

**THE YOUNG MEN'S CHRISTIAN ASSOCIATION  
RETIREMENT FUND**

**TAX-DEFERRED SAVINGS PLAN**

Restated Effective January 1, 2009

(Including Amendments effective through September 17, 2020)

Note: The plans of the Retirement Fund are church plans that are not subject to registration, regulation, or reporting under the Investment Company Act of 1940, the Securities Exchange Act of 1934, Title 15 of the United States Code, or State securities laws. Similarly, the plan administrator and trustee and the entities maintaining any investment funds under the plans are not subject to those provisions of those Acts or laws. Therefore, plan participants and beneficiaries will not be afforded the protection of those provisions.

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**THE YOUNG MEN'S CHRISTIAN ASSOCIATION  
RETIREMENT FUND**

**TAX-DEFERRED SAVINGS PLAN**

As Amended and Restated Effective January 1, 2009

The purpose of The Young Men's Christian Association Retirement Fund's Tax-Deferred Savings Plan (Savings Plan) is to provide a convenient means for employees of Young Men's Christian Associations (YMCAs) that participate in the retirement plans of The Young Men's Christian Association Retirement Fund (Fund) to save, on a pre-tax basis, additional amounts which may be used to supplement the retirement income payable under The Young Men's Christian Association Retirement Fund Retirement Plan (Retirement Plan). The Fund's Savings Plan is a retirement income account plan as defined in Code Section 403(b)(9). The Fund's Savings Plan is administered by the Fund, the same plan sponsor as the Retirement Plan. The Fund, as plan sponsor and administrator, has the sole and ultimate discretion in interpreting this plan. On December 21, 2004, President George W. Bush signed U.S. Public Law 108-476 permanently classifying the plans sponsored by the Fund (including the Fund's Savings Plan) as of January 1, 2003 as church plans under Code Section 414(e). Under such legislation, the Fund's Savings Plan is treated as a Code Section 403(b)(9) church retirement income account plan.

Notwithstanding the general effective date of January 1, 2009, the following provisions will be effective as of the date indicated:

Section 3.1(e)	July 1, 2008
Section 3.6(a)(ii), 5.8(b)(i) and 5.8(b)(vi)	July 1, 2010
Section 5.8(b)(v)	January 1, 2008
Section 12.10 (d),(e) and (f)	September 1, 2009

## SECTION 1 - DEFINITIONS

The following words and phrases as used in the Savings Plan shall have the following meanings unless a different meaning is plainly required by the context.

- 1.1 **“Account Balance”** or **“Participant’s Account Balance”** shall mean, collectively, the balance in a Participant’s Tax-Deferred Savings Account and Rollover Account.
- 1.2 **“Actuarial Equivalent”** shall mean a benefit of equal value when computed upon the basis of the mortality tables and interest rate as set forth in **Appendix B** hereto or on such other mortality tables and interest rates as are adopted by the Board from time to time.
- 1.3 **“Beneficiary”** shall mean such person or persons as may be designated by a Participant or as may otherwise be entitled upon his or her death to receive any benefits or payments under the terms of the Savings Plan; provided that for purposes of the Savings Plan the term person shall include a trust or other entity. There shall be a single Beneficiary election for the Retirement Plan and Tax-Deferred Savings Plan. In the event of any conflict between the two plans in this regard, the Retirement Plan Beneficiary designation shall control.
- 1.4 **“Board”** shall mean the Board of Trustees of the Young Men’s Christian Association Retirement Fund.
- 1.5 **“Compensation”** shall mean, beginning January 1, 2007, the amount of a Participant’s wages (within the meaning of Code Section 3401(a)) and all other payments of compensation which a Participating YMCA is required to report in Box 1 (“wages, tips, other compensation”) of IRS Form W-2, subject to the following provisions:
  - (a) Compensation shall include any amount which is contributed by the Participating YMCA pursuant to a Salary Reduction Agreement and which is not includible in the income of the Employee under Code Sections 125, 132(f), 401(k), 402(h), 403(b) and 457(b) (including any Tax-Deferred Savings Account Contributions (or 403(b) Smart Contributions under the Savings Plan)).
  - (b) Compensation shall exclude amounts paid or reimbursed by the Participating YMCA for moving expenses incurred by the Participant, but only to the extent that, at the time of the payment, it is reasonable to believe that these amounts are deductible by the Participant under Code Section 217.
  - (c) Compensation shall include only that compensation that is actually paid to the Participant during the applicable period prior to his or her Severance from Employment, except for payments made by reason of qualified military service (under Code Section 414(u)).
  - (d) No more than \$200,000 annually shall be taken into consideration for the purposes herein, with this amount to be applied and adjusted in accordance with Code Section 401(a)(17)(B).
  - (e) Compensation must be determined without regard to any rules under Code 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 Code Section 3401(a)(2)).
  - (f) Pursuant to the Heroes Earnings Assistance and Relief Tax Act of 2008 (the “HEART Act”), and notwithstanding anything herein to the contrary, effective January 1, 2009, Compensation shall include differential wage payments (as defined in the HEART Act) that a Participant receives from a Participating YMCA. To the extent that Participants receive differential wage payments from a Participating YMCA and are eligible to make contributions to the Savings Plan, such Participants shall be entitled to make contributions to the Savings Plan based on such differential wage payments

on reasonably equivalent terms in accordance with the HEART Act and any regulations or other guidance issued thereunder.

Except as provided elsewhere in this Savings Plan, the applicable period will be the Plan Year.

- 1.6 **“Deferred Vested Retirement Benefit”** shall mean the benefit described at Code Section 4.5(a).
- 1.7 **“Employee”** shall mean all persons employed by a Participating YMCA including full time, part-time, seasonal and unionized employees.
- 1.8 **“Includible Compensation”** shall mean an Employee’s actual wages in box 1 of Form W-2 for a year for services to a Participating YMCA, but subject to a maximum of \$200,000 (or such higher maximum as may apply under Code Section 401(a)(17)) and increased (up to the dollar maximum) by any compensation reduction election under Code Sections 125, 132(f), 401(k), 402(h), 403(b) or 457(b) (including any Tax-Deferred Savings Account Contributions). The amount of Includible Compensation is determined without regard to any community property laws.
- 1.9 **“Interest Credit(s)”** shall, for the period determined by the Board, mean credits as set forth in resolutions adopted by the Board from time to time and incorporated herein by reference. For Participants with Account Balances in the Savings Plan prior to January 1, 1996, Interest Credit shall, in accordance with Resolutions adopted by the Board, mean no less than 5% per annum and shall be applied to their Account Balances as of December 31, 1995.
- 1.10 **“Internal Revenue Code”** or **“Code”** shall mean the Internal Revenue Code of 1986, as amended.
- 1.11 **“Normal Retirement Benefit”** shall mean a single life annuity from the Retirement Fund payable monthly and terminating with the payment due for the last month of the Participant’s life.
- 1.12 **“Normal Retirement Date”** shall mean the first day of the calendar month coincident with or next following the date on which the Participant shall have attained age sixty-two (62).
- 1.13 **“Participant”** shall mean an Employee who meets the eligibility requirements for Participation set forth in Section 2, and who makes Tax-Deferred Savings Account Contributions (or 403(b) Smart Contributions) and/or Rollover Contributions.
- 1.14 **“Participating YMCA”** shall mean a YMCA which pursuant to a Participation Agreement with the Board has adopted and maintains the Retirement Plan and offers this Savings Plan to all Employees, subject to the provisions of Section 2.
- 1.15 **“Participation”** shall mean periods during which a Participant made Tax-Deferred Savings Account Contributions (or 403(b) Smart Contributions) and/or Rollover Contributions to the Savings Plan.
- 1.16 **“Participation Agreement”** shall mean the written agreement between a YMCA and the Board setting forth the terms and conditions under which the YMCA will participate as an employer in the Savings Plan and make the Savings Plan available to its eligible Employees.
- 1.17 **“Permanent Disability Retirement Benefit”** shall mean the benefit described at Section 4.4(c).
- 1.18 **“Plan Year”** shall mean a period of twelve consecutive months commencing on July 1<sup>st</sup> and ending on the next following June 30<sup>th</sup>.

- 1.19 **“Regulations”** or **“Treasury Regulations”** shall mean regulations issued under the Internal Revenue Code.
- 1.20 **“Related Employer”** shall mean the Participating YMCA and any other entity which is under common control with the Participating YMCA under Code Section 414(b) or (c).
- 1.21 **“Retirement Benefit”** shall mean periodic payments for life in the form of an Actuarial Equivalent annuity (or any other optional form of benefit available under the Savings Plan) payable from the Retirement Fund as provided hereunder.
- 1.22 **“Retirement Fund”** or **“Fund”** shall mean the Young Men’s Christian Association Retirement Fund, a not-for-profit corporation organized under the laws of the State of New York.
- 1.23 **“Retirement Plan”** shall mean The Young Men’s Christian Association Retirement Fund Retirement Plan, as amended from time to time.
- 1.24 **“Rollover Account”** shall mean the account to which all of a Participant’s Rollover Contributions under the Savings Plan together with Interest Credit(s) are added from time to time thereto.
- 1.25 **“Rollover Contributions”** shall mean contributions made to the Savings Plan under Section 3.6.
- 1.26 **“Salary Reduction Agreement”** shall mean an agreement executed by a Participant to reduce the Participant's Compensation and contribute the amount of such reduction to the Savings Plan by payroll deduction.
- 1.27 **“Savings Plan”** shall mean The Young Men’s Christian Association Retirement Fund Tax-Deferred Savings Plan, which is intended to be a retirement income account within the meaning of Code Section 403(b)(9) and the Treasury Regulations issued thereunder.
- 1.28 **“Severance from Employment”** shall mean severance from employment with any Participating YMCA, in accordance with applicable law. Notwithstanding anything herein to the contrary, effective January 1, 2009, pursuant to the HEART Act, any Participant receiving differential wage payments (as defined in the HEART Act) from a Participating YMCA and any other Participant similarly treated by the HEART Act shall not be treated as experiencing a Severance from Employment; except that, in accordance with applicable law, a Participant shall be treated as experiencing a Severance from Employment during the period he or she is performing service in the uniformed services (as described in Code Section 3401(h)(2)(A)) for purposes of determining eligibility for distributions of Account Balances in accordance with Section 5 herein.
- 1.29 **“Spouse”** shall mean a person legally married to the Participant for one year or more immediately preceding the date on which his or her benefit payments are to commence.
- 1.30 **“Tax-Deferred Savings Account”** shall mean the account to which all of a Participant’s Tax-Deferred Savings Account Contributions (or 403(b) Smart Contributions) under the Savings Plan together with Interest Credit(s) are added from time to time thereto.
- 1.31 **“Tax-Deferred Savings Account Contributions”** or **“403(b) Smart Contributions”** shall mean payments to the Savings Plan pursuant to Section 3.1 that are deducted from the Participant’s salary on a pre-tax basis.
- 1.32 **“Trust”** shall mean the trust document for the YMCA Retirement Fund Tax-Deferred Savings Plan, as amended from time to time.

- 1.33 **“YMCA”** shall mean any Young Men’s Christian Association chartered or designated by the National Council of the Young Men’s Christian Associations of the United States of America (YMCA of the USA) in the United States or commonwealths of the United States, including accredited educational institutions and county, state, national, and other agencies in the United States supporting Young Men’s Christian Associations as designated by the YMCA of the USA.

## **SECTION 2 - ELIGIBILITY AND PARTICIPATION**

- 2.1 Eligibility. Any Employee will be eligible to participate in the Savings Plan and elect to make elective Tax-Deferred Savings Account Contributions immediately upon employment with a Participating YMCA.
- 2.2 Enrollment. As a condition of Participation in this Savings Plan, each Participant shall execute and file with his or her Participating YMCA any enrollment or account application form, Salary Reduction Agreement and other pertinent information concerning himself or herself and his or her Beneficiary that the Board or the Participating YMCA may require.
- 2.3 Severance from Employment. Upon a Participant’s Severance from Employment, no further Tax-Deferred Savings Account Contributions shall be permitted to the Savings Plan for such Participant (except if the Tax-Deferred Savings Account Contributions are with respect to Compensation paid after Severance from Employment that would otherwise be paid with respect to services performed by the Participant for the Participating YMCA for a payroll period that begins before Severance from Employment).

## **SECTION 3 - CONTRIBUTIONS AND FUNDING**

- 3.1 Contributions.
- (a) Contribution Limits
- (i) In General. For any calendar year, a Participant may make an elective deferral of a portion of his or her Compensation pursuant to the terms of the Savings Plan and a Salary Reduction Agreement. Except as provided in Section 3.1(a)(ii) and/or (iii), in no event shall the amount of these elective contributions for any calendar year be in excess of the lesser of (a) the applicable dollar amount, or (b) the Participant’s Includible Compensation for the calendar year. The applicable dollar amount is the amount established under Code Section 402(g)(1)(B), which is \$15,500 for 2008, as is adjusted for cost-of-living after 2008 to the extent provided under Code Section 415(d). No contributions may be made to this Savings Plan by any Participant other than pursuant to a Salary Reduction Agreement or as Rollover Contributions in accordance with Section 3.6 herein.
- (ii) Catch Up. For any calendar year, a Participant who attains age 50 in that calendar year may make additional elective Tax-Deferred Savings Account Contributions of a portion of his or her Compensation pursuant to the terms of the Savings Plan and a Salary Reduction Agreement. Such additional elective Tax-Deferred Savings Account Contributions for said calendar year may not be in excess of \$5,000 for 2008 (as indexed pursuant to Code Section 414 (v)).

(iii) Special Code Section 403(b) Catch-Up Limitation for Employees with 15 Years of Service. Because the YMCA participates in a Code Section 403(b) plan determined by Congress to be a Code Section 403(b)(9) retirement income account, the applicable dollar amount under Section 3.1(a)(i) above for any “qualified employee” is increased by the least of:

1. \$3,000;
2. The excess of:
  - a. \$15,000, over
  - b. the total special Code Section 403(b) catch-up elective deferrals made for the qualified employee by the qualified organization for prior years; or
3. The excess of:
  - a. \$5,000 multiplied by the number of years of service of the employee with the qualified organization, over
  - b. the total Tax-Deferred Savings Account Contributions (or 403(b) Smart Contributions) made for the employee by the qualified organization for prior years.

