resolution and to meet the requirements of any applicable laws in connection with the adoption or maintenance of the Plan.

RESOLVED that the following officers/members/partners/managers [circle one] of _____ [name of legal entity] are authorized to act jointly/individually [circle one] on behalf of _____ [name of legal entity] with respect to the Plan and upon signing their names below:

Name: _____

Title: _____

Signature: _____

Name: _____

Title: _____

Signature: _____

Dated: _____

Authorized Signature

The preceding pages are samples of certain types of forms which are necessary for the proper administration of the Plan. Additional forms, not herein provided, must be given to participants upon receiving distributions from the Plan. EMPLOYERS SHOULD CONSULT THEIR LEGAL AND TAX ADVISORS WITH RESPECT TO THE APPROPRIATENESS OF THE SAMPLE FORM AND OTHER REQUIRED FORMS. If desired, you may complete and use the forms provided.

DETACH HERE

DETACH HERE

J.P. MORGAN CLEARING CORP. PROTOTYPE DEFINED CONTRIBUTION PLAN

Table of Contents

<i>ARTICLE I. Definitions</i>	32
<i>ARTICLE II. Eligibility of Employees to Participate</i>	38
<i>ARTICLE III. Contributions to the Trust Fund</i>	40
<i>ARTICLE IV. Administration of the Plan</i>	41
<i>ARTICLE V. Allocation to Participants' Accounts</i>	43
<i>ARTICLE VI. Benefits: Determination and Distribution</i>	48
<i>ARTICLE VII. The Trustee</i>	62
<i>ARTICLE VIII. Participation by Employers; Termination or Amendment of Plan</i>	65
<i>ARTICLE IX. General Provisions</i>	67
<i>ARTICLE X. Top Heavy Administration</i>	68

DEFINED CONTRIBUTION PLAN & TRUST

THIS DEFINED CONTRIBUTION PLAN AND TRUST, consisting of this Plan and Trust and an Adoption Agreement, adopted as of the date indicated in either the Profit Sharing Plan or the Money Purchase Pension Plan Adoption Agreement by and between the Company, the Trustee, and J.P. Morgan Clearing Corp. (hereinafter sometimes referred to as the "Sponsor").

WITNESSETH:

WHEREAS, the Company has adopted the J.P. MORGAN CLEARING CORP. Defined Contribution Plan (hereinafter referred to as the "Defined Contribution Plan") for the benefit of certain of its employees by executing either the Profit Sharing Plan or the Money Purchase Pension Plan Adoption Agreement, or both; and

WHEREAS, the execution and delivery of this Defined Contribution Plan and the creation of a trust fund to be administered by the Trustee has been duly authorized in the manner provided by law, to which trust fund contributions may be made from time to time by the Company as hereinafter provided, to be used for the exclusive benefit of the eligible employees of the Company and their beneficiaries, in accordance with the provisions of the Plan;

NOW, THEREFORE, in consideration of the premises, and of the covenants and conditions herein contained, the Company, the Trustee, and the Sponsor do mutually covenant and agree as follows:

ARTICLE I.

DEFINITIONS

1. **"Account" or "Participant's Account"**, unless otherwise expressly stated, shall mean that portion of the total Fund assets set aside for and allocated to each Participant. Each Participant's Account shall be composed of the following separate subaccounts credited to the Participant: Employer Contribution and Forfeiture Account, Employee Contribution Account, and Rollover Account.
2. **"The Act"** shall mean the Employee Retirement Income Security Act of 1974 and any act modifying, amending, or replacing said act.
3. **"Adjustment Date"** shall be the date specified in Part I of the Adoption Agreement.
4. **"Adoption Agreement"** shall mean the agreement adopted by the Employer and made a part of the Plan, whereby the Employer selects among several options regarding the design of the Plan. Such options shall be indicated in the Adoption Agreement and shall be referred to in the Plan by reference to Parts thereof. Each Employer shall complete an Adoption Agreement for either a Profit Sharing Plan, Money Purchase Pension Plan or both.
5. **"Affiliate"** shall include the Company and any member of a group of employers (including the Company) which constitutes a controlled group of corporations (as defined in Section 414(b) of the Code as modified by Section 415(h) of the Code), trades or businesses (whether or not incorporated) which are under common control (as defined in Section 414(c) of the Code as modified by Section 415(h) of the Code) or an affiliated service group (as defined in Section 414(m) of the Code), and all such employers shall be considered a single employer for purposes of determining whether the Plan qualifies under Section 401(a) of the Code.
6. **"Aggregate Account"** shall mean, with respect to each Participant, the value of all accounts maintained on behalf of a Participant, whether attributable to Company or Employee contributions, subject to the provisions of Article X. The term "Aggregate Account" shall be used only in the context of a Top Heavy Plan, as provided in Article X.
7. **"Annual Additions"** shall mean the sum of the following amounts allocated on behalf of a Participant for a Limitation Year:
 - (a) Employer contributions;
 - (b) Employee contributions (excluding tax-free rollovers);
 - (c) Forfeitures;
 - (d) Amounts allocated to an individual medical account, as defined in Section 415(1)(2) of the Code, which is part of a pension or annuity plan maintained by the Employer;
 - (e) 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 Section 419A(d)(3) of the Code, under a welfare benefit fund, as defined in Section 419(e) of the Code, maintained by the Employer; and

J.P. MORGAN CLEARING CORP. PROTOTYPE DEFINED CONTRIBUTION PLAN

(f) Allocations under a simplified employee pension, as defined in Section 408(k) of the Code.

For the purposes of Article V, Paragraph 7, any excess amounts reapplied to reduce Company contributions under Paragraph 7(a)(iv) thereof shall also be included as Annual Additions.

8. **“Beneficiary” or “Beneficiaries”** shall mean the person or persons to whom the share of a deceased Participant’s total account is payable, as provided in the Plan. For purposes of determining whether the Plan is a Top Heavy Plan, a Beneficiary of a deceased Participant shall be considered as a Key Employee or a Non-Key Employee, as the case may be.
9. **“Board,”** if the Company is a corporation, shall mean the Board of Directors of the Company.
10. **“Code”** shall mean the Internal Revenue Code of 1986 and any amendments thereto.
11. **“Committee”** shall mean the Administrative Committee appointed to perform those duties with respect to administration of the Plan specified in Article IV of this Agreement.
12. **“Compensation”** shall be as defined in the Adoption Agreement, Part I. Compensation for an Owner-Employee or a Self-Employed Individual shall be deemed to be such person’s Earned Income.

“Annual Compensation” shall mean the Compensation of a Participant during the twelve (12)-month period elected in Part I of the Adoption Agreement. Effective for Plan Years beginning on or after January 1, 1997, the rules requiring the aggregation of family members for certain purposes under the Plan shall cease to apply. In addition to other applicable limitations set forth in the Plan, and notwithstanding any other provision of the Plan to the contrary, the Compensation of each Employee taken into account for determining all benefits provided under the Plan for any Plan Year shall not exceed \$150,000, as adjusted by the Commissioner for increases in the cost of living in accordance with Section 401(a)(17)(B) of the Code. The cost-of-living adjustment in effect for a calendar year applies to any period, not exceeding twelve (12) months, over which compensation is determined (determination period) beginning in such calendar year. If a determination period consists of fewer than twelve (12) months, the OBRA ‘93 Compensation limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is twelve (12).

For Plan Years beginning on or before December 31, 1996, in determining the Compensation of a Participant for purposes of the foregoing limitation, the rules of Section 414(q)(6) of the Code shall apply, except in applying such rules, the term “family” shall include only the spouse of the Participant and any lineal descendants of the Participant who have not attained age nineteen (19) before the close of the year. If, as a result of the application of such rules, the foregoing adjusted limitation is exceeded, then, except for purposes of determining the portion of Compensation up to the integration level if this Plan provides for permitted disparity, the limitation shall be prorated among the affected individuals in proportion to each such individual’s Compensation as determined under this Paragraph prior to the application of this limitation.

If Compensation for any prior determination period is taken into account in determining an Employee’s allocations for the current Plan Year, the Compensation for such prior determination period is subject to the applicable Annual Compensation Limit in effect for that prior determination period. For this purpose, in determining allocations in Plan Years beginning on or after January 1, 1989, the Annual Compensation Limit in effect for determination periods beginning before that date is \$200,000. In addition, in determining allocations in Plan Years beginning on or after January 1, 1994, the Annual Compensation limit in effect for determination periods beginning before that date is \$150,000.

13. **“Determination Date”** shall mean (a) the last day of the preceding Plan Year, or (b) in the case of the first Plan Year, the last day of such Plan Year.
14. **“Disability” or “Permanent Disability”** shall mean the permanent and lasting inability which can be expected to last for a continuous period of not less than twelve (12) months by reason of physical or mental infirmity, or both, of a Participant to perform satisfactorily the duties then assigned to him or any other duties the Company is willing to assign to him. The existence of Disability or of Permanent Disability as defined in this Paragraph shall be determined by the Committee only upon the certificate of a qualified physician, selected by the Participant and approved by the Committee, after examination of the Participant by such physician.
15. **“Effective Date”** of this Plan and Agreement shall be the date specified in Part I of the Adoption Agreement.
16. **Reserved.**
17. **“Earned Income”** shall mean, with respect to a Self Employed Individual, the net earnings from self-employment in the trade

J.P. MORGAN CLEARING CORP. PROTOTYPE DEFINED CONTRIBUTION PLAN

or business with respect to which the Plan is established, for which personal services of the individual are a material income-producing factor. Net earnings will be determined without regard to items not included in gross income and the deductions allocable to such items. Net earnings are reduced by contributions by the Company to a qualified plan to the extent deductible under Section 404 of the Code. Net earnings shall be determined with regard to the deduction allowed to the Employer by Section 164(f) of the Code for taxable years beginning after December 31, 1989.

18. **"Employee"** shall mean any individual who is or is deemed under Section 414(n) of the Code to be in the employ of the Company other than solely as a director or who is in the employ of any other employer required to be aggregated under Section 414(b), (c), (m) or (o) of the Code or regulations thereunder. Any leased employee shall be treated as an employee of the Company; provided, however, contributions or benefits provided by the leasing company which are attributable to services performed for the Company shall be treated as provided by the Company. The preceding sentence shall not apply to any leased employees if (a) such leased employees constitute less than twenty percent (20%) of the Employer's nonhighly compensated workforce within the meaning of Section 414(n)(5)(C)(ii) of the Code, and (b) such leased employees are covered by a money purchase pension plan providing: (1) a nonintegrated employer contribution rate of at least ten percent (10%) of compensation, as defined in Section 415(c)(3) of the Code, but including amounts contributed pursuant to a salary reduction agreement which are excludable from the employee's gross income under Sections 125, 402(e)(3), 402(h)(1)(B), 403(b), and, effective for years beginning on and after January 1, 2001, or, if earlier, the first year beginning on or after January 1, 1998, during which the Plan was operated to exclude such elective amounts, Section 132(f)(4) of the Code, (2) immediate participation, and (3) full and immediate vesting. For purposes of this Paragraph, the term "leased employee" means any person (other than an employee of the Company) who pursuant to an agreement between the Company and any other person ("Leasing Organization") has performed services for the Company (or for the Employer and related persons determined in accordance with Section 414(n)(6) of the Code) on a substantially full time basis for a period of at least one year, and such services are performed under primary direction and control of the Employer.
19. **"Employee Contribution"** shall mean any contribution made to the Plan during the Plan Year by a Participant.
20. **"Employee Contribution Account"** shall mean a subaccount of a Participant's Account to which is credited a Participant's Employee Contributions.
21. **"Employer" or "Company"** shall refer to the participating employer whose name appears on the execution page of the Adoption Agreement; and any corporation into which it may be consolidated, any corporation resulting from any merger, reorganization or consolidation to which it may be a party, and any corporation to which all or substantially all of its assets may be transferred.
22. **"Employer Contribution"** shall mean any contribution made to the Plan during the Plan Year by the Employer.
23. **"Employer Contribution and Forfeiture Account"** shall mean a subaccount of a Participant's Account to which is credited a Participant's Employer Contributions and Forfeitures.
24. **"Employer Security"** shall mean a security issued by the Company, or by an affiliate of the Company. A contract to which Section 408(b)(5) of the Act applies shall not be treated as an Employer Security for purposes of this Plan.
25. **"Employer Real Property"** shall mean real property (and related personal property) which is leased to the Company or to an Affiliate of the Company.
26. **"Entry Date"** is the date specified in Part II of the Adoption Agreement.
27. **"Excess Amount"** shall mean the excess of the Participant's Annual Additions for the Limitation Year over the Maximum Permissible Amount.

Excess amounts can occur as a result of the allocation of forfeitures, a reasonable error in estimating a Participant's Annual Compensation, or under other limited facts and circumstances which the Commissioner of the Internal Revenue Service finds justify the availability of the rules set forth in regulations promulgated under Section 415 of the Code regarding disposition of excess amounts.
28. **"Family Member"** shall mean, with respect to any employee, such employee's spouse and lineal ascendants and descendants and the spouses of such lineal ascendants or descendants.
29. **"Fiscal Year"** shall mean the Company's accounting year of twelve (12) months.
30. **"Forfeiture"** shall mean that portion of a Participant's Account which such Participant shall not be entitled to upon termination.

J.P. MORGAN CLEARING CORP. PROTOTYPE DEFINED CONTRIBUTION PLAN

31. **"Former Participant"** shall mean any person who has been a Participant, but has ceased to be a Participant for any reason and on whose behalf an Account is maintained under the Plan.
32. **"Fund"** shall mean the sum of the contributions paid by the Company and/or the Employees including any Employee rollover contributions held by the Trustee under this agreement, increased by any profits or income therefrom, and decreased by any loss or expense incurred in the administration of the Trust or payments therefrom as provided herein. The words "Trust Fund" shall be deemed to be synonymous with the term "Fund."
33. **"Highly Compensated Employee."** Effective for Plan Years beginning after December 31, 1996, the term Highly Compensated Employee shall mean any Employee who: (1) was a 5 percent (5%) owner at any time during the Plan Year or the preceding Plan Year, or (2) for the preceding Plan Year had compensation from the Employer in excess of \$80,000 and, if the Employer so elects, was in the top-paid group for the preceding Plan Year. The \$80,000 amount is adjusted at the same time and in the same manner as under Section 415(d), except that the base period is the calendar quarter ending September 30, 1996. For this purpose the applicable year of the Plan for which a determination is being made is called a determination year and the preceding twelve (12)-month period is called a look-back year.

A Highly Compensated Former Employee is based on the rules applicable to determining highly compensated employee status as in effect for that determination year, in accordance with Section 1.414(q)-1T,A-4 of the Temporary Regulations and Notice 97-75.

In determining whether an Employee is a highly compensated employee for years beginning in 1997, the amendments to Section 414(q) stated above are treated as having been in effect for years beginning in 1996. "Five percent owner" means any person who owns (or is considered as owning within the meaning of Section 318 of the Code) more than five percent (5%) of the outstanding stock of the Company or stock possessing more than five percent (5%) of the total combined voting power of all stock of the Company or, in the case of an unincorporated business, any person who owns more than five percent (5%) of the capital or profits interest in the Company. In determining percentage ownership hereunder, companies that would otherwise be aggregated under Sections 414(b), (c) and (m) of the Code shall be treated as separate companies.

34. **"Hour of Service"**(unless the Company otherwise elects in Part I of the Adoption Agreement) shall mean:
- (a) Each hour for which an Employee is directly or indirectly paid, or entitled to payment, for the performance of duties for the Company. These hours shall be credited to the Employee for the Plan Year or other applicable computation period in which the duties are performed; and
 - (b) Each hour for which an Employee is paid, or entitled to payment by the Company 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), layoff, jury duty, military duty or leave of absence. No more than 501 Hours of Service shall be credited under this Paragraph for any single continuous period (whether or not such period occurs in a single Plan Year or other applicable computation period). Hours under this Paragraph shall be calculated and credited pursuant to Section 2530.200b-2 of the Department of Labor Regulations which are incorporated herein by this reference; and
 - (c) Each hour for which back pay, irrespective of mitigation of damages, is either awarded or agreed to by the Company. The same Hours of Service shall not be credited both under Subparagraph (a), or Subparagraph (b) as the case may be, and under this Subparagraph (c). These hours shall be credited to the Employee for the Plan Year or other applicable computation period or periods to which the award or agreement pertains rather than the computation period in which the award, agreement or payment is made.
 - (d) Hours of Service will be credited for employment with other members of an affiliated group (under Section 414(m) of the Code), a controlled group of corporations (under Section 414(b) of the Code), or a group of trades or businesses under common control (under Section 414(c) of the Code) of which the adopting employer is a member, and any other entity required to be aggregated with the Employer pursuant to Section 414(o) of the Code and the regulations thereunder. Hours of Service will also be credited for any individual considered an Employee for purposes of this Plan under Section 414(n) or Section 414(o) of the Code and the Regulations thereunder.
 - (e) Solely for purposes of determining whether a One Year Break in Service, as defined in Paragraph 43 of this Article I for participation and vesting purposes, 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, eight (8) Hours of Service per day

J.P. MORGAN CLEARING CORP. PROTOTYPE DEFINED CONTRIBUTION PLAN

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 (1) in the computation period in which the absence begins if the crediting is necessary to prevent a Break in Service in that period or (2) in all other cases, in the following computation period.

(f) Hours of Service shall be determined in accordance with the method or methods chosen in Part I, Paragraph 4 of the Adoption Agreement.

35. “**Key Employee**” shall mean any Employee or former Employee (and his Beneficiaries) who, at any time during the determination period (the Plan Year containing the Determination Date and the four preceding Plan Years), is: (a) an officer of the Employer having Annual Compensation greater than fifty percent (50%) of the dollar limitation in effect under Section 415(b)(1)(A) of the Code for any such Plan Year. No more than fifty (50) Employees (or if lesser, the greater of three (3) or ten-percent (10%) of the Employees) shall be treated as officers.

(b) an owner (or considered to be an owner under Section 318 of the Code) of one of the ten (10) largest interests in the Employer if such individual's compensation exceeds one hundred percent (100%) of the dollar limitations under Section 415(c)(1)(A) of the Code. In determining ownership hereunder, employers that would otherwise be aggregated under Section 414(b), (c) and (m) of the Code shall be treated as separate employers. If two or more Employees have the same interest in the Employer, the Employee having greater Annual Compensation from the Employer shall be treated as having the larger interest.

(c) a “five percent owner” of the employer. “Five percent owner” means any person who owns (or is considered as owning within the meaning of Section 318 of the Code) more than five percent (5%) of the outstanding stock of the Employer or stock possessing more than five percent (5%) of the total combined voting power of all stock of the Employer or, in the case of an unincorporated business, any person who owns more than five percent (5%) of the capital or profits interest in the Employer. In determining percentage ownership hereunder, employers that would otherwise be aggregated under Sections 414(b), (c) and (m) of the Code shall be treated as separate employers.

(d) a “one percent owner” of the Employer having an Annual Compensation from the Employer of more than \$150,000. “One percent owner” means any person who owns (or is considered as owning within the meaning of Section 318 of the Code) more than one percent (1%) of the outstanding stock of the Employer or stock possessing more than one percent (1%) of the total combined voting power of all stock of the Employer or, in the case of an unincorporated business, any person who owns more than one percent (1%) of the capital or profits interest in the Employer. In determining percentage ownership hereunder, employers that would otherwise be aggregated under Sections 414(b), (c) and (m) of the Code shall be treated as separate employers. However, in determining whether an individual has Compensation of more than \$150,000, Compensation from each employer required to be aggregated under Sections 414(b), (c) and (m) of the Code shall be taken into account. For purposes of determining who is a “Key Employee,” Annual Compensation means compensation as defined in Section 415(c)(3) of the Code but including amounts contributed by the employer pursuant to a salary reduction agreement which are excludable from employee's gross income under Section 125, Section 402(e)(3), Section 402(h), Section 403(b) and, effective for years beginning on and after January 1, 2001, or, if earlier, the first year beginning on or after January 1, 1998, during which the Plan was operated to exclude such elective amounts, Section 132(f)(4) of the Code.

The determination of who is a Key Employee will be made in accordance with Section 416(i)(1) of the Code and the regulations thereunder.

36. “**Limitation Year**” shall mean the Plan Year (or any other twelve (12) consecutive month period adopted for all plans of the Company pursuant to a written resolution adopted by the Company).

37. “**Maximum Permissible Amount**” for a Limitation Year with respect to any Participant shall mean the lesser of (1) \$40,000, or (2) twenty-five percent (25%) of the Participant's Compensation within the meaning of Section 415(c)(3) of the Code for the Limitation Year. Effective January 1 of each calendar year, the dollar limitation of this Paragraph will be the amount determined by the Commissioner of Internal Revenue for that calendar year pursuant to the authority provided in Section 415(d)(1)(C) of the Code. The twenty-five percent (25%) compensation limitation referred to in this Paragraph shall not apply to any contribution for medical benefits (within the meaning of Section 419A(f)(2) of the Code) after separation from service which is otherwise treated as an Annual Addition, or to any amount otherwise treated as an Annual Addition as a contribution to an

J.P. MORGAN CLEARING CORP. PROTOTYPE DEFINED CONTRIBUTION PLAN

individual medical account (within the meaning of Section 415(l)(1) of the Code). The maximum dollar limitation of this Paragraph for a calendar year applies to the Limitation Year ending with or within that calendar year.

38. “**Named Fiduciary**” of the Plan shall be the Company.
39. “**Non-Highly Compensated Employee**” shall mean an Employee of the Company who is not a Highly Compensated Employee.
40. “**Non-Key Employee**” shall mean any Employee who is not a Key Employee.
41. “**Normal Retirement Age**” is the age specified in Part IV of the Adoption Agreement.
42. “**Normal Retirement Date**” is the date specified in Part IV of the Adoption Agreement.
43. “**One Year Break in Service**” for purposes of eligibility and participation means employment of 500 Hours of Service or less by the Company in any participation computation period unless otherwise provided in Article II. “**One Year Break in Service**” for purposes of vesting means employment of 500 Hours of Service or less by the Company during any vesting computation period.
44. “**One Year of Service**” for purposes of determining an Employee’s eligibility to participate in the Plan shall be defined as a twelve (12)-consecutive-month period during which the Employee completes at least 1,000 Hours of Service. The initial eligibility computation period must commence on the twelve (12)-consecutive-month period beginning on the date the Employee first performs an Hour of Service for the Company. Each succeeding eligibility computation period shall be the twelve (12)-month period elected under Paragraph 3 of Part II of the Adoption Agreement. If the Company elects the Plan Year as the eligibility period, the succeeding twelve (12)-consecutive-month periods must commence with the first Plan Year which commences prior to the first anniversary of the Employee’s initial eligibility computation period regardless of whether the Employee is entitled to be credited with 1,000 Hours of Service during his initial eligibility computation period, and an Employee who is credited with 1,000 Hours of Service in both the initial eligibility computation period and the first Plan Year which commences prior to the first anniversary of the Employee’s initial eligibility computation period must be credited with two years of service for purposes of eligibility to participate.

“**One Year of Service**” for purposes of vesting shall be a vesting computation period during which an Employee completes 1,000 or more Hours of Service. The vesting computation period shall be either the Plan Year or the twelve (12)-consecutive-month period commencing with the date on which an Employee performs his first Hour of Service, and successive twelve (12)-month periods thereafter as elected in Part I of the Adoption Agreement.

For the purposes of determining Years of Service with the Company, service includes:

- (a) Service with an Affiliate;
 - (b) Service of any individual deemed under Section 414(n) or Section 414(o) of the Code to be an Employee of the Company; and
 - (c) Service with a predecessor employer if the Company maintains a Plan of the predecessor employer as part of this Plan.
45. “**Owner-Employee**” shall mean an individual who is a sole proprietor, or who is a partner owning more than ten percent (10%) of either the capital or profits interest of the partnership.
 46. “**Participant**” shall mean any Employee who has met the eligibility requirements specified in Part II of the Adoption Agreement and has not for any reason become ineligible to participate further in the Plan.
 47. “**Party in Interest**” shall be any fiduciary, administrator, Employee or other officer of the Plan; Employers whose Employees are covered by the Plan; any person controlling, controlled by or under common control with the Employer; employee organizations and persons controlling or employed by such organizations; any relative, partner or joint venturer of any of those previously enumerated, or any other person so designated by the Act or Regulations of the Secretary of Labor.
 48. “**Plan**” shall mean the Defined Contribution Plan and Trust created by this Agreement, as the same may be duly amended in the manner hereinafter provided.
 49. “**Plan Year**” shall mean the twelve (12)-consecutive-month period ending on the Adjustment Date as elected by the Employer under Part I of the Adoption Agreement.
 50. “**Qualified Employer Real Property**” shall mean parcels of Employer real property in which:
 - (a) A substantial number of the parcels are dispersed geographically; and

J.P. MORGAN CLEARING CORP. PROTOTYPE DEFINED CONTRIBUTION PLAN

- (b) Each parcel of real property and the improvements thereon are suitable (or adaptable without excessive cost) for more than one use; and
- (c) The acquisition and retention of such parcels complies with the fiduciary responsibilities provisions of the Act other than the provisions of Section 404(a)(1)(B) of the Act to the extent it requires diversification in Sections 404(a)(1)(C), 406 and 407(a) of the Act.

For purposes of applying the foregoing, parcels of employer real property may qualify as "Qualified Real Property" even if all of such real property is leased to one lessee (which may be any employer or an affiliate of an employer).

- 51. "**Qualified Securities**" shall mean an employer security which is stock or a marketable obligation. "Marketable obligation" shall mean a bond, debenture, note or certificate or other evidence of indebtedness acquired for not more than fair market value as set forth in Section 407(e)(1) of the Act, and as otherwise defined in Subparagraphs (2) and (3) of Section 407(e) of the Act.
- 52. "**Rollover Contribution Account**" shall mean a subaccount of a Participant's Account to which is credited a Participant's Rollover Contributions.
- 53. "**Self Employed Individual**" shall mean an individual who has Earned Income for the taxable year from the trade or business for which the Plan is established; and also, an individual who would have had earned income but for the fact that the trade or business had no net profits for the taxable year. A Self Employed Individual shall be treated as an Employee.
- 54. "**Super Top Heavy Plans**" shall mean for Plan Years commencing after December 31, 1983, this Plan and any plan with which it is required to be aggregated under Section 416 of the Code which meets the criteria set forth in Article X.
- 55. "**Taxable Wage Base**" shall mean, with respect to any year, the maximum amount of earnings which may be considered wages for such year under Section 3121(a)(i) of the Code.
- 56. "**Terminated Participant**" shall mean a person who has become a Participant, but whose employment has been terminated either voluntarily or involuntarily for reasons other than death, disability or retirement.
- 57. "**Top Heavy Plan**" shall mean, for Plan Years commencing after December 31, 1983, this Plan and any plan with which it is required to be aggregated under Section 416 of the Code which meets the criteria set forth in Article X.
- 58. "**Trustee**" shall mean the Trustee named in the Adoption Agreement.
- 59. "**Valuation Date**" shall mean the day of each Plan Year specified in Part I of the Adoption Agreement as of which account balances or accrued benefits are valued for the purposes of calculating the Top Heavy Ratio under Article X.
- 60. "**Vested**" shall mean the portion of a Participant's Account that is nonforfeitable.

