

BOARD OF COUNTY COMMISSIONERS
SARPY COUNTY, NEBRASKA

RESOLUTION AMENDING THE SARPY COUNTY FLEXIBLE BENEFIT PLAN

WHEREAS, pursuant to Neb. Rev. Stat. §23-104(6) (Reissue 2007), the County has the power to do all acts in relation to the concerns of the county necessary to the exercise of its corporate powers; and,

WHEREAS, in order to provide certain benefits to the employees of Sarpy County, the County had previously adopted a Flexible Benefit Plan; and,

WHEREAS, pursuant to the Patient Protection and Affordable Care Act (PPACA) and Internal Revenue Service regulations, said Flexible Benefit Plan must be modified to remain in compliance with applicable law.

NOW, THEREFORE, BE IT RESOLVED by the Sarpy County Board of Commissioners that the following numbered sections of the Sarpy County Flexible Benefit Plan Document is hereby amended to read as follows:

15.04 Plan Year.

(a) There shall be a Short Plan Year commencing July 1, 2012 and continuing through December 31, 2012 with the following contribution limits during said Plan Year:

(1). Maximum contribution to the Flexible Spending Account for the Medical Expense Reimbursement Benefit expenses shall be \$2500 for each participant.

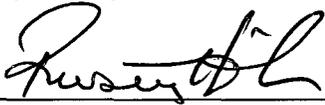
(2). Maximum contribution to the Flexible Spending Account for the Dependent Care Assistance Benefit shall be \$5,000 for each Participant, but in no event shall a Participant's contribution be such that the contribution exceeds \$5,000 for the calendar year 2012.

(b) Commencing January 1, 2013 and each subsequent year the Plan shall operate for twelve (12) month periods beginning on January 1st of each year. For each Plan Year Commencing January 1, 2013 and each subsequent year, each Participant's contribution to the Flexible Spending Account for the Medical Expense Reimbursement Benefit or the Dependent Care Assistance Benefit shall be the maximum allowed by federal law.

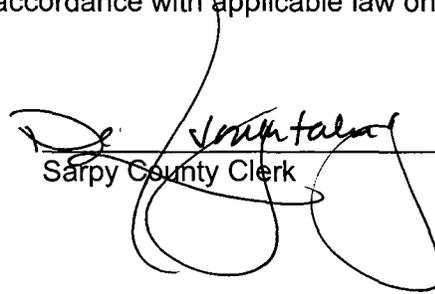
BE IT FURTHER RESOLVED THAT any reference to dollar amounts in Section 15.06 are

hereby removed.

The above and foregoing Resolution was duly approved by a vote of the Sarpy County Board of Commissioners at a public meeting duly held in accordance with applicable law on this 15th day of May, 2012.



Chairman, Sarpy County Board



Sarpy County Clerk



BOARD OF COUNTY COMMISSIONERS
SARPY COUNTY, NEBRASKA
RESOLUTION AMENDING FLEXIBLE BENEFIT PLAN

WHEREAS, pursuant to Neb. Rev. Stat. § 23-104(6) (Reissue 1997), Sarpy County has the power to do all acts in relation to the concerns of the County necessary to the exercise of its corporate powers; and,

WHEREAS, pursuant to Neb. Rev. Stat. § 23-103 (Reissue 1997), the powers of a County as a body are exercised by the County Board; and,

WHEREAS, the Board of Commissioners of Sarpy County (hereinafter "Board") has determined that it is in the best interests of Sarpy County, the employees of Sarpy County, and the public to amend the Sarpy County Flexible Benefit Plan to provide for a two and one-half month grace period, ending September 15, following the end of each Flexible Spending Account (FSA) plan year (Plan Year is from July 1 through June 30 of following year) for enrollees to expend unused contributions from the prior plan year for eligible health care expenses allowed under recently revised Internal Revenue Service regulations. The run-out period will remain at the current ninety days following the end of the plan year (September 30).

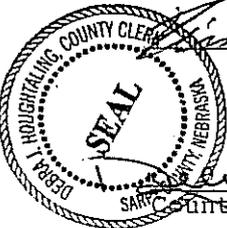
NOW, THEREFORE, BE IT RESOLVED by the Sarpy County Board of Commissioners that said Board does hereby authorize the amending of the Sarpy County Flexible Benefit Plan to incorporate the above specified grace period.

DATED this 7th day of June, 2005.

Moved by Iney Boyd, seconded by Paul Cook, that the above

Resolution be adopted. Carried.

YEAS:	NAYS:	ABSENT:
<u>[Signature]</u>	<u>none</u>	<u>none</u>
<u>Paul Cook</u>	_____	_____
<u>Aldona V. Doyle</u>	_____	_____
<u>Iney Boyd</u>	_____	_____
<u>[Signature]</u>	_____	_____
		ABSTAIN:
		<u>none</u>



[Signature]
Sarpy County Clerk

Approved as to form: [Signature]
County Attorney

ARTICLE VII

MEDICAL OR MEDICAL-RELATED EXPENSE REIMBURSEMENT BENEFIT

- 7.01 Purpose. This benefit provides payments by the Employer to reimburse Participants for medical or medical-related expenses.
- 7.02 Medical Expense Reimbursements. The Employer shall reimburse each Participant for all expense INCURRED by such Participant for the medical care (as defined in Code Section 213(d)(1)) of such Participant and of such Participant's spouse and Dependents.
- 7.03 Medical Expense Limitations.
- (a) The maximum amount of Medical Expense Reimbursements which any Participant may elect to receive in a Plan Year shall be as set forth in the Salary Reduction Agreement, but shall not exceed in any event the amount set forth in Section 15.06 of the Adoption section herein per year.
 - (b) Reimbursement or payment of these benefits shall be made by the Employer only in the event and to the extent that such reimbursement or payment is: (i) not provided for under any insurance policy, whether the premium on such policy is paid by the Employer or the individual Participant, or (ii) not provided for or reimbursable under any other plan or policy.
 - (c) The Employer shall not be required to pay any Medical Expense Reimbursement amounts in excess of that amount established by the Plan's maximum contribution provisions or the Participants Salary Reduction Agreement. Upon receipt of due proof of loss and that such loss has not been reimbursed and is not reimbursable from any other source, the Employer may advance an amount equal to the Participant's elected annual contribution less any contributions made to or on behalf of the Participant from the Participant's Benefit Account for such reimbursement for the Plan Year.
 - (d) The benefits provided under this Article shall not discriminate in favor of Highly Compensated individuals either as to eligibility to participate or as to provided benefits in that all Participants may elect these benefits and all Participants will be reimbursed for the same category of benefits.
- 7.04 Cessation of Employment. If a Participant ceases to be an Employee, such Participant shall be entitled to continue receiving benefits to the extent of the plan balance (total plan year election less prior reimbursements) amount remaining in the Participant's Medical or Medical-Related Expense Reimbursement Benefit Account for the Plan Year during which his employment terminated.
- 7.05 Claims for Payment. The Participant may incur medical expenses and then submit to the Administrator proof of such expenses. It is not necessary that the Participant actually pay an expense prior to being reimbursed for it. The Employer will not pay the applicable amounts directly to the service provider in lieu of reimbursement to Participant. The Participant shall provide such information and verification at such times and in such manner as required by the Administrator.
- 7.06 Filing of Claim. To secure reimbursement for eligible medical expenses, a Participant shall submit appropriate documentation and a signed Request for Reimbursement in a form provided by the Administrator evidencing that the claim has actually been INCURRED during the Plan Year. Application for such expense reimbursement may be made at any time during the Plan Year in which the expense was INCURRED and within the first 90 days of the succeeding Plan Year.

- 7.07 Forfeiture of Unused Benefits. If, following the final payment of reimbursement benefits for eligible expenses INCURRED during the Plan Year, any amount remains in a Participant's Medical Expense Reimbursement Benefit Account for that Plan Year, the Participant shall forfeit such amount and shall have no further claim thereto. All forfeitures under this Plan shall be used to offset any losses experienced by the Employer during the Plan Year as a result of making reimbursements (i.e., providing benefits) with respect to any Participant in excess of the premiums paid by such Participant via salary reductions, and then to reduce the Employer's cost of administering this Plan during the Plan Year. All such administrative costs shall be documented by the Administrator.
- 7.08 Intent. This Plan and the benefits provided by this Article VII are intended to comply with the provisions of Code Sections 105 and 106 and, therefore, will be deemed to be automatically amended to comply with all appropriate regulations to these parts, issued by any appropriate government agency as of the effective date of each such regulation, unless the Employer instead elects to terminate the Plan following issuance of new regulations.

Rudy Krueger

From: flexmail@payflex.com
Sent: Thursday, May 19, 2005 11:04 AM
To: Rudy Krueger
Subject: Re: IRS relaxes "use it or lose it" rule for FSAs

Dear PayFlex FSA client:

With the issuance of Notice 2005-42, the IRS and the Treasury appear to have relaxed the "use it or lose it" rule. PayFlex is working to uncover more data regarding the recent notice. In the meantime, here is what we do know:

- With a plan amendment, a grace period following the end of each plan year will be permitted.
- Unused contributions from prior plan year may be used for eligible expenses incurred during the grace period.
- Significant administrative issues are raised such as the traditional run-out period and card usage.
- Detailed participant communication will be essential.

As we learn more specifics, we will be sure to share them with you.

Thank you,
PayFlex Systems USA, Inc.

Deb Houghtaling

Sarpy County Clerk

1210 Golden Gate Drive, Suite 1118
Papillion, Nebraska 68046-2895

Phone: (402) 593-2105
Fax: (402) 593-4360

Fred Uhe
Chief Deputy

June 9, 2005

Linda Fisher
PayFlex Systems USA, Inc.
302 South 36th Street, Suite 700
Omaha, NE 68131-3845

Dear Linda:

On Tuesday, June 7, 2005, the Sarpy County Board of Commissioners approved a resolution, copy enclosed, to amend the Sarpy County Flexible Benefit Plan to provide for a two and one-half month grace period, ending September 15, following the end of each Flexible Spending Account (FSA) plan year for enrollees to expend unused contributions from the prior plan year for eligible health care expenses. The resolution was initiated as a result of a recent Internal Revenue Service action relaxing the rules governing the expenditure of FSA contributions.