For purposes of this Section 3.1(a)(iii), a “qualified employee” means an Employee who has completed at least 15 years of service taking into account only employment with a Participating YMCA. For purposes of this Section 3.1(a)(iii), “years of service” shall be determined in accordance with Treasury Regulation Section 1.403(b)-4(e).

(iv) Code Section 415 Limits. In accordance with Code Section 415(a)(2) and Treasury Regulation Sections 1.403(b)-3(a)(9) and 1.403(b)-4(b), the contributions for any Participant under the Savings Plan are not permitted to exceed the limitations imposed by Code Section 415(c). “Contributions” for these purposes means any “annual addition,” as defined in Code Section 415(c) (Rollover Contributions and the age 50 catch-up contributions under Section 3.1(a)(ii), above are disregarded in applying Code Section 415(c)). The maximum “annual addition” on behalf of a Participant in any limitation year shall in no event exceed the lesser of: (1) \$40,000 (as adjusted under Code Section 415(d)) or (2) 100% of the amount of his or her Includible Compensation for the limitation year. For purposes of this Section 3.1(a)(iv), the limitation year for the Savings Plan is the calendar year.

(b) Coordination. Amounts in excess of the limitation set forth in Section 3.1(a)(i) above shall be allocated first to the special Code Section 403(b) catch-up under Section 3.1(a)(iii) and next as an age 50 catch-up contribution under Section 3.1(a)(ii), to the extent the age 50 catch-up exceeds the special Code Section 403(b) catch-up after taking into account Code Sections 402(g) and 415(c). However, in no event can the amount of the Tax-Deferred Savings Account Contributions (or 403(b) Smart Contributions) for a calendar year be more than the Participant’s Compensation for the calendar year.

(c) Participants Covered by another Code Section 403(b) Plan or Qualified Plan. For purposes of this Section 3.1, if a Participant is or has been a participant in one or more other plans under Code Section 403(b) (and any other plan that permits elective deferrals under Code Section 402(g)), then this Savings Plan and all such other plans shall be considered as one plan for purposes of applying the foregoing limitation of this Section 3.1 only if such plans are required by law to be combined for purposes of the Code Section 415 limits. For this purpose, the Board shall take into account any other such plan maintained by any Related Employer and shall also take into account any other such plan for which the Board receives from the Participant sufficient information concerning his or her

participation in such other plan. Notwithstanding the foregoing, another plan maintained by a Related Employer shall be taken into account for purposes of Section 3.1(a)(iii) only if such other plan is a 403(b) plan. Notwithstanding anything in this section to the contrary, to the extent a Participant participates in the Retirement Plan and this Savings Plan, the Retirement Plan and the Savings Plan shall be combined for purposes of plan contribution limits and applying the Code Section 415 limits.

- (d) Correction of Amount Exceeding Code Section 415 Limits. To the extent permitted by Code Section 415 and the Regulations promulgated thereunder, if the contributions under this Savings Plan with respect to an Employee exceed the Code Section 415 limitations, the excess amount derived from voluntary Employee contributions, if any, made under the Retirement Plan, plus any gain attributable to the excess may be distributed from the account in which they are held to the Employee, solely to the extent required by law and only if such plans are combined for purposes of the Code Section 415 limits. Furthermore, and only to the extent necessary, the excess amount derived from Tax-Deferred Savings Account Contributions made to this Savings Plan plus any gain attributable to the excess, may then be distributed from the account in which they are held to the Employee solely to the extent required by law. Prior to being distributed to a Participant, such excess amount, if any, shall be separately accounted for under the Retirement Fund in accordance with Code Section 72.
- (e) Correction of Excess Elective Deferrals. In the event that for a calendar year the aggregate amount contributed on behalf of a Participant pursuant to Section 3.1 exceeds the limitations in Section 3.1(a) above, the amount of such excess, increased by any income and decreased by any losses allocable thereto through the end of the calendar year to which such excess amounts relate, shall be refunded to the Participant no later than the April 15 of the calendar year following the calendar year for which the contribution was made or otherwise in accordance with Code Section 402(g). If a Participant also participates, in any calendar year, in any other plans subject to the limitations set forth in Code Section 402(g) and has made excess deferrals under this Savings Plan when combined with the other plans subject to such limits, to the extent the Participant designates any contributions under this Savings Plan as excess deferrals, in writing submitted to the Board no later than the March 1 of the calendar year following the calendar year for which the contributions were made, the amount of such designated excess, increased by any income and decreased by any losses allocable thereto through the end of the calendar year to which such excess amounts relate, shall be refunded to the Participant no later than the April 15 of the calendar year following the calendar year for which the contributions were made.
- (f) Rollover Contributions. Unless otherwise specifically provided, any amount contributed to the Savings Plan in accordance with Section 3.6 shall not be taken into account for purposes of the contribution limits set forth in this Section 3.1.

3.2 Terminating Salary Reduction Agreements. The Participant may terminate the Salary Reduction Agreement at any time during the calendar year and may make one or more subsequent Salary Reduction Agreements during the calendar year, subject to such uniform administrative rules as the Board may develop.

3.3 Nonforfeitable. A Participant's interest in his or her Tax-Deferred Savings Account Contributions shall be at all times 100 percent vested and non-forfeitable.

3.4 Timing and Manner of Contributions. A Participant's contributions to the Savings Plan shall be made by payroll deduction. All Tax-Deferred Savings Account Contributions withheld from Participants' Compensation in accordance with the Savings Plan shall be remitted by each Participating YMCA to the Savings Plan within 15 business days following the end of the month in which the amount would

otherwise have been paid to the Participant. The Retirement Fund reserves the right to require a more advanced period, if practicable, and will communicate that period to Participating YMCAs.

### 3.5 Special Rules for Qualified Military Service Members.

- (a) Additional Tax-Deferred Savings Account Contributions Upon Resumption of Employment. Participant whose employment is interrupted by qualified military service under Code Section 414(u) or who is on a leave of absence for qualified military service under Code Section 414(u) may elect to make additional Tax-Deferred Savings Account Contributions upon resumption of employment with a Participating YMCA equal to the maximum Tax-Deferred Savings Account Contributions that the Employee could have elected during that period if the Employee's employment with a Participating YMCA had continued (at the same level of Compensation) without the interruption or leave, reduced by the Tax-Deferred Savings Account Contributions, if any, actually made for the Employee during the period of the interruption or leave (including from any differential wage payments, as applicable, or otherwise). Except to the extent provided under Code Section 414(u), this right applies for five years following the resumption of employment (or, if sooner, for a period equal to three times the period of the interruption or leave).
- (b) Restrictions on Employee Contributions. Effective January 1, 2009, pursuant to the HEART Act, to the extent that a Participant is treated as having had a Severance from Employment for purposes of determining eligibility for distributions of Account Balances under the Savings Plan during the period he or she is performing service in the uniformed services (as described in Code Section 3401(h)(2)(A)), and such Participant elects to receive a distribution of his or her Account Balance, the Participant may not make an elective deferral or employee contribution during the six (6) month period following the date of such distribution in accordance with applicable law.

### 3.6 Rollover Contributions

- (a) Subject to applicable law, any eligible Employee who receives an Eligible Rollover Distribution (as defined in Section 5.8(b)(i) herein) may roll over all or part of such distribution to this Savings Plan:
- (i) from an Eligible Retirement Plan described in Section 5.8(b)(ii)2, or
  - (ii) from an Eligible Retirement Plan described in Section 5.8(b)(ii)1, 3 (except for an individual retirement account plan described in Code Section 408A) or 4.

The Retirement Fund shall make the determination as to whether the distribution sought to be rolled over so qualifies as an eligible rollover distribution. Unless otherwise provided under Treasury Regulation Section 1.403(b)-10(d), such amounts rolled over shall be treated in the same manner as all other accounts in this Savings Plan, except that distributions taken from such amounts as Normal, Early, Deferred Vested, or Disability Retirement allowances, where the account has not been held by the Retirement Fund for a minimum of ten years (120 calendar months) from the date such amounts are received by the Fund until the date such amounts are converted, shall upon conversion be subject to different interest rates for annuity purchased rate purposes as shall be set forth in resolutions adopted by the Board from time to time which are incorporated herein by reference. Effective July 1, 2008, the calculation of such ten-year period shall not be affected by a Participant taking a loan from the Savings Plan under Section 5.5, including a loan from a Participant's Rollover Account.

- (b) Rollover Contributions provided for in Section 3.6(a) above shall be made in the form of cash only. The Board may require such documentation from the distributing plan as it deems necessary to effectuate the rollover in accordance with Code Section 402 and to confirm that such plan is an eligible retirement plan within the meaning of Code Section 402(c)(8)(B). However, in no event

does the Savings Plan accept Rollover Contributions from a Roth elective deferral account under an applicable retirement plan described in Code Section 402A(e)(1) or a Roth IRA described in Code Section 408A.

- (c) Notwithstanding any other provision of this Savings Plan to the contrary and in accordance with Section 5.7 herein, amounts contributed to this Savings Plan as Rollover Contributions in accordance with Section 3.6 may be withdrawn from the Savings Plan at any time, subject to Section 5.5(m) herein.
- (d) Rollover Contributions paid to the Savings Plan shall be maintained for Participants in separate accounts.

#### **SECTION 4 - BENEFITS**

- 4.1 Application for Retirement Benefits. A Participant's eligibility to receive benefits under the Savings Plan and the amount of such benefits, shall be determined as described in this Section, subject to the exceptions and definitions set forth elsewhere in the Savings Plan. Application for any Retirement Benefit must be made by the Participant, except as otherwise provided under Section 4.4 and Section 7.1, on forms provided by the Board, and must be filed in the office of the Retirement Fund not later than the last day of the month in which such Retirement Benefit is to become effective. Except as provided in Section 4.4, the applicable effective date must be no later than the first day of the third month subsequent to the cessation of Compensation and the Severance from Employment.
- 4.2 Normal Retirement. A Participant may retire and commence his or her Normal Retirement Benefit upon reaching his or her Normal Retirement Date. Upon actual retirement (i.e., Severance from Employment), a Participant may receive a Retirement Benefit paid by the Retirement Fund in the form of an annuity which is the Actuarial Equivalent of the Participant's Account Balance on the effective date of the Retirement Benefit.
- 4.3 Early Retirement. A Participant may retire on an early Retirement Benefit upon reaching age fifty-five (55) while employed by a Participating YMCA. Upon actual retirement (i.e., Severance from Employment), a Participant may receive a Retirement Benefit paid by the Retirement Fund in the form of an annuity which is the Actuarial Equivalent of the Participant's Account Balance on the effective date of the Retirement Benefit.
- 4.4 Permanent Disability Retirement. Upon application made personally or by one entitled to act on his or her behalf or made by his or her employing Participating YMCA, an eligible Participant who has not attained age sixty (60), subject to all the conditions and provisions set forth below, may retire on a Permanent Disability Retirement Benefit as defined herein to become effective no earlier than the first day of a calendar month following his or her Severance from Employment.
  - (a) For purposes of this Section 4.4, the term "eligible Participant" shall include a Participant who (i) either: (x) is in YMCA employment at a Participating YMCA at the time of application for his or her Permanent Disability Retirement Benefit; or (y) has had a Severance from Employment within less than six (6) calendar months at the time of application for his or her Permanent Disability Retirement Benefit; (ii) notwithstanding 4.4(a)(i), has a Severance from Employment as of the date Permanent Disability Retirement Benefits commence (or had a Severance from Employment prior to such date and remains severed from employment on such date); and (iii) satisfies 4.4(b) below.
  - (b) The physician or physicians designated by the insurance company selected by the Board shall certify to the Retirement Fund, after a review of the relevant medical documentation submitted on behalf of the Participant or, if necessary, a medical examination at the Participant's place of residence or

other place agreed upon between the insurance company and the Participant, that the Participant is totally and permanently physically or mentally incapacitated for the performance of duty and cannot engage in any gainful employment, that such incapacity commenced while in YMCA employment, and that he or she should be granted a Permanent Disability Retirement Benefit.

- (c) A Permanent Disability Retirement Benefit shall consist of an annuity paid by the Retirement Fund which shall be the Actuarial Equivalent of the Participant's Savings Plan Account Balance on the effective date of the Permanent Disability Retirement Benefit.

#### 4.5 Deferred Vested Retirement.

- (a) Deferred Vested Retirement Benefits. A Participant who is not eligible to or does not elect to retire under the provisions of the Sections 4.2, 4.3, or 4.4, and who has a Severance from Employment shall be eligible to retire on a Deferred Vested Retirement Benefit, to become effective and commence at the Participant's option on the first day of any month following such Participant's 55th birthday. Said Deferred Vested Retirement Benefit shall consist of an annuity paid by the Retirement Fund which is the Actuarial Equivalent of the Participant's Account Balance on the effective date of the Retirement Benefit.
- (b) Death of Deferred Vested Participant. If death should occur prior to the due date of the first payment of his or her Retirement Benefit, the death benefit payable on his or her account shall be determined under the applicable provisions of Section 6, subject to the conditions of Section 9.3.

#### 4.6 Pre-Retirement Death Benefit. If a Participant of a Participating YMCA dies before retirement or if he or she dies after having elected a form of Retirement Benefit and before the due date of the first payment of his or her Retirement Benefit, distribution of his or her Account Balance under the Savings Plan shall be made in accordance with the provisions of Section 6 herein, except to the extent as otherwise provided under Section 7.3.

#### 4.7 Alienation.

- (a) Subject to applicable law, no benefit under the Savings Plan shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance or charge, and any attempt to so anticipate, alienate, sell, transfer, assign, pledge, encumber or charge the same shall be void; nor shall any such benefit be, in any manner, liable for or subject to the debts, contracts, liabilities engagements or torts of the person entitled to such benefit.
- (b) Notwithstanding the foregoing provisions of this Section, the creation, assignment, or recognition of a right to any benefit payable under the Savings Plan shall be payable pursuant to an order determined by the Board to be a qualified domestic relations order, as defined in Code Section 414(p).