Unless forbidden by the context, the masculine gender of any word shall include the feminine, and the singular number shall include the plural.

ARTICLE II.

ELIGIBILITY OF EMPLOYEES TO PARTICIPATE

- 1. **Eligibility.** Each Employee of the Company shall become eligible to participate on the Entry Date specified in Part II of the Adoption Agreement upon meeting the eligibility requirements specified in Part II of the Adoption Agreement. In the event a Participant is no longer a member of an eligible class of employees and becomes ineligible to participate but has not incurred a Break in Service, such Employee will participate immediately upon returning to an eligible class of employees. If such Participant incurs a Break in Service, eligibility will be determined under the Break in Service rules of the Plan.

In the event an Employee who is not a member of an eligible class of employees becomes a member of an eligible class, such Employee will participate immediately if such employee has satisfied the minimum age and service requirements and would have otherwise previously become a Participant.

- 2. **Termination of Eligibility.** Except as provided in Paragraph 3 of Article II, an Employee shall cease to be eligible to participate upon incurring a One Year Break in Service. In the event a Participant becomes ineligible to participate, such Participant shall become a Former Participant. A Former Participant shall continue to vest in his interest in the Plan in accordance with Paragraph 5 of Article VI and shall continue to share in earnings and losses in accordance with Paragraph 4 of Article V until such time as his Account shall be forfeited or distributed pursuant to the terms of the Plan.

J.P. MORGAN CLEARING CORP. PROTOTYPE DEFINED CONTRIBUTION PLAN

3. **Eligibility to Participate and Entry Date Following One Year Break in Service.** Notwithstanding the provisions of Paragraph 2 of Article II, if an Employee incurs a One Year Break in Service, then the Employee's eligibility to participate and entry date of participation shall be determined according to the following rules:
 - (a) If an Employee incurs one or more One Year Breaks in Service prior to satisfying the Plan requirements under Paragraph 1 of Article II, then the Employee will be treated as a new Employee following said One Year Break(s) in Service and shall re-enter the Plan only in accordance with, and upon satisfaction of, the requirements of Paragraph 1 of Article II.
 - (b) If a Participant who is not vested in any portion of his Account derived from Employer contributions incurs five (5) or more consecutive One Year Breaks in Service and the number of said consecutive One Year Breaks in Service equals or exceeds the Participant's aggregate number of years of service before such period of consecutive One Year Breaks in Service, then the Former Participant shall be treated as a new Employee for eligibility purposes and shall re-enter the Plan only in accordance with, and upon satisfaction of the requirements of Paragraph 1 of Article II. If the period of consecutive One Year Breaks in Service was incurred as a result of termination of employment, the initial eligibility computation period shall begin on the Former Participant's re-employment date. If the period of consecutive One Year Breaks in Service was not incurred as a result of termination of employment, the initial eligibility computation period shall begin on the first day of the first Plan Year after such period of consecutive One Year Breaks in Service.
 - (c) If a Participant, other than a Participant described in Subparagraph (b) of this Paragraph 3, incurs a One Year Break in Service, said Participant's years of service prior to such One Year Break in Service shall be taken into account for eligibility purposes provided said Participant completes One Year of Service after incurring the One Year Break in Service. The eligibility computation period for determining whether the Participant has completed One Year of Service shall be the same as the eligibility computation period described in Subparagraph (b) of this Paragraph 3. Upon completing One Year of Service, a Participant whose Break in Service was incurred as a result of termination of employment shall begin participating in the Plan again as of the date of re-employment, and a Participant whose Break in Service was not incurred as a result of termination of employment shall begin participating in the Plan again upon the first day of the Plan Year in which he completes One Year of Service.
4. **Dual Eligibility.** If different eligibility requirements for present and future Employees are elected in Part II of the Adoption Agreement, Employees who are officers, shareholders or highly compensated shall not become Participants until they meet the requirements for future Employees.
5. **Military Service Credit.** Notwithstanding any provision of this plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the Code.
6. **Leave of Absence.** Leave of absence may be granted to any Employee under such rules as may be adopted by the Committee without being deemed to have a Break in Service and without loss of credit for service before such leave of absence or during the period thereof if he returns at the end of his leave; and, if such Employee on leave of absence shall be a Participant, he shall continue to share in the profits and losses of the Plan (but not in contributions and Forfeitures) as provided in Article V; provided, however, that, in the granting of leave hereunder, all Participants will be treated in a like manner in similar circumstances.
7. **Participation During Leave of Absence.** No Employee described in Paragraphs 5 or 6 above shall share in contributions and Forfeitures made to the Plan after absence from employment until such Employee actually returns to the service of the Company, except that, if a Participant leaves the service of the Company on some date other than an Adjustment Date, he shall share in contributions and Forfeitures to the Plan paid, accrued or reallocated on or before the succeeding Adjustment Date. No Employee who is in the armed services or other government service referred to in Paragraph 5 above or who is on leave of absence and who was not a Participant at the time he left the service of the Company shall become a Participant until such Employee completes One Year of Service for purposes of eligibility as defined in Article I, Paragraph 44 subsequent to his return to work.
8. **Termination of Leave of Absence.** If an Employee described in Paragraph 5 above shall fail to apply for re-employment within the time provided by law and in the manner and under the conditions prescribed by law, he shall cease to be a Participant and his employment shall be considered terminated on the day following the last day of the period within which he is required to apply for re-employment under such federal or state law, for all purposes other than determining, under Article VI, Paragraph 5, the vested portion of his Account. If an Employee on leave of absence shall fail to return to the active service of the Company at the expiration of his leave of absence, he shall cease to be a Participant and his employment shall be considered terminated on the day following the last day of his leave of absence, for all purposes other than determining, under

J.P. MORGAN CLEARING CORP. PROTOTYPE DEFINED CONTRIBUTION PLAN

Article VI, Paragraph 5, the vested portion of his Account. For purposes of determining, under Article VI, Paragraph 5, the vested portion of his Account, an Employee described in Paragraph 5 above who fails to apply for re-employment within the time, in the manner and under the conditions prescribed by law, and an Employee who fails to return to the active service of the Company at the expiration of his leave of absence, shall be considered to have left the service of the Company on the last day of his active service with the Company prior to his entry into government service referred to in Paragraph 5 above or the commencement of his leave of absence.

9. **Transfer From Affiliates.** If an Affiliate of the Company adopts a comparable plan and trust, any employee of such Affiliate who is transferred to the employment of the Company shall be granted credit for Years of Service with said Affiliate. If such employee was a Participant in the plan of the Affiliate, he shall immediately become a Participant under this Plan. The Trustee of this Plan shall accept the transfer of any contracts on his life and his share of the assets in the investment fund of said plan and trust, and such transferred amounts shall become a part of the Employee's Account under this Plan; provided, however, such Employee's vested interest in that part of his Account shall not be less than it was under the aforementioned plan and trust at date of transfer.
10. **Transfer to Affiliates.** If an Affiliate of the Company adopts a comparable plan and trust, any Participant under this Plan who transfers to the employment of said Affiliate shall not be deemed to have terminated his employment with the Company. With the approval of the Trustee of such plan and trust, the Trustee shall transfer any contracts on his life and his share of the assets held in the investment fund to the Trustee of said plan and trust. Such transfer of Plan assets shall discharge the Plan's obligation to the Participant.
11. **Transfer From Affiliates Without Plans.** The Company shall grant credit for years of service with an Affiliate to any Employee who is employed by such Affiliate and who has transferred to the employment of the Company.
12. **Transfer to Affiliates Without Plans.** If a Participant transfers to the employment of an Affiliate which does not have a qualified plan in force, he shall not be deemed to have terminated employment with the Company and shall be credited with Years of Service with the Affiliate. The value of his Account will be held for his benefit and the benefit of his Beneficiary until he terminates employment with the Affiliate, dies, becomes totally and permanently Disabled, as defined in this Plan, or reaches his Normal Retirement Date, at which time the value of his Account will be distributed to him, or his Beneficiary, if he is deceased, in any manner permitted by this Agreement. No further contributions will be made on his behalf and his Account shall be invested in any suitable manner permitted by this Agreement provided the Committee consents. A Participant who transfers on some date other than the Adjustment Date shall or shall not share in the Company's contribution for the Plan Year during which the transfer occurs in accordance with the election made by the Company in Part III of the Adoption Agreement. In the event he is subsequently transferred back to the employment of the Company, without having otherwise terminated employment with the Affiliate, he shall immediately become a Participant under this Plan.

ARTICLE III.

CONTRIBUTIONS TO THE TRUST FUND

1. **Computation of Annual Contribution.** For each Fiscal Year the Company shall contribute to the Plan such amount as shall be determined in accordance with the Contribution Formula elected in Part III of the Adoption Agreement. In no event, however, shall such contribution for any year exceed the maximum amount deductible from the Company's income for such year under Section 404 of the Code, as amended, or any successor statute.
2. **Payment.** The Company shall pay to the Trustee its contribution for each Fiscal Year within the time prescribed by law, including extensions of time, for filing of its federal income tax returns for such year.
3. **Employee and Employer Matching Contributions.** This Plan will not accept Employee contributions and Employer matching contributions with respect to any period after the date this Plan is adopted initially or as a restatement of any existing plan, as set forth in the Adoption Agreement. Employee contributions, if any, for Plan Years beginning after December 31, 1986, together with any Employer matching contributions (as defined in Code Section 401(m)), will be limited so as to meet the nondiscrimination test of Code Section 401(m).
4. **Contributions Subject to Plan Qualification.** Any other provision of this Plan to the contrary notwithstanding, the Company's contribution to the Trust, made for the Company's first taxable year with respect to which this Plan is effective, shall be made subject to the condition that such contribution (or the total assets of the Trust if less than the amount of such contribution)

J.P. MORGAN CLEARING CORP. PROTOTYPE DEFINED CONTRIBUTION PLAN

shall be repaid to the Company, in whole or in part, by the Trustee, without any liability therefor to the Trustee or to any Beneficiary or any other person, in the event and to the extent that the Commissioner of the Internal Revenue Service initially determines not to qualify the Plan under Section 401(a) of the Code. Such repayment will be made within one year from the date of notification by the Internal Revenue Service of its determination, but only if the application for the qualification is made by the time prescribed by law for filing the Employer's return for the taxable year in which the Plan is adopted, or such later date as the Secretary of the Treasury may prescribe.

5. **Mistake of Fact.** Any contribution made by the Company because of a mistake of fact must be returned to the Company within one year of the contribution.
6. **Rollover Contributions From Qualified Plans.** Subject to the approval of the Committee and upon the completion of such forms as the Committee may require, an Employee may transfer directly to this Plan (or indirectly through an individual retirement account, annuity or bond subject to the requirements of Sections 408 or 409 of the Code) the property distributed to the Employee in the form of a lump sum distribution from a plan qualified under Section 401(a) of the Code; provided, however:
 - (a) An Employee will be ineligible for transfer if any part of the distribution is attributable to contributions made on his behalf while he was a Key Employee in a Top Heavy Plan;
 - (b) Amounts contributed (or deemed to have been contributed) to the qualified plan by the Employee shall not be so transferred; and
 - (c) The entire balance of the transferable property must be transferred to this Plan within 60 days following its distribution from the qualified plan, or individual retirement account, annuity or bond.

The Employee shall be one hundred percent (100%) vested at all times in the amounts so transferred from a qualified plan, and the Trustee shall maintain such amounts in a separate account in accordance with the provisions of the Trust regarding Employee Contributions. The value of such account shall be distributed upon Disability, Normal Retirement or, if earlier, in accordance with Article VI.

ARTICLE IV.

ADMINISTRATION OF THE PLAN

1. **Named Fiduciary.** The Company shall be the Named Fiduciary within the meaning of Section 402 of the Act, and shall be in charge of the operation and administration of the Plan.
2. **Delegation of Powers.** The Company shall have the power to delegate fiduciary duties to an Administrative Committee and to such other individuals as it may choose.
3. **Administration of Plan.** The Plan shall be administered either by the Company or by an Administrative Committee to be composed of one or more persons appointed from time to time by the Company. The Trustee may be appointed by the Company to the Committee. If the Company does not appoint an Administrative Committee, the Company shall perform all the duties and have all the powers of the Administrative Committee.
4. **Reports and Disclosures.** A Summary Plan Description shall be prepared as well as reports of all material Plan changes and shall be distributed to all Participants and Beneficiaries. The Company shall file with the Secretary of Labor and furnish to all Participants and Beneficiaries an annual report at such time and containing such statements and reports as are provided for by the Act or by official forms authorized by the Secretary of Labor. One copy of each description and report shall remain on file with the Company. The Company shall file and distribute to required parties all other reports and statements as may be required by any federal or state statute, authority or agency, within the time prescribed by law or regulation.
5. **Notification.** The Company shall notify each new Employee of the existence and general provisions of the Plan, and shall provide each Participant with a form whereby he may nominate the Beneficiary or Beneficiaries of his Account on which he may designate the method of settlement of his benefits in the event of his death.
6. **Records.** The Company shall use reasonable care to keep or cause to be kept accurate and complete sets of records, showing the names and addresses of each Participant and Former Participant so long as such Participant and/or Former Participant has a credit balance in the Fund, and keep every such Participant and/or Former Participant informed, at least annually, as to the condition of his Account with the Fund.
7. **Distributions.** The Company shall determine with each Participant at the time he becomes entitled to retire, or in the event of

J.P. MORGAN CLEARING CORP. PROTOTYPE DEFINED CONTRIBUTION PLAN

his Disability or termination, a mutually agreeable method of distributing or investing his credit balance, subject to the terms and provisions of the Plan.

8. **Arrangements With the Trustee.** The Company, from time to time, shall furnish to the Trustee all material information required by it to enable it to perform the duties required of it by the terms of the Plan, and the Trustee shall have the right to rely conclusively upon all information furnished to it by the Company. The Company shall have the power to make such arrangement with the Trustee as it shall deem desirable for the keeping of records and to pay such compensation to the Trustee as may be agreed upon between the Trustee and the Company.
9. **Directed Investments.** Each Participant shall direct the Sponsor with respect to the investment of all contributions to his Account and the earnings thereon. Such direction shall be limited to publicly traded securities, covered call options, mutual funds, money market instruments and other investments, to the extent that they are obtainable through and subject to the custody of the Sponsor in its regular course of business. In the absence of such directions, the Sponsor shall have no investment responsibility. All investment instructions of the Participant shall be accepted by the Sponsor in accordance with its established customs and procedures. All transactions directed by the Participant shall be subject to the rules, regulations, customs and usages of the exchange, market or clearing house where executed, and to all applicable federal and state laws and regulations, and to internal policies of the Sponsor. The Sponsor reserves the right not to accept assets intended for deposit to the Account and may at any time require liquidation of any asset held in the Account if the Sponsor determines that such asset is no longer in accordance with the Sponsor's administrative or operational requirements.
10. **Investment Managers.** The Participant may appoint in writing an investment manager or managers to manage, to acquire and to dispose of, any assets in his Account.
11. **Committee Rules.** The Committee shall be governed by the following rules:
 - (a) **Officers.** If more than one person is appointed, the Committee shall elect a chairman, a secretary and such other officers as the Committee shall deem appropriate for the transaction of its business. These officers shall perform for the Committee the services usually performed by such officers and any other duties or powers which may be delegated to them by the Committee.
 - (b) **Rules.** It shall adopt from time to time such rules and regulations, not inconsistent with the Plan, as it shall deem reasonable and necessary to carry out the terms of the Plan. The decision of the Committee on any question or issue arising under the Plan or under said rules and regulations, including the construction and application thereof, shall be binding and conclusive upon all Employees, their Beneficiaries, heirs, and personal representatives.
 - (c) **Committee Meetings and Action.** Meetings of the Committee shall be held at the principal office of the Company or at such other place as may be acceptable to a majority of the Committee members. Each member shall be duly notified in advance of any meeting so as to afford reasonable opportunity to attend. A majority of the members of the Committee present in person shall constitute a quorum, but any member of the Committee may vote in writing although not personally present, or may give a proxy to another member of the Committee. At any meeting at which a quorum is present any decision or action of the Committee shall be by a majority vote of those voting upon any subject. Without holding a meeting the Committee may take any action hereunder upon unanimous written consent by the members of the Committee to such action.
 - (d) **Compensation and Liability.** The members of the Committee shall receive no compensation for their services as such. Any expenses incurred by the Committee in connection with the establishment or administration of the Plan may be paid from the Trust Fund as expenses of the Plan if not paid by the Company. In order to induce service on the Committee, it is agreed that no member of the Committee shall be liable for any act done in his capacity as a member of the Committee, so long as the member acts with the care, skill, and prudence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character with like aims, diversifying investments unless it is clearly prudent not to do so.

No member of the Committee shall be liable for the breach of fiduciary responsibility of another fiduciary of this Plan unless (a) such member knowingly participates in or undertakes to conceal an act or omission of another fiduciary knowing such act or omission is a breach, (b) such member fails to carry out his specific fiduciary responsibilities according to the requirements of the Plan or the Act and thereby enables another fiduciary to commit a breach, or (c) such member has knowledge of a breach by another fiduciary and fails to make reasonable efforts under the circumstances to remedy the breach.

12. **Fiduciary Bond.** The Named Fiduciary and each Committee member shall have such fiduciary bond in such amount as is required by the Act or the Secretary of Labor.

J.P. MORGAN CLEARING CORP. PROTOTYPE DEFINED CONTRIBUTION PLAN

ARTICLE V.

ALLOCATION TO PARTICIPANTS' ACCOUNTS

1. **Participant' s Account** The Trustee shall establish and maintain an Account in the name of each Participant, known as a "Participant's Account," which shall be expressed in a dollar amount. Each Participant's Account shall be composed of the following separate subaccounts credited to a Participant:
 - (a) Employer Contribution and Forfeiture Account;
 - (b) Employee Contribution Account; and
 - (c) Rollover Account.
2. **Time of Allocation.** The assets of the Plan shall be valued annually at fair market value as of the last day of the Plan Year. Allocations and credits to the Participants' and Former Participants' Accounts shall be made as soon as practicable after the close of each Plan Year and shall be made as of the Adjustment Date of such Plan Year (hereinafter sometimes called the "Current Adjustment Date"). Notwithstanding the foregoing, the assets of the Plan may be valued and allocations and credits to the Participants' and Former Participants' Accounts may be made more frequently than annually, at the discretion of the Plan administrator.
3. **Method of Allocation.** After all of the expenses of the administration of the Plan shall have been paid or provided for, the balance of the funds of the Trust not separately accounted for shall be allocated and credited to each Participant's and Former Participant's Employer Contribution and Forfeiture Account on the following basis in the order set forth below:
 - (a) The Trustee shall debit each Participant's Employer Contribution and Forfeiture Account for any distributions made to him or for his use and for any withdrawals made by him during the Plan Year.
 - (b) The Trustee shall credit or debit each Participant's Employer Contribution and Forfeiture Account with the Participant's share of net income or loss derived from the Employer Contribution and Forfeiture Account as determined under Paragraph 4 of this Article V.
 - (c) The Trustee shall credit each Participant's Employer Contribution and Forfeiture Account with all of the Participant's share of Employer Contributions and Forfeitures determined in accordance with Paragraph 5 of this Article V. If the Employer elects in Part III of the Adoption Agreement to allocate Forfeitures to Participants' Accounts, the Trustee shall credit each Participant's Employer Contribution and Forfeiture Account with all of the Participant's share of Forfeitures determined in accordance with Paragraph 6 of this Article V.

Each Participant's Employee Contribution Account and Rollover Account, if any, shall be separately administered and accounted for as provided in Paragraphs 4 and 7 of Article III.
4. **Net Income or Net Loss.** The Trustee shall ascertain the net income or net loss of the Trust for the Plan Year and determine the share to be allocated to each Participant's Employer Contribution and Forfeiture Account. "Net income or net loss" shall mean profits and income actually realized and received less losses actually incurred and expenses paid or provided for plus any net increase, or minus any net decrease, in the fair market value of the assets of the Trust although not actually realized. In ascertaining unrealized profits and losses, the expense of liquidation shall not be taken into account. A Participant shall share in the net income or net loss of the Trust derived from the Employer Contribution and Forfeiture Account for the Plan Year in the proportion that the total value of the Participant's Employer Contribution and Forfeiture Account (before any allocation of contributions or Forfeitures) bears to the total value of all Participants' Employer Contribution and Forfeiture Accounts (before any allocation of contributions or Forfeitures). Nothing in this Paragraph shall be construed as relieving the Trustee from the duty to maintain separate accounts for Employee Contributions and Rollover Contributions. A Participant's share of the net income or loss shall be credited to such Participant's Employer Contribution and Forfeiture Account in accordance with Paragraph 3 of this Article V.
5. **Employer Contributions.** Subject to the provisions of Paragraphs 7, 8 and 9 of this Article V, Employer Contributions shall be allocated to each Participant in accordance with the allocation formula selected in Part III of the Adoption Agreement. If no allocation formula is chosen in Part III of the Adoption Agreement, all individuals employed on the last day of the Plan Year shall be entitled to receive an allocation. Each Participant's share of Employer Contributions shall be credited to such Participant's Employer Contribution and Forfeiture Account in accordance with the provisions of Paragraph 3 of this Article V.
6. **Forfeitures.** All sums or benefits forfeited with respect to the Plan Year shall be determined and such Forfeited amounts shall

J.P. MORGAN CLEARING CORP. PROTOTYPE DEFINED CONTRIBUTION PLAN

be either applied to reduce Employer Contributions or allocated among Participants' Accounts as selected in accordance with Part III of the Adoption Agreement.

7. *Limitations on Allocations to Participant's Account*

- (a) If the Company does not maintain any qualified plan in addition to this Plan or a welfare benefit fund, as defined in Section 419(e) of the Code, or an individual medical account, as defined in Section 415(l)(2) of the Code, the following rules shall apply:
- (i) The amount of Annual Additions which may be allocated under this Plan on a Participant's behalf for a Limitation Year shall not exceed the lesser of the Maximum Permissible Amount or any other limitation contained in this Plan. If the 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 will be reduced so that the Annual Additions for the Limitation Year will equal the Maximum Permissible Amount.
 - (ii) Prior to the determination of the Participant's actual Compensation for a Limitation Year, the Maximum Permissible Amount may be determined on the basis of the Participant's estimated Annual Compensation for such Limitation Year. Such estimated Annual Compensation shall be determined on a reasonable basis and shall be uniformly determined for all Participants similarly situated. Any Employer Contributions (including allocation of Forfeitures) based on estimated Annual Compensation shall be reduced by any Excess Amounts carried over from prior years.
 - (iii) As soon as is administratively feasible after the end of the Limitation Year, the Maximum Permissible Amount for such Limitation Year shall be determined on the basis of the Participant's actual Compensation for such Limitation Year.
 - (iv) If, pursuant to Subparagraph (a)(iii) or as a result of the allocation of Forfeitures, there is an Excess Amount with respect to a Participant for a Limitation Year, such Excess Amount shall be disposed of as follows:
 - A. First, any non-deductible voluntary Employee 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 an Excess Amount still exists, any elective deferrals (plus attributable earnings) to the extent they would reduce the excess amount, will be distributed to the Participant.
 - C. In the event that the Participant is in the service of the Company at the end of the Limitation Year, then such Excess Amount must not be distributed to the Participant but shall be reapplied to reduce future Employer Contributions (including any allocation of Forfeitures) under this Plan for the next Limitation Year (and for each succeeding year, as necessary) for such Participant, so that in each such year, the sum of actual Employer Contributions (including any allocation of Forfeitures), plus the reapplied amount, shall equal the amount of Employer Contributions (including any allocation of Forfeitures) which would otherwise be allocated to each Participant's Account.
 - D. In the event that the Participant is not in the service of the Company at the end of the Limitation Year, then such Excess Amount must not be distributed to the Participant but shall be held unallocated in a suspense account for the Limitation Year and allocated and reallocated in the next Limitation Year to the remaining Participants so as to reduce future Company Contributions (including allocation of any Forfeitures) for all remaining Participants. In the event that the allocation or reallocation of such Excess Amount results in an Excess Amount with respect to each remaining Participant, the total Excess Amount shall be held unallocated in a suspense account. If a suspense account is in existence at any time during a particular Limitation Year, other than the Limitation Year in which the Excess Amounts resulted, all amounts in the suspense account must be allocated and reallocated to the Participants' Accounts (subject to the limitations of Section 415 of the Code) before any Company Contributions and Employee Contributions which would constitute Annual Additions may be made to the Plan for that Limitation Year. Excess Amounts may not be distributed to Participants or Former Participants. Investment gains or other income or investment losses shall not be allocated to any suspense account established pursuant to this Subparagraph (a)(iv).
 - E. For the purposes of the foregoing rules, the Excess Amount shall include gains and losses, if any.
- (b) If the Company, in addition to this Plan, maintains an individual medical account, as defined by Section 415(l)(2) of the Code, or a welfare benefit fund, as defined in Section 419(e) of the Code, or one or more plans, none of which are qualified Master or Prototype defined contribution plans, the following rules apply:
- (i) The amount of Annual Additions which may be allocated under this Plan on a Participant's behalf for a Limitation Year, shall not exceed the lesser of:

J.P. MORGAN CLEARING CORP. PROTOTYPE DEFINED CONTRIBUTION PLAN

- A. The Maximum Permissible Amount, reduced by the sum of any Annual Additions allocated to the Participant's Accounts for the same Limitation Year under this Plan and such other defined contribution plan; or
 - B. Any other limitation contained in this Plan.
- (ii) Prior to the determination of the Participant's actual Compensation for the Limitation Year, the amounts referred to in Subparagraph (b)(i)A above, may be determined on the basis of the Participant's estimated Annual Compensation for such Limitation Year. Such estimated Annual Compensation shall be determined on a reasonable basis and shall be uniformly determined for all Participants similarly situated. Any Company Contribution (including allocation of Forfeitures) based on estimated Annual Compensation shall be reduced by any Excess Amount carried over from prior years.
 - (iii) As soon as is administratively feasible after the end of the Limitation Year, the amounts referred to in Subparagraph (b)(i)A shall be determined on the basis of the Participant's actual Compensation for such Limitation Year.
 - (iv) If pursuant to Subparagraph (b)(iii) or as a result of the allocation of Forfeitures, a Participant's Annual Additions under this Plan and all such other plans result in an Excess Amount, such Excess Amount shall be deemed to consist of the amounts last allocated, except that Annual Additions attributable to a welfare benefit fund or an individual medical account will be deemed to have been allocated first regardless of the actual allocation date.
 - (v) If an Excess Amount was allocated to a Participant on an Adjustment Date of this Plan which coincides with an Adjustment Date of another plan, the Excess Amount attributed to this Plan will be (unless the Company provides otherwise by resolution of its Board of Directors) the product of,
 - A. the total Excess Amount allocated as of such date (including any amount which would have been allocated but for the limitations of Section 415 of the Code), times
 - B. the ratio of (1) the amount allocated to the Participant as of such date under this Plan, to (2) the total amount allocated as of such date under all qualified defined contribution plans (determined without regard to the limitations of Section 415 of the Code).
 - (vi) Any Excess Amounts attributed to this Plan shall be disposed of as provided in Subparagraph (a)(iv) above.
 - (vii) If the Annual Additions with respect to the Participating Employee under other defined contribution plans and welfare benefit funds maintained by the Company are less than the Maximum Permissible Amount and the Company 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 will 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 and welfare benefit funds in the aggregate are equal to or greater than the Maximum Permissible Amount, no amount will be contributed or allocated to the Participant's Account under this Plan for the Limitation Year.
- (c) If the Company, in addition to this Plan, maintains one or more qualified plans which are Master or Prototype qualified defined contribution plans, the following rule applies:
- Annual Additions allocated under this Plan on behalf of any Participant shall be limited in accordance with the provisions of Subparagraph (b)(i) through (b)(vi) above, as though the other plan were not a Master or Prototype plan, unless the Company has provided other limitations in the Adoption Agreement of the Master or Prototype Plan.
- (d) With respect to Plan Years beginning before January 1, 2000, if the Company, in addition to this Plan (and any other defined contribution plan), maintains one or more defined benefit plans, the Annual Addition allocated under this Plan to a Participant at any time shall be limited as follows:

The Annual Additions to this Plan on behalf of each Participant shall be limited (unless the Company elects otherwise by a board of directors' resolution) so that his defined contribution fraction, when added to his defined benefit fraction shall not exceed 1.0. The defined benefit fraction is the ratio of (1) the aggregate projected annual benefits of the Participant under all of the Company's defined benefit plans as of the close of the year, to (2) the lesser of the product of 1.25 multiplied by \$90,000 (or such greater amount as provided by Income Tax Regulation), or the product of 1.4 multiplied by 100% of the Participant's average compensation for his high 3 years. The defined contribution fraction is the ratio of (1) the total of the Annual Additions made to all of the Company's defined contribution plans on the Participant's behalf for the current and all prior Limitation Years, plus the sum of Annual Additions attributable to the Participant's Employee Contribution to any defined contribution plans of the Company 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, and the annual additions attributable to all welfare benefit funds as defined in Section 419(e)

J.P. MORGAN CLEARING CORP. PROTOTYPE DEFINED CONTRIBUTION PLAN

of the Code, and individual medical accounts, as defined in Section 415(1)(2) of the Code, maintained by the Company), to (2) the sum of the maximum aggregate amounts for the current and all prior Limitation Years of service with the Company (regardless of whether a defined contribution plan was maintained by the Company). The maximum aggregate amount in any Limitation Year is the lesser of one hundred twenty five percent (125%) of the dollar limitation determined under Sections 415(b) and (d) of the Code in effect under Section 415(c)(1)(A) of the Code, or thirty five percent (35%) of the Participant's Compensation for such year.

