

Retirement Plan of Marathon Oil Company

This restated plan document is generally effective July 6, 2015 except where otherwise noted, and supersedes the prior restated plan document effective on that date except where another date is specifically referenced in this restated plan document.

Retirement Plan

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Retirement Plan

Article 1. Purpose of the Plan

The Retirement Plan of Marathon Oil Company (the “Plan”) is primarily designed to help employees provide for an income after retirement. Plan assets may, however, be used for any other purpose for which the plan assets of a tax-qualified pension plan may be used under the law, from time to time.

Article 2. Membership in the Plan

2.01 **Eligibility.** An employee of Marathon Oil Company (the “Company”) or of a Participating Employer is eligible to become a Member of the Plan provided the employee meets the following eligibility requirements:

- (a) The employee is a Regular Full-time or Regular Part-time employee (or is deemed to be a Regular Full-time or Regular Part-time employee under Section 2.02(a)).
- (b) The employee is a U.S. citizen, a non-U.S. citizen hired in the U.S. to perform services in the U.S., or within an employee group approved by the Plan Administrator.
- (c) The employee is not participating in another retirement plan towards which a Participating Employer makes contributions.
- (d) The employee is not an Ineligible Employee.

2.02 **Definitions.** The following terms when capitalized shall have the meanings set forth below, except as otherwise noted.

- (a) “Casual Employee” means an employee who is employed to work on a time, special job completion, or call-when-needed basis, and who has been classified by a Participating Employer as a “Casual Employee.” A Casual Employee who is not a Co-Op or Other Student Employee shall be deemed to be a Regular Full-time or Regular Part-time employee (as applicable) for the purposes of this Plan.
- (b) “Controlled Group” means Marathon Oil Corporation (MRO) and any other entity or organization required to be aggregated with MRO pursuant to Section 414(b), (c), (m), (n), or (o) of the Internal Revenue Code of 1986, as amended and in effect from time to time (the “Code”).
- (c) “Co-Op or Other Student Employee” means an employee who is employed as a co-op, intern, college learner, summer helper or other category of employment reserved for student employees.
- (d) “Highly Compensated Employee” means any employee who (i) was a 5% owner (as defined in Code Section 416(i)(1)) during the Plan Year or the preceding Plan Year or (ii) for the preceding Plan Year had compensation (within the meaning of Code Section 414(q) as in effect for the Plan Year) in excess of \$80,000, as adjusted by the Secretary of the Treasury or a delegate thereof in accordance with Code Section 414(q), and was in the top-paid group of employees for such preceding Plan Year. For these purposes, the top-paid group means the group consisting of the top 20% of the employees when ranked on the basis of compensation paid during the Plan Year, as determined in accordance with Code Section 414(q)(3).

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- (e) "Hour of Service" means each hour for which an employee is directly or indirectly paid, or entitled to payment, by a Participating Employer or a member of the Controlled Group for performing duties during the applicable Service Year and for reasons other than performance of duties, including each hour for which back pay, irrespective of mitigation of damages, has either been awarded or agreed to by the Participating Employer, such hours to be credited and calculated in accordance with Department of Labor Reg. Sec. 2530.200b-2. However, no more than 501 Hours of Service will be credited to an employee on account of any single continuous period in which they perform no duties. Each hour shall be credited to the employee for the Service Year in which the employee performed the duties, regardless of when payment is made or due.
- (f) "Ineligible Employee" means:
- (1) Common law employees who have not been designated by a Participating Employer as Regular Full-time, Regular Part-time, or Casual Employees.
 - (2) Any individual who has signed an agreement, or otherwise agreed, to provide services to a member of the Controlled Group as an independent contractor, regardless of the tax or other legal consequences of such an arrangement.
 - (3) Leased employees compensated through a leasing entity, whether or not the leased employee falls within the definition of "leased employee" as defined in Section 414(n) of the Code. This paragraph is effective January 1, 1991.
 - (4) Co-Op or Other Student Employees; provided that Co-Op or Other Student Employees who are Active Members on or at any time before December 31, 2011 shall not be Ineligible Employees and shall be entitled to participate in the Plan in accordance with the terms of the Plan.
- (g) "Participating Employer" means Marathon Oil Company, Marathon Oil Corporation and Marathon Service Company.
- (h) "Plan Year" means the calendar year.
- (i) "Regular Full-time" means an employee who has a normal work schedule of at least 40 hours per week, and who has been classified as a Regular Full-time employee by a Participating Employer.
- (j) "Regular Part-time" means an employee who is a non-supervisory employee who is employed to work on a part-time basis (minimum of 20 hours but less than 35 hours per week) and not on a time, special job completion or call when needed basis, and who has been classified as a Regular Part-time employee by a Participating Employer.
- (k) "Service Year" means a twelve month period beginning on the date an employee first performs an Hour of Service and ending on the anniversary of that date during which the employee completes 1,000 Hours of Service. Following an employee's first employment year, Service Year will be calculated based on the Plan Year. The first Plan Year measured is the Plan Year that begins coincident with or next following the date the employee first performs an Hour of Service.

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- (l) “Waiting Period Service” was, before January 1, 2012, the required period of service from the time an employee commenced employment until the employee entered the Plan. Before January 1, 2012 an employee was required to complete a Service Year in order to complete their Waiting Period Service.

2.03 **Joining the Plan.** An employee is automatically enrolled in the Plan as of the date the employee meets the eligibility requirements of Section 2.01.

2.04 **Classes of Membership.** An employee who has been enrolled in the Plan pursuant to Section 2.03 is a “Member” of the Plan. A Member may be an Active, Retired, or Former Member, as set forth below.

- (a) *Active Member.* A Member is an Active Member for any period during which they meet the eligibility requirements of Article 2 or, as a result of a transfer, are an employee of a non-Participating Employer of the Controlled Group.
- (b) *Retired Member.* A Member is a Retired Member if, immediately preceding their severance from employment with the Controlled Group:
 - (1) They had 10 or more years of Vesting Service;
 - (2) They were at least age 50; and
 - (3) They were an Active Member or, if as the result of a transfer, were employed by a member of the Controlled Group other than a Participating Employer.
 - (4) A Member is also a Retired Member if they elected to retire under a voluntary enhanced retirement program offered by the Company.
- (c) *Former Member.* A Member who resigns or terminates employment (for reasons other than transfer to a non-Participating Employer of the Controlled Group) prior to retirement under the terms of this Plan is a Former Member and, except as provided in Section 12.01, continues to be a Former Member even after their Benefit Commencement Date.

Article 3. Contributions

The Participating Employers shall make all contributions necessary to provide the benefits described in this Plan, and such contributions shall be made at such time and in such amounts sufficient to maintain the Plan as a qualified pension benefit plan which meets the minimum funding standard requirements of the Code with respect to its Members.

Article 4. Coordination of Cash Balance and Legacy Benefits

4.01 **Retirement Benefits.** Members who first perform an Hour of Service for a Participating Employer after December 31, 2009, shall be entitled to a Cash Balance Retirement Benefit. Members who have performed an Hour of Service for a Participating Employer both before January 1, 2010, and after December 31, 2009, shall be entitled to a Combined Retirement Benefit. An employee who first became a Member during the 2010 Plan Year due to attainment of age 21 or completing their Waiting Period Service, will receive a pro-rata Legacy Retirement Benefit (for service prior to January 1, 2010) and a pro-rata Cash Balance Retirement Benefit (for service on or after January 1, 2010).



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4.02 **Relevant Definitions.** The following terms when capitalized shall have the meanings set forth below, except as otherwise noted.

- (a) A Member's "Cash Balance Retirement Benefit" means the retirement benefit determined under Article 5. A Member's Cash Balance Retirement Benefit does not include any retirement benefit that is not based on the Member's Cash Balance under Section 5.01.
- (b) A Member's "Combined Retirement Benefit" means the sum of the Member's Cash Balance Retirement Benefit, if any, and Legacy Retirement Benefit, if any. Notwithstanding any other provision of the Plan, in the case of a Member who is entitled to a Combined Retirement Benefit, any distribution alternative that purports to distribute the Member's entire nonforfeitable accrued benefit under the Plan shall not be less than the sum of:
 - (1) The Member's Section 411(d)(6) Protected Benefit with respect to service before January 1, 2010, determined in the same form of distribution alternative under the terms of the Plan as in effect on December 31, 2009; and
 - (2) The Member's Section 411(d)(6) Protected Benefit with respect to service after December 31, 2009, determined in the same form of distribution alternative under the terms of the Plan as in effect after December 31, 2009.

For this purpose, a Member's "Section 411(d)(6) Protected Benefit" shall have the meaning provided in Treas. Reg. § 1.411(d)-3(g)(14). For the avoidance of doubt, the benefit under paragraph (1) above shall be determined without taking into account any Plan Participation Service, or any changes in the Member's Final Average Pay or Primary Social Security Benefit, after December 31, 2009, but by continuing to take into account any Vesting Service after December 31, 2009. The minimum benefit described in the preceding three sentences shall apply solely to the extent necessary to satisfy Section 411(b)(5)(B)(iii) of the Code, Section 204(b)(5)(B)(iii) of ERISA, and Section 4(i)(10)(B)(iii) of ADEA.

- (c) A Member's "Legacy Retirement Benefit" means the Member's retirement benefit, if any, determined under Article 6 without taking into account any Plan Participation Service after December 31, 2009. For the avoidance of doubt, in determining a Member's Legacy Retirement Benefit, (i) changes in the Member's age, Primary Social Security Benefit, and Vesting Service after December 31, 2009, shall continue to be taken into account, and (ii) changes in the Member's Final Average Pay shall continue to be taken into account after December 31, 2009 until July 5, 2015. Notwithstanding the preceding sentence, (i) a Member's Legacy Retirement Benefit shall not be less than such Member's vested benefit under the Plan on December 31, 2009, (ii) the Legacy Retirement Benefit of Members described in Section 4.05 shall be determined in accordance with Section 4.05, and (iii) the Legacy Retirement Benefit of a Select Group Member shall be determined without taking into account any changes in the Member's Final Average Pay after December 31, 2009. For this purpose, a "Select Group Member" is a Member who, on August 17, 2009, either was a supervisor in Grade 14 or above or had base pay of \$190,000 (specifically excluding bonus) or higher. The Select Group Members are a fixed group who met the stated criteria on August 17, 2009.
- (d) "ADEA" means the Age Discrimination in Employment Act of 1967, as amended and in effect from time to time.
- (e) "ERISA" means the Employee Retirement Income Security Act of 1974, as amended and in effect from time to time.



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- 4.03 **Uniformed Services Employment and Reemployment Rights.** Notwithstanding any other provision of this Plan, contributions, benefits, and service credit with respect to qualified military service will be provided in accordance with Sections 401(a)(37) and 414(u) of the Code.
- 4.04 **Minimum Normal Retirement Benefit.** In no event shall the periodic amount of the single life annuity payable to a Member commencing on the Member's Normal Retirement Date be less than the periodic amount of any single life annuity that the Member could have elected to begin receiving as of any date before the Member's Normal Retirement Date. The preceding sentence shall apply solely to the extent required to satisfy Section 411(a)(9) of the Code.
- 4.05 **Special Provisions Regarding Certain U.K. Employees.** The Legacy Retirement Benefit of any Member who is also a member of the Marathon Service (G.B.) Limited Pension and Life Assurance Scheme and who has elected "fixed protection" for purposes of Section 218 of the U.K. Finance Act of 2004 shall be frozen under the Plan as of the effective date of the Member's election (the "U.K. Election Effective Date"), such that the Member's normal retirement benefit determined under Section 6.02 shall not increase after the U.K. Election Effective Date nor shall the Member's Primary Social Security Benefit determined under Section 6.01(f) reflect any changes after the U.K. Election Effective Date.

Article 5. Cash Balance Retirement Benefits

- 5.01 **Cash Balance Retirement Benefit.** With respect to the Cash Balance Retirement Benefit, this Plan is a "statutory hybrid plan" (as such term is defined in Section 1.411(a)(13)-1(d) of the Treasury Regulations) that determines benefits under a lump-sum based formula. For purposes of satisfying Section 411(a)(7) of the Code, a Member's Cash Balance Retirement Benefit shall mean a single life annuity commencing at such Member's Normal Retirement Date that is the Actuarial Equivalent of the Member's Cash Balance, provided that if a severance from employment occurs before such Member's Normal Retirement Age, the Member's Cash Balance Retirement Benefit for this purpose shall include a projection of Interest Credits up to such Member's Normal Retirement Date.
- 5.02 **Cash Balance.** The amount of a Member's Cash Balance on any date shall equal the sum of the Opening Cash Balance (if any), the Pay Credits, and the Interest Credits that have been added to the Member's Cash Balance through that date under Sections 5.03, 5.04, and 5.05. A Member's Cash Balance shall be reduced to zero as of the first day after their Benefit Commencement Date.
- 5.03 **Initial Pay Credit for New Members.** A Member's Initial Pay Credit shall be credited to their Cash Balance as of the last day of the Plan Year in which the Member first becomes an Active Member. The Cash Balance of a Member who first performs an Hour of Service for a Participating Employer after December 31, 2009 and before January 1, 2012 and satisfies the eligibility conditions, shall be credited with an opening amount equal to the Pay Credit(s) the Member would have received under Section 5.04 if the Member had been an Active Member for the Service Year during the Member's Waiting Period Service, plus any Interest Credits that would have been credited to the Member's Cash Balance under Section 5.05 with respect to such Pay Credit(s).

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- 5.04 **Pay Credits.** For each Plan Year after 2009 during which a Member is an Active Member, a Pay Credit will be added to the Member's Cash Balance in an amount equal to the Pay Credit Percentage of their Adjusted Gross Pay for the year. The Pay Credit for a Plan Year will be added to the Member's Cash Balance as of the last day of the Plan Year. Notwithstanding the preceding sentence, the Pay Credit (if any) for the calendar year in which the Member's severance from employment with the Controlled Group occurs will be added to their Cash Balance as of the last day of the month in which their termination occurred. Furthermore, in the case of a Member who dies before their severance from employment with the Controlled Group, the Pay Credit (if any) for the Plan Year in which the Member dies will be added to the Member's Cash Balance as of the last day of the month in which the Member dies.
- 5.05 **Interest Credits.** For each calendar month after 2009 during which a Member has a Cash Balance greater than zero, an Interest Credit will be added to the Member's Cash Balance in an amount equal to the Member's Cash Balance as of the first day of the month times one-twelfth the interest crediting rate in effect for the Plan Year. The interest crediting rate in effect for a Plan Year equals 3 percent or, if greater, the average of the annual rate of interest on 30-year Treasury securities, as specified by the Commissioner of Internal Revenue, for the calendar months of August, September, and October of the immediately preceding Plan Year. The Interest Credit for a calendar month will be added to the Member's Cash Balance as of the last day of the calendar month. If actual payment of a Member's Cash Balance Retirement Benefit begins 60 days or more after the Member's scheduled Benefit Commencement Date, the Interest Credit described in the preceding sentence shall be increased to reflect the delay in payment beyond 60 days after the scheduled Benefit Commencement Date.
- 5.06 **Relevant Definitions.** The following terms when capitalized shall have the meanings set forth below, except as otherwise noted.
- (a) A form of distribution is the "Actuarial Equivalent" of a Member's Cash Balance on the Member's Benefit Commencement Date if the Actuarial Present Value of the form of distribution equals the Member's Cash Balance on that date. For this purpose, the Actuarial Present Value of a form of distribution means the value as of the Member's Benefit Commencement Date of all payments due under the form of distribution, where each amount is multiplied by the probability that the condition or conditions on which payment of the amount is contingent will be satisfied, and where each amount so multiplied is then discounted according to an assumed rate of interest to reflect the time value of money. For a Member's Cash Balance, Actuarial Present Value will be determined based on (1) the applicable mortality table specified in Section 417(e)(3)(B) of the Code for the calendar year for which the determination of Actuarial Present Value is being made, and (2) the adjusted first, second, and third segment rates, as determined and applied in accordance with Section 417(e)(3)(C) and (D) of the Code and administrative guidance thereunder, and averaged over the three-month period of August, September, and October of the calendar year preceding the calendar year for which the determination of Actuarial Present Value is being made.

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- (b) “Adjusted Gross Pay” means, for purposes of the Cash Balance Retirement Benefit, for a Plan Year a Member’s Gross Pay (within the meaning of Section 6.01(b)), except that Gross Pay shall be determined on the basis of the Plan Year and shall include all eligible bonuses (as described under the definition of Gross Pay) actually paid during that year, provided such bonuses are paid prior to the date on which the Member separates from service. Adjusted Gross Pay does **not** include amounts earned for service with non-Participating Employers.
- (c) “Benefit Commencement Date” means the date on which a Member’s Cash Balance Retirement Benefit (or Combined Retirement Benefit, if applicable) is scheduled to be paid or, in the case of a periodic benefit under the Plan, the first day of the first period for which the benefit is scheduled to be paid. A Benefit Commencement Date must fall on the first day of a calendar month occurring after the date the Member’s employment with the Controlled Group terminates.
- (d) “Cash Balance Service” means the sum of (a) the number of calendar months after December 31, 2009, during which the Member is a Regular Full-time, Regular Part-time or Casual Employee of a Participating Employer, including any period of time the Member is on an approved leave, regardless of whether they receive compensation from a Participating Employer for such leave, and (b) their Vesting Service (if any) under the Plan as of December 31, 2009, determined in accordance with Section 11.02(b). For employees hired after December 31, 2009 but before January 1, 2012, their Cash Balance Service shall also include the number of calendar months the employee worked for a Participating Employer during the Service Year in which the employee first completes 1,000 Hours of Service. For an employee who becomes a Member as a result of transfer to a Participating Employer from a non-Participating Employer of the Controlled Group, Cash Balance Service shall include the number of calendar months the employee worked for the non-Participating Employer as provided in Section 13.05. However, Vesting Service that is recognized for work performed as a leased employee under section 414(n) of the Code shall not be considered in calculating Cash Balance Service. Further, service with an employer that is acquired by the Company or another member of the Controlled Group after January 1, 2010, that is recognized for purposes of vesting or eligibility shall not be considered in calculating Cash Balance Service unless the Company’s Board of Directors or other individuals or committees with delegated authority to do so, explicitly agree to recognize such service for purposes of benefit accrual, and such recognition is properly documented in Appendix B.
- (e) A Member’s “Pay Credit Percentage” for a Plan Year shall equal 7 percent in the case of a Member with less than 50 Points, 9 percent in the case of a Member with 50 or more but less than 70 Points, and 11 percent in the case of a Member with 70 or more Points.
- (f) A Member’s “Points” for a Plan Year shall equal the sum of the Member’s attained age and Cash Balance Service, each determined in years and months as of the last day of the Plan Year.

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5.07 **Effect of Continued Employment After Normal Retirement Date.** If a Member's employment with the Controlled Group does not terminate until after their Normal Retirement Date, their Benefit Commencement Date will be delayed until their employment with the Controlled Group terminates. A Member whose Benefit Commencement Date is delayed under this paragraph will continue to earn a Cash Balance Retirement Benefit in accordance with the terms of this Article 5. The preceding provisions of this paragraph will apply, even though the Member's service during their continued employment with the Controlled Group is not "section 203(a)(3)(B) service" described in 29 C.F.R. § 2530.203-3(c), and even though the procedures regarding notice, review, and administration otherwise prescribed under 29 C.F.R. § 2530.203-3 are not observed. The preceding sentence is permissible because the Interest Credits and, if applicable, annuity conversion factors, used to calculate a Member's Cash Balance Retirement Benefit during continued employment after Normal Retirement Date provide an actuarial adjustment sufficient to avoid an impermissible forfeiture under Section 411(a)(2) of the Code and Section 203(a)(2) of ERISA.

5.08 **Effect of Reemployment.**

- (a) *Before Benefit Commencement Date.* If a Member returns to employment with the Controlled Group before their Benefit Commencement Date, their Benefit Commencement Date will be delayed until their employment with the Controlled Group again terminates. During the period of their reemployment, the amount of their previously earned Cash Balance Retirement Benefit (if any) will not be diminished, and they will continue to earn a Cash Balance Retirement Benefit in accordance with the terms of this Article 5. Upon their subsequent severance from employment with the Controlled Group, their Benefit Commencement Date will be redetermined in accordance with the terms of the Plan then in effect.
- (b) *After Benefit Commencement Date.* If a Member or Former Member returns to employment with the Controlled Group on or after their Benefit Commencement Date, they will continue to receive benefits in the form elected and in addition will be entitled to earn a new Cash Balance Retirement Benefit in accordance with the terms of this Article 5, but their new Cash Balance Retirement Benefit will not include any portion of their old Cash Balance Retirement Benefit. Upon their subsequent severance from employment with the Controlled Group, a new Benefit Commencement Date will be determined with respect to their new Cash Balance Retirement Benefit and it will be paid in accordance with Article 7.

5.09 **Pension Protection Act of 2006.**

- (a) *Accrued Benefit for Certain Purposes.* A Member's accrued benefit under this Article 5 as of any date shall be expressed as their Cash Balance on that date. This Section 5.09(a) shall apply for purposes of Section 411(b)(5) of the Code, Section 204(b)(5) of ERISA, and Section 4(i)(10) of ADEA.
- (b) *Present Value of Accrued Benefit.* The present value of a Member's accrued benefit under this Article 5 as of any date shall be equal to the amount expressed as their Cash Balance on that date. This Section 5.09(b) shall apply for purposes of the provisions cited in Section 411(a)(13)(A) of the Code and Section 203(f)(1) of ERISA.

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- (c) *Interest Credits and Annuity Conversions Following Plan Termination.* Notwithstanding any other provision of the Plan, upon termination of the Plan, benefits under this Article 5 shall be calculated in accordance with Section 411(b)(5)(B)(vi) of the Code, Section 204(b)(5)(B)(vi) of ERISA, and Section 4(i)(10)(B)(vi) of ADEA.

Article 6. Legacy Retirement Benefits

6.01 **Definitions.** The following terms when capitalized shall have the meanings set forth below, except as otherwise noted.

- (a) “Final Average Pay” as used herein shall mean the quotient obtained by dividing the highest total Gross Pay of a Member for any consecutive 36-month period in the applicable ten-year period by 36. For Members whose employment with the Controlled Group terminated prior to July 6, 2015, the applicable ten-year period shall be their final ten years of employment, and for Members who remain employed by the Controlled Group after July 5, 2015, the applicable ten-year period shall be the ten-year period ending on July 5, 2015. For the avoidance of doubt, no changes in a Member’s Gross Pay after July 5, 2015 shall be taken into account in determining a Member’s Final Average Pay.
- (b) “Gross Pay” as used herein shall include pay for hours worked (including overtime pay), pay for allowed hours, pay for paid time off, pay prior to any offset for military pay while on Military Leave, special general asset payments made to new employees whose date of hire was prior to December 2, 2011, Sick Benefit pay while on Sick Leave and commissions, subject to the following:
- (1) Included in Gross Pay. Gross Pay shall include compensation received under the terms of the Marathon Oil Company Annual Cash Bonus Program and other annual incentive compensation programs that were previously established or may be subsequently established by Marathon Oil Company or another Participating Employer from time to time provided that the Member is not a retiree, Beneficiary, or terminated employee at the time of the payment from the incentive compensation program; pre-tax contributions made by the Member to the Marathon Oil Company Thrift Plan; effective January 1, 1990, contributions made by the Member under the Contribution Conversion Plan (CCP); and, effective January 1, 1998, employee contributions as salary reduction amounts to Health Care Spending Accounts and Dependent Care Spending Accounts. Gross Pay shall include 100% of bonus actually paid in 1981 and thereafter, provided the bonus payments are made within the 36 consecutive month period used for calculating Final Average Pay. However, in no event will more than 3 bonuses be recognized in such consecutive 36-month period. Should there be more than 3 such bonuses paid during this period, only the 3 highest bonuses will be used. This paragraph is effective only for Final Average Pay calculations on or after December 1, 1990.