Bob Moyle had advised me to send the enclosed to you as our account administrator. It is my understanding that PayFlex will draft an amendment that should be executed by both parties.

If you have any questions regarding this matter please call me at 593-5782.

Sincerely,



Rudy Krueger
Assistant Deputy/Accounting Manager

Enclosure (1)

Copy to: Deb Houghtaling, Sarpy County Clerk
Chris Vance, Administrative Assistant

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ARTICLE I

PURPOSE

The "Employer" as referred to in the Adoption section has adopted this flexible compensation nondeferred compensation plan, hereinafter referred to as the "Plan", to recognize contributions made to the Plan by its Employees. Its purpose is to provide compensation alternatives for those Employees and their beneficiaries who shall qualify hereunder, and to choose from among several types of benefits. These choices shall include an option to receive certain tax-free benefits in lieu of taxable compensation. The cash option benefit available under the Plan will be treated as taxable compensation to the Participants. Other available benefits are intended to qualify as statutory non-taxable fringe benefits.

The intention of the Employer is that the Plan qualify and be construed as a "Cafeteria Plan" within the meaning of Section 125(d) of the Internal Revenue Code of 1986, as amended, and that the benefits which an Employee elects to receive under the Plan be eligible for exclusion from such Employee's gross income to the extent provided by the Code. The Plan is intended to comply with the applicable provisions of the Code and the Employee Retirement Income Security Act of 1974 ("ERISA"), as amended.

Although this Plan is a "Cafeteria Plan" and has been reduced to writing in order to comply with Section 125, the Plan shall also serve as an amendment to certain welfare plans presently in effect for the Employer. Thus, to the extent necessary, this legal instrument will serve as an amendment to each of said welfare plans in order to permit the benefits of this Plan to be fully implemented for Participants.

The Plan will not discriminate in favor of highly compensated individuals to the extent prohibited by Code Section 125.

ARTICLE II

DEFINITIONS

Unless by the context in this Document a different meaning is clearly indicated whenever used in this Document, the following words have the following meanings:

- 2.01 Administrator. The Employer. A representative may be designated by the Employer in the Adoption section to perform certain record-keeping and other functions, but such named representative shall not be the Administrator.
- 2.02 Adoption. The agreement by the Employer adopting the Plan on which the Employer's selection of options under the Plan shall be set forth.
- 2.03 Adoption Assistance. The payments by the Employer to reimburse Participants for all or portion of the cost of adopting an Eligible Child.
- 2.04 Agreement. This Plan Document and all amendments or supplements thereto.
- 2.05 Allocation. The portion of the Participant's annual Compensation which he has committed to a particular benefit hereunder.
- 2.06 Beneficiary. Any one or more primary or contingent beneficiaries designated by the Participants to receive any benefits payable under the Plan.
- 2.07 Benefits. Any benefit provided to a Participant under his or her (a) Medical or Medical-Related or Life Premium Reimbursement benefit, (b) Medical or Medical-Related Expense Reimbursement benefit, (c) Dependent Care Assistance benefit, (d) Adoption Assistance benefit, (e) cash benefit, (f) or other allowable expense reimbursement benefits provided by Employer pursuant to the Plan.
- 2.08 Code. The Internal Revenue Code of 1986, as amended or replaced from time to time. Reference to any section or subsection of the Code includes reference to any comparable or succeeding provisions of any legislation which amends, supplements, or replaces such section or subsection.
- 2.09 Compensation. Compensation shall mean the total compensation actually paid to a Participant by the Employer including overtime pay, scheduled bonuses, and commissions, but excluding expense allowances and all other extraordinary compensation, employer contributions to Social Security, contributions to any retirement plan, or value of any other fringe benefits provided by the Employer.
- 2.10 Dependent. The term "Dependent" shall have the same meaning as set out in Code Section 152. For purposes of the Dependent Care Assistance benefits of the Plan, "Dependent" means any individual who is (a) a dependent of the Participant who is under the age of 13 and with respect to whom the Participant is entitled to an exemption under Code Section 151(c), or (b) a dependent or the spouse of the Participant who is physically or mentally incapable of caring for himself or herself.
- 2.11 Dependent Care Assistance. Dependent Care Assistance, within the meaning of Code Section 129, shall mean household and employment-related services and expenses. Household services and expenses are those for the care of a Qualifying Individual within the meaning of Code Section 21(b)(1) which are performed to enable a Participant to remain gainfully employed and which are performed (a) in the home of the Participant; (b) outside the home of Participant for the care of the Participant's Dependents under the age of 13; (c) outside the home of Participant for a Qualifying Individual described above, who regularly spends at least eight (8) hours a day in the Participant's home; or (iv) outside the home of Participant for the care of a Qualifying Individual as described above, and in a Dependent Care Center; the term "Dependent Care Center" shall have the same meaning as set out in Code Section 21(b)(2)(D). Employment related expenses are those which are considered employment-related under Code Section 21(b)(2).

- 2.12 Dependent Care Expenses. Dependent Care Expenses mean expenses INCURRED by a Participant which (a) are INCURRED for the care of a Dependent of the Participant or for related household services, (b) are paid or payable to a Dependent Care Service Provider and (c) are INCURRED to enable the Participant to be gainfully employed for any period for which there are one or more Dependents with respect to the Participant. Dependent Care Expenses shall not include expenses INCURRED for services outside the Participant's household for the care of a Dependent unless such Dependent is described in Section 2.10(a) or regularly spends at least eight (8) hours each day in the Participant's household. Dependent Care Expenses shall be deemed to be INCURRED at the time the services to which the expenses relate are rendered.
- 2.13 Dependent Care Service Provider. Dependent Care Service Provider means a person who provides care or other services described in Section 2.11 above, but shall not include (a) a dependent care center (as defined in Code Section 21(b)(2)(D)), unless the requirements of Code Section 21(b)(2)(C) are satisfied, or (b) a related individual described in Section 129(c) of the Code.
- 2.14 Earned Income. The meaning provided in Code Section 32(c)(2) which means all income derived from wages, salaries, tips, or other employee compensation (within the meaning of Code Section 1402(a)) paid by the employer to the Participant for the Plan Year. Such income does not include any amounts paid or INCURRED (a) as a pension or annuity, or (b) by the Employer for Dependent Care Assistance to the Participant.
- 2.15 Effective Date. The date specified in the Adoption section on which the Plan is effective and applicable to the Eligible Employees.
- 2.16 Election. The election made by a Participant specifying which benefits the Participant has chosen to receive and the amount allocated by the Participant toward the purchase of each such benefit.
- 2.17 Eligible Child. Any individual (a) who has not attained age 18 or is physically or mentally incapable of caring for himself or herself and, (b) in the case of Qualified Adoption Expenses paid or INCURRED after December 31, 2001, who is a "child with special needs" as defined in Code Section 23(d)(3).
- 2.18 Eligible Employment Related Expenses. Expenses INCURRED for the care of a Qualifying Individual which are paid to a person who is not a child (within the meaning of Code Section 151(c)(3)) of the Participant under the age of 19 at the close of the taxable year.
- 2.19 Employee. Any person currently being compensated by the Employer and, to the extent necessary, a retired or terminated Employee. An "Eligible Employee" is any Employee who has satisfied the eligibility requirements in Section 3.01 and who is entitled to receive benefits under the Plan from time to time, on or after the Effective Date.
- 2.20 Employer. The Employer named in the Adoption section and any affiliate or subsidiary that, with the consent of the Employer becomes an Employer, by adopting the Plan, or any successor business organization that assumes the obligations of the Employer.
- 2.21 Enrollment Period. The period, as designated each year by the Employer, immediately preceding the start of the Plan Year.
- 2.22 Entry Date. The date(s) specified by the Employer in the Adoption section as of which Eligible Employees may become Participants.
- 2.23 Expense. Any expense INCURRED by a Participant, the reimbursement of which by the Plan would not be includable in the income of the Participant under any provision of the Code.
- 2.24 Fiduciary. The Employer shall be the "Named Fiduciary" and shall be subject to service of process on behalf of the Plan.

- 2.25 Flexible Compensation Plan. As defined in Code Section 125, shall mean a written plan under which all Participants are Employees, and the Participants have the choice among two or more Benefits.
- 2.26 Forfeiture. Any amounts remaining in a Participant's account after all valid claims for reimbursement for a given Plan Year shall have been paid.
- 2.27 Highly Compensated Employee. As defined in Code Section 125(e) for the Benefit described in Article VI; Code Section 105(h) for the Benefits described in Article VII; Code Section 414(q) for the Benefits described in Article VIII.
- 2.28 "INCUR" or "INCURRED". An expense is INCURRED at the date service is provided. The date of payment or billing is immaterial in determining an expense is INCURRED.
- 2.29 Key Employee. As defined in Code Section 416(i)(1).
- 2.30 Medical or Medical-Related or Life Premium Reimbursement. The payments by the Employer to reimburse Participants for medical or medical-related or life premium to the extent provided for in the Participant's signed Salary Reduction Agreement.
- 2.31 Medical or Medical-Related Expense Reimbursement. The payments by the Employer to reimburse Participants for medical or medical-related expenses to the extent provided for in the Participant's signed Salary Reduction Agreement. Such payments shall be for expenses INCURRED by a Participant, or by the spouse or Dependent of such Participant, for medical care as defined in Section 213 of the Code (including amounts paid for hospital bills, medical, drug and dental bills, but only to the extent that the Participant or other person INCURRING the expense is not reimbursed and cannot be reimbursed for the expense through insurance or otherwise (other than under the Plan).
- 2.32 Participant. Any person who has been or is an Employee and who qualifies to participate in this Plan, as provided in Article III.
- 2.33 Plan. The Plan embodied herein as it may be amended from time to time.
- 2.34 Plan Year. Commencing on the first day of the Plan Year as specified in the Adoption section and each anniversary thereof, except that the first Plan Year may include less than twelve (12) consecutive months.
- 2.35 Qualified Adoption Expenses. As set forth in Code Section 23(d), shall mean the reasonable and necessary adoption fees, court costs, attorney fees, and other expenses that:
- (a) are directly related to, and the principal purpose which is for, the legal adoption of an Eligible Child by the Participant;
 - (b) are not INCURRED in violation of state or federal law or in carrying out any surrogate parenting arrangement;
 - (c) are not expenses in connection with the adoption of a child who is the child of the Participant's spouse; and
 - (d) are not reimbursed under any other plan or program of the Employer or otherwise.
- 2.36 Qualifying Individual. As provided in Code Section 21(b)(1):
- (a) a Dependent of a Participant who is under the age of 13 and with respect to whom the Participant is entitled to an exemption under Code Section 151(c);
 - (b) a Dependent or the spouse of a Participant who is physically or mentally incapable of caring for himself.