#### 4.8 Death Benefits While on Qualified Military Service. Pursuant to the HEART Act, effective for deaths occurring on or after January 1, 2007, in the case of a Participant who dies while performing qualified military service (as defined in Code Section 414(u)) the survivors of the Participant are entitled to any additional benefits provided under the Savings Plan (other than benefit accruals relating to the period of qualified military service) that they would have been entitled to had the Participant resumed and then terminated employment on account of death (which may include, but is not limited to, pre-retirement death benefits provided under Section 6 herein).

## **SECTION 5 - DISTRIBUTION OF ACCOUNT BALANCES**

- 5.1 Distribution Events. Participants shall be entitled to receive a distribution of their Account Balance on account of the following events:
- (a) Severance from Employment;
  - (b) Attainment of age 59 ½;
  - (c) Death or disability (within the meaning of Code Section 72(m)(7));
  - (d) Normal Retirement (as defined in Section 4) provided a Severance from Employment also occurs;
  - (e) Early Retirement (as defined in Section 4) provided a Severance from Employment also occurs;
  - (f) Permanent Disability Retirement (as defined in Section 4) provided a Severance from Employment also occurs;
  - (g) Financial Hardship (as defined in Section 5.4 below).
- 5.2 Distributions Following Severance from Employment. Any Participant who has a Severance from Employment may request a distribution of an amount equal to his or her Account Balance in a single lump sum, provided applicable spousal consent under Section 8 is obtained. In the event a Participant elects a distribution of his or her Account Balance in accordance with the foregoing, he or she may not repay any part thereof even though he or she is subsequently reemployed by a Participating YMCA. Notwithstanding the foregoing, effective for requests for distributions from the Savings Plan that are received by the Fund on or after October 1, 2009, in the event that a Participant who has a Severance from Employment is eligible to elect to receive a single lump sum distribution of his or her Account Balance as otherwise provided for under this Section 5.2, such Participant may elect to receive a partial lump sum distribution of his or her Account Balance, provided that (i) the Participant's Account Balance is equal to at least \$10,000 at the time of such partial lump sum distribution; (ii) such partial lump sum distribution is equal to at least \$5,000; (iii) no more than one (1) partial lump sum distribution from the Savings Plan shall be made to the Participant in any three (3)-month period; and (iv) for each such partial lump sum distribution request by a Participant, spousal consent under Section 8.3 is obtained. For purposes of such partial lump sum distributions, to the extent applicable, such distributions shall be withdrawn from a Participant's Account Balance on a pro-rata basis.
- 5.3 Restriction on In-Service Withdrawals. In no event shall any Participant who is employed by a Participating YMCA have the right to a withdrawal of his or her Account Balance, except with respect to a Severance of Employment as described in Section 1.28, Section 5.1(b) (Attainment of age 59 ½), Section 5.4 (Hardships), Section 5.5 (Loans) (although a loan is not treated as a withdrawal for purposes of the Savings Plan) or Section 5.7 (Rollover Contributions).

#### 5.4 Withdrawals for Hardship.

- (a) In the event of hardship, a Participant may make withdrawals of his or her Tax-Deferred Savings Account Contributions (excluding any income earned thereon) prior to Severance from Employment, reduced by the aggregate dollar amount of any distributions previously made to the Participant under the Savings Plan. "Hardships" are, subject to the rules specified below, immediate and heavy financial needs for which the withdrawal is necessary to satisfy such needs.
- (b) In no event shall the withdrawal be in an amount greater than that necessary to satisfy the financial need. Notwithstanding the foregoing, the amount of an immediate and heavy financial need may include any amount necessary to pay any federal, state or local income tax or penalties reasonably anticipated to result from the distribution.
- (c) Only the following types of needs shall be treated as immediate and heavy financial needs under this Section:
  - (i) Expenses for (or necessary to obtain) medical care that would be deductible under Code Section 213(d) (determined without regard to whether the expenses exceed the applicable percentage of adjusted gross income listed in Code Section 213(a)) incurred for the Participant, his or her Spouse, his or her designated primary Beneficiary, or his or her dependent (as defined in Code Section 152 determined without regard to Code Sections 152(b)(1), (b)(2) and (d)(1)(B));
  - (ii) Costs directly related to the purchase (excluding mortgage payments) of a principal residence for the Participant;
  - (iii) Payment of tuition, related educational fees, and room and board expenses, for up to the next twelve (12) months of post-secondary education for the Participant, his or her Spouse, his or her children, his or her designated primary Beneficiary, or his or her dependents (as defined in Code Section 152, without regard to Code Sections 152(b)(1), (b)(2) and (d)(1)(B));
  - (iv) Payments necessary to prevent the eviction of the Participant from his or her principal residence or foreclosure on the mortgage of the Participant's principal residence;
  - (v) Payments for burial or funeral expenses for the Participant's deceased parent, Spouse, children, designated primary Beneficiary, or dependents (as defined in Code Section 152, without regard to Code Section 152(d)(1)(B));
  - (vi) Expenses for the repair of damage to the Participant's principal residence that would qualify for a casualty deduction under Code Section 165 (determined without regard to Code Section 165(h)(5) and whether the loss exceeds 10% of the Participant's adjusted gross income);
  - (vii) Expenses and losses (including loss of income) incurred by the Participant on account of a disaster declared by the Federal Emergency Management Agency (FEMA) under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 100-707, provided that the Participant's principal residence or principal place of employment at the time of the disaster was located in an area designated by FEMA for individual assistance with respect to the disaster; and
  - (viii) Such other financial needs as may be specifically identified under applicable law, or in rulings or regulations issued by the Internal Revenue Service including, but not limited to, the needs of victims in disaster situations for which the Internal Revenue Service has announced that retirement plans can provide relief through hardship distributions (and such hardship

distributions need not comply with other requirements of this Section 5.4 to the extent that the Internal Revenue Service's related guidance relaxes such requirements).

- (d) A withdrawal will be necessary to satisfy the financial needs of a Participant if, and only if:
  - (i) The Participant has already obtained all distributions, other than hardship distributions under this Section, as may be currently available under all qualified and non-qualified plans maintained by his or her Participating YMCA; and
  - (ii) The Participant represents (in writing, by an electronic medium, or in such other form as may be prescribed by the Internal Revenue Service) that he or she has insufficient cash or other liquid assets to satisfy the need.
- (e) No Participant shall be prohibited from making Tax-Deferred Savings Account Contributions to the Savings Plan on or after January 1, 2020 as a result of the Participant receiving a hardship withdrawal from the Savings Plan under this Section 5.4.
- (f) Notwithstanding anything herein to the contrary, all hardship withdrawals made under this Savings Plan shall be made in accordance with the rules and restrictions set forth in Treasury Regulation Sections 1.401(k)-1(d)(3) and 1.403(b)-6(d)(2).
- (g) A Participating YMCA and the Retirement Fund shall exchange information to the extent necessary to implement the requirements of this Section 5.4 (as well as Section 5.5 below) and Code Section 403(b) and the Regulations and other guidance issued pursuant thereto, and a Participating YMCA may, at the discretion of the Retirement Fund, be required to certify and provide appropriate information to the Retirement Fund including, but not limited to, information pursuant to 5.4(d) above. A Participant may at the time of application or any later time, at the discretion of the Retirement Fund, be required to provide appropriate information to the Retirement Fund to certify the immediate and heavy financial need of any requested hardship distribution.

## 5.5 Loans.

- (a) Any active Participant ("Borrower") may apply for a loan from the Savings Plan with respect to the balance in his or her Tax-Deferred Savings Account and Rollover Account in the Savings Plan (including any accrued income, earnings or expenses attributable thereto) by application submitted prior to the date as of which the Borrower desires to make the loan. Loans shall be applied prorata from a Participant's Savings Plan accounts. The loan application shall specify the desired amount and term of the loan and shall contain all such other information or documentation as the Board or its delegate requires. The Board or its delegate shall consider the loan application as soon as administratively practical after the application is received by the Board or its delegate.
- (b) The amount of any loan granted to a Borrower together with the aggregate outstanding balance (determined as of the date the loan is made) of all previous loans to that Borrower under the Savings Plan may not exceed the lesser of:
  - (i) \$50,000 reduced by the excess (if any) of (I) the highest outstanding balance of loans from the Savings Plan during the 1-year period ending on the day before the date on which such loan was made, over (II) the outstanding balance of loans from the Savings Plan on the date on which such loan was made, or

- (ii) fifty percent (50%) of his or her Account Balance (i.e., Tax Deferred Savings Account and Rollover Account) (including any accrued income, earnings, or expenses attributable thereto) determined as of the most recent valuation.
- (c) The maturity date for any loan to a Borrower may not exceed five (5) years from the date the loan is made.
- (d) Each loan shall bear a reasonable rate of interest comparable to the rate a commercial lender would charge for a similar loan as determined on the date of the loan application.
- (e) No more than one loan per Borrower may be outstanding at any time.
- (f) The Board shall make loans available to all Borrowers on a reasonably equivalent and nondiscriminatory basis; and any Borrower to whom such loan is made agrees to such changes in the terms of the loan as may be required by changes in the applicable law or regulations thereto. The Board or its delegate shall not make loans available to highly compensated employees, as defined in Code Section 414(q) in an amount greater than the amount made available to other Employees.
- (g) Principal and interest with respect to any loan to a Borrower shall be repaid in a lump sum amount or, by payroll deduction, not less frequently than quarter-annually in substantially equal payments and in amounts sufficient to liquidate the loan over its remaining term.
- (h) The entire principal amount of a loan may be prepaid at any time, without premium or penalty, together with accrued or unpaid interest on the amount as of the date of prepayment.
- (i) The Retirement Fund may charge a Borrower a reasonable fee in connection with obtaining a loan from the Savings Plan.
- (j) Any loan to a Borrower shall be charged on a prorata basis against the balance of his or her Savings Plan accounts. Amounts charged by reason of a loan made hereunder, including any fees, charges or other expenses incurred in connection with such loan, shall be charged first against a Borrower's Tax-Deferred Savings Account and then, to the extent not satisfied, charged against a Borrower's Rollover Account.
- (k) Each Borrower to whom a loan is made shall grant to the Trustees a security interest in his or her Tax-Deferred Savings Account and Rollover Account to the extent of the loan and execute a legally enforceable agreement (which may include more than one document) in a form acceptable to the Board or its delegate. In addition, such agreement shall comply with the enforceable loan agreement requirement set forth in Treasury Regulation Section 1.72(p)-1 Q&A 3 and any subsequent Regulations or guidance thereto.
- (l) Upon a Borrower's Severance from Employment, the outstanding principal amount of each loan together with all accrued and unpaid interest shall become immediately due and payable, provided, however, that if the Borrower receives Compensation following the date the Participant has a Severance from Employment, the Borrower may continue to make loan repayments through deductions from such Compensation after the Severance from Employment. If the loan is not repaid within a reasonable period of time following the Participant's Severance from Employment or the cessation of repayments, the loan will be offset against the Participant's Account Balance.
- (m) Notwithstanding any other provision of the Savings Plan or this Section 5.5, if all or part of a Borrower's Rollover Account was used as a source and/or security for a loan or loans under the Savings Plan and a Borrower requests an in-service distribution of his or her Rollover Account prior

to the loan being repaid in full, then the Borrower shall receive a distribution of his or her Rollover Account in an amount equal to the total amount of his or her Rollover Account less the outstanding balance on the loan or loans that is currently attributable to and secured by the Rollover Account.

- (n) Except as provided in Section 5.5(o) below, if a Borrower fails to pay in full the principal amount or the accrued interest on his or her loan upon the date of his or her Severance from Employment, the balance of any Tax-Deferred Savings Account and Rollover Account that has been charged by reason of the loan (determined on the same pro rata basis as the source of the accounts from which the loan was originally taken) shall be reduced by the amount of the unpaid principal and interest, and the amount by which the balance of the Tax-Deferred Savings Account and Rollover Account are reduced shall be treated as a distribution. Except as provided in Section 5.5(o) below, in the event a Borrower fails to pay the full amount of any payment when due, and such payment is not made up within 90 days of the payment's due date, the loan will default and the balance of any Tax-Deferred Savings Account and Rollover Account that have been charged by reason of the loan shall be reduced by the amount of the unpaid principal and interest, and the amount by which the balance of the Tax-Deferred Savings Account and Rollover Account are reduced shall be treated as a distribution. If, under the terms of the Savings Plan without regard to this Section, the Borrower is not eligible to receive a distribution, then the balance of any Tax-Deferred Savings Account and Rollover Account that have been charged by reason of a loan shall be reduced and treated as a distribution on the first day on which the Borrower is eligible to receive a distribution under Code Section 403(b)(11).
- (o) Notwithstanding Section 5.5(n) above, a Borrower's loan repayments will be suspended under this Savings Plan as permitted under Code Section 414(u)(4) or as required under other applicable laws.
- (p) To the extent that the Retirement Fund issues loan promissory notes and/or loan agreements through an electronic medium (e.g., Web site, electronic mail, telephonic system, magnetic disk, and/or CD-ROM) under an electronic system, a Borrower may agree to any applicable promissory note and/or loan agreement and make any relevant elections and/or consents through an electronic signature in accordance with Treasury Regulation Section 1.401(a)-21.
- (q) The Board may, in its sole discretion, adopt loan procedures applicable to the administration of this Section 5.5, provided that such procedures are nondiscriminatory in effect, and is permitted under the Code and the Regulations thereunder. All loans shall be subject to such procedures.
- (r) A loan need not comply with the requirements of this Section 5.5 to the extent that the Internal Revenue Service relaxes such requirements in connection with relief for victims in disaster situations.

