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**401(k) PLAN**

**PARTICIPANT LOAN PROGRAM  
Policies and Procedures**

This document is prepared pursuant to DOL Reg. §2550.408b-1(d) and the relevant provisions of the Plan and will, upon adoption by \_\_\_\_\_ 401(k) Plan (“Plan”) Administrator (“Administrator”), become a part of the plan for purposes of Title I of ERISA. The Administrator specifically reserves the right to amend these policies and procedures from time to time. If a loan is granted in violation of the terms of these policies and procedures, such loan will be a prohibited transaction. However, issuing loans not in accordance with these procedures is not deemed to be a failure to follow the terms of the Plan.

- **NO PARTICIPANT LOAN WILL BE MADE FROM THE PLAN IF IT WOULD CONSTITUTE A PROHIBITED TRANSACTION AS DEFINED IN ERISA §406(a)(1)(A) or IRC §4975**

Accordingly, all loans must meet the exemption specified in ERISA §408(b)(1), IRC §4975(d)(1) and the following as more fully described in the DOL Loan Regulations:

1. Loans must be available to all participants on a reasonably equivalent basis.
2. Loans must not be made available to highly compensated employees in an amount greater than the amount made available to other employees.
3. Loans must be made in accordance with the specific provisions regarding such loans specified in the Plan and these policies and procedures.
4. Loans must bear a reasonable rate of interest.
5. Loans must be adequately secured.

- **ALL LOANS GRANTED OR RENEWED HEREUNDER SHALL BE MADE IN ACCORDANCE WITH THE FOLLOWING RULES:**

- A. **Who is Responsible for the Participant Loan Program?** All discretionary decisions concerning participant’s loans shall be made by the Administrator. All questions about the program or any request for a Loan should be directed to the Administrator.
- B. **How to Apply for a Loan.** Any Participant who has a vested benefit under the Plan and who is, as described below, eligible for a loan may make a request therefor to the Administrator using the loan application form

supplied by the Administrator. The Administrator will generally approve or deny the application for a participant loan within 30 days. If it approves a loan request, the Administrator will present the participant with a promissory note which must be signed. If the Administrator must deny a request, it will advise the participant of the reasons for the denial in writing.

C. Basis for Loan Approval. Generally, a loan request by a participant which meets the requirements set forth in this document will be approved. However, in determining whether to approve a loan request, the Administrator may consider, in a uniform and nondiscriminatory manner, any reasonable factors which it deems relevant. Normally, any participant who has defaulted on a previous participant loan or who has had a previous loan declared to be a deemed distribution on account of failure to timely repay a loan in accordance with its terms will not be eligible for a new loan. In addition, a loan request made during the time a decision concerning a domestic relations order is pending shall be delayed until after such decision is final.

D. Limitations on the types and amount of Participant Loans.

1. The minimum loan is \$1,000.
2. A loan may not exceed an amount equal to 50% of the participant's vested balance in his elective contribution account.
3. A loan may not exceed \$50,000, minus any principal loan amounts that were outstanding on the date of the loan, or at any time during the immediately preceding 12-month period (and no loan will be granted if any principal or interest payment, or both, is in default on a prior loan).
4. The amount of the loan, plus interest, will be amortized over the repayment period. This means that payments will be level throughout the repayment period, and each payment will include both principal and interest. The participant may prepay all or any part of the loan prior to the date it is due.
5. The repayment period shall be for a fixed term of no more than five years. However, if the loan proceeds are used to acquire a principal residence of the participant, the loan repayment period may be for a period of up to thirty years.
6. At the discretion of the Administrator, loan repayments shall be made at any interval not less often than once per quarter.
7. The Administrator may, in its discretion, require as a condition to the granting of the loan, that the participant provide to the

employer an election for payroll withholding for the loan payments.