- 2.37 Salary Reduction Agreement. An agreement between a Participant and the Employer under which the Employer reduces the Participant's current salary and contributes the amount of the reduction to the Plan on behalf of the Participant, as a before-tax contribution.
- 2.38 Salary Reduction Benefits. Those salary reduction benefits adopted by Employer in the Adoption section.

ARTICLE III

ELIGIBILITY AND PARTICIPATION

- 3.01 Eligibility Requirements. Each Employee shall be eligible to participate in this Plan upon meeting the eligibility requirements as set forth in the Adoption section.
- 3.02 Application for Participation. To become a Participant, an Eligible Employee shall sign any application or agreements as may be required by the Administrator and shall specify his or her election of Salary Reduction Benefits within the prescribed Enrollment Period and before his or her Entry Date. By signing such applications, the Eligible Employee shall be deemed for all purposes to have agreed to participate and to conform to the requirements of the Plan. If the Eligible Employee fails to comply, he or she may only become a Participant as of the beginning of any subsequent Plan Year before which the Participant has completed the necessary acts; provided, however, that the Participant continues to be an Eligible Employee.
- 3.03 Age Requirement. There will be no minimum or maximum age requirements for participation in the Plan, provided, however, the Employer may set minimum age requirements for particular benefits.
- 3.04 Employees on Effective Date. Each Employee in Regular Employment as set forth in Section 15.08 herein and who was employed by the Employer on the Effective Date shall be eligible to participate as of the Effective Date.
- 3.05 New Employees After Effective Date. Each Employee in Regular Employment as set forth in Section 15.07 herein and whose employment by the Employer begins after the Effective Date shall be eligible to participate on the Entry Date following the date of his or her employment.
- 3.06 Re-employment of Former Employees. A former Employee who is later re-employed by the Employer within 30 days or less of the date of termination of employment will be reinstated with the same election(s) that such individual had before termination. If a former Employee is re-employed more than 30 days following termination of employment and is otherwise eligible to participate in the Plan, the individual may make a new election.
- 3.07 Determination of Eligibility. The Employer shall determine the eligibility of each Employee for participation in the Plan based on information provided by the Employee or otherwise and such determination shall be conclusive and binding upon all persons.
- 3.08 Duration. A Participant shall cease to be a Participant for purposes of making salary reduction contributions as of the last complete payroll period preceding the date of a Participant's termination of employment. Except as provided in the following paragraph, a Participant shall cease to be a Participant for all purposes 90 days after the end of the Plan Year in which eligibility ceases.
- 3.09 Continuation of Coverage. The Plan provides continuation of health coverage for each Benefit made available under Article V that is considered to be a "group health plan" under Code Section 5000(b)(1) because Employees and their Dependents are provided with health care benefits within the meaning of Code Section 213(d)(1) (including the Medical or Medical-Related Expense Reimbursement Benefit), as said coverage changes from time to time, to qualified beneficiaries who would lose coverage under the Plan by reason of a qualifying event and who elect such coverage and pay the full premium for such coverage as determined by the Employer. Election of such coverage shall be made within the election period specified in Code Section 4980B. Said coverage shall continue for the period of coverage specified in Code Section 4980B. For purposes of this paragraph, the terms "continuation coverage," "qualified beneficiaries" and "qualifying event" shall have the same meaning as set forth in Code Section 4980B.

- 3.10 Incompetency. Every person receiving or claiming benefits under the Plan shall be presumed to be mentally and physically competent and of the age of majority until the Employer receives a written notice, in a form and manner acceptable to the Employer, that such person is mentally or physically incompetent or a minor, and that a guardian, conservator, or other person legally vested with the care of his or her estate has been appointed. If, however, the Employer shall find that any person to whom a benefit is payable under the Plan is unable to care for his or her affairs because of any mental or physical incompetency or because he or she is a minor, any payment due (unless a prior claim therefore shall have been made by a duly appointed legal representative of his or her estate) may be paid to the spouse, a child, a parent, a brother, or sister, a beneficiary, or to any person with whom he or she is residing, or to any other person or institution deemed by the Employer to have INCURRED expense for such person otherwise entitled to payment.

In the event a guardian, conservator, or other person legally vested with the care of the estate of any person receiving or claiming benefits under the Plan shall be appointed by a court of competent jurisdiction, payments shall be made to such guardian or conservator or other person, provided that proper proof of appointment is furnished in a form and manner suitable to the Employer. To the extent permitted by law, any such payment so made shall be a complete discharge of any liability therefore under the Plan.

- 3.11 FMLA Leaves of Absence.

If a Participant goes on a qualifying leave under the Family and Medical Leave Act of 1993 (FMLA), to the extent required by the FMLA, the Employer will continue to maintain the Participant's Medical and Dental Insurance Benefits and Health FSA Benefits on the same terms and conditions as if the Participant was still active (that is, the Employer will continue to pay its share of the premium to the extent the Participant opts to continue coverage). The Employer may elect to continue all Medical and Dental Insurance Benefits and Health FSA Benefits coverage for Participants while they are on paid leave (so long as Participants on non-FMLA paid leave are required to continue coverage). If so, the Participant will pay their share of the premiums by the method normally used during any paid leave (for example, on a pre-tax salary reduction basis if that is what was used before the FMLA leave began).

If the Participant is going on unpaid FMLA leave (or paid FMLA leave where coverage is not required to be continued), and the Participant opts to continue their Medical and Dental Insurance Benefits and Health FSA Benefits, then the Participant may pay their share of the premium in one of three ways:

- (1) with after-tax dollars while on leave;
- (2) with pre-tax dollars to the extent the Participant receives compensation during the leave on a pre-tax salary reduction basis out of pre-leave compensation, including unused sick days and vacation days (to pre-pay in advance, the Participant must make a special election before such compensation would normally be available (but note that prepayments with pre-tax dollars may not be used to pay for coverage during the next Plan Year); or
- (3) by other arrangements agreed upon between the Participant and the Administrator (for example, the Administrator may pay for coverage during the leave and withhold amounts from the Participant's compensation upon the Participant's return from leave).

If the Employer requires all Participants to continue Medical and Dental Insurance Benefits and Health FSA Benefits during the unpaid FMLA leave, the Participant may discontinue paying their share of the required premium until they return from leave. Upon returning from leave the Participant must pay their share of any required premiums that they did not pay during the leave. Payment for the Participant's share will be withheld from their compensation either on a pre-tax or after-tax basis, as the Participant and the Administrator may agree.

If the Participant's Medical or Dental Insurance Benefits or Health FSA Benefits coverage ceases while on FMLA leave (e.g., for non-payment of required contributions), the Participant will be entitled to re-enter such Benefits, as applicable, upon return from such leave on the same basis as they were participating in the Plan before the leave, or otherwise required by the FMLA. The Participant is entitled to have coverage for such Benefits automatically so long as coverage for Employees on non-FMLA leave is automatically reinstated upon return from leave. But despite the preceding sentence, with regard to Health FSA Benefits,

if the Participant's coverage ceased they will be entitled to elect whether to be reinstated in the Health FSA Benefits at the same coverage level as in effect before the FMLA leave (with increased contributions for the remaining period of coverage) or at a coverage level that is reduced pro-rata for the period of FMLA leave during which the Participant did not pay premium. If the Participant elects the pro-rata coverage, the amount withheld from their compensation on a payroll-by-payroll basis for the purpose of paying for reinstated Health FSA Benefits will equal the amount withheld before FMLA leave.

If the Participant is commencing or returning from FMLA leave, the election for non-health benefits (such as GTL, AD&D and LTD Insurance Benefits and DCAP Benefits) will be treated in the same way as under the Employer's policy for providing such Benefits for Participants on a non-FMLA leave. If that policy permits Participants to discontinue contributions while on leave, Participants will upon returning from leave be required to repay the premiums not paid by the participant during leave. Payment will be withheld from the Participant's compensation either on a pre-tax or after-tax basis, as may be agreed upon by the Administrator and the Participant or as the Administrator otherwise deems appropriate.

- 3.12 *Non-FMLA Leaves of Absence.* If a Participant goes on an unpaid leave of absence that does not affect eligibility, then the Participant will continue to participate and the premium due for the Participant will be paid by pre-payment before going on leave, by after-tax contributions while on leave, or with catch-up contributions after the leave ends, as may be determined by the Administrator.

If a Participant goes on an unpaid leave that affects eligibility, the election change rules in Section 5.06 will apply. To the extent COBRA applies, the Participant may continue coverage under COBRA.