#### 5.6 Rollovers/Mandatory Distributions from the Savings Plan.

- (a) In the event that the Participant's Account Balance (including Rollover Contributions) is \$5,000 or less on the date the Participant has a Severance from Employment, the person entitled to such amounts may elect to be paid a single sum distribution of those amounts.
- (b) In the event that the Participant's Account Balance (including Rollover Contributions) is more than \$5,000 on the date the Participant has a Severance from Employment, the person entitled to such amounts may elect to be paid a single lump sum (or, effective for requests for distributions from the Savings Plan that are received by the Fund on or after October 1, 2009, partial lump sum, as provided for under this Section 5.6) of those amounts, subject to the spousal consent requirements of Section 8.3.

- (c) In the event that the Participant's Account Balance (including Rollover Contributions) is greater than \$50 but less than or equal to \$5,000 on the date the Participant has a Severance from Employment, if the Participant does not elect within 180 days of when the Rollover Notice in Section 5.8(b)(vii) is provided to the Participant to have such balances paid directly to an eligible retirement plan specified by the Participant in a direct rollover in accordance with Section 5.8, or to receive a single sum distribution, then the Board or its designee will pay the Participant's Account Balance (including Rollover Contributions) as soon as practicable following the completion of such 180-day period in a direct rollover to an individual retirement plan and a respective trustee or issuer thereof designated by the Board or its designee, provided that, such Account Balance remains less than or equal to \$5,000 on such distribution date and provided further, however, that if the Participant's Total Account Balance (as defined in Section 1 of the Retirement Plan) in the Retirement Plan is more than \$5,000 on the date of the Participant's Severance from Employment and thereafter, the Participant's Account Balance (including Rollover Contributions) will not be paid from the Savings Plan without the consent of the Participant prior to the earlier of (i) the Participant's attainment of age sixty-two (62) or (ii) his or her death; and only if such consent is provided not more than 180 days prior to the date of the distribution. Notwithstanding the foregoing, in the case of a Participant who has attained his or her "required beginning date" (as defined in Section 16 of Appendix A (Minimum Distribution Requirements), has not elected a form of retirement benefit for his or her Account Balance (including Rollover Contributions), and where the Account Balance (including Rollover Contributions) exceeds \$50 but does not exceed \$5,000 on such date, such amount shall be paid directly to the Participant in a single lump sum payment.
- (d) Except to the extent provided in Section 5.6(c), in the event that the Participant's Account Balance (including Rollover Contributions) is more than \$5,000 on the date such amounts are to be paid as a single lump sum (or, effective for requests for distributions from the Savings Plan that are received by the Fund on or after October 1, 2009, partial lump sum) under this Section 5.6 or on the date of any other distribution event, no portion thereof may be paid from the Savings Plan without the consent of the Participant prior to the earlier of (i) the Participant's attainment of age sixty-two (62) or (ii) his or her death; and only if such consent is provided not more than 180 days prior to the date of the distribution.
- (e) In the event that the Participant's Account Balance (including Rollover Contributions) is \$50 or less on the date the Participant has a Severance from Employment, such amounts shall be paid to the Participant in a single lump sum as soon as practicable following such event.

5.7 Distribution or Withdrawal of Rollover Contributions. Any Participant who has an amount of Rollover Contributions standing to his or her credit in the Participant's Account Balance may request that a full distribution of such amount following his or her Severance from Employment or a full withdrawal of such amount while employed by a Participating YMCA be made to him or her in a single lump sum, provided applicable spousal consent under Section 8 is obtained, and subject to Section 5.5(m) above.

5.8 Rollover Distributions.

- (a) Notwithstanding any provision of the Savings Plan or the Retirement Plan to the contrary that would otherwise limit a Distributee's election under this Section, after a Distributee has been provided with a Rollover Notice, a Distributee may elect, at the time and on forms and in the manner prescribed by the Board, as applicable, to have any portion of an Eligible Rollover Distribution under the Savings Plan paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover.
- (b) For purposes of this Section, the terms set forth below shall have the following meanings:

- (i) Eligible Rollover Distribution. An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of distributee under an Eligible Retirement Plan described in Section 5.8(b)(ii), except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee and the distributee's designated Beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Code Section 401(a)(9); the portion of any distribution that is not includible in gross income except as provided in Section 5.8(b)(vi) below, and any amount withdrawn by a Participant on account of hardship. For purposes of Rollover Contributions into the Savings Plan under Section 3.6(a), an eligible rollover distribution shall include the portion of any distribution that is not includible in gross income.
- (ii) Eligible Retirement Plan. An eligible retirement plan is:
1. a qualified plan described in Code Section 401(a) or 403(a),
  2. a qualified plan described in Code Section 403(b),
  3. an individual retirement account plan described in Code Sections 408 or 408A, or
  4. a deferred compensation plan described in Code Section 457(b) that 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 that agrees to accept the distributee's eligible rollover distribution and separately accounts for such amounts and the earnings thereon.
- (iii) Distributee. A distributee includes the following individuals with respect to his or her interest in the Savings Plan: (i) an Employee, (ii) a former Employee, (iii) the Employee's or former Employee's surviving Spouse, (iv) 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 Code Section 414(p), and (v) any non-spouse Beneficiary designated by the Employee.
- (iv) Direct Rollover. A direct rollover is a payment by the Savings Plan to the eligible retirement plan specified by the distributee.
- (v) Rollover by Non-Spouse Beneficiaries. In the case of a distribution to a Beneficiary who at the time of the Participant's death was neither the Spouse of the Participant nor the Spouse or former Spouse of the Participant who is an alternate payee under a domestic relations order, such Beneficiary may make a direct rollover of such amount only to an individual retirement account or individual retirement annuity described in Section 5.8(b)(ii)3, to the extent allowable by applicable law, that has been established on behalf of the Beneficiary as an inherited IRA (within the meaning of Code Section 408(d)(3)(C)).
- (vi) After-Tax Rollovers from the Savings Plan. To the extent Rollover Contributions under the Savings Plan consist of after-tax Employee contributions, Eligible Rollover Distributions of such after-tax Employee contributions from the Savings Plan may be rolled over to:
1. an Eligible Retirement Plan described in Section 5.8(b)(ii)1 or 2, provided such plan accepts after-tax Employee contributions and separately accounts for such amounts and the earnings thereon, including separately accounting for the portion of the distribution that is includible in gross income and the portion of the distribution that is not so includible;
  2. an Eligible Retirement Plan described in Section 5.8(b)(ii)3.

- (vii) Rollover Notice. The written explanation of Eligible Rollover Distributions and applicable federal tax treatment which shall be provided to the Distributee no less than 30 days and no more than 180 days prior to the date of the Eligible Rollover Distribution (or as otherwise permitted under applicable law).
- 5.9 Plan-to-Plan Transfers Not Permitted. Transfers of assets between the Savings Plan and another Code Section 403(b) plan (as described in Treasury Regulation Section 1.403(b)-10(b)) are not permitted.
- 5.10 Exchanges. Contract exchanges (as described in Treasury Regulation Section 1.403(b)-10(b)) are not permitted.

## SECTION 6 - PRE-RETIREMENT DEATH BENEFITS

- 6.1 Pre-Retirement Death Benefit. If a Participant of a Participating YMCA dies before retirement or if he or she dies after having elected a form of Retirement Benefit and before the due date of the first payment of his or her Retirement Benefit, and subject to all the applicable provisions and conditions specified in this Section and Section 5.8, and except as otherwise provided under Section 9.3, there shall be paid, in a lump sum, to the person or persons he or she shall have nominated by written designation duly executed and filed with the Board, or if no such person survives him or her, as provided in Section 12.6, the Participant's Account Balance as of the last day of the month in which the Participant dies, with an Interest Credit thereto for up to three months after the month in which the Participant dies.
- 6.2 Beneficiary Election To Convert Lump Sum Death Benefit or Account Balance. In lieu of any lump sum payment available under Section 6.1 above, the duly nominated Beneficiary or Beneficiaries of a deceased Participant described in Section 6.1 may elect to convert such lump sum (as of the last day of the month in which the Participant dies), in whole or in part, into an immediate single life annuity ceasing at death described in Section 7.2(a), or into an immediate principal guarantee annuity option described in Section 7.2(b), which is the Actuarial Equivalent of the lump sum or Participant's Account Balance otherwise payable. The effective date of any such annuity shall be the first day of the month next following the month in which the Participant's death occurred. Such election shall be available only to a named Beneficiary who is a living person, and not to any trust (other than a trust described in Section 12.7), estate, institution, organization, or other non-living person.
- 6.3 Multiple Beneficiaries. In the event a Participant described in Section 6.1 has nominated more than one Beneficiary, then each Beneficiary shall be entitled to elect for themselves one of the benefits described in Sections 6.1, or 6.2 with respect to their proportionate share of such death benefit as if all of the Beneficiaries elected such benefit. However, in the case of a named Beneficiary that is a trust (other than a trust described in Section 12.7), estate, institution, organization, or other non-living person, such Beneficiary, in lieu of any other benefit described in this Section 6, shall receive as a death benefit its proportionate share of the benefits described in Section 6.1.
- 6.4 Death Benefits for Certain Spouses.
- (a) In lieu of the benefits described in Sections 6.1 or 6.2, the surviving Spouse of a deceased Participant described in Section 6.1 may elect, within a reasonable time after Participant's death, to receive an immediate or deferred single life annuity described in Section 7.2(a) or an immediate or deferred principal guarantee annuity described in Section 7.2(b) in the form of a qualified pre-retirement survivor annuity as described in Section 8.2, unless waived in accordance with the requirements of Section 8.3(d). The effective date of any such immediate annuity shall be the first day of the month next following the month in which the Participant's death occurred.

(b) Where Surviving Spouse is the Beneficiary.

- (i) Subject to Section 6.4(b)(ii) below, if the surviving Spouse, described in Section 6.4(a), is also the deceased Participant's named Beneficiary (as to all or a portion of such Participant's death benefit) and does not elect to waive the pre-retirement death benefit described in Section 6.4(a), and in lieu of the death benefits described in Sections 6.1 or 6.2, the remaining amounts standing to the Participant's credit in the Participant's Account Balance shall be paid to the deceased Participant's named Beneficiary (or, as applicable, named Beneficiaries in accordance with their respective shares thereof), other than any named Beneficiary that is a trust (other than a trust described in Section 12.7), estate, institution, organization, or other non-living person, in the form of an immediate single life annuity described in Section 7.2(a) or an immediate principal guarantee annuity described in Section 7.2(b), whichever the named Beneficiary so elects.
- (ii) Notwithstanding anything in Section 6.4(b)(i) above to the contrary, the surviving Spouse (and, as applicable, such other named Beneficiaries) may elect to receive in a lump sum or in an immediate or deferred single life annuity described in Section 7.2(a) or immediate or deferred principal guarantee annuity described in Section 7.2(b), the surviving Spouse's (and, as applicable, such other named Beneficiaries') proportionate share of the portion of such remaining death benefit as is equal to one-half of the Participant's Account Balance and to the extent such lump sum or annuity benefit, described in this Section 6.4(b)(ii), is elected and paid to the surviving Spouse (or other named Beneficiary or Beneficiaries), the surviving Spouse's (or other named Beneficiaries') proportionate share of the remaining death benefit that would be payable to the surviving Spouse (or other named Beneficiary or Beneficiaries) under Section 6.4(b)(i) above shall be reduced by the Actuarial Equivalent of such lump sum or annuity benefit payment so elected under this Section 6.4(b)(ii) but not below the value of the qualified Pre-retirement Survivor Annuity described in Section 8.2. The effective date of any immediate annuity payment under this Section 6.4(b) shall be the first day of the month next following the month in which the Participant's death occurred.

(c) Where Surviving Spouse is Not the Beneficiary. If the surviving Spouse, described in Section 6.4(a), is not a named Beneficiary of the deceased Participant (as to any portion of such Participant's death benefit) and does not elect to waive the pre-retirement death benefit described in Section 6.5, in lieu of the death benefits described in Sections 6.1, 6.2, and 6.3, the remaining one-half of the amounts standing to the Participant's credit in the Participant's Account Balance shall be paid to the deceased Participant's named Beneficiary, (or, as applicable, named Beneficiaries in accordance with their respective shares thereof), other than any named Beneficiary that is a trust (other than a trust described in Section 12.7), estate, institution, organization, or other non-living person, in the form of an immediate single life annuity described in Section 7.2(a) or an immediate principal guarantee annuity described in Section 7.2(b), whichever the named Beneficiary so elects.

(d) Waiver by Surviving Spouse. If the surviving Spouse of a deceased Participant, described in Section 6.4(a), elects, as provided in Section 6.5, to waive the surviving Spouse death benefit described in this Section 6.4, the deceased Participant's named Beneficiary (or, as applicable, named Beneficiaries) shall be eligible to receive, in lieu of any benefit otherwise payable under this Section 6.4, the pre-retirement death benefit provided under Section 6.1, or 6.2, whichever shall apply.

6.5 Waiver of Surviving Spousal Benefit. A Participant may, with the consent of his or her Spouse, revocably waive the surviving Spouse death benefit described in Section 6.4(a) on or after the first day of the Plan Year in which he or she attains age 35 or as of the Severance from Employment as provided in Section 8 below.