- (e) For purposes of this Article V, Paragraph 7, unless otherwise elected in the Adoption Agreement, the following terms shall be defined as follows:
- (i) "Compensation." The total of all amounts paid by the Company to, or for the benefit of, a Participant during the Limitation Year for services rendered or labor performed for the Company, including, but not by way of limitation, all wages, salaries, fees for professional service and other amounts received for personal services actually rendered in the course of employment (including, but not limited to commissions, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips and bonuses) excluding only the following:
 - A. Contributions made to a plan of deferred compensation to the extent that, before the application of Section 415 of the Code limitations to that plan, the contributions are not includable in the gross income of the Participant for the taxable year in which contributed.
 - B. Employer contributions made on behalf of a Participant to a simplified employee pension plan described in Section 408(k) of the Code to the extent such contributions are deductible by the Participant under Section 219(b)(7) of the Code.
 - C. Any distributions from a plan of deferred compensation regardless of whether such amounts are includable in the gross income of the Participant when distributed; provided, however, any amounts received by a Participant pursuant to an unfunded non-qualified plan may be considered as compensation for the purposes of Section 415 of the Code in the year such amounts are includable in the gross income of the Participant.
 - D. Amounts realized from the exercise of a non-qualified stock option, or when restricted stock (or property) held by a Participant either becomes freely transferable or is no longer subject to a substantial risk for forfeiture pursuant to the terms of Section 83 of the Code and regulations issued thereunder.
 - E. Amounts realized from the sale, exchange or other disposition of stock acquired under a qualified stock option.
 - F. Other amounts which receive special tax benefits, such as premiums for group life insurance (but only to the extent that the premiums are not includable in the gross income of the Participant), or contributions made by the Company (whether or not under a salary reduction agreement) towards the purchase of an annuity contract described in Section 403(b) of the Code (whether or not the contributions are excludable from the gross income of the Participant).

The Employer may elect one of the alternate definitions of Compensation specified in Part I of the Adoption Agreement.

For any self-employed individual, Compensation shall mean earned income.

For Limitation Years beginning after December 31, 1991, for purposes of applying the limitations of this Article, Compensation for a Limitation Year is the compensation actually paid or made available in gross income during such Limitation Year. Notwithstanding the preceding sentence, Compensation for a Participant in a defined contribution plan who is permanently and totally disabled (as defined in Section 22(e)(3) of the Code) is the Compensation such Participant would have received for the Limitation Year if the Participant had been paid at the rate of Compensation paid immediately before becoming permanently and totally disabled; such imputed Compensation for the disabled Participant may be taken into account only if the Participant is not a Highly Compensated Employee (as defined in Article I, Paragraph 33 of the plan) and contributions made on behalf of such Participant are nonforfeitable when made.

For Limitation Years beginning after December 31, 1997, 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 Sections 125, 457 and, effective for years beginning on and after January 1, 2001, or, if earlier, the first year beginning on or after January 1, 1998, during which the Plan was operated to exclude such elective amounts, Section 132(f)(4).

- (ii) "Company." The Company that adopts this Plan and all Affiliates of the Company. All such companies shall be considered a single company for purposes of applying the limitations of this Paragraph.
- (iii) "Excess Amount." The excess of the Participant's Annual Additions for the Limitation Year over the Maximum

J.P. MORGAN CLEARING CORP. PROTOTYPE DEFINED CONTRIBUTION PLAN

Permissible Amount.

- (iv) "Projected Annual Benefit." The annual retirement benefit (adjusted to an actuarially equivalent straight life annuity (i.e., an annuity payable in equal installments for the life of the Participant that terminates upon the Participant's death) if such benefit is expressed in a form other than a straight life annuity or qualified joint or survivor annuity) to which the Participant would be entitled under the terms of the Plan assuming:
 - A. The Participant will continue employment until Normal Retirement Age under the Plan (or current age, if later), and
 - B. The Participant's Compensation for the current Limitation Year and all other relevant factors used to determine benefits under the Plan will remain constant for all future Limitation Years.

(f) In addition to other limitations set forth in the Plan and notwithstanding any other provisions of the Plan, the Annual Additions under the Plan (and all other defined contribution plans required to be aggregated with this Plan under the provisions of Section 415 of the Code), shall not increase in an amount in excess of the amount permitted (when considered in conjunction with all other aggregated Plans of the employer) under Section 415 of the Code.

(g) Notwithstanding any other provision of this Plan, if any Annual Additions are allocated under other defined contribution plans maintained by the Company with respect to an employee also participating in this Plan, the Company 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 the Maximum Permissible Amount, the amount contributed or allocated will be reduced so that the Annual Additions under all such plans 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 in the aggregate are equal to or greater than the Maximum Permissible Amount, as defined in this Plan, any amount contributed or allocated to the Participant's Account for the Limitation Year will be treated as an Excess Amount. If there is an Excess Amount for any Limitation Year, the excess will be disposed of subject to the provisions for disposing of Section 415 excesses that exist in the Plan.

8. Special Provisions. For the purposes of the foregoing adjustments, the following provisions shall apply:

- (a) A Participant who actually terminates employment, retires or becomes Disabled or dies on some date other than an Adjustment Date shall be treated as a Participant through the next Adjustment Date; provided, however, that if the Company so elects in Part III of the Adoption Agreement, any Participant whose employment has been terminated, either voluntarily or involuntarily, for reasons other than death, Disability or retirement, (a "Terminated Participant") and is not an Employee on the last day of the Plan Year in which he terminated shall not share in Employer Contributions or Forfeitures for such Plan Year.
- (b) A Terminated Participant whose employment is terminated as of the current Adjustment Date shall be treated as a Participant for the purpose of such adjustments.
- (c) Whenever a Forfeiture shall have occurred, but the event causing such Forfeiture shall not be known to the Committee, the Forfeiture shall be deemed to have occurred when the event of Forfeiture has been discovered and declared by the Committee.
- (d) A Participant who does not complete the minimum service requirement during any Plan Year set forth in Part III of the Adoption Agreement shall not share in the Employer Contributions or in Forfeitures for such year, unless required pursuant to Paragraph 9 of this Article V.

9. Top Heavy Plan Years - Minimum Allocations. Notwithstanding the foregoing, and pursuant to Part III of the Adoption Agreement, for any Top Heavy Plan Year, the sum of the Company's Contributions and Forfeitures allocated to the Account of each Non-Key Employee shall be equal to at least three percent (3%) of such Non-Key Employee's Compensation. However, should the sum of the Company's Contributions and Forfeitures allocated to the Account of each Key Employee for such Top Heavy Plan Year be less than three percent (3%) of each Key Employee's Compensation, the sum of the Company's Contributions and Forfeitures allocated to the Account for each Non-Key Employee shall be equal to the largest percentage allocated to the Account of each Key Employee.

- (a) For purposes of the minimum allocations set forth above, the percentage allocated to the Account of any Key Employee during such Plan Year shall be equal to the ratio of the sum of the Company's Contributions and Forfeitures allocated on behalf of such Key Employee divided by the Compensation for such Key Employee based on the first \$150,000 of such Key Employee's Compensation adjusted for increases in the cost of living pursuant to Section 401(a)(17) of the Code. The minimum allocation shall be determined without regard to any Social Security contribution. For purposes of computing

J.P. MORGAN CLEARING CORP. PROTOTYPE DEFINED CONTRIBUTION PLAN

the minimum allocation, Compensation shall mean compensation as defined in Section 415(c)(3) of the Code.

- (b) Extra Minimum Allocation Permitted for Top Heavy Plans other than Super Top Heavy Plans: If a Key Employee is an Employee in both a defined contribution plan and a defined benefit plan that are both part of a Top Heavy Group (but neither of such plans is a Super Top Heavy Plan), the defined contribution and the defined benefit fractions set forth in Paragraph 7 of this Article shall remain unchanged, provided the Employee's Account of each Non-Key Employee who is an Employee receives an extra allocation (in addition to the minimum allocation set forth above) equal to not less than one percent (1%) of such Non-Key Employee's Compensation.
- (c) For any Top Heavy Plan Year, the minimum allocations set forth above shall be allocated to the Account of all Non-Key Employees who are Employees and who are employed by the Company on the last day of the Plan Year, including Non-Key Employees who have failed to complete a Year of Service, fail to make mandatory contributions or who are excluded from the Plan due to minimum compensation requirements.
- (d) Notwithstanding anything herein to the contrary, in any Plan Year in which a Non-Key Employee is a Participant in both this Plan and a defined benefit pension plan, and both such plans are Top Heavy Plans, the Company shall not be required to provide a Non-Key Employee with both the full separate minimum defined benefit plan and the full separate defined contribution plan allocations. Therefore, for Non-Key Employees who are participating in a defined benefit plan maintained by the Company, and the minimum benefits under Section 416(c)(1) of the Code are accruing to a Non-Key Employee under such Plan, the minimum allocations provided for above shall not be applicable, and no minimum contribution shall be made to the Plan on behalf of the Non-Key Employee. Alternatively, the Company may satisfy the minimum benefit requirement of Section 416(c)(2) of the Code for the Non-Key Employee by providing any combination of benefit and/or contributions that satisfy the safe harbor rules of Regulation 1.416-1(m-12).
- (e) The minimum allocation required by this Paragraph 9 (to the extent required to be nonforfeitable under Section 416(b) of the Code) may not be forfeited under Section 411(a)(3)(B) or 411(a)(3)(D) of the Code.

ARTICLE VI.

BENEFITS: DETERMINATION AND DISTRIBUTION

1. **Determination of Benefits Upon Death.** In the event of the death of a Participant before termination of employment, such Participant's Employer Contribution and Forfeiture Account (adjusted as of the Adjustment Date coincident with or next succeeding the date of his death in accordance with the provisions of Article V hereof) shall become fully vested and such Participant's Account shall be paid to his spouse, or, if applicable, his Beneficiary in the manner set forth in Paragraph 6 of this Article.
2. **Determination of Benefits Upon Retirement.** In the event a Participant retires in accordance with the normal or early retirement provisions of this Paragraph, such Participant's Employer Contribution and Forfeiture Account (adjusted as of the appropriate date set forth below) shall become fully vested and such Participant's Account shall be paid to him in the manner set forth in Paragraph 6 of this Article.
 - (a) **Normal Retirement.** A Participant may retire from the employment of the Company on his Normal Retirement Date under Part IV of the Adoption Agreement. A Participant shall become fully vested in his Employer Contribution and Forfeiture Account on the date he attains his Normal Retirement Age under Part IV of the Adoption Agreement. A Participant's normal retirement benefit shall be equal to such Participant's Account as adjusted on:
 - (i) The Adjustment Date coincident with or next succeeding the Normal Retirement Age if the Normal Retirement Date selected in Part IV of the Adoption Agreement is the Adjustment Date coincident with or next succeeding the Normal Retirement Age, or
 - (ii) The Adjustment Date coincident with or next preceding the Normal Retirement Date if the Normal Retirement Date selected in Part IV of the Adoption Agreement is the Normal Retirement Age.
 - (b) **Late Retirement.** If a Participant continues in the employ of the Company beyond his Normal Retirement Date, he shall continue to participate in the Plan for all purposes until he actually terminates employment with the Company and, except as otherwise provided in Paragraph 13 of Article VI, no benefits will be paid until his Actual Retirement Date. A Participant's late retirement benefits shall be equal to the total of such Participant's Account as adjusted on the Adjustment Date coincident with or next succeeding his Actual Retirement Date.
 - (c) **Early Retirement.** Reserved.

J.P. MORGAN CLEARING CORP. PROTOTYPE DEFINED CONTRIBUTION PLAN

3. **Determination of Benefits Upon Disability.** In the event of the Disability of a Participant, all amounts credited to his Account (adjusted as of the Adjustment Date coincident with or next succeeding the establishment of such Disability as determined by the Committee), shall become fully vested and shall be paid to him in the same manner in which payments are made upon Normal Retirement in accordance with Paragraph 6 of this Article.
4. **Determination of Benefits Upon Termination of Employment.** In the event a Participant terminates employment for reasons other than death, Disability or retirement, the Trustee shall determine the Participant's benefit in the manner set forth below:
 - (a) **Vested Benefit.** The Trustee shall determine the vested and nonvested portions of a Participant's Employer Contribution and Forfeiture Account as of the Adjustment Date coincident with or next succeeding the Participant's date of termination in accordance with the provisions of Paragraph 5 of Article VI; provided, however, that if the Company elects to delay distributions of vested benefits until a Participant has five (5) consecutive One Year Breaks in Service, the Committee shall not be required to determine the vested portion of his Account until the Terminated Participant has had five (5) consecutive One Year Breaks in Service. The vested and nonvested portions of a Participant's Account may be held in separate accounts. A Participant shall be one hundred percent (100%) vested at all times in his Employee Contribution Account and Rollover Account, if any.
 - (b) **Allocation of Income and Losses.** Until a Terminated Participant's vested accrued benefit is distributed, the Terminated Participant's Account shall continue to share in allocations of income and losses pursuant to Article V.
 - (c) **Distribution of Vested Benefit.** If the Company elects under Part IV of the Adoption Agreement to permit distribution to a Terminated Participant before he has five (5) consecutive One Year Breaks in Service, then the vested portion of the Participant's Account shall be paid to him or applied for his benefit in accordance with the provision of Paragraph 6 of Article VI as if the Terminated Participant had retired on the Adjustment Date coincident with or next succeeding his date of termination. If the Company elects under Part IV of the Adoption Agreement to delay distribution of vested benefits until a Terminated Participant has five (5) consecutive One Year Breaks in Service, then the vested portion of his Account shall not be paid to him until he has five (5) consecutive One Year Breaks in Service. Once a Terminated Participant has five (5) consecutive One Year Breaks in Service, the Trustee shall distribute the vested portion of his Account on the first occurrence of an event which would trigger a distribution to the Terminated Participant had he remained in the employ of the Company, i.e., upon his death, Disability, or retirement. The manner of payment shall be determined in accordance with the terms of Paragraphs 1, 2, and 3 of Article VI, whichever Section is applicable to the event which triggers the payment; provided, however, that at the election of the Participant the Trustee may distribute the vested portion of the Terminated Participant's Account after the requisite period of One Year Breaks in Service elected under Part IV of the Adoption Agreement but prior to the death, Disability or retirement of the Terminated Participant, in which case the manner of payment shall be determined in accordance with Paragraph 6 of this Article. Any such distribution shall be made in a manner which is consistent with and satisfies the provisions of Paragraph 6 of Article VI, including, but not limited to, all notice and consent requirements of Sections 417 and 411(a)(11) of the Code and the Regulations thereunder. Provided, further, that notwithstanding any of the foregoing provisions of this Paragraph to the contrary, if a Terminated Participant's vested benefit derived from Employer and Employee Contributions has never exceeded \$5,000, or such greater amount as permitted by Regulations under Section 411(a)(11) of the Code, then the vested portion of the Terminated Participant's Account shall be distributed to such Participant in one lump sum and the nonvested portion will be treated as a Forfeiture. For purposes of this Paragraph, if the value of a Terminated Participant's vested benefit is zero, the Terminated Participant shall be deemed to have received a distribution of such vested benefit. A Participant's vested Account balance shall not exclude accumulated deductible Employee Contributions within the meaning of Section 72(o)(5)(B) of the Code.
 - (d) **Allocation of Forfeitures.** The nonvested portion of the Participant's Account shall continue to share in allocations of income and losses pursuant to Article V until the vested portion is distributed. The nonvested portion of the Participant's Account shall be forfeited, and the forfeited portion, plus income and loss allocations thereon, shall be allocated and credited to the Accounts of Participants in the same manner as Employer Contributions as provided in Article V.
5. **Vesting.**
 - (a) **Vesting Schedule.** A Participant has a nonforfeitable right to that percentage of his Employer Contribution and Forfeiture Account determined in accordance with Part IV of the Adoption Agreement and the provisions of this Subparagraph. A Participant has at all times a nonforfeitable right to his Employee Contribution Account and Rollover Account, if any. In computing the period of service for purposes of determining the nonforfeitable percentage under this Subparagraph, all of an Employee's Years of Service (as defined in Paragraph 44 of Article I) shall be taken into account except Years of Service

J.P. MORGAN CLEARING CORP. PROTOTYPE DEFINED CONTRIBUTION PLAN

required by Part IV, Paragraph 4B of the Adoption Agreement, or Subparagraphs (d) and (e) are to be disregarded.

- (b) **Top Heavy Vesting Schedule.** Notwithstanding the vesting schedule selected under Part IV of the Adoption Agreement, for any Top Heavy Plan Year, the vested portion of the Participant's Employer Contribution and Forfeiture Account of any Participant who has an Hour of Service after the Plan becomes Top Heavy shall be a percentage of such Account determined on the basis of the Participant's number of Years of Service according to the following schedule:

YEARS OF SERVICE

At least	But Less Than	Participant's Vested Interest (%)
0	2	0
2	3	20
3	4	40
4	5	60
5	6	80
6 and Over		100

If, in any subsequent Plan Year, the Plan ceases to be a Top Heavy Plan, the Trustee may, in its sole discretion, elect to (1) continue to apply this vesting schedule in determining the vested portion of a Participant's Employer Contribution and Forfeiture Account, or (2) revert to the vesting schedule in effect before this Plan became a Top Heavy Plan. Any such reversion shall be treated as a Plan amendment pursuant to the terms of the Plan.

- (c) **Amended Plans.** If the Plan's vesting schedule is amended, or the Plan is amended in any way that directly or indirectly affects the computation of the Participant's nonforfeitable percentage or if the Plan is deemed amended by an automatic change to or from a Top Heavy vesting schedule, each Participant with at least three (3) Years of Service with the Company may elect, within a reasonable period after the adoption of the amendment or change, to have the nonforfeitable percentage computed under the Plan without regard to such amendment or change. If a Participant fails to make such election, then such Participant shall be subject to the new vesting schedule. The Participant's election period shall commence on the adoption date of the amendment and shall end sixty (60) days after the latest of:
- (i) the adoption of the amendment,
 - (ii) the effective date of the amendment, or
 - (iii) the date the Participant receives written notice of the amendment from the Company.

No amendment to the Plan shall be effective to the extent that it has the effect of decreasing a Participant's accrued benefit. Notwithstanding the preceding sentence, a Participant's Account balance may be reduced to the extent permitted under Section 412(c)(8) of the Code. For purposes of this Paragraph, a plan amendment which has the effect of decreasing a Participant's account balance with respect to benefits attributable to service before the amendment shall be treated as reducing an accrued benefit, unless otherwise permitted under the Code or the applicable Treasury Regulations. Furthermore, no amendment to the Plan shall have the effect of decreasing a Participant's vested interest determined without regard to such amendment as of the later of the date such amendment is adopted or the date it becomes effective.

No amendment to the Plan shall be effective to eliminate or restrict an optional form of benefit. The preceding sentence shall not apply to a plan 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 (1) and (2) below:

- (1) The amendment provides a single sum distribution form that is otherwise identical to the optional form of benefit eliminated or restricted. For purposes of this condition (1), 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.
- (2) 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 (i) 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 (ii) the first day of the second Plan Year following the Plan Year in which the amendment is adopted.

The Employer may amend the Plan by adding overriding language to the Adoption Agreement where such language is necessary to satisfy Sections 415 and 416 of the Code because of the required aggregation of multiple plans under these Sections. The Company may amend the Plan by adding language to allow the Plan to operate under a waiver of the minimum

J.P. MORGAN CLEARING CORP. PROTOTYPE DEFINED CONTRIBUTION PLAN

funding requirement. An Employer that amends the Plan for any other reason, including a waiver of the minimum funding requirement under Section 412(d) of the Code, will no longer participate in this Master or Prototype plan and will be considered to have an individually designed plan.

(d) **Breaks in Service.**

- (i) Any Participant who has a One Year Break in Service, as defined in Article I, Paragraph 43, after the Effective Date of this Plan, and who was eligible to participate prior to the break and returns to work, shall receive no credit for Years of Service worked prior to the break until such Employee has completed One Year of Service after returning to work, at which time the Employee shall receive credit for all Years of Service both prior to and subsequent to the break.
- (ii) With respect to any Participant who has five (5) consecutive One Year Breaks in Service after the effective date of this Plan and who was eligible to participate in the Plan prior to the break, no Years of Service following the five (5) One Year Breaks in Service shall be taken into account in determining the vested percentage of benefits accrued prior to the break.
- (iii) If the Employer elects to delay distribution of vested benefits until a Participant has five (5) consecutive One Year Breaks in Service, then Years of Service performed prior to a Break in Service shall not be taken into account in determining the vested percentage of benefits accrued subsequent to the Break, if (i) the Participant was not vested in any portion of his Account attributable to Employer Contributions at the time of the Break in Service and (ii) his successive number of One Year Breaks in Service equals or exceeds the greater of five (5) or the aggregate number of Pre-Break Years of Service.
- (iv) If the Employer elects to permit distributions under the Plan to a Terminated Participant before he has five (5) consecutive One Year Breaks in Service, then in the case of a Participant who has five (5) consecutive One Year Breaks in Service, all Years of Service after such Breaks in Service will be disregarded for the purpose of vesting the accrued benefit that accrued before such Breaks, but both pre-Break and post-Break Service will count for the purpose of vesting the accrued benefit that accrues after such Breaks.

In the case of a Participant who does not have five (5) consecutive One Year Breaks in Service, both the pre-Break and post-Break Service will count in vesting both the pre-Break and post-Break accrued benefit.

- (v) Separate accounts shall be maintained for the Participant's pre-Break and post-Break Company-derived account balances. Both accounts shall share in the earnings and losses of the Fund.

(e) **Reemployment Before Five (5) Consecutive One Year Breaks in Service.**

- (i) Vesting. Except as otherwise provided in Subparagraph (f), if any Former Participant shall be reemployed by the Employer prior to incurring five (5) consecutive One Year Breaks in Service, he shall continue to participate in the same manner for vesting purposes as if such termination had not occurred. Provided, however, this Subparagraph shall not be construed to require the crediting of a Year of Service for any vesting computation period during which such Participant incurred a One Year Break in Service.
- (ii) Restoration of Nonvested Amount to Account.
 - A. If the Employer elects to delay distribution of vested benefits until a Terminated Participant has five (5) consecutive One Year Breaks in Service, restoration of a Participant's nonvested amount shall be determined under this Subparagraph. If a Terminated Participant returns to the employ of the Company before he has five (5) One Year Breaks in Service, the vested and forfeited portions of his accrued benefits, plus income and loss allocations, shall, upon his reemployment, become the beginning balance of his new Account.
 - B. If the Company elects to permit distribution to a Terminated Participant before he has five (5) consecutive One Year Breaks in Service, restoration of a Participant's nonvested amount shall be determined under Subparagraph (f) below. If a Terminated Participant elects (with his spouse's consent) to receive the value of the Participant's vested accrued benefit, the nonvested portion will be treated as a Forfeiture. If the Employee elects to have distributed less than the entire vested portion of the accrued benefit, the part of the nonvested portion that will be treated as a Forfeiture is the total nonvested portion multiplied by a fraction, the numerator of which is the amount of the distribution and the denominator of which is the total value of the vested accrued benefit.
- (f) **Account Restoration Upon Reemployment.** If a Terminated Participant receives a distribution pursuant to Paragraph 5, which is less than the value of the Employee's accrued benefit, and resumes employment covered under this Plan, the Terminated Participant's Account will be restored to the amount on the date of distribution if the Employee repays to the Plan the full amount of the distribution before the Employee incurs five (5) consecutive One Year Breaks in Service. Account restorations

J.P. MORGAN CLEARING CORP. PROTOTYPE DEFINED CONTRIBUTION PLAN

shall be made first from Forfeitures, if any, which occur in the Plan Year for which the restoration is required, and from additional Employer Contributions if such Forfeitures are inadequate to fully restore Accounts required to be restored by Paragraph 5(e). If the Employee fails to repay the full amount of the distribution before incurring the five (5) consecutive One Year Breaks in Service, post-Break Years of Service will not be taken into account for purposes of determining the vested portion of his pre-Break accrued benefit. Any amount of a Terminated Participant's accrued benefit not vested shall be forfeited by such Employee in accordance with the foregoing provisions of Paragraph 5(e) and when forfeited shall be allocated and credited to the accounts of Participant Employees in the same manner as Employer Contributions as provided in Article V hereof provided, however, any such Forfeitures shall be applied first to fund the account restorations, if any, required under the foregoing provisions of Paragraph 5(e). If a Participant is deemed to receive a distribution pursuant to this Section, and the Participant resumes employment covered under this Plan before the date the Participant incurs five (5) consecutive One Year Breaks in Service, upon the reemployment of such Participant, the employer-derived account balance of the Participant will be restored to the amount on the date of such deemed distribution.