ARTICLE IV

CONTRIBUTIONS

- 4.01 Employer Contribution. The Employer shall make such premium payments and pay such reimbursement amounts as the Employer determines from time to time pursuant to the benefits options selected by the Employer. In addition, the Employer shall contribute to Benefit Accounts (as set forth in Section 4.10) established for each Participant the amounts of salary reduction contributions of said Participant pursuant to Section 4.02.
- 4.02 Salary Reduction Benefits. The Participant shall agree pursuant to a Salary Reduction Agreement to reduce his or her compensation from the Employer by such amounts as are necessary to provide for those Salary Reduction Benefits which the Participant has elected pursuant to the provisions of Article V. While on an unpaid leave of absence authorized by the Employer, the Participant may pay to the Employer the amounts necessary to provide for those Salary Reduction Benefits which the Participant has elected pursuant to the provisions of Article V. These amounts shall be paid to the Employer at the times required by the Administrator and shall then be contributed by the Employer on the Employee's behalf.
- 4.03 Maximum Employer Contributions. The maximum amount of Employer contributions under the Plan for any Participant shall be the sum of the costs from time to time of the most expensive benefits available to the Participant under eligible Plans (including the portion of such costs payable with nonelective company contributions) subject to the benefit maximums as set forth in Section 7.03, and Section 8.02 herein.
- 4.04 Date of Election. Subject to a Participant's application for Participation, an election of compensation reduction shall be made by each Participant prior to entering the Plan and during the Enrollment Period prior to each Plan Year.
- 4.05 Unsecured Plan Contributions or Benefits. No Participant shall have, by virtue of the Plan, any interest in any specific asset or assets of the Employer. A Participant has only an unsecured contractual right to receive payment in accordance with the Plan. With respect to contributions made to pay insurance premiums, the Employer shall be responsible only for the payment of premiums and is not an insurer of benefits.
- 4.06 Assignment of Contributions. No Participant or any beneficiary of a deceased Participant shall have any power to sell, assign, transfer, encumber, or in any other manner anticipate or dispose of his interest under the Plan prior to the actual distribution thereof to such Participant or beneficiary.
- 4.07 Unclaimed Accounts. If the Employer shall be unable, within two years after any amount becomes due and payable from the Plan to a Participant or Beneficiary, to make payment because the identity or whereabouts of such person cannot be ascertained, the Employer may mail a notice by registered mail to the last known address of such person outlining the action described in this Section to be taken unless such person makes written reply to the Employer within sixty (60) days from the mailing of such notice. The Employer may direct that such amount and all further benefits with respect to such person shall be discontinued and all liability for the payment shall terminate; however, in the event of the subsequent reappearance of the Participant or Beneficiary prior to the termination of the Plan, the benefits which were due and payable and which such person missed shall be paid in a single sum and the future benefits due such person shall be reinstated in full.
- 4.08 Interest. No interest will be credited to or paid on Benefit Account balances.
- 4.09 Participation Fee. The Employer may require each Participant to pay a monthly participation fee. If so, the Employer may consider each Participant as having automatically authorized the Employer to withhold the fee from the Participant's Compensation beginning with the pay period coincident with the Effective Date.

4.10 Benefit Accounts. The Employer shall establish Benefit Accounts for each Participant to hold all amounts received under Salary Reduction Agreements and not used to directly pay insurance premiums. A Benefit Account is established for each Benefit elected by a Participant and a Participant may elect to establish one or more separate Benefit Accounts. A Participant will designate by application which Benefit Account funds are to be directed. Funds designated for use in one Benefit Account may not be used to satisfy expenses INCURRED for another available Benefit.

ARTICLE V

ELECTION OF AVAILABLE BENEFITS

- 5.01 Available Benefits. The only programs under which Benefits are available to Participants pursuant to this Plan are as follows:
- (a) Medical or Medical-Related or Life Premium Reimbursement Benefit as defined in Article VI.
 - (b) Medical or Medical-Related Expense Reimbursement Benefit as defined in Article VII.
 - (c) Dependent Care Assistance Benefit as defined in Article VIII.
- 5.02 Election Amounts and Procedures. Subject to the limitations on Benefit amounts contained herein, each Participant shall have available for the payment of Benefits the dollar amount specified on his Salary Reduction Agreement. The Participant may elect to purchase any combination of the Salary Reduction Benefits with the dollar amount available. No Participant may elect Salary Reduction Benefits, the cost of which exceeds the available dollar amount (or prior to the Participant's Plan Entry Date). This election must be made prior to the commencement of each Plan Year by each Participant and shall be irrevocable except as provided for in Section 5.06.
- 5.03 Failure to Elect. A Participant failing to return a completed election form to the Administrator on or before the specified due date for the initial Plan Year of the Plan, or for the Plan Year in which he otherwise first becomes eligible to participate in the Plan, shall be deemed to have elected to receive his full Compensation in cash. A Participant failing to return a completed election form to the Administrator on or before the specified due date for any Plan Year subsequent to the Plan Year during which he first became a Participant shall be deemed not to have elected any Benefits pursuant to Articles VII, VIII or IX for such Plan Year but shall be deemed to have made the same election as was in effect just prior to the end of the preceding Plan Year with respect to Benefits provided pursuant to Article VI. The Participant shall also be deemed to have agreed to a reduction of his Compensation for the subsequent Plan Year equal to the Participant's share of the cost from time to time during such Plan Year of the Article VI Benefits he is deemed to have elected for such Plan Year.
- 5.04 Effective Periods for Elections. Participants may not carry over any unused Employer contributions or available Benefits from one Plan Year to a subsequent Plan Year, provided however, Participants may make claims within the time period set forth in Section 15.09 of the Adoption section herein for expenses INCURRED during any Plan Year. Further, Participants may not use any Employer contributions from one Plan Year to purchase any available Benefits that will be provided in a subsequent Plan Year. Any unused contributions shall be forfeited.
- 5.05 Nondiscrimination. Notwithstanding any provisions of insurance coverage provided for under this Plan and any other provisions of this Plan, this Plan shall not discriminate as to eligibility, contributions, or benefits in favor of Participants who are Highly Compensated Employees or Key Employees. This Plan will also not provide in any Plan Year greater than 25% of the total nontaxable benefits to Key Employees. If a Plan is found to be discriminatory, the Participants who are Highly Compensated or Key Employees shall include discriminatory benefits in their taxable income as required by Code § 125.
- 5.06 Irrevocability of Election. A Participant's election under this Plan is irrevocable for the duration of the Plan Year to which it relates. In other words, unless one of the exceptions applies, the Participant may not change any elections for the duration of the Plan Year regarding:
- participation in this Plan;
 - salary reduction amounts; or
 - election of particular component plan benefits.

The exceptions to the irrevocability requirement, which would permit a Participant to make a mid-year election change in benefits and/or salary reduction amounts are as follows:

(a) **Change in Status** is any of the events described below, as well as any other events included under subsequent changes to Code §125 or regulations issued under Code §125 that the Plan Administrator (in its sole discretion) decides to recognize on a uniform and consistent basis:

- **Legal Marital Status:** A change in a Participant's legal marital status, including marriage, death of a spouse, divorce, legal separation or annulment;
- **Number of Dependents:** Events that change a Participant's number of tax Dependents (as defined in Code Section 152), including birth, death, adoption, and placement for adoption;
- **Change in Employment Status:** Any change in employment status of the Participant, the Participant's Spouse or the Participant's Dependents that affects the benefit eligibility under a cafeteria plan or other employee benefit plan of the employer of the Participant, the spouse, or Dependents, such as: termination or commencement of employment, a strike or lockout, a commencement of or return from an unpaid leave of absence, a change in worksite, switching from salaried to hourly-paid or union to non-union or vice versa, incurring a reduction or increase in hours of employment (e.g., going from part-time to full-time), or any other similar change which makes the individual become (or cease to be) eligible for a particular employee benefit.
- **Dependent Eligibility Requirements:** An event that causes a Participant's Dependent to satisfy or cease to satisfy the Dependent eligibility requirements for a particular benefit, such as due to attaining a specified age, getting married, or ceasing to be a student;
- **Change in Residence:** A change in the place of residence of the Participant, the Participant's Spouse or the Participant's Dependent.

A Participant may change or terminate his or her election under the Plan upon the occurrence of a Change in Status, but only if such change or termination is made on account of and corresponds with a Change in Status that affects coverage eligibility of a Participant, a Participant's Spouse, or a Participant's Dependent (referred to as the general consistency requirement.) The Plan Administrator (in its sole discretion) shall determine, based on prevailing IRS guidance, whether a requested change is on account of and corresponds with a Change in Status. Assuming that the general consistency requirement is satisfied, a requested change must also satisfy the following specific consistency requirements in order for a Participant to be able to alter his or her election based on that change.

- (1) **Loss of Dependent Eligibility.** For a Change in Status involving a Participant's divorce, annulment or legal separation from a Spouse, the death of a Spouse or a Dependent, or a Dependent ceasing to satisfy the eligibility requirements for coverages, a Participant may only elect to cancel accident or health insurance coverage for the Spouse involved in the divorce, annulment, or legal separation, the deceased Spouse or Dependent, or the Dependent that ceased to satisfy the eligibility requirements. Canceling coverage for any other individual under these circumstances would fail to correspond with that Change in Status. Notwithstanding the foregoing, if the Participant's Spouse (not ex-spouse) or the Participant's Dependent becomes eligible for COBRA (or similar health plan continuation coverage under state law) under the Employer's Plan, the Participant may increase his election to pay for such coverage.
- (2) **Gain of Coverage Eligibility Under Another Employer's Plan.** For a Change in Status in which a Participant, a Participant's Spouse, or a Participant's Dependent gains eligibility for coverage under this Employer's plan or another employer's cafeteria plan (or another employer's qualified benefit plan) as a result of a change in marital status or a change in employment status, a Participant may elect to cease or decrease coverage for that individual only if coverage for that individual becomes effective or is increased under the other employer's plan.
- (3) **Dependent Care Expense Reimbursement Benefits.** With respect to the Dependent Care Expense Reimbursement benefit plans, a Participant may change or terminate his or her election

only if (i) such change or termination is made on account of and corresponds with a Change in Status that affects eligibility for coverage under an employer's plan; or (ii) the election change is on account of and corresponds with a Change in Status that affects eligibility of dependent care expenses for the tax exclusion available under Code §129.

- (4) *Group Term Life Insurance and Accidental Death & Dismemberment.* For any Change in Status (disregarding the requirement that the event cause a loss or gain of eligibility), a Participant may elect either to increase or to decrease group term life insurance coverage offered under the Plan.