## SECTION 7 - OPTIONAL FORMS OF RETIREMENT BENEFITS

- 7.1 Application for Retirement Benefit. At the time an application is made for any Retirement Benefit available under Section 4, but not later than the date the first payment of his or her Retirement Benefit is due, any Participant, or if he or she is incompetent in the judgment of the Board or as determined by a court of competent jurisdiction, his or her Spouse or a committee of his or her estate, may by formal application elect any optional form of benefit provided under this Section. Any Beneficiary who is entitled to convert a lump sum payment into an annuity, may by formal application elect either a single life annuity or a lesser principal guarantee annuity as described in Sections 7.2(a) or 7.2(b) below.
- 7.2 Optional Forms. Any such Participant may elect one of the following optional forms of distribution described in this Section 7.2(a), (b), or (c), including any further modification as permitted in Section 7.2(d), but subject to the provisions of Sections 7.3 and 7.4:
- (a) To receive the Actuarial Equivalent of the amount standing to his or her credit in the Participant's Account Balance as a single life annuity from the Retirement Fund, payable monthly and terminating with the payment due for the last month of his or her life (this annuity is the Normal Retirement Benefit, also referred to as the single life annuity); or
  - (b) To receive the Actuarial Equivalent of his or her Normal Retirement Benefit at the time it becomes effective in the form of a lesser Retirement Benefit, payable monthly through the last month of his or her life and, upon his or her death, an amount shall be paid to such person as he or she may have nominated as Beneficiary, equal to the Participant's Account Balance at the time the annuity goes into effect minus the sum total amount of the annuity payments based upon such Participant's Account Balance which he or she shall have received prior to his or her death (also referred to as the principal guarantee annuity option); or
  - (c) To receive the Actuarial Equivalent of his or her Normal Retirement Benefit at the time it becomes effective in the form of a lesser Retirement Benefit, payable monthly through the last month of his or her life and, upon his or her death, said reduced Retirement Benefit shall be continued and paid during the life of, and to, the person he or she shall have nominated at the time he or she elected this option in such amount and under such conditions as described below (also referred to as the joint and survivor annuity).
    - (i) The reduced Retirement Benefit described under this joint and survivor annuity option which is payable to the Participant shall be called the Participant annuity, and the amount continued and paid to the nominated Beneficiary shall be called the survivor annuity. The Participant may elect a reduced Retirement Benefit described in this Section 7.2(c) with a survivor annuity payable:
      - 1. in the same amount as the Participant annuity (100% joint and survivor annuity),
      - 2. at the rate of 75% of the Participant annuity (75% joint and survivor annuity), or
      - 3. at the rate of 50% of the Participant annuity (50% joint and survivor annuity).
    - (ii) The Participant may elect to further modify his or her reduced Retirement Benefit described in this Section 7.2(c) to provide that, should the person nominated to receive the survivor annuity at his or her death predecease him or her, the amount of his or her Retirement Benefit shall revert to the amount of his or her Normal Retirement Benefit as described in Section 7.2(a) on the first of the month following the date of death of the person so nominated.

(d) Any Participant may elect to modify the optional form of his or her Retirement Benefit described in Sections 7.2(a) single life annuity, 7.2(b) principal guarantee annuity option, or 7.2(c) joint and survivor annuity to provide that, if his or her Retirement Benefit is effective before he or she has attained age 62, his or her Retirement Benefit shall be increased by the amount of his or her estimated federal Social Security benefit at age 62 and 2 months, actuarially reduced to the age his or her Retirement Benefit is effective, provided his or her Retirement Benefit (both his or her Participant annuity and any survivor annuity payable) is greater than his or her estimated federal Social Security benefit at age 62 and 2 months, and further provided that at age 62 and 2 months his or her Retirement Benefit (Participant annuity only) shall be reduced on a dollar for dollar basis by the amount of his or her estimated federal Social Security benefit at age 62 and 2 months. The modification provided under this Section 7.2(d) may not be combined with the modification under Section 7.2(c)(ii).

7.3 **Required Beginning Date.** Every Participant entitled to a Retirement Benefit or annuity must begin to take a distribution by April 1st of the year after the year in which he or she attains age 70½ or he or she has a Severance from Employment, whichever is later. A surviving Spouse entitled to a death benefit described in Section 6.4 must begin to take a distribution by December 31<sup>st</sup> of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70½, if later. Notwithstanding any other provision, the timing and commencement of benefits, unless benefits are otherwise payable pursuant to Sections 5, 6, 7, 8 and 9.4, shall be subject to the provisions of Appendix A.

7.4 **Spousal Consent.** Any election of a single life annuity, principal guarantee single life annuity, or any optional form which modifies a joint and survivor annuity as described in Section 7.2(c)(ii) or 7.2(d), or a distribution described in Section 5.2, by such Participant, shall require the consent of his or her Spouse.

7.5 **Restrictions on Immediate Distributions.** Except to the extent provided in Sections 5.6(c) and 9.4(a), if either the value of a Participant's Account Balance (including Rollover Contributions) exceeds \$5,000 or there are remaining payments to be made with respect to a particular distribution option that previously commenced, and the Participant's Account Balance is immediately distributable, the Participant and the Participant's Spouse, if applicable, must consent to any distribution of such Account Balance, as provided in Section 8.

## **SECTION 8 - JOINT AND SURVIVOR & PRE-RETIREMENT SURVIVOR ANNUITY**

8.1 **Qualified Joint and Survivor Annuity.** Unless an optional form of benefit is selected pursuant to a qualified election within the 180-day period ending on the annuity starting date, a married Participant's Account Balance will be paid in the form of a qualified joint and survivor annuity and an unmarried Participant's Account Balance will be paid in the form of a life annuity. The Participant may elect to have such annuity commence upon attainment of the earliest retirement age under the Savings Plan.

8.2 **Qualified Pre-retirement 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 the annuity starting date, the Participant's Account Balance as of the date of the Participant's death 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 commence within a reasonable period after the Participant's death.

8.3 **Definitions.** For purposes of this Section 8, the following definitions will apply:

(a) **Election period.** The period which begins on the first day of the Plan Year in which the Participant attains age 35 and ends on the date of the Participant's death. If a Participant has a Severance from

Employment prior to the first day of the Plan Year in which age 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.

- (b) Pre-age 35 waiver. A Participant who will not yet attain age 35 as of the end of any current Plan Year may make a special qualified election to waive the qualified pre-retirement survivor annuity for the period beginning on the date of such election and ending on the first day of the Plan Year in which the Participant will attain age 35. Such election shall not be valid unless the Participant receives a written explanation of the qualified pre-retirement survivor annuity in such terms as are comparable to the explanation required under Section 8.4. Qualified pre-retirement survivor annuity coverage will be automatically reinstated as of the first day of the Plan Year in which the Participant attains age 35. Any new waiver on or after such date shall be subject to the full requirements of this Section.
- (c) Earliest retirement age. The earliest date on which, under the Savings Plan, the Participant could elect to receive Retirement Benefits but no earlier than age 55.
- (d) Qualified election. A qualified election is a waiver of a qualified joint and survivor annuity or a qualified pre-retirement survivor annuity. Any waiver of a qualified joint and survivor annuity or a qualified pre-retirement survivor annuity shall not be effective unless: (i) the Participant's Spouse consents in writing to the election; (ii) 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); (iii) the Spouse's consent acknowledges the effect of the election; and (iv) the Spouse's consent is witnessed by a Savings Plan representative or a 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 Savings 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 of the Spouse at any time before the commencement of benefits. The number of revocations shall not be limited. No consent obtained under this provision shall be valid unless the Participant has received notice as provided in Section 8.4 below.
- (e) 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 50 percent and not more than 100 percent of the amount of the annuity which is payable during the joint lives of the Participant and the Spouse and which is the amount of benefit which can be purchased with the Participant's Account Balance. The percentage of the survivor annuity under the Savings Plan shall be 50.
- (f) Spouse (surviving Spouse). For purposes of this Section 8, shall mean the Spouse or surviving Spouse of the Participant as defined in this Savings Plan, provided that a former Spouse will be treated as the Spouse or surviving Spouse, and a current Spouse will not be treated as the Spouse or surviving Spouse to the extent provided under a qualified domestic relations order as described in Code Section 414(p).

- (g) Annuity starting date. The first day of the first period for which an amount is paid as an annuity or any other form.

#### 8.4 Notice Requirements.

- (a) In the case of a qualified joint and survivor annuity, the Board shall, no less than 30 days and no more than 180 days prior to the annuity starting date, provide each Participant a written explanation of: (i) the terms and conditions of a qualified joint and survivor annuity; (ii) the Participant's right to make and the effect of an election to waive the qualified joint and survivor annuity form of benefit; (iii) the rights of a Participant's Spouse; and (iv) 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 30 days after receipt of the written explanation described above in this Section 8.4(a) provided: (i) the Participant has been provided with information that clearly indicates that the Participant has at least 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; (ii) the Participant is permitted to revoke any affirmative distribution election at least until the annuity starting date or, if later, at any time prior to the expiration of the 7-day period that begins the day after the explanation of the qualified joint and survivor annuity is provided to the Participant; and (iii) the annuity starting date is a date after the date that the written explanation was provided to the Participant.

- (b) In the case of a qualified pre-retirement survivor annuity as described in Section 8.2, the Board shall provide each Participant, within the applicable period for such Participant, a written explanation of the qualified pre-retirement survivor annuity in such terms and in such manner as would be comparable to the explanation provided for meeting the requirements of this Section 8 applicable to a 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 32 and ending with the close of the Plan Year preceding the Plan Year in which the Participant attains age 35; (ii) a reasonable period ending after the individual becomes a Participant; (iii) a reasonable period ending after this Section first applies to the Participant. Notwithstanding the foregoing, notice must be provided within a reasonable period ending after Severance from Employment in the case of a Participant who has a Severance from Employment before attaining age 35.

For purposes of applying this Section 8.4(b) above, a reasonable period ending after the enumerated events described in Section 8.4(b)(i), (ii) and (iii) is the end of the two-year period beginning one year prior to the date the applicable event occurs, and ending one year after that date. In the case of a Participant who has a Severance from Employment before the Plan Year in which age 35 is attained, notice shall be provided within the two-year period beginning one year prior to separation and ending one year after separation. If such a Participant thereafter returns to employment with the employer, the applicable period for such Participant shall be redetermined.

### **SECTION 9 - PAYMENT OF RETIREMENT BENEFITS**

- 9.1 Effective Date of Retirement Benefits. All Retirement Benefits and annuities shall be effective on the first day of a given month chosen in accordance with the applicable provisions of the Savings Plan and its administrative rules, and shall be payable monthly.

- 9.2 Termination Upon Death. All Retirement Benefits payable in the form of a monthly annuity shall terminate after payment is made for the last month of the recipient's life, and payments, if any, due under an elected optional form of benefit that has become effective, shall commence on the first day of the following month, provided that if a Participant had elected an optional form of benefit but died before the first payment commenced pursuant to Section 9.3 or was retired for disability pursuant to Section 4.4, or has elected an optional form of benefit pursuant to Section 7 that has become effective, the provisions applicable to such circumstances or such forms of benefit shall apply.
- 9.3 Death Before Initial Payment. After the initial monthly payment is due, the Retirement Benefit or annuity shall be in full force and irrevocable. However, if the person entitled to such Retirement Benefit or annuity dies before the initial payment is due, the Retirement Benefit or annuity, including any elected optional form of benefit, shall not be in force. In such case, the Participant's Account Balance shall be distributed as though the deceased had not retired or applied for retirement, provided, however, that if the deceased had elected a joint and survivor annuity in favor of his or her Spouse, and had died within one month of the effective date of such Retirement Benefit or annuity, and such Spouse is the only person entitled to a distribution, such Spouse may elect that the deceased's retirement be validated as of the applicable effective date, on the basis of the optional form elected by the deceased, and the Retirement Benefit payable to the Spouse under said optional form shall thereupon be in full force and irrevocable.
- 9.4 Lump Sum Distributions.
- (a) In the event that the Participant's Account Balance (including Rollover Contributions) is greater than \$50 but less than or equal to \$5,000 on the date the Participant has a Severance from Employment, if the Participant does not elect within 180 days of when the Rollover Notice in Section 5.8(b)(vii) is provided to the Participant to have such distribution paid directly to an eligible retirement plan specified by the Participant in a direct rollover in accordance with Section 5.8 or to receive the distribution directly, then the Board or its designee will pay the Participant's Account Balance (including the Rollover Contributions) as soon as practicable following the completion of such 180-day period in a direct rollover to an individual retirement plan and a respective trustee or issuer thereof designated by the Board or its designee, provided that, such Account Balance remains less than or equal to \$5,000 on such distribution date and provided further, however, that if the Participant's Total Account Balance (as defined in Section 1 of the Retirement Plan) in the Retirement Plan is more than \$5,000 on the date of the Participant's Severance from Employment and thereafter, the Participant's Account Balance (including Rollover Contributions) will not be paid from the Savings Plan without the consent of the Participant prior to the earlier of (i) the Participant's attainment of age sixty-two (62) or (ii) his or her death; and only if such consent is provided not more than 180 days prior to the date of the distribution. Notwithstanding the foregoing, in the case of a Participant who has attained his or her "required beginning date" (as defined in Section 16 of Appendix A (Minimum Distribution Requirements), whose Account Balance (including Rollover Contributions) exceeds \$50 but does not exceed \$5,000 on such date, and has not elected a form of retirement benefit for such Account Balance, such amount shall be paid directly to the Participant in a single lump sum payment.
- (b) In the event that the Participant's Account Balance (including Rollover Contributions) to be converted into a Retirement Benefit or annuity is greater than \$5,000 on the date of Severance from Employment, the Participant or his Beneficiary may elect to receive said Retirement Benefit or annuity or to be paid a single lump sum of those amounts, subject to the spousal consent requirements of Section 8. Notwithstanding the foregoing, effective for requests for distributions from the Savings Plan that are received by the Fund on or after October 1, 2009, in the event that a Participant who has a Severance from Employment is eligible to elect to receive a single lump sum distribution of his or her Account Balance as otherwise provided for under this Section 9.4(b), such

Participant may elect to receive a partial lump sum distribution of his or her Account Balance, provided that (i) the Participant's Account Balance is equal to at least \$10,000 at the time of such partial lump sum distribution; (ii) such partial lump sum distribution is equal to at least \$5,000; (iii) no more than one (1) partial lump sum distribution from the Savings Plan shall be made to the Participant in any three (3)-month period; and (iv) for each such partial lump sum distribution request by a Participant, spousal consent under Section 8.3 is obtained. For purposes of such partial lump sum distributions, to the extent applicable, such distributions shall be withdrawn from a Participant's Account Balance on a pro-rata basis. Notwithstanding anything in the Savings Plan to the contrary or Code Sections 401(a)(1) and 417, and in accordance with certain federal legislation (Public Law 108-476) enacted with respect to the Fund, the Savings Plan and the Retirement Plan which stated that the Savings Plan is to be maintained as a retirement income account plan under Code Section 403(b)(9), any single lump sum (or, effective for requests for distributions from the Savings Plan that are received by the Fund on or after October 1, 2009, partial lump sum) distribution pursuant to this Section that is made to a Participant prior to the Participant's attainment of age 55 shall not be required to be made available in an annuity form.