6. **Payment of Death, Disability and Retirement Benefits.** Benefits shall be paid in the manner set forth in this Paragraph, and, unless a Participant elects a later commencement date, benefit payments shall commence no later than the applicable commencement date set forth in Paragraph 7 of this Article VI. Except as provided in Subparagraph (j), the provisions of this Paragraph shall apply to any Participant who is credited with at least one Hour of Service with the Company on or after August 23, 1984, and such other Participant as provided in Subparagraph (e).

(a) **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 date benefit payments would commence, a married Participant's vested account balance will be paid in the form of a Qualified Joint and Survivor Annuity and an unmarried Participant's vested Account balance will be paid in the form of a life annuity. The Participant may elect to have such annuity distributed upon attainment of the earliest retirement age under the Plan.

(b) **Qualified Preretirement Survivor Annuity** Unless an optional form of benefit has been selected within the election period pursuant to a qualified election, if a Participant dies before benefits have commenced, then fifty percent (50%) of the Participant's vested Account balance shall be applied toward the purchase of an annuity for the life of the surviving spouse. The surviving spouse may elect to have such annuity distributed within a reasonable time after the Participant's death. The balance of his Account shall be paid to his Beneficiary(ies).

To the extent that less than one hundred percent (100%) of the Participant's Account balance is paid to the surviving spouse, the amount of the Participant's Employee Contribution Account allocated to the surviving spouse must be in the same proportion as the Participant's Employee Contribution Account is to the Participant's Account.

(c) **Definitions.**

(i) **Election Period:** The period which begins on the first day of the Plan Year in which the Participant attains age thirty-five (35) and ends on the date of the Participant's death. If a Participant separates from service prior to the first day of the Plan Year in which age thirty-five (35) is attained, with respect to the Account balance as of the date of separation, the election period shall begin on the date of separation.

(ii) **Qualified Election:** A waiver of a Qualified Joint and Survivor Annuity or a Qualified Preretirement Survivor Annuity. Any waiver of a Qualified Joint and Survivor Annuity or Qualified Preretirement Survivor Annuity shall not be effective unless: (a) the Participant's spouse consents in writing to the election; (b) the election designates a specific Beneficiary, including any class of Beneficiaries or any contingent Beneficiaries, which may not be changed without spousal consent (or the spouse expressly permits designations by the Participant without any further spousal consent); (c) the spouse's consent acknowledges the effect of the election; and (d) the spouse's consent is witnessed by a Plan Representative or Notary Public. Additionally, a Participant's waiver of the Qualified Joint and Survivor Annuity shall not be effective unless the election designates a form of benefit payment which may not be changed without spousal consent (or the spouse expressly permits designations by the Participant without any further spousal consent). If it is established to the satisfaction of a Plan Representative 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 this provision (or establishment that the consent of a spouse may not be obtained) shall be effective only with respect to such spouse. A consent that permits designations by the Participant without any requirement of further consent by such spouse must acknowledge that the spouse has the right to limit 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 such rights. A revocation of a prior waiver may be made by a Participant without the consent

J.P. MORGAN CLEARING CORP. PROTOTYPE DEFINED CONTRIBUTION PLAN

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 Subparagraph (d) below.

- (iii) **Qualified Joint and Survivor Annuity:** An immediate annuity for the life of the Participant with a survivor annuity for the life of the spouse which is not less than fifty percent (50%) and not more than one hundred percent (100%) 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 which can be purchased with the Participant's vested account balance. The percentage of the Survivor Annuity shall be fifty percent (50%).
 - (iv) **Spouse (surviving spouse):** The spouse or surviving spouse of the Participant, provided that a former spouse will be or will not be treated as the spouse or surviving spouse to the extent provided under a qualified domestic relations order as described in Section 414(p) of the Code.
 - (v) **Annuity Starting Date:** The first day of the first period for which an amount is paid as an annuity or any other form.
 - (vi) **Vested Account Balance:** The aggregate value of the Participant's vested account balances derived from Employer and Employee contributions (including rollovers), whether vested before or upon death, including the proceeds of insurance contracts, if any, on the Participant's life. The provisions of this Article shall apply to a Participant who is vested in amounts attributable to Employer Contributions, Employee Contributions or both at the time of death or distribution.
- (d) **Notice Requirements.**

- (i) In the case of a Qualified Joint and Survivor Annuity, the Plan Administrator shall no less than thirty (30) days and no more than ninety (90) days prior to the annuity starting date provide each Participant a written explanation of: (1) the terms and conditions of a Qualified Joint and Survivor Annuity; (2) the Participant's right to make and the effect of an election to waive the Qualified Joint and Survivor Annuity form of benefit; (3) the rights of a Participant's spouse; and (4) the right to make, and the effect of, a revocation of a previous election to waive the Qualified Joint and Survivor Annuity. The Annuity Starting Date for a distribution in a form other than a Qualified Joint and Survivor Annuity may be less than thirty (30) days after receipt of the written explanation described above provided: (1) the Participant has been provided with information that clearly indicated that the Participant has at least thirty (30) days to consider whether to waive the Qualified Joint and Survivor Annuity and elect (with spousal consent) a form of distribution other than a Qualified Joint and Survivor Annuity; (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 seven (7)-day period that begins the day after the explanation of the Qualified Joint and Survivor Annuity 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.
- (ii) In the case of a Qualified Preretirement Survivor Annuity as described in Subparagraph (b) of this Paragraph 6, the Plan Administrator shall provide each Participant within the applicable period for such Participant a written explanation of the Qualified Preretirement Survivor Annuity in such terms and in such manner as would be comparable to the explanation provided for meeting the requirements of Subparagraph (d)(i) applicable to the Qualified Joint and Survivor Annuity.

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 thirty-two (32) and ending with the close of the Plan Year preceding the Plan Year in which the Participant attains age thirty-five (35); (ii) a reasonable period ending after the individual becomes a Participant; (iii) a reasonable period ending after Subparagraph (d)(iii) ceases to apply to the Participant; or (iv) a reasonable period ending after this Article first applies to the Participant. Notwithstanding the foregoing, notice must be provided within a reasonable period ending after separation from service in the case of a Participant who separates from service before attaining age thirty-five (35).

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

- (iii) Notwithstanding the other requirements of this Subparagraph (d), the respective notices prescribed by this

J.P. MORGAN CLEARING CORP. PROTOTYPE DEFINED CONTRIBUTION PLAN

Subparagraph need not be given to a Participant if this Plan “fully subsidizes” the costs of a Qualified Joint and Survivor Annuity or Qualified Preretirement Survivor Annuity and the Participant cannot elect another form of benefit. For purposes of this Subparagraph (d), a plan fully subsidizes the costs of a benefit if under the Plan the failure to waive such benefit by a Participant would not result in a decrease in any Plan benefit with respect to such Participant and would not result in increased costs for the Participant.

(e) **Transitional Rule.**

- (i) Any living Participant not receiving benefits on August 23, 1984, who would otherwise not receive the benefits prescribed by the previous Subparagraphs of this Paragraph 6 must be given the opportunity to elect to have the prior Subparagraphs of this Subparagraph apply if such Participant is credited with at least one (1) 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 ten (10) years of vesting service when he or she separated from service.
- (ii) Any living Participant not receiving benefits on August 23, 1984, who was credited with at least one (1) 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 Subparagraph (e)(iv) below.
- (iii) The respective opportunities to elect (as described in Subparagraphs (e)(i) and (ii) above) 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.
- (iv) Any Participant who has elected pursuant to Subparagraph (e)(ii) and any Participant who does not elect under Subparagraph (e)(i) or who meets the requirements of Subparagraph (e)(i) except that such Participant does not have at least ten (10) years of vesting 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 Company; 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 will be received under this Plan in the form of a Qualified Joint and Survivor Annuity, unless the Participant has elected otherwise during the election period. The election period must begin at least six (6) months before the Participant attains qualified early retirement age and end not more than ninety (90) days before the commencement of benefits. Any election hereunder will be 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 will 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 will be in writing and may be changed by the Participant at any time. The election period begins on the later of (1) the 90th day before the Participant attains the qualified early retirement age, or (2) the date on which participation begins, and ends on the date the Participant terminates employment.
 - C. For purposes of this Subparagraph (e)(iv)
 - (1) Qualified early retirement age is the latest of
 - (a) the earliest date, under the Plan, on which the Participant may elect to receive retirement benefits;
 - (b) the first day of the 120th month beginning before the Participant reaches Normal Retirement Age; or
 - (c) 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

J.P. MORGAN CLEARING CORP. PROTOTYPE DEFINED CONTRIBUTION PLAN

life of the spouse as described in Subparagraph (c)(iii) above.

- (f) **Restrictions on Immediate Distributions** If the value of a Participant's vested Account balance derived from Employer and Employee Contributions exceeds (or at the time of any prior distribution (1) in plan years beginning before August 6, 1997, \$3,500 or (2) in plan years beginning after August 5, 1997, \$5,000) \$5,000, and the Account balance is immediately distributable, the Participant must consent to any distribution of such Account balance. The consent of the Participant and the Participant's spouse shall be obtained in writing within the ninety (90)-day period ending on the Annuity Starting Date. The Annuity Starting Date is the first day of the first period for which an amount is paid as an annuity or any other form. 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 of, 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 Section 417(a)(3) of the Code, and shall be provided no less than thirty (30) days and no more than ninety (90) days prior to the Annuity Starting Date.

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 this Paragraph 6 of the Plan, 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 Section 401(a)(9) or Section 415 of the Code. In addition, upon termination of this Plan if the Plan does not offer an annuity option (purchased from a commercial provider), the Participant's account balance may, without the Participant's consent, be distributed to the Participant or transferred to another defined contribution plan (other than an employee stock ownership plan as defined in Section 4975(e)(7) of the Code) within the same controlled group.

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) the later of Normal Retirement Age or age sixty-two (62).

For purposes of determining the applicability of the foregoing consent requirements to distributions made before 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 Section 72(o)(5)(B) of the Code.

- (g) **Optional Form of Benefit.** If an optional form of benefit has been selected pursuant to a qualified election, the Participant may choose any form of benefit which is the actuarial equivalent of a Qualified Joint and Survivor Benefit, including but not limited to:
- (i) a lump sum;
 - (ii) an annuity payable for the life of the Participant;
 - (iii) an annuity payable for the life of the Participant but not less than a specified period certain (60, 100, 120 or 240 months);
 - (iv) a joint and survivor annuity payable for the joint lives of the Participant and his spouse but not less than a specified period certain
 - (v) an annuity payable for the life of the Participant or until the total payments received equal the proceeds, whichever is greater;
 - (vi) Installments for a specified period not longer than the life expectancy of the Participant or thirty (30) years, whichever is shorter;
 - (vii) installments of a specified amount until the proceeds and interest are exhausted; or
 - (viii) a deferred distribution in a specific manner and at a specified later date elected in accordance with Regulation Section 1.401(a)-14.
- (h) An election by a Participant may not be made pursuant to the provisions of this Subparagraph if the exercise of such election will cause benefits payable under the Plan with respect to the Participant in the event of his death to be more than "incidental" within the meaning of Prop. Reg. 1.401(a)(9)-2.
- (i) Any annuity contract distributed hereunder must be nontransferable. Furthermore, the terms of any annuity contract purchased and distributed by the Plan to a Participant or spouse shall comply with the requirements of this Plan.

J.P. MORGAN CLEARING CORP. PROTOTYPE DEFINED CONTRIBUTION PLAN

(j) Special Rule for Lump Sum Elections For Profit Sharing Plan Only. The provisions of Subparagraphs (a) through (d) shall not apply (except to the extent provided in Subparagraph (e)) if the following two conditions are met: (i) the Participant cannot or does not elect payments in the form of a life annuity, and (ii) on the death of the Participant, the Participant's vested Account balance will be paid to the Participant's surviving spouse, but if there is no surviving spouse, or, if the surviving spouse has already consented in a manner conforming to a qualified election, then to the Participant's Beneficiary. The surviving spouse may elect to have distribution of the vested Account balance commence within the ninety (90)-day period following the date of the Participant's death. However, this Subparagraph (j) shall not be operative with respect to the Participant if it is determined that this Plan is a direct or indirect transferee of a defined benefit plan, money purchase pension plan (including a target benefit plan), stock bonus or profit sharing plan which is subject to the survivor annuity requirements of Sections 401(a)(11) and 417 of the Code. In addition, this Section shall not apply unless the Participant's spouse is the beneficiary of any insurance on the Participant's life purchased by Company Contributions or Forfeitures allocated to the Participant's Account.

7. **Commencement Date of Payment of Death, Disability or Retirement Benefits.** Unless the Participant elects a later commencement date, in the event of a Participant's normal retirement, benefit payments shall commence no later than sixty (60) days after the Normal Retirement Date, or, in the event of Disability, death, early or late retirement, benefit payments shall commence no later than sixty (60) days after the Adjustment Date coincident with or next succeeding the date of the Participant's death, Disability or actual retirement, as the case may be. Notwithstanding the foregoing, the failure of a Participant and spouse to consent to a distribution while a benefit is immediately distributable within the meaning of Paragraph 6(g) of this Article shall be deemed to be an election to defer commencement of payment of any benefit sufficient to satisfy this Paragraph. In no event, however, shall benefit payments commence later than the applicable required beginning date set forth in Paragraph 13 of this Article VI or later than the 60th day after the latest of the close of the Plan Year in which:

- (a) the Participant attains age 65 (or Normal Retirement Age, if earlier);
- (b) occurs the 10th anniversary of the year in which the Participant commenced participation in the Plan; or,
- (c) the Participant terminates service with the Employer.

8. **Payments Prior to Adjustment.** Anything hereinbefore stated to the contrary notwithstanding, the Committee may, pursuant to such rules and regulations as it may, from time to time, adopt and promulgate, begin immediate payments of benefits to a Disabled Employee, or to the Beneficiaries of any deceased Employee, before the Adjustment Date next succeeding the date when the Employee shall have become Disabled, or have died, and before the Account of the Employee involved shall have been finally adjusted, in order to permit assistance in meeting emergency needs of any such Beneficiaries and Disabled or terminated Employees.

9. **Payment of Death Benefit to Beneficiary, Beneficiary's Estate or Estate of Employee.** If a Participant who is not survived by a spouse fails to designate a Beneficiary, or designates a Beneficiary but such Beneficiary dies prior to asserting a written claim for such death benefit or does not assert, within one year after such Employee's death, a written claim for such benefit, then and in any of such events, the same shall be payable to such Employee's estate. If a Beneficiary, or a retired or Disabled Employee who is not survived by a spouse and fails to designate a Beneficiary, is receiving installments from the Fund and dies before receiving all of the payments due him, the balance shall be paid to his estate as of the Adjustment Date coincident with or next succeeding the date of his death.

10. **Review of Benefit Determination** Within a period of sixty (60) days after the Adjustment Date on which the Account of a former Employee is finally adjusted by reason of death, retirement, Disability, or termination, the Committee shall notify such Former Participant or the Beneficiary of any such person, of the Employee's status in the Trust and the amount of vested benefits in the Employee's Account. If any Participant or any Former Participant or the Beneficiary of any such person, shall differ with the findings of the Committee as to such person's status or right of participation in the Trust, or the amount of such participation, it shall be the duty of every such contestant to file with the Trustee and with the Committee, within fifteen (15) days after notice of such finding, a written statement of his claim or contention and the particulars thereof. Unless this is done, it shall be conclusively presumed that such finding of the Committee is correct and complete in all respects, and the contestant shall be deemed to have consented thereto. Within a period of ten (10) days after the filing of such written statement, the Committee shall consider its finding in light of such written statement and immediately thereafter notify such contestant in writing of the result of such reconsideration and, if the claim is denied, the specific reasons therefor.

Furthermore, if the claim is denied, the notice will contain a specific reference to pertinent provisions of the Plan on which

J.P. MORGAN CLEARING CORP. PROTOTYPE DEFINED CONTRIBUTION PLAN

the denial is based; a description of any additional material or information necessary for the contestant to perfect a claim and an explanation of why such material or information is necessary; and appropriate information as to the steps to be taken if the Participant or Beneficiary wishes to submit his claim for review. The contestant shall have the right to appeal a denial of a claim to the Committee for a full and fair review. The contestant shall have this right to request a review upon written application to the Plan; to review pertinent documents; and to submit issues and comments in writing. This request for review of denial of claim must be submitted within sixty (60) days of receipt of written notification of the claim denial. The decision on review of this appeal must be made by the Committee within sixty (60) days after the receipt of the request for the review. Furthermore, the decision on review must be in writing and must cite specific reasons for the decision.

11. **Payment of Benefit When Person Entitled to Payment Cannot Be Found.** In case the Committee is unable within three years after payment is due a Disabled, terminated or retired Participant, or Beneficiary of a deceased Participant or deceased Beneficiary, to make such payment to him or his executor or administrator because it cannot ascertain his whereabouts or the identity and whereabouts of his executor or administrator by inquiry at his last known address shown on the Company's records, and neither he nor his executor or administrator has made written claim therefor before the expiration of the aforesaid time limit applicable to him or his executor or administrator, then and in such case, such amount shall be paid or transferred to a separate escrow account for the benefit of such person or his executor or administrator (as of the Adjustment Date ending with or next succeeding the expiration of the aforesaid time limit) or as otherwise directed by a court of competent jurisdiction in any action or proceeding brought to determine the ownership of such benefit. In case the Plan shall have been terminated prior to the payment or transfer of such amount as hereinabove provided, such amount shall be so paid or transferred as of the termination of the Plan.
12. **Loans.** If the Company so elects in Part IV of the Adoption Agreement, the Committee may authorize the Trustee to make a bona fide loan to a Participant based on the Participant's Account, which loans shall be made only under the following conditions:
 - (a) The loans shall be permitted only upon written application of the Participant.
 - (b) The aggregate principal outstanding at any time on a loan or loans to a Participant or a Beneficiary shall not exceed the lesser of (i) \$50,000, reduced by the excess (if any) of the highest outstanding balance of loans during the one (1)-year period ending on the day before the loan is made, over the outstanding balance of loans from the Plan on the date the loan is made, or (ii) one-half of the present value of the Participant's vested Account (determined as of the date the loan is approved), but not less than \$10,000.
 - (c) The loans shall bear a reasonable rate of interest, which may vary from time to time, but which shall approximate interest rates currently being charged by banks in the area. Furthermore, any loan shall by its terms require that repayment (principal and interest) be amortized in level payments, not less frequently than quarterly, over a period ending not later than five (5) years from the date of the loan.
 - (d) Each loan shall be adequately secured by the Participant.
 - (e) Loans shall be made available to all Participants and Beneficiaries on an equivalent basis.
 - (f) Loans shall not be made available to Highly Compensated Employees in an amount greater than the amount available to other Employees.
 - (g) The five (5)-year limitation under Subparagraph (c) shall not apply to any loan used to acquire a dwelling unit which, within a reasonable time, is to be used as a principal residence of the Participant.
 - (h) For purposes of this Paragraph 12: (1) the rules of Subsections (b), (c), (m) and (o) of Section 414 of the Code shall apply, and (2) all plans of the Company (as determined after applying Subsections (b), (c), (m) and (o) of Section 414 of the Code) shall be treated as one plan.
 - (i) No loans will be made to any Shareholder-Employee or Owner-Employee. For purposes of this requirement, a Shareholder-Employee means an employee or officer of an electing small business (Subchapter S) corporation who owns (or is considered as owning) within the meaning of Section 318(a) (1) of the Code, on any day during the taxable year of such corporation, more than five percent (5%) of the outstanding stock of the corporation.
 - (j) In the event of default, foreclosure on the note and attachment of security will not occur until a distribution event occurs in the Plan.
 - (k) An assignment or pledge of any portion of the Participant's interest in the Plan and a loan, pledge, or assignment with respect to any insurance contract purchased under the Plan, will be treated as a loan under this Subparagraph.
 - (l) A Participant must obtain the consent of his spouse, if any, to use the Account balance as security for the loan. Spousal

J.P. MORGAN CLEARING CORP. PROTOTYPE DEFINED CONTRIBUTION PLAN

consent shall be obtained no earlier than the beginning of the ninety (90)-day period that ends on the date on which the loan is to be so secured. The consent must be in writing, must acknowledge the effect of the loan, and must be witnessed by a Plan representative or notary public. Such consent shall thereafter be binding with respect to the consenting spouse or any subsequent spouse with respect to that loan. A new consent shall be required if the Account balance is used for renegotiation, extension, renewal or other revision of the loan.

If a valid spousal consent has been obtained in accordance with Subparagraph (l), then, notwithstanding any other provision of this Plan, the portion of the Participant's vested Account balance used as a security interest held by the Plan by reason of a loan outstanding to the Participant shall be taken into account for purposes of determining the amount of the Account balance payable at the time of death or distribution, but only if the reduction is used as repayment of the loan. If less than one hundred percent (100%) of the Participant's vested Account balance (determined without regard to the preceding sentence) is payable to the surviving spouse, then the Account balance shall be adjusted by first reducing the vested Account balance by the amount of the security used as repayment of the loan, and then determining the benefit payable to the surviving spouse.

(m) Loan payments will be suspended under this Plan as permitted under Section 414(u)(4) of the Code.

13. **Required Distributions.**

(a) **General Rules.**

(i) Except as otherwise provided in Paragraph 6 of this Article VI, 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, 1984.

(ii) All distributions required under this Article shall be determined and made in accordance with the Income Tax Regulations under Section 401(a)(9) of the Code, including the minimum distribution incidental benefit requirement of Section 1.401(a)(9)-2 of the Proposed Regulations.

(b) **Required Beginning Date.** The entire interest of a Participant must be distributed or begin to be distributed no later than the Participant's required beginning date.

(c) **Limits on Distribution Periods.** As of the first distribution calendar year, distribution, if not made in a single sum, may only be made over one of the following periods (or a combination thereof):

(i) the life of the Participant,

(ii) the life 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 and last survivor expectancy of the Participant and a designated Beneficiary.

(d) **Determination of Amount to be Distributed Each Year.** If the Participant's interest is to be distributed in a form other than a single sum, the following minimum distribution rules shall apply on or after the required beginning date:

(i) **Individual Account.**

A. If a Participant's benefit is to be distributed over (1) a period not extending beyond the life expectancy of a Participant or the joint life and last survivor expectancy of the Participant and the Participant's designated Beneficiary or (2) a period not extending beyond the life expectancy of the designated Beneficiary, the amount required to be distributed for each calendar year, beginning with distributions for the first distribution calendar year, must at least equal the quotient obtained by dividing the Participant's benefit by the applicable life expectancy.

B. For calendar years beginning before January 1, 1989, if the Participant's spouse is not the designated Beneficiary, the method of distribution selected must assure that at least fifty percent (50%) of the present value of the amount available for distribution is paid within the life expectancy of the Participant.

C. For calendar years beginning after December 31, 1988, the amount to be distributed each year, beginning with distributions for the first distribution calendar year shall not be less than the quotient obtained by dividing the Participant's benefit by the lesser of (1) the applicable life expectancy or (2) if the Participant's spouse is not the designated Beneficiary, the applicable divisor determined from the table set forth in Q&A-4 of Section 1.401(a)(9)-2 of the Proposed Income Tax Regulations. Distributions after the death of the Participant shall be distributed using

J.P. MORGAN CLEARING CORP. PROTOTYPE DEFINED CONTRIBUTION PLAN

the applicable life expectancy of Paragraph 13(a) above as the relevant divisor without regard to Section 1.401(a)(9)-2 of the Proposed Regulations.

- D. The minimum distribution required for the Participant's first distribution calendar year must be made on or before the Participant's required beginning date. The minimum distribution for other calendar years, including the minimum distribution for the distribution calendar year in which the Employee's required beginning date occurs, must be made on or before December 31 of the distribution calendar year.
- (ii) **Other Forms.** If the Participant's benefit is distributed in the form of an annuity purchased from an insurance company, distributions thereunder shall be made in accordance with the requirements of Section 401(a)(9) of the Code and the Regulations thereunder.
- (e) **Death Distribution Provisions.**
- (i) **Distribution Beginning Before Death.** If the Participant dies after distribution of his interest has begun, the remaining portion of such interest will continue to be distributed at least as rapidly as under the method of distribution being used prior to the Participant's death.
- (ii) **Distribution Beginning After Death.** If the Participant dies before distribution of his interest begins, distribution of the Participant's entire interest shall be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death except to the extent that an election is made to receive distributions in accordance with A or B below:
- A. If any portion of the Participant's interest is payable to a designated Beneficiary, distributions may be made over the life or over a period certain not greater than the life expectancy of a designated Beneficiary commencing on or before December 31 of the calendar year immediately following the calendar year in which the Participant died;
- B. If the designated Beneficiary is the Participant's surviving spouse, the date distributions are required to begin in accordance with A above shall not be earlier than the later of (1) December 31 of the calendar year immediately following the calendar year in which the Participant died and (2) December 31 of the calendar year in which the Participant would have attained age 70½ .
- If the Participant has not made an election pursuant to this Subparagraph (e) by the time of his death, the Participant's designated Beneficiary must elect the method of distribution no later than the earlier of (1) December 31 of the calendar year in which distributions would be required to begin under this section, or (2) December 31 of the calendar year which contains the fifth anniversary of the date of death of the Participant. If the Participant has no designated Beneficiary, or if the designated Beneficiary does not elect a method of distribution, distribution of the Participant's entire interest must be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
- (iii) For purposes of clause (ii) above, if the surviving spouse dies after the Participant, but before payments to such spouse begin, the provisions of clause (ii), with the exception of B therein, shall be applied as if the surviving spouse were the Participant.
- (iv) For purposes of this Subparagraph (e), any amount paid to a child of the Participant will be treated as if it had been paid to the surviving spouse if the amount becomes payable to the surviving spouse when the child reaches the age of majority.
- (v) For the purposes of this Subparagraph (e), distribution of a Participant's interest is considered to begin on the Participant's required beginning date (or, if Subparagraph (e)(iii) above is applicable, the date distribution is required to begin to the surviving spouse pursuant to Subparagraph (e)(ii) above). If distribution in the form of an annuity described in Subparagraph 6(a) above irrevocably commences to the Participant before the required beginning date, the date distribution is considered to begin is the date distribution actually commences.
- (f) **Definitions.**
- (i) **Applicable Life Expectancy.** The life expectancy (or joint and last survivor expectancy) calculated using the attained age of the Participant (or designated Beneficiary) as of the Participant's (or designated Beneficiary's) birthday in the applicable calendar year reduced by one for each calendar year which has elapsed since the date life expectancy was first calculated. If life expectancy is being calculated, the applicable life expectancy shall be the life expectancy as so recalculated. The applicable calendar year shall be the first distribution calendar year, and if life expectancy is being recalculated, such succeeding calendar year. If annuity payments commence in accordance with Paragraph 6 of this Article before the required beginning date, the applicable calendar year is the year such payments commence. If

J.P. MORGAN CLEARING CORP. PROTOTYPE DEFINED CONTRIBUTION PLAN

distribution is in the form of an immediate annuity purchased after the Participant's death with the Participant's remaining interest, the applicable calendar year is the year of purchase.