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- (2) Excluded from Gross Pay. Gross Pay shall exclude: signing bonuses paid on or after January 5, 2006; allowances under the Relocation Assistance Plan; miscellaneous benefit adjustments as provided by employers in the Controlled Group that are not Participating Employers; tax allowances; deferred compensation under a non-qualified compensation arrangement; tax reimbursements; travel pay; foreign service or other location premiums or other similar special payments (such as hardship premiums or tax equalization payments); items of non-cash compensation or imputed income; severance pay, separation pay or other similar payments; and vacation pay received on or after an employee's termination or retirement.
- (3) Calendar Year Compensation. A Member's compensation for a calendar year shall include only that compensation which is actually paid to the Member or includable in the Member's gross income in such year.
- (4) Limitations on Gross Pay. A Member's Gross Pay under the Plan is limited to the annual compensation limit in Section 401(a)(17) of the Code as changed at the same time and in the same manner as under Section 415(d) of the Code. Effective for Plan Years beginning after December 31, 1988 and before January 1, 1994, the Plan shall not take into consideration Gross Pay to the extent it exceeds \$200,000 (as indexed under Section 415(d) of the Code). Effective for Plan Years beginning after January 1, 1994, the Plan shall not take into consideration Gross Pay to the extent it exceeds \$150,000 (as indexed under Section 415(d) of the Code). Effective for Plan Years beginning on or after January 1, 2002, the Gross Pay of any Member taken into account in determining benefit accruals in any Plan Year for any determination period shall not exceed \$200,000, as adjusted for cost of living increases in accordance with Section 401(a)(17)(B) of the Code. The cost of living adjustment in effect for a calendar year applies to any determination period beginning with or within such calendar year.
- (c) "Normal Retirement Age" means age 65.
- (d) "Normal Retirement Date" means the first day of the month following a Member's 65th birthday.
- (e) "Plan Participation Service" is the length of time in months from the date of enrollment, during which a Member either receives or is entitled to receive compensation from a Participating Employer, is on an approved leave of absence as defined in Article 13 hereof, or is laid off for a period of less than 12 consecutive months. Twelve months of Plan Participation Service shall constitute one year of Plan Participation Service. For purposes of calculating a benefit under Article 6, Plan Participation Service will be frozen as of December 31, 2009, except as provided in Section 17.03. To clarify, for periods prior to January 1, 2010, a Member's Waiting Period Service will be recognized as Plan Participation Service.
- (1) *Special Plan Participation Service Crediting Rules.*
- (i) Pre-ERISA Accruals. For purposes of this Section 6.01(f), Plan Participation Service prior to 1975 means the length of time during which benefits accrued to the Member for participation in the Plan prior to January 1, 1975.

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- (ii) Overseas Assignments. A Member on indefinite overseas assignment will be credited with an additional 3 months of participation for each 12 consecutive months through December 31, 1990, during which they received an overseas premium, hardship allowance or any other location premium approved by the Plan Administrator. Effective January 1, 1991, no additional participation is granted for indefinite overseas assignments. If there is any eligible overseas service which, as of December 31, 1990, is unaccounted for under the Retirement Plan for purposes of receiving additional participation, it shall be accounted for by (i) prorating such foreign service (rounded to the next whole month and divided by 12 months) and, (ii) multiplying this percentage by 3 months and rounding any fractional remainder to the next whole month.
- (2) *Pre-Participation Service for Acquired Companies*. Members who were employed by an employer at the time such employer was acquired by the Company or another member of the Controlled Group may, with the approval of the Company's Board of Directors or other individuals or committees with delegated authority to do so, be entitled to additional Plan Participation Service based on employment with the acquired employer. (Past approvals are noted in Appendix B).
- (f) Primary Social Security Benefit will be estimated based on the social security law and benefit levels in effect at the Member's retirement, death or severance from employment and on the following assumptions regarding the Member's earnings:
- (1) It will be assumed that a Member had no earnings subject to social security tax while employed by a Participating Employer other than those received from such Participating Employer. It will be further assumed that transferees have no earnings subject to social security tax while employed by an employer within the Controlled Group, other than wages received from such employer.
- (2) A Member's earnings prior to becoming employed by a Participating Employer and for which such Participating Employer has no wage records will be estimated by using an assumption of 6% per year projected backwards from the Member's earnings at the date of hire by the Participating Employer. The estimated social security earnings will not exceed the applicable annual social security wage base. If, however, within a reasonable period of time following the Member's retirement, death or commencement of benefit, the Member or their spouse provides the Plan Administrator with the Member's actual salary history obtained from the Social Security Administration for the period prior to the Member's employment by a Participating Employer, the Member's Primary Social Security Benefit and the benefit payable from the Plan will be adjusted. Notwithstanding the above, in the case of a Member who was a salaried employee (exempt or non-exempt) on August 15, 1986, the Member's Gross Pay for periods of Plan Participation Service credited after August 15, 1986, but before the earlier of (i) August 1, 1987, or (ii) the date on which the Member ceases to be a regular employee for any reason, shall not be less than the amount it would have been if the Member's salary remained at the level which existed immediately prior to the reductions in the Member's salary approved by the Company on August 14, 1986; and

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- (3) Any Member who is eligible for Social Security benefits at the time they commence benefits under the Plan may have their Retirement Plan benefit adjusted based on demonstrating to the Plan Administrator that the actual Social Security benefit being received is less than the estimated full Social Security benefit used to compute the offset under the Retirement Plan. The Member must submit a benefit adjustment request to the Plan Administrator within six months of commencing a Retirement Plan benefit. This paragraph 6.01(g)(3) is effective January 1, 1991.
- (4) It will be assumed that a Member will have no earnings subject to social security tax after retirement or severance from employment with the Controlled Group.
- (g) “Spouse” means, effective June 26, 2013, the individual who is lawfully married to a Member under the laws of the state or foreign jurisdiction in which the marriage was entered into and who is considered the Member’s spouse for U.S. federal tax purposes in accordance with Rev. Rul. 2013-17. “Spouse” does not include a domestic partner or a party to civil union. To the extent required by a qualified domestic relations order (as defined in Section 414(p) of the Code), a Member will be treated as married to their former Spouse on their Benefit Commencement Date or their date of death.

6.02 **Normal Retirement Benefit.** The amount of the monthly normal retirement benefit of a Member who retires on their Normal Retirement Date or thereafter with at least 37 years and 6 months of Plan Participation Service shall be such that the sum of: (i) one-half of their Primary Social Security Benefit, and (ii) the benefit payable under the Plan, shall equal 60% of the member’s Final Average Pay. If a retiring Member has less than 37 years and 6 months of Plan Participation Service, the normal retirement benefit payable under this Plan will be reduced proportionately. For all benefits paid on or after January 1, 1992, the maximum Social Security offset will be equal to 50% of the Member’s retirement benefit calculated before the offset.

Each Member’s accrued age 65 benefit is the greatest of (a), (b), (c) or (d) below:

- (a) Their accrued benefit on December 31, 1988, without limit to compensation as applied to Plan Participation Service as of December 31, 1988, or
- (b) Their accrued benefit as of December 31, 1993, taking into consideration a compensation limit of \$200,000 (as indexed) and as applied to Plan Participation Service as of December 31, 1993, or
- (c) Their accrued benefit in (a) or their accrued benefit in (b) added to their accrued benefit determined by applying the \$150,000 compensation limit (as indexed) to Plan Participation Service from January 1, 1994 until December 31, 2001, and the \$200,000 compensation limit (as indexed) to Plan Participation Service from January 1, 2002, or
- (d) Their accrued benefit for all years of Plan Participation Service applying the \$150,000 compensation limit (as indexed) to each year prior to January 1, 2002 used for Final Average Pay purposes, and the \$200,000 compensation limit (as indexed) to each year after December 31, 2001 used for Final Average Pay purposes.

6.03 **Nonduplication of Benefits.** The monthly retirement benefit of a Member who was employed by an employer at the time such employer was acquired by the Company or another member of the Controlled Group may be reduced to reflect the benefit payable from a retirement or similar plan maintained by such acquired employer.

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6.04 **Early Retirement.** A Member who qualifies as a Retired Member may retire on the first day of any month after ending employment with the Controlled Group prior to the Member's Normal Retirement Date. When such a Member retires under this Section 6.04, their benefit will be determined under Section 6.02 above based on their years of Plan Participation Service as of their early retirement date and reduced to reflect early commencement based on the following percentages, whichever is applicable:

| Age at Retirement | Early Retirement Factors |
|-------------------|--------------------------|
| 64 | 100% |
| 63 | 100% |
| 62 | 100% |
| 61 | 97% |
| 60 | 94% |
| 59 | 91% |
| 58 | 87% |
| 57 | 83% |
| 56 | 79% |
| 55 | 75% |
| 54 | 71% |
| 53 | 67% |
| 52 | 63% |
| 51 | 59% |
| 50 | 55% |

In the event a Member separates from service and does not then qualify as a Retired Member, their benefit, if any, shall be determined in accordance with Sections 11.04 and 11.05.

6.05 **Late Retirement.** If a Member continues to be employed within the Controlled Group after the Member's Normal Retirement Date, payment of his Legacy Retirement Benefits shall be suspended and permanently withheld for each month during which he performs section 203(a)(3)(B) service (as described in Section 5.07) for an employer within the Controlled Group, and the Member's Benefit Commencement Date for the Member's Legacy Retirement Benefit shall be delayed until the first day of the month immediately following the month in which the Member last performs section 203(a)(3)(B) service. The suspension of a Member's benefit shall be applied by the Plan Administrator in accordance with the notice procedures and other requirements of 29 C.F.R. 2530.203-3. The Cash Balance Retirement Benefit of a Member who continues employment after the Member's Normal Retirement Date shall be governed by the provisions of Section 5.07.

If earlier, and as required under Section 401(a)(9) of the Code, an active Member shall commence receipt of their retirement benefit on the April 1 following the calendar year in which the Member attains age 70½, even if the Member (including a Member transferred within the Controlled Group) has not actually retired, provided that the Member is a 5% owner. Any Member who attained age 70½ prior to January 1, 2000 shall be entitled to continue receiving benefits under the Plan under rules in effect prior to this amendment.

Retirement Plan

- (a) *Benefit Accruals After Age 70½.* For any Active Member who commences benefits on the April 1 following the calendar year in which the Member attains age 70½, a benefit under the Plan, attributable to Plan Participation Service and Gross Pay from the commencement date of the Member's retirement benefit under this Section 6.05 (while employed within the Controlled Group) until the earlier of the Member's date of death or the date of severance from employment, is determined as follows:
- (1) A dollar amount of benefit in the lifetime form of benefit is calculated under Section 6.02 based on all of the Member's Plan Participation Service and Gross Pay as if a previous benefit under the Plan had not commenced (this amount is referred to as the "Total Benefit").
 - (2) The Total Benefit is reduced by the dollar amount of benefit, in the lifetime form of benefit, that was payable at the time the employee commenced a benefit under the Plan, and the resulting amount is referred to as the "Additional Retirement Benefit."
 - (3) The Additional Retirement Benefit is used to determine the actual benefit payable (i.e., Spouse's benefit determined in accordance with Article 9 or the Member's retirement benefit) under the terms and conditions of the Plan with respect to the benefit accrued after the Member's benefit commenced under Section 6.05.
- (b) *Actuarial Adjustments.* Effective January 1, 1997, the accrued benefit of a Member who elects retirement in a calendar year following attainment of age 70½ must be actuarially increased for the period they were not receiving benefits under the Plan in accordance with the requirements of Section 401(a)(9) of the Code and the regulations thereunder.
- If a Member (i) who terminated employment prior to his Normal Retirement Age and applies for benefits under Section 7.05 more than a de minimis length of time after the Member reaches his Normal Retirement Date, or (ii) who retired after his Normal Retirement Date under 6.05 and applies for benefits under Section 7.05 more than a de minimis length of time after retirement, no payments shall be made for the period during which benefits would have been payable if the Member had made timely application; provided, however, that the benefit payable to the Member shall be actuarially increased for the period after the Member's Normal Retirement Date (or, if later, retirement) that the Member was not receiving benefits under the Plan.
- (c) *Minimum Required Distributions.* With respect to distributions under the Plan made in calendar years beginning on or after January 1, 2003, the minimum distribution rules are set forth in Section 10.01.

6.06 **Factors Affecting Legacy Retirement Benefits.** The amount of a Member's Legacy Retirement Benefit, if any, will depend upon the following factors:

- (a) The amount of their Final Average Pay.
- (b) The number of years and months they have participated in the Plan.
- (c) The form of benefit elected.
- (d) Age at retirement.
- (e) Estimated primary Social Security benefit.



Retirement Plan

- (f) The monthly benefit payable under this Plan for former employees of Husky Oil Company who were granted additional participation time under this Plan attributable to participation in their former employers' defined benefit retirement plans, will be offset by a monthly benefit calculated by applying Husky Plan age reduction factors to the Husky Plan age 65 benefit as of the benefit commencement date under the this Plan.
- (g) The age 65 benefit accrued under this Plan for former employees of PPG Industries, Inc., Conoco, Unocal, Amoco, Delhi Pipeline, and Chevron ("former employers"), who were granted additional participation time under this Plan attributable to participation in their former employers' defined benefit retirement plans, will be offset by the age 65 benefit accrued under such plans of their former employers.
- (h) In the case of an employee who transferred from Ashland Inc. to Marathon Ashland Petroleum LLC, the benefit payable to such employee from this Plan (expressed as a single life annuity using the Plan's discounts for commencement of benefits before the Normal Retirement Age), shall be offset at the time of benefit commencement by the benefit then payable under the Ashland Inc. and Affiliates Pension Plan, referred to as the "Ashland Plan," using, if applicable, the early retirement discounts under the Ashland Plan (as attached hereto as Appendix C). For this purpose, the benefit payable under the Ashland Plan shall be determined at the date of benefit commencement in a single life annuity form, taking into account under the Ashland Plan the employee's benefit accrual service recognized under this Plan on or after the date of transfer to Marathon Ashland Petroleum LLC for the purposes of eligibility and vesting, but not benefit accrual, and disregarding for purposes of calculating the Ashland Plan benefit any offsets provided under the Ashland Plan including, but not limited to, those relating to the Ashland Inc. ESOP or any predecessor or foreign plan. Notwithstanding the foregoing, the net benefit payable under this Plan shall not be less than the benefit such employee would have earned under this Plan from such employee's transfer date. In the event that an employee commences a benefit under this Plan prior to age 55 and if such employee is not eligible for the early retirement discounts under the Ashland Plan, the offset will be based on the Ashland Plan age 55 single life annuity deferred vested factor adjusted actuarially for an earlier age of benefit commencement and as attached hereto as Appendix C.

In no event will a Member's normal retirement benefit be less than the benefit credited to them on December 31, 1974.

Article 7. Commencement of Retirement Benefits

- 7.01 **General.** Payment of a Member's Combined Retirement Benefit under this Plan will begin on their Normal Retirement Date unless (a) they elect an earlier Benefit Commencement Date under Section 7.02; (b) their Benefit Commencement Date is delayed under Section 7.03 (because their employment with the Controlled Group continues after their Normal Retirement Date), or (c) their Benefit Commencement Date is required to occur as soon as administratively practicable after their employment with the Controlled Group is terminated (because they are required to receive an involuntary lump sum distribution in accordance with Section 8.04(a)(1)).



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- 7.02 **Election of Earlier Benefit Commencement Date.** A Member whose employment with the Controlled Group terminates before their Normal Retirement Date may elect a Benefit Commencement Date that occurs before their Normal Retirement Date. Their written election must be made in a form acceptable to the Plan Administrator during the 180-day period that ends on the date they elect as their Benefit Commencement Date (or during any other period required or permitted under applicable Federal law). In no event may a Member execute and file an election with the Plan Administrator before they have been provided with the notice required under Section 8.01. The Benefit Commencement Date must be the first day of a calendar month occurring on or after the date the Member's employment with the Controlled Group terminates and before their Normal Retirement Date. A Member's election pursuant to this Section 7.02 will be revocable by written notice delivered to the Plan Administrator at any time during the 180-day period that ends on the Benefit Commencement Date, but will become irrevocable thereafter. A married Member is not required to obtain the consent of their Spouse to the Benefit Commencement Date they elect pursuant to this Section 7.02, although their Spouse may be required to consent to the form of benefit elected.
- 7.03 **Election of Later Benefit Commencement Date.** The Benefit Commencement Date of a Member who continues in the active employment of an employer within the Controlled Group after their Normal Retirement Age shall be the first day of the calendar month coinciding with or next following the date the Member's employment with the Controlled Group terminates. If earlier and as required under Section 401(a)(9) of the Code, an Active Member shall commence receipt of their benefits on the April 1 following the calendar year in which the Member attains age 70½, even if the Member (including a Member transferred within the Controlled Group) has not actually retired, provided that the Member is a 5% owner. Any Member who attained age 70½ prior to January 1, 2000 shall be entitled to continue receiving benefits under the Plan rules as in effect prior to this amendment.
- 7.04 **Default Commencement Provision.** Except as provided in 7.05, payment of benefits under the Plan will commence not later than the 60th day after the close of the Plan Year following the latest of: (a) the date the Member attains age 65; (b) the tenth anniversary of the year the Member commenced participation in the Plan; or (c) the Member's severance from employment.
- 7.05 **Claim for Benefits Required.** Notwithstanding the forgoing, except to the extent otherwise required by applicable law or except when the Member is required to receive an involuntary lump sum distribution in accordance with Section 8.04(a)(1), a Member must file a claim for benefits before payment of benefits will begin, and in order to allow for adequate processing time, the claim must be filed at least 45 days before the Benefit Commencement Date elected; provided that a Member may elect a Benefit Commencement Date within the 45 day period after the benefit claim is filed in the event the Member's employment was terminated involuntarily or in substantially similar situations.

Article 8. Forms of Retirement Benefits

8.01 **General.** A Member may elect in writing to receive their Combined Retirement Benefit as a monthly benefit either (a) as a monthly benefit in the form of: (i) a lifetime benefit; (ii) one of four joint and survivor benefits with the Member's Spouse as joint annuitant; or (iii) a term certain benefit or (b) alternatively, in the form of a lump sum, as each is described in this Article 8, and when required for a married Member, subject to Spousal consent. Such written election shall be made within the 180-day period prior to the Member's Benefit Commencement Date on a form to be provided by the Plan Administrator. The Plan Administrator will provide each Member with a written explanation of the forms of benefit available to the Member, including a description of the relative values of the optional forms of benefit, in accordance with applicable Federal law and relevant Treasury Regulations.

8.02 Normal Form of Retirement Benefit.

- (a) The normal form of benefit for an unmarried Member is a lifetime benefit.
- (b) The normal form of benefit for a married Member who has attained their Normal Retirement Age or who does not qualify as a Retired Member or for a married Member who has only a Cash Balance Retirement Benefit is a 50% qualified joint and survivor annuity with the Member's Spouse as the joint annuitant.
- (c) The normal form of benefit for a married Member who has not attained their Normal Retirement Age but who qualifies as a Retired Member (on account of having attained age 50 and 10 years of Vesting Service before severance from employment with the Controlled Group) and all or a portion of their benefit is a Legacy Retirement Benefit is a temporary lifetime benefit payable until age 65, at which time the Member (with their Spouse's consent, if required) will make a permanent benefit election by choosing to continue the lifetime benefit, one of the joint and survivor benefits or a term certain benefit. In such case, the joint and survivor benefit or the term certain benefit shall be determined by multiplying the conversion factor for the particular form of benefit determined at the time the Member is age 65 by the amount of lifetime annuity then payable to the Member under the temporary lifetime form. In the event the Member fails to make a permanent election, the default will be a 50% qualified joint and survivor annuity with their Spouse as joint annuitant. The Spouse of a Member who, while receiving a temporary lifetime form of benefit, dies during the early retirement period shall receive a Spouse's benefit equal to 50% of the amount the Member was receiving as a lifetime form of benefit. (In the case of a Spouse who is more than 10 years younger than the deceased Member, their benefit shall be determined in accordance with Section 9.06.)

8.03 **Electing an Optional Form of Benefit.** A Member may elect to waive the normal form of benefit payable to them under Section 8.02 in favor of an optional form of benefit described in Section 8.04.

- (a) *Form and Timing of Election.* The election of any form of benefit or any changes thereto shall be made in writing within the 180-day period prior to their Benefit Commencement Date.

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- (b) *Consent of Spouse to Election by Married Member.* The election by a married Member of a form of benefit other than a 50%, 75% or 100% joint and survivor form with the Member's Spouse as joint annuitant will not be effective unless the Spouse consents to such election in writing on a form approved by the Plan Administrator, and such consent is witnessed by a Plan representative or notary public.
- (c) *Changing a Benefit Election.* A change may be made to a Member's benefit election so long as it is made prior to the date that benefits commence (generally the Member's Benefit Commencement Date). No changes can be made after the form of benefit has commenced.
- (d) *Effective Date of Election.*
 - (1) The joint and survivor form, or term certain form of benefit shall become effective on the Member's Benefit Commencement Date.
 - (2) The lump sum form of benefit shall become effective:
 - (i) For retirements, on the Member's Benefit Commencement Date;
 - (ii) For involuntary lump sums, as provided under Section 8.04(a);
 - (iii) For all other eligible Members, on the Member's Benefit Commencement Date.

8.04 **Optional Forms of Benefit.**

- (a) *Lump Sum Form of Benefit.*
 - (1) Involuntary Lump Sum Distributions. If the actuarially equivalent lump sum of the Member's Combined Retirement Benefit (hereinafter referred to as "Retirement Plan Lump Sum") does not exceed \$5,000 and the Member has not commenced their benefit, such benefit will be distributed in a lump sum, without the consent of the Member or the Member's Spouse or Beneficiary, as soon as possible after the benefit becomes payable (including severance of employment), subject to the following:
 - (i) If the Retirement Plan Lump Sum is less than \$1,000, such benefit will be cashed-out in a lump sum payable to the Member or the Member's Spouse or Beneficiary, whichever is applicable;
 - (ii) if the Retirement Plan Lump Sum is greater than \$1,000 but less than \$5,000, and the Member has not elected to have such distribution paid directly to a specified Eligible Retirement Plan in a Direct Rollover or to receive the distribution directly, the mandatory distribution will be paid in a Direct Rollover to an individual retirement plan.
 - (2) Voluntary Lump Sum Form of Benefit. If the Retirement Plan Lump Sum to be paid hereunder exceeds \$5,000 and the Member has not commenced their benefit but is otherwise eligible to do so, the Member may elect the lump sum form of benefit provided that their election is consented to in writing by the Member's Spouse, if any.