(b) ***HIPAA Special Enrollment Rights:*** If a Participant, a Participant's Spouse or a Participant's Dependent is entitled to special enrollment rights under a group health plan, as required by Code §9801(f), and medical coverage was declined under the group health plan because of outside medical coverage and eligibility for such coverage is subsequently lost due to legal separation, divorce, death, termination of employment, reduction in hours, or exhaustion of the maximum COBRA period, or if a new Dependent is acquired as a result of marriage, birth, adoption, or placement for adoption, then a Participant may revoke a prior election for health or accident coverage and make a new election (including salary reduction election), provided that the election corresponds with such special enrollment right. For purposes of this provision, (1) an election to add previously eligible Dependents as a result of the acquisition of a new Spouse or Dependent child shall be considered to be consistent with the special enrollment right; and (2) a HIPAA special enrollment election attributable to the birth or adoption of a new Dependent child may, subject to the provisions of the underlying group health plan, be effective retroactively (up to 30 days).

(c) ***Certain Judgments, Decrees and Orders.*** If a judgment, decree, or order resulting from a divorce, legal separation, annulment or change in legal custody (including a qualified medical child support order) requires accident or health coverage for a Participant's Dependent child (including a foster child who is a Dependent of the Participant), a Participant may: (1) change his or her election to provide coverage for the Dependent child (provided that the order requires the Participant to provide coverage); or (2) change his or her election to revoke coverage for the Dependent child if the order requires that another individual (including the Participant's Spouse or former Spouse) provide coverage under that individual's plan provided other coverage is actually procured.

(d) ***Medicare and Medicaid.*** If a Participant, a Participant's Spouse, or a Participant's Dependent who is enrolled in a health or accident benefit under this Plan becomes entitled to Medicare or Medicaid (other than coverage consisting solely of benefits under Section 1928 of the Social Security Act providing for pediatric vaccines), the Participant may prospectively reduce or cancel the health or accident coverage of the person becoming entitled to Medicare or Medicaid. Further, if a Participant, a Participant's Spouse, or a Participant's Dependent who has been entitled to Medicare or Medicaid loses eligibility for such coverage, then the Participant may prospectively elect to commence or increase the health or accident coverage.

- (e) ***Change in Cost.*** (These rules do not apply to health care flexible spending accounts under Article VII.)

- (1) ***Automatic Increase or Decrease for Insignificant Cost Changes.*** If the cost of a Benefit Plan or Policy increases or decreases during a Plan Year by an insignificant amount, then the Pretax Contributions or Aftertax Contributions (as applicable) under each affected Participant's election shall be prospectively increased or decreased to reflect such change. The Plan Administrator, on a reasonable and consistent basis, will automatically effectuate this prospective increase or decrease in affected employees' elective contributions in accordance with such cost changes. The Plan Administrator (in its sole discretion) will decide, in accordance with prevailing IRS guidance, whether increases or decreases in costs are "insignificant" based upon all the surrounding facts and circumstances (including, but not limited to, the dollar amount or percentage of the cost change).
- (2) ***Significant Cost Increases/Decreases.*** If the Plan Administrator determines that the cost of a Participant's Benefit Plan(s) or Policy(ies) significantly increases during a Plan Year, the Participant may either make a corresponding prospective increase in his or her contributions, or revoke his or her election, and in lieu thereof, receive coverage under another Plan option which

provides similar coverage, or can drop coverage if no similar coverage is available. If the Plan Administrator determines that the cost of a Participant's Benefit Plan(s) or Policy(ies) significantly decreases during a Plan Year, the participant may revoke his or her election, and in lieu thereof, receive coverage under the decreased Plan option which provides similar coverage. In the event of a decrease, Participants who were not previously enrolled could elect the decreased Plan option. The Plan Administrator (in its sole discretion) will decide, in accordance with prevailing IRS guidance, whether a cost increase is significant and what constitutes "similar coverage" based upon all the surrounding facts and circumstances.

- (3) *Limitation on Change in Cost Provisions for Dependent Care Expense Reimbursement.* The above "Change in Cost" provisions apply to Dependent Care Expense Reimbursement *only* if the cost change is imposed by a dependent care provider who is not a "relative" of the employee by blood or marriage (as that term is defined in Proposed Treas. Reg. §1.125-4(f)(2)(iii) or other IRS guidance).
- (f) ***Change in Coverage.*** (These rules do not apply to health care flexible spending accounts under Article VII.)
- (1) *Significant Curtailment.* If the Plan Administrator determines that a Participant Benefit Plan or Policy coverage under this Plan is significantly curtailed during a Plan Year, the Participant may revoke his or her election under the Plan. In that case, each affected Participant may prospectively elect coverage under another Benefit Plan or Policy option which provides similar coverage but cannot drop coverage. If the Plan Administrator determines that a Participant Benefit Plan or Policy coverage under this Plan is significantly curtailed that results in a loss of coverage, the Participant may elect coverage under another Benefit Plan or Policy option which provides similar coverage, or can drop coverage if no other similar option is available. Coverage under an accident or health plan is deemed "significantly curtailed" only if there is an overall reduction in coverage provided to Participants under the Plan so as to constitute reduced coverage to Participants in general. The Plan Administrator (in its sole discretion) will decide, in accordance with prevailing IRS guidance, whether a curtailment is "significant," and whether a substitute Benefit Plan or Policy constitutes "similar coverage" based upon all the surrounding facts and circumstances.
 - (2) *Addition or Significant Improvement of Benefit Package Option.* If, during a Plan Year, the Plan adds a benefit or significantly improves an existing benefit plan, an affected Participant may revoke his or her election and make a new election on a prospective basis for coverage under the new or improved benefit plan. Participants who previously waived coverage may elect to participate in the new or improved benefit plan. The Plan Administrator (in its sole discretion) will decide, in accordance with prevailing IRS guidance, whether there has been a "significant improvement" in a benefit plan.
 - (3) *Change in Coverage of Spouse or Dependent Under Their Employer's Plan.* A Participant may make a prospective election change that is on account of and corresponds with a change made under any employer plan (including the plan or the Spouse's, former Spouse's, or Dependent's employer), so long as (a) the cafeteria plan or qualified benefits plan of the Spouse's, former Spouse's, or Dependent's employer permits its participants to make an election change that would be permitted under IRS regulations; or (b) the Plan permits Participants to make an election for a Plan Year period of coverage which is different from the plan year period of coverage under the cafeteria plan or qualified benefits plan of the Spouse's, former Spouse's or Dependent's employer. The Plan Administrator shall determine, based on prevailing IRS guidance, whether a requested change is on account of and corresponds with a change made under the plan of the Spouse's, former Spouse's, or Dependent's employer.

A Participant entitled to make a new election under this Section must do so within 30 days of the event. An Employee who is eligible to elect benefits but declined to do so during the initial election period, or during a subsequent open enrollment period, may file a pretax contribution election change within 30 days of the occurrence of an event described in this section, but only if the election under the new salary reduction agreement is made on account of and corresponds with the event. Subject to the provisions of the underlying group health plan, elections

made to add medical coverage for a newborn or newly adopted Dependent child pursuant to a HIPAA special enrollment right may be retroactive for up to 30 days. All other new elections shall be effective prospectively immediately following the date the Participant files his new salary reduction agreement with the Plan Administrator. Elections made pursuant to this Section shall be effective for the balance of the Plan Year in which the election is made unless a subsequent event (described above) allows a further election change.

5.07 Salary Reduction. By participating in the Plan, each Participant agrees to have his annual Compensation reduced by the cost of the Benefits selected by him under the Plan according to the signed Salary Reduction Agreement and any participation fee the Administrator may elect pursuant to Section 4.09.

5.08 Prohibited Deposits. Participants shall not be permitted to deposit their own after-tax dollars into the Benefit Accounts except to the extent specifically provided herein.

ARTICLE VI

MEDICAL OR MEDICAL-RELATED OR LIFE PREMIUM REIMBURSEMENT BENEFIT

- 6.01 Purpose. This Benefit provides payments by the Employer to reimburse Participants for medical, or medical-related, or life insurance premium to the extent provided on the Salary Reduction Agreement. This may include medical, dental, cancer, long-term disability, group term life, accidental death and disability insurance, and loss of time to the extent elected in Article XV, Adoption Agreement. If there is a change in the cost of a particular type of coverage selected by a Participant, the Participant's election shall automatically be adjusted to reflect such change. Except as permitted in Section 5.06, however, a Participant will not be permitted to change coverages during a Plan Year because of a change in the cost of coverages.
- 6.02 Terms, Conditions, and Limitations. For purposes of this Plan, medical or medical-related insurance premium shall include the costs of accident and health insurance, including medical and hospitalization insurance, dental insurance, vision and/or disability insurance. Medical and group term life insurance premiums of a Participant (or any Dependent) shall include those INCURRED with respect to the Participant, the spouse of a Participant, and any dependent children of a Participant. There shall be no reimbursement by the Plan for an expense to the extent other reimbursement is available for such expense.
- 6.03 Method of Payment by Employer. The Employer will pay the group premiums due on behalf of the Participant directly to the insurance company or other appropriate billing entity. This payment administratively shall be construed as:
- (a) A reduction of Compensation of the Employee; and
 - (b) A payment made to an insurance company or other appropriate billing entity by the Employer.
- 6.04 Intent. This Plan and the benefits provided by this Article VI are intended to comply with the provisions of Code Sections 79, 105, 106, and, therefore, will be deemed to be automatically amended to comply with all appropriate regulations to these parts, issued by any appropriate government agency as of the effective date of each such regulation, unless the Employer instead elects to terminate the Plan following issuance of new regulations.