- (c) Except to the extent provided in Section 9.4(a), in the event that the Participant's Account Balance (including Rollover Contributions) is more than \$5,000 on the date such amounts are converted into a Retirement Benefit or annuity, on the date all or a portion of such amounts are distributed, or on the date of any other distribution event, no portion thereof may be paid from the Savings Plan without the consent of the Participant prior to the earlier of (i) the Participant's attainment of age 62 or (ii) his or her death; and only if such consent is provided not more than 180 days prior to the date of the distribution.
- (d) Effective March 1, 2006, in the event that the Participant's Account Balance is \$50 or less on the date the Participant has a Severance from Employment, such amounts shall be paid to the Participant in a single lump sum as soon as practicable following such event.
- (e) With respect to any amounts under the Savings Plan payable to an "alternate payee" as defined by Code Section 414(p)(8) pursuant to a domestic relations order determined by the Retirement Fund to be a qualified domestic relations order, as defined by Code Section 414(p), the alternate payee may elect to have such amounts payable in a single lump sum, except to the extent that the Participant is receiving retirement benefits. In the event that the Alternate Payee's assigned amount is \$5,000 or less on the date the Retirement Fund determines a domestic relations order to be a qualified domestic relations order, such amounts shall be paid to the Alternate Payee in a single lump sum as soon as practicable following such determination by the Retirement Fund.

9.5 Guarantee of Annuity. To the extent Retirement Benefits are paid in the form of an annuity as provided for under this Savings Plan and such annuity has commenced, the Retirement Fund guarantees the payment of such Retirement Benefits in the event that a payment due exceeds the Participant's or Beneficiary's accumulated benefit.

## **SECTION 10 - INVESTMENT OF CONTRIBUTIONS & ADMINISTRATION OF THE PLAN**

10.1 Trust. All Tax-Deferred Savings Account Contributions and Rollover Contributions made to the Savings Plan, all property and rights purchased with such amounts, and all income attributable to such amounts, shall be held in trust pursuant to the Trust and invested in accordance with the Retirement Fund's investment policy. All contributions to the Fund—i.e., Tax-Deferred Savings Account Contributions and Rollover Contributions under the Savings Plan and all contributions under the Retirement Plan—are invested together on a commingled basis and receive the Interest Credit. Notwithstanding the foregoing, there is separate accounting for assets attributed to Participants' Account Balances under the Savings Plan so that at any given time it is possible to determine the interest in the underlying assets of

the Fund for Participants' Account Balances and to distinguish that interest from interests of the Retirement Plan.

10.2 Responsibility for Administration.

- (a) The Board shall be solely responsible for and have full discretionary authority with respect to the administration and interpretation of the Savings Plan, and be the named fiduciary and plan administrator.
- (b) The Board shall be constituted and have the responsibilities assigned to it by the Bylaws of the Retirement Fund.
- (c) The Board shall authorize all transfers of funds and all payments from the Savings Plan.

10.3 Allocation of Duties and Indemnification.

- (a) The Board may retain the services of, and delegate duties to, an accountant, corporate trustee, insurance company, legal counsel, actuary or other experts, as may be necessary or beneficial to the administration of the Savings Plan. Upon acceptance by such an expert of delegated duties, the Board shall not be liable for the acts and omissions of the expert in carrying out his or her allocated duties, and may rely on tables, valuations, certificates, opinions and reports, that may be provided by such expert. Additionally, the Board may designate officers and employees of the Retirement Fund and other individuals or entities to carry out their responsibilities, obligations and duties with respect to the Savings Plan, except to the extent prohibited by law. The Board shall not be liable for the acts and omissions of any individual or entity who has been designated to carry out any responsibilities, obligations or duties in connection with the Fund, but shall be fully protected by any action taken or not taken by it in good faith in reliance upon the advice or opinion of any such individual or entity.
- (b) The Retirement Fund shall, to the extent permitted and upon the conditions prescribed by law, indemnify each person made, or threatened to be made, a party to any action or proceeding by reason of the fact that such person, or his or her or her executor or administrator is or was a member of the Board or of a committee or an officer of the Retirement Fund, or, while serving as any of the foregoing, served any other corporation or any partnership, joint venture, trust, employee benefit plan or other entity in any capacity at the request of the Retirement Fund, against liabilities, costs, judgments, fines, amounts paid in settlement and reasonable expenses, including attorneys' fees actually and necessarily incurred as a result of such action or proceeding, or any appeal therein, if such person acted in good faith for a purpose which he or she reasonably believed to be in or, in the case of service for any other corporation or any partnership, joint venture, trust, employee benefit plan or other entity, not opposed to, the best interests of the Retirement Fund and in criminal actions or proceedings, in addition, had no reasonable cause to believe that his or her conduct was unlawful. Expenses incurred by such person in defending such action or proceeding shall be advanced by the Retirement Fund to the extent permitted by law. The foregoing rights of indemnification and advancement of expenses shall not be exclusive of any other rights to which any such person may be entitled as a matter of law, or which may be lawfully granted to him or her; and the indemnification hereby granted by the Retirement Fund shall be in addition to and not in limitation of any other privilege or power which the Retirement Fund may lawfully exercise with respect to indemnification or reimbursement of members of the Board or of committees, or its officers. The Retirement Fund may, to the extent permitted by law and upon such conditions as may be prescribed by the Board, indemnify and advance expenses to employees of the Retirement Fund other than officers.

#### 10.4 Fund Assets.

- (a) The Board shall have full power to invest and reinvest all money in any of the accounts of the Fund and to purchase, hold, sell, assign transfer or dispose of any of the securities and investments in which any of the funds attributable to the Savings Plan shall have been invested, as well as the proceeds of said investments. Unless delegated to its Investment Committee or one or more investment managers or to some other fiduciary or fiduciaries, the Board shall have sole investment responsibility, and no other fiduciary shall have any responsibility, for the investment of any asset of the Fund for which such Board is so responsible, nor shall any other fiduciary or fiduciaries be liable for any loss to or diminishing in value of the Fund assets resulting from any action taken or omitted by the Board with respect to assets of the Fund for which the Board is responsible.
- (b) For convenience of administration, the Board may delegate to its Investment Committee the authority to perform the investment functions of the Board, with such Investment Committee to act on its own accord without approval from the Board. In the event such delegation is made, said Investment Committee shall serve as a fiduciary, and the other members of the Board shall not be liable for any loss to the Fund resulting from any action directed, taken or omitted by the Investment Committee. The Board may revoke the delegation at any time.
- (c) For convenience of administration, the Board may appoint one or more investment managers to manage all or any part of the assets of the Fund. The Board shall be under no duty to question any direction or lack of direction of any investment manager. An investment manager shall have sole investment responsibility for that portion of the Fund assets which it is appointed to manage, and no other fiduciary shall have any responsibility for the investment of any asset of any portion of the Fund, the management of which has been delegated to an investment manager, or liability for any loss to or diminishing in value of the Fund assets resulting from any action directed, taken or omitted by an investment manager.
- (d) No member of the Board, member of its committees, officer or employee of the Retirement Fund shall have any interest, direct or indirect, in the gains or profits of any investment of the Savings Plan, nor shall he or she, directly or indirectly, receive any pay or emolument for his or her services, except for the compensation of employees approved by the Board. No member of the Board, member of its committees, officer or employee of the Retirement Fund, directly or indirectly, for himself or herself or an agent, partner or others, shall borrow any of its funds or assets, or in any manner use the same except to make payments authorized by the Board; nor shall he or she become an endorser of surety or in any manner an obligor for monies loaned by or borrowed from the Savings Plan. Notwithstanding the previous sentence, plan loans in accordance with Section 5.5 may be made to members of the Board, members of its committees, officers or employees of the Retirement Fund who are Participants in the Savings Plan.

#### 10.5 Discharge of Fiduciary Duties. The Board or any other fiduciary of the Savings Plan, whether specifically designated or not, shall:

- (a) Discharge all duties solely in the interest of Participants and Beneficiaries and for the exclusive purpose of providing Savings Plan benefits and defraying reasonable administrative expenses; and
- (b) Discharge his or her responsibilities prudently in accordance with applicable law; and
- (c) Diversify investments so as to minimize the risk of large losses unless, under the circumstances, it is clearly prudent not to do so; and
- (d) Conform to the provisions of the Savings Plan.

- 10.6 Savings Plan Administration. The Board and the Benefits and Operations Committee of the Board shall each severally have sole discretionary authority (a) to interpret the provisions of the Savings Plan (including, without limitation, by supplying omission from, correcting deficiencies in, or resolving inconsistencies or ambiguities in, the language of the Savings Plan), (b) to make factual findings with respect to any issue arising under the Savings Plan, (c) to determine the rights and status under the Savings Plan of Participants, Beneficiaries and other persons including but not limited to eligibility to participate in and eligibility for benefits under the Savings Plan and (d) to decide disputes arising under the Savings Plan and to make determinations and findings (including factual findings) with respect to the benefits payable thereunder and the persons entitled thereto, as may be required for purposes of the Savings Plan. In furtherance thereof, but without limiting the foregoing, the Board and the Benefits and Operations Committee of the Board shall each severally have the following specific authorities, that it will discharge in its sole discretion in accordance with the terms of the Savings Plan (as interpreted, to the extent necessary, by the Board or the Benefits and Operations Committee of the Board): (i) to resolve all questions (including factual questions) arising under the Savings Plan as to any individual's entitlement to become a Participant and (ii) to determine the benefits payable with respect to any person under the Savings Plan (including, to the extent necessary, making any factual findings with respect thereto). The Benefits and Operations Committee of the Board shall have the sole and absolute discretion to administer the claims review appeal procedures with respect to the Savings Plan. All decisions of the Board or the Benefits and Operations Committee of the Board as to the facts of any case and the application thereof to any case, as to the interpretation of any provision of the Savings Plan or its application to any case, and as to any other interpretative matter or other determination or question related to the Savings Plan, will be final and binding on all parties affected thereby, subject to the claims and review procedures with respect to the Savings Plan. The Board or the Benefits and Operations Committee of the Board may rely upon the records of the Board or upon any certificate, statement or other representation made to it by a YMCA, an Employee, a Participant, a Beneficiary, any committee of the Board or Fund officer concerning any fact required to be determined under any of the provisions of the Savings Plan, and will not be required to make inquiry into the propriety of any action of the Fund.
- 10.7 Benefit Statements. The Board shall promptly furnish to each Participant and Beneficiary a statement indicating the contributions, benefits and status of his or her Account Balance under the Savings Plan as of the end of each Plan Year.

## **SECTION 11 - AMENDMENT OR TERMINATION**

- 11.1 Amendment of Plan. The Savings Plan may be terminated, amended, altered or modified at any time, or from time to time, by a two-thirds vote of those members of the Board present at a meeting. The Benefits and Operations Committee of the Board is authorized to amend the Savings Plan if (i) an amendment is required by law or regulation; (ii) an amendment is due to technical, conforming or ministerial changes or (iii) any amendment will not have a significant impact upon the Savings Plan, provided, however, that the power to amend the Savings Plan in any way that materially increases the cost of the plan shall be reserved solely to the Board. The Benefits and Operations Committee in consultation with management of the Retirement Fund shall determine whether an amendment will have a significant impact upon the Retirement Plan. No amendment shall be made to the Savings Plan, which shall:
- (a) Deprive any Participant or Beneficiary without his or her consent of any Retirement Benefit or other benefit that accrued prior to the date of such action and which was provided by contributions made prior to the date of such action except to the extent permitted by the Code; or
  - (b) Make it possible for any part of the assets of the Fund to be used for or diverted to purposes other than the exclusive benefit of the Participants or their Beneficiaries.

- 11.2 Termination of Participation. Any Participating YMCA may terminate its participation under this Savings Plan by appropriate action of such YMCA, and by giving written notice to the Board at least three (3) months in advance of the termination date. Any Participating YMCA which terminates its participation under the Retirement Plan shall simultaneously and automatically terminate its participation under this Savings Plan. Upon termination of a Participating YMCA's participation under the Savings Plan in accordance with this Section 11.2, all Tax-Deferred Savings Account Contributions for such Participating YMCA's Employees shall cease within 90 days of such termination date. Termination of a Participating YMCA's participation in the Savings Plan is not a distribution event (only those events listed in Section 5 of the Savings Plan are permitted distribution events), and neither the Participating YMCA's Employees nor the Participating YMCA shall be entitled to withdraw Account Balances from the Savings Plan due to the termination of the Participating YMCA's participation in the Savings Plan. Account Balances will be maintained in accordance with the provisions of the Savings Plan, including the section(s) pertaining to benefits distributions/withdrawals.
- 11.3 Retroactive Amendment. Notwithstanding the foregoing provisions of this Section or any other provisions of the Savings Plan, any modification or amendment of the Savings Plan may be made retroactively if necessary or appropriate to conform the Savings Plan to or satisfy the conditions of any applicable law, governmental regulation or ruling including the Code.
- 11.4 Distribution upon Termination of the Savings Plan. Solely in the event of a termination of the entire Savings Plan in an action taken by the Board in accordance with Section 11.1, and in accordance with Treasury Regulation Section 1.403(b)-10(a), all Participant Account Balances will be distributed, provided that the YMCA on the date of the Savings Plan's termination does not make contributions to an alternative Code Section 403(b) plan, policy, contract or arrangement that is not part of the Savings Plan during the period beginning on the date the Savings Plan terminates and ending 12 months after the distribution of all assets from the Fund.