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- (3) Calculation of Lump Sum. The Retirement Plan Lump Sum shall be the sum of (i) an amount equal to the actuarial equivalent of the Member's Cash Balance Retirement Benefit, which shall be deemed, as required by Code section 411(a)(13), to equal the Member's Cash Balance, and (ii) an amount equal to the actuarial equivalent, as determined in accordance with Article 6 and this Section 8.04, of the Member's Legacy Retirement Benefit, if any, both determined as of the Member's Benefit Commencement Date. The actuarial equivalent of the Member's Legacy Retirement Benefit shall be determined by multiplying (i) the Member's age 65 benefit that has been either reduced in accordance with 6.04 for a Member who qualifies as a Retired Member or actuarially reduced in accordance with Section 11.05 for a Member who does not qualify as a Retired Member by (ii) the Plan's immediate lump sum factor for such Member's age. For this purpose, the Plan's immediate lump sum factor shall be determined based on the Actuarial Equivalence Factors described in Section 8.04(a)(4).
- (4) Actuarial Equivalence Factors – Legacy Retirement Benefit. For purposes of determining the amount of the Legacy Retirement Benefit lump sum, including the Spouse's benefit, if any, the present value of the benefit to be paid out will be determined by application of the RP 2000 Mortality Table weighted 75% male/25% female and the Current Interest Rate Assumption.
- (i) *Current Interest Rate Assumption*. For Legacy Retirement Benefit lump sums calculated after January 1 of each year, the "Current Interest Rate Assumption" shall be the lesser of the following immediate annuity rates:
- (A) The simple average (rounded to the nearest one quarter of one percent) of immediate annuity rates published periodically by the Pension Benefit Guaranty Corporation (the "PBGC") which are in effect on the first day of the months of April through September of the year prior to the year in which the benefit is distributed; or
- (B) The PBGC immediate annuity rate in effect on the first day of the Plan Year (January 1) that contains the date on which the benefit is distributed to the Member.
- (ii) For Legacy Retirement Benefit lump sums calculated on January 1 of each year, the Current Interest Rate Assumption will be the lesser of (i)(A) above, (i)(B) above, or the Current Interest Rate Assumption for the previous calendar year.
- (5) Minimum Lump Sums – Legacy Retirement Benefit.
- (i) *PBGC Floor*. In no event, however, will a Legacy Retirement Benefit lump sum determined on any date in a calendar year be less than the lump sum calculated by multiplying (x) the Member's unreduced age 65 benefit by (y) the Plan's deferred factor for such Member's age. For this purpose, the Plan's deferred factor shall be derived from the RP 2000 Mortality Table weighted 75% male/25% female and the applicable PBGC immediate and deferred interest rates in effect on the first day of the Plan Year (January 1) that contains the date on which the benefit is distributed to the Member. This paragraph is effective January 1, 1990.

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- (ii) *417(e) Floor.* In no event, however, will a Legacy Retirement Benefit lump sum be less than the minimum lump sum required under Section 417(e)(3) of the Code calculated using the applicable interest rate and the applicable mortality table of Section 417(e)(3)(A)(ii) of the Code. The applicable interest rate for purposes of Section 417(e)(3)(A)(ii) of the Code shall be determined for each Plan Year based on the average of the 30-year Treasury rates for the months of August, September and October of the preceding calendar year (rates published in September, October and November.)

Effective January 1, 2008, the interest rate used to calculate the minimum lump sum under the Plan shall comply with the requirements of Section 417(e) of the Code, as set forth in the Pension Protection Act of 2006, including the transition rule applying to distributions in 2008 through 2011. The applicable interest rate under Section 417(e)(3) of the Code is the adjusted first, second and third segment rates derived from a corporate bond yield curve, as published by the Internal Revenue Service. The look back period is the 3-month period August through October, and the stability period is the calendar year. The mortality table used in calculating a minimum lump sum shall continue to be the applicable mortality table under Code Section 417(e)(3)(A)(ii)(I).

- (6) No Additional Benefits. Except for an Active Member over age 70½ who elects a lump sum payment or a re-employed Member as provided under Section 12.03 for a Member who receives a lump sum payment, no further benefits shall be payable hereunder to or on behalf of the Member.
- (b) *Lifetime Form of Benefit.* A Member may elect a lifetime form of benefit. If the Member is married, their Spouse must consent to their election of the lifetime form of benefit. When such form of benefit becomes effective, the Member will be entitled to receive a monthly benefit for the remainder of their life calculated in accordance with Article 4. The final monthly benefit shall be paid on the first day of the month in which the Member dies.
- (c) *Joint and Survivor Form of Benefit.* A Member may elect a joint and survivor form of benefit with the Member's Spouse as joint annuitant. The Member's Spouse must consent to the election of a 25% joint and survivor form of benefit. When such form of benefit becomes effective, the Member will be entitled to receive a monthly retirement benefit during their lifetime, with the monthly payments continuing after their death to the Member's surviving Spouse for the remainder of the Spouse's life. The amount of the monthly payment to the Spouse shall be designated by the Member as 25%, 50%, 75% or 100% of the Member's retirement benefit.
 - (1) *Actuarial Equivalence.* The election of a joint and survivor form of benefit will reduce the monthly benefit which the Member would otherwise receive if paid in the lifetime form of Benefit. The amount of reduction in the Member's retirement benefit will depend on:
 - (i) The percentage of their benefit to be continued to their Spouse.
 - (ii) The Member's age when the form of benefit becomes effective.
 - (iii) The age of the Member's Spouse when the form of benefit becomes effective.

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- (2) *Actuarial Equivalence Factors.* For employees retiring on and after January 1, 1984, and who commence an optional form of benefit after January 1, 2007, the portion (if any) of any joint and survivor form of benefit attributable to a Member's Legacy Retirement Benefit shall be the actuarial equivalent of the lifetime form of benefit hereunder, and shall be determined by application of the RP 2000 Mortality Table weighted 75% male/25% female and an interest rate assumption of 7%. The portion of any joint and survivor form of benefit attributable to a Member's Cash Balance Retirement Benefit shall be determined in accordance with Section 5.06(a).
- (d) *Term Certain Form of Benefit.* A Member may elect a term certain form of benefit. If the Member is married, their Spouse must consent to their election of the term certain form of benefit. When such form of benefit becomes effective, the Member will be entitled to receive a monthly retirement benefit during the Member's lifetime with monthly payments guaranteed for the elected term certain period but may not exceed the Life Expectancy of the Member as of such effective date. If the Member dies before receiving the number of guaranteed monthly payments elected by the Member, the remaining guaranteed payments will be continued to another person designated by the Member as their Designated Beneficiary, if the Designated Beneficiary survives the Member.
- (1) *Term Certain Elections.* At the time of the election, the Member shall designate the number of monthly payments which are to be guaranteed (which shall not exceed the Life Expectancy of the Member as of the date the form of benefit is to become effective), their Designated Beneficiary and the date on which the form of benefit is to become effective. Members may only elect a term certain period of 5, 10, or 15 years.
- (2) *Term Certain Death Benefits.* If the Member's Designated Beneficiary predeceases the Member, the remaining guaranteed payments will be continued to the Member's contingent Beneficiary, if any, otherwise, the remaining guaranteed payments will be distributed in accordance with the order of beneficiaries set forth in Section 9.08. If a Designated Beneficiary who is receiving guaranteed monthly payments hereunder should die before the number of guaranteed payments have been paid, the remaining guaranteed payments shall be paid to that Beneficiary's estate.
- (3) *Actuarial Equivalence.* The election of a term certain form of benefit will result in a reduction of the monthly benefit payments which the Member would otherwise receive if paid in the lifetime form of benefit. The amount of reduction in the Member's retirement benefit will depend on:
- (i) The number of monthly payments which are to be guaranteed.
 - (ii) The Member's age when the form of benefit becomes effective.
- (4) *Actuarial Equivalence Factors.* For Members retiring on and after January 1, 1984, and who commence an optional form of benefit after January 1, 2007, the portion (if any) of the term certain form of benefit attributable to the Member's Legacy Retirement Benefit shall be the actuarial equivalent of the lifetime form of benefit hereunder and shall be determined by application of the RP 2000 Mortality Table weighted 75% male/25% female and an interest rate assumption of 7%. The portion of the term certain form of benefit attributable to the Member's Cash Balance Retirement Benefit shall be determined in accordance with Section 5.06(a).

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8.05 **Direct Rollover of Eligible Rollover Distribution.** Notwithstanding any provision of the Plan to the contrary that would otherwise limit a Distributee's election under this Article, a Distributee may elect, at the time and in the manner prescribed by the Plan Administrator, to have any portion of any Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover. For distributions after August 7, 2007, a non-Spouse Beneficiary who is a "Designated Beneficiary" under Section 401(a)(9)(E) of the Code and the regulations thereunder, may roll (by direct trustee-to-trustee transfer, or "Direct Rollover"), all or any portion of their distribution to an individual retirement account that the Beneficiary establishes for purposes of receiving the distribution. To be eligible for Direct Rollover the distribution must otherwise satisfy the definition of an "Eligible Rollover Distribution" under the Code. For purposes of this Section, the following terms have the following meanings:

- (a) *"Eligible Rollover Distribution"* means any distribution of all or any portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or joint life expectancies) of the Distributee and the Distributee's Designated Beneficiary, or for a specified period of ten years or more, any distribution to the extent such distribution is required under Section 401(a)(9) of the Code; and the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities). Effective for distributions made after December 31, 2001, "Eligible Rollover Distribution" includes after-tax employee contributions (Member contributions paid prior to January 1, 1975). For purposes of the Direct Rollover provisions, a portion of a distribution shall not fail to be an Eligible Rollover Distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be paid only to an individual retirement account or annuity described in Section 408(a) or (b) of the Code, or to a qualified defined contribution plan described in Section 401(a) or 403(a) of the Code that agrees to separately account for amounts so transferred including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.
- (b) *"Eligible Retirement Plan"* means an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, an annuity plan described in Section 403(a) of the Code, or a qualified trust described in Section 401(a) of the Code, that accepts the Distributee's Eligible Rollover Distribution. However in the case of an Eligible Rollover distribution of the surviving Spouse an Eligible Retirement Plan is an individual retirement account or individual retirement annuity. Effective for distributions made after December 31, 2001, "Eligible Retirement Plan" shall also mean an annuity contract described in Section 403(b) of the Code and an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan. Also effective for distributions made after December 31, 2001, the definition of Eligible Retirement Plan shall also apply in the case of a distribution to a surviving Spouse, or to a Spouse or former Spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code.

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- (c) *“Distributee”* means a Member or Former Member. In addition the Member’s or Former Member’s surviving Spouse and the Member’s or Former Member’s Spouse or former Spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code, are Distributees with regard to the interest of the Spouse or former Spouse.
- (d) *“Direct Rollover”* means a payment by the Plan to the Eligible Retirement Plan specified by the Distributee.

Article 9. Survivor Benefits

- 9.01 **Pre-Retirement Survivor Benefit.** For deaths occurring on or after January 1, 2010, if an Active Member dies prior to severance from employment, the amount of the Active Member’s Combined Retirement Benefit shall be payable to their Spouse, or in the case of an unmarried Member to their estate.
- 9.02 **Form of Pre-Retirement Survivor Benefit.** In the case of an unmarried Active Member who dies prior to severance from employment, the pre-retirement death benefit will be paid to the Member’s estate in a single sum. The Legacy Plan Retirement Benefit shall be equal to 100% of the lump sum of the lifetime form of Benefit had the Member retired or terminated employment with the Controlled Group on the first day of the month immediately following the Member’s death (“Decedent’s Lump Sum”). The portion of the lump sum, if any, attributable to the Legacy Retirement Benefit is calculated using the actuarial assumptions as defined in Section 8.04. The portion of the lump sum, if any, attributable to the Member’s Cash Balance Retirement Benefit will be equal to the Member’s Cash Balance on the Benefit Commencement Date. In the case of a Married Active Member, the pre-retirement death benefit will be paid to the Member’s Spouse in the form of an annuity that is payable to the Spouse in equal monthly installments for the Spouse’s lifetime, unless the Spouse (a) elects to receive the pre-retirement death benefit in the form of a single installment, or (b) is required to receive the pre-retirement death benefit in the form of a single installment under Section 9.05. The amount of the Spouse’s monthly annuity is equal to the actuarial equivalent (for the age of the Spouse) of the Member’s Combined Retirement Benefit lump sum, defined above, using actuarial assumptions as defined in Section 5.06 for the Cash Balance portion, if any, and the actuarial assumptions as defined in Section 8.04 for the Legacy portion, if any. In no event, however, will the actuarial equivalent monthly survivor annuity (based on the Member’s Combined Retirement Benefit) be less than: 1) fifty percent (50%) of the benefit which the Member would have been entitled to receive as a lifetime form of Benefit if the Member had retired on the first of the month in which their death occurs; or 2) the amount payable under a fifty percent (50%) joint and survivor annuity, determined as required by law.

A Spouse entitled to a pre-retirement survivor annuity may elect to waive that annuity in favor of a single installment payable to the Spouse. The Spouse’s election must be in writing and in a form acceptable to the Plan Administrator, and must be executed and filed with the Plan Administrator at any time after the Member’s death and before the Spouse’s pre-retirement death benefit commences. A Spouse’s election may be revoked by written notice delivered to the Plan Administrator at any time before the payment to the Spouse commences. After any such revocation, the Spouse may make a new election. However, the commencement of the Spouse’s benefit may not be postponed beyond the Member’s Normal Retirement Date.



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- 9.03 **Post-Employment/Pre-Commencement Survivor Benefit.** In the event that a Member has retired or otherwise separated from service, is entitled to a vested benefit, and has made an effective election to commence benefits prior to their date of death, their benefit shall be paid at the time and in the form so elected by the Member prior to their death, and the elected form of benefit shall control what, if any, survivor benefit may be payable and to whom.

In the event that a Member has retired or otherwise separated from service and is entitled to a vested benefit, but has not made an effective election to commence benefits prior to their date of death, the following survivor benefits will be payable separately and in different forms of benefit:

- (a) *Legacy Plan Retirement Benefit (if applicable).* The survivor benefit for the Legacy Retirement Benefit, if any, is a fifty percent (50%) survivor annuity is payable to the Member's surviving Spouse. The amount of the annuity is equal to fifty percent (50%) of the lifetime form of benefit the Member would have been entitled to receive if the Member commenced payments on the later of the first day of the month immediately following the date their death occurred, or the first day of the month in which the deceased Member would have been age 50. However, the commencement of the Spouse's benefit may be postponed until the Member's Normal Retirement Date.

A lump sum form of benefit is **not** payable under this section 9.03(a). If the Member has no Spouse on their date of death, no survivor benefit is payable.

- (b) *Cash Balance Benefit.* The survivor benefit for the Cash Balance Retirement Benefit, if any, is one hundred percent (100%) of the Member's Cash Balance determined as of the Spouse or Estate's Benefit Commencement Date. In the case of an unmarried Member, the Member's Cash Balance Retirement Benefit shall be paid to their estate in a lump sum. In the case of a married Member, the Member's Cash Balance Retirement Benefit shall be paid to the surviving Spouse in the form of an annuity unless the surviving Spouse elects to receive a lump sum, or is required to receive a lump sum under Section 9.05 in lieu of the annuity. If the Cash Balance Retirement Benefit is paid as a lump sum, the lump sum will be equal to the Member's Cash Balance as of the Spouse or Estate's Benefit Commencement Date, and will generally be paid on the first of the month following the Member's death. If the Cash Balance Retirement Benefit is paid to the surviving Spouse in the form of an annuity, the annuity will be payable in equal installments for the surviving Spouse's lifetime and will be the actuarial equivalent (determined under Section 5.06) of the lump sum that would be payable to the surviving Spouse (determined using the Spouse's age, rather than the Member's age) on their Benefit Commencement Date.

- 9.04 **Post-Commencement Survivor Benefit.** No survivor benefit will be paid under this Article 9 with respect to a Member who dies after their benefit has commenced. The survivor benefit, if any, that is payable based on the form of benefit the Member elected and commenced prior to their date of death will be paid.

- 9.05 **Mandatory Lump Sum Distribution of Small Death Benefits.** If a Spouse is entitled to a death benefit and the amount of the single installment the Spouse could elect to receive does not exceed \$5,000 as of the date of payment, the Spouse's benefit will be paid in the form of a single installment without the Spouse's consent. If the Spouse is entitled to a benefit that exceeds \$1,000 but does not exceed \$5,000, and the Spouse does not consent to receive such benefit, the mandatory distribution will be paid in a Direct Rollover to an individual retirement plan.

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9.06 **Actuarial Equivalence.**

- (a) If the Spouse is not more than ten years younger than the deceased Member, no actuarial reduction will be made to the annuity determined by Section 9.02 or 9.03.
- (b) If the Spouse is more than ten years younger than the deceased Member, the Spouse's benefit will be reduced to an amount which is equal to the amount the Spouse would have been entitled to if the Member had elected a 50% joint and survivor annuity, using an age for the Spouse which is ten years younger than the Member. The actuarial assumptions in Section 8.04 will be used to determine the benefit related to the Member's Legacy Retirement Benefit, if any.
- (c) The actuarial assumptions in Section 5.06 will be used to determine the benefit related to the Member's Cash Balance Retirement Benefit, if any.

9.07 **Death Benefits Related to Military Service.** Effective for deaths occurring on or after January 1, 2007, the Spouse of a Member who dies while in active military service shall be eligible to receive survivor benefits under the Plan as if the Member had returned to work on the day before their death, as required under Section 401(a)(37) of the Code.

9.08 **Death Benefit for Certain Member Contributions.** A death benefit will be paid if a Member's contributions, if any, prior to January 1, 1975, plus accrued interest to the date of death or retirement, whichever is earlier (calculated in accordance with Section 19.01), exceed the aggregate of all other benefits required to be paid. The death benefit will be paid in a single sum in an amount equal to such excess. The death benefit will be paid after the death of the last survivor of: the Member; their Spouse (if such Spouse was entitled to a Spouse's benefit or a joint and survivor form of benefit); and their Beneficiary, if any, under the term certain form of benefit. In no event will the payment of the death benefit be made later than the fifth anniversary of the date of the Member's death.

The Member shall designate in writing a Beneficiary, or Beneficiaries to whom any death benefit payable under this Section 9.08 shall be paid and may change such designation without the Beneficiary's consent. Such designation shall not be effective unless it is received by the Plan Administrator prior to the Member's death. It shall then become effective as of the date it was received and shall be controlling over any disposition by will or otherwise. However, if no such Beneficiary or Beneficiaries are designated or if no such Beneficiary or Beneficiaries are living on the date a death benefit becomes payable, any death benefit under this Section shall be paid to the person or persons comprising the first surviving class of the following classes:

- (i) The Member's surviving Spouse;
- (ii) The Member's surviving natural born children or legally adopted children, provided that a court of competent jurisdiction entered a final order of adoption prior to the date of the Member's death;
- (iii) The Member's surviving parents;
- (iv) The Member's surviving brothers and sisters;

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- (v) The executor or administrator of the Member; provided, however, that if the Member died and left surviving (a) a Spouse who was entitled to either a Spouse's benefit or a joint annuitant's benefit, or (b) a Beneficiary entitled to a benefit under the term certain form of benefit, any death benefit which would otherwise be paid to the executor or administrator of the Member shall be paid to the executor or administrator of such Spouse or Beneficiary.

Article 10. Limits and Restrictions on Benefits

10.01 Required Minimum Distributions.

(a) *General rules.*

- (1) Effective Date. This section will apply for purposes of determining minimum distributions for calendar years beginning with the 2003 calendar year.
- (2) Precedence. The requirements of this Section 10.01 will take precedence over any inconsistent provisions of the Plan and any prior amendments thereto. It is intended that this Section 10.01 reflect the requirements of Section 401(a)(9) of the Code and the regulations thereunder, except that this Section 10.01 shall not create a right of any Member, surviving Spouse, Beneficiary or Designated Beneficiary to receive benefits in a manner that is inconsistent with the Forms of Benefit provided under Article 8. Similarly it does not create a right for any person to designate a Beneficiary to receive benefits except as provided otherwise in the Plan.
- (3) Requirements of Treasury Regulations incorporated. All distributions required under this Section 10.01 will be determined and made in accordance with the Regulations under Section 401(a)(9) of the Code.
- (4) TEFRA 242(b)(2) Elections. Notwithstanding any provision in the Plan to the contrary, if a Member made a distribution election prior to January 1, 1984 pursuant to Section 242(b) of the Tax Equity and Fiscal Responsibility Act (TEFRA), such Member's benefit will be distributed at the time and in the manner set forth in the election, so long as (A) the election has not been revoked, and (B) the election provides a method for the distribution of benefits which satisfies the provisions of Section 401(a)(9) of the Code that were in effect prior to the enactment of TEFRA.

(b) *Time and Manner of Distribution.*

- (1) Required Beginning Date. The Member's entire interest will be distributed, or begin to be distributed, to the Member no later than the Member's Required Beginning Date.
- (2) Death of Member before distributions begin. If the Member dies before distributions begin, the Member's entire interest will be distributed, or will begin to be distributed, no later than as follows:

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- (i) *The Spouse is the sole Designated Beneficiary.* If the Member's Spouse is the sole Designated Beneficiary, then subject to Section 10.01(b)(2)(v) below, distributions to the Spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Member died, or by December 31 of the calendar year in which the Member would have attained age 70½, if later.
 - (ii) *The Spouse is not the sole Designated Beneficiary.* If the Member's Spouse is not the sole Designated Beneficiary, then subject to Section 10.01(b)(2)(v) below, distributions to the Designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the member died.
 - (iii) *No Designated Beneficiary.* If there is no Designated Beneficiary as of September 30 of the year following the year of the Member's death, then the Member's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Member's death.
 - (iv) *Spouse is the sole Designated Beneficiary and dies before distributions begin.* If the Member's Spouse is the sole Designated Beneficiary and the Spouse dies after the Member but before distributions to the Spouse begin, this Section 10.01(b)(2) other than Section 10.01(b)(2)(i) will apply as if the Spouse were the Member.
 - (v) *5-year distribution rule.* If the Member dies before distributions begin and there is a Designated Beneficiary, distribution to the Designated Beneficiary is not required to begin by the date specified in Sections 10.01(b)(2)(i) or 10.01(b)(2)(ii) above if the Member's entire interest is distributed to the Designated Beneficiary by December 31 of the calendar year containing the fifth anniversary of the Member's death.
 - (vi) For purposes of this Section 10.01(b)(2) and Section 10.01(f), distributions are considered to begin on the Member's Required Beginning Date (or, if Section 10.01(b)(2)(iv) applies, the date distributions are required to begin to the Spouse under Section 10.01(b)(2)(i). If annuity payments irrevocably commence to the Member before the Member's Required Beginning Date (or to the Member's Spouse before the date distributions are required to begin to the Spouse under Section 10.01(b)(2)(i), the date distributions are considered to begin is the date they actually begin.
- (c) *Form of Distribution.* Unless the Member's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the Required Beginning Date, as of the first Distribution Calendar Year distributions will be made in accordance with Sections 10.01(d), 10.01(e), and 10.01(f). If the Member's interest is distributed in the form of an annuity purchased from an insurance company, distributions hereunder will be made in accordance with the requirements of Section 401(a)(9) of the Code and the regulations thereunder.