- (ii) **Designated Beneficiary.** The individual who is designated as the Beneficiary under the Plan in accordance with Section 401(a)(9) of the Code and the Regulations thereunder.
- (iii) **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 pursuant to Subparagraph (e) above.
- (iv) **Life Expectancy.** Life expectancy and joint and last survivor expectancy are computed by use of the expected return multiples in Tables V and VI of Section 1.72-9 of the Income Tax Regulations.

Unless otherwise elected by the Participant (or spouse, in the case of distributions described in Subparagraph (e) above) by the time distributions are required to begin, life expectancies shall be recalculated annually. Such election shall be irrevocable as to the Participant (or spouse) and shall apply to all subsequent years. The life expectancy of a nonspouse Beneficiary may not be recalculated.

- (v) **Participant's Benefit.**
 - A. 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 Employer Contributions 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.
 - B. Exception for second distribution calendar year. For purposes of Subparagraph A above, if any portion of the minimum distribution for the first distribution calendar year is made in the second distribution calendar year on or before the required beginning date, the amount of the minimum distribution made in the second distribution calendar year shall be treated as if it had been made in the immediately preceding distribution calendar year.
- (vi) **Required Beginning Date:** One of the following as selected by the Employer in the Adoption Agreement.
 - A. The required beginning date of a Participant is the April 1 of the calendar year following the calendar year in which the Participant attains age 70½ .
 - B. The required beginning date of a Participant is the April 1 of the calendar year following the calendar year in which the Participant attains age 70½ , except that benefit distributions to a Participant (other than a five percent (5%) owner) with respect to benefits accrued after the later of the adoption or effective date of the amendment to the plan must commence by the later of the April 1 of the calendar year following the calendar year in which the Participant attains age 70½ or retires.
 - C. The required beginning date of a Participant is the later of the April 1 of the calendar year following the calendar year in which the Participant attains age 70½ or the April 1 of the calendar year following the calendar year in which the Participant attains age 70½ or retires except that benefit distributions to a five percent (5%) owner must commence by the April 1 of the calendar year following the calendar year in which the Participant attains age 70½ .Any plan amendments made with respect to this Subparagraph C must be retroactively effective and must be made in accordance with the preamendment operation of the Plan.
 - (1) Any Participant attaining age 70½ in years after 1995 may elect by April 1 of the calendar year following the year in which the Participant attained age 70½ (or by December 31, 1997, in the case of a Participant attaining age 70½ in 1996) to defer distributions until the calendar year following the calendar year in which the Participant retires. If no such election is made, the Participant will begin receiving distributions by the April 1 of the calendar year following the year in which the participant attained age 70½ (or by December 31, 1997, in the case of a Participant attaining age 70½ in 1996).
 - (2) Any Participant attaining age 70½ in years prior to 1997 may elect to stop distributions and recommence by the April 1 of the calendar year following the year in which the Participant retires. There is either (as elected by the Employer in Paragraph 10.C(2) of Part IV of the Adoption Agreement):
 - (i) A new annuity starting date upon recommencement, or
 - (ii) No new annuity starting date upon recommencement.

J.P. MORGAN CLEARING CORP. PROTOTYPE DEFINED CONTRIBUTION PLAN

- (3) The preretirement age 70½ distribution option is only eliminated with respect to Employees who reach age 70½ in or after a calendar year that begins after the later of December 31, 1998, or the adoption date of the amendment. The preretirement age 70½ distribution option is an optional form of benefit under which benefits payable in a particular distribution form (including any modifications that may be elected after benefit commencement) commence at a time during the period that begins on or after January 1 of the calendar year in which an Employee attains age 70½ and ends April 1 of the immediately following calendar year.
 - D. Five percent (5%) owner. A Participant is treated as a five-percent (5%) owner for purposes of this Section if such Participant is a five-percent (5%) owner as defined in Section 416 of the Code at any time during the Plan Year ending with or within the calendar year in which such owner attains age 70½ .
 - E. Once distributions have begun to a five percent (5%) owner under this Section, they shall continue to be distributed, even if the Participant ceases to be a five percent (5%) owner in a subsequent year.
- (g) **Transitional Rule.**
- (i) Notwithstanding the other requirements of this Article, distribution on behalf of any Employee, including a five percent (5%) owner, may be made in accordance with all of the following requirements (regardless of when such distribution commences):
 - A. The distribution by the Plan is one which would not have disqualified such Plan under Section 401(a)(9) of the Code 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 Participant whose interest in the Plan is being distributed or, if the Participant is deceased, by a Beneficiary of such Participant.
 - C. Such designation was in writing, was signed by the Participant or the Beneficiary, and was made before January 1, 1984.
 - D. The Participant had accrued a benefit under the Plan as of December 31, 1983.
 - E. The method of distribution designated by the Participant or the Beneficiary specifies the time at which distribution will commence, the period over which distributions will be made, and in the case of any distribution upon the Participant's death, the Beneficiaries of the Participant listed in order of priority.
 - (ii) A distribution upon death will 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 Participant.
 - (iii) For any distribution which commences before January 1, 1984, but continues after December 31, 1983, the Participant, or the Beneficiary, to whom such distribution is being made, will 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 Subparagraphs (g)(i)A and E.
 - (iv) If a designation is revoked, any subsequent distribution must satisfy the requirements of Section 401(a)(9) of the Code and the Regulations thereunder. If a designation is revoked subsequent to the date distributions are required to begin, the Plan 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 Section 401(a)(9) of the Code and the Regulations thereunder, but for the Section 242(b)(2) election. For calendar years beginning after December 31, 1988, such distributions must meet the minimum distribution incidental benefit requirements in Section 1.401(a)(9)-2 of the Income Tax Regulations. Any changes in the designation will be considered to be a revocation of the designation. However, the mere substitution or addition of another Beneficiary (one 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 in which an amount is transferred or rolled over from one plan to another plan, the rules in Q&A J-2 and Q&A J-3 shall apply.
14. **Rollovers to Other Qualified Plans.** If a Former Participant becomes a Participant in another qualified plan established by the employer for which he has become employed, the Trustee of this Plan, upon receipt of a written direction from the Administrative Committee, shall pay and transfer the vested portion of the Account of the Former Participant to such other qualified plans for the benefit of such Former Participant.
15. **Pre-Break Distributions.** Except as may be required under the provisions of Paragraph 13 of this Article, the Trustee shall not

J.P. MORGAN CLEARING CORP. PROTOTYPE DEFINED CONTRIBUTION PLAN

make distributions from the vested portion of a Participant's Account derived from Employer Contributions to such Participant before he has terminated employment.

- 16 **Direct Rollovers.** Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this Paragraph, a distributee may elect, at the time and in the manner prescribed by the Plan administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(a) **Definitions.**

- (i) **Eligible Rollover Distribution.** An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated Beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Code; any hardship distribution described in Section 401(k)(2)(B)(i)(IV) of the Code received after December 31, 1998; and the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities).
- (ii) **Eligible Retirement Plan.** An eligible retirement plan is an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, an annuity plan described in Section 403(a) of the Code or a qualified trust described in Section 401(a) of the Code that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.
- (iii) **Distributee.** A distributee includes an Employee or former Employee. In addition, the Employee's or former Employee's surviving spouse and the Employee's or former Employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code, are distributees with regard to the interest of the spouse or former spouse.
- (iv) **Direct Rollover.** A direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee.

ARTICLE VII.

THE TRUSTEE

1. **General Duties/Receipt of Funds.** The Trustee shall receive, hold, manage, convert, sell, exchange, invest, reinvest, disburse and otherwise deal with such contributions as may from time to time be made to the Trust, together with the income and profits therefrom, in the manner and for the uses and purposes contemplated by the Plan and herein authorized.
2. **Directions From Participant or Participant's Investment Advisor** The Trustee, if it acts in accordance with such written directions as may be given to it by the Participant or the Participant's investment advisor pursuant to the provisions of Article IV, Paragraphs 9 and 10, and if it complies with such instructions shall not be liable to anyone in any manner for any of the consequences of following such instructions.
3. **Investment and Management Powers.** Except as limited by Article IV, Paragraphs 9 and 10 and Article VII, Paragraphs 1 and 2, in the investment and management of the Fund the Trustee shall be vested with all such rights, powers and privileges as may be lawfully exercised by any person owning similar property in his own right, and without any limitation of this general grant of power, the Trustee is hereby specifically authorized and empowered:
- (a) To receive all rents, issues, income, profits and properties of every nature due the Trust and to hold or make distribution thereof in accordance with the terms of the Plan;
- (b) To retain any properties received by it or to dispose of them as and when it shall deem advisable, by public or private sale or exchange or otherwise, for cash or upon credit or partly for cash and partly upon credit and upon such terms and conditions as it shall deem most expedient;
- (c) To participate in any plan of liquidation, reorganization, consolidation, merger or other financial adjustment of any corporation or business in which the Trust is or shall be financially interested and to exchange any property held in the Trust for property issued under any such plan;
- (d) To invest or reinvest principal and income of the funds belonging to the Trust in such publicly traded common or

J.P. MORGAN CLEARING CORP. PROTOTYPE DEFINED CONTRIBUTION PLAN

preferred stocks, bonds, mortgages, notes or other securities or properties (including Qualified Employer Securities up to ten percent (10%) or, in the case of an "eligible individual account plan" as defined in Section 407(b)(1) of the Act, one-hundred percent (100%) of the fair market value of the assets of the Plan) as may from time to time be approved by the Trust Investment Committee or other similar committee of the Trustee, or to hold any part of such principal or income in cash; provided that no funds belonging to the Trust shall be invested in any Employer Security which is not a Qualified Security;

- (e) To hold any investment belonging to the Trust in bearer form or to register and hold the same in its name or in the name of its duly authorized nominee;
- (f) To compromise, arbitrate or otherwise adjust or settle claims in favor of or against the Trust;
- (g) To execute such deeds, leases, contracts, bills of sale, notes, proxies and other instruments in writing as the Trustee shall deem desirable or requisite in the proper administration of the Trust;
- (h) To vote, personally or by general or limited proxy, any shares of stock which may be held hereunder at any time, and similarly to exercise, personally, or by general or by limited power of attorney, any right appurtenant to any securities or other property held hereunder at any time;
 - (i) Any Declaration of Trust executed by the Trustee creating a common fund for employee benefit plans exempt from federal income taxation under the Code is incorporated herein by reference and made a part of this agreement. Notwithstanding any other provision of this agreement, the Trustee may cause any part or all of the monies and assets of this Trust, whether contributed heretofore or hereafter, to be co-mingled with the monies and assets of trusts created by others by causing such monies and assets to be invested as a part of the Funds created by any such Declaration of Trust, as amended, and the monies and assets of this Trust so added to any of said funds at any time shall be subject to all of the provisions of any such Declaration of Trust, as it is amended from time to time.

4. **Prohibited Acts.** Except as permitted by the Act or subsequent revisions thereto, the Trustee shall not:

- (a) Cause the Plan to engage directly or indirectly in any transaction which he knows or should know constitutes:
 - (i) Sale or exchange, or leasing, of any property between the Plan and a Party in Interest;
 - (ii) Lending of money or other extension of credit between the Plan and a Party in Interest;
 - (iii) Furnishing of goods, services or facilities between the Plan and a Party in Interest;
 - (iv) Transfer to, or use by or for the benefit of, a Party in Interest, of any assets of the Plan; or
 - (v) Acquire, on behalf of the Plan or holding in the Plan, any Employer Security or Employer Real Property in violation of Section 407 of said Act.
- (b) Deal with the assets of the Plan in its own interest or for its own account;
- (c) In its individual or any other capacity, act in any transaction involving the Plan on behalf of a party (or represent a party) whose interests are adverse to the interests of the Plan or the interests of its Participants or Beneficiaries; or
- (d) Receive any consideration for its own account from any party dealing with such Plan in connection with a transaction involving the assets of the Plan.

5. **Records.** The Trustee shall keep full and accurate records of the administration of the Trust estate and of all contributions received by it for inclusion in the Trust Fund.

6. **Fiscal Year/Statement of Accounts.** The fiscal year of the Trust shall end on the last day of the Plan Year, unless modified by the Company. The Trustee shall prepare annually a statement of its accounts and proceedings for the twelve (12) months preceding the end of the Fiscal Year; one such statement shall remain on file with the Trustee and duplicates thereof shall be transmitted to the Company and the Committee. The statement shall be prepared within a reasonable time after the end of the Company's taxable year and shall be available for inspection by all persons having an interest in the Trust and shall continue subject to inspection for a period of thirty (30) days after it is first made available. Each such statement shall state the resources and liabilities of, and income and expenditures from, the Fund as of the end of the Fiscal Year for which it was prepared.

7. **Privileges and Immunities.** The Trustee shall be entitled to the following privileges and immunities:

- (a) The Trustee shall act in respect to the Plan for the exclusive purpose of providing benefits to Participants and their Beneficiaries and defraying reasonable expenses of administering the Plan. In performing all duties the Trustee shall act with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent man acting in a like capacity

J.P. MORGAN CLEARING CORP. PROTOTYPE DEFINED CONTRIBUTION PLAN

and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, diversifying Plan investments unless it is prudent not to do so.

- (b) The Trustee shall be protected in acting upon any written instructions signed by an officer of the Company or by the Chairman or Vice Chairman and by the Secretary or Assistant Secretary of the Committee. The Trustee shall be entitled to rely upon the list of names and addresses of Participants, their respective retirement dates, benefit credits and other similar information furnished it by the Company or the Committee and shall be justified in taking all such action with reference thereto as the Company or the Committee may from time to time direct.
 - (c) Unless and until a written statement is filed by a Participant, Employee or Beneficiary differing with the Company or the Committee as to its determination of such person's status or length of participation, the Trustee will be justified in assuming that the information furnished and directions given it by the Company or the Committee are true and correct in all respects and in acting thereon. Unless and until all such controversies (of which notice has been given) between one or more Participants, or between a Participant or his Beneficiary and the Company or the Committee, or between any such parties and the Company shall be settled by negotiation or the decision of a court of competent jurisdiction, the Trustee shall not be required to act thereon.
 - (d) The Trustee shall not be liable or obligated to make any money payment to any Participant or his Beneficiary unless and until directed by the Company or the Committee to do so; and no such person, until such direction is given, shall have any vested right to demand or receive any part of the monies or credits comprising the Trust Fund, nor shall said Fund or any part thereof be subject to garnishment, attachment or other proceeding instituted by any creditor of a Participant or his Beneficiary unless otherwise required under Section 401(a)(13) of the Code.
 - (e) The Trustee shall not be obligated to pay any interest on monies paid to or deposited with and held by it pursuant to the provisions of this agreement.
 - (f) The Trustee shall be vested with the complete and absolute title to all Funds, securities and properties held in the Trust estate and shall possess each and every incident of ownership thereof. It may maintain in its own name all suits and actions which it deems necessary to recover or protect the Trust properties.
 - (g) The Trustee shall be fully protected in acting upon any instrument, certificate or document believed by it to be genuine. It shall not be liable for any error of judgment nor for any loss, depreciation or diminution of the Trust Fund except when due to its own willful or negligent action. No person dealing with the Trustee shall be required to inquire into its decision or authority or to see to the application by it of any Trust monies or properties.
 - (h) In the management of the Trust, the Trustee may employ agents or independent contractors and delegate to them such ministerial and limited discretionary duties as it shall deem expedient and the Trustee shall not be responsible for any loss occasioned by the act of any such agent or independent contractor, selected with reasonable care.
 - (i) The Trustee may consult with counsel of its own selection, and shall be fully protected in acting upon the advice of counsel. The Trustee may also consult with or employ actuaries, accountants or other expert assistants and shall be fully protected in acting upon their advice. The compensation or fees charged by all such persons for their services shall be deemed to be an expense of the administration of the Trust; provided, that no unusual expense of the above character shall be voluntarily incurred by the Trustee until it shall have first consulted, and obtained the approval of, the Company or the Committee with reference thereto.
 - (j) All real and personal property taxes, income taxes and other levies and assessments of every kind whatsoever which may be made under existing or future laws upon, or in respect of, the Trust hereby created, or any money, income or property forming a part thereof, and all expenses of administration of the Trust may be paid by the Trustee out of the principal or income of the Trust, as the Trustee in its discretion shall deem advisable, and the payment thereof, as well as the payment of all other costs, expenses or Compensation authorized by the Plan to be paid, shall be deemed to be for the exclusive benefit of the Trust and the Participants.
 - (k) The Trustee shall be bonded with such fiduciary bond as is required by the Act or by Regulations issued by the Secretary of Labor.
8. **Compensation.** The Trustee shall receive for its services as Trustee hereunder such Compensation as the Company and the Trustee shall agree upon; provided, however, if the Trustee or Co-Trustee is an Employee of the Company, he shall not receive any compensation for services rendered as Trustee. All Compensation of the Trustee shall be paid by the Company.
9. **Resignation and Removal.** The Trustee may resign at any time after thirty (30) days written notice to the Board and the Company may remove any Trustee after thirty (30) days written notice to the Trustee, and appoint a substitute Trustee or Trustees. In the event that any Trustee dies, resigns, is removed or for any other reason ceases to act, the vacancy so created may be filled by the

J.P. MORGAN CLEARING CORP. PROTOTYPE DEFINED CONTRIBUTION PLAN

Company. The Company shall not be required to fill a vacancy unless there are no remaining Trustees, in which case the Company shall appoint a Trustee so that at all times at least one Trustee shall be acting as such under the Plan. The number of Trustees acting from time to time under the Plan shall be vested with all the powers, privileges, duties, title and property of the original Trustee hereunder. Each successor Trustee appointed under this Paragraph shall be appointed in writing and upon such appointment shall be vested with all the powers, privileges, duties, title and property of the original Trustee hereunder.

10. **Borrowing Money.** With the express authorization of the Committee, the Trustee may borrow money for purposes of administration of the Trust and may execute promissory notes obligating the trust for the repayment thereof, and any other documents necessary, proper or convenient in connection therewith.
11. **Employee Investment Direction.** Anything contained in the foregoing provisions of this Article VII notwithstanding, a Participant, retired, Disabled or Terminated Employee, a Beneficiary of a deceased Participant or any other person who has an Account in the Plan shall exercise control over the investment of the assets in his Account.

ARTICLE VIII.

PARTICIPATION BY EMPLOYERS;

TERMINATION OR AMENDMENT OF PLAN

1. **Action by Company.** The Company shall evidence its adoption of this Prototype Defined Contribution Plan and Trust by appropriate action of its Board of Directors or other legally authorized governing person or persons.
2. **Procedure to Become a Participating Employer.** In order to adopt this Prototype Defined Contribution Plan and Trust, the Company shall execute an Adoption Agreement and designate a Trustee.
3. **Amendment of Adoption Agreement.** The Company may change elections in its Adoption Agreement by completing and executing a revised Adoption Agreement. The Company shall promptly submit copies of the revised Adoption Agreement to the Trustee and, if applicable, the Committee. The Trustee or Committee shall not be on notice of the contents thereof until a copy is actually received. Provided, however,
 - (a) No amendment shall increase the duties or liabilities of the Trustee or Committee without their written consent;
 - (b) No amendment shall deprive any Participant or Beneficiary of any accrued benefits;
 - (c) No amendment shall provide that Trust assets shall be used for purposes other than for the exclusive benefit of Participants and their Beneficiaries, or that Trust assets shall ever revert to or be used or enjoyed by the Company.
 - (d) No amendment shall retroactively deprive a Participant or a Beneficiary of any accrued benefits; provided further, however, that any amendment may be made retroactive which is necessary to qualify this Plan and Trust as a tax-exempt retirement plan;
 - (e) No amendment to the vesting schedule shall deprive a Participant of his nonforfeitable rights to benefits accrued to the date of the amendment. Further, if the vesting schedule of the Plan is amended, or the Plan is amended in any way that directly or indirectly affects the computation of a Participant's nonforfeitable percentage, each Participant with at least three (3) Years of Service with the Company may elect, within a reasonable period after the adoption of the amendment, to have his nonforfeitable percentage computed under the Plan without regard to such amendment. The period during which the election may be made shall commence with the date the amendment is adopted and shall end on the later of:
 - (i) sixty (60) days after the amendment is adopted;
 - (ii) sixty (60) days after the amendment becomes effective; or
 - (iii) sixty (60) days after the Participant is issued written notice of the amendment by the Company or Plan Administrator.
4. **Amendment and Restatement of Existing Plan.** An employer may adopt this Defined Contribution Plan and Trust as an amendment and restatement of any existing retirement plan qualifying under Section 401(a) of the Code and exempt from income taxation under Section 501(a) of the Code, provided that in so doing, such action does not violate the provisions of Article VIII, Paragraphs 3(b), (c), (d) or (e). If the Internal Revenue Service approves adoption of this Defined Contribution Plan and Trust as a comparable plan, such adoption shall not require termination of the previous qualified plan. All assets of the former plan and trust shall be subject to the provisions of this Defined Contribution Plan and Trust.
5. **Right to Amend Reserved.** The Sponsor reserves the right to amend this Plan and Trust and the Adoption Agreement at any time and from time to time. Any amendment, along with such information required by law, shall be promptly filed with the

J.P. MORGAN CLEARING CORP. PROTOTYPE DEFINED CONTRIBUTION PLAN

Commissioner of Internal Revenue. Any amendment shall be conditioned on receipt by the Sponsor of written approval by the Commissioner as to the form of the amendment. Within sixty (60) days of receipt of such written approval, the Sponsor shall send a copy of the amendment and the written approval by first class mail to the Company at the current address shown in the Sponsor's records. The Company shall promptly forward a copy of any such amendment to the Trustee and, if applicable, the Committee. The Committee and Trustee shall not be on notice of the contents of any amendments until a copy is actually received. Each Company delegates to the Sponsor authority to amend the Agreement and, unless the provisions of Article VIII, Paragraph 6 are followed, said Company shall be deemed to have consented to any such amendment. Provided, however,

- (a) No amendment shall increase the duties or liabilities of the Trustee or Committee without their written consent;
 - (b) No amendment shall deprive any Participant or Beneficiary of any accrued benefits;
 - (c) No amendment shall provide that Trust assets be used for purposes other than for the exclusive benefit of Participants or their Beneficiaries, or that any Trust assets shall ever revert to or be used or enjoyed by the Company until the Company's liabilities under this agreement are fulfilled; and
 - (d) No amendment shall retroactively deprive a Participant or any Beneficiary of any accrued benefit; provided, however, this agreement may be amended retroactively to qualify this Prototype Defined Contribution Plan and Trust as a tax-exempt retirement plan.
6. **Non-Acceptance by Company.** If the Company does not agree to any amendments by the Sponsor, it shall so advise the Sponsor, the Trustee, the Committee and the appropriate office of the Internal Revenue Service in writing within thirty (30) days of receipt of the mailing specified in Article VIII, Paragraph 5 and shall cease to be a participating employer under this Agreement. This Plan and Trust shall continue for the benefit of its Participants and the Company shall have all the rights previously reserved by the Sponsor. If the Company should change any provision of this agreement (other than a change of election in the Adoption Agreement in accordance with Article VIII, Paragraph 3), it shall cease to be eligible to be a Participating Employer under this agreement and shall thereafter have all the rights previously reserved by the Sponsor.
 7. **Voluntary Termination of Participation.** In the event the Company no longer desires to be a Participating Employer, the Company shall cease to be a Participating Employer after it has complied with the procedure outlined in Article VIII, Paragraph 6.
 8. **Failure to Qualify Plan.** If the Company's Plan and Trust fails to qualify under Section 401(a) of the Code, or if any elections made hereunder shall fail to qualify under Section 401(a) of the Code or shall fail to retain qualification under Section 401(a) of the Code, then such Company Plan shall no longer participate in this Plan and shall be considered an individually designed plan and the procedure outlined in Article VIII, Paragraph 6 shall be followed.
 9. **Automatic Termination of Plan.** This Plan shall terminate if the Company is legally dissolved, declared bankrupt or makes a general assignment for the benefit of its creditors.
 10. **Termination of Plan; Disposition of Assets Upon Termination.** The Company expressly reserves and shall have the right to terminate and cancel this Plan and to discontinue at any time making contributions thereto. Such termination shall become effective by filing with the Trustee a copy of a written instrument of such termination executed on behalf of the Company with the same formality as this instrument and shall be accompanied by a duly certified copy of the resolution of the Board of Directors or other legally authorized governing person or persons of the Company authorizing such termination and discontinuance. Upon receipt of such written instrument and resolution, the Trustee, after deducting the proportionate part of all expenses in connection with the administration and liquidation of the Trust, shall cause the amount then remaining to the credit of the Account of each Participant to be paid to him or his Beneficiary in like manner as has been heretofore provided in Article VI with respect to the settlement of Accounts of Participants who retire before, on, or after their Normal Retirement Date. In the event of complete termination of the Plan, the total of each Participant's Account shall vest in such Participant and be nonforfeitable as of the date of complete termination. In the event of partial termination of the Plan, the total of the Account of each Participant with respect to whom the Plan is partially terminated shall vest in such Participant and be nonforfeitable as of the date of partial termination.
 11. **Permanent Discontinuance of Contributions.** In the event that, prior to termination of the Plan under Article VIII, Paragraph 10, the Company permanently discontinues contributions under the Plan, the total amount of each Participant's Account shall vest in such Participant and be nonforfeitable as of the date of such discontinuance.
 12. **Change of Business Form.** In the event of the merger or consolidation of the Company with or into any other corporation, or in case substantially all (80% or more) of the assets of the Company, if it is a corporation, shall be transferred to another

J.P. MORGAN CLEARING CORP. PROTOTYPE DEFINED CONTRIBUTION PLAN

corporation, or upon the formation of a partnership by the Company if it was a sole proprietorship, or upon the creation of a new partnership by the Company if it was a partnership, or upon the incorporation of the Company, this Plan shall terminate on the effective date of such merger, consolidation, transfer or change of business form; provided, however, that (1) each Participant shall be entitled to a benefit following such merger, consolidation or transfer equal to the benefit to which the Participant would have been entitled if the Plan had terminated immediately prior to such merger, consolidation or transfer, and (2) such benefit shall be distributed as soon as administratively feasible. However, if the surviving transferee or new business organization shall have in effect, or shall then establish, a retirement plan for the benefit of its employees, or shall adopt this Plan, the assets of the Plan and Trust, with respect to Participants who shall be continued in the employ of the surviving, transferee or new business organization shall be transferred to the Trustee of the Trust of the surviving, transferee or new business organization.