## SECTION 12 - GENERAL PROVISIONS

- 12.1 Assumption of Risk. Each Participant and Beneficiary shall assume all risk in connection with any decrease in the value of the assets in his or her Account Balance held under the Savings Plan, and the Participating YMCAs and the Board shall not be liable or responsible therefore.
- 12.2 No Right to Employment. Participation in the Savings Plan shall not give any right to an Employee to be retained in the employ of the Participating YMCA nor shall it interfere with the right of the Participating YMCA to discharge any Employee and to deal with him or her without regard to the existence of the Savings Plan and without regard to the effect which such treatment might have upon him or her as a Participant in the Savings Plan.
- 12.3 No Obligation to Pay Benefits. The Young Men's Christian Association Movement in general, the YMCA of the USA and the Participating YMCAs assume no obligation for the payment of benefits under the Savings Plan. All benefits under the Savings Plan are to be paid by the Fund.
- 12.4 YMCA Savings Plan Compliance.
- (a) Each Participating YMCA agrees to participate in the Savings Plan in accordance with the Bylaws of the YMCA Retirement Fund, rules set forth by the Retirement Fund, the provisions of the Savings Plan and the terms of its Participation Agreement now in effect and as may be amended from time to time. Subject to due notice from the Board or the Benefits and Operations Committee of the Board, failure of a YMCA to make the payments required to be made for its participating Employees to the Savings Plan in accordance with the provisions of the Savings Plan shall, in the discretion of the Board or the Benefits and Operations Committee of the Board, result in termination of the

participation of such YMCA in the Savings Plan, provided, however, any termination of participation by a YMCA shall in no way excuse or otherwise forgive or release such YMCA from its obligation to the Savings Plan and the Fund for all amounts (including, but not limited to, outstanding contributions) due from such YMCA with respect to its participation in the Savings Plan.

- (b) Participation by each Participating YMCA includes, but is not limited to, timely notifying its Employees immediately after their date of hire and annually thereafter of the availability of participating in and making contributions to the Savings Plan, taking all necessary steps to effectuate the enrollment in the Savings Plan of its Employees who elect to participate, timely forwarding contributions to the Retirement Fund, notifying the Board of all name changes, salary changes, and other pertinent information and changes, and filing appropriate reports as may be required from time to time.
- (c) Each Participating YMCA agrees to allow auditors selected by the Board or officers or employees of the Retirement Fund to examine the books and records of the YMCA upon notice by the Board to determine whether the YMCA is participating in accordance with the Bylaws of the Retirement Fund and the provisions of the Savings Plan and applicable law.
- (d) Should a YMCA or Participating YMCA fail to participate in the Savings Plan in accordance with the Bylaws of the Retirement Fund and the provisions of the Savings Plan, and applicable law and should such failure result in the Retirement Fund, the Savings Plan, the Board, or an officer or employee of the Retirement Fund being made or threatened to be made a party to any action or proceeding whether civil or criminal, said YMCA or Participating YMCA shall indemnify and hold harmless the Retirement Fund, the Savings Plan, the Board, and each officer and employee of the Retirement Fund against any liabilities, damages, costs, judgments, fines, amounts paid in settlement and reasonable expenses, including attorney's fees, as a result of such action or proceeding or any appeal therein. The foregoing shall not be exclusive of any other rights to which the Retirement Fund, the Savings Plan, the Board, and each officer or employee of the Retirement Fund may be entitled as a matter of law, and the indemnification hereby provided by YMCAs and Participating YMCAs shall be in addition to and not a limitation of any other right, privilege or power the Retirement Fund, the Savings Plan, the Board, and each officer or Employee of the Retirement Fund may lawfully exercise with respect to the same.

#### 12.5 Assignment of Benefits.

- (a) No benefit or account under the Savings Plan shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance or charge, and any attempt to so anticipate, alienate, sell, transfer, assign, pledge, encumber or charge the same shall be void; nor shall any such benefit be, in any manner, liable for or subject to the debts, contracts, liabilities, engagements or torts of the person entitled to such benefit.
- (b) Notwithstanding the foregoing provisions of this Section, benefits under the Savings Plan shall be subject to qualified domestic relations orders described in Code Section 414(p) and determined to be so qualified by the Board. The Retirement Fund may charge Participants or Beneficiaries, or their accounts or benefits due, a reasonable processing fee for each qualified domestic relations order which, in the Fund's sole discretion, deviates from the standardized forms as established by the Fund from time to time, and included in the Fund's Procedures to *Determine the Qualified Status of Domestic Relations Orders*.

#### 12.6 Payment of Death Benefits With No Designated Beneficiary. If a Participant dies without designating a Beneficiary or no designated Beneficiary survives him or her, the Pre-Retirement Death Benefits under Section 6, or any other benefits payable on account of the Participant's death shall, subject to Sections

6.3 and 6.4, become payable to the following, in order: a) the Participant's Spouse, and if the Spouse does not survive him/her, then to b) the Participant's then living children, including legally adopted children, in equal shares, and if none survive him/her, then to c) the Participant's estate. If a designated Beneficiary survives the Participant but dies prior to distribution of the benefit to him/her or while collecting a principal guarantee annuity, and such Beneficiary did not designate a beneficiary by written designation duly elected and filed with the Board or no such designated beneficiary survives him/her, any benefits payable to such Beneficiary or on account of such Beneficiary's death (as applicable) shall become payable to the following, in order: a) the Beneficiary's spouse who was legally married to the Beneficiary for one year or more immediately preceding the date of the Beneficiary's death, and if such spouse does not survive him/her, then to b) the Beneficiary's then living children, including legally adopted children, in equal shares, and if none survive him/her, then to c) the Beneficiary's estate.

12.7 Payment of Survivor Benefits Through a Trust. Any Participant who may nominate a person or persons to receive any optional form of Retirement Benefit as provided under Sections 4, 7, and 9; or immediate or deferred annuity under Section 6, may also designate that said benefits shall be payable to that person through a trust provided:

- (a) the trust is a valid trust under applicable state law or would be but for the lack of corpus,
- (b) the trust is irrevocable (or will, by its terms, become irrevocable upon death of the Participant),
- (c) the trust Beneficiary or Beneficiaries who are to receive said benefits are identifiable in the trust document and would be eligible to receive benefits directly under the Savings Plan,
- (d) the Participant obtains an opinion of his or her counsel that the trust meets the requirements in clauses (a) through (c) above,
- (e) the nomination of the trust to receive said benefits shall be on forms provided by the Retirement Fund or acceptable to the Retirement Fund, and
- (f) the nomination of the trust to receive said benefits, the trust document, and the opinion of counsel shall be submitted to and acceptable by the Retirement Fund prior to the date said benefits would be payable.

12.8 Claims Procedures and Civil Actions. The claims procedures shall be as set forth in relevant separate procedures as adopted by the Fund or, with respect to disability claims, as adopted by the disability claims reviewer. Disability claims under Section 4.4 shall be administered and determined by an insurance company appointed by the Board to be the disability claims reviewer. No claimant may commence any legal action for benefits under the Savings Plan or to enforce or clarify rights under the Savings Plan until the claims procedure has been exhausted in its entirety and, in accordance with Section 10.6, in any such legal action all explicit and all implicit determinations (including, but not limited to, determinations as to whether the claim, or a request for review of a denied claim, was timely filed) by the Board, the Benefits and Operations Committee of the Board, or any delegate of the Board or the Benefits and Operations Committee of the Board shall be afforded the maximum deference permitted by law.

12.9 Unclaimed Accrued Benefits.

- (a) Except with respect to amounts distributed from the Savings Plan (pursuant to, for example, Section 5.6 or 9.4), should an accrued benefit remain unclaimed for two (2) years after it becomes payable and remain unclaimed after diligent efforts by the Retirement Fund to locate the Participant or Beneficiary, the accrued benefit will be segregated and transferred to a sub-account of the Savings Plan for the Participant or Beneficiary. Should a Participant or Beneficiary later claim the accrued

benefit, upon proper verification the accrued benefit shall be paid to the Participant or Beneficiary, provided that from the time of the transfer to such sub-account, the account or benefit shall be treated as accruing interest at the Interest Credit rate until June 30, 2013.

- (b) In order to locate Participants and Beneficiaries for whom the Retirement Fund has no current address, telephone number, or email address, so as to pay any accounts or benefits due, after diligent efforts to locate such Participants or Beneficiaries, the Retirement Fund may employ a commercial search facility to locate any specific Participant or Beneficiary or class of Participants or Beneficiaries, and charge to their accounts or benefits due, a reasonable amount for such efforts no more frequently than annually, which charge shall not be returned to them for any reason.

12.10 Per Capita Administrative Expenses. The Retirement Fund may charge Participants or Beneficiaries, or their accounts or benefits due, certain reasonable fees as determined by the Benefits and Operations Committee of the Board of Trustees for services as provided in Sections 5.5, 12.5, 12.9, and in this Section 12.10. Such fees shall be on an established schedule published in advance.

Without limitation, a per capita fee may be charged where:

- (a) a Participant has requested a distribution of an account and a replacement check has been prepared and mailed by the Retirement Fund as requested by the Participant; or
- (b) a check has been prepared and mailed by the Retirement Fund in the case of a single lump sum as provided in Section 5.8 and subsequently the Participant returns the check to be made payable to a different payee; or
- (c) a Participant's request requires that a special mailing service be used; or
- (d) a Participant's check has been returned from a financial institution due to insufficient funds; or
- (e) a Participant has requested a wire transfer; or
- (f) the Retirement Fund is required to retrieve a Participant's death certificate from a governmental agency; or
- (g) a Participant requests, in accordance with the terms and conditions of the Savings Plan, a partial lump sum distribution from the Savings Plan.

12.11 Exclusive Benefit. In accordance with applicable law, no part of the assets of the Savings Plan may be used for other than the exclusive benefit of the Participants or their Beneficiaries.

12.12 Incapacity. If at any time any Participant or Beneficiary is in the judgment of the Board legally, physically or mentally incapable of personally receiving and receipting for any payment due to him or her from the Savings Plan, payment may, in the discretion of the Board, be made to the guardian or legal representative of such Participant or Beneficiary or, if none exists, to any other person or institution which, in the judgment of the Board then maintains or has custody of such Participant or Beneficiary.

12.13 Gender and Number. Whenever used herein, the masculine gender includes the feminine, and the singular shall include the plural.

12.14 Governing Law. The Savings Plan and all rights thereunder shall be governed and construed in accordance with the Internal Revenue Code and the laws of the State of New York.

12.15 Prohibition on Merger of Savings Plans. There shall be no merger, consolidation or transfer of assets and liabilities (within the meaning of Code Section 414(l)) between the Savings Plan and any other plan.

## APPENDIX A – MINIMUM DISTRIBUTION REQUIREMENTS

1. **Effective Date.**

The provisions of this Section will apply for purposes of determining required minimum distributions for calendar years beginning with the 2009 calendar year.

2. **Precedence.**

The requirements of this Section will take precedence over any inconsistent provisions of the Savings Plan.

3. **Requirements of Treasury Regulations Incorporated.**

All distributions required under this Section will be determined in accordance with Treasury Regulations under Sections 401(a)(9) and 403(b) of the Internal Revenue Code and the minimum distribution incidental death benefit requirement of Code Section 401(a)(9)(G). For the purposes of applying the distribution rules of Code Section 401(a)(9), the Savings Plan is treated as an individual retirement account and/or individual retirement annuity and distributions shall be made in accordance with the provisions of Treasury Regulations Section 1.408-8, except as provided in Treasury Regulation Section 1.403(b)-6(e).

4. **Limits on Distribution Periods.**

As of the first distribution calendar year, distributions to a Participant, if not made in a single sum, may only be made over one of the following periods:

- (a) the life of the Participant
- (b) the joint lives of the Participant and a designated Beneficiary
- (c) a period certain not extending beyond the life expectancy of the Participant, or
- (d) a period certain not extending beyond the joint life and last survivor expectancy of the Participant and a designated Beneficiary.

5. **Required Beginning Date.**

The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's required beginning date.

6. **Death of Participant Before Distributions Begin.**

If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

- (a) If the Participant's surviving Spouse is the Participant's sole designated Beneficiary, then distributions to the surviving Spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70½, if later.
- (b) If the Participant's surviving Spouse is not the Participant's sole designated Beneficiary, then distributions to the designated Beneficiaries will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.
- (c) If there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
- (d) If the Participant's surviving Spouse is the Participant's sole designated Beneficiary and the surviving Spouse dies after the Participant but before distributions to the surviving Spouse begin, this Section 6, other than Section 6(a), will apply as if the surviving Spouse were the Participant.

For purposes of this Section 6 and Section 10 unless Section 6(d) applies, distributions are considered to begin on the Participant's required beginning date. If Section 6(d) applies, distributions are considered to begin on the date distributions are required to begin to the surviving Spouse under Section 6(a). If distributions under an annuity purchased from an insurance company or annuity payments provided with respect to retirement income accounts in accordance with 1.403(b)-6(e)(5) of the Treasury Regulations irrevocably commence to the Participant before the Participant's required beginning date (or to the Participant's surviving Spouse before the date distributions are required to begin to the surviving Spouse under Section 6(a)), the date distributions are considered to begin is the date distributions actually commence.

**7. Forms of Distributions.**

Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or annuity payments provided with respect to retirement income accounts in accordance with 1.403(b)-6(e)(5) of the Treasury Regulations or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with Sections 8, 9 and 10. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company or annuity payments provided with respect to retirement income accounts in accordance with 1.403(b)-6(e)(5) of the Treasury Regulations, distributions thereunder will be made in accordance with the requirements of Code Section 401(a)(9) and the Treasury Regulations.

**8. Amount of Required Minimum Distribution for Each Distribution Calendar Year.**

During the Participant's lifetime, the minimum amount that will be distributed for each distribution calendar year shall not be less than the quotient obtained by dividing the Participant's account balance by the distribution period in the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury Regulations, using the Participant's age as of the Participant's birthday in the distribution calendar year. However, if the Participant's sole designated Beneficiary for the distribution calendar year is the Participant's Spouse and such Spouse is more than ten years younger than the Participant, the quotient is obtained by dividing the Participant's account balance by the number in the Joint and Last Survivor table set forth in Section 1.401(a)(9)-9 of the Treasury Regulations, using the Participant's and the Spouse's attained ages as of the Participant's and Spouse's birthdays in the distribution calendar year.