ARTICLE VII

MEDICAL OR MEDICAL-RELATED EXPENSE REIMBURSEMENT BENEFIT

- 7.01 Purpose. This benefit provides payments by the Employer to reimburse Participants for medical or medical-related expenses.
- 7.02 Medical Expense Reimbursements. The Employer shall reimburse each Participant for all expense INCURRED by such Participant for the medical care (as defined in Code Section 213(d)(1)) of such Participant and of such Participant's spouse and Dependents.
- 7.03 Medical Expense Limitations.
- (a) The maximum amount of Medical Expense Reimbursements which any Participant may elect to receive in a Plan Year shall be as set forth in the Salary Reduction Agreement, but shall not exceed in any event the amount set forth in Section 15.06 of the Adoption section herein per year.
 - (b) Reimbursement or payment of these benefits shall be made by the Employer only in the event and to the extent that such reimbursement or payment is: (i) not provided for under any insurance policy, whether the premium on such policy is paid by the Employer or the individual Participant, or (ii) not provided for or reimbursable under any other plan or policy.
 - (c) The Employer shall not be required to pay any Medical Expense Reimbursement amounts in excess of that amount established by the Plan's maximum contribution provisions or the Participants Salary Reduction Agreement. Upon receipt of due proof of loss and that such loss has not been reimbursed and is not reimbursable from any other source, the Employer may advance an amount equal to the Participant's elected annual contribution less any contributions made to or on behalf of the Participant from the Participant's Benefit Account for such reimbursement for the Plan Year.
 - (d) The benefits provided under this Article shall not discriminate in favor of Highly Compensated individuals either as to eligibility to participate or as to provided benefits in that all Participants may elect these benefits and all Participants will be reimbursed for the same category of benefits.
- 7.04 Cessation of Employment. If a Participant ceases to be an Employee, such Participant shall be entitled to continue receiving benefits to the extent of the plan balance (total plan year election less prior reimbursements) amount remaining in the Participant's Medical or Medical-Related Expense Reimbursement Benefit Account for the Plan Year during which his employment terminated.
- 7.05 Claims for Payment. The Participant may incur medical expenses and then submit to the Administrator proof of such expenses. It is not necessary that the Participant actually pay an expense prior to being reimbursed for it. The Employer will not pay the applicable amounts directly to the service provider in lieu of reimbursement to Participant. The Participant shall provide such information and verification at such times and in such manner as required by the Administrator.
- 7.06 Filing of Claim. To secure reimbursement for eligible medical expenses, a Participant shall submit appropriate documentation and a signed Request for Reimbursement in a form provided by the Administrator evidencing that the claim has actually been INCURRED during the Plan Year. Application for such expense reimbursement may be made at any time during the Plan Year in which the expense was INCURRED and within the first 90 days of the succeeding Plan Year.
- 7.07 Forfeiture of Unused Benefits. If, following the final payment of reimbursement benefits for eligible expenses INCURRED during the Plan Year, any amount remains in a Participant's Medical Expense

Reimbursement Benefit Account for that Plan Year, the Participant shall forfeit such amount and shall have no further claim thereto. All forfeitures under this Plan shall be used to offset any losses experienced by the Employer during the Plan Year as a result of making reimbursements (i.e., providing benefits) with respect to any Participant in excess of the premiums paid by such Participant via salary reductions, and then to reduce the Employer's cost of administering this Plan during the Plan Year. All such administrative costs shall be documented by the Administrator.

- 7.08 Intent. This Plan and the benefits provided by this Article VII are intended to comply with the provisions of Code Sections 105 and 106 and, therefore, will be deemed to be automatically amended to comply with all appropriate regulations to these parts, issued by any appropriate government agency as of the effective date of each such regulation, unless the Employer instead elects to terminate the Plan following issuance of new regulations.

ARTICLE VIII

DEPENDENT CARE ASSISTANCE BENEFIT

- 8.01 Purpose. This benefit provides payment by the Employer to reimburse Participants for Dependent Care Assistance.
- 8.02 Dependent Care Reimbursements. The Employer shall reimburse each Participant for expenses INCURRED by such Participant for Dependent Care Assistance, subject to the maximum benefit which the Participant may receive in any Plan Year which shall be the lesser of (a) the Participant's earned income for the Plan Year (after all reductions in Compensation including the reduction related to Dependent Care Assistance), or (b) the actual or deemed earned income of the Participant's spouse for the Plan Year. In the case of a spouse who is a full-time student at an educational institution or is physically or mentally incapable of caring for himself, such spouse shall be deemed to have earned income of not less than \$250 per month if the Participant has one Dependent and \$500 per month if the Participant has two or more Dependents. In any case, the maximum benefit amount shall not exceed \$5,000 per year.
- 8.03 Election Procedure. A Participant may elect to receive Dependent Care Assistance under this Plan by filing a Request for Reimbursement form in accordance with the procedures established in this Plan. Except as otherwise provided in Section 5.06, an election to receive Dependent Care Assistance shall be irrevocable during the Plan Year for which the election is made.
- 8.04 Dependent Care Limitations.
- (a) The Employer shall not be required to pay any Dependent Care Assistance in excess of that amount previously contributed and not previously paid out on behalf of a Participant during the Plan Year.
 - (b) Payment of Dependent Care Assistance shall be made by Employer only to the extent that such amounts have not been previously claimed as a credit by Participant.
 - (c) The benefits provided under this Article VIII shall not discriminate within the meaning of Code Section 129(d).

No more than twenty-five percent (25%) of the total benefits paid by the Employer for Dependent Care Assistance during any Plan Year may be paid to Participants who own, directly or indirectly, more than five percent (5%) of the stock of the Employer on any day during the Plan Year or to Participants who are spouses or Dependents of any individual with such stock ownership. If the Administrator believes that this twenty-five percent (25%) limit may be exceeded, it may, arbitrarily and in its absolute discretion, limit the amount of Dependent Care Assistance benefits that may be paid to such Participants, so that the limit will not be exceeded; provided that any such limitation imposed by the Administrator shall apply on a uniform basis pursuant to rules applicable equally to all Participants who are members of the prohibited group.

- 8.05 Cessation of Employment. If a Participant ceases to be an Employee, such Participant shall be entitled to continue receiving benefits to the extent of the cash balance (year-to-date contributions less prior reimbursements) amount remaining in the Participant's Dependent Care Assistance Benefit Account for the Plan Year during which his employment terminated.
- 8.06 Forfeiture of Unused Benefits. If, following the final payment of reimbursement benefits for eligible expenses INCURRED during the Plan Year, any amount remains in a Participant's Dependent Care Assistance Benefit Account for that Plan Year, the Participant shall forfeit such amount and shall have no further claim thereto. All forfeitures under this Plan shall be used to reduce the Employer's cost of administering this Plan during the Plan Year. All such administrative costs shall be documented by the Administrator.
- 8.07 Claims for Payment. The Participant may incur expenses for Dependent Care Assistance and then submit to the Administrator proof of such expenses. It is not necessary that the Participant actually pay an expense

prior to being reimbursed for it. The Employer will not pay such Dependent Care Assistance directly to the service provider in lieu of reimbursement to the Participant. The Participant shall provide such information and verification at such times and in such manner as required by the Administrator.

- 8.08 Filing A Claim. To secure reimbursement for eligible dependent care a Participant shall submit appropriate documentation and a signed Request for Reimbursement in a form provided by the Administrator evidencing that the claim has actually been INCURRED during the Plan Year. Application for such expense reimbursement may be made at any time during the Plan Year in which the expense was INCURRED and within the first 90 days of the succeeding Plan Year.
- 8.09 Intent. This Plan and the benefits provided by this Article VIII are intended to comply with the provisions of Code Section 129 and, therefore, will be deemed to be automatically amended to comply with all appropriate regulations to these parts, issued by any appropriate government agency as of the effective date of each such regulation, unless the Employer instead elects to terminate the Plan following issuance of new regulations.

ARTICLE IX

ARTICLE IX

PLAN CHANGES AND AMENDMENTS

- 9.01 Amendments. The Employer reserves the right to make from time to time any amendment or amendments to this Plan; and the Employer expressly may make any amendment it determines necessary or desirable with or without retroactive effect to comply with the law.
- 9.02 Changes by Administrator. If the Administrator determines, before or during any Plan Year, that the Plan may fail to satisfy for such Plan Year any nondiscrimination requirement imposed by the Code or any limitation on benefits provided to Key Employees or Highly Compensated Employees, the Administrator shall take such action as the Administrator deems appropriate, under rules uniformly applicable to similarly situated Participants, to assure compliance with such requirement or limitation. Such action may include, without limitation, a modification of elections by Highly Compensated Employees or Key Employees with or without the consent of such Employees.

ARTICLE X

ADMINISTRATION

- 10.01 Plan Administrator. The administration of the Plan shall be under the supervision of the Administrator. It shall be a principal duty of the Administrator to see that the Plan is carried out, in accordance with its terms, for the exclusive benefit of persons entitled to participate in the Plan without discrimination among them.
- 10.02 Appointment of Administrator. The Plan shall be administered by the Employer as named in the Adoption section. The Employer has the power to appoint a representative or agent for purposes of carrying out or assisting it, in whole or in part, with its administrative duties, and all Participants shall be notified of any change in the person(s) serving as Administrator or their designated representative. All usual and reasonable expenses of any such representative or agent may be paid in whole or in part by the Employer. Any expenses not paid by the Employer shall not be the responsibility of the representative personally.
- 10.03 Named Fiduciary. The Administrator is the Named Fiduciary and under no circumstances shall PayFlex be deemed or considered the Named Fiduciary under the Plan.
- 10.04 Powers and Duties. The Administrator shall have the power and duty to do all things necessary or convenient to effect the intent and purposes of this Plan and not inconsistent with any of the provisions hereof whether or not such powers and duties are specifically set forth herein. Not in limitation, but in amplification of the foregoing, the Employer shall have power to:
- (a) Provide rules and regulations for the administration of the Plan, and from time to time, to amend or supplement such rules and regulations.
 - (b) Construe the Plan for which construction shall be final and binding.
 - (c) Correct any defect, supply any omission, or reconcile any inconsistency in the Plan in such a manner and to such extent as it shall be deemed expedient to carry the Plan into effect.
 - (d) Determine all questions that may arise under the Plan including questions submitted by a Participant.
 - (e) The Plan Administrator shall perform the duties and exercise the powers and discretion given to it by this Section 10.04 and its decisions and actions shall be final and conclusive as to all persons affected therein.
 - (f) Any and all disputes which may arise involving Participants, former Participants, or Beneficiaries, shall be referred to the Plan Administrator and its decision shall be final. Furthermore, if any question arises as to the meaning, interpretation or application of any provision hereof, the decision of the Plan Administrator with respect thereto shall be final.
 - (g) At its own expense, the Plan Administrator may engage a representative to assist it. The Administrator shall have the sole responsibility for the administration of the Plan as is specifically described in this Plan. The designated representatives of the Administrator shall have only those specific powers, duties, responsibilities, and obligations specifically given to them by the Administrator.
- 10.05 Rules and Decisions. Except as otherwise specifically provided in the Plan, the Administrator may adopt such rules and procedures as it deems necessary, desirable, or appropriate. All rules and decisions of the Plan Administrator shall be uniformly and consistently applied to all Participants in similar circumstances.