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(d) *Determination of Amount to be Distributed Each Year.*

- (1) General Annuity Requirements. If the Member's interest is paid in the form of annuity distributions under the Plan, payments under the annuity will satisfy the following requirements: (A) the annuity distributions will be paid in periodic payments made at intervals not longer than one year; (B) the distribution period will be over a life (or lives) or over a period certain not longer than the period described in Section 10.01(d) or 10.01(e) below; (C) once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted; and (D) payments will either be nonincreasing or increase only as follows: (i) by an annual percentage increase that does not exceed the annual percentage increase in a cost of living index based on prices of all items and issued by the Bureau of Labor Statistics; (ii) to the extent of the reduction in the amount of the Member's payments to provide for a survivor benefit upon death, but only if the Beneficiary whose life is being used to determine the distribution period dies or is no longer the Member's Beneficiary under a qualified domestic relations order within the meaning of Section 414(p) of the Code; (iii) to provide cash refunds of employee contributions upon the Member's death; or (iv) to pay increased benefits that result from a Plan amendment.
- (2) Amount required to be distributed by the Required Beginning Date. The amount that must be distributed on or before the Member's Required Beginning Date (or if the Member dies before distributions begin, the date distributions are required to begin under Section 10.01(b)(2)(i) or Section 10.01(b)(2)(ii)) 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-monthly, or annually. All of the Member'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 the Member's Required Beginning Date.
- (3) Additional Accruals after first Distribution Calendar Year. Any additional benefits accruing to the Member in a calendar year after the first Distribution Calendar Year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.

(e) *Requirements for Annuity Distributions that Commence During Member's Lifetime.*

- (1) Joint life annuities where the Beneficiary is not the Member's Spouse. If the Member's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the Member and a non-Spouse beneficiary, annuity payments to be made on or after the Member's Required Beginning Date to the Designated Beneficiary after the Member'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 Member using the table in Section 1.401(a)(9)-6, Q&A2 of the Treasury Regulations. If the form of distribution combines a joint and survivor annuity for the joint lives of the Member and a non-Spouse 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.

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- (2) Period certain annuities. Unless the Member'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 Member's lifetime may not exceed the applicable distribution period for the year that contains the Annuity Starting Date. If the Annuity Starting Date precedes the year in which the Member reaches age 70, the applicable distribution period for the Member is the distribution period for age 70 under the Uniform Life Table set forth in Section 1.401(a)(9)-9 of the Treasury Regulations, plus the excess of 70 over the age of the Member as of the Member's birthday in the year that contains the Annuity Starting Date. If the Member's Spouse is the 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 Member's applicable distribution period, as determined under this Section 10.01(e)(2), or the joint life and last survivor expectancy of the Member and the Member's Spouse determined under the Joint and Last Survivor Table in Section 1.401(a)(9)-9 of the Treasury Regulations, using the Member's and Spouse's attained ages as of the Member's and Spouse's birthdays in the calendar year that contains the Annuity Starting Date.
- (f) *Requirements for Minimum Distributions if Member Dies Before Distributions Begin.*
- (1) Member survived by Designated Beneficiary. If a Member dies before the date that distribution of the Member's interest begins and there is a Designated Beneficiary, the Member's entire interest will be distributed, beginning no later than the time described in Section 10.01(b)(2)(i) or Section 10.01(b)(2)(ii), over the life of the Designated Beneficiary or over a period certain not exceeding (A) unless the Annuity Starting Date is before the first Distribution Calendar Year, the Life Expectancy of the Designated Beneficiary determined using the Beneficiary's age as of their birthday in the calendar year immediately following the calendar year of the Member's death; or (B) if the Annuity Starting Date is before the first Distribution Calendar Year, the Life Expectancy of the Designated Beneficiary determined using the Beneficiary's age as of their birthday in the calendar year containing the Annuity Starting Date.
- (2) No Designated Beneficiary. If the Member dies before the date distributions begin and there is no Designated Beneficiary as of September 30 of the year following the year of the Member's death, distribution of the Member's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Member's death.
- (3) Death of surviving Spouse before distributions to Spouse begin. If a Member dies before the date of distribution of the Member's interest begins, the Member's surviving Spouse is the Member's sole Designated Beneficiary, and the surviving Spouse dies before distributions to the surviving Spouse begin, this Section 10.01(f) will apply as if the surviving Spouse were the Member, except that the time by which distributions must begin will be determined without regard to Section 10.01(b)(2)(i).

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(g) *Alternative Elections.*

- (1) Election to apply five-year rule to distributions to Designated Beneficiaries. If the Member dies before distributions begin, and there is a Designated Beneficiary, then distribution to the Designated Beneficiary is not required to begin by the date specified in Section 10.01(b)(2), but the Member's entire interest will be distributed to the Designated Beneficiary by December 31 of the calendar year containing the fifth anniversary of the Member's death. If the Member's Spouse is the Member's sole Designated Beneficiary and the Spouse dies after the Member but before the distributions to either the Member or the Spouse begin, this provision will apply as if the Spouse were the Member.
- (2) Election to allow Members or Beneficiaries to elect five-year rule. Members or Designated Beneficiaries may elect on an individual basis whether the 5-year rule or the Life Expectancy rule in Sections 10.01(b)(2) and 10.01(f) applies to distributions after the death of a Member who has a Designated Beneficiary. The election must be made no later than the earlier of September 30 of the calendar year in which distribution would be required to begin under Section 10.01(b)(2), or by September 30 of the calendar year which contains the fifth anniversary of the Member's (or, if applicable, the Spouse's) death. If neither the Member nor Designated Beneficiary makes an election under this paragraph, distributions will be made in accordance with Sections 10.01(b)(2), 10.01(f), and 10.01(g).
- (3) Election to allow Designated Beneficiary receiving distributions under 5-year rule to elect life expectancy distributions. A Designated Beneficiary who is receiving payments under the 5-year rule may make a new election to receive payments under the life expectancy rule until December 31, 2003, provided that all amounts that would have been required to be distributed under the life expectancy rule for all distribution calendar years before 2004 are distributed by the earlier of December 31, 2003 or the end of the 5-year period.

(h) *Definitions.* For purposes of this Section 10.01:

- (1) Designated Beneficiary. The term "Designated Beneficiary" means the individual who (or the trust which) is designated as the Beneficiary pursuant to the provisions of the Plan and is the Designated Beneficiary under Section 401(a)(9) of the Code, the previously Final Treasury Regulation Section 1.409(a)(9)-1, Q&A-4, and the Final Treasury Regulation Section 1.401(a)(9)-4.
- (2) Distribution Calendar Year. The term "Distribution Calendar Year" means a calendar year for which a minimum distribution is required. For distributions beginning before the Member's death, the first Distribution Calendar Year is the calendar year immediately preceding the calendar year which contains the Member's Required Beginning Date. For distributions beginning after the Member's death, the first Distribution Calendar Year is the calendar year in which distributions are required to begin under Section 10.01(b)(2) above.
- (3) Life expectancy. For purposes of the general distribution restrictions of this Section 10.01, the term "Life Expectancy" means life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9 of the Treasury Regulations.

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- (4) Required Beginning Date. The term “Required Beginning Date” means, for a Member who is not a 5% owner, April 1 of the calendar year following the later of the calendar year in which the Member reaches age 70½ or the calendar year in which the Member actually retires; and for a Member who is a 5% owner, April 1 of the calendar year following the calendar year in which the Member reaches age 70½. A Member is a 5% owner hereunder if such Member is a 5% owner as defined in Section 416 of the Code at any time during the Plan Year ending with or within the calendar year in which such Member reaches age 70½. Once distributions have begun to a 5% owner under this section, they must continue to be distributed, even if the Member ceases to be a 5% owner in a subsequent year.
- (i) *Application and effective date for applying Final Treasury Regulations of Code Section 401(a)(9) that were issued on June 15, 2004.* Notwithstanding any provision of the Plan or this Section 10.01 to the contrary, the Plan will apply the Final Treasury Regulations under Section 401(a)(9) of the Code that were issued on June 15, 2004 to all Plan distributions which are made for calendar years beginning on or after January 1, 2003. The Final Treasury Regulations under Section 401(a)(9) of the Code are incorporated by reference and made a part of this Plan as of January 1, 2003.

10.02 **Maximum Benefits.**

- (a) The limitations of this Section 10.02(a) shall apply in limitation years beginning on or after July 1, 2007, except as otherwise provided herein.
- (1) The Annual Benefit otherwise payable to a Member under the plan at any time shall not exceed the Maximum Permissible Benefit. If the benefit the Member would otherwise accrue in a Limitation Year would produce an Annual Benefit in excess of the Maximum Permissible Benefit, the benefit shall be limited (or the rate of accrual reduced) to a benefit that does not exceed the Maximum Permissible Benefit.
- (2) If the Member is, or has ever been, a member of another qualified defined benefit plan (without regard to whether the plan has been terminated) maintained by the employer or a predecessor employer, the sum of the Member’s Annual Benefits from all such plans may not exceed the Maximum Permissible Benefit. Where the Member’s employer-provided benefits under all such defined benefit plans (determined as of the same age) would exceed the Maximum Permissible Benefit applicable at that age, the Member’s Annual Benefit shall be determined by applying the Maximum Annual Benefit first to other qualified defined benefit plans required to be taken into account for this purpose, with any remaining portion applied to this Plan. In the event that the other qualified defined benefit plans is a Former Affiliated Plan of the Employer that calls for a methodology inconsistent with this provision in ensuring that a Member’s total benefit does not exceed the Maximum Permissible Benefit, then the Plan Administrator shall direct this Plan to adopt a methodology consistent with that of the Former Affiliated Plan for the purpose of reducing the Member’s benefit from each plan. In no event will the total benefit under all such defined benefit plans exceed the Maximum Permissible Benefit.

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- (3) The application of the provisions of this Section 10.02(a) shall not cause the Maximum Permissible Benefit for any Member to be less than the Member's accrued benefit under all the defined benefit plans of the employer or a predecessor employer as of the end of the last Limitation Year beginning before July 1, 2007 under provisions of the plans that were both adopted and in effect before April 5, 2007.
 - (4) The limitations of this Section 10.02(a) shall be determined and applied taking into account the rules in Section 10.02(c) below.
- (b) *Definitions.* For purposes of this Section 10.02:

- (1) "Annual Benefit" means a benefit that is payable in the form of a straight life annuity. Except as provided below, where a benefit is payable in a form other than a straight life annuity, the benefit shall be adjusted to an actuarially equivalent straight life annuity that begins at the same time as such other form of benefit and is payable on the first day of each month, before applying the limitations of Section 10.02(a). For a Member who has or will have distributions commencing at more than one annuity starting date, the Annual Benefit shall be determined as of each such annuity starting date (and shall satisfy the limitations of Section 10.02(a) as of each such date), actuarially adjusting for past and future distributions of benefits commencing at the other annuity starting dates. For this purpose, the determination of whether a new starting date has occurred shall be made without regard to Section 1.401(a)-20, Q&A-10(d), and with regard to Section 1.415(b)-1(b)(1)(iii)(B) and (C) of the Treasury Regulations.

No actuarial adjustment to the benefit shall be made for (a) survivor benefits payable to a Spouse under a qualified joint and survivor annuity to the extent such benefits would not be payable if the Member's benefit were paid in another form; (b) benefits that are not directly related to retirement benefits (such as a qualified disability benefit, preretirement incidental death benefits, and post-retirement medical benefits); or (c) the inclusion in the form of benefit of an automatic benefit increase feature, provided the form of benefit is not subject to Section 417(e)(3) of the Code and would otherwise satisfy the limitations of Section 10.02(a), and the Plan provides that the amount payable under the form of benefit in any Limitation Year shall not exceed the limits of this Section applicable at the annuity starting date, as increased in subsequent years pursuant to Section 415(d) of the Code. For this purpose, an automatic benefit increase feature is included in a form of benefit if the form of benefit provides for automatic periodic increases to the benefits paid in that form.

The determination of the Annual Benefit shall take into account social security supplements described in Section 411(a)(9) of the Code and benefits transferred from another defined benefit plan, other than transfers of distributable benefits pursuant to Section 1.411(d)-4, Q&A-3(c), of the Treasury Regulations, but shall disregard benefits attributable to employee contributions or rollover contributions.

- (2) Actuarial Equivalence of the Annual Benefit. Effective for distributions in Plan Years beginning after December 31, 2003, the determination of actuarial equivalence of forms of benefit other than a straight life annuity shall be made in accordance with Section 10.02(b)(2)(i) or Section 10.02(b)(2)(ii) below.

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- (i) Benefit forms not subject to Section 417(e)(3) of the Code: The straight life annuity that is actuarially equivalent to the Member's form of benefit shall be determined under this Section 10.02(b)(2)(i) if the form of the Member's benefit is either (1) a nondecreasing annuity (other than a straight life annuity) payable for a period of not less than the life of the Member (or, in the case of a qualified pre-retirement survivor annuity, the life of the Spouse), or (2) an annuity that decreases during the life of the Member merely because of (a) the death of the survivor annuitant (but only if the reduction is not below 50% of the benefit payable before the death of the survivor annuitant), or (b) the cessation or reduction of social security supplements or qualified disability payments (as defined in Section 401(a)(11) of the Code).

For limitation years beginning on or after July 1, 2007, the actuarially equivalent straight life annuity is equal to the greater of (1) the annual amount of the straight life annuity (if any) payable to the Member under the Plan commencing at the annuity starting date as the Member's form of benefit; and (2) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the Member's form of benefit, computed using a 5 percent interest rate assumption and the applicable mortality table defined in the Plan for that annuity starting date.

- (ii) Benefit forms subject to Section 417(e)(3): The straight life annuity that is actuarially equivalent to the Member's form of benefit shall be determined under this paragraph if the form of the Member's benefit is other than a benefit form described in Section 10.02(b)(2)(i). If the annuity starting date of the Member's form of benefit is in a Plan Year beginning after 2005, the actuarially equivalent straight life annuity is equal to the greatest of (I) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the Member's form of benefit, computed using the interest rate specified in the Plan and the mortality table specified in the Plan for adjusting benefits in the same form; (II) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the Member's form of benefit, computed using a 5.5 percent interest rate assumption and the applicable mortality table defined in the Plan; and (III) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the Member's form of benefit, computed using the applicable interest rate defined in the Plan and the applicable mortality table defined in the Plan, divided by 1.05.

- (3) "Compensation" means safe-harbor compensation under Section 415 of the Code. Compensation is defined as wages, salaries, and fees for professional services and other amounts received (without regard to whether or not an amount is paid in cash) for personal services actually rendered in the course of employment with the employer maintaining the plan to the extent that the amounts are includible in gross income (including, but not limited to, commissions paid salespersons, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips, bonuses, fringe benefits, and reimbursements, or other expense allowances under a nonaccountable plan (as described in Section 1.62-2(c) of the Treasury Regulations), and excluding the following:

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- (i) Employer contributions (other than elective contributions described in Section 402(e)(3), 408(k)(6), 408(p)(2)(A)(i), or 457(b) of the Code) to a plan of deferred compensation (including a simplified employee pension described in Section 408(k) or a simple retirement account described in Section 408(p), and whether or not qualified) to the extent such contributions are not includible in the employee's gross income for the taxable year in which contributed, and any distributions (whether or not includible in gross income when distributed) from a plan of deferred compensation (whether or not qualified).
- (ii) Amounts realized from the exercise of a nonstatutory stock option (that is, an option other than a statutory stock option as defined in Section 1.421-1(b) of the Treasury Regulations), or when restricted stock (or property) held by the employee either becomes freely transferrable or is no longer subject to a substantial risk of forfeiture.
- (iii) Amounts realized from the sale, exchange or other disposition of stock acquired under a statutory stock option.
- (iv) Other amounts that receive special tax benefits, such as premiums for group-term life insurance (but only to the extent that the premiums are not includible in the gross income of the employee and are not salary reduction amounts that are described in Section 125 of the Code).
- (v) Other items of remuneration that are similar to any of the items listed in Section 10.02(b)(3)(i) through Section 10.02(b)(3)(iv).

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

- (i) the payment is regular compensation for services during the employee's regular working hours, or compensation for services outside the employee's regular working hours (such as overtime or shift differential), commissions, bonuses or other similar payments, and, absent a severance from employment, the payments would have been paid to the employee while the employee continued in employment with the employer.
- (ii) The payment is for unused accrued bona fide sick, vacation or other leave that the employee would have been able to use if employment had continued; or
- (iii) The payment is received by the employee pursuant to a nonqualified unfunded deferred compensation plan and would have been paid at the same time if employment had continued, but only to the extent includible in gross income.

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Any payments not described above shall not be considered compensation if paid after severance from employment, even if they are paid by the later of 2½ months after the date of severance from employment or the end of the Limitation Year that includes the date of severance from employment, except, that payments to an individual who does not currently perform services for the employer by reason of qualified military service (within the meaning of Section 414(u)(1) of the Code) shall be considered compensation to the extent these payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the employer rather than entering qualified military service.

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

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

- (4) “Defined Benefit Compensation Limitation” means one hundred percent (100%) of a Member’s High Three-Year Average Compensation, payable in the form of a straight life annuity. In the case of a Member who is rehired after a severance from employment, the Defined Benefit Compensation Limitation is the greater of one hundred percent (100%) of the Member’s High Three-Year Average Compensation, as determined prior to the severance from employment; or one hundred percent (100%) of the Member’s High Three-Year Average Compensation, as determined after the severance from employment under Section 10.02(b)(8).
- (5) “Defined Benefit Dollar Limitation”: Effective for Limitation Years ending after December 31, 2001, the Defined Benefit Dollar Limitation is \$160,000, automatically adjusted under Section 415(d) of the Code, effective January 1 of each year, as published in the Internal Revenue Bulletin, and payable in the form of a straight life annuity. The new limitation shall apply to Limitation Years ending with or within the calendar year of the date of the adjustment, but a Member’s benefits shall not reflect the adjusted limit prior to January 1 of that calendar year. The automatic annual adjustment of the Defined Benefit Dollar Limitation under Section 415(d) of the Code shall apply to Members who have had a separation from employment.
- (6) “Employer” means, for purposes of Section 10.02(a), the employer that adopts this Plan, and all members of the Controlled Group.
- (7) “Former Affiliated Plan of the Employer” means a plan that immediately prior to the cessation of affiliation, was actually maintained by the Employer and immediately after the cessation of affiliation, is not actually maintained by the Employer. For this purpose, cessation of affiliation means the event that causes an entity to no longer be considered the Employer, such as the sale of a member of a controlled group of corporations, as defined in Section 414(b) of the Code, as modified by Section 415(h) of the Code, to an unrelated corporation, or that causes a plan to not actually be maintained by the Employer, such as transfer of plan sponsorship outside a controlled group.

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- (8) “High Three-Year Average Compensation” means the average Compensation for the three consecutive years of service (or, if the Member has less than three consecutive years of service, the Member’s longest consecutive period of service, including fractions of years, but not less than one year) with the Employer that produces the highest average. A year of service with the Employer is the 12-consecutive month period defined in the Plan. In the case of a Member who is rehired by the Employer after a severance from employment, the Member’s High Three-Year Average Compensation shall be calculated by excluding all years for which the Member performs no services for and receives no compensation from the Employer (the break period) and by treating the years immediately preceding and following the break period as consecutive. A Member’s Compensation for a year of service shall not include Compensation in excess of the limitation under Section 401(a)(17) of the Code that is in effect for the calendar year in which such year of service begins.
- (9) “Limitation Year” means a calendar year. All qualified plans maintained by the employer must use the same Limitation Year. If the Limitation Year is amended to a different 12-consecutive month period, the new Limitation Year must begin on a date within the Limitation Year in which the amendment is made.
- (10) “Maximum Permissible Benefit” means the lesser of the Defined Benefit Dollar Limitation or the Defined Benefit Compensation Limitation (both adjusted where required, as provided below).
- (i) Adjustment for less than 10 Years of Participation. If the Member has less than 10 Years of Participation in the Plan, the Defined Benefit Dollar Limitation shall be multiplied by a fraction — (A) the numerator of which is the number of Years (or part thereof, but not less than one year) of Participation in the Plan, and (B) the denominator of which is 10. In the case of a Member who has less than ten Years of Service with the Employer, the Defined Benefit Compensation Limitation shall be multiplied by a fraction — (A) the numerator of which is the number of Years (or part thereof, but not less than one year) of Service with the Employer, and (B) the denominator of which is 10.
- (ii) Adjustment of a Defined Benefit Dollar Limitation for benefit commencement before age 62 or after age 65. Effective for benefits commencing in Limitation Years ending after December 31, 2001, the Defined Benefit Dollar Limitation shall be adjusted if the annuity starting date of the Member’s benefit is before age 62 or after age 65. If the annuity starting date is before age 62, the Defined Benefit Dollar Limitation shall be adjusted under Section 10.02(b)(10)(iii), as modified by Section 10.02(b)(10)(v). If the annuity starting date is after age 65, the Defined Benefit Dollar Limitation shall be adjusted under Article 10.02(b)(10)(iv), as modified by Article 10.02(b)(10)(v).