13. **Plan Merger; Maintenance of Benefit.** In the event of a merger or consolidation with, or transfer of assets to, another plan, each Participant will receive a benefit immediately after such merger, etc. (if the Plan had terminated) which is at least equal to the benefit the Participant was entitled to immediately before such merger, etc. (if the Plan had terminated).

ARTICLE IX.

GENERAL PROVISIONS

1. **Termination of Employment.** No person, who may be at the time a Participant under this Plan, shall have any right because of such participation to be retained in the employment of the Company for any period of time. Any Employee whose employment has been terminated shall be deemed to be a new Employee upon re-employment except to the extent otherwise provided in Articles II and VI hereof.
2. **Payments Only as Provided in Plan.** No credit to any Account in the Fund shall be due or payable except at the times and in the manner and amounts and upon the terms and conditions set forth in the Plan, and then only to the Participant entitled thereto or his designated Beneficiary. No part of the assets of the Fund shall ever be liable for the debts of any Participant hereunder, and no Participant shall have any right to sell, assign, transfer, encumber or in any manner anticipate and dispose of his interest in the assets of the Fund or in any policies of insurance or annuity contracts held for his benefit or the benefit of his Beneficiary. The preceding sentence shall apply to the creation, assignment or recognition of a right to any benefit payable with respect to a Participant pursuant to a domestic relation order, except that the preceding sentence shall not apply if the order is determined to be a qualified domestic relation order as defined in Section 414(p) of the Code or any domestic relations order entered before January, 1985.
3. **No Reversion to Company; Exclusive Benefit.** Under no circumstances shall the Company have, assert, or claim any right, title or interest, of whatsoever nature, in the assets of the Fund, except as provided in Article III, Paragraph 5, nor shall any such assets under any circumstances ever revert to or become the property of the Company. The corpus, or income of, the Trust may not be diverted to, or used for, other than the exclusive benefit of the Participants or their Beneficiaries.
4. **Trustee Action Without Instructions.** If at any time the Company or the Board or the Committee shall be incapable, for any reason, of giving directions, instructions or authorizations to the Trustee as herein provided for, the Trustee may act and shall be protected in acting without such directions, instructions or authorizations as it, in its sole discretion, shall deem appropriate and advisable under the circumstances for the carrying out of the provisions of the Plan.
5. **Law Applicable to Trust.** The provisions of this instrument shall be construed, administered, and enforced according to the laws of the United States and, to the extent not inconsistent therewith, the laws of the State in which the principal office of the Trustee is located.
6. **Necessary Parties to Legal Action.** In any application to the courts, only the Company and the Trustee shall be necessary parties; and no person having an interest in the Trust shall be entitled to any notice or process. Any judgment entered in such an action or proceeding shall be conclusive upon all persons claiming an interest in or under the Trust.
7. **Liability of Company.** The Company shall not be liable for any acts performed with respect to this Plan, so long as any such act is performed in accordance with the terms of the Plan and consistent with the provisions of the Act.
8. **Employee Consent.** By remaining in the employ of the Company beyond the date of eligibility to participate in this Plan as provided in Article II hereof, each Employee of the Company agrees to comply with, and to be bound by, the terms and conditions of this Plan.

J.P. MORGAN CLEARING CORP. PROTOTYPE DEFINED CONTRIBUTION PLAN

9. **Compliance With Law.** If there should be any conflict between any provision of this Plan and any part or provision of the Act, any amendment thereto, or any other statute, law or governmental regulation, the contrary provisions of this Plan shall be deemed modified, but only to the extent necessary to bring the Plan within the requirements of law.
10. **Insurance Contracts.** Any insurance company issuing contracts to the Trustee may deal solely with such Trustee in all matters concerning such insurance contracts. No insurance company shall be responsible for determining the propriety under the terms of this Plan of any insurance contract; nor shall such company be deemed a party to this Plan by the sole reason of the sale of insurance or annuity contracts to this Plan. In the event of a conflict between the terms of any insurance contract or policy and the provisions of this Agreement, the provisions of this Agreement shall control.
11. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which will be deemed an original.

ARTICLE X.

TOP HEAVY ADMINISTRATION

1. **Top Heavy Plan Requirements.** For any Top Heavy Plan Year, the Plan shall provide the following:
 - (i) special vesting requirements of Section 416(b) of the Code pursuant to Article VI of the Plan;
 - (ii) special minimum allocation requirements of Section 416(c) of the Code pursuant to Article V of the Plan; and
 - (iii) prior to January 1, 2001, special Section 415 limit requirements of Section 416(h) of the Code pursuant to Article V of the Plan.

2. **Determination of Top Heavy Status.**

- (a) This Plan shall be a Top Heavy Plan for any Plan Year, in which, as of the Determination Date, any of the following conditions exist:
 - (i) If the Top-Heavy ratio for this Plan exceeds sixty percent (60%) and this Plan is not part of any Required Aggregation Group or Permissive Aggregation Group of plans.
 - (ii) If this Plan is a part of a Required Aggregation Group of plans but not part of a Permissive Aggregation Group and the Top-Heavy ratio for the group of plans exceeds sixty percent (60%).
 - (iii) If this Plan is a part of a Required Aggregation Group and part of a Permissive Aggregation Group of plans and the Top-Heavy ratio for the Permissive Aggregation Group exceeds sixty percent (60%).

Each plan of the Company required to be included in an Aggregation Group shall be treated as a Top Heavy Plan if such group is a Top Heavy Group. An Aggregation Group is a Top Heavy Group if, as of the Determination Date, the sum of (i) the present value of the cumulative accrued benefits of Key Employees under all defined benefit plans included in the group, and (ii) the aggregate of the accounts of Key Employees under all defined contribution plans included in such group, exceeds 60% of a similar sum determined for all Employees.

If any Employee is a Non-Key Employee for any Plan Year, but such Employee was a Key Employee for any prior Plan Year, such Employee's present value of accrued benefit and/or account balance shall not be taken into account for purposes of determining whether this Plan is a Top Heavy Plan (or whether any Aggregation Group which includes this Plan is a Top Heavy Group).

Accounts and the present value of accrued benefits of both Key Employees and all other Employees shall be determined in accordance with Section 416 of the Code and the Regulations thereunder. Furthermore, the accounts and the present value of accrued benefits of both Key Employees and all other Employees shall be adjusted 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 Section 416 of the Code and the Regulations thereunder.

- (b) This Plan or each plan of an Aggregation Group shall be a Super Top Heavy Plan for any Plan Year, if any such plan would be Top Heavy under Subparagraph (a) above if "90%" were substituted for "60%."
- (c) Account: For the purpose of determining whether this Plan is Top Heavy, a Participant's Account as of the Determination Date is the sum of:
 - (i) his Employee's Account balance as of the most recent valuation occurring within a twelve (12)-month period ending on the Determination Date;
 - (ii) an adjustment for any contributions due as of the Determination Date. Such adjustment shall be the amount of any

J.P. MORGAN CLEARING CORP. PROTOTYPE DEFINED CONTRIBUTION PLAN

contributions actually made after the Valuation Date but before the Determination Date, except for the first Plan Year when such adjustment shall also reflect the amount of any contributions made after the Determination Date that are allocated as of a date in that first Plan Year;

- (iii) any Plan distributions made within the Plan Year that includes the Determination Date or within the four (4) preceding Plan Years, including distributions made from a terminated plan, which if it had not been terminated, would have been required to be included in an Aggregation Group; However, in the case of distributions made after the Valuation Date and prior to the Determination Date, such distributions are not included as distributions for Top Heavy purposes to the extent that such distributions are already included in the Employee's Account balance as of the Valuation Date. Distributions made prior to January 1, 1984, will be counted. Notwithstanding the foregoing, if any individual has not been credited with at least one (1) Hour of Service with any employer maintaining the Plan at any time during the five (5)-year period ending on the Determination Date, any accrued benefit or account of such individual shall not be taken into account.
- (iv) any Employee Contributions, whether voluntary or mandatory. However, amounts attributable to tax deductible qualified deductible Employee Contributions shall not be considered to be a part of the Account balance;
- (v) with respect to unrelated rollovers and plan-to-plan transfers (ones which are both initiated by the Employee and made from a plan maintained by one company to a plan maintained by another company), if this Plan provides for rollovers or plan-to-plan transfers, it shall always consider such rollover or plan-to-plan transfer as a distribution for the purposes of this Section. If this Plan is the Plan accepting such rollovers or plan-to-plan transfers, it shall not consider such rollovers or plan-to-plan transfers as part of the Employee's Account balance; and
- (vi) with respect to related rollovers and plan-to-plan transfers (ones either not initiated by the Employee or made to a plan maintained by the same company), if this Plan provides the rollover or plan-to-plan transfer, it shall not be counted as a distribution for purposes of this Section. If this Plan is the Plan accepting such rollover or plan-to-plan transfer, it shall consider such rollover or plan-to-plan transfer as part of the Employee's Aggregate Account balance, irrespective of the date on which such rollover or plan-to-plan transfer is accepted.

All Account adjustments under this Subparagraph (c) of Paragraph 2 of Article X shall be made in accordance with Section 416 of the Code and the Regulations thereunder.

- (d) **"Aggregation Group"** means either a Required Aggregation Group or a Permissive Aggregation Group as hereinafter determined.
 - (i) **Required Aggregation Group:** In determining a Required Aggregation Group hereunder, each plan of the Company (regardless of whether the plan has terminated) in which a Key Employee participates or participated at any time during the determination period, and each other plan of the Company which enables any plan in which a Key Employee participates to meet the requirements of Sections 401(a)(4) or 410 of the Code, will be required to be aggregated.

In the case of a Required Aggregation Group, each plan in the group will be considered a Top Heavy Plan if the Required Aggregation Group is a Top Heavy Group. No plan in the Required Aggregation Group will be considered a Top Heavy Plan if the Required Aggregation Group is not a Top Heavy Group.
 - (ii) **Permissive Aggregation Group:** The Company may also include any other plan not required to be included in the Required Aggregation Group, provided the resulting group, taken as a whole, would continue to satisfy the provisions of Sections 401(a)(4) or 410 of the Code. Such group shall be known as a Permissive Aggregation Group.

In the case of a Permissive Aggregation Group, only a plan that is part of the Required Aggregation Group will be considered a Top Heavy Plan if the Permissive Aggregation Group is a Top Heavy Group. No plan in the Permissive Aggregation Group will be considered a Top Heavy Plan if the Permissive Aggregation Group is not a Top Heavy Group.
 - (iii) Only those plans of the Company in which the Determination Dates fall within the same calendar year shall be aggregated in order to determine whether such plans are Top Heavy Plans.
- (e) **Present Value of Accrued Benefit:** In the case of a defined benefit plan, an Employee's Present Value of Accrued Benefit shall be based only on the interest and mortality rates specified in the Adoption Agreement.
- (f) **Top-Heavy Ratio:**
 - (i) If the Employer maintains one or more defined contribution plans (including any Simplified Employee Pension

J.P. MORGAN CLEARING CORP. PROTOTYPE DEFINED CONTRIBUTION PLAN

Plan) and the Employer has not maintained any defined benefit plan which during the five (5) year period 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 five (5) year period ending on the Determination Date(s)), and the denominator of which is the sum of all account balances (including any part of any Account balance distributed in the five (5)-year period ending on the Determination Date(s)), both computed in accordance with Section 416 of the Code 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 Section 416 of the Code and the Regulations thereunder.

- (ii) 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 five (5)-year period 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 (i) 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 Section 416 of the Code 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 five (5)-year period ending on the Determination Date.
- (iii) For purposes of (i) and (ii) 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 twelve (12) month period ending on the Determination Date, except as provided in Section 416 of the Code and 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 (1) Hour of Service with any Employer maintaining the Plan at any time during the five (5) year period 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 Section 416 of the Code 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 calendar 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 Section 411(b)(1)(C) of the Code.

IN WITNESS WHEREOF, the Participating Employer, the Sponsor and the Trustee have caused this Agreement to be adopted by executing the Adoption Agreement pursuant to due authority.

THIS PLAN DOCUMENT IS DESIGNATED AS BASIC PLAN DOCUMENT NUMBER 01.

MONEY PURCHASE PENSION PLAN ADOPTION AGREEMENT

ADOPTION AGREEMENT J.P. MORGAN CLEARING CORP. PROTOTYPE MONEY PURCHASE PENSION PLAN AND TRUST

WHEREAS, J.P. MORGAN CLEARING CORP., (HEREINAFTER SOMETIMES REFERRED TO AS "The Sponsoring Organization"), has created the J.P. MORGAN CLEARING CORP. PROTOTYPE MONEY PURCHASE PENSION PLAN AND TRUST (hereinafter referred to as "Prototype Money Purchase Pension Plan and Trust") under which Participating Employers may provide retirement and incidental death benefits for the exclusive benefit of their Participants;

NOW, THEREFORE, in order to provide retirement and incidental death benefits for those Employees who become Participants, the undersigned hereby makes application to J.P. MORGAN CLEARING CORP. for approval as a Participating Employer under said PROTOTYPE MONEY PURCHASE PENSION PLAN AND TRUST and agrees to assume all obligations thereunder and to be bound by all terms thereof as if it had itself created the PROTOTYPE MONEY PURCHASE PENSION PLAN AND TRUST, with the following additions and modifications elected in this Adoption Agreement. In making elections in this Adoption Agreement, the Participating Employer shall elect only options which are set forth herein.

The Participating Employer understands that the failure to properly fill out the Adoption Agreement may result in the disqualification of the Prototype Money Purchase Pension Plan and Trust. The Sponsoring Organization will inform the Participating Employer of any amendments made to the Plan or of the discontinuance or abandonment of the Prototype Money Purchase Pension Plan and Trust.

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MONEY PURCHASE PENSION PLAN ADOPTION AGREEMENT

COMPLETE THE FOLLOWING WITH TYPEWRITER OR BLACK INK ONLY:

1. A. **Participating Employer Name & Address:** _____

B. **Form of Organization (Check One):**

Sole Proprietorship Partnership LLC Corporation

2. **Trustee: Name & Address:**

3. **Name of Plan:** _____

MONEY PURCHASE PENSION PLAN AND TRUST (Repeat Name of Participating Employer indicated in 1.) under PROTOTYPE MONEY PURCHASE PENSION PLAN AND TRUST

4. **Status of Plan:**

- A. () This is a newly adopted Plan.
- B. () This is a revised Adoption Agreement to the J.P. MORGAN CLEARING CORP. PROTOTYPE MONEY PURCHASE PENSION PLAN AND TRUST, which was adopted effective as of _____.
- C. () This is an amendment and restatement to the _____, which was adopted effective as of _____.

5. **Sponsoring Organization:**

J.P. MORGAN CLEARING CORP. 1
MetroTech Center North Brooklyn, New York
11201-3859 (347) 643-9603

6. **This Adoption Agreement is to be used in conjunction with Basic Plan Document 01.**

This Adoption Agreement is designated as Adoption Agreement number 002.

PART I DEFINITIONS

1. "Effective Date"(complete A, B or C as appropriate):
- A. () Newly Adopted Plan: The Effective Date shall be the _____ day of _____, 2_____.
 - B. () Amended and Restated Plan: The original Effective Date of this Plan was the _____ day of _____, 2_____. This amendment and restatement is adopted effective the _____ day of _____, 2_____.

MONEY PURCHASE PENSION PLAN ADOPTION AGREEMENT

- C. () Plan amended and restated pursuant to the following Acts: Uruguay Round Agreement Act ("GATT"), the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA"), the Small Business Job Protection Act of 1996 ("SBJPA"), and the Taxpayer Relief Act of 1997, which Acts are collectively referred to as "GUST." The effective dates of amendments to comply with the GUST Acts are the dates stated in the Acts.

Note: The Effective Date is the first day of the Plan Year.

The Effective Date may pre-date the date on which the Adoption Agreement is executed.

2. "**Compensation**" shall mean all of each Participant's:

- A. () W-2 earnings
B. () Compensation as defined in Section 415(c)(3) of the Code

WHICH IS ACTUALLY PAID DURING:

- C. () The Plan Year
D. () The taxable year ending with or within the Plan Year
E. () The Limitation Year ending with or within the Plan Year

BUT EXCLUDING (optional - elect one or more or none)

F. () Overtime

G. () Bonuses

H. () Commissions

- I. () Any amount which is contributed by the Employer pursuant to a salary reduction agreement and which is not includable in the gross income of the Employee under Sections 125, 402(e)(3), 402(h)(1)(B), 403(b) or, effective for years beginning on and after January 1, 2001, or, if earlier, the first year beginning on or after January 1, 1998, during which the Plan was operated to exclude such elective amounts, Section 132(f)(4) of the Code.

3. "**Compensation**" for the purposes of determining Annual Additions shall mean (elect one (1) method only):

A. () The method specified in Article V, Paragraph 7(e)

B. () Information required to be reported under Sections 6041, 6051, and 6052 of the Code (wages, tips and other compensation as reported on Form W-2). Compensation is defined as wages within the meaning of Section 3401(a) and all other payments of compensation to an Employee by the Employer (in the course of the Employer's trade or business) for which the Employer is required to furnish the Employee a written statement under Sections 6041(d), 6051(a)(3) and 6052. Compensation must be determined without regard to any rules under Section 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Section 3401(a)(2)).

C. () Section 3401(a) wages. Compensation is defined as wages within the meaning of Section 3401(a) for the purposes of income tax withholding at the source but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Section 3401(a)(2)).

4. "**Hours of Service**" shall be determined on the basis of the method selected below (elect one (1) method only):

A. () On the basis of actual hours for which an Employee is paid or entitled to payment.

B. () On the basis of days worked. An Employee shall be credited with 10 Hours of Service if under Article I, Paragraph 34 such Employee would be credited with at least 1 Hour of Service during the day.

C. () On the basis of weeks worked. An Employee shall be credited with 45 Hours of Service if under Article I, Paragraph 34 such Employee would be credited with at least 1 Hour of Service during the week.

D. () On the basis of semi-monthly payroll periods. An Employee shall be credited with 95 Hours of Service if under Article I, Paragraph 34 such Employee would be credited with at least 1 Hour of Service during the semi-monthly payroll period.

E. () On the basis of months worked. An Employee shall be credited with 190 Hours of Service if under Article I, Paragraph 34 such Employee would be credited with at least 1 Hour of Service during the month.

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MONEY PURCHASE PENSION PLAN ADOPTION AGREEMENT

5. **"Adjustment Date"**: The ____ day of the month of _____ in each year.
() Optional. The Plan Year following the ____ day of _____, 2 ____ and shall end on the ____ day of _____, 2 ____ and such date shall become the Adjustment Date of the Plan.
6. **"Valuation Date"**: The ____ day of _____ each Plan Year (the date used for applying "Top Heavy" rules).
7. **"Highly Compensated Employee"**: Highly Compensated Employees may be determined using the definition in the Plan or by using one or both of the following optional methods (check one or both):
() In determining who is a Highly Compensated Employee, the Employer makes a top-paid group election. The effect of this election is that an Employee (who is not a five-percent (5%) owner at any time during the determination year or the look-back year) with compensation in excess of \$80,000 (as adjusted) for the look-back year is a Highly Compensated Employee only if the Employee was in the top-paid group for the look-back year.
() In determining who is a Highly Compensated Employee (other than as a five-percent (5%) owner), the Employer makes a calendar year data election. The effect of this election is that the look-back year is the calendar year beginning with or within the look-back year.
8. **"Limitation Year"**: The Limitation Year shall be:
() The Plan Year
() Other: _____

PART II

ELIGIBILITY REQUIREMENTS AND ENTRY DATE

1. **Service and Age Requirements** (Article II) (elect one or more of A, B or C):
- A. () Any Employee on the Effective Date who has attained age _____. (If elected, this option applies only on the Effective Date of the Plan.)
- B. () An Employee who has completed ____ Year(s) of Service (not more than two). If the Year(s) of Service selected is or includes a fractional year, an Employee shall receive credit for such year without regard to Hours of Service. If the maximum of two (2) Years of Service is chosen, Option A in Part IV, Section 1 ("Immediate Vesting") must be selected.
- C. () An Employee who has attained age _____.
- NOTE: (1) If Succeeding Anniversary Entry Date is selected under Paragraph 2 of Part II, then the service and age requirements must not exceed:
- (a) Age 20½
 - (b) 1½ years if the Employee has an immediate nonforfeitable right to 100% of his or her Account derived from Company contributions, or
 - (c) 1 year otherwise
- (2) If Nearest Anniversary Entry Date or Preceding Anniversary Entry Date is selected under Paragraph 2 of Part II, then the service and age requirements must not exceed:
- (a) Age 21
 - (b) 2 years if the Employee has an immediate nonforfeitable right to 100% of his or her Account derived from Company contributions, or
 - (c) 1 year otherwise
- (3) If the service requirement selected is less than one year, each Employee who has been employed for the specified period shall be deemed to have completed the service requirements regardless of the number of Hours of Service actually performed.
- D. Years of Service With Other Employer(s). For purposes of determining Years of Service for eligibility and participation, Years of Service with previous employers shall be credited as follows:
- (1) () None
 - (2) () Years of Service with any predecessor of the Company

MONEY PURCHASE PENSION PLAN ADOPTION AGREEMENT

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(3) () Years of Service with the following Employer(s)

E. Collective Bargaining Agreements. Employees who are covered by a collective bargaining agreement between the Company and Employee Representatives:

(1) () Shall be allowed to participate in the Plan.

(2) () Shall not be allowed to participate in the Plan.

NOTE: Employees may be excluded under this Paragraph only if retirement benefits were the subject of good faith bargaining. For this purpose, the term "Employee Representatives" does not include any organization more than half of whose members are Employees who are owners, officers or executives of the Employer.

F. Nonresident Aliens. Employees who are nonresident aliens and who have no U.S. source income:

(1) () Shall be allowed to participate in the Plan.

(2) () Shall not be allowed to participate in the Plan.

2. "**Entry Date**" (elect one):

A. () The first day of each month

B. () The first day of each of the following months:

_____ (Specify the first month of the Plan Year.)

_____ (Specify the seventh month of the Plan Year.)

C. () Succeeding Anniversary Entry Date. The first day of the Plan Year (or the Effective Date) coincident with or next following the date on which the employee fulfills the Service and Age Requirements specified in Paragraph 1 of Part II of the Adoption Agreement.

D. () Preceding Anniversary Date. The first day of the Plan Year (or the Effective Date) next preceding the date on which the Employee fulfills the Service and Age Requirements specified in Paragraph 1 of Part II of the Adoption Agreement.

E. () Nearest Anniversary Entry Date. The first day of the Plan Year (or the Effective Date) nearest to the date on which the Employee fulfills the Service and Age Requirements specified in Paragraph 1 of Part II of the Adoption Agreement.

F. () Other: _____. In no event will such date be later than the earlier of the following times: (1) the first day of the Plan Year beginning after the date on which the Employee satisfied any applicable minimum age and service requirements, or (2) the day six months after the date on which the Employee satisfied such requirements.

3. "**Eligibility Computation Period**": The initial eligibility computation period shall commence on the twelve (12)-consecutive-month period beginning on the date the Employee first performs an Hour of Service with the Employer, in accordance with Article I, Paragraph 44. Each succeeding eligibility computation period shall be (elect one):

A. () Plan Year

B. () Twelve (12)-consecutive-month period beginning with the date on which an Employee performed his first Hour of Service and each consecutive twelve (12)-month period thereafter

PART III

CONTRIBUTIONS AND ALLOCATIONS

1. "**Employer Contributions**" (Article III) (elect one):

A. () NONINTEGRATED PLAN

The Annual Contribution shall be _____% (not to exceed 25%) of the Annual Compensation of all Participants in the Plan on the last day of the Plan Year.

B. () PLANS INTEGRATED WITH SOCIAL SECURITY

(1) EMPLOYER CONTRIBUTIONS (Article III):

(a) The Annual Contribution by the Employer shall be the sum of _____% ("Base Percent," not less

DETACH HERE

MONEY PURCHASE PENSION PLAN ADOPTION AGREEMENT

than 3%) of his Annual Compensation for the Plan Year, plus _____% ("the Integration Percent") of Excess Compensation. The Integration Percent for any Plan Year may not exceed the Base Percent by more than the lesser of: (i) the Base Percent, or (ii) the Integration Percent. The Base Percent shall include any amounts contributed pursuant to Paragraph 6.A below.

(b) Excess Compensation shall be:

1. () Compensation in Excess of \$_____ (must be an amount below the Current Taxable Wage Base)
2. () Compensation in Excess of _____% (not to exceed 100%) of the Current Taxable Wage Base
3. () The Current Taxable Wage Base

NOTE: I. The Integration Level may be below the Current Taxable Wage Base ("CTWB"). If the Integration Level is:

More Than	But Not More Than	The Applicable Integration Percent Is:
\$0	\$X*	5.7%
\$X*	80% of CTWB	4.3%
80% of CTWB	Y**	5.4%

*X = the greater of \$10,000 or 20% of the CTWB

**Y = any amount more than 80% of the CTWB but less than 100% of the CTWB

CTWB = Current Taxable Wage Base

If the Integration Level used is equal to the CTWB, the applicable Integration Percent is 5.7%. The percentages shown in the table above shall be adjusted as permitted by the Secretary of the Treasury under Section 401(l) of the Code. If the Integration Level exceeds 80% of the CTWB (not in excess of the CTWB), then the Integration Percent may not exceed 5.4%.

II. The maximum Integration Percent with respect to Excess Compensation is the percentage allowed by the Secretary of the Treasury for the Plan Year under Section 401(1) of the Code (5.7% for Plan Year beginning in 2000).