When making a determination or calculation, the Administrator shall be entitled to rely upon information furnished by a Participant.

- 10.06 Facility of Payment. Whenever, in the Administrator's opinion, a Participant entitled to receive any payment of benefit hereunder is under legal disability or is incapacitated in any way so as to be unable to manage his personal financial affairs, the Administrator may make payments to the Participant's legal representative, relative, or friend for the Participant's benefit. Further, the Administrator may apply the payment for the benefit of such Participant in such manner as the Administrator considers advisable. Any payment of a benefit or installment thereof in accordance with the provisions of this document shall be a complete discharge of any liability for the making of such payment under the provisions of the Plan.
- 10.07 Information to be Furnished. Participants shall provide the Employer with such information and evidence, and shall sign such documents, as may reasonably be requested from time to time for the purpose of administration of the Plan.
- 10.08 Reasonable Care. The Administrator shall use reasonable care and diligence in the exercise of its powers and the performance of its duties hereunder.
- 10.09 Nondiscriminatory Exercise of Authority. Whenever, in the administration of the Plan, any discretionary action by the Administrator is required, the Administrator shall exercise its authority in a nondiscriminatory manner so that all persons similarly situated will receive substantially the same treatment.
- 10.10 Indemnification for the Administrator and/or its Representative. The Administrator and/or its representative or agent shall be indemnified by the Employer against any and all liabilities arising by reason of any act or failure to act made in good faith pursuant to the provisions of the Plan including expenses reasonably INCURRED in the defense of any claim relating thereto.
- 10.11 Use and Disclosure of Protected Health Information. The Plan Administrator may use and disclose Protected Health Information (PHI) to the extent of and in accordance with the uses and disclosures permitted by the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Specifically, the Plan will use and disclose PHI for purposes related to or to facilitate health care treatment or services by providers, payment for health care treatment or services Participants receive from health care providers, and to carry out necessary health care plan operations.

Payment includes activities undertaken by the Plan to obtain premiums or determine or fulfill its responsibility for coverage and provision of plan benefits that relate to an individual to whom health care is provided.

Health Care Operations includes business planning and development, conducting or arranging for auditing functions and activities related to renewal of a contract for health benefits. Also included are business management and general administrative activities relating to the implementation of and compliance with HIPAA's administrative simplification requirements, or customer service, including the provision of data analysis for plan sponsors, resolution of grievances and due diligence in connection with the sale or transfer of assets to a potential successor.

The Plan will use and disclose PHI as required by law and as permitted by authorization of the Participant or Beneficiary. With an authorization, the Plan will disclose PHI to other health benefit plans of the Plan Sponsor for purposes related to administration of the Plan. The Plan will disclose PHI to the Plan Sponsor only upon request of a certification from the Plan Sponsor that the plan documents have been amended to incorporate the following provisions. With respect to PHI, the Plan Sponsor agrees to:

- Not use or further disclose PHI other than as permitted or required by the plan document or as required by law;
- Ensure that any agents, including a subcontractor, to whom the Plan Sponsor provides PHI received from the Plan agree to the same restrictions and conditions that apply to the Plan Sponsor with respect to such PHI;

- Not use or disclose PHI for employment-related actions and decision unless authorized by an individual;
- Not use or disclose PHI in connection with any other benefit or employee benefit plan of the Plan Sponsor unless authorized by an individual;
- Report to the Plan any PHI use or disclosure that is inconsistent with the uses or disclosures provided for of which it becomes aware;
- Make PHI available for amendment and incorporate any amendments to PHI in accordance with HIPAA;
- Make available the information required to provide an accounting of disclosures;
- Make internal practices, books and records relating to the use and disclosure of PHI received from the Plan available to the HHS Secretary for the purposes of determining the Plan's compliance with HIPAA; and
- If feasible, return or destroy all PHI received from the Plan that the Plan Sponsor still maintains in any form, or retain no copies of such PHI when no longer needed for the purpose for which disclosure was made (or if return or destruction is not feasible, limit further uses and disclosures to those purposes that make the return or destruction infeasible).

In accordance with HIPAA, only designated employees of the Employer may be given access to PHI. This will include the Benefits Manager and staff designated by the manager. These designated employees may only have access to and use and disclose PHI for plan administration functions that the Plan Sponsor performs for the Plan. If the persons described do not comply with this Plan Document, the Plan Sponsor shall provide a mechanism for resolving issues of noncompliance, including disciplinary sanctions.

ARTICLE XI

CLAIMS

- 11.01 When to File. Claims should be filed as soon as the Participant or eligible dependent incurs an eligible expense.
- 11.02 Notice of Claim. The Participant must complete and sign a "Request for Reimbursement" form for all claims for benefits submitted to the Plan. This form is available, upon request, from the Administrator. The completed form(s) should then be delivered to the Administrator for processing.
- 11.03 Claims Procedures. The Plan Administrator will process the Participant's "Request for Reimbursement" form, compute benefits due and issue a payment, if appropriate, to the Participant. The Plan Administrator shall make all determinations of expense eligibility and fund availability, based on the Participant's Benefit Account available balance(s) under the Plan. Such determination will be made no later than 30 days after receipt of the claim form, except in special circumstances (such as the need to obtain further information) but in no case more than 60 days after the receipt of the claim. The Plan Administrator may require the Participant to provide additional information and complete appropriate documents or forms for the proper administration of a claim.
- 11.04 Failure to File. If the Participant fails to file a claim for benefits within the time period set forth in Section 15.09 of the Adoption section herein, the Employer may take whatever steps necessary and proper to dispose of the Participant's potential benefits under the Plan.
- 11.05 Coordination of Benefits. It is the responsibility of the Participant to make certain that claimed expenses have not been previously reimbursed by this or any other benefit plan, and will not be claimed as an income tax deduction by the Participant.
- 11.06 Maximum Payable. The benefit payable may not exceed the Plan's maximum contribution provisions or an amount equal to the Participant's elected annual contribution less any distribution made to or on behalf of the Participant from the Participant's applicable Benefit Account for the Plan Year.
- 11.07 Denial Procedures. The Administrator will provide adequate notice in writing to any Participant or Beneficiary whose claim for benefits under the Plan has been denied, stating the specific reasons for the denial. The Participant or Beneficiary will be given an opportunity for a full and fair review of the decision denying the claim. The Participant or Beneficiary has 180 days from receipt of the notice denying such claim to request a review.

ARTICLE XII

PARTICIPANT AND EMPLOYER RIGHTS

- 12.01 Non-alienation of Benefits. Benefits payable under this Plan shall not be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, charge, garnishment, execution, or levy of any kind, either voluntary or involuntary, including any such liability which is for alimony or other payments for the support of a spouse or former spouse, or for any other relative of the Participant, prior to actually being received by the person entitled to the benefit under the terms of the Plan; and any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, charge, or otherwise dispose of any right to benefits payable under the Plan shall be void. The Employer shall not in any manner be made liable for or subject to the debts, contracts, liabilities, engagements, or torts of any person entitled to benefits under the Plan.
- 12.02 Divestment of Benefits. Subject only to the specific provisions of this Plan, nothing shall be deemed to divest a Participant of a right to the benefit to which the Participant becomes entitled in accordance with the provisions of this Plan.
- 12.03 Non-diversion. Regardless of anything contained in the Plan, as now expressed or hereafter amended, no part of a Participant's Benefit Account(s) shall be used for or diverted to any purpose not for the exclusive benefit of the Participant or the Participant's Beneficiaries at any time prior to the satisfaction of all rights and liabilities, fixed and contingent, with respect to the Participants or the Participant's Beneficiaries hereunder, either by the operation, amendment, revocation, or termination of the Plan. No part of a Participant's Benefit Account(s) shall be paid, distributed or made available to the Participant at any time, except as expressly provided by the Plan.
- 12.04 Discontinuance of Contributions. In the event of a permanent discontinuance of contributions to the Plan, all Participants shall receive any and all benefits to which they were entitled as of the date the discontinuance of contributions occurred, to the extent of the assets of the Plan.
- 12.05 Termination of Employment. In the event a Participant terminates employment and thereby permanently discontinues contributions to the Plan, the Participant shall nevertheless be entitled to any and all benefits to which that Participant by virtue of his or her status as a former Employee is entitled subject to the provisions of the Plan.
- 12.06 Non-guarantee of Employment. Nothing contained in this Plan shall be construed as a contract of employment between the Employer and any Employee, or as a right of any Employee to be continued in the employment of the Employer, or as limitation of the right of the Employer to discharge any of its Employees, with or without cause.
- 12.07 Rights to Employer's Assets. No Employee, Participant, or Beneficiary shall have any right to, or interest in, any assets of the Employer upon termination of employment or otherwise, except as provided from time to time under this Plan; and then only to the extent of the benefits payable under the Plan to such Employee, Participant, or Beneficiary. All payments of benefits as provided for in this Plan shall be made solely out of the assets of the Employer, the Benefit Accounts, and the insurance policies providing benefits.
- 12.08 Limitation of Participant Rights. Neither the establishment of the Plan nor any amendment thereof, nor the payment of any benefits, will be construed as giving to any Participant or other person any legal or equitable right against the Employer, Administrator, or its representative or agent, except as provided herein.
- 12.09 Action by Employer. Except as otherwise provided in the Plan, any action by the Employer under this Plan may be by resolution of its Board of Directors or owner(s) or by any person or persons duly authorized by said Board or owner(s) to take such action.