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- (iii) Adjustment of Defined Benefit Dollar Limitation for benefit commencement before age 62 for Limitation Years beginning on or after July 1, 2007. If the annuity starting date for the Member's benefit is prior to age 62 and occurs in a Limitation Year beginning on or after July 1, 2007, and the Plan has an immediately commencing straight life annuity payable at both age 62 and the age of benefit commencement, the Defined Benefit Dollar Limitation for the Member's annuity starting date is the lesser of the limitation determined under this section and the Defined Benefit Dollar Limitation (adjusted under section 10.02(b)(10)(i) for Years of Participation less than 10, if required) multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under the Plan at the Member's annuity starting date to the annual amount of the immediately commencing straight life annuity under the Plan at age 62, both determined without applying the limitations of Section 10.02(a).
- (iv) Adjustment of Defined Benefit Dollar Limitation for Benefit Commencement after Age 65. If the annuity starting date for the Member's benefit is after age 65 and occurs in a Limitation Year beginning on or after July 1, 2007, and the Plan has an immediately commencing straight life annuity payable at both age 65 and the age of benefit commencement, the Defined Benefit Dollar Limitation at the Member's annuity starting date is the lesser of the limitation determined under this section and the Defined Benefit Dollar Limitation (adjusted under Section 10.02(b)(10)(i) for Years of Participation less than 10, if required) multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity under the Plan at the Member's annuity starting date to the annual amount of the adjusted immediately commencing straight life annuity under the Plan at age 65, both determined without applying the limitations of this Article. For this purpose the adjusted immediately commencing straight life annuity under the Plan at the Member's annuity starting date is the annual amount of such annuity payable to the Member, computed disregarding the Member's accruals after age 65 but including actuarial adjustments even if those actuarial adjustments are used to offset accruals; and the adjusted immediately commencing straight life annuity under the Plan at age 65 is the annual amount of such annuity that would be payable under the Plan to a hypothetical participant who is age 65 and has the same accrued benefit as the Member.
- (v) Notwithstanding the other requirements of this Section 10.02(b)(10), no adjustment shall be made to the Defined Benefit Dollar Limitation to reflect the probability of a Member's death between the annuity starting date and age 62, or between age 65 and the annuity starting date, as applicable, if benefits are not forfeited upon the death of the Member prior to the annuity starting date. To the extent benefits are forfeited upon death before the annuity starting date, such an adjustment shall be made. For this purpose, no forfeiture shall be treated as occurring upon the Member's death if the Plan does not charge Members for providing a qualified preretirement survivor annuity, as defined in Section 417(c) of the Code, upon the Member's death.
- (vi) Minimum benefit permitted: Notwithstanding anything else in this section to the contrary, the benefit otherwise accrued or payable to a Member under this Plan shall be deemed not to exceed the Maximum Permissible benefit if:

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- (A) the retirement benefits payable for a Limitation Year under any form of benefit with respect to such Member under this Plan and under all other defined benefit plans (without regard to whether a plan has been terminated) ever maintained by the Employer do not exceed \$10,000 multiplied by a fraction — (I) the numerator of which is the Member's number of Years (or part thereof, but not less than one year) of Service (not to exceed 10) with the Employer, and (II) the denominator of which is 10; and
- (B) the Employer (or a predecessor employer) has not at any time maintained a defined contribution plan in which the Member participated (for this purpose, mandatory employee contributions under a defined benefit plan, individual medical accounts under Section 401(h) of the Code, and accounts for postretirement medical benefits established under Section 419A(d)(1) of the Code are not considered a separate defined contribution plan).
- (11) "Predecessor Employer": If the Employer maintains a plan that provides a benefit which the Member accrued while performing services for a former employer, the former employer is a predecessor employer with respect to the Member in the plan. A former entity that antedates the Employer is also a predecessor employer with respect to a Member if, under the facts and circumstances, the Employer constitutes a continuation of all or a portion of the trade or business of the former entity.
- (12) "Severance from Employment": An employee has a severance from employment when the employee ceases to be an employee of the employer maintaining the Plan. An employee does not have a severance from employment if, in connection with a change of employment, the employee's new employer maintains the Plan with respect to the employee.
- (13) "Year of Participation": The Member shall be credited with a Year of Participation (computed to fractional parts of a year) for each accrual computation period for which the following conditions are met: (i) the Member is credited with at least the number of Hours of Service (or period of service if the elapsed time method is used) for benefit accrual purposes, required under the terms of the Plan in order to accrue a benefit for the accrual computation period, and (ii) the Member is included as a Member under the eligibility provisions of the Plan for at least one day of the accrual computation period. If these two conditions are met the portion of a Year of Participation credited to the Member shall equal the amount of benefit accrual service credited to the Member for such accrual computation period. A Member who is permanently and totally disabled within the meaning of Section 415(c)(3)(c)(i) of the Code for an accrual computation period shall receive a Year of Participation with respect to that period. In addition, for a Member to receive a Year of Participation (or part thereof) for an accrual computation period, the Plan must be established no later than the last day of such accrual computation period. In no event shall more than one Year of Participation be credited for any 12-month period.
- (14) "Year of Service": For purposes of Section 10.02(b)(8), the Member shall be credited with a Year of Service (computed to fractional parts of a year) for each accrual computation period for which the Member is credited with at least the number of Hours of Service (or period of service if the elapsed time method is used) for benefit accrual purposes, required under the terms of the Plan in order to accrue a benefit for the accrual computation period, taking into account only service with the Employer or a predecessor employer.

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(c) *Other Rules.*

- (1) Benefits under terminated plans. If a defined benefit plan maintained by the Employer has terminated with sufficient assets for the payment of benefit liabilities of all plan participants and a Member has not yet commenced benefits under that plan, the benefits provided pursuant to the annuities purchased to provide the Member's benefits under the terminated plan at each possible annuity starting date shall be taken into account in applying the limitations of this article. If there are not sufficient assets for the payment of all participants' benefit liabilities, the benefits taken into account shall be the benefits that are actually provided to the Member under the terminated plan.
- (2) Benefits transferred from the plan. If a participant's benefits under a defined benefit plan maintained by the Employer are transferred to another defined benefit plan maintained by the Employer and the transfer is not a transfer of distributable benefits pursuant to Section 1.411(d)-4, Q&A-3(c) of the Treasury Regulations, the transferred benefits are not treated as being provided under the transferor plan (but are taken into account as benefits provided under the transferee plan). If a participant's benefits under a defined benefit plan maintained by the Employer are transferred to another defined benefit plan that is not maintained by the Employer and the transfer is not a transfer of distributable benefits pursuant to Section 1.411(d)-4, Q&A-3(c) of the Treasury Regulations, the transferred benefits are treated by the Employer's plan as if such benefits were provided under annuities purchased to provide benefits under a plan maintained by the Employer that terminated immediately prior to the transfer with sufficient assets to pay all participants' benefit liabilities under the plan. If a participant's benefits under a defined benefit plan maintained by the Employer are transferred to another defined benefit plan in a transfer of distributable benefits pursuant to Section 1.411(d)-4, Q&A-3(c) of the Treasury Regulations, the amount transferred is treated as a benefit paid from the transferor plan.
- (3) Former Affiliated Plans of the Employer. A Former Affiliated Plan of the Employer shall be treated as a plan maintained by the Employer, but the Former Affiliated Plan shall be treated as if it had terminated immediately prior to the cessation of affiliation with sufficient assets to pay participants' benefit liabilities under the plan and had purchased annuities to provide benefits.
- (4) Plans of a predecessor employer. If the Employer maintains a defined benefit plan that provides benefits accrued by a participant while performing services for a predecessor employer, the participant's benefits under a plan maintained by the predecessor employer shall be treated as provided under a plan maintained by the Employer. However, for this purpose, the plan of the predecessor employer shall be treated as if it had terminated immediately prior to the event giving rise to the predecessor employer relationship with sufficient assets to pay participants' benefit liabilities under the plan, and had purchased annuities to provide benefits; the Employer and the predecessor employer shall be treated as if they were a single employer immediately prior to such event and as unrelated employers immediately after the event; and if the event giving rise to the predecessor relationship is a benefit transfer, the transferred benefits shall be excluded in determining the benefits provided under the plan of the predecessor employer.

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- (5) Special rules. The limitations of Section 10.02(a) shall be determined and applied taking into account the rules in Section 415(f)-1(d), (e) and (h) of the Treasury Regulations.
- (6) Aggregation with Multiemployer Plans.
 - (i) If the Employer maintains a multiemployer plan, as defined in Section 414(f) of the Code, and the multiemployer plan so provides, only the benefits under the multiemployer plan that are provided by the Employer shall be treated as benefits provided under a plan maintained by the Employer for purposes of Section 10.02(a).
 - (ii) Effective for Limitation Years ending after December 31, 2001, a multiemployer plan shall be disregarded for purposes of applying the Defined Benefit Compensation Limitation of Section 10.02(b)(4) and Section 10.02(b)(10)(i) to a plan which is not a multiemployer plan.

- 10.03 **High-25 Restricted Benefits.** Annual payments to employees in the High-25 Group described below are restricted to an amount equal in each year to the payments that would be made on behalf of the employee under: (i) a straight life annuity that is the actuarial equivalent of the accrued benefit and other benefits to which the employee is entitled under the Plan (other than a social security supplement), and (ii) the amount of payment that the employee is entitled to receive under a social security supplement.
- (a) *High-25 Group.* The number of Members in any one year whose annual benefits are subject to restriction is limited to a group of 25 highly compensated employees and highly compensated former employees, as defined in Section 414(q) of the Code, consisting of those highly compensated employees and highly compensated former employees with the greatest compensation in the current or any prior year (the "High-25 Group").
 - (b) *Exceptions to the High-25 Limitation.* The restriction on annual payments does not apply if any one of the following requirements is satisfied:
 - (1) After payment to a restricted employee of all benefits payable under the Plan, the value of Plan assets equals or exceeds one hundred ten percent (110%) of the value of current Plan liabilities;
 - (2) The value of benefits payable to the restricted employee is less than one percent (1%) of the value of current Plan liabilities before distribution; or
 - (3) The value of the benefits payable to the restricted employee does not exceed the amount described in Section 411(a)(11)(A) of the Code (lump sum amount of \$5,000).



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10.04 Funding-Based Limits on Benefits, Benefit Accruals, and Plan Amendments.

- (a) Effective for Plan Years beginning after December 31, 2007, the Plan shall be subject to benefit restrictions and related restrictions as described in Section 10.04. The limitations imposed by this Section 10.04 shall be interpreted and administered in accordance with Section 436 of the Code and Treas. Regs. § 1.436-1. Nothing in this Section 10.04 shall prohibit a Participating Employer from making a contribution to the Plan that would increase the AFTAP for the Plan Year or from taking other actions as described in Treas. Regs. § 1.436-1(f) or other applicable guidance (including Section 436(b)(2), (c)(2), (e)(2) and (f) of the Code) to avoid or terminate the application of a restriction under Section 436 of the Code or Section 206(g) of ERISA. For the avoidance of doubt, a Participating Employer may make a contribution that is specifically designated as a current year contribution that is made to avoid or terminate the application of certain benefit limitations, may provide security to the Plan or may elect to increase the amount of plan assets taken into account in determining the Plan's AFTAP.
- (b) *Definitions.* For purposes of this Section 10.04:
- (1) “436 Measurement Date” shall have the meaning ascribed to the term “section 436 measurement date” in Treas. Regs. § 1.436-1(j)(8).
 - (2) “AFTAP” or “Adjusted Funding Target Attainment Percentage” of the Plan for a Plan Year means the funding target attainment percentage determined under Code Section 430(d)(2) of the Code for such Plan Year, adjusted by increasing each of the amounts under paragraphs (A) and (B) of Section 430(d)(2) of the Code by the aggregate amounts, if any, of purchases of annuities for employees other than Highly Compensated Employees, made by the Plan during the immediately preceding two Plan Years.
 - (3) “Annuity Starting Date” means, as applicable:
 - (i) The first day of the first period for which an amount is payable as an annuity as described in Section 417(f)(2)(A)(i) of the Code;
 - (ii) In the case of a benefit not payable in the form of an annuity, the starting date for the qualified joint and survivor annuity benefit (described in Section 8.02(b)) payable under the Plan at the same time as the benefit that is not payable as an annuity;
 - (iii) In the case of an amount payable under a retroactive annuity starting date, the benefit commencement date (instead of the date determined under Section 10.04(b)(3)(i) and (ii));
 - (iv) The date of purchase of an irrevocable commitment from an insurer to pay benefits under the Plan; and
 - (v) The date on which assets and liabilities are transferred from the Plan to another plan maintained by a member of the Controlled Group that is made in order to avoid or terminate the application of restrictions under Section 436 of the Code.

If a Member commences benefits and then dies and after the Member's death payments continue to a Beneficiary, the Annuity Starting Date for the Member constitutes the Annuity Starting Date for the Beneficiary, unless amounts payable to all Beneficiaries of the Member in the aggregate can exceed the monthly amount that would have been paid to the Member had the Member not died, in which case a new Annuity Starting Date will be determined for the Beneficiary as described in subsections (i) through (v) above.

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(4) “Prohibited Payment” means:

- (i) Any payment for a month that is in excess of the monthly amount paid under a straight life annuity (plus any social security supplements described in the last sentence of Section 411(a)(9) of the Code) to a Member or Beneficiary whose Annuity Starting Date occurs during any period that a restriction described in Section 10.04 is in effect;
- (ii) Any payment for the purchase of an irrevocable commitment from an insurer to pay benefits;
- (iii) Any transfer of assets and liabilities to another plan maintained by a member of the Controlled Group that is made in order to avoid or terminate the application of restrictions under Section 436 of the Code; and
- (iv) Any other amount that is identified as a prohibited payment in applicable guidance issued under Section 436 of the Code; provided, however;
- (v) A Prohibited Payment shall not include the payment of a benefit which may be immediately distributed under Section 8.04(a).

For any Beneficiary that is not an individual, the amount that is a Prohibited Payment shall be determined by substituting the monthly amount payable in installments over 240 months that is actuarially equivalent to the benefit payable to such Beneficiary for the amount described in subsection (i) above.

(5) “Unpredictable Contingent Event Benefit” is a benefit or increase in a benefit that would not be payable but for the occurrence of an unpredictable contingent event.

(6) “Unpredictable Contingent Event” means a plant shut-down (whether full or partial) or similar event, or an event (including the absence of an event) other than attainment of a specified age, performance of any service, receipt or derivation of any compensation, or occurrence of death or disability.

(c) *Limitations if the Plan's AFTAP Is Less Than 80% But Not Less Than 60%.* Notwithstanding any other provisions of the Plan, if the Plan's AFTAP for a Plan Year is less than 80% (or would be less than 80% to the extent described in paragraph 10.04(d) below) but is not less than 60%, then the limitations set forth in this Section 10.04(c) apply.

(1) 50% Limitation on Lump Sum Payments, Other Accelerated Distributions, and Other Prohibited Payments. A Member or Beneficiary is not permitted to elect, and the Plan shall not pay, a Retirement Plan Lump Sum or other optional form of benefit that includes a Prohibited Payment with an Annuity Starting Date on or after the applicable 436 Measurement Date, and the Plan shall not make any payment for the purchase of an irrevocable commitment from an insurer to pay benefits or any other payment or transfer that is a Prohibited Payment, unless the present value of the benefit that is being paid in a Prohibited Payment does not exceed the lesser of:

- (i) 50% of the present value of the benefit payable in the optional form of benefit that includes the Prohibited Payment; or
- (ii) 100% of the PBGC maximum benefit guarantee amount (as defined in Treas. Regs. § 1.436-1(d)(3)(iii)(C)).

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The limitation set forth in this Section 10.04(c)(1) does not apply to any payment of a benefit which under Section 411(a)(11) of the Code may be immediately distributed without the consent of the Member. If an optional form of benefit that is otherwise available under the terms of the Plan is not available to a Member or Beneficiary as of the Annuity Starting Date because of the application of this Section 10.04(c)(1), the Member or Beneficiary is permitted to elect to bifurcate the benefit into restricted and unrestricted portions (as described in Treas. Regs. § 1.436-1(d)(3)(iii)(D)). The Member or Beneficiary may also elect any other optional form of benefit otherwise available under the Plan at that Annuity Starting Date that would satisfy the 50%/PBGC maximum benefit guarantee amount limitation described in this Section 10.04(c)(1), or may elect to defer the benefit in accordance with any general right to defer commencement of benefits under the Plan.

- (2) Special Optional Forms When Only Half Lump Sum Payments Are Permitted to Be Paid. During a period when Section 10.04(c)(1) applies to the Plan, Members and Beneficiaries are permitted to elect payment in any optional form of benefit otherwise available under the Plan that provides for current payment of the unrestricted portion of the benefit (as described in Treas. Reg. § 1.436-1(d)(3)(iii)(D)), with a delayed commencement for the restricted portion of the benefit (subject to other applicable qualification requirements such as Sections 411(a)(11) and 401(a)(9) of the Code).

(d) *Amendments Increasing Liability for Benefits.*

- (1) Limitation. No amendment to the Plan that has the effect of increasing liabilities as a result of increasing benefits, establishment of new benefits, changing the rate of benefit accrual, or changing the rate at which benefits vest (subject to Treas. Reg. § 1.436-1(c)(4)(ii)), shall take effect during a Plan Year if the AFTAP for such Plan Year is less than 80%, or would be less than 80% taking into account the benefits attributable to such amendment.
- (2) Exceptions. The limitation under Section 10.04(d)(1) shall not apply to any amendment to the Plan that provides for an increase in benefits under a formula that is not based upon a Member's compensation, but only if the rate of increase is not in excess of the contemporaneous rate of increase in the average wages of Members covered by the amendment to the Plan.

(e) *Limitations Applicable If the Plan's AFTAP Is Less than 60%.* Notwithstanding any other provisions of the Plan, if the Plan's AFTAP for a Plan Year is less than 60%, (or would be less than 60% to the extent described in Section 10.04(e)(2) below), then the limitations in this Section 10.04(e) apply.

- (1) Lump Sums, Other Accelerated Forms Distribution, and Other Prohibited Payments Not Permitted. A Member or Beneficiary is not permitted to elect, and the Plan shall not pay, a Retirement Plan Lump Sum or other optional form of benefit that includes a Prohibited Payment with an Annuity Starting Date on or after the Applicable 436 Measurement Date, and the Plan shall not make any payment for the purchase of an irrevocable commitment from an insurer to pay benefits or any other payment or transfer that is a Prohibited Payment. The limitation set forth in this Section 10.04(e)(1) does not apply to any payment of a benefit which under Section 411(a)(11) of the Code may be immediately distributed without the consent of the Member.

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- (2) Shutdown Benefits and Other Unpredictable Contingent Event Benefits Not Permitted To Be Paid. An Unpredictable Contingent Event Benefit with respect to an Unpredictable Contingent Event occurring in a Plan Year shall not be paid if the AFTAP for the Plan Year is:
- (i) Less than 60%; or
 - (ii) 60% or more but would be less than 60% if the AFTAP were redetermined applying an actuarial assumption that the likelihood of occurrence of the Unpredictable Contingent Event during the Plan Year is 100%.
- (3) Benefit Accruals Frozen. Benefit accruals under the Plan shall cease as of the applicable 436 Measurement Date. In addition, if the Plan is required to cease benefit accruals under this Section 10.04(e)(3), then the Plan is not permitted to be amended in a way that would increase the liabilities of the Plan by reason of an increase in benefits or establishment of new benefits.
- (f) *Limitations Applicable if the Company Is In Bankruptcy.* Notwithstanding any other provisions of the Plan, a Member or Beneficiary is not permitted to elect, and the Plan shall not pay, a Retirement Plan Lump Sum or other optional form of benefit that includes a Prohibited Payment with an Annuity Starting Date that occurs during any period in which the plan sponsor is a debtor in a case under Title 11, United States Code, or similar Federal or State law, except for payments made within a Plan Year with an Annuity Starting Date that occurs on or after the date on which the Plan's enrolled actuary certifies that the Plan's AFTAP for that Plan Year is not less than 100%. In addition, during such period in which the plan sponsor is a debtor, the Plan shall not make any payment for the purchase of an irrevocable commitment from an insurer to pay benefits or any other payment or transfer that is a Prohibited Payment, except for payments that occur on a date within a Plan Year that is on or after the date on which the Plan's enrolled actuary certifies that the Plan's AFTAP for that Plan Year is not less than 100%. The limitation set forth in this Section 10.04(f) does not apply to any payment of a benefit which under Section 411(a)(11) of the Code may be immediately distributed without the consent of the Member.
- (g) *Provisions Applicable After Limitations Cease to Apply.*
- (1) Resumption of Prohibited Payments. If a limitation on Prohibited Payments under Section 10.04(c)(1), Section 10.04(e)(1) or Section 10.04(f) applied to the Plan as of a 436 Measurement Date, but that limitation no longer applies to the Plan as of a later 436 Measurement Date, then that limitation does not apply to benefits with Annuity Starting Dates that are on or after that later 436 Measurement Date.

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- (i) Half Lump Sum Payments for Members and Beneficiaries Who Could Not Elect Lump Sums. After the 436 Measurement Date on which the limitation on Prohibited Payments under Section 10.04(e)(1) ceases to apply to the Plan, any Member or Beneficiary who had an Annuity Starting Date within the period during which such limitation applied to the Plan is permitted to make a new election (within ninety (90) days after the 436 Measurement Date on which the limitation ceases to apply or, if later, thirty (30) days after receiving notice of the right to make such election) under which the form of benefit previously elected is modified at a new Annuity Starting Date to be changed to a Retirement Plan Lump Sum for the remaining value of the Member's or Beneficiary's benefit under the Plan, subject to the other rules in this Section 10.04 (including, specifically, Section 10.04(c)(1)) and applicable requirements of Section 401(a) of the Code, including spousal consent.
 - (ii) Full Lump Sum Payments for Members and Beneficiaries Who Could Previously Elect Only Half Lump Sums. After the 436 Measurement Date on which the limitation on Prohibited Payments under Section 10.04(c)(1) ceases to apply to the Plan, any Member or Beneficiary who had an Annuity Starting Date within the period during which such limitation applied to the Plan is permitted to make a new election (within ninety (90) days after the 436 Measurement Date on which the limitation ceases to apply or, if later, thirty (30) days after receiving notice of the right to make such election) under which the form of benefit previously elected is modified at a new Annuity Starting Date to be changed to a Retirement Plan Lump Sum for the remaining value of the Member's or Beneficiary's benefit under the Plan, subject to the other rules in this Section 10.04 and applicable requirements of Section 401(a) of the Code, including spousal consent.
- (2) Resumption of Benefit Accruals. If a limitation on benefit accruals under Section 10.04(e)(3) applied to the Plan as of a 436 Measurement Date, but that limitation no longer applies to the Plan as of a later 436 Measurement Date, then benefit accruals under shall resume prospectively only and that limitation does not apply to benefit accruals under that are based on service on or after that later 436 Measurement Date, except as otherwise provided under the Plan. The Plan shall comply with the rules relating to partial years of participation and the prohibition on double proration under Department of Labor Regulation 29 USC § 2530.204-2(c) and (d).
- (3) Shutdown and Other Unpredictable Contingent Event Benefits. If an Unpredictable Contingent Event Benefit with respect to an Unpredictable Contingent Event that occurs during a Plan Year is not permitted to be paid after the occurrence of the Unpredictable Contingent Event because of the limitation of Section 10.04(e)(2), but is permitted to be paid later in the same Plan Year (as a result of additional contributions or pursuant to the enrolled actuary's certification that the Plan's AFTAP for the Plan Year that meets the requirements of Treas. Regs. § 1.436-1(g)(5)(ii)(B)), then that Unpredictable Contingent Event Benefit shall be paid, retroactive to the period that benefit would have been payable under the terms of the Plan (determined without regard to Section 10.04(e)(2)). If the Unpredictable Contingent Event Benefit does not become payable during the Plan Year in accordance with the preceding sentence, then the Plan is treated as if it does not provide for that benefit.

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- (4) Treatment of Plan Amendments That Do Not Take Effect. If a Plan amendment does not take effect as of the effective date of such amendment because of the limitation of Section 10.04(d)(1) or Section 10.04(e)(3) but is permitted to take effect later in the same Plan Year (as a result of additional contributions or pursuant to the enrolled actuary's certification of the AFTAP for the Plan Year that meets the requirements of Treas. Regs. § 1.436-1(g)(5)(ii)(C)), then the Plan amendment must automatically take effect as of the first day of the Plan Year (or, if later, the original effective date of such amendment). If the Plan amendment cannot take effect during the Plan Year, then it shall be treated as if it were never adopted, unless the Plan amendment specifically provides otherwise.
- (h) *Compliance with Notice Requirement.* To the extent required by Section 101(j) of ERISA, the Plan Administrator shall provide notice to Members and Beneficiaries within thirty (30) days after specified dates, if the Plan becomes subject to a limitation described in Section 10.04(c)(1), Section 10.04(e) or Section 10.04(f).
- (i) *Methods to Avoid or Terminate Benefit Limitations.* Consistent with Section 10.04(a), the methods that the Company may use to avoid or terminate one or more limitations under Sections 10.04(c) through 10.04(f) for a Plan Year include employer contributions and elections to increase the amount of plan assets which are taken into account in determining the AFTAP, making an employer contribution that is specifically designated as a current year contribution that is made to avoid or terminate the application of certain of the benefit limitations or providing security to the Plan.
- (j) *Special Rules.*
- (1) Rules of Operation for Periods Prior to and After Certification of Plan's AFTAP.
- (i) In General. For any period during which a presumption under Section 436(h) of the Code or Treas. Regs. § 1.436-1(h) applies to the Plan, the limitations under this Section 10.04(c), Section 10.04(e) and Section 10.04(f) are applied to the Plan as of the AFTAP for the Plan Year were the presumed AFTAP determined under the rules of Section 436(h) of the Code and Treas. Regs. § 1.436-1(h)(1), (2), or (3). These assumptions are described in Section 10.04(j)(1)(ii) through (iv) below:
- (ii) Presumption of Continued Underfunding Beginning First Day of the Plan Year. In a limitation under Section 10.04(c), Section 10.04(e) or Section 10.04(f) applied to the Plan on the last day of the preceding Plan Year, then, commencing on the first day of the current Plan Year and continuing until the Plan's enrolled actuary issues a certification of the AFTAP for the current Plan Year, or, if earlier Section 10.04(j)(1)(iii) or (iv) applies to the Plan:
- (A) The AFTAP of the Plan for the current Plan Year is presumed to be the AFTAP in effect on the last day of the preceding Plan Year; and
- (B) The first day of the Plan Year is a 436 Measurement Date.