(2) Employer Contributions (Article III) for Plan Years beginning before January 1, 1989. (State contribution formula that was used prior to the adoption of this Agreement):

NOTE: This Paragraph must be completed if this is a restated Plan and contributions for Plan Years beginning in 1987 or 1988 were integrated with Social Security.

2. **Employee and Employer Matching Contributions** (Article III): Employee contributions by Participants and matching contributions by the Employer are not permitted.
3. **Forfeiture Allocation Formula:** At each Anniversary Date, all sums or benefits forfeited by Terminated Employees during the year shall be determined, and such forfeited amounts shall be (select A or B):
 - A. () Applied to reduce the Employer Contributions for the Plan Year in which such Adjustment Date occurs.
 - B. () Allocated among the Participants based upon the ratio of each Participant's Compensation to the Compensation of all Participants.
4. **Maximum Annual Allocation** (Article V): In no event shall any Annual Addition allocated to a Participant's Employer Contribution and Forfeiture Account exceed the limitation under Article V, Paragraph 7. If the Company maintains this Plan and another plan which is a qualified defined contribution plan other than a master or prototype plan, Annual Additions allocated under this Plan to any Participant's Account shall be limited in accordance with Article V, Paragraph 7 or with the following provisions (may be included in lieu of the allocation provisions of Article V, Paragraph 7):

(ATTACH A STATEMENT ONLY IF AN ALTERNATE METHOD IS USED.)

MONEY PURCHASE PENSION PLAN ADOPTION AGREEMENT

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5. **Allocation of Company Contributions and Forfeitures:** Company contributions for each Plan Year shall be allocated among the accounts of the following Participants (Elect one.):

- A. All Participants who participated in the Plan during the Plan Year for which the contribution is made
- B. Only Participants who either (i) are still in the employ of the Company on the last day of the Plan Year for which the contribution is made, or (ii) complete at least 501 Hours of Service during the Plan Year
- C. Participants who either (i) are still in the employ of the Company on the last day of the Plan Year for which the contribution is made, or (ii) complete at least 501 Hours of Service during the Plan Year or (iii) retire on or after their Normal Retirement Age, become disabled or die during the Plan Year

Note: The term "company contribution" shall include forfeitures if Paragraph 3.B. of this Part III is selected.

6. **Top Heavy Minimum:** In the event this Plan becomes Top Heavy, the minimum required contributions or benefits on behalf of each Participant:

- A. Shall be provided under this Plan,
 - (1) and shall equal the minimum prescribed in the Plan.
 - (2) and shall equal _____ % of Compensation (may not be less than the minimum prescribed in the Plan).
- B. Shall be provided under another qualified plan maintained by the Company, in which the Participant in this Plan participates. However, if for any reason any Participant does not receive the required minimum contribution or benefit in the other plan, that Participant will receive the required minimum contribution in this Plan.

7. **Waiver of Funding Deficiency:**

In the event the Company obtains a waiver of funding deficiency pursuant to Section 412(d) of the Code and Section 303 of the Employee Retirement Income Security Act of 1974, the Company shall adopt and add provisions to the Plan which provide for operation of the Plan when it has a waived funding deficiency. The Company may not participate in the Master & Prototype Program if a waiver is obtained. See Revenue Ruling 78-223 for rules concerning contributions required to liquidate the deficiency and allocations of waiver payments. The provision should be inserted as part of this Part III.

8. **Interest and Mortality Rates for Computing Defined Benefit Present Value:**

For the purpose of computing the present value of a Defined Benefit Plan accrued benefit under Article X, Paragraph 2(e), the following shall be used:

Interest Rate: _____

Mortality Table: _____

(Answer only if a Defined Benefit Plan is specified in Paragraph 6.B above.)

PART IV

DISTRIBUTIONS AND VESTING

1. **Vested Interest in Employer Contribution and Forfeiture Account**

(elect A, B, C, D or E):

- A. Immediate Vesting: 100% immediately
- B. 5-Year Vesting: None prior to completion of five (5) years of service. 100% upon completion of five (5) years of service.
- C. 7-Year Graded Vesting

Years of Service	Vested Percentage
0-2	0
3	20%
4	40%
5	60%
6	80%
7 and over	100%

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MONEY PURCHASE PENSION PLAN ADOPTION AGREEMENT

D. () Top Heavy Vesting	
Years of Service	Vested Percentage
0-1	0
2	20%
3	40%
4	60%
5	80%
6 and over	100%

E. () Other: _____

(The vesting schedule cannot be slower than the schedule in B and C above.)

2. **Vesting and Participation Computation Period** shall mean (elect A or B):

A. () Plan Year

B. () Twelve (12)-consecutive-month period beginning with the date on which an Employee performed his first Hour of Service and each consecutive twelve (12)-month period thereafter.

3. **Minimum Vested Interest:**

A Participant shall be 100% vested at all times in the value of his Employee Contribution Account, Rollover Account and amounts transferred to this Plan on his behalf from a predecessor plan, if any.

4. **Limitations:**

A. Forfeiture of Benefits:

There shall be no forfeiture of vested benefits.

B. Disregarded Years of Service (Optional; 1 and/or 2 or 3 may be elected.):

(1) () A Participant's Years of Service with the Company prior to his attaining age 18 (age 22 for Plan Years beginning before January 1, 1985) shall be disregarded for purposes of calculating his vested interest.

(2) () A Participant's Years of Service with the Company during any period for which the Company did not maintain this Plan or any predecessor plan shall be disregarded for purposes of calculating his vested interest.

(3) () None

5. **Loans To Participants:**

A. () Loans to Participants are not permitted.

B. () Loans to Participants are permitted. Such loans shall be made in accordance with the limitations and requirements set forth in Paragraph 12 of Article VI. (The Department of Labor requires the adoption of a separate written loan program setting forth the requirements under Department of Labor Regulations 2550.408(b) for Participant loans.)

6. **Distribution to Terminated Participant of Vested Interest in Employer Contribution and Forfeiture Account:** (Article VI) (elect one):

A. () Distribution of a Terminated Participant's vested interest shall not commence until he has incurred a One Year Break in Service. (See Article VI, Paragraph 4 for rules for determining an individual's accrued benefit.)

B. () Distribution of a Terminated Participant's vested interest shall commence upon termination of employment. (See Article VI, Paragraph 4 for rules for determining an individual's accrued benefit.)

C. () Distribution of a Terminated Participant's vested interest shall not commence until he has incurred five (5) consecutive One Year Breaks in Service. (See Article VI, Paragraph 4 for rules for determining an individual's accrued benefit.)

Note: Such distribution shall commence as soon as practicable after the elected distribution event.

7. **"Normal Retirement Age" and "Normal Retirement Date"**

A. Normal Retirement Age. Normal Retirement Age shall be:

() Age _____ (not to exceed 65)

() The later of age _____ (not to exceed 65) or the year in which the Participant completes _____ (not to exceed 5) years of participation; provided, however, in no event shall the Normal Retirement Age exceed any mandatory age imposed by the Company

MONEY PURCHASE PENSION PLAN ADOPTION AGREEMENT

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B. Normal Retirement Date. Normal Retirement Date shall be (Elect one.):

- () The date on which a Participant attains Normal Retirement Age
- () The Adjustment Date coincident with or next succeeding Normal Retirement Age

8. **Pre-Break Distributions** (Article VI, Paragraph 15):

Participants may not withdraw any part of the vested portion of their Employer Contribution and Forfeiture Account.

9. **Years of Service With Other Employers:**

For the purposes of determining years of service for vesting, Years of Service with previous employers shall be credited as follows:

- A. () None
- B. () Years of Service with any predecessor of the Company
- C. () Years of Service with the following employer(s):

10. **The required date on which distributions must begin for a Plan Participant is** (select one):

- A. () The April 1 of the calendar year following the calendar year in which the Participant attains age 70½ .
- B. () The April 1 of the calendar year following the calendar year in which the Participant attains age 70½ , except that benefit distributions to a Participant (other than a five percent (5%) owner) with respect to benefits accrued after the later of the adoption or Effective Date of the amendment to the Plan must commence by the later of the April 1 of the calendar year following the calendar year in which the Participant attains age 70½ or retires.
- C. () 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 benefit distributions to a five percent (5%) owner must commence by the April 1 of the calendar year following the calendar year in which the Participant attains age 70½ . (Also select (1), (2), and/or (3), whichever is applicable. Option (3) must be selected to the extent that there would otherwise be an elimination of a preretirement age 70½ distribution option for Employees older than those listed above.)
 - (1) () Any Participant attaining age 70½ in years after 1995 may elect by April 1 of the calendar year following the year in which the Participant attained age 70½ , (or by December 31, 1997, in the case of a Participant attaining age 70½ in 1996) to defer distributions until the calendar year following the calendar year in which the Participant retires. If no such election is made, the Participant will begin receiving distributions by the April 1 of the calendar year following the year in which the Participant attained age 70½ (or by December 31, 1997, in the case of a Participant attaining age 70½ in 1996).
 - (2) () Any Participant attaining age 70½ in years prior to 1997 may elect to stop distributions and recommence by the April 1 of the calendar year following the year in which the Participant retires. There is either (select one):
 - (i) () a new annuity starting date upon recommencement, or
 - (ii) () no new annuity starting date upon recommencement.
 - (3) () The preretirement age 70½ distribution option is only eliminated with respect to Employees who reach age 70½ in or after a calendar year that begins after the later of December 31, 1998, or the adoption date of the amendment. The preretirement age 70½ distribution option is an optional form of benefit under which benefits payable in a particular distribution form (including any modifications that may be elected after benefit commencement) commence at a time during the period that begins on or after January 1 of the calendar year in which an Employee attains age 70½ and ends April 1 of the immediately following calendar year.

11. **Form of Benefit:** Benefits shall be paid in accordance with (elect one):

- A. () Paragraphs 6(a)-(i) of Article VI (annuities)
- B. () Paragraph 6(j) of Article VI (no annuities)

Note: 11.B CANNOT be elected if this Plan is an amendment to a pre-existing Plan which provided a life annuity as a form of benefit.

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MONEY PURCHASE PENSION PLAN ADOPTION AGREEMENT

PART V

ADMINISTRATIVE

Any election in PART V may be changed from time to time by the Company by notifying the Trustee and the Administrative Committee in writing.

Administrative Committee (Article IV) (Indicate at least one Member.) (This provision is optional.):

The Administrative Committee shall consist of the following individual(s):

Directed Investments (Article VII, Paragraph 11): It is the intention of this Plan that, subject to the provisions of Article VII of the Plan, each Participant shall direct and specify the investment of all contributions made on his behalf and earnings thereon under the Plan. Such directions shall be limited to publicly traded securities obtainable in agency transactions through the Sponsor and other lawful investments which are administratively acceptable to the Sponsor. The Trustee shall retain earnings on any securities for reinvestment in accordance with the instructions of the Participant.

In order to obtain reliance with respect to Plan qualification, the Participating Employer must apply to Employee Plans Determinations of the Internal Revenue Service for a determination letter. The Participating Employer which adopts this Prototype Money Purchase Pension Plan and Trust may not rely on an opinion letter issued by the National Office of the Internal Revenue Service as evidence that this Plan is qualified under Section 401 of the Code.

The undersigned Participating Employer hereby adopts this Plan and joins J.P. MORGAN CLEARING CORP. PROTOTYPE MONEY PURCHASE PENSION PLAN AND TRUST, subject only to the acceptance by the Trustee and the Sponsor.

IN WITNESS WHEREOF, the Participating Employer, the Trustee and the Sponsor have caused this Adoption Agreement to be executed this ____ day of _____, 2____.

PARTICIPATING EMPLOYER:

(Corporation)

(Partnership or Proprietorship)

(Limited Liability Company)

(Name of Participating Employer)

By: _____

(Signature and Title)

SPONSOR:

J.P. MORGAN CLEARING CORP.

By: _____

(Signature and Title)

TRUSTEE:

(Name of Trustee)

By: _____

(Signature and Title)

*ADOPTION AGREEMENT
J.P. MORGAN CLEARING CORP.
PROTOTYPE PROFIT SHARING PLAN AND TRUST*

WHEREAS, J.P. MORGAN CLEARING CORP., (HEREINAFTER SOMETIMES REFERRED TO AS "The Sponsoring Organization"), has created the J.P. MORGAN CLEARING CORP. PROTOTYPE PROFIT SHARING PLAN AND TRUST AGREEMENT (hereinafter referred to as "Prototype Profit Sharing Plan and Trust") under which Participating Employers may provide retirement and incidental death benefits for the exclusive benefit of their Participants;

NOW, THEREFORE, in order to provide retirement and incidental death benefits for those Employees who become Participants, the undersigned hereby makes application to J.P. MORGAN CLEARING CORP. for approval as a Participating Employer under said PROTOTYPE PROFIT SHARING PLAN AND TRUST and agrees to assume all obligations thereunder and to be bound by all terms thereof as if it had itself created the PROTOTYPE PROFIT SHARING PLAN AND TRUST, with the following additions and modifications elected in this Adoption Agreement. In making elections in this Adoption Agreement, the Participating Employer shall elect only options which are set forth herein.

The Participating Employer understands that the failure to properly fill out the Adoption Agreement may result in the disqualification of the Prototype Profit Sharing Plan and Trust. The Sponsoring Organization will inform the Participating Employer of any amendments made to the Plan or of the discontinuance or abandonment of the Prototype Profit Sharing Plan and Trust.

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PROFIT SHARING PLAN ADOPTION AGREEMENT

COMPLETE THE FOLLOWING WITH TYPEWRITER OR BLACK INK ONLY:

1. A. **Participating Employer Name & Address:** _____

B. **Form of Organization (Check One):**

Sole Proprietorship Partnership LLC Corporation

2. **Trustee: Name & Address:**

3. **Name of Plan:** _____ PROFIT SHARING PLAN AND TRUST (Repeat Name of Participating Employer indicated in 1.)

4. **Status of Plan:**

- A. () This is a newly adopted Plan.
- B. () This is a revised Adoption Agreement to the J.P. MORGAN CLEARING CORP. PROTOTYPE PROFIT SHARING AND TRUST, which was adopted effective as of _____
- C. () This is an amendment and restatement to the _____

_____ which was adopted effective as of _____.

5. **Sponsoring Organization:**
J.P. MORGAN CLEARING CORP.
1 MetroTech Center North
Brooklyn, New York 11201-3859
(347) 643-9603

6. **This Adoption Agreement is to be used in conjunction with Basic Plan Document 01.**
This Adoption Agreement is designated as Adoption Agreement number 001.

PART I DEFINITIONS

1. **“Effective Date”**(complete A, B or C as appropriate):
- A. () Newly Adopted Plan: The Effective Date shall be the _____ day of _____, _____.
 - B. () Amended and Restated Plan: The original Effective Date of this Plan was the _____ day of _____, _____.
This amendment and restatement is adopted effective the _____ day of _____, _____.
 - C. () Plan amended and restated pursuant to the following Acts: Uruguay Round Agreement Act (“GATT”), the Uniformed Services Employment and Reemployment Rights Act of 1994 (“USERRA”), the Small Business Job Protection Act of 1996 (“SBJPA”), and the Taxpayer Relief Act of 1997, which Acts are collectively referred to as “GUST.” The effective dates of amendments to comply with the GUST Acts are the dates stated in the Acts.

Note: The Effective Date is the first day of the Plan Year. The Effective Date may pre-date the date on which the Adoption Agreement is executed.

PROFIT SHARING PLAN ADOPTION AGREEMENT

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2. **"Compensation,"** in general, shall mean all of each Participant's:
- A. W-2 earnings
 - B. Compensation as defined in Section 415(c)(3) of the Code
- WHICH IS ACTUALLY PAID DURING:
- C. The Plan Year
 - D. The taxable year ending with or within the Plan Year
 - E. The Limitation Year ending with or within the Plan Year
- BUT EXCLUDING (optional - elect one or more or none):
- F. Overtime
 - G. Bonuses
 - H. Commissions
 - I. Any amount which is contributed by the Employer pursuant to a salary reduction agreement and which is not includible in the gross income of the Employee under Sections 125, 402(e)(3), 402(h)(1)(B), 403(b) or, effective for years beginning on and after January 1, 2001, or, if earlier, the first year beginning on or after January 1, 1998, during which the Plan was operated to exclude such elective amounts, Section 132(f)(4) of the Code.
3. **"Compensation"** for the purposes of determining Annual Additions shall mean (elect one (1) method only):
- A. The method specified in Article V, Paragraph 7(e)
 - B. Information required to be reported under Sections 6041, 6051 and 6052 of the Code (wages, tips and other compensation as reported on Form W-2). Compensation is defined as wages within the meaning of Section 3401(a) and all other payments of compensation to an Employee by the Employer (in the course of the Employer's trade or business) for which the Employer is required to furnish the Employee a written statement under Sections 6041(d), 6051(a)(3) and 6052. Compensation must be determined without regard to any rules under Section 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Section 3401(a)(2)).
 - C. Section 3401(a) wages. Compensation is defined as wages within the meaning of Section 3401(a) for the purposes of income tax withholding at the source but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Section 3401(a)(2)).
4. **"Hours of Service"** shall be determined on the basis of the method selected below (elect one (1) method only):
- A. On the basis of actual hours for which an Employee is paid or entitled to payment.
 - B. On the basis of days worked. An Employee shall be credited with 10 Hours of Service if under Article I, Paragraph 34 of the Plan such employee would be credited with at least 1 Hour of Service during the day.
 - C. On the basis of weeks worked. An Employee shall be credited with 45 Hours of Service if under Article I, Paragraph 34 of the Plan such Employee would be credited with at least 1 Hour of Service during the week.
 - D. On the basis of semi-monthly payroll periods. An Employee shall be credited with 95 Hours of Service if under Article I, Paragraph 34 of the Plan such Employee would be credited with at least 1 Hour of Service during the semimonthly payroll period.
 - E. On the basis of months worked. An Employee shall be credited with 190 Hours of Service if under Article I, Paragraph 34 of the Plan such Employee would be credited with at least 1 Hour of Service during the month.
5. **"Adjustment Date"** The ____ day of the month of _____ in each year.
- Optional. The Plan Year following the ____ day of _____, _____ shall end on the ____ day of _____, _____ and such date shall become the Adjustment Date of the Plan.

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PROFIT SHARING PLAN ADOPTION AGREEMENT

6. **“Valuation Date”**: The ____ day of _____ of each Plan Year (the date used for applying “Top Heavy” rules).
7. **“Highly Compensated Employee”** Highly Compensated Employees may be determined using the definition in the Plan or by using one or both of the following optional methods (check one or both):
- () In determining who is a Highly Compensated Employee, the Employer makes a top-paid group election. The effect of this election is that an Employee (who is not a five-percent (5%) owner at any time during the determination year or the look-back year) with compensation in excess of \$80,000 (as adjusted) for the look-back year is a Highly Compensated Employee only if the Employee was in the top-paid group for the look-back year.
 - () In determining who is a Highly Compensated Employee (other than as a five-percent (5%) owner), the Employer makes a calendar year data election. The effect of this election is that the look-back year is the calendar year beginning with or within the look-back year.
8. **“Limitation Year”**: The Limitation Year shall be:
- () The Plan Year
 - () Other: _____

PART II

ELIGIBILITY REQUIREMENTS AND ENTRY DATE

1. **Service and Age Requirements** (Article II) (elect one or more of A, B or C):
- A. () Any Employee on the Effective Date who has attained age _____. (If elected, this option applies only on the Effective Date of the Plan.)
 - B. () An Employee who has completed _____ Year(s) of Service (not more than two). If the Year(s) of Service selected is or includes a fractional year, an Employee shall receive credit for such year without regard to Hours of Service. If the maximum of two (2) Years of Service is chosen, Option A in Part IV, Section 1 (“Immediate Vesting”) must be selected.
 - C. () An employee who has attained age _____

NOTE: (1) If Succeeding Anniversary Entry Date is selected under Paragraph 2 of Part II, then the service and age requirements must not exceed:

- (a) Age 20½
- (b) 1½ years if the Employee has an immediate nonforfeitable right to 100% of his or her Account derived from Company contributions, or (c) ½ year otherwise

(2) If Nearest Anniversary Entry Date or Preceding Anniversary Entry Date is selected under Paragraph 2 of Part II, then the service and age requirements must not exceed:

- (a) Age 21
- (b) 2 years if the Employee has an immediate nonforfeitable right to 100% of his or her Account derived from Company contributions, or (c) 1 year otherwise (3) If the service requirement selected is less than one year, each Employee who has been employed for the specified period shall be deemed to have completed the service requirements regardless of the number of Hours of Service actually performed.

PROFIT SHARING PLAN ADOPTION AGREEMENT

D. Years of Service With Other Employer(s). For purposes of determining Years of Service for eligibility and participation, years of service with previous employers shall be credited as follows:

- (1) None
- (2) Years of Service with any predecessor of the Company
- (3) Years of Service with the following Employer(s)

E. Collective Bargaining Agreements. Employees who are covered by a collective bargaining agreement between the Company and Employee Representatives:

- (1) Shall be allowed to participate in the Plan.
- (2) Shall not be allowed to participate in the Plan.

NOTE: Employees may be excluded under this Paragraph only if retirement benefits were the subject of good faith bargaining. For this purpose, the term "Employee Representatives" does not include any organization more than half of whose members are Employees who are owners, officers or executives of the Employer.

F. Nonresident Aliens. Employees who are nonresident aliens and who have no U.S. source income:

- (1) Shall be allowed to participate in the Plan.
- (2) Shall not be allowed to participate in the Plan.

2. "**Entry Date**"(elect one):

A. The first day of each month

B. The first day of each of the following months:

_____ (Specify the first month of the Plan Year.)

_____ (Specify the seventh month of the Plan Year.)

C. Succeeding Anniversary Entry Date. The first day of the Plan Year (or the Effective Date) coincident with or next following the date on which the Employee fulfills the Service and Age Requirements specified in Paragraph 1 of PART II of the Adoption Agreement.

D. Preceding Anniversary Date. The first day of the Plan Year (or the Effective Date) next preceding the date on which the Employee fulfills the Service and Age Requirements specified in Paragraph 1 of PART II of the Adoption Agreement.

E. Nearest Anniversary Entry Date. The first day of the Plan Year (or the Effective Date) nearest to the date on which the Employee fulfills the Service and Age Requirements specified in Paragraph 1 of PART II of the Adoption Agreement.

F. Other: _____. In no event will such date be later than the earlier of the following times: (1) the first day of the Plan Year beginning after the date on which the employee satisfied any applicable minimum age and service requirements; or (2) the day six months after the date on which he or she satisfied such requirements.

3. "**Eligibility Computation Period**":The initial eligibility computation period shall commence on the twelve (12)- consecutive-month period beginning on the date the Employee first performs an Hour of Service with the Employer, in accordance with Article I, Paragraph 44. Each succeeding eligibility computation period shall be (elect one):

A. Plan Year

B. Twelve (12)-consecutive-month period beginning with the date on which an Employee performed his or her first Hour of Service and each consecutive twelve (12)-month period thereafter

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PROFIT SHARING PLAN ADOPTION AGREEMENT

PART III

CONTRIBUTIONS AND ALLOCATIONS

1. **Employer Contributions** (Article III) The Annual Contribution shall be (elect one):
 - A. Such amount (up to 15% of covered Compensation under the Plan) as shall be determined by the Employer without regard to current or accumulated earnings and profits
 - B. Such amount (up to 15% of covered Compensation under the Plan) out of current earnings or profits as shall be determined by the Employer

NOTE: Employer contributions in excess of 25% (15% for Plan Years beginning before January 1, 2002) of the Annual Compensation of all Participants are not deductible for federal income tax purposes.

2. **Employee and Employer Matching Contributions** (Article III): Employee contributions by Participants and Matching Contributions by the Employer are not permitted.
3. **Allocation Formula** (Article V) (elect A or B):
 - A. Nonintegrated Plan:

The Committee, upon being informed as to the amount of the Annual Contribution and Plan Forfeitures and after making any minimum allocation from such contribution required by Paragraph 9 of Article V of the Plan (Top Heavy Plan Years - Minimum Allocations), shall credit each Participant's Account in accordance with the provisions of Article V. Subject to the provisions of Paragraphs 7, 8 and 9 of Article V, Employer Contributions and Forfeitures shall be allocated to each Participant in the ratio that each Participant's Compensation bears to the total Compensation of all Participants.

- B. Plan Integrated With Social Security:

The Committee, upon being informed as to the amount of the Annual Contribution and Plan Forfeitures, shall credit each Participant's account as follows (these allocations shall be performed in a manner that complies with Code Section 401(l) and Regulations thereunder):

- (1) If for the Plan Year the Plan is Top Heavy and this Plan provides minimum benefits as elected in Part III, Paragraph 7, then:
 - (a) Contributions and Forfeitures shall be allocated to each Participant in the ratio that each Participant's Compensation bears to the aggregate Compensation of all Participants up to _____% (at least 3%) of each Participant's Compensation.
 - (b) Any remaining Contributions and Forfeitures shall be allocated to each Participant in the ratio that each Participant's Compensation in excess of the Integration Level (if any) bears to the aggregate Compensation of all Participants in excess of the Integration Level, up to _____% (must equal the percent in (a) above, but in no circumstances exceed the Integration Percent provided below) of each Participant's Compensation in excess of the Integration Level.
- (2) If for the Plan Year the Plan is not Top Heavy, Contributions and Forfeitures, or if the Plan is Top Heavy, remaining Contributions and Forfeitures, shall be allocated to each Participant in the ratio that each Participant's total Compensation, plus Compensation in excess of the Integration Level (if any) bears to the aggregate Compensation of all Participants, plus the aggregate Compensation of all Participants in excess of the Integration Level up to _____% (must equal the Integration Percent provided below reduced, but not below 0, by the percent provided in (1) (a) above) of each Participant's total Compensation plus Compensation in excess of the Integration Level (if any).
- (3) Any remaining Contributions and Forfeitures shall be allocated to each Participant in the ratio that each Participant's Compensation bears to the aggregate Compensation of all Participants.
- (4) Integration Percent equals:
 - (a) The maximum percent the Secretary permits for the Plan Year under Section 401(l) of the Code (5.7% for Plan Years beginning in 2000).

PROFIT SHARING PLAN ADOPTION AGREEMENT

(b) () _____% (Must not exceed (a) above, and must be adjusted downward as prescribed in (5) (b) below.)

(5) Integration Level equals:

(a) () The Social Security taxable wage base in effect for the calendar year in which the Plan Year begins (\$76,200 for Plan Years beginning in 2000).

(b) () Other (may not exceed the amount in (a) above):

(If this option is elected see NOTE below.)