12.10 Representative for Administrator. Regardless of who the Administrator designates as its representative or agent, the Employer, as Administrator, shall have the sole fiduciary responsibility for the administration of the Plan, which responsibility is specifically designated in the Plan.

12.11 Bank Account. The Administrator or its designated representative or agent is hereby authorized on behalf of Employer to:

- (a) Establish a bank account at any commercial bank whose deposits are insured by the Federal Deposit Insurance Corporation.
- (b) Endorse for deposit checks and drafts to the Employer's bank account as established by the Administrator.
- (c) Issue checks, drafts, or other orders for payment, withdrawal, or transfer of funds drawn on the Employer's bank account established by the Administrator.

ARTICLE XIII

PLAN TERMINATION

- 13.01 Plan Termination. The Plan or any portion of the Plan shall be subject to termination at any time by the Employer, provided, however, that such termination shall not affect any right or claim arising under the Plan. Upon the termination of the Plan, the rights of all Participants affected thereby shall become payable as the Administrator may direct. Such direction may include, but not be limited to:
- (a) a continuation of the Plan in order to pay Benefit Account balances in accordance with elected benefits, or
 - (b) a distribution of the Participant Benefit Account balances subject to the Plan.
- 13.02 Final Distributions. Upon termination of the Plan, the interest of Participants shall be determined as of the date of termination, and thereafter final distributions shall be made pursuant to the provisions of the Plan to such persons.
- 13.03 Employer Right to Terminate. In accordance with the procedures set forth in this section, the Employer may terminate the Plan or any part of the Plan at any time. In the event of the discontinuation, bankruptcy, dissolution, merger, consolidation, or reorganization of the Employer, the Plan shall terminate unless the Plan is continued by a successor to the Employer in accordance with the resolution of its Board of Directors or owner(s).
- 13.04 Employee Right to Terminate. Once the Plan Year commences, a Participant's election is irrevocable except as provided in Section 5.06.

ARTICLE XIV

PLAN CONSTRUCTION

- 14.01 Taxation. The Employer believes this Plan to be in compliance with Code Sections 79, 105, 106, 120, 125, 129 and 137 and thereby is entitled to deduct the amount paid for the benefits provided under Section 4980B of the Code. However, this Plan has not been submitted to the Internal Revenue Service, and there is no assurance that the intended tax benefit under this Plan will be available.

Neither the Administrator or its designated representative or agent makes any commitment or guarantee that any amounts elected or paid for the benefit of a Participant will be excludable from the Participant's gross income for federal or state income tax purposes, or that any other federal or state tax treatment will apply to or be available to any Participant. It shall be the obligation of each Participant to determine whether each payment is excludable from the Participant's gross income for federal and state income tax purposes, and to notify the Employer if the Participant has reason to believe that any such payment is not so excludable. It is further understood that the Employer and its representative or agent shall be held harmless if the Participant should neglect to do so.

Any Participant, by accepting a benefit under this Plan, agrees to be liable for any tax penalties and interest which may be imposed by the Internal Revenue Service with respect to these benefits.

If any Participant receives one or more payments or reimbursements under this Plan on a tax-free basis, and such payments do not qualify for such treatment under the Code, such Participant shall indemnify and reimburse the Employer for any liability it may incur for failure to withhold Federal or State income taxes, Social Security taxes, or other taxes from such payments or reimbursements.

- 14.02 Adoption by Related Organization. Upon the approval of the Employer, this Plan may be adopted by any organizations affiliated with the Employer. Affiliated organizations for the purpose of this Plan must qualify under Code Section 414(b), (c), or (m). The adopting organization shall execute and deliver to the Employer a supplemental agreement providing for the adoption of this Plan and such other documents as the Employer shall deem necessary or desirable. The provisions of this Plan shall be applicable to such organization to the extent provided in the supplemental agreement.

- 14.03 Uniform Exercise of Powers. In the exercise of any of its powers, duties, and discretion under this Plan and within the scope of its authority, and in all of its acts, decisions, and determinations hereunder, the Employer shall at all times act in good faith and in a nondiscriminatory manner and shall follow a consistent policy on comparable issues. All actions and determinations of the Employer shall be duly recorded and all such records, together with such other documents as may be necessary for the administration of this Plan shall be preserved.

Decisions of the Employer as to any disputed question relative to the rights of a Participant hereunder and upon all matters within the scope of its authority shall be final and binding on all parties in interest.

- 14.04 State Insurance Laws. This Plan is designed to be consistent with state insurance laws with elected salary reduction amounts considered as Employer contributions.

- 14.05 Construction. No provision of this Plan shall be construed to conflict with any Treasury Department, Department of Labor, or Internal Revenue Service regulation, ruling, release or proposed regulation or other order which affects, or could affect, the terms of this Plan.

- 14.06 Headings. The headings and subheadings of this Plan Document have been inserted for convenience of reference and are to be ignored in any construction of the provisions hereof.

- 14.07 Uniformity. All provisions of this Plan shall be interpreted and applied in a uniform, nondiscriminatory manner.

- 14.08 Insurer Not a Party. No insurer shall be considered a party to this Plan nor to any future amendment to the Plan. The rights and obligations of any insurer are those specified in the insurance policy and no provisions of this Plan shall be deemed to alter or change the terms of such contract.
- 14.09 Entire Document. This document, including any appendices or supplements thereto, shall constitute the entire document and shall govern the rights, liabilities, and obligations of the Plan, except as it may be modified.
- 14.10 Severability. In the event any provisions of this Document shall be held illegal or invalid for any reason by law or a court of competent jurisdiction, said illegality or invalidity shall not affect the remaining provisions included herein either initially, or beyond the date said provisions are first held to be illegal or invalid, provided the basic purposes hereof can be effected through the remaining valid and legal provisions.
- 14.11 Gender and Number. Any reference in the masculine gender herein shall be deemed to also include the feminine gender, unless expressly provided otherwise. Wherever appropriate, any reference in this document in the singular shall include the plural, and any reference in the plural shall include the singular.
- 14.12 Benefits Provided Through Third Parties. In the case of any benefit provided through a third party, such as an insurance company, pursuant to a contract or policy with such third party, if there is any conflict or inconsistency between the description of benefits contained in this Plan and such contract or policy, the terms of such contract or policy shall control.
- 14.13 Limitation on Liability. The Employer does not guarantee benefits payable under any policy or contract of insurance described herein, and any benefits payable thereunder shall be the exclusive responsibility of the insurer that issued such contract or policy.
- 14.14 Rights Against the Employer. Neither the establishment of the Plan, nor any modification thereof, nor any distributions hereunder, shall be construed as giving to any Participant or any person whomsoever any legal or equitable rights against the Employer, its shareholders, directors, or officers, as such, or as giving any person the right to be retained in the employ of the Employer.
- 14.15 Successor Businesses. Unless this Plan be sooner terminated, a successor to the business of the Employer, by whatever form or manner resulting, may continue this Plan by appropriate supplemental agreement.

ARTICLE XV

ADOPTION AGREEMENT

15.01 Establishment of Plan. The employer named below hereby establishes a Cafeteria Plan pursuant to Section 125(d) of the Internal Revenue Code of 1986, as amended, by adopting the Cafeteria Plan named below (the Plan) which the Employer has read, accepted, and incorporated by reference with the specifications set forth below, in accordance with the terms and provisions of the Plan. Employer understands that PayFlex does not offer tax or legal advice and, further, that tax laws are subject to change and different interpretations. Employer should consult qualified tax and legal counsel.

15.02 Administrator. The following named Company (the Employer) is the Administrator as referred to in this Plan Document:

Company Name:	Sarpy County
Business Address:	1210 Golden Gate Drive Suite 1118 Papillion, NE 68046-2895
Telephone #:	402-593-5782
Initial Effective Date:	July 1, 2001
Amended & Restated Date:	July 1, 2003
Employer Tax ID #:	47-6006504
Plan Number:	501
Plan Name:	Flexible Benefit Plan

15.03 Claims Administrator.

Name:	PayFlex™ Systems USA, Inc.
Business Address:	P.O. Box 3039, Omaha, NE 68103-3039
Telephone:	(402) 345-0666 (800) 284-4885

15.04 Plan Year. For the first Plan Year, the Plan shall operate July 1, 2001 through June 30, 2002 and for the second and subsequent Plan Years the Plan shall operate for twelve (12) month periods beginning on July 1st and anniversaries of such date.

15.05 Entry Date. Health Insurance- date of hire.
Flexible Spending Accounts-date of hire.
Dental Insurance- first of the month following 6 months of employment.

15.06 Salary Reduction Benefits.

Medical Expense Reimbursement Benefit (Article VII) \$5,000
Dependent Care Assistance Benefit (Article VIII)
Medical Insurance
Dental Insurance
Cancer Insurance
Accident Insurance
Voluntary Life Insurance
Accidental Death and Dismemberment Insurance

15.07 Employee Eligibility Requirements. All full-time Employees working 30+ hours per week.

15.08 Regular Employment Only Employees who are in the regular employment of the Employer or whose coverage is otherwise required by Section 4890B of the Code are eligible. "Regular Employment" shall mean the employment of any Employee who is regularly scheduled to work an average number of hours per week as prescribed by the Employer.

15.09 Claims Filing Deadline Participants may make claims within 90 days following the end of any Plan Year for eligible expenses INCURRED during the Plan Year.

IN WITNESS WHEREOF, the Employer has caused this Plan to be executed by its duly authorized officer in the City of _____ and the State of Nebraska.

Sarpy County

By: _____

Signature: _____

Title: _____

Date: _____