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- (iii) Presumption of Underfunding Beginning First Day of the Fourth Month. If the Plan's enrolled actuary has not issued a certification of the AFTAP for the Plan Year before the first day of the fourth month of the Plan Year, and the Plan's AFTAP for the preceding Plan Year was either at least 60% but less than 70% or at least 80% but less than 90%, or is described in Treas. Regs. § 1.436-1(h)(2)(ii), then commencing on the first day of the fourth month of the current Plan Year and continuing until the Plan's enrolled actuary issues a certification of the AFTAP for the Plan for the current Plan Year, or if earlier, the date on which Section 10.04(j)(1)(iv) applies to the Plan:
 - (A) The AFTAP of the Plan for the current Plan Year is presumed to be the Plan's AFTAP for the preceding Plan Year reduced by ten (10) percentage points; and
 - (B) The first day of the fourth month of the current Plan Year is a 436 Measurement Date.
 - (iv) Presumption of Underfunding On and After the First Day of the Tenth Month. If the Plan's enrolled actuary has not issued a certification of the AFTAP for the Plan Year before the first day of the tenth month of the Plan Year (or if the Plan's enrolled actuary has issued a range certification for the Plan Year pursuant to Treas. Regs. § 1.436-1(h)(4)(ii) but has not issued a certification of the specific AFTAP for the Plan by the last day of the Plan Year), then commencing on the first day of the tenth month of the current Plan Year and continuing through the end of the current Plan Year:
 - (A) The AFTAP of the Plan for the current Plan Year is presumed to be less than 60%; and
 - (B) The first day of the tenth month of the current Plan Year is a 436 Measurement Date.
- (2) Plan Termination and Other Special Rules.
- (i) Plan Termination. The limitations on Prohibited Payments in Section 10.04(c)(1), Section 10.04(e)(1) and Section 10.04(f) do not apply to Prohibited Payments that are made to carry out the termination of the Plan in accordance with applicable law. Any other limitations under this Section 10.04 of the Plan do not cease to apply as a result of termination of the Plan.
 - (ii) Special Rules Relating to Unpredictable Contingent Event Benefits and Plan Amendments Increasing Benefit Liability. During any period in which none of the presumptions under Section 10.04(j)(1) apply to the Plan and the Plan's enrolled actuary has not yet issued a certification of the Plan's AFTAP for the Plan Year, the limitations under Section 10.04(d)(1) and Section 10.04(e)(2) shall be based on the inclusive presumed AFTAP for the Plan, calculated in accordance with the rules of Treas. Regs. § 1.436-1(g)(2)(iii).

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- (3) Special Rules under the Pension Relief Act of 2010.
 - (i) Payments under Social Security Leveling Options. For purposes of determining whether the limitations under Sections 10.04(c)(1) or 10.04(e)(1) apply to payments under a Social Security leveling option within the meaning of Section 436(j)(3)(C)(i) of the Code, the AFTAP for a Plan Year shall be determined in accordance with the “Special Rule for Certain Years” under Section 436(j)(3) of the Code and any Treasury Regulations or other published guidance thereunder issued by the Internal Revenue Service.
 - (ii) Limitations on Benefit Accruals. For purposes of determining whether the accrual limitation under Section 10.04(e)(3) applies to the Plan, the AFTAP for a Plan Year shall be determined in accordance with the “Special Rule for Certain Years” under Section 436(j)(3) of the Code (except as provided under Section 203(b) of the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010, if applicable).
- (k) *No Requirement for Additional Contributions or Benefit Restoration.* The Participating Employers shall not be required to make additional contributions or provide additional security to the Plan, and the method or timing of any actuarial valuation is not required to be altered, in order to avoid the application of such funding-based limits. Except to the extent required by law, the Plan shall not restore any benefits that did not accrue, and shall not make any payment in lieu of any benefits that are not paid, by reason of this Section 10.04 or any limit imposed by Section 436 of the Code or the accompanying Treasury Regulations and other guidance.

Article 11. Vesting and Terminated Vested Benefits

11.01 **Vesting in a Retirement Benefit.** A Member shall have a fully vested, nonforfeitable right to their accrued retirement benefit upon the earliest of:

- (a) performing an Hour of Service on or after Normal Retirement Age; or
- (b) completing 3 years of Vesting Service if the Member’s severance from employment with the Controlled Group occurs on or after January 1, 2010 (5 years of Vesting Service in the case of a Member whose severance from employment with the Controlled Group occurs prior to January 1, 2010); or
- (c) death after December 31, 2009; or
- (d) disability for a Member who is determined to be “disabled” (as defined in Section 11.02(a)) on or after January 1, 2010; or
- (e) being involuntarily terminated within 24 months of the effective date of a Change in Control.

11.02 **Definitions.**

- (a) Members will be considered “disabled” if either: (1) they have been disabled for at least two (2) years and are wholly and continuously disabled to the extent that they are unable to engage in any occupation or perform any work for gainful compensation or profit for which they are, or may become, reasonably qualified by education, training or experience; or (2) they can provide proof of a Social Security determination of disability.

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- (b) “Vesting Service” means the period for which the Member is granted service for vesting purposes under this Section 11.02 or the special rules under Section 11.03. A Member shall be credited with one year of Vesting Service if they are compensated or entitled to compensation by a Participating Employer or a member of the Controlled Group for 1,000 Hours of Service in a Service Year for their first year, and for 1,000 Hours of Service each Plan Year after completion of their first Service Year, subject to the following:
- (1) For purposes of the 1,000-hour test, prior to October 1, 2002, actual hours worked shall be counted, except in the following cases: (i) for salaried, exempt employees, 10 hours will be credited for each day worked; (ii) a Member shall be credited with 190 hours for each month during which the Member is on an approved leave of absence from a Participating Employer or a member of the Controlled Group.
 - (2) Effective October 1, 2002, for purposes of determining hours, the following shall apply:
 - (i) The equivalency rule shall be: 45 hours for a weekly payroll, and 90 hours for a bi-weekly payroll.
 - (ii) All work hours processed on or after October 1, 2002, shall be associated with the month of the pay period begin date.
 - (iii) For a non-exempt employee, when wages and hours are received and the employee is not on a leave, actual hours shall be used. If a non-exempt employee is on an accepted leave status covered under the terms of the Plan, their hours are determined by the equivalency rule.
 - (iv) For an exempt employee, if the employee receives any payroll wages, their hours are determined by the equivalency rule. If an employee is on an accepted leave status covered under the terms of the Plan, their hours are determined by the equivalency rule.

11.03 **Special Vesting Service Crediting Rules.**

- (a) *Leaves of Absence.* For a period during which a Member is on a leave of absence granted by a Participating Employer, Vesting Service will be determined in accordance with Section 13.01 hereof.
- (b) *Overseas Assignments.* A Member on indefinite overseas assignment will be credited with an additional 3 months of Vesting Service for each 12 consecutive months through December 31, 1990, during which they received an overseas premium, hardship allowance or any other location premium approved by the Plan Administrator. As of January 1, 1991, no additional Vesting Service is granted for indefinite overseas assignments. If there is any eligible overseas service which, as of December 31, 1990, is unaccounted for under the Retirement Plan for purposes of receiving additional Vesting Service, it shall be accounted for by (i) prorating such foreign service (rounded to the next whole month and divided by 12 months) and, (ii) multiplying this percentage by 3 months and rounding any fractional remainder to the next whole month.
- (c) *Pre-Participation Vesting Service for Acquired Employees.* Members who were employed by an employer at the time such employer was acquired by the Company or another member of the Controlled Group may be entitled to additional Vesting Service based on employment with the acquired employer. (Such additional Vesting Service is noted in Appendix B.)

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- (d) *Leased Employees.* Service performed as a leased employee will be recognized for vesting purposes for any Member who, prior to becoming an employee of a Participating Employer, was a leased employee within the Controlled Group.” For purposes of this paragraph, the term “leased employee” shall mean a “leased employee” as that term is defined in Section 414(n) of the Code.
- 11.04 **Terminated Vested Benefits.** If an employee (i) separates from the service of a Participating Employer for reasons other than death or retirement (i.e., does not qualify as a Retired Member) or transfer to a non-Participating Employer of the Controlled Group, or (ii) if, after a transfer, they separate from the service of a non-Participating Employer of the Controlled Group for reasons other than death, retirement (i.e., does not qualify as a Retired Member), or transfer to another employer of the Controlled Group, or (iii) after any transfer to a non-Participating Employer of the Controlled Group such employer ceases to be a member of the Controlled Group and at a time when the Member does not qualify as a Retired Member, they cease to be a Member hereof and will not be entitled to receive any benefits under the Plan except those specifically set forth below:
- (a) If a Member is not vested, an amount equal to their contributions (if any) to the Plan plus interest will be refunded to them.
- (b) Subject to Sections 11.06 and 11.07, if a Member is vested, they may elect either:
- (1) A cash withdrawal of an amount equal to their contributions to the Plan (if any) plus interest, and a benefit equal to the accrued benefit derived from Company contributions; or
- (2) A benefit equal to their Combined Retirement Benefit at that time derived from both their Member and Company contributions.
- 11.05 **Commencement of Terminated Vested Benefit Before Normal Retirement Age.** A Member described in Section 11.04(b) may elect to receive benefits prior to age 65, but in such event, the benefits will be actuarially reduced based on the Member’s age when benefit payments begin and the form of benefit chosen. Such actuarial reduction shall be in accordance with the actuarial factors in effect at the time of the Member’s termination. Effective for employees who terminate on and after January 1, 2010, with respect to an employee’s Legacy Retirement Benefit (if any), such actuarial reduction shall be made by application of the RP 2000 Mortality Table weighted 75% male/25% female and an interest rate assumption of 7 percent. A Member’s Cash Balance benefit (if any) will be determined under the provisions of Article 5.
- 11.06 **Form of Terminated Vested Benefit.** If a Member described in Section 11.04(b) is married, the benefit will be paid as a 50% qualified joint and survivor annuity with their Spouse as joint annuitant, unless they elect to receive another form of benefit in accordance with Article 8 hereof. If the Member is not married, the benefit will be paid in the lifetime form of benefit, unless they elect to receive another form of benefit in accordance with Article 8 hereof.
- 11.07 **Terminated Vested Death Benefits.** If a Member described in Section 11.04(b) dies prior to commencing their benefit, the Member’s Spouse or estate may be entitled to a Survivor benefit under Article 9 if the eligibility requirements thereof are satisfied. Such benefit shall be calculated and payable in accordance with Article 9.

Article 12. Reemployment

12.01 **Reemployment of Former Members By A Participating Employer.** Subject to subsection (a), below, if a Member terminates their employment for reasons other than a transfer to a non-Participating Employer within the Controlled Group and is subsequently reemployed by a Participating Employer, they shall again become a Member hereof on the first day of such reemployment. All prior service which had been credited for vesting purposes pursuant to Section 11.02(b) hereof shall be reinstated. However, such reinstated benefit cannot grow into early retirement subsidies.

- (a) *Reemployments on or after January 1, 2010.* If a Member who terminated employment on or before December 31, 2009 is reemployed under this Section 12.01 on or after January 1, 2010, such Member will begin to accrue a Cash Balance Retirement Benefit under Article 5, but will not accrue any additional Legacy Retirement Benefits including adjustments to Gross Pay for any Legacy Retirement Benefit previously accrued. If a Member who terminated employment after accruing a Cash Balance Retirement Benefit is reemployed on or after January 1, 2010, all Cash Balance Service and Vesting Service attributable to the Member's earlier period of employment shall be reinstated.

If a Former Member is reemployed after incurring a break-in-service, the Former Member will not be eligible to grow into the subsidized Early Retirement factors set forth in Section 6.04. For this purpose, a "break-in-service" means a Service Year during which a Member does not complete more than 500 Hours of Service for which they are compensated or entitled to compensation by a Participating Employer or a member of the Controlled Group.

- (b) *Reemployments prior to January 1, 2010.* In accordance with the terms of the Plan prior to 2010, if a Member is reemployed before incurring a break-in-service, the Member shall continue to accrue benefits in accordance with Article 4 by combining the periods of service and Gross Pay for the separate periods of employment.

If a Member is reemployed after incurring a break-in-service, the Member shall begin to accrue a new Legacy Retirement Benefit, determined in accordance with the terms of the Plan prior to 2010. Upon retirement this Legacy Retirement Benefit shall be separately calculated and added to any other Legacy Retirement Benefits which may have previously accrued to them for their prior participation in the Plan, provided that the total Legacy Retirement Benefit for all separate periods of Plan participation shall not exceed sixty percent (60%) of the highest final average pay for any separate period of employment.

A "break-in-service" for this purpose means a service year during which a Member does not complete more than 500 Hours of Service for which they are compensated or entitled to compensation by a Participating Employer or a member of the Controlled Group. A Member will be credited with Hours of Service solely for this purpose as provided in the terms of the Plan prior to this restatement.



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- 12.02 **Calculation of Legacy Retirement Benefits for Reemployed Members who Commenced a Benefit Prior to Their Normal Retirement Date.** In the event a reemployed Member elects to receive benefits under the Plan prior to their Normal Retirement Date, each separate benefit shall be computed as follows: (i) in accordance with the actuarial factors of the Plan in effect as of the end of each separate period of employment if such Member was not eligible for early retirement at that time; and (ii) in accordance with the early retirement factors of the Plan in effect as of the end of each separate period of employment if such Member was eligible for early retirement at that time.
- 12.03 **Buy-back Rights for Employees Rehired Before July 1, 2010.** In the case of a Member who has received a Retirement Plan Lump Sum pursuant to Section 8.04(a), such accrued benefit will be reinstated if the Member repays to the Plan within the two-year period immediately subsequent to the Member's reemployment the amount of the Retirement Plan Lump Sum payment plus interest compounded annually at a rate equal to 120% of the mid-term applicable federal rate (AFR) in effect for the first month of each Plan Year from the date of payment to the date of repayment.
- 12.04 **Buy-Back Rights for Employees Rehired On or After July 1, 2010 and Direct Rollovers into the Plan.** Effective July 1, 2010, there are no buy-back rights and no further Direct Rollovers are permitted into this Plan.
- 12.05 **Former Non-Vested Employee Hired by Non-Participating Employer of the Controlled Group.** When a former non-vested employee (non-transferee) is hired by a non-Participating Member of the Controlled Group, such Vesting Service while the employer is (or was) a member of the Controlled Group, will be recognized solely for vesting purposes under the Plan. Such Vesting Service will not be recognized for eligibility for early retirement relative to the accrued benefit under the Plan at the time of termination from a Participating Employer.
- 12.06 **Former Employee of Controlled Group Hired by Marathon Oil.** When a former employee of the Controlled Group (non-transferee) is hired by Marathon Oil, the Plan will provide Vesting Service to a non-transferee equal to the non-transferee's Vesting Service with an employer while the employer is (or was) a member of the Controlled Group.

Article 13. Leave of Absence, Layoff and Transfers of Employment

- 13.01 **Definitions.**
- (a) Leave of Absence for Sickness is defined in the Marathon Oil Company Sick Leave Plan.
 - (b) Military Leave of Absence is defined in the Marathon Oil Company Military Leave of Absence Policy.
 - (c) For the purposes of this Plan, a "transfer" or "transfer of employment" means a change in a Member's employer which is made at the request of the employers involved.
- 13.02 **Cash Balance Service and Vesting Service Crediting for Certain Leaves of Absence.** When a Member is granted a Military Leave of Absence or a Leave of Absence for Sickness, they shall continue to accrue Cash Balance Service and Vesting Service for the duration of their leave.



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- 13.03 **Vesting Service Crediting for Certain Leaves of Absence.** When a Member is granted a leave of absence for any reason other than a Military Leave of Absence or Leave of Absence for Sickness, the period of absence shall be included in determining their Vesting Service and Cash Balance Service.
- 13.04 **Service Credit for Transferred Members.** If a Member transfers employment to a non-Participating Employer within the Controlled Group, the period of employment with such non-Participating Employer shall be included in determining the Member's Vesting Service under the Plan (including eligibility for early retirement) and Cash Balance Service. Such Member's Final Average Pay as determined under Article 6 shall include the Gross Pay they received from the non-Participating Employer during their final 10 years of active employment with a member of the Controlled Group ("compensation updates"). The Member may not, however, receive benefits from this Plan while employed by the non-Participating Employer.

In the case of a Member who transfers employment to a non-Participating Employer within the Controlled Group, the Member's accrued Plan benefit on the date of transfer will be the minimum Plan benefit from which the actual retirement or deferred vested benefit will be calculated.

Notwithstanding the above, effective January 1, 1992, the accrued benefits of Members who transferred to Emro Marketing Company, now known as Speedway LLC, or its subsidiaries were frozen the later of December 31, 1991 or the employee's date of transfer. Effective January 17, 1996, those benefits were unfrozen and compensation updates were permitted under the Plan for service with Emro (Emro Marketing Company, Emro Propane Company, or Bosart), now known as Speedway LLC, and the Member was entitled to benefits as a transferee provided the Member was an active employee of the USX Controlled Group, or the successor Controlled Group to which the Company belongs, on or after January 1, 1994. Compensation updates ceased with respect to Speedway LLC on June 30, 2011, which is the date on which Speedway LLC ceased to be an employer within the Controlled Group.

- 13.05 **Service Credit for Employees Transferred from a Non-participating Employer.** If an employee of a non-Participating Employer within the Controlled Group transfers employment to a Participating Employer, they shall become a Member of this Plan in accordance with the eligibility provisions hereof. All of the employee's periods of employment with the non-Participating Employer that were credited for purposes of the non-Participating Employer's pension plan shall be included hereunder for purposes of determining the employee's Vesting Service, Cash Balance Service and eligibility for benefits including early retirement (but not for purposes of Plan Participation Service). Such employee's Final Average Pay shall be determined under this Plan by taking into account the Gross Pay the employee received from the non-Participating Employer as if it had been received from a Participating Employer.
- 13.06 **Provisions Applicable to Marathon Petroleum Company LP.**
- (a) *Determination of Benefits Prior to July 1, 2011.*
- (1) Effective April 1, 1998, a portion of the assets and liabilities of the Plan were transferred to create the Marathon Petroleum Retirement Plan. These liabilities represented the accrued benefits of employees transferred to Marathon Petroleum Company LP prior to that date, and, subject to Section 13.06(b), no further benefits are payable under this Plan with respect to the liabilities so transferred.

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- (2) Subject to Section 13.06(b) for employees who transferred after April 1, 1998, but prior to December 7, 2007, their benefits are determined as follows:
 - (A) For transfers from a Participating Employer in the Plan to a participating employer in the Marathon Petroleum Retirement Plan, the Member's accrued benefit is frozen, with future service within the Controlled Group recognized for vesting and retirement eligibility under the Plan.
 - (B) For transfers from a participating employer in the Marathon Petroleum Retirement Plan to a Participating Employer in this Plan, participation time under the Marathon Petroleum Retirement Plan will be counted under this Plan with the Member's benefit offset by the benefit payable from the Marathon Petroleum Retirement Plan prior to any offsets required by the Marathon Petroleum Retirement Plan. Vesting service under the Marathon Petroleum Retirement Plan will be counted for vesting and eligibility for retirement under this Plan.

(b) *Determination of Benefits on or after July 1, 2011.* Effective as of, and in connection with, the spin-off of Marathon Petroleum Corporation from the Controlled Group:

- (1) Liabilities of the Plan attributable to benefits accrued by employees of the Marathon Petroleum Corporation controlled group were transferred to the Marathon Petroleum Retirement Plan, and no further benefits are payable under this Plan with respect to the liabilities so transferred.
- (2) Liabilities of the Marathon Petroleum Retirement Plan attributable to benefits accrued by employees of the Controlled Group were transferred to the Plan, and no further benefits are payable under the Marathon Petroleum Retirement Plan with respect to the liabilities so transferred.
- (3) A net transfer of assets between the Marathon Petroleum Retirement Plan and the Plan corresponding to the transfers of liabilities described this Section 13.06(b) occurred.
- (4) The amount of the assets and liabilities transferred in connection with the spin-off of Marathon Petroleum Corporation was calculated in accordance with Section 414(l) of the Code, and the transfers were effected pursuant to and as described in the Employee Matters Agreement dated as of May 25, 2011 by and between Marathon Oil Corporation and Marathon Petroleum Corporation. For the avoidance of doubt, these transfers did not change the aggregate amount of the accrued benefit to which any Member was entitled.

13.07 **Provisions Applicable to the Spin-off of U.S. Steel.** With respect to the January 1, 2002 spin-off of U.S. Steel from USX, the following shall apply:

- (a) A Steel Transferee shall be defined as a former employee of the Controlled Group (including any Participating Employer) whose employment is or was transferred to USX Corporation, United States Steel LLC, United States Steel Corporation or United States Steel and Carnegie Pension Fund (hereinafter collectively referred to as "Steel") and who satisfies the following:
 - (1) the transferee is continuously employed with Steel on or after January 1, 2002, and
 - (2) the transferee has not elected to commence or has not commenced a benefit under the provisions of this Plan at the time of termination, retirement, or death.

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- (b) A Marathon Oil Transferee shall be defined as a former employee of Steel whose employment is or was transferred to the Controlled Group (including any Participating Employer in this Plan) and who satisfies the following:
 - (1) the transferee is continuously employed with the Controlled Group (including any Participating Employer in this Plan) on or after January 1, 2002, and
 - (2) the transferee has not elected to commence or has not commenced a benefit under the provisions of the United States Steel Corporation Plan for Non-Union Employee Pension Benefits (revision of 1998) at the time of termination, retirement or death.
- (c) A Steel Transferee shall be provided with continued recognition of (i) continuous Steel service beyond January 1, 2002 for purposes of early retirement eligibility and vesting; and (ii) compensation with Steel on or after January 1, 2002 as defined by the Plan for purposes of the Legacy Benefit formula.
- (d) A Marathon Oil Transferee shall be provided with continued recognition of (x) continuous service with Steel on or before January 1, 2002 (as a part of the Controlled Group), for purposes of early retirement eligibility and vesting, and (y) compensation with Steel on or before January 1, 2002, as defined by the Plan for purposes of the Legacy Benefit formula; and shall be entitled to receive the greater of:
 - (1) The Marathon Oil Transferee's actual Legacy Benefit, as calculated under Article 4 but reflecting any additional Steel service or compensation as provided by this Section 13.07(d); or
 - (2) A "wrap around" benefit calculated under the Legacy Benefit formula but utilizing eligible Steel service as of January 1, 2002, and any additional continuous service with the Controlled Group on or after January 1, 2002 for purposes of Plan Participation Service offset by the monthly annuity payable as determined under the United States Steel Corporation Plan for Non-Union Employee Pension Benefits (revision of 1998) as of the date of this "wrap around" calculation ("Wrap Around Benefit"). The Wrap Around Benefit is calculated using updated compensation as defined Article 4 as modified by Section 13.07(d) above.
- (e) In the event that it has been determined that the non-discrimination testing or other legal requirements will not permit the payment of the Wrap Around Benefit to highly compensated employees under the terms of the Retirement Plan of Marathon Oil Company, this benefit will not be paid from this Plan.
- (f) For any new hires (non-transferees) to a Participating Employer with previous employment with USX or U.S. Steel, their service between March 11, 1982 and January 1, 2002 will count as Vesting Service (but will not count towards Cash Balance Service). For these non-transferees, service with United States Steel Corporation on or after January 1, 2002 will not count as Vesting Service. In no event for non-transferees will any service with USX, U.S. Steel, United States Steel Corporation and any non-participating employer of the USX Controlled Group or its successor count for Plan Participation Service.