8. Reasonable and necessary fees and expenses incurred by the Plan in originating the loan shall be charged against the participant's elective contribution account in the Plan.
  9. Only active participants are entitled to maintain participant loans. This means that if a participant is not currently employed either by \_\_\_\_\_ ("Company") or any other corporation that has adopted the Plan ("Employer"), then he or she is not entitled to continue to maintain their participant loan.
- E. Interest Rate. Interest will be charged on each loan at a commercially reasonable rate. The Administrator has initially determined that the prime rate charged by the Company's bank is a commercially reasonable rate. The Administrator will reexamine this decision quarterly.
- F. Collateral. All loans under the Plan will be secured by at least 50% of the participant's vested benefit under the Plan measured at the time the loan is granted. All participant loans will be established as an individually directed investment of the elective contribution account of the borrower.
- G. Default Procedures. Each of the following shall be considered an event of default, the consequences of which are explained below:
1. Any failure to make timely payment of principal and interest, if such failure remains uncorrected on the last day of the calendar quarter following the calendar quarter in which the failure occurred ("cure period").
  2. Failure for any reason to be currently employed by the Company or any other Employer.
- H. Consequences of Default.
1. If the default is a failure to make timely payment, the Employer shall give notice to the borrower to correct the default within the cure period. If the borrower fails to make timely correction, then the Employer shall foreclose on the borrower's benefit(s) which secures the loan in accordance with the following:
    - a. If at the end of the cure period, the borrower is entitled to a distribution from the Plan, either because of termination of employment with the Employer or an in-service distribution after attainment of age 59½ the unpaid balance of principal and interest of the delinquent loan shall be offset against the borrower's benefit(s) and constitute an in-service distribution.

b. If at the end of the cure period, the borrower has not incurred a distribution event, then the offset procedure set forth above shall not be instituted and no further action shall be taken with respect thereto until the borrower has attained age 59½ terminated service, died, or has any other distributable event under the terms of the Plan. At that time the borrower's account(s) shall be offset and foreclosure of the loan deemed completed.

2. If a borrower's loan fails to meet the requirements specified in IRC §72(p), then such loan shall become a deemed distribution. This normally will occur when a borrower's loan is not repaid in accordance with its terms and it is not possible to foreclose on the security as described above. If this occurs, then immediately following the end of the cure period, the outstanding balance of the loan shall become taxable as if it had been distributed, and a Form 1099-R will be issued by the Employer to the borrower.

3. If the default is as the result of termination of employment, then the borrower will be given the opportunity to repay the loan in full. If such repayment is not forthcoming within a period determined by the Administrator, then the outstanding balance of the loan shall become taxable as if it had been distributed, and a Form 1099-R will be issued by the Employer to the borrower.

I. Spousal Consent. Because the Plan permits distribution in the form of annuities, spousal consent for a participant loan is required if the total amount of the account(s) subject to the security is in excess of \$5,000. Spousal consent must be witnessed by the Administrator or notarized by a Notary Public.

• **ALLOCATION OF DUTIES CONCERNING PARTICIPANT LOANS BETWEEN THE ADMINISTRATOR AND THE TRUSTEE OF THE PLAN SHALL GENERALLY BE DIVIDED AS FOLLOWS:**

A. The Administrator shall have sole responsibility for both the discretionary and administrative tasks necessary to establish and maintain participant loans under the Plan. The Administrator shall perform all tasks regarding participant loans except those specifically listed below as the duties of the trustee.

B. The trustee shall have no fiduciary duties concerning participant loans except as follows:

1. The trustee shall record in the trust records each participant's promissory note as an asset of the Plan and maintain custody thereof.

2. The trustee shall receive and process all payments on the loan deposited with the trustee by the Administrator and maintain records of payment as appropriate.
3. If payments are not timely transmitted to the trustee in accordance with the terms of the promissory note, the trustee will give notice thereof to the Administrator and the participant involved.
4. The trustee will do any other task specifically delegated in writing to the trustee by the Administrator and accepted in writing by the trustee.

ADMINISTRATOR OF THE \_\_\_\_\_

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