NOTE: If the Integration Level is:

More Than	But Not More Than	The Applicable Integration Percent Is:
\$0	\$X*	5.7%
\$X*	80% of CTWB	4.3%
80% of CTWB	Y**	5.4%

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

**Y = any amount more than 80% of the TWB but less than 100% of the TWB

TWB = Taxable Wage Base

If the Integration Level used is equal to the TWB, the applicable percentage is 5.7%. The percentages shown in the table above shall be adjusted as permitted by the Secretary of the Treasury under Section 401(l) of the Code. If the Integration Level exceeds 80% of the TWB (not in excess of the TWB), then the Integration Percent may not exceed 5.4%.

4. **Forfeiture Allocation Formula:** At each Adjustment Date, all sums or benefits forfeited by Terminated Employees during the year shall be determined, and such forfeited amounts shall be (select A or B):

A. () Applied to reduce the Employer Contributions for the Plan Year in which such Adjustment Date occurs.

B. () Allocated among the Participants based upon the ratio of each Participant's Compensation to the Compensation of all Participants.

5. **Maximum Annual Allocation** (Article V): In no event shall any Annual Addition allocated to a Participant's Employer Contribution and Forfeiture Account exceed the limitation under Article V, Paragraph 7. If the Company maintains this Plan and another plan which is a qualified defined contribution plan other than a master or prototype plan, Annual Additions allocated under this Plan to any Participant's Account shall be limited in accordance with Article V, Paragraph 7 or with the following provisions (may be included in lieu of the allocation provisions of Article V, Paragraph 7):

(ATTACH A STATEMENT ONLY IF AN ALTERNATE METHOD IS USED.)

6. **Allocation of Company Contributions and Forfeitures:** Company contributions for each Plan Year shall be allocated among the accounts of the following Participants (elect one):

A. () All Participants who participated in the Plan during the Plan Year for which the contribution is made

B. () Only Participants who either (i) are still in the employ of the Company on the last day of the Plan Year for which the contribution is made, or (ii) complete at least 501 Hours of Service during the Plan Year

C. () Participants who either (i) are still in the employ of the Company on the last day of the Plan Year for which the contribution is made, or (ii) complete at least 501 Hours of Service during the Plan Year, or (iii) retire on or after their Normal Retirement Age, become disabled or die during the Plan Year

Note: The term "company contribution" should include forfeitures if Paragraph 3.B. of this Part III is selected.

7. **Top Heavy Minimum:** In the event this Plan becomes Top Heavy, the minimum required contributions or benefits on behalf

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PROFIT SHARING PLAN ADOPTION AGREEMENT

of each Participant:

A. () Shall be provided under this Plan,

(1) () and shall equal the minimum prescribed in the Plan.

(2) () and shall equal _____ % of Compensation (may not be less than the minimum prescribed in the Plan).

B. () Shall be provided under another qualified plan maintained by the Company, in which the Participant in this Plan participates.

However, if for any reason any Participant does not receive the required minimum contribution or benefit in the other Plan, that Participant will receive the required minimum contribution in this Plan.

8. **Interest and Mortality Rates For Computing Defined Benefit Present Value:** For the purpose of computing the present value of a defined benefit plan accrued benefit under Article X, Paragraph 2(e), the following shall be used:

Interest Rate: _____

Mortality Table: _____

(Answer only if a Defined Benefit Plan is specified in Paragraph 7.B above.)

PART IV

DISTRIBUTIONS AND VESTING

1. **Vested Interest In Employer Contribution and Forfeiture Account**

(elect A, B, C, D or E):

A. () Immediate Vesting: 100% immediately

B. () 5-Year Vesting: None prior to completion of five (5) years of service. 100% upon completion of five (5) years of service.

C. () 7-Year Graded Vesting

Years of Service	Vested Percentage
0-2	0
3	20%
4	40%
5	60%
6	80%
7 and over	100%

D. () Top Heavy Vesting

Years of Service	Vested Percentage
0-1	0
2	20%
3	40%
4	60%
5	80%
6 and over	100%

E. () Other: _____

(The vesting schedule cannot be slower than the schedule in B and C above.)

2. **Vesting and Participation Computation Period** shall mean (elect A or B):

A. () Plan Year

B. () Twelve (12)-consecutive-month period beginning with the date on which an Employee performed his first Hour of Service and each consecutive twelve (12)-month period thereafter.

PROFIT SHARING PLAN ADOPTION AGREEMENT

3. **Minimum Vested Interest:** A Participant shall be 100% vested at all times in the value of his Employee Contribution Account, Rollover Account and amounts transferred to this Plan on his behalf from a predecessor plan, if any.
4. **Limitations:**
- A. Forfeiture of Benefits:
- There shall be no forfeiture of vested benefits.
- B. Disregarded Years of Service (Optional; 1 and/or 2 or 3 may be elected.):
- (1) () A Participant's Years of Service with the Company prior to his attaining age 18 (age 22 for Plan Years beginning before January 1, 1985) shall be disregarded for purposes of calculating his vested interest.
- (2) () A Participant's Years of Service with the Company during any period for which the Company did not maintain this Plan or any predecessor plan shall be disregarded for purposes of calculating his vested interest.
- (3) () None
5. **Loans To Participants:**
- A. () Loans to Participants are not permitted.
- B. () Loans to Participants are permitted. Such loans shall be made in accordance with the limitations and requirements set forth in Paragraph 12 of Article VI. (The Department of Labor requires the adoption of a separate written loan program setting forth the requirements under Department of Labor Regulations 2550.408(b) for Participant loans.)
6. **Distribution to Terminated Participant of Vested Interest in Employer Contribution and Forfeiture Account** (Article VI) (Elect one.):
- A. () Distribution of a Terminated Participant's vested interest shall not commence until he has incurred a One Year Break in Service. (See Article VI, Paragraph 4 for rules for determining an individual's accrued benefit.)
- B. () Distribution of a Terminated Participant's vested interest shall commence upon termination of employment. (See Article VI, Paragraph 4 for rules for determining an individual's accrued benefit.)
- C. () Distribution of a Terminated Participant's vested interest shall not commence until he has incurred five (5) consecutive One Year Breaks in Service. (See Article VI, Paragraph 4 for rules for determining an individual's accrued benefit.)
- Note: Such distribution shall commence as soon as practicable after the elected distribution event.
7. **"Normal Retirement Age" and "Normal Retirement Date" :**
- A. Normal Retirement Age. Normal Retirement Age shall be:
- () Age _____ (not to exceed 65)
- () The later of age _____ (not to exceed 65) or the year in which the Participant completes _____ (not to exceed 5) years of participation; provided, however, in no event shall the Normal Retirement Age exceed any mandatory age imposed by the Company
- B. Normal Retirement Date. Normal Retirement Date shall be (elect one):
- () The date on which a Participant attains Normal Retirement Age
- () The Adjustment Date coincident with or next succeeding Normal Retirement Age
8. **Pre-Break Distributions** (Article VI, Paragraph 15) (elect A or B):
- A. () Participants may withdraw all or part of the vested portion of their Employer Contribution and Forfeiture Account accumulated before January 1, 2000, before retirement, death, disability, termination of employment or incurring five (5) consecutive One Year Breaks in Service pursuant to such rules as may be established by the Company.
- B. () Participants may not withdraw any part of the vested portion of their Employer Contribution and Forfeiture Account.

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PROFIT SHARING PLAN ADOPTION AGREEMENT

9. **Years of Service With Other Employers.** For the purposes of determining years of service for vesting, Years of Service with previous employers shall be credited as follows:

- A. None
- B. Years of Service with any predecessor of the Company
- C. Years of Service with the following employer(s):

10. **The required date on which distributions must begin for a Plan Participant is** (select one):

- A. The April 1 of the calendar year following the calendar in which the Participant attains age 70½ .
- B. The April 1 of the calendar year following the calendar year in which the Participant attains age 70½ , except that benefit distributions to a Participant (other than a five-percent (5%) owner) with respect to benefits accrued after the later of the adoption or Effective Date of the amendment to the plan must commence by the later of the April 1 of the calendar year following the calendar year in which the Participant attains age 70½ or retires.
- C. 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 benefit distributions to a five-percent (5%) owner must commence by the April 1 of the calendar year following the calendar year in which the Participant attains age 70½ . (Also select (1), (2), and/or (3), whichever is applicable. Option (3) must be selected to the extent that there would otherwise be an elimination of a preretirement age 70½ distribution option for Employees older than those listed above.)
 - (1) Any Participant attaining age 70½ in years after 1995 may elect by April 1 of the calendar year following the year in which the Participant attained age 70½ , (or by December 31, 1997, in the case of a Participant attaining age 70½ in 1996) to defer distributions until the calendar year following the calendar year in which the Participant retires. If no such election is made, the Participant will begin receiving distributions by the April 1 of the calendar year following the year in which the Participant attained age 70½ (or by December 31, 1997, in the case of a Participant attaining age 70½ in 1996).
 - (2) Any Participant attaining age 70½ in years prior to 1997 may elect to stop distributions and recommence by the April 1 of the calendar year following the year in which the Participant retires. There is either (select one):
 - (i) a new annuity starting date upon recommencement, or
 - (ii) no new annuity starting date upon recommencement
 - (3) The preretirement age 70½ distribution option is only eliminated with respect to Employees who reach age 70½ in or after a calendar year that begins after the later of December 31, 1998, or the adoption date of the amendment. The preretirement age 70½ distribution option is an optional form of benefit under which benefits payable in a particular distribution form (including any modifications that may be elected after benefit commencement) commence at a time during the period that begins on or after January 1 of the calendar year in which an Employee attains age 70½ and ends April 1 of the immediately following calendar year.

11. **Form of Benefit:** Benefits shall be paid in accordance with (elect one):

- A. Paragraphs 6(a)-(i) of Article VI (annuities)
- B. Paragraph 6(j) of Article VI (no annuities)

Note: 11.B CANNOT be elected if this Plan is an amendment to a pre-existing Plan which provided a life annuity as a form of benefit.

PROFIT SHARING PLAN ADOPTION AGREEMENT

PART V

ADMINISTRATIVE

Any election in PART V may be changed from time to time by the Company by notifying the Trustee and the Administrative Committee in writing.

Administrative Committee (Article IV) (Indicate at least one Member.) (This provision is optional.):

The Administrative Committee shall consist of the following individual(s):

_____.

Directed Investments (Article VII, Paragraph 11): It is the intention of this Plan that, subject to the provisions of Article VII of the Plan, each Participant shall direct and specify the investment of all contributions made on his behalf and earnings thereon under the Plan. Such directions shall be limited to publicly traded securities obtainable in agency transactions through the Sponsor and other lawful investments which are administratively acceptable to the Sponsor. The Trustee shall retain earnings on any securities for reinvestment in accordance with the instructions of the Participant.

In order to obtain reliance with respect to Plan qualification, the Participating Employer must apply to Employee Plans Determinations of the Internal Revenue Service for a determination letter. The Participating Employer which adopts this Prototype Profit Sharing Plan and Trust may not rely on an opinion letter issued by the National Office of the Internal Revenue Service as evidence that this Plan is qualified under Section 401 of the Code.

The undersigned Participating Employer hereby adopts this Plan and joins J.P. MORGAN CLEARING CORP. PROTOTYPE PROFIT SHARING PLAN AND TRUST, subject only to the acceptance by the Trustee and the Sponsor.

IN WITNESS WHEREOF, each of the Participating Employer, the Trustee, and the Sponsor have caused this Adoption Agreement to be executed this _____ day of _____, 2____.

PARTICIPATING EMPLOYER:

(Corporation)

(Partnership or Proprietorship)

(Limited Liability Company)

(Name of Participating Employer)

By: _____

(Signature and Title)

SPONSOR:

J.P. MORGAN CLEARING CORP.

TRUSTEE:

(Name of Trustee)

By: _____

(Signature and Title)

By: _____

(Signature and Title)

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AMENDMENT TO DEFINED CONTRIBUTION PLAN FOR EGTRRA

PREAMBLE

1. **Adoption and effective date of amendment.** This amendment of the J.P. Morgan Clearing Corp. Defined Contribution Plan ("the Plan") is adopted to reflect certain provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA"). This amendment is intended as good faith compliance with the requirements of EGTRRA and is to be construed in accordance with EGTRRA and guidance issued thereunder. Except as otherwise provided, this amendment shall be effective as of the first day of the first Plan Year beginning after December 31, 2001.
2. **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.

SECTION 1. PLAN LOANS FOR OWNER-EMPLOYEES AND SHAREHOLDER EMPLOYEES

Effective for Plan loans made after December 31, 2001, Plan provisions prohibiting loans to any owner employee or shareholder-employee shall cease to apply.

SECTION 2. LIMITATIONS ON CONTRIBUTIONS

1. **Effective date.** This Section shall be effective for limitation years beginning after December 31, 2001.
2. **Maximum annual addition (referred to in Article I, Paragraph 37 of the Plan as the "Maximum Permissible Amount").**

Except to the extent permitted under Section 414(v) of the Code, if applicable, the annual addition that may be contributed or allocated to a participant's account under the Plan for any limitation year shall not exceed the lesser of:

- (a) \$40,000, as adjusted for increases in the cost-of-living under Section 415(d) of the Code, or
- (b) 100 percent of the participant's compensation, within the meaning of Section 415(c)(3) of the Code, for the limitation year.

The compensation limit referred to in (b) shall not apply to any contribution for medical benefits after separation from service (within the meaning of Section 401(h) or Section 419A(f)(2) of the Code) which is otherwise treated as an annual addition.

SECTION 3. INCREASE IN COMPENSATION LIMIT

The annual compensation of each participant taken into account in determining allocations for any Plan Year beginning after December 31, 2001, shall not exceed \$200,000, as adjusted for cost-of-living increases in accordance with Section 401(a)(17)(B) of the Code. Annual compensation means compensation during the Plan Year or such other consecutive 12-month period over which compensation is otherwise determined under the Plan (the determination period). The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year.

SECTION 4. MODIFICATION OF TOP-HEAVY RULES

1. **Effective date.** This Section shall apply for purposes of determining whether the plan is a top-heavy plan under Section 416(g) of the Code for Plan Years beginning after December 31, 2001, and whether the Plan satisfies the minimum benefits requirements of Section 416(c) of the Code for such years. This Section amends Article I, Paragraph 35, Article V, Paragraph 7 and Article X of the Plan.
2. **Determination of top-heavy status.**
 - 2.1 **Key employee.** Key employee means any employee or former employee (including any deceased employee) who at any time during the Plan Year that includes the determination date was an officer of the employer having annual compensation greater than \$130,000 (as adjusted under Section 416(i)(1) of the Code for Plan Years beginning after December 31, 2002), a five percent (5%) owner of the employer, or a one percent (1%) owner of the employer having annual compensation of more than \$150,000. For this purpose, annual compensation means compensation within the meaning of Section 415(c)(3) of the Code. The determination of who is a key employee will be made in accordance with Section 416(i)(1) of the Code and the applicable regulations and other guidance of general applicability issued thereunder.
 - 2.2 **Determination of present values and amounts.** This Section 2.2 shall apply for purposes of determining the present values of accrued benefits and the amounts of account balances of employees as of the determination date.
 - 2.2.1 **Distributions during the year ending on the determination date.** The present values of accrued benefits and the amounts of account balances of an employee as of the determination date shall be increased by the distributions made with respect

AMENDMENT TO DEFINED CONTRIBUTION PLAN FOR EGTRRA

to the employee under the Plan and any Plan aggregated with the Plan under Section 416(g)(2) of the Code during the 1-year period ending on the determination date. The preceding sentence shall also apply to distributions under a terminated Plan which, had it not been terminated, would have been aggregated with the Plan under Section 416(g)(2)(A)(i) of the Code. In the case of a distribution made for a reason other than separation from service, death, or disability, this provision shall be applied by substituting "5-year period" for "1-year period."

2.2.2 Employees not performing services during the year ending on the determination date. The accrued benefits and accounts of any individual who has not performed services for the employer during the 1-year period ending on the determination date shall not be taken into account.

3. Minimum benefits.

3.1 **Matching contributions.** Employer matching contributions shall be taken into account for purposes of satisfying the minimum contribution requirements of Section 416(c)(2) of the Code and the Plan. The preceding sentence shall apply with respect to matching contributions under the Plan or, if the Plan provides that the minimum contribution requirement shall be met in another Plan, such other Plan. Employer matching contributions that are used to satisfy the minimum contribution requirements shall be treated as matching contributions for purposes of the actual contribution percentage test and other requirements of Section 401(m) of the Code.

3.2 **Contributions under other plans.** The employer may provide in the Adoption Agreement that the minimum benefit requirement shall be met in another plan (including another plan that consists solely of a cash or deferred arrangement which meets the requirements of Section 401(k)(12) of the Code and matching contributions with respect to which the requirements of Section 401(m)(11) of the Code are met).

SECTION 5. DIRECT ROLLOVERS OF PLAN DISTRIBUTIONS

1. **Effective date.** This Section shall apply to distributions made after December 31, 2001.

2. **Modification of definition of eligible retirement Plan.** For purposes of the direct rollover provisions in Article V, Paragraph 16 of the Plan, an eligible retirement Plan shall also mean an annuity contract described in Section 403(b) of the Code and an eligible Plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such Plan from this Plan. The definition of eligible retirement Plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relation order, as defined in Section 414(p) of the Code.

3. **Modification of definition of eligible rollover distribution to include after-tax employee contributions.** For purposes of the direct rollover provisions in Article V, Paragraph 16 of the Plan, 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 Section 408(a) or (b) of the Code, or to a qualified defined contribution plan described in Section 401(a) or 403(a) of the Code 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.

SECTION 6. ROLLOVERS FROM OTHER PLANS

If provided by the employer in the Adoption Agreement, the Plan will accept participant rollover contributions and/or direct rollovers of distributions made after December 31, 2001, from the types of Plans specified in the Adoption Agreement, beginning on the effective date specified in the Adoption Agreement.

The Profit Sharing Plan Adoption Agreement and the Money Purchase Pension Plan Adoption Agreement are amended by adding the following text as a new final Paragraph to Part III of each Adoption Agreement:

Direct Rollovers:

The Plan will accept a direct rollover of an eligible rollover distribution from:

(Check each that applies or none.)

a qualified Plan described in Section 401(a) or 403(a) of the Code, excluding after-tax employee contributions.

a qualified Plan described in Section 401(a) or 403(a) of the Code, including after-tax employee contributions.

AMENDMENT TO DEFINED CONTRIBUTION PLAN FOR EGTRRA

DETACH HERE

an annuity contract described in Section 403(b) of the Code, excluding after-tax employee contributions.

an eligible Plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state.

Participant Rollover Contributions from Other Plans:

The Plan will accept a participant contribution of an eligible rollover distribution from: (Check each that applies or none.)

a qualified Plan described in Section 401(a) or 403(a) of the Code.

an annuity contract described in Section 403(b) of the Code.

an eligible Plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state.

Participant Rollover Contributions from IRAs:

The Plan: (Choose one.)

will

will not

accept a participant rollover contribution of the portion of a distribution from an individual retirement account or annuity described in Section 408(a) or 408(b) of the Code that is eligible to be rolled over and would otherwise be includible in gross income.

Effective Date of Direct Rollover and Participant Rollover Contribution Provisions:

This Paragraph, Rollovers From Other Plans, shall be effective:

_____ (Enter a date no earlier than January 1, 2002.)

SECTION 7. ROLLOVERS DISREGARDED IN INVOLUNTARY CASHOUTS

1. **Applicability and effective date.** This Section shall apply if elected by the employer in the Profit Sharing Adoption Agreement and shall be effective as specified in the Adoption Agreement.
2. **Rollovers disregarded in determining value of account balance for involuntary distributions.** If elected by the employer in the Adoption Agreement, for purposes of Article VI, Paragraph 4 of the Plan, the value of a participant's nonforfeitable account balance shall be determined without regard to that portion of the account balance that is attributable to rollover contributions (and earnings allocable thereto) within the meaning of Sections 402(c), 403(a)(4), 403(b)(8), 408(d)(3)(A)(ii), and 457(e)(16) of the Code. If the value of the participant's nonforfeitable account balance as so determined is \$5,000 or less, the Plan shall immediately distribute the participant's entire nonforfeitable account balance.

The Profit Sharing Adoption Agreement is amended by adding the following as Paragraph 11 to Part IV:

11. Treatment of Rollovers in Application of Involuntary Cash-out Provisions: The employer: (choose one)

elects

does not elect

to exclude rollover contributions in determining the value of the participant's nonforfeitable account balance for purposes of the Plan's involuntary cash-out rules.

If the employer has elected to exclude rollover contributions, the election shall apply with respect to distributions made after:

_____ (Enter a date no earlier than December 31, 2001.)

with respect to participants who separated from service after:

_____ (Enter date. The date may be earlier than December 31, 2001.)

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AMENDMENT TO DEFINED CONTRIBUTION PLAN FOR EGTRRA

IN WITNESS WHEREOF, each of the Participating Employee, the Trustee and the Sponsor has caused this Amendment to be executed this _____ day of _____, 2____.

PARTICIPATING EMPLOYER:

(Corporation)

(Partnership or Proprietorship)

(Limited Liability Company)

(Name of Participating Employer)

By: _____

(Signature and Title)

SPONSOR:

J.P. MORGAN CLEARING CORP.

TRUSTEE:

(Name of Trustee)

By: _____

(Signature and Title)

By: _____

(Signature and Title)

Internal Revenue Service

Plan Description Prototype Non-standardized Money Purchase Pension Plan

FFN: 50315570001 – 002 Case: 200001729 EIN: 13 – 3604093

Letter Serial No: K339467a

J.P. MORGAN CLEARING CORP

1 METROTECH CENTER NORTH

BROOKLYN, NY 11201

Department of the Treasury

Washington, DC 20224

Contact Person: Ms. Arrington 50- 00197

Telephone Number: (202) 283 – 8811

In Reference to: T: EP: RA: T1

Date: 10/25/2001

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 to each employer who adopts this plan. You are also required to send a copy of the approved form of the plan, any approved amendments and related document to Employee Plans Determinations in Cincinnati at the address specified in section 9.11 of Rev. Proc. 2000-20, 2000-6 I.R.B. 553.

This letter considers the changes in qualifications requirements made by the Uruguay Round Agreements Act (GATT), Pub. L. 103-465, the Small Business Job Protection Act of 1996, Pub. L. 104-188, the Uniformed Services Employment and Reemployment Rights Act of 1994, Pub. L. 103-353, the Taxpayer Relief Act of 1997, Pub. 105-34, the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. 105-206 and the Community Renewal Tax Relief Act of 2000, Pub. L. 106-554. These laws are referred to collectively as GUST.

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). However, an employer that adopts this plan may rely on this letter with respect to the qualification of its plan under Code section 401(a), as provided for in Announcement 2001-77, 2001-30 I.R.B. and outlined below. The terms of the plan must be followed in operation.

Except as provided below, our opinion does not apply with respect to the requirements of: (a) Code sections 401(a) (4), 401(a) (26), 401(1), 410(b) and 414(s). 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. Likewise, if this plan is first effective on or after the effective date of the repeal of Code section 415(e), the employer will not be considered to have maintained another plan merely because the employer has maintained a defined benefit plan(s), provided the defined benefit plan(s) has been terminated prior to the effective date of this plan. 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 benefits allocated to separate accounts for key employees as defined in Code section 419A(d) (3).

IRS APPROVAL LETTERS

Our opinion applies with respect to the requirements of Code section 410(b) if 100 percent of all nonexcludable employees benefit under the plan. Employers that elect a safe harbor allocation formula and a safe harbor compensation definition can also rely on an opinion letter with respect to the nondiscriminatory amounts requirement under section 401(a)(4) and the requirements of sections 401(k) and 401(m) (except where the plan is a safe harbor plan under section 401(k) (12) that provides for the safe harbor contribution to be made under another plan).

An employer that elects to continue to apply the pre-GUST family aggregation rules in years beginning after December 31, 1996, or the, combined plan limit of section 415(e) in years beginning after December 31, 1999, will not be able to rely on the opinion letter without a determination letter. 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,

Director

Employee Plans Rulings & Agreements

Internal Revenue Service

Plan Description: Prototype Non-standardized Profit Sharing Plan

FFN: 50315570001-001 Case: 200001728 EIN: 13 - 3604093

Letter Serial No: K339466a

J.P. MORGAN CLEARING CORP

1 METROTECH CENTER NORTH

BROOKLYN, NY 11201

Department of the Treasury

Washington, DC 20224

Contact Person: Ms. Arrington 50-00197

Telephone Number: (202) 283-8811

In Reference to: T:EP:RA:T1

Date: 10/25/2001

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 to each employer who adopts this plan. You are also required to send a copy of the approved form of the plan, any approved amendments and related documents to Employee Plans Determinations in Cincinnati at the address specified in section 9.11 of Rev. Proc. 2000-20, 2000-6 I.R.B. 553.

This letter considers the changes in qualifications requirements made by the Uruguay Round Agreements Act (GATT), Pub. L. 103-465, the Small Business Job Protection Act of 1996, Pub. L. 104-188, the Uniformed Services Employment and Reemployment Rights Act of 1994, Pub. L. 103-353, the Taxpayer Relief Act of 1997, Pub. L. 105-34, the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. 105-206 and the Community Renewal Tax Relief Act of 2000, Pub. L. 106-554. These laws are referred to collectively as GUST.

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). However, an employer that adopts this plan may rely on this letter with respect to the qualification of its plan under Code section 401(a), as provided for in Announcement 2001-77, 2001-30 I.R.B. and outlined below. The terms of the plan must be followed in operation.

Except as provided below, our opinion does not apply with respect to the requirements of: (a) Code sections 401(a)(4), 401(a)(26), 401(1), 410(b) and 414(s). 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. Likewise, if this plan is first effective on or after the effective date of the repeal of Code section 415(e), the employer will not be considered to have maintained another plan merely because the employer has maintained a defined benefit plan(s), provided the defined benefit plan(s) has been terminated prior to the effective date of this plan. 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 benefits allocated to separate accounts for key employees as defined in Code section 419A(d) (3).

Our opinion applies with respect to the requirements of Code section 410(b) if 100 percent of all nonexcludable employees benefit under the plan. Employers that elect a safe harbor allocation formula and a safe harbor compensation definition can also rely on an opinion letter with respect to the nondiscriminatory amounts requirement under section 401(a)(4) and the requirements of sections 401(k) and 401 (m) (except where the plan is a safe harbor plan under section 401(k) (12) that provides for the safe harbor contribution to be made under another plan).

IRS APPROVAL LETTERS

An employer that elects to continue to apply the pre-GUST family aggregation rules in years beginning after December 31, 1996, or the, combined plan limit of section 415(e) in years beginning after December 31, 1999, will not be able to rely on the opinion letter without a determination letter. The employer may request 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,

Director

Employee Plans Rulings & Agreements

J.P. Morgan Clearing Corp.
383 Madison Avenue, New York, New York 10179
www.jpmorgan.com

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Mktg 0802