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- (g) The group of Steel Transferees and the group of Marathon Oil Transferees are closed. No additional employees can qualify for the spin-off benefits described in paragraphs (c) and (d) above. In addition, once a Steel Transferee or a Marathon Oil Transferee separates from service with the Controlled Group or Steel, they cannot re-qualify as a Steel Transferee or a Marathon Oil Transferee. They will not be entitled to further spin-off benefits as described above.

Article 14. Plan Administration

14.01 **The Plan Administrator and Delegations of Authority.** The Company has the right to appoint a Plan Administrator. The Company has appointed Deanna L. Jones, as Plan Administrator and the named fiduciary of the Plan. The Company shall appoint such assistant administrators as may be deemed necessary. The Plan Administrator named herein shall be the named fiduciary of the Plan for all noninvestment activities. The Retirement Plan of Marathon Oil Company Investment Committee (the "Investment Committee") shall be named fiduciary of the Plan for all investment activities. Each named fiduciary shall have the authority to delegate their respective fiduciary responsibilities among the assistant administrators and investment managers as they shall deem necessary and desirable under the procedure outlined in Section 14.02. The Plan Administrator and the Investment Committee shall not be liable for any act or omission of the Trustee, including but not limited to acts or omissions in its capacity as a named fiduciary of the Plan for investment purposes, except as may be provided by the Employee Retirement Income Security Act of 1974 (ERISA). The Plan Administrator and the Investment Committee shall also not be liable for any act or omission of such assistant administrators or investment managers carrying out such responsibilities except as may be provided by the ERISA. The Plan Administrator and the Investment Committee may employ such personnel as they may deem necessary to carry out the provisions of the Plan and their duties under the Plan. An assistant administrator may be designated by the Company or the Plan Administrator to act as Plan Administrator during the absence, unavailability or disability of the Plan Administrator. Any trustee, bank, insurance company, or other institution that is performing a function connected with the Plan may by agreement in writing arrange to delegate any of such functions to the Plan Administrator except the custody of such Plan funds.

14.02 **Authority of the Plan Administrator.** Benefits under this Plan shall be provided from the contributions described in Article 3. Except to the extent such authority has been granted to the Investment Committee, the Plan Administrator shall have discretion to select the method and manner in which such funds shall be utilized and managed to provide benefits in accordance with the provisions of the Plan, and may change such method and manner from time to time. In furtherance, but not in limitation thereof, the Plan Administrator may, from time to time:

- (a) Pay all or any part of the benefits under this Plan directly, or cause payment of all or any part of the benefits under this Plan to be made by an insurance institution or institutions or by a trust or trustee consistent with the form of benefit elected by a Member.
- (b) Direct the application of Plan assets to the payment of reasonable expenses of administering the Plan.

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- (c) Delegate authority to any assistant administrator appointed pursuant to Section 14.01 below to exercise any or all of the foregoing powers and such others as the Plan Administrator deems necessary and appropriate to carry out the provisions of the Plan.
- (d) Make arrangements for the transfer of those assets that represent the present value of a Member's accrued benefit in the Plan as provided for in Section 8.05 hereof.
- (e) Make arrangements for the direct plan-to-plan transfer of assets that represent a Member's Retirement Plan Lump Sum payment as provided for in Section 8.05 hereof.
- (f) Establish procedures for the disposition of qualified domestic relations orders which relate to benefits payable under the Plan.

Written documentation shall evidence the exercise of any action taken pursuant to this Article.

14.03 **Plan Expenses.** The Plan Administrator may direct any trustee to make disbursements from its trust fund for purposes of providing benefits to Members and Beneficiaries (which may include the purchase of annuities) or for purposes of defraying some or all reasonable expenses of administering the Plan. For purposes of this paragraph, expenses of administering the Plan shall include the following types of expenses, provided they are not incurred for purposes of a "settlor function":

- (a) salary and fringe benefit expenses of employees of the Controlled Group (to the extent such expenses are incurred in the performance of duties regarding the administration of the Plan);
- (b) accounting fees;
- (c) actuarial fees;
- (d) contract administrator fees;
- (e) legal fees (including costs of litigation in connection with the administration of the Plan);
- (f) investment advisory and management fees;
- (g) valuation/actuarial fees;
- (h) trustees fees/expenses;
- (i) computer hardware or software dedicated exclusively to Plan administration;
- (j) letter stock envelopes, and other office supplies used in connection with the administration of the Plan;
- (k) postage costs incurred in connection with the Plan;
- (l) amounts paid to the PBGC including, but not limited to, premiums; and
- (m) any other type of expense incurred in connection with the administration of the Plan which is specifically authorized in writing by the Plan Administrator after consultation with legal counsel.

The term "settlor function" means a function under which discretionary business decisions relating to the establishment, design, or termination of the Plan are made by the sponsor of the Plan.

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- 14.04 **Investment Committee as Investment Fiduciary.** In addition to the authority granted to it under Article 15, the Investment Committee, as named fiduciary for investment purposes, may, from time to time:
- (a) Develop an investment policy for the plan.
 - (b) Unless delegated to an investment manager, direct the trustee as to the investment, management, acquisition, or disposition of the assets of the Plan.
 - (c) Enter into, amend, and terminate any type of annuity contract with any insurance institution or institutions.
 - (d) Enter into, amend, and terminate trust agreements establishing one or more trusts or one or more trust funds with one or more banks or trust companies.
 - (e) Appoint (including the power to remove) any trustee or successor trustee.
 - (f) Cause the allocation and transfer in whole or in part of any funds and contracts held for the Plan's account by an insurance institution or any trustee for the purpose of providing benefits under this Plan to another insurance institution or trustee.
- 14.05 **Maintenance of Records.** Records shall be maintained by the Plan Administrator, trustee, bank, insurance company, or other institution and such records shall be presumed to be conclusive with respect to all matters involved in the administration of this Plan except as otherwise provided herein, or by law.
- 14.06 **Discretion of the Plan Administrator.** The Plan Administrator shall have the right to establish and carry out such rules and procedures as may be deemed necessary to interpret or implement the provisions of this Plan. No rules or procedures shall be adopted which are inconsistent with the provisions of the Code or ERISA.

In determining the eligibility of Members and other individuals for benefits and in construing the Plan's terms, the Plan Administrator has the power to exercise discretion in the construction of doubtful, disputed or ambiguous terms or provisions of the Plan, in cases where the Plan instrument is silent, or in the application of Plan terms or provisions to situations not clearly or specifically addressed in the Plan itself. In situations in which the Plan Administrator deems it to be appropriate, the Plan Administrator may evidence (i) the exercise of such discretion, or (ii) any other type of decision, directive, or determination the Plan Administrator may make with respect to the Plan, in the form of written administrative rulings which, until revoked, or until superseded by Plan amendment or by a different administrative ruling, shall thereafter be followed in the administration of the Plan.

- 14.07 **Construction and Governing Law.** The Plan shall be construed, whenever possible, to be in conformity with the requirements of the Code and ERISA. To the extent not in conflict with the preceding sentence, and to the extent not preempted by ERISA, the construction of the Plan shall be governed by the laws of the State of Texas. It is intended that the standard of judicial review applied to any determination made by the Plan Administrator shall be the "arbitrary and capricious" standard of review. Decisions of the Plan Administrator made on all matters within the scope of their authority shall be final and binding upon all persons, including the Company, any trustee, all Members and Beneficiaries, their heirs and personal representatives, and all labor unions or other similar organizations representing members.

Article 15. Investment Manager Modification and Termination

The Investment Committee has the right to appoint investment managers, to enter into, amend, and terminate agreements with such investment managers, and to allocate among different investment managers the assets of the Plan. The investment manager(s) shall, to the extent granted in writing to the investment manager by the Investment Committee, have the discretion to select the method and manner in which those assets allocated to such investment manager are invested and managed.

Article 16. Modification and Termination

16.01 Modification and Amendment.

- (a) Prospective Amendment. The Company reserves the right at any time to change or modify this Plan in whole or in part without any liability for any such change or modification. No prospective change or modification shall adversely affect the benefits which have accrued to a Member prior to the date of such change or modification; nor shall such change or modification authorize or permit any part of the Plan funds to be used or diverted to purposes other than those set forth in the Plan.
- (b) Retroactive Amendment. The Company reserves the right to change or modify this Plan in whole or in part with effect retroactively in order to preserve its qualification under the Code, or to comply with ERISA and applicable state or federal laws and regulations to the extent not preempted by ERISA. If any such change or modification adversely affects the benefits which have accrued to a Member prior to the date such change or modification is adopted by the Company, it shall be obligated to provide such benefits outside the provisions of the Plan. No change or modification made hereunder shall authorize or permit any part of the Plan funds to be used or diverted to purposes other than those set forth in the Plan.

16.02 **Method of Amendment.** Marathon Oil Company may exercise its reserved rights of amendment, modification or termination (i) by written resolution by the Board of Directors of the Company, (ii) by written resolution by the Executive Committee of the Board of Directors of the Company, (iii) by written actions exercised by any other Committee of the Board of Directors, for example the Salary and Benefits Committee, to which the Board of Directors of the Company or the Executive Committee of that Board has specifically delegated rights of amendment, modification or termination, or (iv) by written actions exercised by any other entity or person to which or to whom the Board of Directors of the Company or the Executive Committee of that Board has specifically delegated rights of amendment, modification or termination. The Board of Directors of the Company or the Executive Committee of the Company has delegated in writing to the Salary and Benefits Committee the authority to amend this Plan.

16.03 **Delegation of Authority for Certain Amendments.** In addition to the other methods of amending the Plan which have been authorized, or may in the future be authorized, by the Marathon Oil Corporation Board of Directors, the Company's Vice President of Human Resources may approve the following types of amendments:

- (a) With the opinion of counsel, technical amendments required by applicable laws and regulations;
- (b) With the opinion of counsel, amendments that are clarifications of Plan provisions;

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- (c) Amendments in connection with a signed definitive agreement governing a merger, acquisition or divestiture such that needed changes are specifically described in the definitive agreement, or if not specifically described in the definitive agreement, the needed changes are in keeping with the intent of the definitive agreement;
- (d) Amendments in connection with changes that have a minimal cost impact (as defined below) to the Company; and
- (e) With the opinion of counsel, amendments in connection with changes resulting from state or federal legislative actions that have a minimal cost impact (as defined below) to the Company.

For purposes of the above, “minimal cost impact” is defined as an annual cost impact to the Company that does not exceed the greater of (i) an amount that is less than one-half of one percent of its documented total cost (including administrative costs) for the previous calendar year, or (ii) \$500,000.

- 16.04 **Termination of the Plan.** The Company, in its sole discretion, may terminate this Plan in whole or in part. In the event of termination or the complete cessation of contributions, the Plan Administrator shall not permit any part of any funds accumulated pursuant to the Plan to be diverted to purposes other than those set forth in the Plan. Before the Company terminates the Plan, the Plan Administrator shall provide advance notice of the Company’s intent to terminate the Plan to such parties and at such times as then required by applicable law. The PBGC shall have such time period as provided for under applicable law (or such longer period as agreed to between the Company and the PBGC or as ordered by a court) in which to decide whether the assets of the Plan are sufficient to discharge, when due, all obligations of the Plan with respect to basic benefits and whether all applicable procedural requirements have been satisfied. During this time no amounts shall be paid out unless a notice of sufficiency is received. If the PBGC finds the assets are sufficient and permits the Company to terminate the Plan, the Plan assets shall be allocated according to the order for such allocation in ERISA Section 4044 (or any successor section or statute thereto).

Termination of the Plan may also be instituted by the PBGC under certain conditions specified in ERISA Section 4042. In such case it may establish its own procedures of termination or may apply to the Federal Court for appointment of a trustee to terminate the Plan.

In the event of Plan termination, the benefit of any highly compensated employee (and any highly compensated former employee), as defined in Section 414(q) of the Code, is limited to a benefit that is non-discriminatory under Section 401(a)(4) of the Code. This paragraph is effective January 1, 1992.

The allocations and applications set forth above may be carried out through the continuance of any existing contracts or trusts or through any new contracts or trusts, or both, as the Plan Administrator shall deem necessary.

- 16.05 **Withdrawal from the Plan by an Employer, Division, Group or Unit.** If a Participating Employer withdraws from the Plan, the appropriate portion of the funds accumulated under the Plan, determined by the Plan Administrator in accordance with accepted actuarial principles, shall be segregated at the direction of the Plan Administrator and held in a separate fund governed by the same provisions of this Plan. The Plan Administrator may permit the withdrawing employer to be the Plan Administrator of this plan with respect to such segregated funds.

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In a similar manner, an appropriate share of the Plan funds determined by the Plan Administrator to be then held for the benefit of the employees of any division, location or other identifiable group or unit of the Company or of any subsidiary or affiliate thereof, may be segregated and held as a separate fund in accordance with the provisions of this Plan.

- 16.06 **Full Vesting Upon Termination or Partial Termination.** In the event of the termination or partial termination of the Plan, as such terms are used in Section 411(d)(3) of the Code and regulations issued thereunder, the rights of all affected employees to benefits accrued as of the date of such termination or partial termination (to the extent funded as of such date) will be nonforfeitable.
- 16.07 **Merger.** This Plan may not merge or consolidate with, or transfer its assets or liabilities to, any other plan unless each Member of the Plan would (if the Plan then terminated) receive a benefit immediately after such merger, consolidation or transfer which is equal to or greater than the benefit they would have been entitled to receive immediately before such merger, consolidation or transfer (if the Plan had been terminated).

Article 17. Change of Control Provisions

- 17.01 For purposes of administering the Change of Control Provisions, a “Change in Control of the Corporation” and “Change in Control” shall mean a change in control of Marathon Oil Corporation (the “Corporation”) of a nature that would be required to be reported in response to Item 6(e) of Schedule 14A of Regulation 14A promulgated under the Securities and Exchange Act of 1934, as amended (the “Exchange Act”), whether or not the Corporation is then subject to such reporting requirement; provided, that, without limitation, such a change in control shall be deemed to have occurred if:
- (a) any person (as such term is used in Sections 13(d) and 14(d) of the Exchange Act) (a “Person”) is or becomes the “beneficial owner: (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of securities of the Corporation (not included in the securities beneficially owned by such person any such securities acquired directly from the Corporation or its affiliates) representing twenty percent (20%) or more of the combined voting power of the Corporation’s then outstanding voting securities; provided, however, that for purposes of this agreement the term “Person” shall not include (i) the Corporation or any of its subsidiaries; (ii) a trustee or other fiduciary holding securities under an employee benefit plan of the Corporation or any of its subsidiaries; (iii) an underwriter temporarily holding securities pursuant to an offering of such securities; or (iv) a corporation owned, directly or indirectly, by the stockholders of the Corporation in substantially the same proportions as their ownership of stock of the Corporation; and provided further, however, that for purposes of this paragraph (a), there shall be excluded any Person who becomes such a beneficial owner in connection with an Excluded Transaction in paragraph (c) below; or

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- (b) the following individuals cease for any reason to constitute a majority of the number of directors then serving: individuals who, on the date hereof, constitute the Board and any new directors (other than a director whose initial assumption of office is in connection with an actual or threatened election contest including, but not limited to, a consent solicitation, relating to the election of directors of the Corporation) whose appointment or election by the Board or nomination for election by the Corporation's stockholders was approved or recommended by a vote of at least two-thirds ($\frac{2}{3}$) of the directors then still in office who either were directors on the date hereof or whose appointment, election or nomination for election was previously so approved or recommended; or
 - (c) there is consummated a merger or consolidation of the Corporation or any direct or indirect subsidiary thereof with any other corporation, other than a merger or consolidation which would result in the voting securities of the Corporation outstanding immediately prior thereto continuing to represent (either by remaining outstanding or by being converted into voting securities of the surviving corporation or any parent thereof) at least 50% of the combined voting power of the voting securities of the entity surviving the merger or consolidation (or the parent of such surviving entity) immediately after such merger or consolidation, or the shareholders of the Corporation approve a plan of complete liquidation of the Corporation, or there is consummated the sale or other disposition of all or substantially all of the Corporation's assets.
- 17.02 Neither the tax-free spin-off of the steel and steel-related businesses of the Corporation into a freestanding, publicly traded company and retention of the energy and energy-related businesses nor the spin-off of Marathon Petroleum Corporation constituted a Change in Control.
- 17.03 Following a Change in Control as defined in Article 17 of this Plan and an involuntary loss of employment within twenty-four (24) months of the effective date of a Change of Control, the following enhanced retirement benefits shall be available to the Members of the Plan who were employed by the Company at the time of their involuntary loss of employment and who subsequently elect to retire:
- (a) Final Average Pay for purposes of calculating a retirement benefit will be based on the greater of the existing Retirement Plan formula or the highest total Gross Pay over the most recent 12 months, divided by 12.
 - (b) Subject to the Plan's maximum credit of 37 years and 6 months of Plan Participation, for purposes of determining the Member's years of Plan Participation, two years shall be added to the years of actual Plan Participation credited to the Member as of the effective date of their retirement.
 - (c) For purposes of determining a Member's eligibility to elect early retirement, two years shall be added to the Member's actual age as of the effective date of their retirement.
 - (d) For purposes of determining a Member's eligibility to elect early retirement, two years shall be added to the Member's years of Vesting Service as of the effective date of their retirement.
 - (e) For purposes of applying the Early Retirement Factors, two years will be added to the Member's actual age as of the effective date of their retirement.

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The actuarial factors used to compute any form of benefit under the Plan shall be based on the Member's actual age at retirement. A Member shall have a fully vested, nonforfeitable right to their accrued retirement benefits if such Member is involuntarily terminated within twenty-four (24) months of the effective date of a Change in Control.

In the event enhanced retirement benefits are payable under this Article 17, the benefit of any eligible Highly Compensated Employee (and any eligible Highly Compensated former employee) as defined in Section 414(q) of the Code, will be limited to a benefit that is non-discriminatory under Section 401(a)(4) of the Code.

The provisions of this Article 17 shall be effective August 10, 2001 and shall be applicable only to non-officer Regular Full-time and Regular Part-time employees.

Article 18. Claims and Appeals Procedures

18.01 **Benefit Claims.** A Member, or if applicable, a Beneficiary may file a written claim for a benefit (or an additional benefit) under the Plan by sending it to the attention of the Plan Administrator. If a claim for a Plan benefit is wholly or partially denied by the Plan, notice of the decision shall be furnished to the Member by the Plan or the Plan Administrator within a reasonable period of time after receipt of the claim, which notice shall include the following information:

- (a) The specific reason or reasons for the denial;
- (b) Specific reference to the Plan provisions on which the denial is based;
- (c) A description of any additional material or information necessary to complete the claim and an explanation of why this material or information is necessary; and
- (d) An explanation of the steps to be taken if they wish to submit their claim for review.

The notice must be provided within 90 days of the date that the claim is received by the Plan Administrator, unless special circumstances require an extension of the period for processing the claim. If such an extension is required, written notice of the extension shall be provided to the Member prior to the expiration of the 90 day period. The written notice of the extension shall specify the circumstances which require the extension as well as the date upon which a final decision is expected. In no event is the extended period to exceed 90 days from the end of the initial 90 day period.

18.02 **Appeals of Denied Claims.** A Member or the Member's duly authorized representative may appeal a denial of a claim by requesting a review by written application to the Plan Administrator or its designee not later than ninety (90) days after receipt by the Member of written notification of denial of a claim. The Member or the Member's duly authorized representative:

- (a) may review pertinent documents; and
- (b) may submit issues and comments in writing.

Failure to make written request for appeal within the 90 day period after the receipt of the Administrator's notice of denial of the claim shall render the Plan Administrator's decision regarding the claim final, binding and conclusive on all parties.

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A decision on review of a denied claim shall be made by the Plan Administrator not later than sixty (60) days after the Plan Administrator's receipt of a request for review, unless special circumstances require an extension of time for processing, for example, where there exists a need to hold a hearing, in which case a decision shall be rendered within a reasonable period of time, but not later than one hundred twenty (120) days after receipt of a request for review. The decision on review shall be in writing and shall include the specific reason(s) for the decision and the specific reference(s) to the pertinent Plan provisions on which the decision is based. If an extension of time is required, the Member shall be notified within the sixty (60) day period that an extension is required. Questions regarding any of the procedures discussed above may be directed to the Plan Administrator.

Any claimant must complete the review process on a timely basis before commencing any legal action with respect to the Plan, and any legal action must be commenced within three years of the final denial of the claimant's claim. Any such legal action must be brought in the U.S. District Court for the Southern district of Texas, where the Plan is administered.

Article 19. Miscellaneous

- 19.01 **Interest.** Interest on Member contributions made prior to January 1, 1975 will be credited at termination according to the following schedules:

| Period of Interest Accrual | Rate |
|------------------------------|------|
| Jan. 1, 1960 – Dec. 31, 1968 | 3.0% |
| Jan. 1, 1969 – Dec. 31, 1975 | 4.5% |
| Jan. 1, 1976 – Dec. 31, 1987 | 5.0% |

Commencing on January 1, 1988, Member contributions plus accrued interest will be credited with interest compounded annually at a rate equal to 120% of the mid-term applicable federal rate (AFR) in effect for the first month of each Plan year.

- 19.02 **Payment of Benefits in Case of Incompetency.** If any person entitled to any benefit under this Plan shall be physically or mentally incompetent or otherwise incapable of receiving or acknowledging payment of such benefit, the Plan Administrator, upon receipt of satisfactory evidence of such incapacity, may cause such benefits to be paid to some other person, persons or institution on behalf of the person entitled to such benefit.
- 19.03 **Assignments.** No person entitled to receive benefits under this Plan shall have the right to assign, transfer, or otherwise subject to lien any benefits under the Plan; nor shall any benefits under the Plan be subject to the claims of any creditor. This provision shall not apply to a domestic relations order which has been determined by the Plan Administrator to be a qualified domestic relations order under Section 414(p) of the Code.
- 19.04 **Effect of Social Security Increases.** No benefit which becomes payable to any Plan Member or Beneficiary, or which will become payable to any Former Member or Beneficiary, who has separated from service with a vested right to benefits under the Plan, shall be reduced because of any increase in Social Security benefit levels payable under Title II of the Social Security Act or because of any increase in the Social Security wage base under Title II of the Social Security Act.