**9. Lifetime Required Minimum Distributions Continue Through Year of Participant's Death.**

Required minimum distributions will be determined under Section 8 beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the Participant's date of death.

**10. Death On or After Date Distributions Begin.**

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

- (i) The Participant's remaining life expectancy is calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.
- (ii) If the Participant's surviving Spouse is the Participant's sole designated Beneficiary, the remaining life expectancy of the surviving Spouse is calculated for each distribution calendar year after the year of the Participant's death using the surviving Spouse's age as of the Spouse's birthday in that year. For distribution calendar years after the year of the surviving Spouse's death, the remaining life expectancy of the surviving Spouse is calculated using the age of the surviving Spouse as of

the Spouse's birthday in the calendar year of the Spouse's death, reduced by one for each subsequent calendar year.

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

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

#### **11. Death before Date Distributions Begin.**

(a) Participant Survived by Designated Beneficiary. If the Participant dies before the date distributions begin and there is a designated Beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the remaining life expectancy of the Participant's designated Beneficiary, determined as provided in Section 10.

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

(c) Death of Surviving Spouse Before Distributions to Surviving Spouse are Required to Begin. If the Participant dies before the date distributions begin, the Participant's surviving Spouse is the Participant's sole designated Beneficiary, and the surviving Spouse dies before distributions are required to begin to the surviving Spouse under Section 6(a), then this Section 11 will apply as if the surviving Spouse were the Participant.

#### **12. Designated Beneficiary.**

The "designated Beneficiary" is the individual who is designated as the Beneficiary under the terms of the Savings Plan and is the designated Beneficiary under Code Section 401(a)(9) and Section 1.401(a)(9)-4, Q&A-1 and/or Q&A-5 of the Treasury Regulations, as applicable.

#### **13. Distribution Calendar Year.**

The "distribution calendar year" is the calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's required beginning date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin under Section 6. The required minimum distribution for the Participant's first distribution calendar year will be made on or before the Participant's required beginning date. The required minimum distribution for other distribution calendar years, including the required minimum distribution for the distribution calendar year in which the Participant's required beginning date occurs, will be made on or before December 31 of that distribution calendar year.

#### **14. Life Expectancy.**

"Life expectancy" is the life expectancy as computed by use of the applicable tables in Section 1.401(a)(9)-9 of the Treasury Regulations.

**15. Participant's Account Balances.**

The "Participant's account balance" is the account balance as of the last valuation date in the calendar year immediately preceding the distribution calendar year (valuation calendar year) increased by the amount of any contributions made and allocated or forfeitures allocated to the account balance as of the dates in the valuation calendar year after the valuation date and decreased by distributions made in the valuation calendar year after the valuation date. The account balance for the valuation calendar year includes any amounts rolled over or transferred to the Savings Plan either in the valuation calendar year or in the distribution calendar year if distributed or transferred in the valuation calendar year.

**16. Required Beginning Date.**

The Participant's "required beginning date" is April 1st of the calendar year after the calendar year in which he or she attains age 70½ or his or her YMCA employment is severed, whichever is later. Unless otherwise provided for in Section 1.403(b)-6(e)(3) of the Treasury Regulations, distributions to a 5-percent (5%) owner (as described below) must commence by the April 1 of the calendar year following the calendar year in which the Participant attains age 70½. Notwithstanding the foregoing, in the case of a Participant who attained age 70½ in a year prior to 1997, and who began his her Retirement Benefit or annuity by April 1st of the calendar year after the calendar year in which he or she attained age 70½ while remaining in YMCA employment, such Participant may continue to receive such Retirement Benefit or annuity while in YMCA employment.

- 17. 5-percent Owner.** A Participant is treated as a 5-percent owner for purposes of Section 16 if such Participant is a 5-percent (5%) owner as defined in Code Section 416 at any time during the Plan Year ending with or within the calendar year in which such owner attains age 70½. Once distributions have begun to a 5-percent (5%) owner under Section 16 they must continue to be distributed, even if the Participant ceases to be a 5-percent (5%) owner in a subsequent year.

**18. Determination of the Amount to be Distributed Each Year.**

- (a) If the Participant's interest is to be paid in the form of an annuity distribution under the Savings Plan, paid by the Retirement Fund, payments under the annuity shall satisfy the following requirements:
- (i) the annuity distributions must be paid in periodic payments made at intervals not longer than one year;
  - (ii) the distribution period must be over a life (or lives) or over a period certain not longer than the life expectancy (or joint life and last survivor expectancy) described in Code Section 401(a)(9)(A)(ii) or Code Section 401(a)(9)(B)(iii) whichever is applicable;
  - (iii) once payments have begun over a period certain, the period certain may not be lengthened even if the period certain is shorter than the maximum period permitted;
  - (iv) payments must be either non-increasing or increase only as follows:
    - 1/ by an annual percentage increase that does not exceed the annual percentage increase in a cost of living index that is based on prices of all items and issued by the Bureau of Labor Statistics;
    - 2/ to the extent of the reduction of the amount of the Participant's payments to provide for a survivor benefit upon death, but only if the designated Beneficiary whose life was being used to determine the distribution period described in Section 4 dies or is no longer the Participant's Beneficiary pursuant to a qualified domestic relations order within the meaning of Code Section 414(p);
    - 3/ to provide cash refunds of Employee contributions upon the Participant's death; or
    - 4/ pay increased benefits that result from a Savings Plan amendment.

- (b) **Amount Required to be Distributed by Required Beginning Date.** The amount that must be distributed on or before the Participant's required beginning date (or, if the Participant dies before distributions begin, the date distributions are required to begin under Section 16) is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., bi-monthly, monthly, semi-annually, or annually. All of the Participant's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after Participant's required beginning date.

**19. Requirements For Annuity Distributions That Commence During Participant's Lifetime.**

- (a) **Joint Life Annuities Where the Beneficiary Is Not the Participant's Spouse.** If the Participant's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the Participant and a nonspouse Beneficiary, annuity payments to be made on or after the Participant's required beginning date to the designated Beneficiary after the Participant's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the Participant using the table set forth in Q&A-2 of section 1.401(a)(9)-6 of the Treasury Regulations. If the form of distribution combines a joint and survivor annuity for the joint lives of the Participant and a nonspouse Beneficiary and a period certain annuity, the requirement in the preceding sentence will apply to annuity payments to be made to the designated Beneficiary after the expiration of the period certain.
- (b) **Period Certain Annuities.** Unless the Participant's Spouse is the sole designated Beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the Participant's lifetime may not exceed the Applicable distribution period for the Participant under the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the Treasury Regulations for the calendar year that contains the annuity starting date. If the annuity starting date precedes the year in which the Participant reaches age 70, the applicable distribution period for the Participant is the distribution period for age 70 under the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the Treasury Regulations plus the excess of 70 over the age of the Participant as of the Participant's birthday in the year that contains the annuity starting date. If the Participant's Spouse is the Participant's sole designated Beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the Participant's applicable distribution period, as determined under this section 19(b), or the joint life and last survivor expectancy of the Participant and the Participant's Spouse as determined under the Joint and Last Survivor Table set forth in section 1.401(a)(9)-9 of the Treasury Regulations, using the Participant's and Spouse's attained ages as of the Participant's and Spouse's birthdays in the calendar year that contains the annuity starting date.

**20. TEFRA Section 242(b)(2) Elections.**

Notwithstanding the other requirements of this Section, distribution on behalf of any Participant, including a 5-percent owner, who has made a designation under section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (a "Section 242(b)(2) election") may be made in accordance with all of the following requirements (regardless of when such distribution commences):

- (a) The distribution by the Savings Plan is one which would not have disqualified the Savings Plan under Code Section 401(a)(9) as in effect prior to amendment by the Deficit Reduction Act of 1984;
- (b) The distribution is in accordance with a method of distribution designated by the Participant whose interest in the Savings Plan is being distributed or, if the Participant is deceased, by a designated Beneficiary of such Participant;

- (c) Such designation was in writing, was signed by the Participant or the designated Beneficiary, and was made before January 1, 1984;
- (d) The Participant had accrued a benefit under the Savings Plan as of December 31, 1983;
- (e) The method of distribution designated by the Participant or the designated 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 designated Beneficiaries of the Participant listed in order of priority.

**21. Beneficiary Designation.**

A distribution upon death will not be covered by this transitional rule unless the information in the designation contains the required information described in Section 18 with respect to the distributions to be made upon the death of the Participant.

**22. Beneficiary Designation for Distribution Before 1984.**

For any distribution which commences before January 1, 1984, but continues after December 31, 1983, the Participant, or the designated 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 Sections 20(a) and (e).

**23. Revocation of Designation of Beneficiary.**

If a designation is revoked, any subsequent distribution must satisfy the requirements of Code Section 401(a)(9) and the Regulations thereunder. If a designation is revoked subsequent to the date distributions are required to begin, the Savings 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 Code Section 401(a)(9) and the Regulations thereunder, but for the Code Section 242(b)(2) election. For calendar years beginning after December 31, 1988, such distributions must meet the minimum distribution incidental benefit requirements. 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).

**24. Rollovers.**

In the case in which an amount is transferred or rolled over from one plan to another plan, the rules in Treasury Regulations 1.401(a)(9)-8, Q&A-14 and Q&A-15, shall apply.

**25. Transitional Rules.**

- (a) For plans in existence before 2003 required minimum distributions before 2003 were made pursuant to sections 20 through 24 if applicable, and subsections (b) through (d) below.
- (b) 2000 and Before. Required minimum distributions for calendar years after 1984 and before 2001 were made in accordance with Code Section 401(a)(9) and the proposed regulations thereunder published in the Federal Register on July 27, 1987 (the "1987 Proposed Regulations").
- (c) 2001. Required minimum distributions for calendar year 2001 were made in accordance with Code Section 401(a)(9) and the 1987 Proposed Regulations. If distributions were made in 2001 under the 1987 Proposed Regulations prior to the date in 2001 the Savings Plan began operating under the 2001 Proposed Regulations, the special transition rule in Announcement 2001-82, 2001-2 C.B. 123, applied.

- (d) 2002. Required minimum distributions for calendar year 2002 were made in accordance with Section 401(a)(9) and the 1987 Proposed Regulations.
- (e) 2009. Notwithstanding Section 7.3 and this Appendix A, a Participant or Beneficiary who would have been required to receive a required minimum distribution for calendar year 2009 but for the enactment of Section 401(a)(9)(H) of the Code (“2009 RMDs”) will not receive those distributions for 2009 unless the Participant or Beneficiary chooses to receive such distributions. In addition, notwithstanding Section 5.8(b)(i), and solely for purposes of applying the direct rollover provisions of the Savings Plan, 2009 RMDs will be treated as eligible rollover distributions only if paid with an additional amount that is an eligible rollover distribution without regard to Section 401(a)(9)(H).

**26. YMCA Retirement Fund Legislation.**

Notwithstanding anything in the Savings Plan to the contrary, and in accordance with U.S. Public Law 108-476 (including the provision thereof that treats accounts under the Savings Plan as Code Section 403(b)(9) church retirement income accounts for purposes of Code Section 401(a)(9)) and Treasury Regulation Section 1.403(b)-6(e)(5), benefits under the Savings Plan, unless otherwise payable pursuant to Sections 5, 6, 7, 8 and 9.4, shall be distributed in accordance with this Appendix A and Treasury Regulations under Code Section 401(a)(9), as applicable.

## APPENDIX B – ACTUARIAL FACTORS

The interest rate and mortality assumption used for the purpose of converting a Participant's Account Balance into a Retirement Benefit payable in an annuity form by the Retirement Fund shall be as follows:

**Normal Retirement, Early Retirement, Deferred Vested Retirement.** “Old balances” shall be converted into Retirement Benefits using the 1951 Group Annuity Table for males rated back three years with an eight percent (8%) interest rate assumption. “New balances” shall be converted into Retirement Benefits or annuities using the 1995 Buck Mortality Table with combined 50% male and 50% female factors with a seven percent (7%) interest rate assumption. “Old balances” shall mean a Participant's Account Balance as of December 31, 1995 (including five (5%) interest per annum thereon). The remaining portion of a Participant's Account Balance shall be the “New balances.”

**Permanent Disability Retirement Benefits.** Account Balances shall be converted into Permanent Disability Retirement Benefits using the 1995 Buck Mortality Table with combined 50% male and 50% female factors with a seven percent (7%) interest rate assumption.

## APPENDIX C – COVID-19 RELIEF

### 1. **Effective Period.**

The provisions of this Appendix C, adopted by the Board to address financial hardships to Participating YMCAs resulting from the impact of COVID-19, will apply from March 20, 2020 until and including December 31, 2020.

### 2. **Precedence.**

Except as explicitly modified by this Appendix C, the provisions of the Savings Plan remain in effect.

### 3. **References.**

Section references in this Appendix are to sections of the Savings Plan, unless otherwise specifically indicated. Capitalized terms not defined in this Appendix C are defined elsewhere in the Savings Plan.

### 4. **Termination of Participation.**

Section 11.2 is hereby modified in its entirety to as follows:

Any Participating YMCA may terminate its participation under this Savings Plan by appropriate action of such YMCA, and by giving written notice to the Board at least 45-days in advance of the termination date or, if such Participating YMCA has less than 100 participants in the Retirement Plan, at least 15-days in advance of the termination date. Any Participating YMCA which terminates its participation under the Retirement Plan shall simultaneously and automatically terminate its participation under this Savings Plan. Upon termination of a Participating YMCA's participation under the Savings Plan in accordance with this Section 11.2, all Tax-Deferred Savings Account Contributions for such Participating YMCA's Employees shall cease within 90 days of such termination date. Termination of a Participating YMCA's participation in the Savings Plan is not a distribution event (only those events listed in Section 5 of the Savings Plan are permitted distribution events), and neither the Participating YMCA's Employees nor the Participating YMCA shall be entitled to withdraw Account Balances from the Savings Plan due to the termination of the Participating YMCA's participation in the Savings Plan. Account Balances will be maintained in accordance with the provisions of the Savings Plan, including the section(s) pertaining to benefits distributions/withdrawals.