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- 19.05 **Effective Date of Amendments.** Amendments to this Plan shall be effective as of the date expressed therein, except that, any rights or benefits acquired by Members of the Plan prior to such effective date shall, to the extent permitted by law, be governed and determined by the provisions of the Plan in force and effect at the time such rights and benefits were acquired.
- 19.06 **Portability of Related Plans.** It is anticipated that a Member who has accrued retirement benefits under both this Plan and another qualified pension plan maintained by a member of the Controlled Group will be paid their applicable retirement benefits by each such plan. The Plan Administrator may, however, in their discretion arrange for the transfer of assets between such plans, so as to enable a Member's total accrued benefits to be paid from one such plan.
- The amount of assets transferred shall be actuarially determined, at the time of transfer, to represent the present value of the transferred person's accrued benefits in the Plan making the transfer. Such assets shall be used to fund the transferred person's benefits under the Plan receiving the assets.
- If the assets which represent the present value of a Member's entire accrued benefits under this Plan are transferred to another plan, no benefits shall be payable hereunder.
- 19.07 **Top-Heavy Provisions.** If the Plan is or becomes "top-heavy" as such term is defined in Section 416(g) of the Code, in any Plan Year beginning after December 31, 1983, the provisions of Appendix A will supersede any conflicting provisions of the Plan.
- 19.08 **Gender.** Whenever the masculine gender is used herein it is intended to cover the feminine gender also and unless the context clearly indicates the contrary, the singular may include plural.
- 19.09 **Plan Contingent Upon Approval.** This amended and restated Plan is expressly contingent upon the issuance of a favorable determination letter from the Internal Revenue Service that the Plan continues to constitute a qualified Plan under Section 401(a) of the Code, and that the Trust created thereunder is exempt from taxation under Section 501(a) of the Code. In the event that the Internal Revenue Service declines to issue such favorable determination letter, this amended and restated Plan shall be treated as having no effect and the prior Plan, to which this amendment and restatement relates, shall continue to be maintained pursuant to the terms and provisions thereof as in effect prior to the adoption hereof.
- 19.10 **Limitation Regarding Employment.** Neither the existence of the Plan nor the fact that an employee has become a Member of the Plan shall give any person any right to continued employment. Further, the Company may make decisions relating to an employee's employment without regard to the effect that such decisions may have on the employee's rights under the Plan.
- 19.11 **Change in Plan Sponsorship.** In accordance with the exclusive benefit rule of Section 401(a) of the Code, the sponsorship of this Plan may not be transferred from the Company to an unrelated taxpayer unless the transfer is in connection with a transfer of business assets, operations or employees from the Company to the unrelated taxpayer.
- 19.12 **Participation by Other Employers and Employees.** Subject to such terms and conditions as the Company may establish, the Company may permit subsidiaries, parent(s) and affiliated organizations to participate in this Plan. The terms "employer," "employee" and words of similar import as used in this Plan shall be deemed to include the Company and such subsidiaries, parent(s) and affiliated organizations (also known as "Participating Employers") and their employees.



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- 19.13 **Domestic Relations Orders.** All benefits provided under this Plan are subject to the provisions of any Qualified Domestic Relations Order (“QDRO”) in effect with respect to the Member at the Member’s Benefit Commencement Date, and are subject to diminution thereby.

Upon receipt of notification of any judgment, decree or order (including approval of a property settlement agreement) which relates to the provision of child support, alimony payments, or marital property rights of a spouse, former spouse, child, or other dependent of a Member and which is made pursuant to a state domestic relations law (including a community property law) (herein referred to as a “domestic relations order”), the Plan Administrator shall follow established procedures related to the domestic relations order. The Plan’s procedures for the determination of QDRO status and for handling of a domestic relations order shall be set forth in writing and shall provide for the notification of each person specified in that order as entitled to payment of benefits under the Plan of the receipt of the domestic relations order and the procedures to be followed.

- 19.14 **Missing Participants.** Each Member entitled to benefits under the Plan shall file with the Plan Administrator from time to time in writing such Member’s post office address and each change of address. Any check representing payment hereunder and any communication addressed to a Member, at such person’s last address filed with the Plan Administrator, or if no such address has been filed, then at such person’s last address as indicated on the records of a member of the Controlled Group, or at an address reasonably determined by the Plan Administrator to be such person’s current address, shall be deemed to have been delivered to such person on the date on which such check or communication is deposited, postage prepaid, in the United States mail. If the Plan Administrator is in doubt as to whether payments are being received by the person entitled thereto, the Plan Administrator may suspend payments due under the Plan until such person provides satisfactory evidence of their continued life and their proper mailing address. Any distribution or payment which is not claimed by the person entitled thereto shall be forfeited (including any related future payments) as soon as practical after the Plan Administrator determines that the proper recipient cannot be located after reasonable efforts. Should such person make a claim for such forfeited benefit which is approved by the Plan Administrator, such benefit shall be reinstated in such manner as the Plan Administrator determines to be equitable and in accordance with law. Immediately upon allocation to such Member, the Plan Administrator shall instruct the Trustee to distribute directly to such Member, the benefit allocated to such Member, to the extent of payment previously due.

IN WITNESS WHEREOF, in accordance with Section 16.03, the Vice President, Human Resources has caused this amendment and restatement to be executed as of this 24th day of September, 2014.

Deanna L. Jones

Vice President, Human Resources & Administrative Services

Appendix A

Retirement Plan of Marathon Oil Company Top Heavy Provisions

Article 1. Purpose

The provisions of Appendix A of the Retirement Plan of Marathon Oil Company (the “Plan”) are to supersede the provisions of the Plan if the Plan is or becomes top-heavy, as defined herein, in any Plan Year beginning after December 31, 1983.

Article 2. Definitions

- 2.01 “Aggregate Account Balance” means, with respect to each Member, the value of all defined contribution plan accounts maintained on behalf of a Member (whether attributable to Employer or employee contributions) after the adjustments in Section 4.03 of this Appendix.
- 2.02 “Aggregated Group” means a group of plans described in Section 4.04 of this Appendix.
- 2.03 “Code” means the Internal Revenue Code of 1986, as amended from time to time.
- 2.04 “Compensation” means, with respect to any Member, the total compensation paid by the Employer for a Plan Year, including regular salary and wages, overtime pay, bonuses, and commissions. Amounts contributed by the Employer under the Retirement Plan or the Thrift Plan maintained by the Employer (including Pre-Tax contributions made by the employee) will not be considered as Compensation.
- For any Plan Year during which the Plan is a Top-Heavy Plan, Compensation with respect to any Member in excess of \$200,000 (or such other amount as the Secretary of the Treasury may designate) shall not be taken into account under this Plan.
- 2.05 “Determination Date” means (1) the last day of the preceding Plan Year, or (2) in the case of the first Plan Year, the last day of such Plan Year.
- 2.06 “Employer” includes (as a single employer) for purposes of applying the provisions of this Appendix, all corporations which are members of a controlled group of corporations (as defined by Section 1563(a) of the Code, determined without regard to Sections 1563(a)(4) and 1563(e)(3)(c) of the Code). However, the single employer rule does not apply for purposes of determining ownership in the employer with regard to the identification of Key Employees.

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- 2.07 “Key Employee” means an employee as defined in Section 416(i) of the Code and the Treasury Department regulations thereunder. Effective January 1, 2002, “Key Employee” means any employee or former employee (including any deceased employee) who at any time during the Plan Year that includes the determination date was an officer of the employer having annual compensation greater than \$130,000 (as adjusted under Section 416(i)(1) of the Code for Plan years beginning after December 31, 2002), a 5-percent owner of the employer, or a 1-percent owner of the employer having annual compensation of more than \$150,000. For this purpose, annual compensation means compensation within the meaning of Section 415(c)(3) of the Code. The determination of who is a Key Employee will be made in accordance with Section 416(i)(1) of the Code and the applicable regulations and other guidance of general applicability thereunder.
- 2.08 “Member” means any eligible employee of the Employer, as defined in Article 2 of the Plan.
- 2.09 “Non-Key Employee” means any employee or former employee (and their beneficiaries) of the Employer who is not a Key Employee.
- 2.10 “Plan Year” means the Plan’s accounting year of twelve (12) months commencing on January 1 of each year and ending the following December 31.
- 2.11 “Super Top-Heavy Group” means a group described in Sections 416(g) and 416(h)(2)(B) of the Code and summarized in Section 4.02 of this Appendix.
- 2.12 “Super Top-Heavy Plan” means a plan described in Section 416(h)(2)(B) of the Code and summarized in Section 4.02 of this Appendix.
- 2.13 “Top-Heavy Group” means a group described in Code Section 416(g) and summarized in Section 4.01 of this Appendix.
- 2.14 “Top-Heavy Plan” means a plan described in Code Section 416(g) and summarized in Section 4.01 of this Appendix.
- 2.15 “Years of Service” means the length of time during which a member either receives or is entitled to receive compensation from a Participating Employer.

Article 3. Top-Heavy Plan Requirements

- 3.01 For any Plan Year during which the Plan is a Top-Heavy Plan, the Plan shall provide:
- (a) special minimum benefit requirements as provided in Article 5 of this Appendix;
 - (b) special vesting requirements as provided in Article 6 of this Appendix; and
 - (c) special Compensation requirements as defined in Section 2.04 of this Appendix.

Article 4. Determination of Top-Heavy Status

4.01 **Top-Heavy Plan or Group.** This Plan shall be a Top-Heavy Plan and the Aggregated Group, of which it is a part, shall be a Top-Heavy Group for any Plan Year beginning after December 31, 1983, in which, as of the Determination Date, the sum of:

- (a) the present value of the cumulative accrued benefits of Key Employees under all defined benefit plans included in the Aggregated Group; and
- (b) the Aggregate Account Balance of Key Employees under all defined contribution plans included in the Aggregated Group;

exceeds sixty percent (60%) of the present value of the cumulative-acrued benefits and the Aggregate Account Balances of all Key Employees and Non-Key Employees under this Plan and all qualified plans included in the Aggregated Group.

If any Member is a Non-Key Employee for any Plan Year, but such Member was a Key Employee for any prior Plan Year, such Member's present value of cumulative accrued benefit and/or Aggregate Account Balance shall not be taken into account for purposes of determining whether this Plan is a Top-Heavy or Super Top-Heavy Plan. In addition, for Plan Years beginning after December 31, 1984, if a Member or former Member has not performed any services for the Employer maintaining the Plan (other than benefits under the Plan) at any time during the five-year period ending on the Determination Date, the present value of the cumulative accrued benefit and the Aggregate Account Balance for such Member or former Member shall not be taken into account for the purposes of determining whether this Plan is a Top-Heavy or Super Top-Heavy Plan.

Distributions made and the present value of accrued benefits is generally determined as of the Determination Date. In the case where this Plan is included in an Aggregated Group, the present value of the accrued benefits is determined separately for each plan as of each plan's determination date and then the plans are aggregated by adding together the results for each plan as of the determination dates for such plans that fall within the same calendar year.

In determining the present value of accrued benefits for purposes of the top-heavy test, the Plan shall use the same actuarial assumptions as those used for meeting the funding requirements of Article 3 of the Plan. However, in the case where this Plan is included in an Aggregated Group which includes two or more defined benefit plans, the same actuarial assumptions must be used with respect to all such plans. In addition, proportional subsidies shall be ignored and non-proportional subsidies shall be considered when testing for top-heaviness of the Plan.

Effective January 1, 2002, the following rules shall apply for purposes of determining the present values of accrued benefits and the amounts of account balances of employees as of the determination date.

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Distributions during the year ending on the determination date. The present values of accrued benefits and the amounts of account balances of an employee as of the determination date shall be increased by the distributions made with respect to the employee under the Plan and any plan aggregated with the Plan under Section 416(g)(2) of the Code during the 1-year period ending on the determination date. The preceding sentence shall also apply to distributions under a terminated plan which, had it not been terminated, would have been aggregated with the Plan under Section 416(g)(2)(A)(i) of the Code. In the case of a distribution made for a reason other than severance from employment, death or disability, this provision shall be applied by substituting “5-year period” for “1-year period.”

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

4.02 **Super Top-Heavy Plan or Group.** This Plan shall be a Super Top-Heavy Plan and the Aggregated Group, of which it is a part, shall be a Super Top-Heavy Group for any Plan Year beginning after December 31, 1983, in which, as of the Determination Date, the sum of:

- (a) the present value of the cumulative accrued benefits of Key Employees under all defined benefit plans included in the Aggregated Group; and
- (b) the Aggregate Account Balances of Key Employees under all defined contribution plans included in the Aggregated Group;

exceeds ninety percent (90%) of the present value of the cumulative accrued benefits and the Aggregate Account Balances of all Key Employees and Non-Key Employees under this Plan and all qualified plans included in the Aggregated Group.

4.03 **Aggregate Account Balance Adjustments.** A Member’s Aggregate Account Balance as of the Determination Date shall be determined under the applicable provisions of the defined contribution plan(s) used in determining whether the Aggregated Group is a Top-Heavy Group.

4.04 **Aggregated Group Rules.** “Aggregated Group” means each plan of the Employer which will be required or permitted to be aggregated for purposes of applying the top-heavy provisions of this Appendix.

A required aggregation consists of each plan of the Employer in which a Key Employee is a Member, and each other plan of the Employer which enables any plan in which a Key Employee participates to meet the requirements of Sections 401(a)(4) or 410 of the Code. In applying the aggregation rules, Sections 414(b), 414(c), and 414(m) of the Code shall apply such that all employees of all corporations which are members of a controlled group of corporations shall be treated as employed by a single employer. A permissive aggregation is a required aggregation group plus any other qualified plan or plans in which a member of the controlled group participates which, when considered as a group with the required aggregation group, would continue to satisfy the requirements of Sections 401(a)(4) and 410 of the Code.

If the plans included in an Aggregated Group have different Determination Dates, then the determination of whether the plans are top-heavy for a particular Plan Year is computed by calculating the present value of accrued benefits for all employees separately for each plan as of each plan’s Determination Date. The plans are then aggregated by adding together the results for each plan as of the Determination Dates for such plans that fall within the same calendar year.

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In the case where the Aggregated Group is considered to be a Top-Heavy Group under this Article 4, each plan in the group will be considered a Top-Heavy Plan. No plan in the Aggregated Group will be considered a Top-Heavy Plan if the Aggregated Group is not a Top-Heavy Group.

Article 5. Minimum Benefits

- 5.01 The minimum accrued benefit derived from Employer contributions to be provided under this Section for each Non-Key Employee who is a Member, when expressed as a benefit payable annually in the form of a lifetime annuity beginning at the normal retirement age under the Plan, shall equal the product of 1) Compensation averaged over the five consecutive Plan Years (or actual number of Plan Years, if less) which produce the highest average and 2) the lesser of (i) two percent (2%) multiplied by Years of Service or (ii) twenty percent (20%).
- 5.02 Effective January 1, 2002, for purposes of satisfying the minimum benefit requirements of Section 416(c)(1) of the Code and the Plan, in determining years of service with the employer, any service with the employer shall be disregarded to the extent such service occurs during a Plan Year when plan benefits (within the meaning of Section 410(b) of the Code) no key employee or former key employee.
- 5.03 For purposes of this Section, Years of Service for any Plan Year ending prior to January 1, 1984, or for any Plan Year during which the Plan was not a Top-Heavy Plan shall be disregarded.
- 5.04 For purposes of this Section, Compensation for any Plan Year ending prior to January 1, 1984, or subsequent to the last Plan Year during which the Plan is a Top-Heavy Plan shall be disregarded.
- 5.05 If the form of benefit elected under Article 8 of the Plan is other than a lifetime annuity, the accrued benefit under this Section shall be reduced to an amount which is actuarially equivalent to the lifetime form of benefit utilizing the actuarial assumptions stated in the Plan.
- 5.06 If a Non-Key Employee participates in this Plan and a defined contribution plan which is part of the Aggregated Group that is determined to be a Top-Heavy Group, the defined benefit and defined contribution minimums of Code Section 416(c) will be satisfied by providing each such employee with the defined benefit minimum established in Section 5.01 of this Appendix.

In addition, pursuant to Section 416(h)(2)(A) of the Code, the Plan Administrator, in their sole discretion, may elect to avoid the adjustments in the limitations under Section 415(e) of the Code (as explained in Section 5.07 of this Appendix below) by adjusting the defined benefit minimum established in Section 5.01 of this Appendix by substituting three percent (3%) for two percent (2%) and by increasing (but not by more than 10 percentage points) 20 percent by 1 percentage point for each of the Non-Key Employee's Years of Service (as defined in Article 5 of this Appendix).

- 5.07 For any Plan Year in which the Plan is a Top-Heavy Plan, 1.0 shall be substituted for 1.25 in Section 415(e)(2)(b) and (3)(b) of the Code for purposes of the Code Section 415 limitations unless the extra minimum benefit requirement for defined benefit plans is provided pursuant to Section 416(h)(2)(A) of the Code (as explained in Section 5.06 above). However, for any limitation year in which the Plan is a Super Top-Heavy Plan, 1.0 must be substituted for 1.25 in any event.

Article 6. Vesting

6.01 For any Plan Year in which the Plan is a Top-Heavy Plan, the minimum vesting schedule set forth below will automatically apply to the Plan. The minimum vesting schedule applies to all Company Contributions and the earnings thereon, including those accrued before the effective date of Section 416 of the Code and before the Plan became a Top-Heavy Plan. Further, no reduction in vested benefits may occur in the event the Plan's status as top-heavy changes for any Plan Year. However, this Article 6 does not apply to the accounts of any employee who does not receive and is not entitled to receive any compensation from a participating employer or a member of the controlled group after the Plan has initially become top-heavy and the vested status of such employee's accounts will be determined without regard to this Article 6.

| Vesting Service | Vested Interest |
|-----------------|-----------------|
| 3 years | 100% |

Article 7. Change in Plan's Top-Heavy Status

7.01 Any change in the Plan's benefit structure (including the vesting schedule) resulting from a change in the Plan's top-heavy status will be handled under procedures ensuring that Section 411(a)(10) of the Code is not violated. Thus, the nonforfeitable percentage of the accrued benefit before the Plan ceased to be a Top-Heavy will not be reduced for any Member. In addition, a Member with 5 or more years of Vesting Service shall be given the option of remaining under the minimum vesting schedule provided for in Article 6 of this Appendix.

Appendix B

Service With Acquired Companies (or Portions Thereof) Which is Recognized for Vesting and Benefit Accrual (Participation) Purposes

Article 1. Vesting Service

Except as otherwise noted, for individuals who became Members of the Plan as a direct result of any of the following entities (or assets or portions thereof) being acquired by a member of the Controlled Group, the service of such individuals which was recognized by such companies (or portions thereof) for purposes of vesting under a defined benefit or defined contribution plan, is recognized as Vesting Service for purposes of the Plan:

- Aurora Gasoline Company
 - Option 1*
 - Option 2
- Buckeye Pipe Line Company
- CMS Energy Corporation
- Conoco
- Cotton Valley Operators Committee
- Ecol, Ltd.
- Encore Energy Partners Operating LLC (solely for purposes of vesting, not Cash Balance Service)
- Globe Oil and Refining Company
- Haynesville Operators Committee**
- Hilcorp Resources Holdings LP
- Husky Oil Company
- Occidental Petroleum Company with CLAM
- Pan Ocean Oil Corporation
- Pennaco Energy, Inc.
- Platte Pipe Line Company
- Plymouth Oil Company
- PPG Industries, Inc.
- R.I. Marketing, Inc. (certain employees transferred to a participating employer)
- Rock Island Refining Corporation
- Ross Oil Corporation
- Signal Oil Company
- Texaco, Inc.
- Unocal
- Wake Up Oil Company (Service to most recent date of hire)
- Western Oil Sands (solely for purposes of vesting, not Cash Balance Service)

* 75% of the Vesting Service and benefit accrual (participation) service recognized by Aurora Gasoline Company is recognized by the Plan for the time period prior to January 1, 1975. 100% of such service is recognized thereafter.

** 50% of the Vesting Service recognized by Haynesville Operators Committee is recognized by the Plan.

Article 2. Benefit Accrual (Participation) Service

Except as otherwise noted, for individuals who became Members of the Plan as a direct result of any of the following entities (or assets or portions thereof) being acquired by a member of the Controlled Group, the service of such individuals which was recognized on the effective date of such acquisition by the acquired company (or portions thereof) for purposes of benefit accrual under a defined benefit or defined contribution plan, is recognized as benefit accrual (participation) service for purposes of the Plan:

- Amoco
- Aurora Gasoline Company
 - Option 1*
 - Option 2
- Chevron
- Conoco
- Delhi Pipeline
- Globe Oil & Refining Company
- Husky Oil Company
- Platte Pipe Line Company
- Plymouth Oil Company
- PPG Industries, Inc.
- R.I. Marketing, Inc. (certain employees transferred to a participating employer)
- Rock Island Refining Corporation
- Unocal

* 75% of the Vesting Service and benefit accrual (participation) service recognized by Aurora Gasoline Company is recognized by the Plan for the time period prior to January 1, 1975. 100% of such service is recognized thereafter.

* * * * *

In determining the amount of an individual's vesting and benefit accrual (participation) service for purposes of this Appendix, the service information provided to the Company by the acquired company (or portion thereof) shall be conclusive.

Appendix C

Ashland Actuarial Factors

Early commencement factors (ERF6) for participants who are eligible for early retirement under the Ashland Plan.

- An employee is early retirement eligible if they meet one of the following requirements at **date of termination**:
 - **Attained Age** \geq 55
 - **Attained Age** plus **Continuous Service** $>$ 80 as of **date of termination**

ERF6 is determined using the following table:

| Attained Age at BCD | ERF6 |
|---------------------|------|
| 62 | 1.00 |
| 61 | 0.97 |
| 60 | 0.94 |
| 59 | 0.91 |
| 58 | 0.88 |
| 57 | 0.84 |
| 56 | 0.80 |
| 55 | 0.75 |
| 54 | 0.68 |
| 53 | 0.62 |
| 52 | 0.56 |
| 51 | 0.51 |
| 50 | 0.46 |
| 49 | 0.42 |

For non-integral ages, use linear interpolation, and round factor to 4 decimals.

Retirement Plan



Early Commencement factors for Ashland Participants who are not eligible for early retirement under the Ashland Plan.

ERF7 is determined using the following table:

| Attained Age at BCD | ERF7 | Attained Age at BCD | ERF7 | Attained Age at BCD | ERF7 |
|---------------------|--------|---------------------|-------|---------------------|-------|
| 65 | 1.0000 | 50 | .3325 | 35 | .1137 |
| 64 | .9400 | 49 | .3077 | 34 | .1064 |
| 63 | .8800 | 48 | .2850 | 33 | .0997 |
| 62 | .8200 | 47 | .2642 | 32 | .0933 |
| 61 | .7600 | 46 | .2453 | 31 | .0875 |
| 60 | .7000 | 45 | .2278 | 30 | .0820 |
| 59 | .6600 | 44 | .2119 | 29 | .0769 |
| 58 | .6200 | 43 | .1972 | 28 | .0721 |
| 57 | .5800 | 42 | .1836 | 27 | .0677 |
| 56 | .5400 | 41 | .1712 | 26 | .0635 |
| 55 | .5000 | 40 | .1596 | 25 | .0596 |
| 54 | .4595 | 39 | .1490 | 24 | .0560 |
| 53 | .4230 | 38 | .1392 | 23 | .0526 |
| 52 | .3899 | 37 | .1300 | 22 | .0494 |
| 51 | .3598 | 36 | .1216 | 21 | .0464 |

For non-integral ages, use linear interpolation, and round factor to 4 decimals.